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HB 20-1025

FINAL FISCAL NOTE

Drafting Number:	LLS 20-0242	**Date:**	October 6, 2020
Prime Sponsors:	Rep. Benavidez; Snyder Sen. Tate	**Bill Status:**	Postponed Indefinitely
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Bill Topic: **SALES TAX EXEMPTION FOR INDUSTRY AND MANUFACTURING ENERGY USE**

Summary of Fiscal Impact:

- ☒ State Revenue
- ☒ State Expenditure
- ☐ State Transfer
- ☐ TABOR Refund
- ☒ Local Government
- ☐ Statutory Public Entity

This bill would have required 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 would have increased 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 would have required an appropriation of $11,400 to the Department of Revenue.

Fiscal Note Status: The fiscal note reflects the introduced bill as amended by the House Energy and Environment Committee. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Table 1
State Fiscal Impacts Under HB 20-1025

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

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.

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. For FY 2020-21 (partial-year impact) and FY 2021-22, the bill increases state revenue subject to TABOR as noted in the State Revenue section of this fiscal note. The May 2020 LCS forecast anticipates that state revenue subject to TABOR will remain below the TABOR limit through at least FY 2021-22; therefore, the bill is not expected to affect TABOR refunds paid from the General Fund. 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

This bill was postponed indefinitely by the House Finance Committee on May 28, 2020.

State Appropriations

For FY 2020-21, the bill would have required an appropriation from the General Fund of $11,400 to the Department of Revenue, of which $2,400 would have been reappropriated to the Department of Personnel and Administration.

State and Local Government Contacts

Counties
Municipalities
Revenue
Regional Transportation District
Information Technology
Personnel
State Auditor