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**HB 20-1025**

**REVISED  
FISCAL NOTE**

(replaces fiscal note dated January 29, 2020)

**Drafting Number:** LLS 20-0242  
**Prime Sponsors:** Rep. Benavidez; Snyder  
Sen. Tate

**Date:** March 6, 2020  
**Bill Status:** House Finance  
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**Bill Topic:** **SALES TAX EXEMPTION FOR INDUSTRY AND MANUFACTURING ENERGY USE**

**Summary of Fiscal Impact:**

<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill requires the use of a meter or a third-party evaluation to quantify energy or fuel use for manufacturing or industrial purposes in order to claim a sales tax exemption. This bill will increase state expenditures in FY 2020-21 only, and will increase state revenue starting in FY 2020-21.

**Appropriation Summary:** For FY 2020-21, this bill requires an appropriation of \$11,400 to the Department of Revenue.

**Fiscal Note Status:** This fiscal note has been revised to reflect the bill as amended by the House Energy and Environment Committee.

**Table 1  
State Fiscal Impacts Under HB 20-1025**

		<b>FY 2020-21</b>	<b>FY 2021-22</b>
<b>Revenue</b>	General Fund	\$1.8 million - \$4.4 million	\$3.5 million - \$8.8 million
<b>Expenditures</b>	General Fund	\$11,400	-
<b>Transfers</b>		-	-
<b>TABOR Refund</b>	General Fund	\$1.8 million - \$4.4 million	\$3.5 million - \$8.8 million

## **Summary of Legislation**

This bill requires a metered machine or third-party measurement and evaluation be used to quantify the amount of energy or fuel used for industrial or manufacturing purposes in order to claim a sales tax exemption on that use of energy or fuel. Currently, the sales tax exemption exists; however, there is no metering system or evaluation required.

## **Background**

The Office of the State Auditor (OSA) evaluated the sales tax exemption for industrial and manufacturing energy use and presented its report to the Tax Expenditure Evaluation Interim Committee. Their report estimated that approximately 10,400 out of 16,000 industrial energy consumers in the state claimed the exemption in tax year 2017, which reduced state revenue by between \$35.2 million and \$87.9 million that year. The Department of Revenue does not report complete data on this tax expenditure, so this estimate is based on U.S. Energy Information Administration data. The OSA's report can be found here: [https://leg.colorado.gov/sites/default/files/images/2019-te20\\_industrial\\_energy.pdf](https://leg.colorado.gov/sites/default/files/images/2019-te20_industrial_energy.pdf).

## **Assumptions**

This fiscal note assumes there will be multiple ways to qualify for the exemption under this bill, each carrying a range of costs to the business that claims it. These costs will deter some companies from continuing to claim the exemption. A company could meter all equipment used in the industrial or manufacturing process; it could meter energy used outside of their industrial or manufacturing process and subtract it from total energy used; or it could hire a third-party evaluator to quantify the amount of energy used that would qualify for the exemption, much like the current requirements for a similar exemption in Texas. Based on information from industry contacts and the OSA report, this fiscal note assumes this bill will result in a 10 percent reduction in the amount of exemptions claimed. If the rules promulgated by the Department of Revenue differ from the assumptions for administration used in this fiscal note, the revenue estimates may be higher or lower.

## **State Revenue**

This bill will increase state General Fund revenue by between \$1.8 million and \$4.4 million in FY 2020-21 (partial-year impact) and between \$3.5 million and \$8.8 million in FY 2021-22, with similar impacts in future years. If more companies that currently claim this exemption install the necessary metering equipment or hire a third-party evaluator than expected, this revenue impact may be lower than estimated. This revenue is subject to TABOR.

## **State Expenditures**

This bill will increase state General Fund expenditures for the Department of Revenue (DOR) by \$11,400 in FY 2020-21 only.

**Department of Revenue.** This bill requires one-time modifications to DOR's administration of the sales tax exemption, which includes programming changes to the GenTax software system. The GenTax programming changes will require 40 hours of work at \$225 per hour, for a total of \$9,000.

**Department of Personnel and Administration (DPA).** Two forms will need to be changed at \$1,200 per form, for a total of \$2,400, which will be reappropriated to DPA from DOR.

**TABOR refund.** The bill is expected to increase state General Fund obligations for TABOR refunds by between \$1.8 million and \$4.4 million in FY 2020-21 (partial-year impact) and between \$3.5 million and \$8.8 million in FY 2021-22. Under current law and the December 2019 Legislative Council Staff forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds made available on income tax returns for tax years 2021 and 2022, respectively. A forecast of state revenue subject to TABOR is not available beyond FY 2021-22.

## Local Government

This bill will increase local sales tax revenue for statutory counties and cities which have their sales taxes collected by the Department of Revenue, as well as for any home rule municipalities that choose to apply this exemption.

## Effective Date

The bill takes effect on October 1, 2020, if no referendum petition is filed.

## State Appropriations

For FY 2020-21, the bill requires an appropriation from the General Fund of \$11,400 to the Department of Revenue, of which \$2,400 will be reappropriated to the Department of Personnel and Administration.

## State and Local Government Contacts

Counties	Information Technology
Municipalities	Personnel
Revenue	State Auditor
Regional Transportation District	