



Legislative Council Staff

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FISCAL NOTE

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Prime Sponsors:

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Bill Status: Bill Request
Fiscal Analyst: Larson Silbaugh | 303-866-4720
Larson.Silbaugh@state.co.us

Bill Topic: FINANCIAL INCENTIVES FOR CLEAN ENERGY PROJECTS

- Summary of Fiscal Impact:
- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

The bill creates a new TABOR refund mechanism for clean energy projects that would take priority before the temporary income tax rate reduction refund mechanism. Beginning in tax year 2020, the bill refunds a portion of the TABOR surplus through the new mechanisms and reduces the amount refunded with other mechanisms.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the bill draft requested by the Energy Legislation Review Interim Study Committee.

Table 1
State Fiscal Impacts Under Bill 1

Table with 3 columns: Category, FY 2020-21, FY 2021-22. Rows include Revenue, Expenditures, Transfers, and TABOR Refund.

Summary of Legislation

The bill creates a new TABOR refund mechanism in the form of an income tax credit to offset 50 percent of the cost of clean energy investments. Specifically, the credit would be available for new renewable energy sources, energy efficiency improvements, energy storage systems, electric vehicle charging systems, and associated equipment made by individuals and certain businesses. Utilities do not qualify for the credit. This credit would be available in years when the TABOR refund obligation is sufficient to fully fund property tax exemption reimbursements and the anticipated amount of the credit.

The bill also requires the Office of Economic Development and International Trade (OEDIT) to give preference to companies or projects that are involved renewable energy resources and are located in rural areas of Colorado.

Background

There are three TABOR refund mechanisms in current state law:

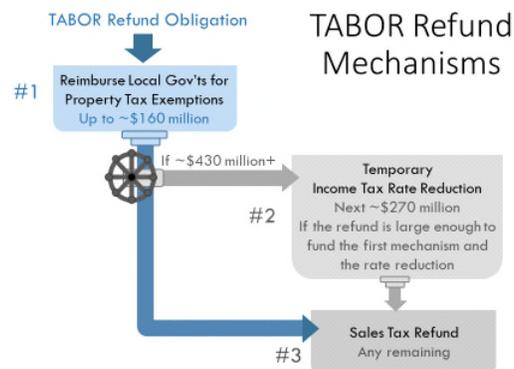
- the property tax exemption reimbursement mechanism;
- the temporary income tax rate reduction; and
- the six-tier sales tax refund mechanism.

Figure 1 shows the order in which these mechanisms are used. The first refund mechanism is the reimbursement to local governments for property taxes foregone from the senior and disabled veterans homestead exemption. The next refund mechanism is the temporary reduction in the income tax rate from 4.63 percent to 4.50 percent. The temporary rate reduction is only available when the TABOR surplus is sufficient to reimburse local governments and fully fund the rate reduction. The final TABOR refund mechanism is the sales tax refund. The sales tax refund is claimed on individual income tax forms and is used to refund any remaining TABOR surplus after the first two mechanisms are administered.

Figure 1

TABOR Refund Current Law

Mechanisms in



More information about TABOR refund mechanisms are available in an interested persons memo here: http://leg.colorado.gov/sites/default/files/history_of_tabor_refund_mechanisms.pdf

State Expenditures

The bill will change the priority of TABOR refund mechanisms. Depending on the size of the TABOR surplus, a credit equal to 50 percent of the cost of energy efficiency improvements will be available, reducing the revenue refunded through the six-tier sales tax refund and possibly the availability of the temporary income tax rate reduction. The Department of Revenue will have administrative costs that cannot be estimated due to complexities in administering the clean energy technology refund mechanism.

Department of Revenue. Expenditures to the Department of Revenue (DOR) are expected to increase by an indeterminate amount beginning in FY 2020-21. The DOR will need to audit each tax return that claims the TABOR refund mechanism before processing tax returns to ensure that each return included supporting documentation. Even if each return is examined prior to issuing a refund, the DOR does not have expertise in determining if an energy efficiency improvement qualifies for the credit and the bill does not require independent, third-party verification. Given the intermittent nature of TABOR refunds, the DOR will request funding through the annual budget process to ensure the tax returns can be processed expediently while ensuring eligibility criteria are met.

Office of Economic Development and International Trade. The bill requires OEDIT to give preference to companies or projects that involve renewable energy resources located in rural areas of the state. OEDIT already prioritizes renewable energy projects so the agency will not have any additional costs under of the bill.

TABOR Refund. The federal government has a credit equal to 30 percent of the cost of renewable energy projects and 10 percent for energy efficiency improvements to residential property. In 2016, 46,680 Colorado taxpayers claimed \$45.1 million in federal credits. Assuming the same taxpayers had claimed Colorado income tax credits equal to 50 percent of the costs, the Colorado credit would have totaled \$128.1 million for 2016. The refund mechanism is only available when there is a sufficient TABOR surplus to fund the property tax reimbursement mechanism and the full clean energy technology refund mechanism.

The availability of clean energy technology refund mechanism depends on the actual TABOR surplus amounts starting in FY 2019-20. In September, Legislative Council Staff economists estimated a \$264.3 million TABOR surplus in FY 2019-20 to be refunded on 2020 tax returns. A surplus of \$264.3 million is not sufficient to fund the property tax reimbursement mechanism and the full clean energy technology refund mechanism. Based on the forecast, this bill will not impact the mechanisms used to refund the FY 2019-20 TABOR surplus.

Example using FY 2018-19 TABOR Surplus. The Office of the State Controller certified a TABOR surplus of \$428.3 million in FY 2018-19, to be refunded in FY 2019-20. This amount will be refunded via the property tax reimbursement, temporary income tax rate reduction, and the six-tier sales tax refund. Table 2 illustrates the change in refund mechanisms if the clean energy technology refund had been in place.

Table 2
Illustration of FY 2018-19 TABOR Refund Mechanisms and Amounts
if Bill 1 had been in Law

	Current Law	Bill 1	Change
Property Tax Reimbursement	\$153.2 million	\$153.2 million	-
Clean Energy Technology Refund	-	\$128.1 million	\$128.1 million
Temporary Income Tax Rate Reduction	\$273.5 million	-	(\$273.5 million)
Six-Tier Sales Tax Refund	\$1.7 million	\$147.1 million	\$145.4 million
Total Refund	\$428.4 million	\$428.4 million	-

The \$128.1 million estimate is based on the federal credit equal to 30 percent of the cost of renewable energy improvements and 10 percent of energy efficiency improvements. The federal credit is not identical to the TABOR refund mechanism in the bill and the fiscal note does not adjust for behavioral responses due to a larger, temporary incentive created under the bill. The actual TABOR refund amounts will be estimated by the DOR as required in the bill.

Effective Date

The bill takes effect August 5, 2020, if the General Assembly adjourns on May 6, 2020, as scheduled, and no referendum petition is filed. The first year the TABOR refund mechanism may be available is on 2020 tax returns.

State and Local Government Contacts

Colorado Energy Office
Personnel

Economic Development
Revenue

Information Technology