



## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

# Fiscal Note

<b>Drafting Number:</b>	LLS 23-0865	<b>Date:</b>	March 17, 2023
<b>Prime Sponsors:</b>	Rep. Brown; Amabile Sen. Fenberg	<b>Bill Status:</b>	House Finance
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**Bill Topic:** SALES USE TAX EXEMPTION WILDFIRE DISASTER CONSTRUCTION

<b>Summary of Fiscal Impact:</b>	<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 local government and special district revenues, and increases local government expenditures.

**Appropriation Summary:** For FY 2023-24, the bill requires an appropriation of \$98,136 to the Department of Revenue.

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

**Table 1  
State Fiscal Impacts Under HB 23-1240**

		Budget Year FY 2023-24	Out Year FY 2024-25
<b>Revenue</b>	General Fund	(\$4.1 - \$8.4 million)	(\$3.0 - \$5.7 million)
	<b>Total Revenue</b>	<b>(\$4.1 - \$8.4 million)</b>	<b>(\$3.0 - \$5.7 million)</b>
<b>Expenditures</b>	General Fund	\$98,136	\$91,402
	Centrally Appropriated	\$22,029	\$22,029
	<b>Total Expenditures</b>	<b>\$120,165</b>	<b>\$113,431</b>
	<b>Total FTE</b>	<b>1.3 FTE</b>	<b>1.3 FTE</b>
<b>Transfers</b>		-	-
<b>Other Budget Impacts</b>	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 for purchases from January 1, 2020 to July 1, 2025, and allows homeowners that have already made purchases to claim a refund from the Department of Revenue. 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 were in the homes 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.<sup>1</sup> 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

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<sup>1</sup> <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 \$120,165 in FY 2023-24 and \$113,431 in FY 2024-25. Expenditures are shown in Table 2 and detailed below.

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

<b>Cost Components</b>	<b>FY 2023-24</b>	<b>FY 2024-25</b>
<b>Department of Revenue</b>		
Personal Services	\$82,319	\$82,319
Operating Expenses	\$1,755	\$1,755
Capital Outlay Costs	\$6,670	-
Office of Research and Analysis	\$7,392	\$7,328
Centrally Appropriated Costs <sup>1</sup>	\$22,029	\$22,029
<b>Total Cost</b>	<b>\$120,165</b>	<b>\$113,431</b>
<b>Total FTE</b>	<b>1.3 FTE</b>	<b>1.3 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Department of Revenue.** The Department of Revenue will require 1.3 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 four hours, for a total of 2,780 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 FTE 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 state-collected local governments and special districts that incorporate the exemption or conform to the state tax base, as discussed below.

**Cities and counties.** The bill includes the exemption among other optional sales and use tax exemptions for state-collected city and county governments. State-collected cities and counties impacted by the exemption may include Boulder, Grand, Larimer, and Routt counties, and may include the town of Superior. To the extent other state-collected sales tax jurisdictions were impacted by the wildfires, the bill may also reduce their revenues.

It should be noted that permit-issuing cities and counties often collect a building use tax deposit when issuing a building permit to a contractor or owner. The bill will decrease building use tax revenue for cities and counties that collect building use tax and opt to exempt wildfire rebuilding materials under the bill.

**Special districts.** The bill will decrease revenue for state-collected special districts that conform to the state tax base. Among the largest special districts are the Regional Transportation District (RTD) and the Scientific and Cultural Facilities District (SCFD) which contained residences damaged by the Marshall Fire. This analysis assumes that materials for rebuilding these homes will largely be sourced within these special districts. To the extent that sales tax is paid or sourced on materials outside of these districts, the estimated revenue impact will be reduced. Impacts to these districts are as follows:

- 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 and processing use tax refunds as applicable.

## Effective Date

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

## State Appropriations

For FY 2023-24, the bill requires a General Fund appropriation of \$98,136 to the Department of Revenue and 1.3 FTE.

## State and Local Government Contacts

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