

First Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 23-0865.01 Alison Killen x4350

**HOUSE BILL 23-1240**

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**HOUSE SPONSORSHIP**

**Brown and Amabile,**

**SENATE SPONSORSHIP**

**Fenberg,**

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**House Committees**

Finance  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING A SALES AND USE TAX EXEMPTION FOR CONSTRUCTION**  
102            **AND BUILDING MATERIALS USED FOR REPAIRING AND**  
103            **REBUILDING RESIDENTIAL STRUCTURES DAMAGED OR**  
104            **DESTROYED BY A DECLARED WILDFIRE DISASTER IN 2020, 2021,**  
105            **OR 2022, AND, IN CONNECTION THEREWITH, MAKING AN**  
106            **APPROPRIATION.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

**Section 1** of the bill creates a state sales and use tax exemption for

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing law.  
Dashes through the words or numbers indicate deletions from existing law.

construction and building materials purchased on or after January 1, 2020, but before July 1, 2025, to be used directly in rebuilding or repairing a residential structure damaged or destroyed by a declared wildfire disaster in calendar year 2020, 2021, or 2022 (wildfire rebuild exemption).

A homeowner, or a contractor employed by a homeowner, may obtain a wildfire rebuild exemption certificate from the local government authorized to issue a building permit in the area in which the residential structure to be repaired or rebuilt is located. To be qualified, a homeowner must certify that:

- The homeowner was the owner of each residential structure to be repaired or rebuilt at the time the structure was damaged or destroyed by the declared wildfire disaster; and
- The replacement cost for each residential structure to be repaired or rebuilt exceeds the homeowner's coverage under any homeowner's insurance policy associated with the structure.

To claim the exemption, the qualified homeowner, or contractor employed by such homeowner, must provide a copy of the wildfire rebuild exemption certificate to each retailer from which the homeowner or contractor purchases exempt construction or building materials. If a qualified homeowner, or contractor employed by such homeowner, has paid state sales or use tax on the purchase of exempt construction or building materials on or after January 1, 2020, but before July 1, 2025, then the person who made the purchase may apply to the department of revenue for a refund pursuant to existing sales and use tax refund procedures. Alternatively, if the purchaser-contractor has not been granted a refund, the homeowner for whom the exempt materials were purchased may apply for a refund by establishing certain existing statutory requirements are met.

**Sections 2 and 3** include the wildfire rebuild exemption among other exemptions available to state-collected and administered local sales and use tax jurisdictions, including statutory cities and counties, for adoption at their discretion.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 39-26-734 as  
3 follows:

4 **39-26-734. Rebuilding from declared wildfire disaster - tax**  
5 **preference performance statement - legislative declaration -**  
6 **definitions - repeal.** (1) IN ACCORDANCE WITH SECTION 39-21-304 (1),

1 WHICH REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO  
2 INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A  
3 STATUTORY LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY HEREBY  
4 FINDS AND DECLARES THAT:

5 (a) THE GENERAL LEGISLATIVE PURPOSE OF THE EXEMPTION  
6 ALLOWED BY THIS SECTION IS TO PROVIDE TAX RELIEF FOR CERTAIN  
7 INDIVIDUALS;

8 (b) THE SPECIFIC LEGISLATIVE PURPOSE OF THE EXEMPTION  
9 ALLOWED BY THIS SECTION IS TO PROVIDE FINANCIAL RELIEF TO  
10 COLORADANS RECOVERING AND REBUILDING FROM DECLARED WILDFIRE  
11 DISASTERS; AND

12 (c) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL  
13 MEASURE THE EFFECTIVENESS OF THE EXEMPTIONS ALLOWED BY  
14 SUBSECTIONS (3)(a) AND (3)(b) OF THIS SECTION BASED ON THE NUMBER  
15 OF WILDFIRE EXEMPTION CERTIFICATES ISSUED PURSUANT TO SUBSECTION  
16 (5) OF THIS SECTION, THE NUMBER AND AMOUNT OF ALL REFUND CLAIMS  
17 ALLOWED PURSUANT TO SUBSECTION (6) OF THIS SECTION, AND AN  
18 ESTIMATE BY THE STATE AUDITOR OF THE PROPORTION OF HOMEOWNERS  
19 AFFECTED BY DECLARED WILDFIRE DISASTERS WHO BENEFITTED FROM THE  
20 EXEMPTION IN THE REBUILDING OR REPAIRING OF THEIR HOMES.

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

23 (a) "DECLARED WILDFIRE DISASTER" MEANS A WILDFIRE THAT WAS  
24 DECLARED A DISASTER EMERGENCY BY THE GOVERNOR PURSUANT TO  
25 SECTION 24-33.5-704 (4) ON OR AFTER JANUARY 1, 2020, BUT BEFORE  
26 JANUARY 1, 2023.

27 (b) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

1 (c) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF  
2 THE DEPARTMENT OF REVENUE.

3 (d) "LOCAL GOVERNMENT" MEANS A COUNTY, CITY AND COUNTY,  
4 OR MUNICIPALITY.

5 (e) "QUALIFIED HOMEOWNER OR CONTRACTOR" MEANS A  
6 HOMEOWNER OR A CONTRACTOR EMPLOYED BY A HOMEOWNER WHO HAS  
7 BEEN ISSUED A WILDFIRE REBUILD EXEMPTION CERTIFICATE BY A LOCAL  
8 GOVERNMENT PURSUANT TO SUBSECTION (5) OF THIS SECTION.

9 (f) "WILDFIRE REBUILD EXEMPTION CERTIFICATE" MEANS A  
10 WRITTEN CERTIFICATION PROVIDED BY A LOCAL GOVERNMENT TO A  
11 HOMEOWNER OR A CONTRACTOR EMPLOYED BY SUCH HOMEOWNER THAT  
12 CERTIFIES THE TAX EXEMPT STATUS OF CONSTRUCTION AND BUILDING  
13 MATERIALS PURCHASED BY SUCH HOMEOWNER OR CONTRACTOR TO BE  
14 USED DIRECTLY IN THE REBUILDING OR REPAIRING OF A RESIDENTIAL  
15 STRUCTURE THAT IS CLEARLY IDENTIFIED IN THE CERTIFICATE.

16 (3) (a) ON OR AFTER JANUARY 1, 2020, BUT BEFORE JULY 1, 2025,  
17 ALL SALES TO A QUALIFIED HOMEOWNER, OR A CONTRACTOR EMPLOYED  
18 BY A QUALIFIED HOMEOWNER, OF CONSTRUCTION AND BUILDING  
19 MATERIALS TO BE USED DIRECTLY IN REBUILDING OR REPAIRING A  
20 RESIDENTIAL STRUCTURE DAMAGED OR DESTROYED BY A DECLARED  
21 WILDFIRE DISASTER ARE EXEMPT FROM TAXATION UNDER PART 1 OF THIS  
22 ARTICLE 26.

23 (b) ON OR AFTER JANUARY 1, 2020, BUT BEFORE JULY 1, 2025, THE  
24 STORAGE, USE, OR CONSUMPTION BY A QUALIFIED HOMEOWNER, OR A  
25 CONTRACTOR EMPLOYED BY A QUALIFIED HOMEOWNER, OF CONSTRUCTION  
26 AND BUILDING MATERIALS TO BE USED DIRECTLY IN REBUILDING OR  
27 REPAIRING A RESIDENTIAL STRUCTURE DAMAGED OR DESTROYED BY A

1 DECLARED WILDFIRE DISASTER ARE EXEMPT FROM TAXATION UNDER PART  
2 OF THIS ARTICLE 26.

3 (4) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (6) OF THIS  
4 SECTION, TO CLAIM AN EXEMPTION ALLOWED BY SUBSECTION (3)(a) OR  
5 (3)(b) OF THIS SECTION, A QUALIFIED HOMEOWNER OR A CONTRACTOR  
6 EMPLOYED BY SUCH HOMEOWNER MUST PROVIDE A COPY OF THE WILDFIRE  
7 REBUILD EXEMPTION CERTIFICATE ISSUED PURSUANT TO SUBSECTION (5)  
8 OF THIS SECTION TO EVERY RETAILER FROM WHICH THE QUALIFIED  
9 HOMEOWNER OR CONTRACTOR IS PURCHASING MATERIALS THAT ARE  
10 EXEMPT UNDER THIS SECTION.

11 (5) (a) THE LOCAL GOVERNMENT WITH JURISDICTION TO ISSUE A  
12 BUILDING PERMIT IN AN AREA AFFECTED BY A DECLARED WILDFIRE  
13 DISASTER MAY ISSUE A WILDFIRE REBUILD EXEMPTION CERTIFICATE TO A  
14 HOMEOWNER OR A CONTRACTOR EMPLOYED BY A HOMEOWNER THAT IS  
15 REBUILDING OR REPAIRING ONE OR MORE RESIDENTIAL STRUCTURES  
16 WITHIN THE LOCAL GOVERNMENT'S JURISDICTION THAT WAS DAMAGED OR  
17 DESTROYED BY A DECLARED WILDFIRE DISASTER. A WILDFIRE REBUILD  
18 EXEMPTION CERTIFICATE SHALL CLEARLY IDENTIFY THE HOMEOWNER, THE  
19 CONTRACTOR EMPLOYED BY THE HOMEOWNER, IF APPLICABLE, AND EACH  
20 RESIDENTIAL STRUCTURE TO WHICH THE CERTIFICATE APPLIES.

21 (b) TO OBTAIN A WILDFIRE REBUILD EXEMPTION CERTIFICATE, A  
22 HOMEOWNER MUST CERTIFY, IN A FORM PRESCRIBED BY THE EXECUTIVE  
23 DIRECTOR, THAT:

24 (I) THE HOMEOWNER WAS THE OWNER OF EACH RESIDENTIAL  
25 STRUCTURE TO BE REBUILT OR REPAIRED AT THE TIME THE STRUCTURE  
26 WAS DAMAGED OR DESTROYED BY THE DECLARED WILDFIRE DISASTER;  
27 AND

1           (II) THE REPLACEMENT COST FOR EACH RESIDENTIAL STRUCTURE  
2 TO BE REBUILT OR REPAIRED EXCEEDS THE HOMEOWNER'S COVERAGE  
3 UNDER ANY HOMEOWNER'S INSURANCE POLICY ASSOCIATED WITH THE  
4 STRUCTURE.

5           (c) ON OR BEFORE SEPTEMBER 30, 2023, AND ON OR BEFORE  
6 SEPTEMBER 30 OF EACH CALENDAR YEAR THEREAFTER THROUGH  
7 SEPTEMBER 30, 2025, A LOCAL GOVERNMENT SHALL PROVIDE THE  
8 DEPARTMENT WITH AN ELECTRONIC REPORT OF THE NUMBER OF WILDFIRE  
9 REBUILD EXEMPTION CERTIFICATES ISSUED BY THE LOCAL GOVERNMENT  
10 FOR THE PRECEDING CALENDAR YEAR.

11           (6) (a) A HOMEOWNER OR A CONTRACTOR EMPLOYED BY A  
12 HOMEOWNER THAT PAID STATE SALES OR USE TAX ON THE PURCHASE OF  
13 EXEMPT CONSTRUCTION AND BUILDING MATERIALS ON OR AFTER JANUARY  
14 1, 2020, BUT BEFORE JULY 1, 2025, MAY, IF THE HOMEOWNER OR  
15 CONTRACTOR WAS UNABLE TO PROVIDE A COPY OF A WILDFIRE REBUILD  
16 EXEMPTION CERTIFICATE ISSUED PURSUANT TO SUBSECTION (5) OF THIS  
17 SECTION TO A RETAILER DUE TO THE PURCHASE BEING MADE BEFORE THE  
18 CERTIFICATE WAS ISSUED, APPLY TO THE DEPARTMENT FOR A REFUND OF  
19 THE STATE SALES OR USE TAX PAID PURSUANT TO SECTION 39-26-703.

20           (b) IF THE CONTRACTOR THAT PURCHASED THE EXEMPT  
21 CONSTRUCTION AND BUILDING MATERIALS HAS NOT BEEN GRANTED A  
22 REFUND UNDER SECTION 39-26-703, THEN THE HOMEOWNER THAT  
23 EMPLOYED THE CONTRACTOR MAY APPLY FOR A REFUND IN ACCORDANCE  
24 WITH THE REQUIREMENTS OF SECTION 39-26-70 (2)(c).

25           (c) THE REQUIREMENT IN SECTION 39-26-703 (2)(d) FOR  
26 PERTINENT DATA, INFORMATION, OR DOCUMENTATION IN SUPPORT OF AN  
27 APPLICATION FOR REFUND IS SATISFIED FOR PURPOSES OF A REFUND CLAIM

1 UNDER THIS SUBSECTION (6) BY SUBMISSION OF THE SALES OR USE TAX  
2 DOCUMENTATION MAINTAINED BY THE LOCAL GOVERNMENT WHERE THE  
3 SALES OR USE TAX WAS PAID.

4 (d) THE THREE-YEAR APPLICATION DEADLINE IN SECTION  
5 39-26-703 (2)(d) FOR A SALES TAX REFUND OR REFUND OF ANY USE TAX  
6 COLLECTED BY A VENDOR DOES NOT APPLY TO AN APPLICATION FOR  
7 REFUND MADE PURSUANT TO THIS SUBSECTION (6). AN APPLICATION FOR  
8 REFUND MADE PURSUANT TO THIS SUBSECTION (6) MUST BE FILED ON OR  
9 BEFORE JUNE 30, 2028.

10 (e) A CONTRACTOR THAT USES A WILDFIRE REBUILD EXEMPTION  
11 CERTIFICATE TO CLAIM THE EXEMPTION ALLOWED BY SUBSECTION (3)(a)  
12 OR (3)(b) OF THIS SECTION, OR THAT CLAIMS A REFUND BASED ON THE  
13 EXEMPTION PURSUANT TO SUBSECTION (6)(a) OF THIS SECTION, MUST PASS  
14 THROUGH TO THE HOMEOWNER THE FULL BENEFIT OF THE EXEMPTION BY  
15 REDUCING THE CONTRACTOR'S CHARGES TO THE HOMEOWNER BY THE  
16 AMOUNT OF TAX SAVINGS TO THE CONTRACTOR FROM THE EXEMPTION,  
17 INCLUDING BY PROVIDING THE HOMEOWNER A REFUND OF CHARGES  
18 PREVIOUSLY PAID.

19 (7) THE EXECUTIVE DIRECTOR SHALL:

20 (a) PROVIDE A FORM FOR THE WILDFIRE REBUILD EXEMPTION  
21 CERTIFICATE TO THE PROPER OFFICIAL OF THE LOCAL GOVERNMENT WITH  
22 JURISDICTION TO ISSUE A BUILDING PERMIT IN AN AREA AFTER  
23 DETERMINING THAT THE AREA WAS AFFECTED BY A DECLARED WILDFIRE  
24 DISASTER;

25 (b) MODIFY EXISTING FORMS OR CREATE NEW FORMS AS  
26 NECESSARY TO FACILITATE REFUND CLAIMS MADE PURSUANT TO  
27 SUBSECTION (6) OF THIS SECTION; AND

1 (c) ADOPT RULES FOR THE ADMINISTRATION AND ENFORCEMENT  
2 OF THIS SECTION.

3 (8) IN MAKING A REFUND OR ALLOWING A CREDIT PURSUANT TO  
4 SECTION 39-26-703, THE DEPARTMENT SHALL PRIORITIZE APPLICATIONS  
5 FOR REFUNDS SUBMITTED PURSUANT TO SUBSECTION (6) OF THIS SECTION  
6 OVER REFUND APPLICATIONS SUBMITTED PURSUANT TO OTHER PROVISIONS  
7 OF LAW.

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

9 **SECTION 2.** In Colorado Revised Statutes, 29-2-105, **amend**  
10 (1)(d)(I)(T) and (1)(d)(I)(U); and **add** (1)(d)(I)(V) as follows:

11 **29-2-105. Contents of sales tax ordinances and proposals.**

12 (1) The sales tax ordinance or proposal of any incorporated town, city,  
13 or county adopted pursuant to this article 2 shall be imposed on the sale  
14 of tangible personal property at retail or the furnishing of services, as  
15 provided in subsection (1)(d) of this section. Any countywide or  
16 incorporated town or city sales tax ordinance or proposal shall include the  
17 following provisions:

18 (d) (I) A provision that the sale of tangible personal property and  
19 services taxable pursuant to this article 2 is the same as the sale of  
20 tangible personal property and services taxable pursuant to section  
21 39-26-104, except as otherwise provided in this subsection (1)(d). The  
22 sale of tangible personal property and services taxable pursuant to this  
23 article 2 is subject to the same sales tax exemptions as those specified in  
24 part 7 of article 26 of title 39; except that the sale of the following may be  
25 exempted from a town, city, or county sales tax only by the express  
26 inclusion of the exemption either at the time of adoption of the initial  
27 sales tax ordinance or resolution or by amendment thereto:



1 (T) The exemption for sales of heat pump systems and heat pump  
2 water heaters set forth in section 39-26-732; **and**

3 (U) The exemption for sales of energy storage systems set forth  
4 in section 39-26-733; **AND**

5 (V) THE EXEMPTION FOR SALES OF CONSTRUCTION AND BUILDING  
6 MATERIALS USED TO REPAIR AND REBUILD RESIDENTIAL STRUCTURES  
7 DAMAGED OR DESTROYED BY A DECLARED WILDFIRE DISASTER SPECIFIED  
8 IN SECTION 39-26-734.

9 **SECTION 3.** In Colorado Revised Statutes, 29-2-109, **amend** (1)  
10 introductory portion as follows:

11 **29-2-109. Contents of use tax ordinances and proposals -**  
12 **repeal.** (1) The use tax ordinance, resolution, or proposal of any town,  
13 city, or county adopted pursuant to this article 2 shall be imposed only for  
14 the privilege of using or consuming in the town, city, or county any  
15 construction and building materials purchased at retail or for the privilege  
16 of storing, using, or consuming in the town, city, or county any motor and  
17 other vehicles, purchased at retail on which registration is required, or  
18 both. For the purposes of this subsection (1), the term "construction and  
19 building materials" shall not include parts or materials utilized in the  
20 fabrication, construction, assembly, or installation of passenger tramways,  
21 as defined in section 12-150-103 (5), by any ski area operator, as defined  
22 in section 33-44-103 (7), or any person fabricating, constructing,  
23 assembling, or installing a passenger tramway for a ski area operator. The  
24 ordinance, resolution, or proposal may recite that the use tax shall not  
25 apply to the storage and use of wood from salvaged trees killed or  
26 infested in Colorado by mountain pine beetles or spruce beetles as  
27 exempted from the state use tax pursuant to section 39-26-723. The

1 ordinance, resolution, or proposal may recite that the use tax shall not  
2 apply to the storage and use of components used in the production of  
3 energy, including but not limited to alternating current electricity, from  
4 a renewable energy source, as exempted from the state use tax pursuant  
5 to section 39-26-724. The ordinance, resolution, or proposal may recite  
6 that the use tax shall not apply to the storage and use of eligible  
7 decarbonizing building materials, as exempted from the state use tax  
8 pursuant to section 39-26-731. THE ORDINANCE, RESOLUTION, OR  
9 PROPOSAL MAY RECITE THAT THE USE TAX SHALL NOT APPLY TO  
10 CONSTRUCTION AND BUILDING MATERIALS USED TO REPAIR AND REBUILD  
11 RESIDENTIAL STRUCTURES DAMAGED OR DESTROYED BY A DECLARED  
12 WILDFIRE DISASTER, AS EXEMPTED FROM THE STATE USE TAX PURSUANT  
13 TO SECTION 39-26-734 (3)(b). The ordinance, resolution, or proposal shall  
14 recite that the use tax shall not apply:

15 **SECTION 4.** In Colorado Revised Statutes, 39-26-703, **amend**  
16 (2)(d) as follows:

17 **39-26-703. Disputes and refunds - repeal.** (2) (d) An  
18 application for refund under subsection (2)(c) or (2)(c.5) of this section  
19 must be made within the applicable deadline and must be made on forms  
20 prescribed and furnished by the executive director of the department of  
21 revenue, which form must contain, in addition to the foregoing  
22 information, such other pertinent data, information, or documentation as  
23 the executive director prescribes by rules promulgated in accordance with  
24 article 4 of title 24. Except as set forth in ~~section~~ SECTIONS 29-2-106.1  
25 (5)(b) AND 39-26-734 (6)(c), the deadline for a sales tax refund or a  
26 refund of any use tax collected by a vendor is three years after the  
27 twentieth day of the month following the date of purchase and the

1 deadline for any other use tax refund is three years after the twentieth day  
2 of the month following the initial date of the storage, use, or consumption  
3 in the state by the person applying for the refund.

4 **SECTION 5. Appropriation.** (1) For the 2023-24 state fiscal  
5 year, \$98,136 is appropriated to the department of revenue for use by  
6 taxation services. This appropriation is from the general fund. To  
7 implement this act, the subdivision may use this appropriation as follows:

8 (a) \$89,711 for personal services, which amount is based on an  
9 assumption that the subdivision will require an additional 1.3 FTE; and

10 (b) \$8,425 for operating expenses.

11 **SECTION 6. Safety clause.** The general assembly hereby finds,  
12 determines, and declares that this act is necessary for the immediate  
13 preservation of the public peace, health, or safety.