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Fiscal Note

Drafting Number: LLS 22-0675
Prime Sponsors: Sen. Hansen

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Bill Status: Senate Transportation & Energy
Fiscal Analyst: David Hansen | 303-866-2633
David.Hansen@state.co.us

Bill Topic: **POLICIES TO REDUCE EMISSIONS FROM THE BUILT ENVIRONMENT**

Summary of Fiscal Impact:

- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

The bill exempts air-source and ground-source heat pump systems from property and sales and use taxes. The bill also exempts certain building materials from sales and use tax. From FY 2022-23 through FY 2033-34, the bill decreases state revenue from sales and use tax, decreases local government revenue, and increases state expenditures on an ongoing basis.

Appropriation Summary: For FY 2022-23, the bill requires total appropriations of \$78,190 to the Department of Personnel and Administration and the Department of Revenue.

Fiscal Note Status: The preliminary fiscal note reflects the introduced bill. The revenue impact estimates may be updated as additional information becomes available.

Table 1
State Fiscal Impacts Under SB 22-051

		Budget Year FY 2022-23	Out Year FY 2023-24	Out Year FY 2024-25
Revenue	General Fund	(\$91,460)	(\$185,722)	(\$3.3 million)
	Total Revenue	(\$91,460)	(\$185,722)	(\$3.3 million)
Expenditures	General Fund	\$78,190	\$76,771	\$76,771
	Centrally Appropriated	\$15,073	\$16,625	\$16,625
	Total Expenditures	\$93,263	\$93,396	\$93,396
	Total FTE	0.9 FTE	1.0 FTE	1.0 FTE
Transfers		-	-	-
Other Budget Impacts	TABOR Refund	(\$91,460)	(\$185,722)	(3.3 million)
	General Fund Reserve	\$11,729	\$11,516	\$11,516

Summary of Legislation

The bill removes air-source and ground-source heat pump systems from the definition of “fixtures” in real property and adds these systems to household furnishings exempt from the levy and collection of property tax. Beginning January 1, 2023, purchases of air-source and ground-source heat pump systems will be exempt from sales and use tax until January 1, 2033. Lastly, the bill exempts purchases of decarbonizing building materials from sales and use tax from July 1, 2024 through July 1, 2034.

Background

Decarbonizing building materials. The Buy Clean Colorado Act, passed with House Bill 21-1303, required the Office of the State Architect to establish maximum acceptable global warming potential for building materials used in public projects such as asphalt, cement and concrete, glass, wood, and steel. The Office of the State Architect is required to develop its criteria by January 1, 2024. The definition of decarbonizing building materials in the bill will be based on this criteria.

State Revenue

The bill is expected to decrease General Fund revenue by \$91,460 in FY 2022-23, \$185,720 FY 2023-24, and \$3.3 million in FY 2024-25, with similar impacts in subsequent years. In the first two years, FY 2022-23 and FY 2023-24, the revenue impact is based on the sales and use tax exemption for air-source and ground-source heat pump system only. Starting in FY 2024-25, the revenue impact also includes a preliminary estimate of the sales and use tax exemption for decarbonizing building material, as well as the continuing impact from the air-source and ground-source heat pump system sales and use tax exemption only. State sales and use tax revenue is subject to TABOR. Additional detail on these impacts is provided below.

Heat pump sales and use tax exemption. Potential heat pump unit sales that are exempt under the bill were estimated from national Energy Star shipments, data on residential energy consumption from the Energy Information Administration (EIA), and Xcel Energy heat pump rebates. The U.S. Environmental Protection Agency catalogued an average of about 1,528,000 air-source and ground-source heat pump units shipped nationwide from 2019 to 2020. Assuming heat pump shipments increase at a similar rate as recorded from 2010 to 2020, national shipments could total between 1,664,000 and 1,762,000 in FY 2022-23 and FY 2023-24. Data from the EIA’s 2015 residential energy consumption survey indicate that the Mountain North region, including Colorado, accounted for about 0.6 percent of the nation’s installed heat pumps. Assuming heat pump prevalence for the nation’s housing represents the share of heat pumps sent to the Mountain North region, and based on Colorado’s 47 percent share of housing units within this region from U.S. Census Bureau estimates, the analysis assumes an estimated 0.3 percent of the Energy Star shipments could be for use by Colorado purchasers each year.

Further, the bill stipulates the air-source heat pump exemption is specifically for cold-climate units. Data from Xcel energy indicates that approximately 17 percent of the utility’s rebates for residential heat pumps were for cold-climate units through the third quarter of 2021. Assuming this represents the share of Energy Star rated, cold-climate units sold in Colorado, the bill’s sales and use tax exemption will apply to an estimated 447 units in FY 2022-23 (half-year impact), and 916 units in

FY 2023-24. The analysis assumes an average price of about \$6,000 for air-source heat pump equipment and \$20,000 for ground-source heat pump equipment, with estimated total exempt sales of \$3.2 million in FY 2022-23 and \$6.4 million in FY 2023-24, resulting in a reduction in General Fund revenue from state sales and use tax of \$91,460 in FY 2022-23 and \$185,720 in FY 2023-24 and future years.

Preliminary assessment of decarbonizing building material sales and use tax exemption. While the range of products that meet the criteria for decarbonizing building materials is not yet determined, net taxable sales of construction and building materials is significant. In FY 2020-21, net taxable sales for the construction industry and retail trade for building materials and garden equipment stores totaled \$10.9 billion, with estimated sales tax of about \$316 million. For informational purposes, this fiscal note preliminarily assumes that exempt decarbonizing building materials comprise 1.0 percent of these sales, which would decrease revenue by an estimated \$3.2 million beginning in FY 2024-25. However, criteria on what materials will be considered exempt are not yet available. To the extent decarbonizing building materials criteria results in a higher or lower percent of these sales, the revenue impact will also vary.

State Expenditures

The bill increases state expenditures by \$93,263 in FY 2022-23 and \$93,396 in FY 2023-24 and future years, paid from the General Fund. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under SB 22-051

Cost Components	FY 2022-23	FY 2023-24	FY 2024-25
Department of Personnel and Administration			
Personal Services	\$67,440	\$73,571	\$73,571
Operating Expenses	\$1,350	-	-
Capital Outlay Costs	\$6,200	-	-
Centrally Appropriated Costs ¹	\$15,073	\$16,625	\$16,625
FTE – Personal Services	0.9 FTE	1.0 FTE	1.0 FTE
DPA Subtotal	\$90,063	\$90,196	\$90,196
Department of Revenue			
Office of Research and Analysis	\$3,200	\$3,200	\$3,200
DOR Subtotal	\$3,200	\$3,200	\$3,200
Total	\$93,263	\$93,396	\$93,396
Total FTE	0.9 FTE	1.0 FTE	1.0 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Personnel and Administration. Beginning in FY 2022-23, the Office of the State Architect in the Department of Personnel and Administration will require an additional 1.0 FTE for an analyst to provide technical assistance and support related to product lists and guidance for the decarbonizing building materials sale and use tax exemption. The department is also required to provide assistance to the Office of the State Auditor for evaluating the tax expenditure. First-year staffing costs are prorated to account for the General Fund payday shift.

Department of Revenue. The Office of Research and Analysis in the Department of Revenue will require an estimated 100 hours each year, billed at \$32 per hour, to support evaluation of the tax expenditures in the bill. While the department will also need to provide updates to forms and guidance, the workload can be accommodated within existing appropriations.

Other agencies. Additionally, the bill will minimally increase workload for the Division of Property Taxation (DPT) in the Department of Local Affairs and the Colorado Energy Office (CEO). The DPT will adjust training materials, conduct addition training, and respond to inquiries about legislative changes to property tax. Further, the bill requires the CEO to support the Office of the State Auditor with data and guidance when examining the exemption. The fiscal note assumes that these workload impacts can be accommodated within existing appropriations.

School Finance. This bill will have an indeterminate impact on the amount of property taxes collected. To the extent that the bill reduces the amount of property taxes collected, it will also reduce the amount of revenue available for the local share of school finance and increase the amount of state equalization funding, assuming the school finance budget stabilization factor remains unchanged. This funding is assumed to be from the General Fund or the State Education Fund.

Other Budget Impacts

TABOR refunds. The bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section. This estimate assumes the December 2021 Legislative Council Staff revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2023-24. Because TABOR refunds are paid from the General Fund, decreased General Fund revenue will lower the TABOR refund obligation, but result in no net change to the amount of General Fund otherwise available to spend or save.

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2022-23. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by \$11,729 in FY 2022-23 and \$11,516 in FY 2023-24, which will decrease the amount of General Fund available for other purposes.

Local Government and School Districts

Property tax. This bill will reduce property tax collections to cities, counties, school districts, and special districts by an indeterminate amount, as explained in the Technical Note section below.

Sales and use tax. Sales and use tax exemptions for air-source and ground-source heat pump systems and eligible decarbonizing building materials will decrease sales and use tax revenue for state-collected local governments and special districts that conform to the state tax base. The bill includes the exemptions among other optional sales and use tax exemptions for state-collected local governments. The distribution of potential heat pump systems and building materials, and implementation of the exemption for local governments cannot be estimated due to data availability.

Technical Note

Article X, Section 20-8(c) of the Colorado Constitution specifies that the actual value of residential real property be determined solely by the market approach to appraisal rather than the cost approach. Under this bill, the market value contribution of air-source and ground-source heat pump systems to real property value cannot be determined. Therefore, the property tax impact of the bill cannot be estimated.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed, except that the provisions relating to the sales and use tax exemption on heat pumps take effect on January 1, 2023, and the provisions relating to the sales and use tax exemption on decarbonizing building materials take effect on July 1, 2024.

State Appropriations

For FY 2022-23, the bill requires the following General Fund appropriations:

- \$74,990 to the Department of Personnel and Administration and 1.0 FTE; and
- \$3,200 to the Department of Revenue.

State and Local Government Contacts

Colorado Energy Office
Counties
County Assessors
Information Technology
Municipalities
Personnel

Property Tax Division - Local Affairs
Regional Transportation District
Revenue
Special Districts
State Auditor