



Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated November 17, 2023)

Drafting Number:	LLS 23B-0001	Date:	November 18, 2023
Prime Sponsors:	Sen. Hinrichsen; Marchman Rep. Mabrey; Dickson	Bill Status:	Senate Third Reading
		Fiscal Analyst:	Anna Gerstle 303-866-4375 anna.gerstle@coleg.govv

Bill Topic: IDENTICAL TABOR REFUND

Summary of Fiscal Impact:	<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

The 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 workload and changes how TABOR refunds are distributed, but has no impact on the amount refunded.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The revised fiscal note reflects the reengrossed bill.

Table 1
State Fiscal Impacts Under SB 23B-003

		Current Year FY 2023-24	Budget Year FY 2024-25	Out Year FY 2025-26
Revenue		-	-	-
Expenditures		-	-	-
Transfers		-	-	-
Other Budget Impacts	TABOR Refunds – Six-Tier Mechanism	(\$3.28 billion)	-	-
	TABOR Refunds – Equal Amounts	\$3.28 billion	-	-
	TABOR Refunds – Net Change	\$0	-	-

Summary of Legislation

The bill adjusts the mechanisms used to refund the state TABOR refund obligation collected in FY 2022-23. It requires that any amount that would otherwise be refunded via the six-tier sales tax refund mechanism 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 (DOR) is required to administer this refund mechanism in the same way as the six-tier sales tax refund mechanism is administered under current law, and must calculate the amount of the identical refunds no later than 10 days after the enactment of the bill.

Background

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.

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 DOR 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 DOR will increase in FY 2023-24 only to calculate the equal refund amount required in the bill. This workload increase is minimal and can be accomplished within existing appropriations.

Other Budget Impacts

TABOR refunds. The bill has no impact on the amount required to be refunded under TABOR; however, it changes the mechanisms used to refund the TABOR obligation for FY 2022-23. Refunds of the FY 2022-23 surplus are paid in the current FY 2023-24 using the 2023 income tax return.

Current law. The September 2023 Legislative Council Staff forecast estimates that the state will be required to refund \$3.7 billion for FY 2022-23, paid in the FY 2023-24 using the following mechanisms under current law:

- \$163.2 million refunded via local government reimbursements for the homestead exemption;
- \$240.0 million refunded via property tax backfill to local governments as required under Senate Bill 22-238; and
- the remaining \$3.28 billion refunded via the six-tier sales tax mechanism.

Compared to current law. Under this bill, \$3.28 billion is estimated to instead 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 \$847 and taxpayers filing a joint return are estimated to receive \$1,694. Table 2 presents the estimated refund amounts relative to the six-tier refund amounts under current law.

Table 2
2023 TABOR Refund Impacts Under SB 23B-003
Compared to current law

Adjusted Gross Income	Current Law Refund <i>Single / Joint</i>	SB 23B-003 Refund <i>Single / Joint</i>	Change in Refund <i>Single / Joint</i>
Up to \$51,000	\$586 / \$1,172	\$847 / \$1,694	+\$261 / +\$522
\$51,001 to \$104,000	\$769 / \$1,538	\$847 / \$1,694	+\$78 / +\$156
\$104,001 to \$166,000	\$900 / \$1,800	\$847 / \$1,694	-\$53 / -\$106
\$166,001 to \$235,000	\$1,053 / \$2,106	\$847 / \$1,694	-\$206 / -\$412
\$235,001 to \$309,000	\$1,143 / \$2,286	\$847 / \$1,694	-\$296 / -\$592
\$309,000 and up	\$1,834 / \$3,668	\$847 / \$1,694	-\$987 / -\$1,974

Impact of pending legislation. Other pending legislation in the 2023 Special Session may impact the total amount refunded using the flat refund mechanism. Table 3 below assumes the reengrossed House Bill 23B-1002 and distributes \$182.5 million in TABOR refunds using the Colorado Earned Income Tax Credit (EITC) instead of this mechanism.

Table 3
2023 TABOR Refund Impacts Under SB 23B-003
Compared to current law

Adjusted Gross Income	Current Law Refund <i>Single / Joint</i>	SB 23B-003 Refund with HB 23B-1002¹ <i>Single / Joint</i>	Change in Refund <i>Single / Joint</i>
Up to \$51,000	\$586 / \$1,172	\$800 / \$1,600	+\$214 / +\$428
\$51,001 to \$104,000	\$769 / \$1,538	\$800 / \$1,600	+\$31 / +\$62
\$104,001 to \$166,000	\$900 / \$1,800	\$800 / \$1,600	-\$100 / -\$200
\$166,001 to \$235,000	\$1,053 / \$2,106	\$800 / \$1,600	-\$253 / -\$506
\$235,001 to \$309,000	\$1,143 / \$2,286	\$800 / \$1,600	-\$343 / -\$686
\$309,000 and up	\$1,834 / \$3,668	\$800 / \$1,600	-\$1,034 / -\$2,068

¹ This table assumes the reengrossed House Bill 23B-1002 passes and distributes \$182.5 million in 2023 TABOR refunds using the Colorado EITC prior to this mechanism.

Effective Date

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

State and Local Government Contacts

Legislative Council Staff Economics Section