SB 20-168

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

REVISED FISCAL NOTE

(replaces fiscal note dated March 9, 2020)

Drafting Number:	LLS 20-0494	**Date:**	June 10, 2020
Prime Sponsors:	Sen. Hansen; Pettersen Rep. Valdez A.	**Bill Status:**	Senate Appropriations
		Fiscal Analyst:	Meredith Moon | 303-866-2633 Meredith.Moon@state.co.us

Bill Topic: **SUSTAINABLE SEVERANCE AND PROPERTY TAX POLICIES**

Summary of Fiscal Impact:

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

This bill extends and expands a property tax exemption for community solar gardens, and increases coal severance tax collections to reimburse local governments for the reduction in local property tax revenue under the bill and for transfer to the Just Transition Cash Fund. The reimbursement is a new TABOR refund mechanism. The bill will increase state revenue on an ongoing basis beginning in FY 2020-21 and increase state expenditures and transfers starting in FY 2021-22.

Appropriation Summary: For FY 2020-21, the bill requires an appropriation of $66,456 to the Department of Revenue.

Fiscal Note Status: This fiscal note reflects the bill as amended by the Senate Transportation and Energy Committee and the Senate Finance Committee.

Table 1
State Fiscal Impacts Under SB 20-168

		FY 2020-21	FY 2021-22	FY 2022-23	FY 2025-26
Revenue	Cash Funds	$0.6 million	$1.8 million	$2.9 million	$6.0 million
	Total	**$0.6 million**	**$1.8 million**	**$2.9 million**	**$6.0 million**
Expenditures	General Fund	$66,456	-	-	-
	Cash Funds	-	$2.7 million	$3.0 million	$5.0 million
	Total	**$66,456**	**$2.7 million**	**$3.0 million**	**$5.0 million**
Transfers	General Fund	-	($0.9 million)	($0.1 million)	-
	Cash Funds	-	-	-	($1.0 million)
	Cash Funds	-	$0.9 million	$0.1 million	$1.0 million
	Total	**-**	**$0**	**$0**	**$0**
TABOR Refund		-	-	Not estimated	Not estimated

Summary of Legislation

This bill extends and expands a property tax exemption for community solar gardens (CSGs), increases coal severance tax collections, reimburses local governments for the reduction in local property tax revenue, creates a new TABOR refund mechanism, and transfers money into the Just Transition Cash Fund, as described below.

Property tax exemption for community solar gardens. The bill extends the existing property tax exemption for CSG property used to generate electricity for residential, governmental, and non-profit customers by five years until 2026 and expands the CSG exemption to state-assessed property. The bill also specifies that CSG property be valued based on the 30-year income of the property rather than the cost basis.

Increase coal severance tax collections. Under current law, the first 300,000 tons of coal produced each quarter by each mine is exempt from the coal severance tax. Beginning tax year 2021, the bill reduces the quantity of coal exempted from severance tax each quarter by 60,000 tons per year, such that 240,000 tons are exempt each quarter during 2021, 180,000 tons are exempt each quarter during 2022, and so on. The bill eliminates the exemption for 2025 and subsequent years.

Coal severance taxpayers are allowed tax credits equal to 50 percent of severance taxes paid on underground coal and lignitic coal. Beginning tax year 2021, the bill reduces the credits by 10 percentage points per year, such that the credits allowed are 40 percent for 2021, 30 percent for 2022, and so on. The bill eliminates these credits for 2025 and subsequent years.

Sustainable Energy Tax Policy Fund and new TABOR refund mechanism. The bill creates the Sustainable Energy Tax Policy Fund (fund), which will receive the additional coal severance tax revenue resulting from changes to exemptions and credits under the bill. The fund will be used to reimburse local governments for their lost property tax revenue under the bill. In years when the state TABOR refund amount exceeds the amount reimbursed to local governments for the senior and disabled veteran homestead exemptions, expenditures from the fund are accounted for as a TABOR refund mechanism. When there is insufficient revenue in the fund, the bill requires a General Fund expenditure to reimburse local governments for reduced property taxes.

Transfers to the Just Transition Cash Fund. At the end of each fiscal year, the bill transfers any revenue in excess of the reimbursement to local governments into the Just Transition Cash Fund. The Just Transition Cash Fund was created in HB 19-1314 to assist communities and workers whose coal-related industries and jobs are subject to significant economic transition.

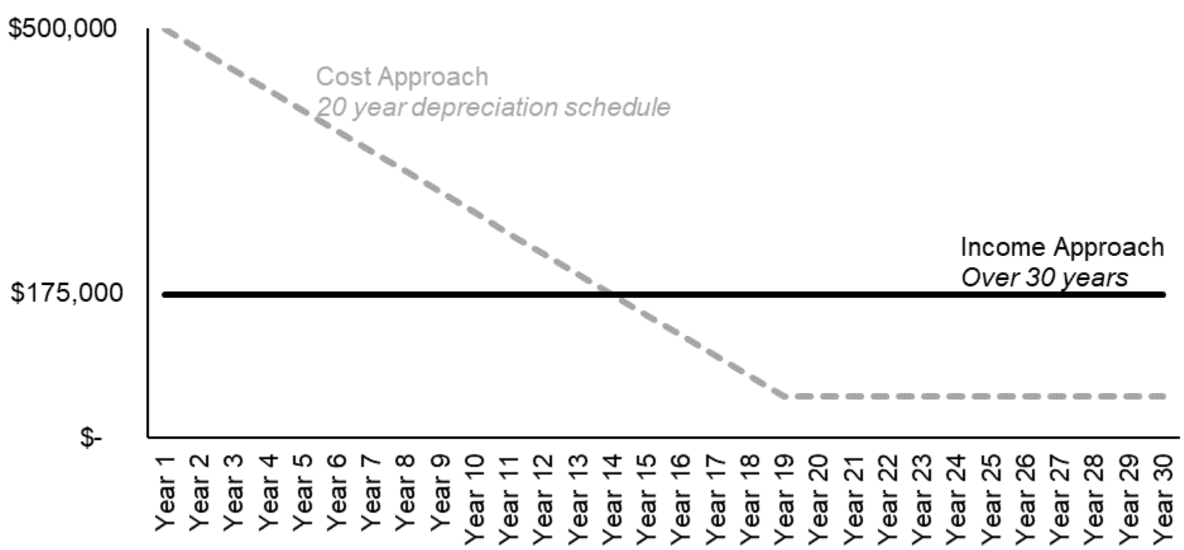
Background and Assumptions

Community solar gardens. As of January 2019, CSGs capable of producing 244 megawatts of power had been contracted for distribution by Xcel Energy and Black Hills Energy. CSGs producing about 36 megawatts were actually in operation as of 2019, the most recent data available. These CSG properties are operated independently, and the power is sold for distribution to the utilities. Currently, every CSG in the state is under 2 megawatts and county assessors, rather than the Division of Property Taxation, will be responsible for valuing the property when the exemption expires.

Valuation for property taxes. CSGs are currently assessed based on the cost method of valuation. The actual value is determined based on the cost to install the property, and the value of the property is depreciated over an expected 20-year life cycle. The bill requires CSGs to be valued based on the expected income of the property over a 30-year cycle. The change in valuation methods will result in stable taxes over a 30-year period, rather than a declining value over a 20-year period.

Figure 1 compares methods of valuation of a $500,000 property for 30 years. Under the cost approach, the value of the property is $500,000 in year 1 and declines to a residual value of about 10 percent of the original value in year 19. Under the income method, the value is $175,000 each year for 30 years. Compared with current law, the bill will reduce the valuation for property taxes early in the life of the CSG and increase the valuation later in the life of the CSG.

Figure 1
Comparison of Cost and Income Method of Valuation
Original Cost = $500,000



Property tax exemption. It is anticipated that 68.6 percent of contracted CSGs will be operational in 2021 and 82.8 percent will be operational in 2022. Based on the valuation method described in the bill, it is estimated that the bill will reduce the taxable value by $31.2 million for property tax year 2021 and $34.2 million in 2022. Using average mills for each county in 2018, the most recent data available, this reduction in assessed value will reduce local property tax revenue, to be backfilled by severance tax revenue under the bill, by an estimated $2.7 million in FY 2021-22 and $3.0 million in FY 2022-23. The amount will increase as more CSGs are constructed.

State Revenue

The bill increases coal severance tax revenue by $0.6 million in FY 2020-21 (half-year impact) and $1.8 million in FY 2021-22. The impact on severance tax revenue is phased in through tax year 2025, and the bill is expected to increase revenue by about $6.0 million annually when fully phased in for FY 2025-26 and subsequent years. Revenue generated by the bill is deposited into a the newly created Sustainable Energy Tax Policy Fund and is subject to TABOR.

Severance tax revenue. The bill increases severance tax revenue by decreasing, and eventually eliminating, the severance tax exemption for 300,000 tons of coal produced per mine per quarter, and by decreasing, and eventually eliminating, the severance tax credit for coal produced at underground mines. The provision affecting the severance tax credit for lignitic coal is assessed as having no revenue impact, as the credit is not utilized. Table 2 presents the annual impact of the exemption and underground coal credit on a fiscal year basis through FY 2025-26, when the bill is fully phased in. Revenue impacts are calculated based on exemption and credit data for FY 2018-19, adjusted for projected future production. As a forecast of severance tax revenue is unavailable beyond FY 2021-22, Table 2 assumes that production will remain constant beyond FY 2021-22 for illustrative purposes. To the extent that production declines in future years, the bill's impact on revenue will be less than estimated.

Table 2
Coal Severance Tax Revenue Impacts Under SB 20-168*
Dollars in Millions

	FY 2020-21	2021-22	2022-23**	2023-24**	2024-25**	2025-26**
May 2020 Forecast	$2.5	$2.0	$2.0	$2.0	$2.0	$2.0
Quantity Exemption	$0.2	$0.5	$0.7	$1.1	$1.4	$1.6
Underground Credit	$0.4	$1.3	$2.2	$3.1	$4.0	$4.4
Lignitic Coal Credit	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0
Coal Severance Tax	$3.1	$3.8	$4.9	$6.2	$7.4	$8.0
Revenue Increase	**$0.6**	**$1.8**	**$2.9**	**$4.2**	**$5.4**	**$6.0**

* *Totals may not sum due to rounding.*
** *A forecast for coal severance tax revenue is not available beyond FY 2021-22. For illustrative purposes, the fiscal note assumes revenue for future years will be unchanged from FY 2021-22. If production decreases, revenue will be less than shown.*

State Transfers

Beginning in FY 2021-22, the bill transfers any money remaining after reimbursing local governments from the Sustainable Energy Tax Policy Fund to the Just Transition Cash Fund. No transfers are expected initially, since the combined severance tax revenue increases for FY 2020-21 and FY 2021-22 are lower than projected FY 2021-22 reimbursements to local governments for the 2021 CSG property tax exemption.

For future years, transfer amounts will depend on actual severance tax revenue collected and reimbursements required. For example, if in FY 2025-26 severance tax revenue credited to the Sustainable Energy Tax Policy Fund totaled $6.0 million and reimbursements to local governments totaled $5.0 million, the bill would direct the transfer of $1.0 million from the Sustainable Energy Tax Policy Fund to the Just Transition Cash Fund, as shown in Table 1.

Beginning in FY 2026-27 after the CSG property tax exemption expires, the entire amount of coal severance tax revenue under the bill will be transferred from the Sustainable Energy Tax Policy Fund to the Just Transition Cash Fund.

State Expenditures

This bill will increase state General Fund expenditures by $66,456 in FY 2020-21. Starting in FY 2021-22, the bill will require the state to reimburse local governments for reduced property tax revenue for taxes levied starting in 2021. Reimbursements will total $2.7 million in FY 2021-22 and $3.0 million in FY 2022-23 and subsequent years, which will be backfilled by the General Fund in FY 2021-22 by $0.9 million and in FY 2022-23 by $0.1 million.

Reimbursement for local governments — Department of the Treasury. The bill requires the Treasury to reimburse local governments for the reduction in property tax revenue. The first source of local government reimbursements is from the Sustainable Energy Tax Policy Fund, with any remaining reimbursements made from the General Fund. Table 3 shows the reduction in property tax revenue discussed in the Background and Assumptions section of this fiscal note, the revenue available in the Sustainable Energy Tax Policy Fund, the transfers to the Just Transition Fund, and the General Fund reimbursements. In any year in which the reduction in local property tax revenue exceeds the increase in coal severance tax revenue, there will be a General Fund obligation to reimburse local governments. As coal severance tax revenue increases over time, the General Fund reimbursement is not expected past FY 2022-23. The Treasury is able to administer reimbursements from the fund within existing appropriations.

The reimbursement to local governments will no longer be required after the CSG exemption expires in 2026, eliminating that expenditure starting in FY 2026-27.

Table 3
Local Government Reimbursements Under SB 20-168

	FY 2020-21	FY 2021-22	FY 2022-23
Coal Severance Tax Revenue Under SB 20-168	$0.6 million	$1.8 million	$2.9 million
Reimbursement to Local Governments	-	($2.7 million)	($3.0 million)
General Fund Reimbursement	-	$0.9 million	$0.1 million
Amount Remaining in Sustainable Energy Tax Policy Fund for Transfer to Just Transition Fund	**$0**	**$0**	**$0**

Department of Revenue. The bill will increase Department of Revenue expenditures by $66,456 in FY 2020-21 only to program, test, and update database fields in the department's GenTax software system and redesign the coal severance tax form. Programming costs are estimated at $35,550, representing 158 hours of contract programming at a rate of $225 per hour. Costs for testing at the department are estimated at $30,640, representing 800 hours of contract testing at a rate of $32 per hour and 200 hours at $25.20 per hour. The redesign of the coal severance tax form is estimated to cost $266.

Division of Property Taxation — DOLA. The division will develop new valuation templates for locally assessed renewable energy facilities for use by county assessors, amend existing property statement forms for renewable energy properties, and develop procedures for assessing CSGs for state assessed utilities in FY 2020-21. These workload increases can be accomplished within existing appropriations.

TABOR refunds. The increases severance tax revenue subject to TABOR; however, state revenue subject to TABOR is expected to fall short of the TABOR limit in each of FY 2020-21 and FY 2021-22. A forecast of state revenue subject to TABOR is not available beyond FY 2021-22.

The bill designates the reimbursement to local governments for the loss of property taxes under the bill as a new TABOR refund mechanism. This mechanism refunds revenue in excess of the amount required to pay for homestead exemptions and before the temporary income tax rate reduction and six-tier sales tax refund mechanisms in current law are triggered. Under the May 2020 forecast update, the reimbursement in the bill is not expected to operate as a TABOR refund mechanism through at least FY 2022-23, as the state is not expected to issue TABOR refunds in these years.

Local Government

This bill results in no net impact to local government revenue. As shown in Table 3, this bill is anticipated to reduce local property tax revenue by $2.7 million in tax year 2021 and $3.0 million in tax year 2022 and increase local revenue from state reimbursments by the same amount.

Workload for county assessors and county treasurers will increase to estimate the reduced property tax revenue from the bill, and provide that information to the State Treasurer for reimbursement. Workload will vary depending on the number of community solar gardens in each county.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2020-21, the bill requires a General Fund appropriation of $66,456 to the Department of Revenue.

State and Local Government Contacts

Colorado Energy Office	Counties	County Assessors
Information Technology	Local Affairs	Municipalities
Natural Resources	Revenue	Property Tax Division - Local Affairs
Special Districts	Treasury	