

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

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BILL 1

LLS NO. 20-0335.01 Jennifer Berman x3286

INTERIM COMMITTEE BILL

Energy Legislation Review Interim Study Committee

BILL TOPIC: "Financial Incentives For Clean Energy Projects"

A BILL FOR AN ACT

101 **CONCERNING FINANCIAL INCENTIVES FOR CERTAIN CLEAN ENERGY**
102 **PROJECTS.**

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/>.)

Energy Legislation Review Interim Study Committee. If the state exceeds its constitutional spending limit, it is required to refund the excess state revenues (TABOR refund). Beginning with the 2019-20 state fiscal year, **section 1** of the bill creates a new TABOR refund method that is state income tax credit for the installation of clean energy technologies (credit). This refund method only applies if the TABOR refund amount

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

for the state fiscal year is greater than the amount needed to fully fund the existing refund related to the homestead exemption plus the estimated revenue reduction due to the credit.

The credit is equal to 50% of the amount the taxpayer paid to install any of the following items on the taxpayer's property in the state during the taxable year:

- Equipment to derive energy from a renewable energy resource;
- An energy efficiency improvement;
- An energy storage system;
- An electric vehicle charging system;
- Building electrification technology; or
- Any associated equipment that is necessary to connect, fortify, control, or monitor any of the installations.

The maximum amount of the credit is equal to the taxes due on the taxpayer's income for the taxable year.

Section 2 delays the income tax rate reduction TABOR refund method so that it only occurs after the credit, if at all.

The office of economic development administers the advanced industries acceleration grant program to improve and expand the development of certain advanced industries. **Section 3** requires the office, with respect to grant applications received from energy and natural resources companies, to give preference to applications for companies or projects that involve renewable energy resources and are located in rural areas of the state.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 39-22-543 as
3 follows:

4 **39-22-543. Credit - installation of clean energy technology -**
5 **refund of excess state revenues - legislative declaration - definitions.**

6 (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

7 (a) INCREASING USE OF CLEAN ENERGY TECHNOLOGIES, INCLUDING
8 RENEWABLE ENERGY RESOURCES, ENERGY STORAGE SYSTEMS, AND
9 BUILDING ELECTRIFICATION, WOULD PROVIDE ENVIRONMENTAL AND
10 HEALTH BENEFITS, DIVERSIFY THE ENERGY SUPPLY, INSULATE ENERGY
11 CUSTOMERS FROM THE VOLATILITY OF FUEL PRICING, AND STIMULATE THE

1 ECONOMY WHILE CREATING HIGH-TECH JOBS;

2 (b) TO BETTER TAKE ADVANTAGE OF THESE BENEFITS, COLORADO
3 SHOULD DEVELOP FINANCIAL INCENTIVES TO PROMOTE THE INSTALLATION
4 OF CLEAN ENERGY TECHNOLOGIES THROUGHOUT THE STATE;

5 (c) THE PURPOSE OF THE TAX CREDIT CREATED IN THIS SECTION IS
6 TO PROVIDE A FINANCIAL INCENTIVE FOR THE INSTALLATION OF CLEAN
7 ENERGY TECHNOLOGIES AND TO REFUND EXCESS STATE REVENUES AS
8 REQUIRED BY SECTION 20 (7)(d) OF ARTICLE X OF THE STATE
9 CONSTITUTION; AND

10 (d) THE CREDIT CREATED IN THIS SECTION IS A REASONABLE
11 METHOD TO REFUND A PORTION OF THE EXCESS STATE REVENUES.

12 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
13 REQUIRES:

14 (a) "BUILDING ELECTRIFICATION" MEANS THE DEVELOPMENT OF
15 INFRASTRUCTURE USED TO TRANSITION FROM A TRADITIONAL FOSSIL-FUEL
16 POWERED HEATING SYSTEM, SUCH AS NATURAL GAS HEATING, TO AN
17 ELECTRICITY-POWERED HEATING SYSTEM TO HEAT AIR OR WATER, OR
18 BOTH, WITHIN A BUILDING.

19 (b) "CREDIT" MEANS THE CREDIT AGAINST INCOME TAX ALLOWED
20 UNDER THIS SECTION.

21 (c) "EXECUTIVE COMMITTEE" MEANS THE EXECUTIVE COMMITTEE
22 OF THE LEGISLATIVE COUNCIL CREATED IN SECTION 2-3-301 (1).

23 (d) "TABOR REFUND AMOUNT" MEANS THE STATE REVENUES IN
24 EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY
25 SECTION 20 (7)(a) OF ARTICLE X OF THE STATE CONSTITUTION THAT THE
26 STATE IS REQUIRED TO REFUND UNDER SECTION 20 (7)(d) OF ARTICLE X OF
27 THE STATE CONSTITUTION.

1 (e) "TAXPAYER" MEANS ANY PERSON WHO OWES THE TAX IMPOSED
2 BY THIS ARTICLE 22; EXCEPT THAT IT DOES NOT INCLUDE AN
3 INVESTOR-OWNED UTILITY, COOPERATIVE ELECTRIC ASSOCIATION,
4 MUNICIPALLY OWNED UTILITY, OR WHOLESALE ELECTRIC COOPERATIVE.

5 (3) (a) FOR INCOME TAX YEARS SPECIFIED IN SUBSECTION (4) OF
6 THIS SECTION, A TAXPAYER IS ALLOWED A CREDIT AGAINST THE TAX
7 IMPOSED BY THIS ARTICLE 22 THAT IS EQUAL TO FIFTY PERCENT OF THE
8 AMOUNT THE TAXPAYER PAID TO INSTALL ANY OF THE FOLLOWING ITEMS
9 ON THE TAXPAYER'S PROPERTY IN THE STATE DURING THE TAXABLE YEAR:

10 (I) INFRASTRUCTURE AND EQUIPMENT TO DERIVE ENERGY FROM A
11 RENEWABLE ENERGY RESOURCE, AS THAT TERM IS DEFINED IN SECTION
12 40-2-124 (1)(a)(VII);

13 (II) AN ENERGY EFFICIENCY IMPROVEMENT, AS THAT TERM IS
14 DEFINED IN SECTION 30-20-602 (2.8);

15 (III) AN ENERGY STORAGE SYSTEM, AS THAT TERM IS DEFINED IN
16 SECTION 40-2-202 (2);

17 (IV) AN ELECTRIC VEHICLE CHARGING SYSTEM, AS THAT TERM IS
18 DEFINED IN SECTION 38-12-601 (6)(a);

19 (V) BUILDING ELECTRIFICATION TECHNOLOGY; OR

20 (VI) ANY ASSOCIATED EQUIPMENT THAT IS NECESSARY TO
21 CONNECT, FORTIFY, CONTROL, OR MONITOR ANY OF THE ITEMS DESCRIBED
22 IN SUBSECTIONS (3)(a)(I) TO (3)(a)(V) OF THIS SECTION.

23 (b) THE AMOUNT OF A CREDIT A TAXPAYER MAY CLAIM IN A
24 TAXABLE YEAR SHALL NOT EXCEED THE TAXES DUE ON THE TAXPAYER'S
25 INCOME.

26 (4) A CREDIT IS ONLY ALLOWED FOR AN INCOME TAX YEAR THAT
27 COMMENCES ON OR AFTER JANUARY 1, 2020, AND DURING A STATE FISCAL

1 YEAR IN WHICH THE TABOR REFUND AMOUNT FOR THE STATE FISCAL
2 YEAR IS GREATER THAN OR EQUAL TO THE TOTAL OF:

3 (a) THE ESTIMATED REVENUE DECREASE AMOUNT CALCULATED IN
4 ACCORDANCE WITH SUBSECTION (5) OF THIS SECTION; AND

5 (b) THE TOTAL PROPERTY TAX REIMBURSEMENTS THAT THE STATE
6 TREASURER PAYS TO ALL COUNTIES UNDER SECTION 39-3-207 (4) FOR THE
7 PROPERTY TAX YEAR THAT COMMENCED DURING THE STATE FISCAL YEAR.

8 (5) (a) THE EXECUTIVE DIRECTOR SHALL ESTIMATE THE AMOUNT
9 BY WHICH STATE REVENUE WOULD BE DECREASED AS THE RESULT OF THE
10 CREDIT BEING ALLOWED FOR THE INCOME TAX YEAR COMMENCING DURING
11 THE STATE FISCAL YEAR. THE EXECUTIVE DIRECTOR SHALL UTILIZE THE
12 STATE CONTROLLER'S CERTIFICATION OF STATE REVENUES PREPARED IN
13 ACCORDANCE WITH SECTION 24-77-103.6 (1)(b) AND DATA AVAILABLE
14 FROM THE STAFF OF THE LEGISLATIVE COUNCIL TO PREPARE THE ESTIMATE.
15 THE EXECUTIVE DIRECTOR SHALL NOTIFY IN WRITING THE EXECUTIVE
16 COMMITTEE OF THE ESTIMATED REVENUE DECREASE AMOUNT AND THE
17 BASIS FOR THE ESTIMATE WITHIN FIVE WORKING DAYS AFTER COMPLETING
18 THE CALCULATION OR OCTOBER 1 OF THE YEAR, WHICHEVER DATE IS
19 SOONER. THE EXECUTIVE COMMITTEE SHALL REVIEW AND APPROVE OR
20 DISAPPROVE THE ESTIMATED REVENUE DECREASE AMOUNT WITHIN
21 TWENTY DAYS AFTER RECEIPT OF THE WRITTEN NOTIFICATION FROM THE
22 EXECUTIVE DIRECTOR. IF THE ESTIMATED REVENUE DECREASE AMOUNT IS
23 NOT APPROVED OR DISAPPROVED BY THE EXECUTIVE COMMITTEE WITHIN
24 TWENTY DAYS, THEN IT IS AUTOMATICALLY APPROVED; EXCEPT THAT, IF
25 WITHIN THE TWENTY DAYS THE EXECUTIVE COMMITTEE SCHEDULES A
26 HEARING ON THE MATTER, THE AUTOMATIC APPROVAL SHALL NOT OCCUR
27 UNLESS THE EXECUTIVE COMMITTEE DOES NOT APPROVE OR DISAPPROVE

1 THE ESTIMATED REVENUE DECREASE AMOUNT AFTER THE CONCLUSION OF
2 THE HEARING. THE EXECUTIVE COMMITTEE MUST CONDUCT A HEARING NO
3 LATER THAN TWENTY-FIVE DAYS AFTER RECEIPT OF THE WRITTEN
4 NOTIFICATION FROM THE EXECUTIVE DIRECTOR.

5 (b) IF THE EXECUTIVE COMMITTEE DISAPPROVES THE ESTIMATED
6 REVENUE DECREASE AMOUNT, THE EXECUTIVE COMMITTEE SHALL
7 ESTIMATE THE AMOUNT BY WHICH STATE REVENUE WOULD BE DECREASED
8 AS THE RESULT OF THE CREDIT BEING ALLOWED FOR THE INCOME TAX
9 YEAR COMMENCING DURING THE STATE FISCAL YEAR. THE EXECUTIVE
10 DIRECTOR SHALL USE THIS AMOUNT FOR PURPOSES OF DETERMINING
11 WHETHER THE CREDIT AND OTHER REFUND METHODS APPLY.

12 (c) IF, AFTER THE EXECUTIVE DIRECTOR CALCULATES THE
13 ESTIMATED REVENUE DECREASE AMOUNT, THE VOTERS AT A STATEWIDE
14 ELECTION APPROVE A BALLOT QUESTION THAT REDUCES THE AMOUNT OF
15 THE TABOR REFUND AMOUNT, THE EXECUTIVE DIRECTOR SHALL
16 RECALCULATE THE ESTIMATED REVENUE DECREASE AMOUNT, WITHOUT
17 NOTIFYING THE EXECUTIVE COMMITTEE, FOR PURPOSES OF THE
18 CALCULATION SET FORTH IN SUBSECTION (4) OF THIS SECTION.

19 **SECTION 2.** In Colorado Revised Statutes, 39-22-627, **amend**
20 (1)(b), (3), and (6) as follows:

21 **39-22-627. Temporary adjustment of rate of income tax -**
22 **refund of excess state revenues - authority of executive director.**

23 (1) (b) In order for the provisions of subsection (1)(a) of this section to
24 take effect, the amount of state revenues required to be refunded for the
25 specified state fiscal year must exceed the total of the amount of
26 reimbursement for property tax revenues lost as a result of the property
27 tax exemptions allowed by part 2 of article 3 of this title 39 paid by the

1 state treasurer to each county treasurer as required by section 39-3-207 (4)
2 for the property tax year that commenced during the specified state fiscal
3 year, PLUS THE ESTIMATED REVENUE DECREASE AMOUNT CALCULATED IN
4 ACCORDANCE WITH SECTION 39-22-543 (5), plus the estimated amount by
5 which state revenues would be decreased as the result of a reduction in
6 the state income tax rate from four and sixty-three one-hundredths percent
7 to four and one-half percent of federal taxable income, as determined
8 pursuant to this section.

9 (3) If one or more ballot questions are submitted to the voters at
10 a statewide election to be held in November of any given calendar year
11 that seek authorization for the state to retain and spend all or any portion
12 of the amount of excess state revenues for the state fiscal year ending
13 during said calendar year, the executive director shall not reduce the state
14 income tax rate until the results of said election are known so that the
15 state income tax rate may be reduced only if, after the results of said
16 election, the amount of excess state revenues required to be refunded for
17 the state fiscal year exceeds the total of the amount of reimbursement for
18 property tax revenues lost as a result of the property tax exemptions
19 allowed by part 2 of article 3 of this title 39 paid by the state treasurer to
20 each county treasurer as required by section 39-3-207 (4) for the property
21 tax year that commenced during the specified state fiscal year, PLUS THE
22 ESTIMATED REVENUE DECREASE AMOUNT CALCULATED IN ACCORDANCE
23 WITH SECTION 39-22-543 (5), plus the estimated amount by which state
24 revenues would be decreased as a result of a reduction in the state income
25 tax rate from four and sixty-three one-hundredths percent to four and
26 one-half percent of federal taxable income pursuant to this section.

27 (6) If, based on the financial report prepared by the controller in

1 accordance with section 24-77-106.5, the controller certifies that the
2 amount of the state revenues for any state fiscal year commencing on or
3 after July 1, 2017, exceeds the limitation on state fiscal year spending
4 imposed by section 20 (7)(a) of article X of the state constitution for that
5 state fiscal year and exceeds the amount of excess state revenues that the
6 voters statewide have authorized the state to retain and spend for that
7 state fiscal year by less than the total of the amount of reimbursement for
8 property tax revenues lost as a result of the property tax exemptions
9 allowed by part 2 of article 3 of this title 39 paid by the state treasurer to
10 each county treasurer as required by section 39-3-207 (4) for the property
11 tax year that commenced during the specified state fiscal year, PLUS THE
12 ESTIMATED REVENUE DECREASE AMOUNT CALCULATED IN ACCORDANCE
13 WITH SECTION 39-22-543 (5), plus the estimated amount by which state
14 revenues would be decreased as the result of a reduction in the state
15 income tax rate from four and sixty-three one-hundredths percent to four
16 and one-half percent of federal taxable income as calculated by the
17 executive director pursuant to subsection (2) of this section, then the
18 reduction in the state income tax rate allowed pursuant to subsection (1)
19 of this section shall not be allowed for the income tax year commencing
20 during the calendar year in which the state fiscal year ended.

21 **SECTION 3.** In Colorado Revised Statutes, 24-48.5-117, **amend**
22 (5)(a) as follows:

23 **24-48.5-117. Advanced industry - grants - fund - definitions -**
24 **repeal. (5) Grant administration.** (a) (I) On or before September 1,
25 2013, the office of economic development shall establish procedures and
26 timelines for grant applications; criteria for determining grant amounts,
27 including how preferences will be applied; grantee reporting

1 requirements; and any other program policies. The office may amend
2 these policies at any time.

3 (II) WITH RESPECT TO PREFERENCES APPLIED TO GRANT
4 APPLICATIONS FROM COMPANIES IN THE ENERGY AND NATURAL
5 RESOURCES INDUSTRY, THE OFFICE OF ECONOMIC DEVELOPMENT SHALL
6 GIVE PREFERENCE TO APPLICATIONS FOR COMPANIES OR PROJECTS THAT
7 INVOLVE RENEWABLE ENERGY RESOURCES, AS THAT TERM IS DEFINED IN
8 SECTION 40-2-124 (1)(a)(VII), AND ARE LOCATED IN RURAL AREAS OF THE
9 STATE.

10 **SECTION 4. Act subject to petition - effective date.** This act
11 takes effect at 12:01 a.m. on the day following the expiration of the
12 ninety-day period after final adjournment of the general assembly (August
13 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
14 referendum petition is filed pursuant to section 1 (3) of article V of the
15 state constitution against this act or an item, section, or part of this act
16 within such period, then the act, item, section, or part will not take effect
17 unless approved by the people at the general election to be held in
18 November 2020 and, in such case, will take effect on the date of the
19 official declaration of the vote thereon by the governor.