



## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

# Fiscal Note

<b>Drafting Number:</b>	LLS 23-1036	<b>Date:</b>	May 6, 2023
<b>Prime Sponsors:</b>	Rep. deGruy Kennedy; Weissman Sen. Fenberg; Hansen	<b>Bill Status:</b>	House Appropriations
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**Bill Topic:** IDENTICAL TEMPORARY TABOR REFUND

<b>Summary of Fiscal Impact:</b>	<input type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

Conditional upon approval of the ballot measure referred to voters in Senate Bill 23-303, this bill directs that TABOR refunds that would otherwise be paid in FY 2023-24 via the six-tier sales tax refund mechanism be instead paid in equal amounts to qualifying taxpayers. For FY 2023-24 only, the bill increases state agency workload and conditionally changes how TABOR refunds are made, but has no impact on the amount refunded.

**Appropriation Summary:** No appropriation is required.

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

**Table 1**  
**Conditional State Fiscal Impacts Under HB 23-1311**

		Budget Year FY 2023-24	Out Year FY 2024-25
<b>Revenue</b>		-	-
<b>Expenditures</b>		-	-
<b>Transfers</b>		-	-
<b>Other Budget Impacts</b>	TABOR Refunds – Six-Tier Mechanism	(\$2.37 billion)	-
	TABOR Refunds – Equal Amounts	\$2.37 billion	-
	<b>TABOR Refunds – Net Change</b>	<b>\$0</b>	-

## Summary of Legislation

The bill adjusts the mechanisms used to refund the state TABOR refund obligation collected in the current FY 2022-23. If the ballot measure referred in Senate Bill 23-303 is approved by voters, then this House Bill 23-1311 requires any amount that would otherwise be refunded via the six-tier sales tax refund mechanism to instead be refunded on returns for tax year 2023 in equal amounts to all taxpayers who qualify for the six-tier sales tax refund. The Department of Revenue is required to administer this refund mechanism in the same way as the six-tier sales tax refund mechanism is administered under current law.

If the ballot measure referred in SB 23-303 is not referred or is not approved by voters, then the substantive provisions of this bill do not become law.

## Background

**Senate Bill 23-303.** [SB 23-303](#) refers a ballot measure to voters at the November 2023 statewide election. If the ballot measure is adopted, the bill makes changes to property assessments beginning for the 2023 tax year, and allows the state to retain additional revenue subject to the TABOR limit beginning in FY 2023-24.

**TABOR refund mechanisms.** Article X, Section 20, of the Colorado Constitution (TABOR) requires revenue collected in excess of an annual limit (TABOR limit) to be refunded to taxpayers, unless voters approve a measure allowing the state to retain the excess. TABOR allows the state to use “any reasonable method” for refunds. Since the enactment of TABOR, the state has created over 20 different refund mechanisms, most of which have been repealed. There are two permanent refund mechanisms in current law: the homestead exemptions for seniors and veterans with a disability, for which reimbursements are paid to local governments; and the six-tier sales tax refund mechanism, described below. Additionally, for refunds of the obligation for the current FY 2022-23 only, a portion of refunds are paid via reduced property assessments, for which reimbursements are paid to local governments under Senate Bill 22-238. If SB 23-303 passes and the ballot measure it refers is approved, then refunds via the mechanism created in SB 22-238 will increase.

**Six-tier sales tax refund mechanism.** Under current law, any TABOR refund obligation remaining after refunds are paid via other mechanisms is refunded via the six-tier sales tax refund mechanism. This mechanism distributes TABOR refunds to full year Colorado resident individual income taxpayers who file a state income tax return. Refunds are distributed to taxpayers in six adjusted gross income tiers following the distribution of refunds in tax year 1999. Tier thresholds and refund amounts are set by the Department of Revenue each September after the State Controller certifies the amount of the refund obligation, in order to approximate the 1999 distribution as closely as possible.

The refund is called a “sales tax refund” because it refunds revenue collected from the general state sales tax. However, refunds are paid to income taxpayers via the state income tax form.

**State Expenditures**

Workload in the Department of Revenue will increase in FY 2023-24 to calculate the equal refund amount required in the bill. This workload increase is assessed as minimal and can be accomplished within existing appropriations. See the Technical Note.

**Other Budget Impacts**

**TABOR refunds.** The bill has no impact on the amount required to be refunded under TABOR. However, if the ballot measure referred in SB 23-303 is approved, the bill changes the mechanisms used to refund the TABOR obligation for the current FY 2022-23. Refunds of this surplus are paid in FY 2023-24.

The March 2023 Legislative Council Staff forecast estimates that the state will be required to refund \$2.90 billion for the current FY 2022-23. Under current law, \$161 million is estimated to be refunded via local government reimbursements for the homestead exemption; \$239 million is estimated to be refunded via property tax backfill to local governments as required under Senate Bill 22-238, and the remaining \$2.50 billion is estimated to be refunded via the six-tier sales tax refund mechanism. SB 23-303 is estimated to increase the amount refunded via the property tax backfill by \$132.2 million, correspondingly reducing the amount refunded via the six-tier sales tax refund mechanism to \$2.37 billion.

Under HB 23-1311, \$2.37 billion is estimated to be refunded in equal amounts to qualifying taxpayers who would otherwise be eligible for the six-tier sales tax refund mechanism. Taxpayers filing a single return are estimated to receive \$661, and taxpayers filing a joint return are estimated to receive \$1,322. Table 2 presents the estimated refund amounts relative to the six-tier refund amounts that are estimated under SB 23-303 if the ballot measure is approved and HB 23-1311 does not pass.

**Table 2**  
**Conditional 2023 TABOR Refund Impacts of HB 23-1311**  
*Relative to approval of the ballot measure in SB 23-303, without HB 23-1311*

<b>Adjusted Gross Income</b>	<b>SB 23-303 Refund Estimate</b> <i>Single / Joint</i>	<b>HB 23-1311 Refund Estimate</b> <i>Single / Joint</i>	<b>Change in Refund Estimate</b> <i>Single / Joint</i>
Up to \$50,000	\$454 / \$908	\$661 / \$1,322	+\$207 / +\$414
\$50,001 to \$100,000	\$606 / \$1,212	\$661 / \$1,322	+\$55 / +\$110
\$100,001 to \$157,000	\$697 / \$1,394	\$661 / \$1,322	-\$36 / -\$72
\$157,001 to \$219,000	\$829 / \$1,658	\$661 / \$1,322	-\$168 / -\$336
\$219,001 to \$279,000	\$891 / \$1,782	\$661 / \$1,322	-\$230 / -\$460
\$279,001 and up	\$1,434 / \$2,868	\$661 / \$1,322	-\$773 / -\$1,546

Table 3 presents the estimated refund amounts if both the ballot measure and HB 23-1311 are adopted, relative to current law.

**Table 3**  
**Conditional 2023 TABOR Refund Impacts of SB 23-303 and HB 23-1311**  
*Relative to current law*

<b>Adjusted Gross Income</b>	<b>Current Law Refund Estimate</b> <i>Single / Joint</i>	<b>HB 23-1311 Refund Estimate</b> <i>Single / Joint</i>	<b>Change in Refund Estimate</b> <i>Single / Joint</i>
Up to \$50,000	\$480 / \$960	\$661 / \$1,322	+\$181 / +\$362
\$50,001 to \$100,000	\$639 / \$1,278	\$661 / \$1,322	+\$22 / +\$44
\$100,001 to \$157,000	\$736 / \$1,472	\$661 / \$1,322	-\$75 / -\$150
\$157,001 to \$219,000	\$875 / \$1,750	\$661 / \$1,322	-\$214 / -\$428
\$219,001 to \$279,000	\$941 / \$1,882	\$661 / \$1,322	-\$280 / -\$560
\$279,001 and up	\$1,514 / \$3,028	\$661 / \$1,322	-\$853 / -\$1,706

## Technical Note

The bill requires that the equal refund amount be calculated in the same manner as the six-tier sales tax refund mechanism is calculated under current law. Refunds to be paid on returns for tax year 2023 are required to be calculated in September 2023; however, the language in the bill creating the “same manner” requirement will not take effect until after the result of the November 2023 election is certified, likely in November or December 2023. If this bill is enacted by the General Assembly and signed by the Governor, it is assumed that the Department of Revenue will perform the workload identified in the State Expenditures section to account for the possibility that the ballot measure will be approved, even though the relevant provision of law will not be in effect at the time that the workload is required.

## Effective Date

The substantive provisions of the bill (Section 1) take effect only if the ballot measure referred in SB 23-303 is approved by voters at the November 2023 statewide election. The portions of the bill that establish the bill’s conditional effective date (Sections 2 and 3) take effect upon signature of the Governor, or upon becoming law without his signature.

## State and Local Government Contacts

Legislative Council Staff Economics Section