

## CHAPTER 333

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**TAXATION**

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## SENATE BILL 22-051

BY SENATOR(S) Hansen, Bridges, Buckner, Danielson, Fields, Ginal, Gonzales, Hinrichsen, Jaquez Lewis, Lee, Pettersen, Priola, Winter, Zenzinger, Fenberg;  
also REPRESENTATIVE(S) Sirota, Amabile, Bacon, Bernett, Bird, Boesenecker, Cutter, Exum, Froelich, Gonzales-Gutierrez, Herod, Hooton, Jodeh, Kipp, Lindsay, Lontine, McCluskie, McCormick, Titone, Valdez A., Weissman, Woodrow.

**AN ACT****CONCERNING POLICIES TO REDUCE EMISSIONS FROM THE BUILT ENVIRONMENT.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 24-92-117, **add (7)** as follows:

**24-92-117. Maximum global warming potential for materials used in eligible projects - buildings - projects that are not roads, highways, or bridges - environmental product declaration - short title - report - definitions.** (7) FOR PURPOSES OF THE SALES AND USE TAX EXEMPTION FOR ELIGIBLE DECARBONIZING BUILDING MATERIALS ALLOWED PURSUANT TO SECTION 39-26-731, ANY MANUFACTURER OF AN ELIGIBLE MATERIAL MAY SUBMIT THE ENVIRONMENTAL PRODUCT DECLARATION FOR THE ELIGIBLE MATERIAL TO THE OFFICE OF THE STATE ARCHITECT. THE OFFICE SHALL REVIEW THE ENVIRONMENTAL PRODUCT DECLARATION FOR ANY ELIGIBLE MATERIAL SUBMITTED TO THE OFFICE BY A MANUFACTURER, AND SHALL DETERMINE WHETHER THE MANUFACTURER'S ELIGIBLE MATERIAL IS WITHIN THE MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL FOR THAT MATERIAL AS DETERMINED BY THE OFFICE PURSUANT TO SUBSECTION (3) OF THIS SECTION. BEGINNING JANUARY 1, 2024, THE OFFICE SHALL COMPILE AND MAINTAIN A LIST OF ALL ELIGIBLE MATERIALS AND THE MANUFACTURERS OF THE ELIGIBLE MATERIALS THAT ARE SUBMITTED TO THE OFFICE AND VERIFIED BY THE OFFICE TO BE WITHIN THE MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL FOR THAT MATERIAL AS DETERMINED BY THE OFFICE PURSUANT TO SUBSECTION (3) OF THIS SECTION. IN COMPILING THE LIST, THE OFFICE SHALL CONSULT WITH THE DEPARTMENT OF REVENUE TO ENSURE THAT ALL INFORMATION REQUIRED FOR PURPOSES OF THE SALES AND USE TAX EXEMPTION ALLOWED PURSUANT TO SECTION 39-26-731 IS INCLUDED ON THE LIST. THE OFFICE SHALL REGULARLY UPDATE THE

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

LIST, POST THE MOST CURRENT VERSION OF THE LIST ON THE OFFICE'S WEBSITE, AND ENSURE THAT THE LIST IS AVAILABLE TO THE DEPARTMENT OF REVENUE.

**SECTION 2.** In Colorado Revised Statutes, **add** 39-22-545 and 39-22-546 as follows:

**39-22-545. Credit against tax - heat pump systems - heat pump water heaters - tax preference performance statement - legislative declaration - definitions - repeal.** (1)(a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(I) THE GENERAL ASSEMBLY HAS COMMITTED TO REDUCE GREENHOUSE GASES THROUGH NUMEROUS POLICY AND REGULATORY MEASURES TO MEET THE GOALS ESTABLISHED IN 2019;

(II) GREAT QUANTITIES OF EMISSIONS ARE RELEASED IN THE TRADITIONAL PROCESS OF HEATING AND COOLING PRIVATE SECTOR RESIDENTIAL BUILDINGS;

(III) THERE IS GREAT POTENTIAL FOR BUSINESSES AND INDIVIDUALS IN THE STATE TO REDUCE GREENHOUSE GAS EMISSIONS GENERATED IN THE HEATING AND COOLING OF RESIDENTIAL BUILDINGS BY INSTALLING HEAT PUMP SYSTEMS OR HEAT PUMP WATER HEATERS, WHICH REDUCE NET GREENHOUSE GAS EMISSIONS;

(IV) PROVIDING AN INCOME TAX CREDIT FOR HEAT PUMP SYSTEMS AND HEAT PUMP WATER HEATERS WILL ENCOURAGE BUSINESSES AND INDIVIDUALS TO PURCHASE AND USE HEAT PUMP SYSTEMS AND HEAT PUMP WATER HEATERS RATHER THAN TRADITIONAL HEATING AND COOLING METHODS; AND

(V) THE PURCHASE AND USE OF HEAT PUMP SYSTEMS AND HEAT PUMP WATER HEATERS WILL BENEFIT PUBLIC HEALTH IN THE HEATING AND COOLING OF HOMES AND BUSINESSES AND TAKE ADVANTAGE OF LATENT HEAT SOURCES AND AVAILABLE RENEWABLE POWER DURING LOW DEMAND PERIODS.

(b) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT THE PURPOSES OF THE TAX EXPENDITURE CREATED IN SUBSECTION (3) OF THIS SECTION ARE TO:

(I) INDUCE CERTAIN DESIGNATED BEHAVIOR BY TAXPAYERS, SPECIFICALLY THE PURCHASE AND USE OF HEAT PUMP SYSTEMS AND HEAT PUMP WATER HEATERS; AND

(II) CONTRIBUTE TO THE STATE'S EFFORT TO ACHIEVE ITS CLIMATE GOALS.

(c) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL MEASURE THE EFFECTIVENESS OF THE TAX CREDITS IN ACHIEVING THE PURPOSES SPECIFIED IN SUBSECTION (1)(b) OF THIS SECTION BASED ON THE NUMBER OF HEAT PUMP SYSTEMS AND THE NUMBER OF HEAT PUMP WATER HEATERS SOLD AND USED IN THE STATE. THE COLORADO ENERGY OFFICE SHALL PROVIDE THE STATE AUDITOR WITH ANY AVAILABLE INFORMATION THAT WOULD ASSIST THE STATE AUDITOR'S MEASUREMENT.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "AIR-SOURCE HEAT PUMP SYSTEM" HAS THE SAME MEANING SET FORTH IN SECTION 39-26-732 (2)(a).

(b) "GROUND-SOURCE HEAT PUMP SYSTEM" HAS THE SAME MEANING SET FORTH IN SECTION 39-26-732 (2)(b).

(c) "HEAT PUMP SYSTEM" MEANS AN AIR-SOURCE HEAT PUMP SYSTEM, GROUND-SOURCE HEAT PUMP SYSTEM, WATER-SOURCE HEAT PUMP SYSTEM, OR VARIABLE REFRIGERANT FLOW HEAT PUMP SYSTEM.

(d) "HEAT PUMP WATER HEATER" HAS THE SAME MEANING SET FORTH IN SECTION 39-26-732 (2)(d).

(e) "PURCHASE PRICE" MEANS THE AMOUNT ACTUALLY PAID BY THE PURCHASER FOR THE TANGIBLE PERSONAL PROPERTY INSTALLED, INCLUDING CHARGES FOR SALES TAX AND FREIGHT, BUT NOT INCLUDING ANY CHARGES FOR ASSEMBLY, INSTALLATION, OR OTHER CONSTRUCTION SERVICES, OR PERMIT FEES.

(f) "PURCHASER" MEANS A TAXPAYER WHO IS THE BUYER OF A HEAT PUMP SYSTEM OR HEAT PUMP WATER HEATER.

(g) "SELLER" MEANS THE ENTITY THAT SELLS A HEAT PUMP SYSTEM OR HEAT PUMP WATER HEATER TO A PURCHASER.

(h) "TAXPAYER" MEANS A PERSON SUBJECT TO TAX UNDER THIS ARTICLE 22, OR A PERSON OR POLITICAL SUBDIVISION OF THIS STATE WHO IS EXEMPT FROM TAX UNDER SECTION 39-22-112 (1), BUT DOES NOT INCLUDE INSURANCE COMPANIES SUBJECT TO THE TAX IMPOSED ON GROSS PREMIUMS BY SECTION 10-3-209. FOR PURPOSES OF THIS SECTION, A PERSON OR POLITICAL SUBDIVISION OF THIS STATE WHO IS EXEMPT FROM TAX UNDER SECTION 39-22-112 (1) IS A TAXPAYER EVEN IF THE PERSON OR POLITICAL SUBDIVISION HAS NO UNRELATED BUSINESS INCOME.

(i) "VARIABLE REFRIGERANT FLOW HEAT PUMP SYSTEM" HAS THE SAME MEANING SET FORTH IN SECTION 39-26-732 (2)(f).

(j) "WATER-SOURCE HEAT PUMP SYSTEM" HAS THE SAME MEANING SET FORTH IN SECTION 39-26-732 (2)(e).

(3) (a) SUBJECT TO THE PROVISIONS OF SUBSECTION (4) OF THIS SECTION, FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2023, BUT BEFORE JANUARY 1, 2025, ANY PURCHASER THAT INSTALLS A RESIDENTIAL OR COMMERCIAL HEAT PUMP SYSTEM INTO REAL PROPERTY IN THIS STATE OR THAT INSTALLS A RESIDENTIAL OR COMMERCIAL HEAT PUMP WATER HEATER INTO REAL PROPERTY IN THIS STATE IS ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE 22 IN AN AMOUNT EQUAL TO TEN PERCENT OF THE PURCHASE PRICE PAID BY THE PURCHASER FOR THE HEAT PUMP SYSTEM OR HEAT PUMP WATER HEATER.

(b) THE CREDIT ALLOWED PURSUANT TO THIS SECTION IS FOR THE INCOME TAX YEAR IN WHICH THE HEAT PUMP SYSTEM OR HEAT PUMP WATER HEATER IS

PURCHASED.

(4) (a) (I) TO BE ELIGIBLE TO CLAIM A TAX CREDIT PURSUANT TO THIS SECTION, THE PURCHASER SHALL CERTIFY, AS SPECIFIED IN SUBSECTION (4)(b) OF THIS SECTION, THAT ALL NECESSARY MECHANICAL, PLUMBING, AND ELECTRICAL WORK PERFORMED IN CONNECTION WITH THE INSTALLATION OF A HEAT PUMP SYSTEM OR HEAT PUMP WATER HEATER IN A NEW OR EXISTING INDUSTRIAL, COMMERCIAL, OR MULTIFAMILY RESIDENTIAL BUILDING CONTAINING TWENTY THOUSAND SQUARE FEET OR MORE OF CONDITIONED FLOOR SPACE WAS OR WILL BE PERFORMED BY A CONTRACTOR ON THE CERTIFIED CONTRACTOR LIST CREATED PURSUANT TO SECTION 40-3.2-105.6 (3)(a), OR BY EMPLOYEES OF A UTILITY, SUBJECT TO STATE LICENSING REQUIREMENTS AND ALL APPLICABLE STATE AND LOCAL RULES, CODES, AND STANDARDS.

(II) THE REQUIREMENTS OF THIS SUBSECTION (4)(a) DO NOT APPLY TO THE INSTALLATION OF A HEAT PUMP SYSTEM OR HEAT PUMP WATER HEATER THAT IS LIMITED TO IN-UNIT WORK IN A MULTIFAMILY BUILDING OR UNIT AND THAT IS INITIATED BY THE OWNER OR TENANT OF THE MULTIFAMILY BUILDING OR UNIT.

(b) THE PURCHASER SHALL CERTIFY, IN A FORM AND MANNER TO BE DETERMINED BY THE DEPARTMENT OF REVENUE, THAT THE HEAT PUMP SYSTEM OR HEAT PUMP WATER HEATER WAS OR WILL BE INSTALLED IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION (4)(a) OF THIS SECTION, IF APPLICABLE. THE SELLER SHALL PROVIDE THE CERTIFICATION TO THE PURCHASER FOR THE PURPOSES OF SUBSECTION (5) OF THIS SECTION.

(5) (a) A PURCHASER MAY ASSIGN THE TAX CREDIT ALLOWED IN THIS SECTION TO THE PURCHASER'S SELLER AS FOLLOWS:

(I) THE ASSIGNMENT TO THE SELLER MUST BE COMPLETED AT THE TIME OF PURCHASE OF A NEW HEAT PUMP SYSTEM OR HEAT PUMP WATER HEATER BY ENTERING INTO AN AGREEMENT AS SET FORTH IN SUBSECTION (5)(c) OF THIS SECTION;

(II) THE PURCHASER MUST CERTIFY IN WRITING THAT THE PURCHASER WILL COMPLY WITH THE PROVISIONS REGARDING INSTALLATION OF THE HEAT PUMP SYSTEM OR HEAT PUMP WATER HEATER SPECIFIED IN SUBSECTION (4) OF THIS SECTION, IF APPLICABLE;

(III) THE PURCHASER MUST ASSIGN THE TAX CREDIT TO THE SELLER AND FORFEIT THE RIGHT TO CLAIM THE TAX CREDIT ON THE PURCHASER'S TAX RETURN IN EXCHANGE FOR GOOD AND VALUABLE CONSIDERATION; AND

(IV) THE SELLER MUST COMPENSATE THE PURCHASER FOR THE FULL NOMINAL VALUE OF THE TAX CREDIT. THE COMPENSATION PAID TO THE PURCHASER IS CONSIDERED A REFUND OF STATE TAXES AND IS NOT STATE TAXABLE INCOME.

(b) NOTWITHSTANDING SECTION 39-21-108(3), IF A PURCHASER ASSIGNS THE TAX CREDIT TO A SELLER PURSUANT TO THIS SUBSECTION (5), THE SELLER RECEIVES THE FULL AMOUNT OF THE TAX CREDIT THAT THE PURCHASER IS ALLOWED IN THIS SECTION. ANY UNPAID BALANCE OR UNPAID DEBT OF THE PURCHASER MAY NOT BE

CREDITED FROM THE AMOUNT OF THE TAX CREDIT ALLOWED IN THIS SECTION.

(c) TO COMPLETE THE TAX CREDIT ASSIGNMENT, THE PURCHASER AND THE SELLER MUST ENTER INTO AN AGREEMENT THAT:

(I) INCLUDES THE PURCHASER'S WRITTEN CERTIFICATION TO COMPLY WITH THE PROVISIONS REGARDING INSTALLATION OF THE HEAT PUMP SYSTEM OR HEAT PUMP WATER HEATER SPECIFIED IN SUBSECTION (4) OF THIS SECTION, IF APPLICABLE; AND

(II) AFFIRMS THAT THE REQUIREMENTS SPECIFIED IN SUBSECTION (5)(a) OF THIS SECTION WERE MET.

(d) THE SELLER MAY AUTHORIZE AN AGENT OR A DESIGNEE TO SIGN THE AGREEMENT ON ITS BEHALF.

(e) THE SELLER SHALL ELECTRONICALLY SUBMIT A REPORT CONTAINING THE INFORMATION REQUIRED IN THE AGREEMENT DESCRIBED IN SUBSECTION (5)(c) OF THIS SECTION TO THE DEPARTMENT OF REVENUE WITHIN THIRTY DAYS OF THE PURCHASE OF A HEAT PUMP SYSTEM OR HEAT PUMP WATER HEATER IN A FORM AND MANNER TO BE DETERMINED BY THE DEPARTMENT.

(f) THE SELLER SHALL ALSO FILE THE AGREEMENT DESCRIBED IN SUBSECTION (5)(c) OF THIS SECTION WITH THE ORIGINAL TAX RETURN FOR THE TAXABLE YEAR IN WHICH THE HEAT PUMP SYSTEM OR HEAT PUMP WATER HEATER IS PURCHASED.

(g) THE DEPARTMENT OF REVENUE, IN CONSULTATION WITH THE COLORADO ENERGY OFFICE, SHALL DEVELOP A MODEL REPORT AND AGREEMENT NO LATER THAN DECEMBER 1, 2022.

(6) IF A CREDIT AUTHORIZED IN THIS SECTION EXCEEDS THE INCOME TAX DUE ON THE INCOME OF THE SELLER FOR THE TAXABLE YEAR, THE EXCESS CREDIT MAY NOT BE CARRIED FORWARD AND SHALL BE REFUNDABLE TO THE SELLER.

(7) MAKING A PURCHASER AWARE OF THE INCOME TAX CREDIT ALLOWED IN THIS SECTION OR HELPING A PURCHASER ASSIGN THE INCOME TAX CREDIT TO A SELLER AS ALLOWED IN THIS SECTION DOES NOT RISE TO THE LEVEL OF PROVIDING THE PURCHASER WITH UNAUTHORIZED TAX ADVICE.

(8) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2028.

**39-22-546. Credit against tax - residential energy storage systems - tax preference performance statement - legislative declaration - definition - repeal.**

(1) (a) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT THE PURPOSES OF THE TAX EXPENDITURE CREATED IN SUBSECTION (3) OF THIS SECTION ARE TO:

(I) INDUCE CERTAIN DESIGNATED BEHAVIOR BY TAXPAYERS, SPECIFICALLY THE PURCHASE AND INSTALLATION OF RESIDENTIAL ENERGY STORAGE SYSTEMS; AND

(II) CONTRIBUTE TO THE STATE'S EFFORT TO ACHIEVE ITS CLIMATE GOALS.

(b) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL MEASURE THE EFFECTIVENESS OF THE TAX CREDITS IN ACHIEVING THE PURPOSES SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION BASED ON THE NUMBER OF RESIDENTIAL ENERGY STORAGE SYSTEMS INSTALLED IN THE STATE. THE COLORADO ENERGY OFFICE SHALL PROVIDE THE STATE AUDITOR WITH ANY AVAILABLE INFORMATION THAT WOULD ASSIST THE STATE AUDITOR'S MEASUREMENT.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ENERGY STORAGE SYSTEM" MEANS ANY COMMERCIALY AVAILABLE, CUSTOMER-SITED SYSTEM, INCLUDING BATTERIES AND THE BATTERIES PAIRED WITH ON-SITE GENERATION, THAT IS CAPABLE OF RETAINING, STORING, AND DELIVERING ENERGY BY CHEMICAL, THERMAL, MECHANICAL, OR OTHER MEANS.

(b) "PURCHASE PRICE" MEANS THE AMOUNT ACTUALLY PAID BY THE PURCHASER FOR THE TANGIBLE PERSONAL PROPERTY INSTALLED, INCLUDING CHARGES FOR SALES TAX AND FREIGHT, BUT NOT INCLUDING ANY CHARGES FOR ASSEMBLY, INSTALLATION, OR OTHER CONSTRUCTION SERVICES, OR PERMIT FEES.

(c) "PURCHASER" MEANS A TAXPAYER WHO IS THE BUYER OF AN ENERGY STORAGE SYSTEM.

(d) "SELLER" MEANS THE ENTITY THAT SELLS AN ENERGY STORAGE SYSTEM.

(3) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2023, BUT BEFORE JANUARY 1, 2025, ANY PURCHASER THAT INSTALLS AN ENERGY STORAGE SYSTEM IN A RESIDENTIAL DWELLING IN THIS STATE IS ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE 22 IN AN AMOUNT EQUAL TO TEN PERCENT OF THE PURCHASE PRICE PAID BY THE PURCHASER FOR THE ENERGY STORAGE SYSTEM.

(b) THE CREDIT ALLOWED PURSUANT TO THIS SECTION IS FOR THE INCOME TAX YEAR IN WHICH THE ENERGY STORAGE SYSTEM IS PURCHASED.

(4) (a) A PURCHASER MAY ASSIGN THE TAX CREDIT ALLOWED IN THIS SECTION TO THE PURCHASER'S SELLER AS FOLLOWS:

(I) THE ASSIGNMENT TO THE SELLER MUST BE COMPLETED AT THE TIME OF PURCHASE OF A NEW ENERGY STORAGE SYSTEM BY ENTERING INTO AN AGREEMENT AS SET FORTH IN SUBSECTION (4)(c) OF THIS SECTION;

(II) THE PURCHASER MUST ASSIGN THE TAX CREDIT TO THE SELLER AND FORFEIT THE RIGHT TO CLAIM THE TAX CREDIT ON THE PURCHASER'S TAX RETURN IN EXCHANGE FOR GOOD AND VALUABLE CONSIDERATION; AND

(III) THE SELLER MUST COMPENSATE THE PURCHASER FOR THE FULL NOMINAL VALUE OF THE TAX CREDIT. THE COMPENSATION PAID TO THE PURCHASER IS CONSIDERED A REFUND OF STATE TAXES AND IS NOT STATE TAXABLE INCOME.

(b) NOTWITHSTANDING SECTION 39-21-108(3), IF A PURCHASER ASSIGNS THE TAX CREDIT TO A SELLER PURSUANT TO THIS SUBSECTION (4), THE SELLER RECEIVES THE FULL AMOUNT OF THE TAX CREDIT THAT THE PURCHASER IS ALLOWED IN THIS SECTION. ANY UNPAID BALANCE OR UNPAID DEBT OF THE PURCHASER MAY NOT BE CREDITED FROM THE AMOUNT OF THE TAX CREDIT ALLOWED IN THIS SECTION.

(c) TO COMPLETE THE TAX CREDIT ASSIGNMENT, THE PURCHASER AND THE SELLER MUST ENTER INTO AN AGREEMENT THAT AFFIRMS THAT THE REQUIREMENTS SPECIFIED IN SUBSECTION (4)(a) OF THIS SECTION WERE MET.

(d) THE SELLER MAY AUTHORIZE AN AGENT OR A DESIGNEE TO SIGN THE AGREEMENT ON ITS BEHALF.

(e) THE SELLER SHALL ELECTRONICALLY SUBMIT A REPORT CONTAINING THE INFORMATION REQUIRED IN THE AGREEMENT DESCRIBED IN SUBSECTION (4)(c) OF THIS SECTION TO THE DEPARTMENT OF REVENUE WITHIN THIRTY DAYS OF THE PURCHASE OF AN ENERGY STORAGE SYSTEM IN A FORM AND MANNER TO BE DETERMINED BY THE DEPARTMENT.

(f) THE SELLER SHALL ALSO FILE THE AGREEMENT DESCRIBED IN SUBSECTION (4)(c) OF THIS SECTION WITH THE ORIGINAL TAX RETURN FOR THE TAXABLE YEAR IN WHICH THE ENERGY STORAGE SYSTEM IS PURCHASED.

(g) THE DEPARTMENT OF REVENUE, IN CONSULTATION WITH THE COLORADO ENERGY OFFICE, SHALL DEVELOP A MODEL REPORT AND AGREEMENT NO LATER THAN DECEMBER 1, 2022.

(5) IF A CREDIT AUTHORIZED IN THIS SECTION EXCEEDS THE INCOME TAX DUE ON THE INCOME OF THE SELLER FOR THE TAXABLE YEAR, THE EXCESS CREDIT MAY NOT BE CARRIED FORWARD AND SHALL BE REFUNDABLE TO THE SELLER.

(6) MAKING A PURCHASER AWARE OF THE INCOME TAX CREDIT ALLOWED IN THIS SECTION OR HELPING A PURCHASER ASSIGN THE INCOME TAX CREDIT TO A SELLER AS ALLOWED IN THIS SECTION DOES NOT RISE TO THE LEVEL OF PROVIDING THE PURCHASER WITH UNAUTHORIZED TAX ADVICE.

(7) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2028.

**SECTION 3.** In Colorado Revised Statutes, 39-22-601, **amend** (7) as follows:

**39-22-601. Returns.** (7) (a) Every person or organization exempt from taxes pursuant to section 39-22-112 shall make and file a return only if said person or organization is required to file a federal return of unrelated business income, which Colorado return shall contain such information as the executive director may prescribe. ~~All procedures of law relating to the determination, assessment, collection, and refund of tax shall apply to such return and the tax payable thereon.~~

(b) THE EXECUTIVE DIRECTOR MAY REQUIRE A PERSON OR ORGANIZATION EXEMPT FROM TAXES PURSUANT TO SECTION 39-22-112 TO MAKE AND FILE A RETURN CONTAINING SUCH INFORMATION AS THE EXECUTIVE DIRECTOR MAY PRESCRIBE TO CLAIM A CREDIT ALLOWED UNDER THIS ARTICLE 22 EVEN IF THE PERSON OR

ORGANIZATION DOES NOT HAVE UNRELATED BUSINESS INCOME.

(c) ALL PROCEDURES OF LAW RELATING TO THE DETERMINATION, ASSESSMENT, COLLECTION, AND REFUND OF TAX APPLY TO A RETURN MADE AND FILED UNDER THIS SUBSECTION (7) AND THE TAX PAYABLE THEREON, IF ANY.

**SECTION 4.** In Colorado Revised Statutes, **add** 39-26-731, 39-26-732, and 39-26-733 as follows:

**39-26-731. Eligible decarbonizing building materials - tax preference performance statement - legislative declaration - definition - repeal.** (1)(a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(I) THE GENERAL ASSEMBLY HAS COMMITTED TO REDUCE GREENHOUSE GASES THROUGH NUMEROUS POLICY AND REGULATORY MEASURES TO MEET THE GOALS ESTABLISHED IN 2019;

(II) GREAT QUANTITIES OF EMISSIONS ARE RELEASED DURING THE MANUFACTURE AND TRANSPORT OF BUILDING MATERIALS USED IN CONSTRUCTION PROJECTS;

(III) THERE IS GREAT POTENTIAL FOR BUSINESSES AND INDIVIDUALS IN THE STATE TO REDUCE GREENHOUSE GAS EMISSIONS IN CONSTRUCTION PROJECTS BY PURCHASING AND USING ELIGIBLE DECARBONIZING BUILDING MATERIALS, WHICH ARE BUILDING MATERIALS WITH A MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL AS DETERMINED BY THE OFFICE OF THE STATE ARCHITECT;

(IV) PROVIDING A SALES AND USE TAX EXEMPTION FOR ELIGIBLE DECARBONIZING BUILDING MATERIALS WILL ENCOURAGE BUSINESSES AND INDIVIDUALS TO PURCHASE AND USE THOSE BUILDING MATERIALS RATHER THAN INDUSTRY STANDARD MATERIALS; AND

(V) THE PURCHASE AND USE OF ELIGIBLE DECARBONIZING BUILDING MATERIALS WILL HELP IMPROVE ENVIRONMENTAL OUTCOMES AND ACCELERATE NECESSARY GREENHOUSE GAS REDUCTIONS TO PROTECT PUBLIC HEALTH AND THE ENVIRONMENT AND CONSERVE A LIVABLE CLIMATE BY INCORPORATING EMISSIONS INFORMATION FROM THROUGHOUT THE SUPPLY CHAIN AND PRODUCT LIFE CYCLE INTO BUILDING MATERIAL PURCHASING AND USE DECISIONS.

(b) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT THE PURPOSES OF THE TAX EXPENDITURE CREATED IN SUBSECTION (3) OF THIS SECTION ARE TO:

(I) INDUCE CERTAIN DESIGNATED BEHAVIOR BY TAXPAYERS, SPECIFICALLY THE PURCHASE AND USE OF ELIGIBLE DECARBONIZING BUILDING MATERIALS; AND

(II) CONTRIBUTE TO THE STATE'S EFFORT TO ACHIEVE ITS CLIMATE GOALS.

(c) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL MEASURE THE EFFECTIVENESS OF THE EXEMPTION IN ACHIEVING THE PURPOSES SPECIFIED IN



SUBSECTION (1)(b) OF THIS SECTION BASED ON THE QUANTITY OF ELIGIBLE DECARBONIZING BUILDING MATERIALS SOLD AND USED IN THE STATE. THE COLORADO ENERGY OFFICE AND OFFICE OF THE STATE ARCHITECT SHALL PROVIDE THE STATE AUDITOR WITH ANY AVAILABLE INFORMATION THAT WOULD ASSIST THE STATE AUDITOR'S MEASUREMENT.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "ELIGIBLE DECARBONIZING BUILDING MATERIALS" MEANS BUILDING MATERIALS THAT HAVE A MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL AS DETERMINED BY THE OFFICE OF THE STATE ARCHITECT PURSUANT TO SECTION 24-92-117. "ELIGIBLE DECARBONIZING BUILDING MATERIALS" INCLUDES:

- (a) ASPHALT AND ASPHALT MIXTURES;
- (b) CEMENT AND CONCRETE MIXTURES;
- (c) GLASS;
- (d) POST-TENSION STEEL;
- (e) REINFORCING STEEL;
- (f) STRUCTURAL STEEL; AND
- (g) WOOD STRUCTURAL ELEMENTS.

(3) ON AND AFTER JULY 1, 2024, ALL SALES, STORAGE, AND USE OF ELIGIBLE DECARBONIZING BUILDING MATERIALS THAT ARE ON THE LIST OF ELIGIBLE MATERIALS MAINTAINED BY THE OFFICE OF THE STATE ARCHITECT PURSUANT TO SECTION 24-92-117(7), ARE EXEMPT FROM TAXATION UNDER PARTS 1 AND 2 OF THIS ARTICLE 26.

(4) BY JANUARY 1, 2024, THE OFFICE OF THE STATE ARCHITECT SHALL PROVIDE THE LIST IT COMPILES AND MAINTAINS PURSUANT TO SECTION 24-92-117(7) TO THE DEPARTMENT OF REVENUE. BASED ON THE LIST FROM THE OFFICE OF THE STATE ARCHITECT, THE DEPARTMENT SHALL CREATE AND MAINTAIN A DATABASE OF PRODUCTS, INCLUDING THE MANUFACTURERS OF THE PRODUCTS, THAT ARE ELIGIBLE FOR THE SALES AND USE TAX EXEMPTION ALLOWED PURSUANT TO THIS SECTION FOR USE BY ENTITIES THAT SELL DECARBONIZING BUILDING MATERIALS.

(5) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2034.

**39-26-732. Heat pump systems - tax preference performance statement - legislative declaration - definitions - repeal.** (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(I) THE GENERAL ASSEMBLY HAS COMMITTED TO REDUCE GREENHOUSE GASES THROUGH NUMEROUS POLICY AND REGULATORY MEASURES TO MEET THE GOALS ESTABLISHED IN 2019;

(II) GREAT QUANTITIES OF EMISSIONS ARE RELEASED IN THE TRADITIONAL

PROCESS OF HEATING AND COOLING PRIVATE SECTOR COMMERCIAL AND RESIDENTIAL BUILDINGS;

(III) THERE IS GREAT POTENTIAL FOR BUSINESSES AND INDIVIDUALS IN THE STATE TO REDUCE GREENHOUSE GAS EMISSIONS GENERATED IN THE HEATING AND COOLING OF COMMERCIAL AND RESIDENTIAL BUILDINGS BY INSTALLING HEAT PUMP SYSTEMS AND HEAT PUMP WATER HEATERS, WHICH REDUCE NET GREENHOUSE GAS EMISSIONS;

(IV) PROVIDING A SALES AND USE TAX EXEMPTION FOR HEAT PUMP SYSTEMS AND HEAT PUMP WATER HEATERS WILL ENCOURAGE BUSINESSES AND INDIVIDUALS TO PURCHASE AND USE HEAT PUMP SYSTEMS AND HEAT PUMP WATER HEATERS RATHER THAN TRADITIONAL HEATING AND COOLING METHODS; AND

(V) THE PURCHASE AND USE OF HEAT PUMP SYSTEMS AND HEAT PUMP WATER HEATERS WILL BENEFIT PUBLIC HEALTH IN THE HEATING AND COOLING OF HOMES AND BUSINESSES AND TAKE ADVANTAGE OF LATENT HEAT SOURCES AND AVAILABLE RENEWABLE POWER DURING LOW DEMAND PERIODS.

(b) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT THE PURPOSES OF THE TAX EXPENDITURE CREATED IN SUBSECTION (3) OF THIS SECTION ARE TO:

(I) INDUCE CERTAIN DESIGNATED BEHAVIOR BY TAXPAYERS, SPECIFICALLY THE PURCHASE AND USE OF HEAT PUMP SYSTEMS AND HEAT PUMP WATER HEATERS; AND

(II) CONTRIBUTE TO THE STATE'S EFFORT TO ACHIEVE ITS CLIMATE GOALS.

(c) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL MEASURE THE EFFECTIVENESS OF THE EXEMPTION IN ACHIEVING THE PURPOSES SPECIFIED IN SUBSECTION (1)(b) OF THIS SECTION BASED ON THE NUMBER OF HEAT PUMP SYSTEMS AND HEAT PUMP WATER HEATERS SOLD AND USED IN THE STATE. THE COLORADO ENERGY OFFICE SHALL PROVIDE THE STATE AUDITOR WITH ANY AVAILABLE INFORMATION THAT WOULD ASSIST THE STATE AUDITOR'S MEASUREMENT.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) (I) "AIR-SOURCE HEAT PUMP SYSTEM" MEANS A SYSTEM THAT:

(A) IS CERTIFIED PURSUANT TO THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S ENERGY STAR PROGRAM;

(B) HAS A VARIABLE SPEED COMPRESSOR;

(C) IS LISTED IN THE AIR-CONDITIONING, HEATING, AND REFRIGERATION INSTITUTE DIRECTORY OF CERTIFIED PRODUCT PERFORMANCE AS A MATCHED SYSTEM; AND

(D) IS INSTALLED BY A LICENSED CONTRACTOR, PLUMBER, OR EMPLOYEE OF A GAS UTILITY IN ACCORDANCE WITH THE NATIONAL ELECTRICAL CODE AND THE MANUFACTURER'S SPECIFICATIONS.

(II) "AIR-SOURCE HEAT PUMP SYSTEM" MAY INCLUDE AN ELECTRIC RESISTANCE HEATING ELEMENT OR A DUAL FUEL SYSTEM FOR SUPPLEMENTAL HEAT SO LONG AS:

(A) THE AIR-SOURCE HEAT PUMP IS USED AS THE PRIMARY SOURCE OF A BUILDING'S HEAT AND IS DESIGNED TO SUPPLY AT LEAST EIGHTY PERCENT OF TOTAL ANNUAL HEATING FOR THE BUILDING;

(B) THE SYSTEM IS CAPABLE OF DISTRIBUTING PRODUCED HEAT TO ALL CONDITIONED AREAS OF THE BUILDING;

(C) THE DUAL FUEL SYSTEM HAS A FURNACE WITH AN ANNUAL FUEL UTILIZATION EFFICIENCY RATING OF NINETY PERCENT OR HIGHER;

(D) ALL PIPING FOR A SPLIT SYSTEM IS INSTALLED BY TECHNICIANS CERTIFIED TO THE NITC R78 BRAZING PROCEDURE; AND

(E) THE SYSTEM IS INSTALLED BY TECHNICIANS THAT ARE TRAINED ON THE SAFE HANDLING OF FLAMMABLE REFRIGERANTS.

(III) "AIR-SOURCE HEAT PUMP SYSTEM" INCLUDES MECHANICAL AND ELECTRICAL EQUIPMENT CENTRAL TO THE OPERATION OF AN AIR-SOURCE HEAT PUMP, INCLUDING AN UPGRADED ELECTRICAL PANEL IF NECESSARY.

(b) (I) "GROUND-SOURCE HEAT PUMP SYSTEM" MEANS A SYSTEM THAT:

(A) IS CERTIFIED TO THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION'S LATEST STANDARDS;

(B) IS INSTALLED BY A LICENSED CONTRACTOR, PLUMBER, OR EMPLOYEE OF A GAS UTILITY IN ACCORDANCE WITH THE NATIONAL ELECTRIC CODE AND MANUFACTURER'S SPECIFICATIONS;

(C) CONFORMS TO ALL APPLICABLE MUNICIPAL, STATE, AND FEDERAL CODES, STANDARDS, REGULATIONS, AND CERTIFICATIONS;

(D) HAS BLOWERS THAT ARE VARIABLE SPEED, HIGH-EFFICIENCY MOTORS THAT MEET OR EXCEED EFFICIENCY LEVELS LISTED IN THE NATIONAL ELECTRICAL MANUFACTURERS ASSOCIATION MG1-1993 PUBLICATION; AND

(E) COMPLIES WITH ALL STATE AND LOCAL DRINKING WATER GUIDELINES AND REGULATIONS AND PUBLIC WATER SYSTEM REQUIREMENTS.

(II) "GROUND-SOURCE HEAT PUMP SYSTEM" MAY INCLUDE A DUAL FUEL SYSTEM SO LONG AS:

(A) THE GROUND-SOURCE HEAT PUMP IS USED AS THE PRIMARY SOURCE OF A BUILDING'S HEAT AND IS DESIGNED TO SUPPLY AT LEAST EIGHTY PERCENT OF TOTAL ANNUAL HEATING FOR THE BUILDING;

(B) THE SYSTEM IS CAPABLE OF DISTRIBUTING PRODUCED HEAT TO ALL CONDITIONED AREAS OF THE BUILDING;

(C) THE FURNACE HAS AN ANNUAL FUEL UTILIZATION EFFICIENCY RATING OF NINETY PERCENT OR HIGHER;

(D) ALL PIPING FOR A SPLIT SYSTEM IS INSTALLED BY TECHNICIANS CERTIFIED TO THE NITC R78 BRAZING PROCEDURE; AND

(E) THE SYSTEM IS INSTALLED BY TECHNICIANS THAT ARE TRAINED ON THE SAFE HANDLING OF FLAMMABLE REFRIGERANTS.

(III) "GROUND-SOURCE HEAT PUMP SYSTEM" INCLUDES MECHANICAL AND ELECTRICAL EQUIPMENT CENTRAL TO THE OPERATION OF A GROUND-SOURCE HEAT PUMP, INCLUDING AN UPGRADED ELECTRICAL PANEL IF NECESSARY.

(IV) "GROUND-SOURCE HEAT PUMP SYSTEM" MAY INCLUDE A HEAT EXCHANGER FOR WATER HEATING.

(c) "HEAT PUMP SYSTEM" MEANS AN AIR-SOURCE HEAT PUMP SYSTEM, GROUND-SOURCE HEAT PUMP SYSTEM, WATER-SOURCE HEAT PUMP SYSTEM, COMBINED WATER-SOURCE AND AIR-SOURCE HEAT PUMP SYSTEM, OR VARIABLE REFRIGERANT FLOW HEAT PUMP SYSTEM.

(d) (I) "HEAT PUMP WATER HEATER" MEANS AN ELECTRIC WATER HEATER THAT USES HEAT PUMP TECHNOLOGY TO TRANSFER HEAT FROM THE SURROUNDING AIR TO WATER IN A TANK AND THAT IS CERTIFIED PURSUANT TO THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S ENERGY STAR PROGRAM.

(II) "HEAT PUMP WATER HEATER" MAY INCLUDE:

(A) AN ELECTRIC RESISTANCE HEATING ELEMENT; AND

(B) MECHANICAL AND ELECTRICAL EQUIPMENT CENTRAL TO THE OPERATION OF A HEAT PUMP WATER HEATER, INCLUDING AN UPGRADED ELECTRICAL PANEL IF NECESSARY.

(e) (I) "WATER-SOURCE HEAT PUMP SYSTEM" MEANS A SYSTEM THAT:

(A) IS CERTIFIED TO THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION'S LATEST STANDARDS;

(B) IS INSTALLED BY A LICENSED CONTRACTOR, PLUMBER, OR EMPLOYEE OF A GAS OR WASTEWATER UTILITY IN ACCORDANCE WITH THE NATIONAL ELECTRIC CODE AND MANUFACTURER'S SPECIFICATIONS;

(C) CONFORMS TO ALL APPLICABLE MUNICIPAL, STATE, AND FEDERAL CODES, STANDARDS, REGULATIONS, AND CERTIFICATIONS;

(D) HAS BLOWERS THAT ARE VARIABLE SPEED, HIGH-EFFICIENCY MOTORS THAT MEET OR EXCEED EFFICIENCY LEVELS LISTED IN THE NATIONAL ELECTRICAL MANUFACTURERS ASSOCIATION MG1-1993 PUBLICATION; AND

(E) COMPLIES WITH ALL STATE AND LOCAL DRINKING WATER GUIDELINES AND

REGULATIONS AND PUBLIC WATER SYSTEM AND WASTEWATER SYSTEM REQUIREMENTS.

(II) "WATER-SOURCE HEAT PUMP SYSTEM" MAY INCLUDE A DUAL FUEL SYSTEM SO LONG AS:

(A) THE WATER-SOURCE HEAT PUMP IS USED AS THE PRIMARY SOURCE OF A BUILDING'S HEAT AND IS DESIGNED TO SUPPLY AT LEAST EIGHTY PERCENT OF THE TOTAL ANNUAL HEATING FOR THE BUILDING;

(B) THE SYSTEM IS CAPABLE OF DISTRIBUTING PRODUCED HEAT TO ALL CONDITIONED AREAS OF THE BUILDING;

(C) THE FURNACE HAS AN ANNUAL FUEL UTILIZATION EFFICIENCY RATING OF NINETY PERCENT OR HIGHER;

(D) ALL PIPING FOR A SPLIT SYSTEM IS INSTALLED BY TECHNICIANS CERTIFIED TO THE NITC R78 BRAZING PROCEDURE; AND

(E) THE SYSTEM IS INSTALLED BY TECHNICIANS WHO ARE TRAINED IN THE SAFE HANDLING OF FLAMMABLE REFRIGERANTS.

(III) "WATER-SOURCE HEAT PUMP SYSTEM" INCLUDES MECHANICAL AND ELECTRICAL EQUIPMENT CENTRAL TO THE OPERATION OF A WATER-SOURCE HEAT PUMP.

(f) (I) "VARIABLE REFRIGERANT FLOW HEAT PUMP SYSTEM" MEANS A SYSTEM THAT:

(A) IS CERTIFIED TO THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION'S LATEST STANDARDS;

(B) IS INSTALLED BY A LICENSED CONTRACTOR, PLUMBER, OR EMPLOYEE OF A GAS OR WASTEWATER UTILITY IN ACCORDANCE WITH THE NATIONAL ELECTRIC CODE AND MANUFACTURER'S SPECIFICATIONS;

(C) CONFORMS TO ALL APPLICABLE MUNICIPAL, STATE, AND FEDERAL CODES, STANDARDS, REGULATIONS, AND CERTIFICATIONS;

(D) HAS BLOWERS THAT ARE VARIABLE SPEED, HIGH-EFFICIENCY MOTORS THAT MEET OR EXCEED EFFICIENCY LEVELS LISTED IN THE NATIONAL ELECTRICAL MANUFACTURERS ASSOCIATION MGI-1993 PUBLICATION; AND

(E) COMPLIES WITH ALL STATE AND LOCAL DRINKING WATER GUIDELINES AND REGULATIONS AND PUBLIC WATER SYSTEM AND WASTEWATER SYSTEM REQUIREMENTS.

(II) "VARIABLE REFRIGERANT FLOW SYSTEM" MAY INCLUDE A DUAL FUEL SYSTEM SO LONG AS:

(A) THE VARIABLE REFRIGERANT FLOW SYSTEM IS USED AS THE PRIMARY SOURCE

OF A BUILDING'S HEAT AND IS DESIGNED TO SUPPLY AT LEAST EIGHTY PERCENT OF THE TOTAL ANNUAL HEATING FOR THE BUILDING;

(B) THE SYSTEM IS CAPABLE OF DISTRIBUTING PRODUCED HEAT TO ALL CONDITIONED AREAS OF THE BUILDING;

(C) THE FURNACE HAS AN ANNUAL FUEL UTILIZATION EFFICIENCY RATING OF NINETY PERCENT OR HIGHER;

(D) ALL PIPING FOR A SPLIT SYSTEM IS INSTALLED BY TECHNICIANS CERTIFIED TO THE NITC R78 BRAZING PROCEDURE; AND

(E) THE SYSTEM IS INSTALLED BY TECHNICIANS WHO ARE TRAINED IN THE SAFE HANDLING OF FLAMMABLE REFRIGERANTS.

(III) "VARIABLE REFRIGERANT FLOW SYSTEM" INCLUDES MECHANICAL AND ELECTRICAL EQUIPMENT CENTRAL TO THE OPERATION OF A VARIABLE REFRIGERANT FLOW SYSTEM.

(3) ON AND AFTER JANUARY 1, 2023, SUBJECT TO THE PROVISIONS OF SUBSECTION (4) OF THIS SECTION, ALL SALES, STORAGE, AND USE OF HEAT PUMP SYSTEMS AND HEAT PUMP WATER HEATERS THAT ARE USED IN COMMERCIAL OR RESIDENTIAL BUILDINGS ARE EXEMPT FROM TAXATION UNDER PARTS 1 AND 2 OF THIS ARTICLE 26.

(4)(a)(I) TO BE ELIGIBLE FOR THE SALES AND USE TAX EXEMPTION PURSUANT TO THIS SECTION, THE PURCHASER OF A HEAT PUMP SYSTEM OR HEAT PUMP WATER HEATER SHALL CERTIFY, AS SPECIFIED IN SUBSECTION (4)(b) OF THIS SECTION, THAT ALL NECESSARY MECHANICAL, PLUMBING, AND ELECTRICAL WORK PERFORMED IN CONNECTION WITH THE INSTALLATION OF A HEAT PUMP SYSTEM OR HEAT PUMP WATER HEATER IN A NEW OR EXISTING INDUSTRIAL, COMMERCIAL, OR MULTIFAMILY RESIDENTIAL BUILDING CONTAINING TWENTY THOUSAND SQUARE FEET OR MORE OF CONDITIONED FLOOR SPACE WILL BE PERFORMED BY A CONTRACTOR ON THE CERTIFIED CONTRACTOR LIST CREATED PURSUANT TO SECTION 40-3.2-105.6 (3)(a), OR BY EMPLOYEES OF A UTILITY, SUBJECT TO STATE LICENSING REQUIREMENTS AND ALL APPLICABLE STATE AND LOCAL RULES, CODES, AND STANDARDS.

(II) THE REQUIREMENTS OF THIS SUBSECTION (4)(a) DO NOT APPLY TO THE INSTALLATION OF A HEAT PUMP SYSTEM OR HEAT PUMP WATER HEATER THAT IS LIMITED TO IN-UNIT WORK IN A MULTIFAMILY BUILDING OR UNIT AND THAT IS INITIATED BY THE OWNER OR TENANT OF THE MULTIFAMILY BUILDING OR UNIT.

(b) THE PURCHASER SHALL CERTIFY, IN A FORM AND MANNER TO BE DETERMINED BY THE DEPARTMENT OF REVENUE, THAT THE HEAT PUMP SYSTEM OR HEAT PUMP WATER HEATER WILL BE INSTALLED IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION (4)(a) OF THIS SECTION, IF APPLICABLE.

(5) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2033.

**39-26-733. Residential energy storage systems - tax preference performance statement - legislative declaration - definition - repeal.** (1) (a) IN ACCORDANCE WITH SECTION 39-21-304(1), WHICH REQUIRES EACH BILL THAT CREATES A NEW TAX

EXPENDITURE TO INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT THE PURPOSES OF THE TAX EXPENDITURE CREATED IN SUBSECTION (3) OF THIS SECTION ARE TO:

(I) INDUCE CERTAIN DESIGNATED BEHAVIOR BY TAXPAYERS, SPECIFICALLY THE PURCHASE AND INSTALLATION OF RESIDENTIAL ENERGY STORAGE SYSTEMS; AND

(II) CONTRIBUTE TO THE STATE'S EFFORT TO ACHIEVE ITS CLIMATE GOALS.

(b) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL MEASURE THE EFFECTIVENESS OF THE TAX EXEMPTION IN ACHIEVING THE PURPOSES SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION BASED ON THE NUMBER OF RESIDENTIAL ENERGY STORAGE SYSTEMS SOLD AND USED IN THE STATE. THE COLORADO ENERGY OFFICE SHALL PROVIDE THE STATE AUDITOR WITH ANY AVAILABLE INFORMATION THAT WOULD ASSIST THE STATE AUDITOR'S MEASUREMENT.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "ENERGY STORAGE SYSTEM" MEANS ANY COMMERCIALY AVAILABLE, CUSTOMER-SITED SYSTEM, INCLUDING BATTERIES AND THE BATTERIES PAIRED WITH ON-SITE GENERATION, THAT IS CAPABLE OF RETAINING, STORING, AND DELIVERING ENERGY BY CHEMICAL, THERMAL, MECHANICAL, OR OTHER MEANS.

(3) ON AND AFTER JANUARY 1, 2023, ALL SALES, STORAGE, AND USE OF ENERGY STORAGE SYSTEMS THAT ARE USED IN A RESIDENTIAL DWELLING ARE EXEMPT FROM TAXATION UNDER PARTS 1 AND 2 OF THIS ARTICLE 26.

(4) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2033.

**SECTION 5.** In Colorado Revised Statutes, **add** 40-3-119 as follows:

**40-3-119. Measurement of use for billing - rules.** AFTER JANUARY 1, 2023, AN INVESTOR-OWNED GAS UTILITY, AT ITS DISCRETION, MAY APPLY TO THE COMMISSION FOR APPROVAL TO MEASURE THE AMOUNT OF USE FOR BILLING PURPOSES IN EITHER FUEL COMMODITY UNITS OR FOR ENERGY SERVICES PROVIDED. UPON RECEIPT OF THE UTILITY'S APPLICATION, THE COMMISSION SHALL APPROVE, DENY, OR MODIFY THE UTILITY'S APPLICATION FOR MEASUREMENT OF USE FOR BILLING PURPOSES PURSUANT TO THIS SECTION.

**SECTION 6.** In Colorado Revised Statutes, 29-2-105, **add** (1)(d)(I)(S), (1)(d)(I)(T), and (1)(d)(I)(U) as follows:

**29-2-105. Contents of sales tax ordinances and proposals.** (1) The sales tax ordinance or proposal of any incorporated town, city, or county adopted pursuant to this article 2 shall be imposed on the sale of tangible personal property at retail or the furnishing of services, as provided in subsection (1)(d) of this section. Any countywide or incorporated town or city sales tax ordinance or proposal shall include the following provisions:

(d)(I) A provision that the sale of tangible personal property and services taxable pursuant to this article 2 shall be the same as the sale of tangible personal property

and services taxable pursuant to section 39-26-104, except as otherwise provided in this subsection (1)(d). The sale of tangible personal property and services taxable pursuant to this article 2 shall be subject to the same sales tax exemptions as those specified in part 7 of article 26 of title 39; except that the sale of the following may be exempted from a town, city, or county sales tax only by the express inclusion of the exemption either at the time of adoption of the initial sales tax ordinance or resolution or by amendment thereto:

(S) THE EXEMPTION FOR SALES OF ELIGIBLE DECARBONIZING BUILDING MATERIALS SET FORTH IN SECTION 39-26-731;

(T) THE EXEMPTION FOR SALES OF HEAT PUMP SYSTEMS AND HEAT PUMP WATER HEATERS SET FORTH IN SECTION 39-26-732; AND

(U) THE EXEMPTION FOR SALES OF ENERGY STORAGE SYSTEMS SET FORTH IN SECTION 39-26-733.

**SECTION 7.** In Colorado Revised Statutes, 29-2-109, **amend** (1) introductory portion as follows:

**29-2-109. Contents of use tax ordinances and proposals - repeal.** (1) The use tax ordinance, resolution, or proposal of any town, city, or county adopted pursuant to this article 2 shall be imposed only for the privilege of using or consuming in the town, city, or county any construction and building materials purchased at retail or for the privilege of storing, using, or consuming in the town, city, or county any motor and other vehicles, purchased at retail on which registration is required, or both. For the purposes of this subsection (1), the term "construction and building materials" shall not include parts or materials utilized in the fabrication, construction, assembly, or installation of passenger tramways, as defined in section 12-150-103 (5), by any ski area operator, as defined in section 33-44-103 (7), or any person fabricating, constructing, assembling, or installing a passenger tramway for a ski area operator. The ordinance, resolution, or proposal may recite that the use tax shall not apply to the storage and use of wood from salvaged trees killed or infested in Colorado by mountain pine beetles or spruce beetles as exempted from the state use tax pursuant to section 39-26-723. The ordinance, resolution, or proposal may recite that the use tax shall not apply to the storage and use of components used in the production of energy, including but not limited to alternating current electricity, from a renewable energy source, as exempted from the state use tax pursuant to section 39-26-724. THE ORDINANCE, RESOLUTION, OR PROPOSAL MAY RECITE THAT THE USE TAX SHALL NOT APPLY TO THE STORAGE AND USE OF ELIGIBLE DECARBONIZING BUILDING MATERIALS, AS EXEMPTED FROM THE STATE USE TAX PURSUANT TO SECTION 39-26-731. The ordinance, resolution, or proposal shall recite that the use tax shall not apply:

**SECTION 8. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section I (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be



held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 2, 2022