



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

**Final Fiscal Note**

<b>Drafting Number:</b>	LLS 23B-0001	<b>Date:</b>	November 28, 2023
<b>Prime Sponsors:</b>	Sen. Hinrichsen; Marchman Rep. Mabrey; Dickson	<b>Bill Status:</b>	Signed into Law
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**Bill Topic:** **IDENTICAL 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

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:** This fiscal note reflects the enacted bill.

**Table 1**  
**State Fiscal Impacts Under SB 23B-003**

		<b>Current Year FY 2023-24</b>	<b>Budget Year FY 2024-25</b>	<b>Out Year FY 2025-26</b>
<b>Revenue</b>		-	-	-
<b>Expenditures</b>		-	-	-
<b>Transfers</b>		-	-	-
<b>Other Budget Impacts<sup>1</sup></b>	TABOR Refunds – Six-Tier Mechanism	(\$3.10 billion)	-	-
	TABOR Refunds – Equal Amounts	\$3.10 billion	-	-
<b>TABOR Refunds – Net Change</b>		<b>\$0</b>	-	-

<sup>1</sup> The total TABOR refund impact incorporates the enacted House Bill 23B-1002, which distributes \$182.5 million in 2023 TABOR refunds using the Colorado EITC prior to the calculation of the flat TABOR refund mechanism.

## **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 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. House Bill 23B-1002 was enacted during the same special legislative session as this bill and also makes temporary refunds that apply only to the FY 2022-23 obligation.

**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.

*Under SB23B-003.* By itself, this bill would result in \$3.28 billion being refunded in equal amounts to qualifying taxpayers who would otherwise be eligible for the six-tier sales tax refund mechanism. However, House Bill 23B-1002, also enacted during the 2023 Special Session, distributes \$182.5 million in TABOR refunds using the Colorado Earned Income Tax Credit (EITC) instead of this mechanism. As a result, \$3.10 billion will be refunded using the flat refund amounts, and taxpayers filing a single return will receive \$800 and taxpayers filing a joint return will receive \$1,600. Table 2 presents the refund amounts with both SB23B-003 and HB23B-1002, relative to the six-tier refund amounts under current law.

**Table 2**  
**2023 TABOR Refund Impacts Under SB 23B-003 (incorporating HB 23B-1002)**  
*Compared to current law*

<b>Adjusted Gross Income</b>	<b>Current Law Refund</b> <i>Single / Joint</i>	<b>SB 23B-003 Refund with HB 23B-1002<sup>1</sup></b> <i>Single / Joint</i>	<b>Change in Refund</b> <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

<sup>1</sup> This table incorporates the enacted House Bill 23B-1002, which distributes \$182.5 million in 2023 TABOR refunds using the Colorado EITC prior to this mechanism.

## **Effective Date**

The bill was signed into law by the Governor and took effect on November 20, 2023.

## **State and Local Government Contacts**

Legislative Council Staff Economics Section