

First Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 23-0865.01 Alison Killen x4350

**HOUSE BILL 23-1240**

---

**HOUSE SPONSORSHIP**

**Brown and Amabile,**

**SENATE SPONSORSHIP**

**Fenberg,**

---

**House Committees**

Finance

**Senate Committees**

---

**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.**

---

**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 construction and building materials purchased on or after January 1, 2020,

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.

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.

---

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),  
7     WHICH REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO

1 INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A  
2 STATUTORY LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY HEREBY  
3 FINDS AND DECLARES THAT:

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

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

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

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

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

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

27 (c) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF

1 THE DEPARTMENT OF REVENUE.

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

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

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

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

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

1 2 OF THIS ARTICLE 26.

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

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

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

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

27 (II) THE REPLACEMENT COST FOR EACH RESIDENTIAL STRUCTURE

1 TO BE REBUILT OR REPAIRED EXCEEDS THE HOMEOWNER'S COVERAGE  
2 UNDER ANY HOMEOWNER'S INSURANCE POLICY ASSOCIATED WITH THE  
3 STRUCTURE.

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

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

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

24 (c) THE REQUIREMENT IN SECTION 39-26-703 (2)(d) FOR  
25 PERTINENT DATA, INFORMATION, OR DOCUMENTATION IN SUPPORT OF AN  
26 APPLICATION FOR REFUND IS SATISFIED FOR PURPOSES OF A REFUND CLAIM  
27 UNDER THIS SUBSECTION (6) BY SUBMISSION OF THE SALES OR USE TAX

1 DOCUMENTATION MAINTAINED BY THE LOCAL GOVERNMENT WHERE THE  
2 SALES OR USE TAX WAS PAID.

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

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

18 (7) THE EXECUTIVE DIRECTOR SHALL:

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

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

27 (c) ADOPT RULES FOR THE ADMINISTRATION AND ENFORCEMENT

1       OF THIS SECTION.

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

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

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

10           **29-2-105. Contents of sales tax ordinances and proposals.**

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

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

27           (T) The exemption for sales of heat pump systems and heat pump

1 water heaters set forth in section 39-26-732; ~~and~~

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

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

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

10 **29-2-109. Contents of use tax ordinances and proposals -**  
11 **repeal.** (1) The use tax ordinance, resolution, or proposal of any town,  
12 city, or county adopted pursuant to this article 2 shall be imposed only for  
13 the privilege of using or consuming in the town, city, or county any  
14 construction and building materials purchased at retail or for the privilege  
15 of storing, using, or consuming in the town, city, or county any motor and  
16 other vehicles, purchased at retail on which registration is required, or  
17 both. For the purposes of this subsection (1), the term "construction and  
18 building materials" shall not include parts or materials utilized in the  
19 fabrication, construction, assembly, or installation of passenger tramways,  
20 as defined in section 12-150-103 (5), by any ski area operator, as defined  
21 in section 33-44-103 (7), or any person fabricating, constructing,  
22 assembling, or installing a passenger tramway for a ski area operator. The  
23 ordinance, resolution, or proposal may recite that the use tax shall not  
24 apply to the storage and use of wood from salvaged trees killed or  
25 infested in Colorado by mountain pine beetles or spruce beetles as  
26 exempted from the state use tax pursuant to section 39-26-723. The  
27 ordinance, resolution, or proposal may recite that the use tax shall not

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

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

16 **39-26-703. Disputes and refunds - repeal.** (2) (d) An  
17 application for refund under subsection (2)(c) or (2)(c.5) of this section  
18 must be made within the applicable deadline and must be made on forms  
19 prescribed and furnished by the executive director of the department of  
20 revenue, which form must contain, in addition to the foregoing  
21 information, such other pertinent data, information, or documentation as  
22 the executive director prescribes by rules promulgated in accordance with  
23 article 4 of title 24. Except as set forth in ~~section~~ SECTIONS 29-2-106.1  
24 (5)(b) AND 39-26-734 (6)(c), the deadline for a sales tax refund or a  
25 refund of any use tax collected by a vendor is three years after the  
26 twentieth day of the month following the date of purchase and the  
27 deadline for any other use tax refund is three years after the twentieth day

1 of the month following the initial date of the storage, use, or consumption  
2 in the state by the person applying for the refund.

3 **SECTION 5. Safety clause.** The general assembly hereby finds,  
4 determines, and declares that this act is necessary for the immediate  
5 preservation of the public peace, health, or safety.