Colorado Legislative Council Staff

SB17-208

FISCAL NOTE

FISCAL IMPACT: ☒ State ☒ Local ☐ Statutory Public Entity ☐ Conditional ☐ No Fiscal Impact

Drafting Number:	LLS 17-0972	**Date:**	March 10, 2017
Prime Sponsor(s):	Sen. Priola	**Bill Status:**	Senate Finance
		Fiscal Analyst:	Greg Sobetski (303-866-4105)

BILL TOPIC: MACHINE TOOL SALES TAX EXEMPT CONSTRUCTION MATERIAL MINE

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue	**($42,500)**	**($48,100)**
General Fund	(42,500)	(48,100)
State Expenditures		
TABOR Impact	($42,500)	($48,100)
Appropriation Required: None.		
Future Year Impacts: Ongoing state revenue decrease.		

Summary of Legislation

This bill clarifies that the current law state sales and use tax exemption for machinery and machine tools applies to machinery used in the processing of materials from a construction materials mining operation. A construction materials mining operation extracts rock, sand, gravel, or like substances for use in the production of nonmetallic construction products.

Background

Documented correspondence between taxpayers and the Department of Revenue show that the department allowed sales and use tax exemptions for processing equipment at construction materials mining operations between 1996 and 2004. Between 2004 and 2010, the department changed its interpretation of the word "manufacturing." Because the department now does not consider construction materials processing to be manufacturing for the purpose of the exemption, taxpayers are required to remit sales and use tax on construction materials processing equipment.

State Revenue

The bill is expected to reduce General Fund revenue by **$42,500 in FY 2017-18** and **$48,100 in FY 2018-19**.

Assumptions. Businesses classified as construction machinery manufacturing firms reported taxable sales of $25.3 million in 2016. These firms manufacture construction machinery, surface mining machinery, and logging equipment. Sales by these businesses are assumed to significantly overstate the purchases exempted in the bill, as building construction, mining, and logging equipment will not qualify for the sales and use tax exemption. Of the approximately $2.5 million in sales assumed to qualify for the broadened exemption, about 47 percent are assumed to be exempt from taxation under current law based on the the share of construction sand and gravel mining firms located in the state's enterprise zones. The remaining 53 percent of sales are assumed to be uniquely exempted as a result of the bill. The estimate for 2016 was grown by the average annual increase in industry sales to produce estimates for FY 2017-18 and FY 2018-19.

TABOR Impact

This bill reduces state revenue from sales and use taxes, which will reduce the amount of money required to be refunded under TABOR. TABOR refunds are paid out of the General Fund. Since the bill reduces both revenue to the General Fund and the refund obligation by equal amounts, there is no net impact on the amount of money available in the General Fund for the budget. However, the bill will reduce money available for the General Fund budget in the future during years when the state does not collect money above the TABOR limit.

Local Government Impact

The bill reduces revenue to special districts that collect taxes on the same tax base as the state and to counties and municipalities that have incorporated the sales and use tax exemption for machinery and machine tools. Under current law, counties and municipalities may adopt an ordinance or resolution to incorporate this exemption; 21 counties and 29 municipalities have done this. Because construction materials mining operations are concentrated in certain areas, local government revenue impacts are expected to be uneven across the state.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature. Modifications to the sales and use tax exemption apply to sales occurring on or after July 1, 2017.

Departmental Difference

The Department of Revenue assesses the bill as increasing state expenditures for the department by $53,112 and 0.8 FTE in FY 2017-18, by $61,683 and 1.0 FTE in FY 2018-19, and by similar amounts in subsequent fiscal years. For FY 2017-18, the department's assessment includes $43,597 in General Fund expenditures and $9,515 in centrally appropriated costs; for FY 2018-19, these amounts are $49,793 and $11,894, respectively.

The department's assessment is based on the assumption that 80 taxpayers will claim the broadened sales and use tax exemption via tax refund requests, requiring additional taxpayer services personnel in order to process and issue refunds. This fiscal note assumes that taxpayers either will claim the exemption at the point of sale by submitting tax exemption declaration forms, or will not file consumer use tax returns for exempt equipment. The fiscal note's assumption is based on the department's prior experience with the sales and use tax exemption for machinery which comprises a cleanroom, for which refund requests were not submitted to the department.

State and Local Government Contacts

Counties	Information Technology	Municipalities
Natural Resources	Revenue	