# HB 23B-1005

**Legislative Council Staff**
*Nonpartisan Services for Colorado's Legislature*

# Fiscal Note

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| **Drafting Number:** | LLS 23B-0023 | **Date:** | November 17, 2023 |
| **Prime Sponsors:** | Rep. Lynch<br>Sen. Pelton B. | **Bill Status:** | House Trans. & Local Govt. |
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**Bill Topic:** **MATTERS RELATED TO TAX RELIEF FOR TAX YEAR 2023**

**Summary of Fiscal Impact:**

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

The bill lowers the state income tax rate for tax year 2023 only, makes assessment rate reductions and expands subtractions in valuations for residential and nonresidential property in tax year 2023 only, modifies local government property tax reimbursement mechanisms, creates a Property Tax Task Force, and adjusts property tax related dates and deadlines. The bill increases state expenditures, reduces state and local government revenue, and modifies TABOR refund mechanisms and the General Fund reserve.

**Appropriation Summary:** For the current FY 2023-24, the bill requires appropriations totaling up to $361.1 million. See State Appropriations Section.

**Fiscal Note Status:** The fiscal note reflects the introduced bill.

**Table 1. State Fiscal Impacts Under HB 23B-1005**

| | | Current Year FY 2023-24 | Budget Year FY 2024-25 | Budget Year FY 2025-26 |
|---|---|---|---|---|
| **Revenue** | General Fund | ($1,259,575,496) | - | - |
| | **Total Revenue** | **($1,259,575,496** | **-** | **-** |
| **Expenditures** | General Fund | $823,397,029 | - | - |
| | School Finance[1] | $361,091,667 | - | - |
| | Centrally Appropriated | $6,724 | - | - |
| | **Total Expenditures** | **$1,184,495,420** | **-** | **-** |
| | **Total FTE** | **0.4 FTE** | **-** | **-** |
| **Transfers** | | - | - | - |
| **Other Budget** | TABOR Refund | ($1,259,575,496) | - | - |
| | General Fund Reserve | ($678,595,240) | - | - |

[1] *This amount may be paid from the General Fund, the State Education Fund, the State Public School Fund, or a combination of these. See State Appropriations Section.*

## Summary of Legislation

**State income tax rate.** The bill reduces the state income tax rate for 2023 tax year only from 4.4 percent for 4.0 percent. The rate reduction applies to the taxable income of individuals and corporate taxpayers. Income tax rates for future years are unaffected.

**Property tax assessment.** For the 2023 property tax year only, the bill makes assessment rate reductions and expands subtractions in valuations for residential and nonresidential property. The bill excludes property tax savings under this bill from the calculation of the aggregate reduction of local government property tax revenue under Senate Bill 22-238. Table 2 shows the changes to property tax assessment rates and subtractions under the bill.

**Table 2**
**Property Assessment Under HB 23B-1005**

| Property Class | Current Law | Under Bill |
|---|---|---|
| Residential *Single & multifamily* | 6.765% after a $15,000 subtraction | 6.5% after a $80,000 subtraction |
| Lodging and Improved Commercial | 27.9% after a $30,000 subtraction | 25% after a $60,000 subtraction |
| Other Commercial, Industrial, Natural Resources, State Assessed | 27.9% | 25% |

**Local government reimbursements.** The bill extends the local government reimbursement mechanisms created in Senate Bill 22-238 for lost property tax revenue to include reimbursements for lost property taxes as a result of the bill. It also:

- specifies that reimbursements are calculated using the local government's mill levy for the 2022 property tax year, excluding bond or contractual mills;
- requires the backfill to be paid with unrestricted money in the General Fund;
- requires the backfill established in SB 22-238 to be paid from the General Fund, rather than as a TABOR refund mechanism;
- reduces the General Fund reserve requirement from 15 percent to 10.4 percent for FY 2022-23;
- specifies how to handle local governments that are in multiple counties;
- requires the State Treasurer to reduce a local governments' reimbursements if necessary to prevent them from exceeding their local TABOR limits; and

- expedites the distribution of the reimbursement for counties that complete the reporting requirements by February 15, 2024.

**Property Tax Task Force.** The bill creates the Property Tax Task Force in 2023 only to develop a permanent and sustainable property tax structure. The bill outlines the membership of the task force, which includes legislators, the state property tax administrator, and a variety of representatives of local governments, as well as business and real estate organizations. Legislative members receive compensation and reimbursement of expenses.

The task force must be appointed by November 23, 2023, and hold its first meeting by December 1, 2023. A final report is due to the finance committees of the General Assembly by December 31, 2023.

**Delinquent interest.** The bill specifies that for 2023 property tax year, delinquent interest does not accrue if the first payment of property taxes is made within 10 days after the mailing of the tax statement or notification of an electronic statement.

**Property tax and budget deadlines.** For the 2023 tax year, the bill extends various certification and reporting deadlines for school districts and local officials based on the changes to property valuations. It also provides flexibility for local government budgets for the 2024 fiscal year due to changes in assessed value as a result of the bill.

## Background

**Property assessment.** Property valuations (“actual values”) are usually determined by county assessors. Valuation methods depend on the property class. For example, residential and commercial property is valued biennially in each odd-numbered year based on market conditions as of June 30 of the preceding even-numbered year.

Actual values are multiplied by assessment rates, set by the state, to determine assessed values. Assessment rates may vary across property classes. Assessed values are multiplied by mill levies, set by local governments, to determine the amount of tax due. The same mill levies are applied to assessed values in all property classes.

Property taxes are paid in arrears. For example, a residential property’s valuation for the 2023 tax year is based on market conditions as of June 30, 2022, and taxes for the 2023 tax year are paid to local governments in the first half of 2024.

**Reimbursements to local governments for reduced property taxes.** Under current law, the state is required to pay reimbursements to local governments for a portion of reduced property taxes for property tax year 2023 under Senate Bill 22-238. The reimbursement requirement is estimated at $244.0 million in the current FY 2023-24 only. Current law designates the first $240.0 million as a mechanism for refunding part of the TABOR refund obligation for excess revenue collected during FY 2022-23. The remaining $4.0 million reimbursement will be paid from the General Fund.

Reimbursements to local governments for their reduced revenue under SB 22-238 are calculated as presented below. School districts are not reimbursed using this mechanism, as they are reimbursed through the School Finance Act (see below).

In counties with populations under 300,000:

- 100 percent to local governments in counties where assessed values grow by less than 10 percent between 2022 and 2023; and
- 90 percent to local governments in counties where assessed values grow by more than 10 percent between 2022 and 2023.

In counties with populations over 300,000:

- 100 percent to municipalities, fire districts, health service districts, water districts, sanitation districts, and library districts ("select special districts") where assessed values grow by less than 10 percent between 2022 and 2023;
- 90 percent to municipalities and select special districts where assessed values grow by more than 10 percent between 2022 and 2023; and
- 65 percent to county governments, consolidated city-county governments, and all special district types not listed above.

**School finance.** Public schools in Colorado are funded through a combination of state and local government revenue. A formula in state law determines the amount of total program funding that each district should receive. District property taxes and specific ownership taxes make up the local share of funding, and a state aid requirement is set to equal the difference between the local share and the total program funding amount. Changes to property taxes affect the local share of school finance. Reductions (or increases) in the local share of total program funding require an equivalent increase (or decrease) in the state aid requirement.

**TABOR refunds for the FY 2022-23 surplus.** In September, the State Controller certified a $3.68 billion state TABOR refund obligation, primarily for excess revenue collected during FY 2022-23. This obligation is payable to taxpayers in the current FY 2023-24. Under current law, refunds will be paid via the homestead exemptions for seniors, veterans with a disability, and Gold Star surviving spouses ($163.2 million), reduced property assessments under SB 22-238 ($240.0 million), and the six-tier sales tax refund mechanism ($3.28 billion).

**Statutory reserve.** State law specifies a reserve requirement, expressed as a percentage of General Fund appropriations, that must remain in the General Fund at the end of each fiscal year. This percentage is statutory and may be amended by the General Assembly. It has been set as low as 0.0 percent (FY 2001-02). The current level, 15.0 percent, has applied since FY 2022-23 and will apply in all future years unless amended in law. Reserves are carried forward across fiscal years. For example, the reserve amount for the current FY 2023-24 may be spent in FY 2024-25 or saved as part of that year's reserve.

## Assumptions

**Assessed value impacts.** The bill is expected to reduce assessed values by amounts shown in Table 3. Assessed value for 2023 under current law is based on preliminary abstract data from the Division of Property Taxation.

**Table 3**
**Forecast of Statewide Assessed Values**
*Millions of Dollars*

| | Current Law | | HB 23B-1005 | |
|---|---|---|---|---|
| Year | Assessed Value | Percent Change | Assessed Value | Percent Change |
| 2022 | $150,166 | | $150,166 | |
| 2023*f* | $195,956 | 30.5% | $174,919 | 16.5% |

*Source: Colorado Legislative Council Staff. f=forecast*

**Property tax revenue impacts.** The bill reduces assessed values by reducing assessment rates and increasing partial property value subtractions. Reduced assessed values are assumed to reduce property tax revenue for local governments that levy fixed mills, including most counties, municipalities, and special districts. School districts are assumed to experience reductions in revenue generated from their total program mills, as well as from override mills in districts where voters have approved fixed mill overrides.

Some levies are not expected to generate less revenue from reduced assessed values. These include metropolitan district and school district bond indebtedness mills, which are typically structured to generate a certain amount of revenue regardless of the tax base. School district override mills are assumed not to generate less revenue if the school district is already at its statutory override revenue cap, or where voters have approved overrides to generate fixed dollar amounts or inflation-adjusted dollar amounts.

Estimates use the preliminary 2023 abstract data for assessed valuations by school district, prorated to counties according to each school district's share of county assessed valuation for the 2022 property tax year. The fiscal note assumes weighted average mill levies by county for the 2022 property tax year from the Division of Property Taxation, except that school district total program mills are adjusted where required under current law enacted in House Bill 21-1164.

Based on these assumptions, the bill is expected to reduce 2023 property tax revenue to all local governments by $1.18 billion.

**Local government reimbursements.** The bill requires the state treasurer to reduce local government reimbursements as necessary to prevent a local governmental entity from exceeding its TABOR revenue limit. The analysis assumes local governments will modify mill levies in order to receive the entire reimbursement. If the treasurer must reduce reimbursements, the amount of reimbursements will be lower than estimated in this analysis.

The analysis assumes current law reimbursement requirements under Senate Bill 22-238 are also based on the bill's provisions that require lost property tax revenue be calculated on 2022 mill levies, less mills for bonds and contractual obligations.

## State Revenue

The bill reduces state General Fund revenue by $1.26 billion in FY 2023-24 only by reducing the income tax rate in tax year 2023. This revenue estimate is based on the September 2023 Legislative Council Staff Economic and Revenue Forecast. Reducing the income tax rate in tax year 2023 will impact revenue for FY 2023-24 only (full-year impact), as actual revenue in FY 2022-23 has been finalized.

## State Expenditures

The bill increases state expenditures for multiple state agencies by $1.2 billion in the current FY 2023-24, paid mostly from the General Fund. Of that amount, $240 million represents local reimbursements that are paid as a TABOR refund mechanism under current law and instead will be paid from the General Fund. Expenditures are shown in Table 4 and detailed below.

**Table 4**
**Expenditures Under HB 23B-1005**

| | FY 2023-24 | FY 2024-25 |
|---|---|---|
| **Department of Education** | | |
| State Share of School Finance | $361,091,667 | - |
| **CDE Subtotal** | **$361,091,667** | - |
| **Local Government Reimbursements** | | |
| Additional Reimbursement under HB 23B-1005 | $583,346,443 | - |
| Reclassification of SB 22-238 Reimbursements | $240,000,000 | - |
| **Reimbursement Subtotal** | **$823,346,443** | - |
| **Legislative Department** | | |
| Personal Services | $32,200 | - |
| Operating Expenses | $512 | - |
| Legislator Travel & Per Diem | $7,077 | - |
| Centrally Appropriated Costs[2] | $6,724 | - |
| FTE – Legislative Council Staff | 0.3 FTE | - |
| FTE – Legislative Legal Services | 0.1 FTE | - |
| **Legislative Dept. Subtotal** | **$46,513** | - |
| **Department of Revenue** | | |
| Computer Programming | $450 | - |
| Computer and User Acceptance Testing | $8,747 | - |
| Data Reporting | $1,600 | - |
| **DOR Subtotal** | **$10,797** | - |
| **Total** | **$1,184,495,420** | - |
| **Total FTE** | **0.4 FTE** | - |

[1] *Senate Bill 22-238 designated the first $240 million of its property tax reimbursements as a TABOR refund mechanism. The bill changes this reimbursement from a TABOR refund mechanism to a state expenditure.*
[2] *Centrally appropriated costs are not included in the bill's appropriation.*

**School finance.** The bill decreases property tax collections from school district total program mills, requiring an equivalent increase in the state share of total program funding for school finance. The state aid obligation is expected to increase by $361.1 million in the current FY 2023-24.

**Local government reimbursements.** The bill increases state expenditures by an estimated $823.3 million in FY 2023-24 to reimburse local governments for lost property tax revenue, which will be paid from the state General Fund. The bill increases backfill expenditures both by reducing assessed values and partially backfilling the lost revenue, and by moving a previous backfill established in SB 22-238 from a TABOR refund mechanism to a state expenditure. This does not change the total amount of local reimbursements from SB 22-238, only the method of the reimbursement. Reimbursements are paid through warrants issued by the State Treasurer and do not require an appropriation.

**Legislative Department.** The Legislative Council Staff (LCS) and the Office of Legislative Legal Services (OLLS) will require staff to support the task force and the General Assembly will incur additional costs to reimburse members.

- **Staff.** LCS requires 0.3 FTE for a research analyst to support the task force. The OLLS requires 0.1 FTE for an attorney to support the committee. Standard operating expenses are included.

- **Legislative member compensation.** The General Assembly will incur legislator per diem and travel costs for six members to participate on the task force. The fiscal note assumes five meetings in the current FY 2023-24. Costs are based on standard per diem and interim committee travel reimbursements.

**Department of Revenue.** This bill requires expenditures of $10,797 to program, test, and update database fields in the Department of Revenue's GenTax software system. Programming costs are estimated at $450, representing two hours of contract programming at a rate of $225 per hour. Costs for testing are estimated at $8,747, representing 188 hours at a rate of $35 per hour and 86 hours at a rate of $25.20 per hour. Expenditures in the Office of Research and Analysis are required for changes in the related GenTax reports and documentation of tax statistics. These costs are estimated at $1,600, representing 50 hours at $32 per hour.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 4.

## Other Budget Impacts

**TABOR refunds.** The bill has no impact on the amount required to be refunded under TABOR for FY 2022-23; however, it changes the mechanisms used to pay that obligation to taxpayers. The bill decreases refunds via property tax reductions by $240 million, and correspondingly increases refunds using income tax returns for the 2023 tax year. See the Technical Note.

For FY 2023-24, the bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by the amount shown in the State Revenue section above. This estimate assumes the September 2023 LCS forecast. Because TABOR refunds are paid from the General Fund, decreased General Fund revenue will lower the TABOR refund obligation, but result in no net change to the amount otherwise available to spend or save.

**General Fund reserve.** The bill reduces the reserve requirement for the current FY 2023-24 by 4.6 percent of General Fund appropriations, or $678.6 million based on appropriations under current law. The bill also spends down the amount that would have been held in reserve in excess of the 15 percent reserve under current law. Based on the September 2023 Economic and Revenue Forecast by the Office of State Planning and Budgeting (OSPB), the amount held in excess of the reserve under current law is $183.6 million. Assuming that the budget is balanced to the OSPB forecast and reserve requirement, the General Fund would begin FY 2024-25 with $862.2 million less available to spend or save during that year.

## Local Government

The bill is expected to reduce local property tax revenue by a net amount of $523.5 million in property tax year 2023. Total loss in property tax from the impact of lower assessment rates and reduced property values will be partially offset by increased state aid to school districts and local government backfill. These components are summarized in Table 5.

**Table 5**
**Local Government Revenue Impacts of Assessment Provisions in HB 23B-1005**

| | **FY 2023-24**<br>*Property Tax Year 2023*<br>*Collected in 2024* |
|---|---|
| Property Tax Revenue | ($1,468.0 million) |
| School Districts – State Aid | $361.1 million |
| State Backfill to Local Govt's* | $583.3 million |
| **Net Revenue Impact** | **($523.5 million)** |

** Reimbursements to counties, municipalities, and special districts only, excludes mill levies for bonds and contractual obligations.*

**Property tax revenue**. The bill is expected to reduce property tax revenue to local governments by $1,468 million for property tax year 2023.

**State aid to school districts**. The bill is expected to increase the state aid requirement by $361.1 million for property tax year 2023, as a result of reduced property tax revenue from total program mill levies.

**State reimbursements to local governments**. The bill requires the state to reimburse county treasurers for revenue reductions in 2023 from changes in the bill that extend reductions from Senate Bill 22-238. The amount of reimbursements to counties, municipalities, and other property tax districts is determined by the same mechanism as SB 22-238, with a few minor adjustments as noted in the Summary section above. Reimbursements to local governments, except school districts, are expected to increase by an estimated $583.3 million for property tax year 2023, to be paid from the General Fund.

**Delinquent interest.** The bill specifies that for 2023 property tax year, delinquent interest does not accrue if the first payment of property taxes is made within 10 days after the mailing of the tax statement or notification of an electronic statement. This is expected to result in a minimal reduction in local revenue.

**Local workload and expenditures**. The bill increases expenditures for county treasurers and assessors to implement the property tax changes in the bill. County assessors may need more staff and personnel to administer the bill.

## Technical Note

**Reserve requirement**. The bill reduces the General Fund reserve requirement to 10.4 percent in FY 2022-23, which is already complete. The fiscal note assumes that the reserve requirement will actually be reduced in the current FY 2023-24 to offset additional General Fund expenditures in this fiscal year.

**TABOR refunds.** The bill is expected to decrease the amount of TABOR refunds paid to taxpayers from the FY 2022-23 state surplus via property tax reductions. Under current law, the bill would therefore increase the amount refunded to taxpayers via the six-tier sales tax refund mechanism to be used on income tax returns for tax year 2023. Six-tier amounts for 2023 were set by the Department of Revenue in September 2023 following a process in current law, and it is unclear whether the amounts can be adjusted before tax forms are printed if this bill becomes law. If six-tier amounts are not adjusted, the state may underrefund revenue for the current year. Current law requires that refund amounts in later years be adjusted so that the total amount refunded under TABOR is corrected across multiple years.

## Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

## State Appropriations

For FY 2024-25, the bill requires the following General Fund appropriations:

- $39,789 to the Legislative Department, for use by the General Assembly ($7,077), Office of Legislative Legal Services ($8,594), and Legislative Council Staff ($24,118); and

- $10,797 to the Department of Revenue.

For the current FY 2023-24, the bill increases the required state aid appropriation for school finance by $361,091,667 relative to current law. However, based on updated local share data, the current FY 2023-24 appropriation for state aid is estimated to exceed the current law requirement by $262,081,945. Therefore, the bill may only require that the state aid appropriation in current law be increased by $99,009,722. Appropriations for school finance may be paid from the General Fund, the State Education Fund, the State Public School Fund, or a combination of these.

## State and Local Government Contacts

| | | |
|---|---|---|
| Legislative Council Staff | Legislative Legal Services | Local Affairs |
| Property Tax Division | Revenue | Treasury |