



Legislative Council Staff

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Final Fiscal Note

Drafting Number: LLS 23-0865
Prime Sponsors: Rep. Brown; Amabile
Sen. Fenberg

Date: July 18, 2023
Bill Status: Signed into Law
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Bill Topic: SALES & USE TAX EXEMPTION WILDFIRE DISASTER CONSTRUCTION

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

The bill creates a sales and use tax exemption for building materials purchased for rebuilding and repairing residential structures damaged by wildfire from 2020 to 2022. The bill decreases state revenue, increases state expenditures, decreases certain special district revenues, and increases local government expenditures.

Appropriation Summary: For FY 2023-24, the bill requires and includes an appropriation of \$72,267 to the Department of Revenue.

Fiscal Note Status: This revised fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under HB 23-1240

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue	General Fund	(\$4.1 - \$8.4 million)	(\$3.0 - \$5.7 million)
	Total Revenue	(\$4.1 - \$8.4 million)	(\$3.0 - \$5.7 million)
Expenditures	General Fund	\$72,267	\$65,533
	Centrally Appropriated	\$15,251	\$15,251
	Total Expenditures	\$87,518	\$80,784
	Total FTE	0.9 FTE	0.9 FTE
Transfers		-	-
Other Budget Impacts	TABOR Refund	(\$4.1 - \$8.4 million)	(\$3.0 - \$5.7 million)

Summary of Legislation

The bill creates a sales and use tax exemption for construction and building materials purchased for rebuilding or repairing a residential structure damaged or destroyed by a declared wildfire disaster from 2020 to 2022. The exemption is administered solely as a refund for qualified homeowners repairing or rebuilding qualified residential structures. Refund claims must be filed by the end of FY 2027-28. The exemption is only eligible to homeowners if the replacement cost for the residential structure to be repaired or rebuilt exceeds the homeowner's coverage under any homeowner's insurance policy.

To administer the exemption, the bill requires the Department of Revenue to develop a form for a Wildfire Rebuild Exemption Certificate that will be provided to permit-issuing cities and counties in areas impacted by wildfires. The cities and counties will verify and issue the certificates for underinsured homeowners that owned qualifying residential structures at the time they were damaged or destroyed. Beginning September 30, 2023, cities and counties are required to submit an electronic report each year to the department with the number of rebuild exemption certificates they have issued. For homeowners claiming a refund, the bill requires the department to prioritize the refund applications.

State Revenue

The bill is estimated to decrease General Fund revenue between \$4.1 million and \$8.4 million in FY 2023-24 and between \$3.0 million and \$5.7 million in FY 2024-25, with potential impacts in future years depending on timing of refund claims through the bill. Refund claims under the bill must be filed before June 30, 2028. Sales and use tax revenue is subject to TABOR.

Data and assumptions. Between 2020 and 2022, there were five state-responsibility wildfires that destroyed an estimated 1,444 residences according to data provided by the Department of Public Safety. In addition to the residences that were destroyed in these fires, there were numerous residential structures that were damaged. Based on information from the Division of Insurance, there were an estimated 5,400 other claims for damage related to the above wildfire disasters. This analysis assumes about 70 percent of destroyed residences will be rebuilt. The analysis also assumes between 36 percent and 67 percent of destroyed residences were underinsured based on an analysis of the Marshall Fire published by the Division of Insurance.¹ For other damage claims to residential structures, the analysis assumes 10 percent are underinsured. In total, between an estimated 910 to 1,220 underinsured homeowners will file for a sales and use tax refund or exemption under the bill. Based on reported permit activity, and assuming rebuilding occurs within three years of the disaster, an estimated 56 percent of the refunds are assumed to be filed in FY 2023-24 and 44 percent in FY 2024-25.

Construction costs for homes destroyed in the wildfires were estimated assuming an average of 2,400 square feet per residence and costs between \$250 and \$350 per square foot, inflated each year based on the Legislative Council Staff March 2023 forecast. Building materials were assumed to comprise 50 percent of the construction cost. For partial repairs and other damage claims, the analysis assumes those that were underinsured had a policy that would cover about 73 percent of the cost of

¹ <https://doi.colorado.gov/news-releases-consumer-advisories/division-of-insurance-releases-initial-estimates-of>

replacement for a 2,400 square foot home as noted above, or coverage between about \$466,000 to \$652,000 for FY 2023-24.

State Expenditures

The bill increases state General Fund expenditures by \$87,518 in FY 2023-24 and \$80,784 in FY 2024-25. Expenditures are shown in Table 2 and detailed below.

**Table 2
Expenditures Under HB 23-1240**

Cost Components	FY 2023-24	FY 2024-25
Department of Revenue		
Personal Services	\$56,990	\$56,990
Operating Expenses	\$1,215	\$1,215
Capital Outlay Costs	\$6,670	-
Office of Research and Analysis	\$7,392	\$7,328
Centrally Appropriated Costs ¹	\$15,251	\$15,251
Total Cost	\$87,518	\$80,784
Total FTE	0.9 FTE	0.9 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Revenue. The Department of Revenue will require 0.9 FTE from FY 2023-24 to FY 2024-25 to prioritize, review, and process refunds attributable to the sales and use tax exemption. Workload requirements assume each refund claim will take an average of three hours, for a total of 1,831 hours each year. The new exemption in the bill will incur additional costs for the Office of Research and Analysis, an estimated \$7,392 in FY 2023-24 and \$7,328 in FY 2024-25 and subsequent years to track and report on the new tax expenditure. Additionally, the bill will require the department to develop a form for the Wildfire Rebuild Exemption Certificate and workload to update forms and guidance.

Interest payments. Some refunds processed by the department accrue interest. The additional sales and use tax refund claims under the bill may result in increased interest payments if the bill increases the backlog of claims currently processed by the department. To the extent that additional personnel required by the department to prioritize and process refund claims under the bill mitigates the backlog, this will reduce the need for additional interest payments. From 2018 to 2021, the department paid less than \$75,000 in interest for sales and use tax refunds each year.

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 2.

Other Budget Impacts

TABOR refunds. The bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the March 2023 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2024-25. 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 of General Fund otherwise available to spend or save.

Local Government

Local Revenue

The bill will decrease sales tax revenue for the Regional Transportation District and the Scientific and Cultural Facilities District.

- RTD: the bill will reduce revenue to RTD between an estimated \$1.1 million and \$2.2 million in FY 2023-24 and between \$0.8 million and \$1.5 million in FY 2024-25.
- SCFD: the bill will reduce revenue to SCFD between an estimated \$105,000 and \$225,000 in FY 2023-24 and between \$76,600 and \$151,000 in FY 2024-25.

Local Expenditures

The bill will increase administrative costs and workload for permit issuing cities and counties with residential structures destroyed or damaged by wildfire. Increased workload will be attributed to issuing Wildfire Exemption Certificates to eligible homeowners.

Effective Date

The bill was signed into law by the Governor and took effect on May 12, 2023.

State Appropriations

For FY 2023-24, the bill requires and includes a General Fund appropriation of \$72,267 to the Department of Revenue, and 0.9 FTE.

State and Local Government Contacts

Counties	Regulatory Agencies	Information Technology
Revenue	Municipalities	Regional Transportation District
Personnel	Special District Association	Public Safety