SB 23-303

Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated May 7, 2023)

Drafting Number:	LLS 23-0305	**Date:**	May 8, 2023
Prime Sponsors:	Sen. Fenberg; Hansen Rep. deGruy Kennedy; Weissmann	**Bill Status:**	Consideration of Amendments
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Bill Topic: **REDUCE PROPERTY TAXES & VOTER-APPROVED REVENUE CHANGE**

Summary of Fiscal Impact:

☐ State Revenue
☒ State Expenditure
☒ State Transfer
☒ TABOR Refund
☒ Local Government
☐ Statutory Public Entity

The bill refers a ballot measure to voters at the November 2023 election and changes the treatment of property tax backfill payments to consolidated city and county governments under Senate Bill 22-238. All other provisions of the bill take effect only with approval of the ballot measure. With voter approval, the bill imposes a local government property tax revenue limit and reduces certain property assessment rates, among other changes. It increases state expenditures, makes transfers, allows the state to retain a portion of excess state revenues and reduces TABOR refunds, reduces local property tax revenues on net, and increases local expenditures.

Appropriation Summary: For FY 2023-24, the bill conditionally requires appropriations of $117.8 million to multiple agencies. Currently, the rerevised bill includes appropriations of $94.3 million. See State Appropriations section.

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

Table 1
Conditional State Fiscal Impacts Under SB 23-303

		Budget Year FY 2023-24	Out Year FY 2024-25	Out Year FY 2025-26
Revenue		-	-	-
Expenditures	General Fund	$0.1 million	$0.2 million	$0.1 million
	Prop HH GF Exempt Account	-	$33.3 million	$71.7 million
	School Finance[1]	$117.7 million	$278.2 million	$350.7 million
	Local Gov't Backfill Cash Fund	-	$128.0 million	-
	Centrally Appropriated	-	$0.01 million	$0.03 million
	Total Expenditures	**$117.8 million**	**$439.7 million**	**$422.6 million**
	Total FTE	**-**	**0.4 FTE**	**1.8 FTE**

Table 1
Conditional State Fiscal Impacts Under SB 23-303 (Cont.)

		Budget Year FY 2023-24	Out Year FY 2024-25	Out Year FY 2025-26
Transfers	General Fund	($200.0 million)	-	-
	Prop HH GF Exempt Account	-	($133.3 million)	($286.9 million)
	Local Gov't Backfill Cash Fund	$128.0 million	-	-
	State Public School Fund	$72.0 million	-	-
	Housing Development Grant Fund	-	$8.3 million	$17.9 million
	State Education Fund	-	$124.9 million	$269.0 million
	Net Transfer	**$0**	**$0**	**$0**
Other Impacts	TABOR Refunds[2]	($166.6 million)	($358.6 million)	*not estimated*
	General Fund Reserve	$0.03 million	$0.01 million	$0.02 million

[1] *Expenditures for the state share of school finance may be paid from the General Fund, the State Education Fund, the State Public School Fund, or a combination of these.*

[2] *The amounts shown on this line represent decreased TABOR refund obligations for FY 2023-24 and FY 2024-25 if Proposition HH is approved by voters. For the FY 2022-23 TABOR obligation refunded in tax year 2023, the bill refunds an additional $94.3 million via property tax reimbursements, reducing the six-tier sales tax refund by an equal amount.*

Summary of Legislation

The bill refers a ballot measure ("Proposition HH") to voters at the November 2023 election. Additionally, the bill directs that consolidated city and county entities must be treated as counties instead of cities when determining their backfill for lost 2023 property tax revenue under Senate Bill 22-238.

Proposition HH

Conditional on voter approval, Proposition HH makes changes to property tax law including changes to assessment rates, valuations, classification, deadlines for administering property taxes for the 2023 property tax year, and local government reimbursements. The measure implements a local property tax revenue limit, creates a new cash fund, makes transfers, allows the state to retain more state revenue through at least FY 2031-32, and modifies TABOR refund mechanisms. A more detailed summary of Proposition HH is included below.

Proposition HH cap. If voters approve the ballot measure, the bill allows the state to retain and spend revenue in excess of the current law limit ("Referendum C cap"). With voter approval, the bill creates a new limit ("Proposition HH cap").

The Proposition HH cap is calculated like the Referendum C cap, which is adjusted annually for inflation, population growth, qualification and disqualification of enterprises, and debt service changes. In addition to these adjustments, the Proposition HH cap includes an additional growth factor of 1 percentage point per year. For example:

- the FY 2023-24 Proposition HH cap is calculated based on the FY 2022-23 Referendum C cap, adjusted for inflation, population growth, qualification and disqualification of enterprises, debt service changes, and the 1 percentage point additional growth factor; and
- the FY 2024-25 Proposition HH cap, and the cap for subsequent years through FY 2031-32, is equal to the prior year's Proposition HH cap, adjusted for the same factors, including an additional 1 percentage point growth factor each year.

The property assessment reductions in the bill apply through tax year 2032. Beginning in FY 2032-33, the Proposition HH cap is set to the level of the Referendum C cap unless the General Assembly acts to extend the assessment rate reductions that apply for tax year 2031, or acts to reduce property assessments in a different way that accomplishes an equal or greater reduction in assessed values.

Revenue retained in excess of the Referendum C cap, up to the Proposition HH cap, is deposited in a newly-created Proposition HH General Fund Exempt Account. Revenue in the account is first used to reimburse local governments ("backfill") for their lost property tax revenue as a result of the assessment rate and value reductions in this bill and in Senate Bill 22-238. Lost property tax revenue that results from reduced mill levies, for example as a result of the local property tax limit in this bill, are not reimbursed. Second, the bill makes a transfer of 5 percent of the amount retained under Proposition HH or $20 million, whichever is smaller, to the Housing Development Grant Fund. Any retained amount remaining after reimbursements and the transfer to the Housing Development Growth Fund is transferred annually to the State Education Fund. Money transferred to the fund must not supplant General Fund appropriations for school finance.

Local property tax limit. The bill creates a limit for local property taxes beginning in property tax year 2023, excluding school districts and home rule cities and counties, unless the district adopts a resolution or ordinance to exceed it. Under the bill, growth in revenue is limited to the rate of inflation in the Denver-Aurora-Lakewood Consumer Price Index over the prior year's property tax revenue. The bill includes several exceptions when calculating the limit including revenue from new construction, changes in classification, annexations, refunds, oil and gas, producing mines, and for bonds and other contractual obligations.

In order to exceed the limit, a local government must provide notice, conduct a public hearing, and hear public testimony before adopting a resolution or ordinance. If a local government exceeds the limit without following the required process, that local government is required to refund the excess amount to taxpayers.

Property tax assessment for residential property. The bill makes temporary assessment rate reductions for residential property classes and expands reductions in valuation. Table 2 presents residential assessments under SB 23-303 and compares these assessments to those in current law. Under both current law and the bill, a dollar amount set in statute may be subtracted from a property's market valuation before application of the assessment rate.

Table 2
Residential Property Assessment Under SB 23-303
Amounts in italics show changes from current law

Property Tax Year	2023	2024	2025-2032	2033 and later
Owner-Occupied Primary Residence	6.7% after $50,000 reduction *from 6.765% after $15,000 reduction*	6.7% after $40,000 reduction *from 6.976%* for single family, 6.8% for multifamily*	6.7% after $40,000 reduction *from 7.15%*	7.15% *unchanged*
Senior Owner-Occupied Primary Residence	6.7% after $50,000 reduction *from 6.765% after $15,000 reduction*	6.7% after $40,000 reduction *from 6.976%* for single family, 6.8% for multifamily*	6.7% after $140,000 reduction *from 7.15%*	7.15% *unchanged*
Other Multifamily	6.7% after $50,000 reduction *from 6.765% after $15,000 reduction*	6.7% after $40,000 reduction *from 6.8%*	6.7% after $40,000 reduction *from 7.15%*	7.15% *unchanged*
Other Residential	6.7% after $50,000 reduction *from 6.765% after $15,000 reduction*	6.7% after $40,000 reduction *from 6.976%**	6.7% *from 7.15%*	7.15% *unchanged*

* *Current law requires the Property Tax Administrator to determine the 2024 assessment rate for residential property other than multifamily property so as to accomplish a cumulative $700 million property tax reduction attributable to Senate Bill 22-238 over the 2023 and 2024 property tax years. The December 2022 LCS forecast projected this rate at 6.976%. SB 23-303 repeals this requirement.*

Residential real property subclasses. The bill creates a two new subclasses of residential property for owner-occupied primary residences and qualified-senior primary residences. The new subclasses are effective beginning with the 2025 property tax year. In order to qualify for the new subclasses property owners must complete and file an application with their local county assessor.

Property tax assessment for nonresidential property. The bill makes temporary assessment rate reductions for most nonresidential property classes. Table 3 presents nonresidential assessments under SB 23-303 and compares these assessments to those in current law.

Table 3
Nonresidential Real Property Assessment Under SB 23-303
Amounts in italics show changes from current law
Omits producing mines and oil & gas, as these are not affected

Property Tax Year	2023	2024-2026	2027-2028	2029-2030	2031-2032
Lodging and Other Improved Commercial Property	27.85% after $30,000 reduction *from 27.9% after $30,000 reduction*	27.85% *from 29%*	27.65% *from 29%*	26.9% *from 29%*	26.9% or 25.9%[1] *from 29%*
Other Commercial, Industrial, Natural Resources, State Assessed	27.85% *from 27.9%*	27.85% *from 29%*	27.65% *from 29%*	26.9% *from 29%*	26.9% or 25.9%[1] *from 29%*
Vacant Land	27.85% *from 27.9%*	29% *unchanged*	29% *unchanged*	29% *unchanged*	29% *unchanged*
Agricultural, Renewable Energy Producing Property	26.4% *unchanged*	26.4% *from 29%*[2]	26.4% *from 29%*	26.4% *from 29%*	26.4% or 25.9%[1] *from 29%*
Renewable Energy Agricultural Land[3]	26.4%	21.9%	21.9%	21.9%	21.9%

[1] *For 2031 and 2032, assessment rates for these classes are reduced to 25.9% if growth in assessed values among the 32 counties with the least growth in assessed values between 2030 and 2031 is greater than or equal to 3.7%.*
[2] *For 2024, the current law assessment rate for these classes is 26.4% under both current law and the bill.*
[3] *This property subclass is created in the bill in 2024 and is assessed as agricultural property under current law.*

Renewable energy agricultural land. The bill creates a new subclass of agricultural property for renewable energy agricultural land. The actual value of the new subclass will be based on the waste land subclass valuation formula from the Division of Property Taxation.

Local government backfill. The bill makes a number of modifications to the local government backfill mechanisms created in Senate Bill 22-238 for lost property tax revenue, extends the backfill to include reductions in value made under the bill, and extends reimbursements through the 2032 property tax year. Modifications to the backfill mechanism include:

- specifying that lost property tax revenue be calculated based on 2022 mill levies, and must exclude mill levies for bonds and contractual obligations;
- allowing all backfill required for the 2023 property tax year to be reimbursed from the FY 2022-23 TABOR surplus as a TABOR refund, up from a limit of $240 million under SB 22-238;
- specifies that for local governments that have an increase in real property valuation of more than 20 percent from 2022 to 2023, backfill for the 2023 property tax year will be based only on revenue reductions under SB 22-238 and not the changes made in this SB 23-303;
- paying backfill for the 2024 through 2032 property tax years from a one-time transfer of $128 million from the General Fund to a new cash fund in FY 2023-24, and up to 20 percent of TABOR surplus revenue retained under the Proposition HH cap in FY 2023-24 through FY 2031-32;
- allowing ambulance, fire protection, and health services districts to receive backfill under the provisions of Senate Bill 22-238 until their assessed valuation increases more than 20 percent from 2022 levels, after which they will receive 50 percent;

- reducing backfill payments as necessary to any districts where the payments would cause it to exceed its TABOR revenue limit;
- beginning tax year 2024, designating local government entities in counties with population over 300,000 as ineligible to receive backfill payments if and when the increase in the entities' assessed valuation from the 2022 level exceeds 20 percent; and
- beginning tax year 2024, designating local government entities in counties with population under 300,000 as ineligible to receive backfill payments if and when the increase in the entities' assessed valuation from the 2022 level exceeds 20 percent, but allowing these entities to again become eligible if their valuation falls below the threshold.

Local Government Backfill Cash Fund and State Public School Fund transfers. The bill creates the Local Government Reimbursement Cash Fund and transfers $128 million from the General Fund into the new fund in FY 2023-24. Additionally, the bill transfers $72 million from the General Fund to the State Public School Fund in FY 2023-24.

Property tax administration. For the 2023 tax year, the bill delays several deadlines for property tax reporting and administration including, certification of revenues, mill levies, and levying of taxes for school districts and other local governments.

Primary residence real property working group. The bill creates a working group to be convened by the Division of Property Taxation to streamline and improve administration of the primary residence real property class created in the bill. The working group will include assessors and elected county officials that will make recommendations to House and Senate committees by January 1, 2024.

Background

Senate Bill 22-238. During the 2022 session, the General Assembly passed Senate Bill 22-238, which made temporary changes to assessment rates and property valuation for the 2023 and 2024 property tax years. The bill also included a state backfill requirement to compensate local governments and property tax districts, other than school districts, for revenue decreases under the bill, and designated the backfill as a TABOR refund mechanism to refund a portion of the state's FY 2022-23 TABOR surplus, up to $240 million. If the backfill exceeds $240 million or the total amount of state TABOR refunds, current law requires the remainder to be paid from the General Fund. For the 2023 property tax year, SB 22-238:

- reduced the valuation of each residential property by up to $15,000;
- reduced the valuation of improved nonresidential commercial property by up to $30,000;
- temporarily lowered the assessment rate for all residential property to 6.765 percent, from 6.8 percent for multifamily property and 6.95 percent for all other residential properties; and
- temporarily lowered the assessment rate for most nonresidential property classes, excluding oil and gas, producing mines, agricultural, and renewable energy producing property, to 27.9 percent from 29 percent.

For the 2024 property tax year, SB 22-238:

- temporarily reduced the assessment rate for multifamily residential property to 6.8 percent from 7.15 percent;
- set the assessment rate for other residential property to a level that would result in a $700 million reduction in revenue attributable to the bill over the 2023 and 2024 property tax years, projected at 6.976 percent in the December 2022 Legislative Council Staff forecast; and
- temporarily reduced the assessment rate for agricultural and renewable energy property to 26.4 percent from 29 percent.

Housing Development Grant Fund. Created in 2009, the fund provides grants to eligible entities to acquire, rehabilitate, and construct affordable housing projects. The fund is administered by the Division of Housing in the Department of Local Affairs.

Assumptions

Assessed value impacts. Conditional on voter approval of Proposition HH and based on the December 2022 Legislative Council Staff (LCS) forecast for assessed values, the bill is expected to reduce assessed values by amounts shown in Table 4.

Table 4
Conditional Assessed Value Impacts
Under SB 23-303
Millions of Dollars

	Current Law		SB 23-303	
Year	Assessed Value	Percent Change	Assessed Value	Percent Change
2022	$150,166		$150,166	
2023*f*	$183,956	22.5%	$179,959	19.8%
2024*f*	$194,897	5.9%	$182,714	1.5%
2025*f*	$204,038	4.7%	$189,014	3.4%

Source: Colorado Legislative Council Staff. f=forecast

Property tax revenue impacts. The bill affects property tax revenue both through reduced assessed values and application of a property tax revenue limit.

Reduced assessed values are assumed to reduce property tax revenue for local governments that levy fixed mills, including most counties, municipalities, and special districts. School districts are assumed to experience reductions in revenue generated from their total program mills, as well as from override mills in districts where voters have approved fixed mill overrides.

Some levies are not expected to generate less revenue from reduced assessed values. These include metropolitan district and school district bond indebtedness mills, which are typically structured to generate a certain amount of revenue regardless of the tax base. School district override mills are assumed not to generate less revenue if the school district is already at its statutory override revenue cap, or where voters have approved overrides to generate fixed dollar amounts or inflation-adjusted dollar amounts.

The property tax revenue limit is assumed to reduce revenue to statutory counties, municipalities, and special districts that do not opt out of the limit's constraints on mill levies as discussed in the Local Government section below. Reduced property tax revenue attributable to the revenue limit has no direct state fiscal impact. Lost revenue due to reduced mill levies is not backfilled, as backfill amounts are based on 2022 mill levies. School districts are excluded from the property tax revenue limit, so the limit has no direct impact on the state aid requirement for school finance.

Comparable Crime Analysis

Proposition HH

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or creates a new factual basis for an existing crime. The following section outlines crimes that are comparable to the offense in this bill and discusses assumptions on future rates of criminal convictions resulting from the bill.

Prior conviction data. Conditional on voter approval, the bill creates the new offense of giving false information for a property tax reduction, a class 2 misdemeanor. To form an estimate of the prevalence of this new crime, the fiscal note analyzed the existing offense of filing a false tax return as a comparable crime. From FY 2019-20 to FY 2021-22, 6 individuals have been convicted and sentenced for this existing offense. Of the persons convicted, 3 were male, 2 were female, and 1 did not have a gender identified. Demographically, 3 were White, 1 was Asian, 1 was classified as "Other," and 1 did not have a race identified. Based on the low number of sentences for the comparable crime, the bill is not expected to have a tangible impact on criminal justice-related expenditures or revenue at the state or local levels, these potential impacts are not discussed further in this fiscal note. Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

State Transfers

Proposition HH

Conditional on voter approval, the bill creates the Local Government Backfill Cash Fund. In FY 2023-24, the bill transfers $128 million from the General Fund to the Local Government Backfill Cash Fund and $72 million to the State Public School Fund.

Conditional on voter approval, state revenue retained under the Proposition HH cap will be used to reimburse local governments for lost property tax revenue under the bill, and make transfers to the Housing Development Grant Fund and the State Education Fund. Transfers to the Housing Development Grant Fund will be the lesser of 5 percent of revenue retained under the Proposition HH cap or $20 million. For FY 2024-25, the analysis estimates transfers from the Proposition HH General Fund Exempt Account of about $8.3 million to the Housing Development Grant Fund and $124.9 million to the State Education Fund. In FY 2025-26, transfers are estimated at $17.9 million to the Housing Development Grant Fund and $269.0 million to the State Education Fund. In future years, transfers to the Housing Development Grant Fund are expected to reach $20 million and increasing amounts are expected to be transferred to the State Education Fund. A forecast of state revenue is not available beyond FY 2024-25 and a forecast of state assessed valuation is not available beyond property tax year 2025. Conditional transfers estimated under the bill are summarized in Table 1.

State Expenditures

Conditional on voter approval, the bill increases state expenditures by $94.3 million in FY 2023-24, $439.7 million in FY 2024-25, and $422.6 million in FY 2025-26. Expenditures are shown in Table 5 and detailed below. The bill also affects election related-costs to refer a measure to the voters.

Table 5
Conditional Expenditures Under SB 23-303

	FY 2023-24	FY 2024-25	FY 2025-26
Local Government Backfill			
Proposition HH General Fund Exempt Account	-	$33.3 million	$71.7 million
Local Government Backfill Cash Fund	-	$128.0 million	-
Backfill Subtotal	**-**	**$161.3 million**	**$71.7 million**
School Finance			
State Share of School Finance[1]	$117.7 million	$278.2 million	$350.7 million
School Finance Subtotal	**$117.7 million**	**$278.2 million**	**$350.7 million**
Department of Local Affairs			
Personal Services	-	$26,385	$116,091
Operating Expenses	-	$675	$2,430
Capital Outlay Costs	-	$6,670	-
Computer Programming	$62,426	$154,891	$10,560
Centrally Appropriated Costs[2]	-	$6,877	$30,698
FTE – Personal Services	-	0.4 FTE	1.8 FTE
DOLA Subtotal	**$62,426**	**$195,498**	**$159,779**
Total Costs	**$117.8 million**	**$439.7 million**	**$422.6 million**
Total FTE	**-**	**0.4 FTE**	**1.8 FTE**

[1] *Expenditures for the state share of school finance may be paid from the General Fund, the State Education Fund, the State Public School Fund, or a combination of these. Under Proposition HH, an estimated $124.9 million in FY 2024-25 and $269.0 million in FY 2025-26 will be transferred into the State Education Fund from the Proposition HH General Fund Exempt Account.*
[2] *Centrally appropriated costs are not included in the bill's appropriation.*

Property tax backfill to local governments. The bill increases state expenditures by an estimated $161.3 million in FY 2024-25 and $71.7 million in FY 2025-26 to backfill local governments for lost property tax revenue. Lost property tax revenue backfilled by the state in FY 2024-25 for property tax year 2024 will first be paid from the Local Government Backfill Cash Fund prior to reimbursements from the Proposition HH General Fund Exempt Account in an amount up to 20 percent of the revenue retained under the Proposition HH cap. Beginning for tax year 2025 reimbursements paid in FY 2025-26, the entire amount of the backfill is expected to be paid from the Proposition HH General Fund Exempt Account.

FY 2023-24 disbursements to backfill local governments for their 2023 property tax revenue loss is addressed in the Other Budget Impacts section below, because it is administered as a TABOR refund rather than a state expenditure.

School finance. The bill decreases property tax collections from school district total program mills, requiring an equivalent increase in the state share of total program funding for school finance. The state aid obligation is expected to increase by $117.7 million in FY 2023-24, $278.2 million in FY 2024-25, and $350.7 million in FY 2025-26, and larger amounts in future years as temporary nonresidential assessment rates decrease. The state aid obligation may be paid from the General Fund, the State Education Fund, the State Public School Fund, or a combination of these. Beginning in FY 2024-25, the bill may result in transfers from revenue retained under the Proposition HH cap. As described in the State Transfer section above, an estimated $124.9 million will be transferred to the State Education Fund in FY 2024-25, and $269.0 million will be transferred in FY 2025-26, with increasing amounts expected in future years. Transfers may exceed increased expenditures for school finance due to reduced local property tax revenue prior to FY 2032-33, after which revenue retained under the cap is set to expire.

Department of Local Affairs. General Fund expenditures in the Department of Local Affairs Division of Property Taxation are expected to increase by $62,426 in FY 2023-24, $195,498 in FY 2024-25, $159,779 in FY 2025-26, and $86,897 in FY 2026-27 and subsequent years.

The entire amount of costs for FY 2023-24 is for development of a software system to track residential property that is taxed as primary residence property. These costs will occur in the Office of Information Technology (OIT), paid using reappropriated funds from DOLA. Ongoing costs for system maintenance are expected in later years as shown in Table 5.

The remaining costs are for the addition of staff in the division. Beginning in January 2025, the division will require 1.0 FTE to process and validate tax applications for primary residence properties. Costs for FY 2024-25 are prorated to reflect the start date and the General Fund pay date shift. Costs for FY 2025-26 only include an additional 0.8 FTE, representing two temporary staff required between August 2025 and December 2025 when the majority of applications from property owners are expected to arrive. Beyond the additional staff requirements, division workload will increase to convene the primary residence real property working group, review and update procedures, forms, manuals, and to provide technical assistance to local governments.

Department of the Treasury. The bill is expected to increase department workload to administer reimbursements to local governments through FY 2032-33. This workload increase can be accomplished within existing appropriations.

Department of Public Health and Environment. The department is required to compare the Division of Property Taxation's records of homeowners who qualified for reduced taxation due to ownership of their primary residence against lists of persons who have died. This workload increase can be accomplished within existing appropriations.

Department of Revenue. The bill requires that the department prepare two sets of six-tier sales tax refund amounts for the 2023 tax year when these amounts are provided to the Executive Committee of the Legislative Council in September 2023, to provide contingencies in case the ballot measure passes or fails. This workload increase can be accomplished within existing appropriations.

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 5.

Election expenditure impact — existing appropriations. This bill includes a referred measure that will appear before voters at the November 2023 general election. While no additional appropriation is required, certain election costs are incurred by the state when ballot measures are referred. These include reimbursing counties for increased election costs, publishing the text and title of the measure in newspapers across the state, and preparing and mailing the Blue Book. All of the bill's other impacts on state expenditures are conditional on voter approval of Proposition HH.

Other Budget Impacts

TABOR refunds under Senate Bill 22-238. The bill specifies that city and county entities are treated as counties, rather than cities, when determining backfill for lost property tax revenue under provisions in SB 22-238. The provision would direct a 65 percent backfill for the City and County of Denver, rather than 90 percent under current law enacted in SB 22-238. This change will decrease FY 2023-24 reimbursements to the City and County of Denver for the 2023 property tax year by an estimated $8.0 million, reducing the amount of TABOR refunds paid via this mechanism and correspondingly increasing TABOR refunds paid via the six-tier sales tax refund mechanism. This impact occurs independent of whether voters approve Proposition HH.

Proposition HH

TABOR refunds for FY 2022-23. The bill does not change the amount to be refunded to taxpayers for FY 2022-23. However, if voters approve the ballot measure, the bill would require an estimated $94.3 million that would otherwise be refunded via the six-tier sales tax refund mechanism to instead be refunded via property tax reductions, paid via reimbursements to local governments for their losses. Table 6 presents estimated reductions in the expected six-tier refund amounts for tax year 2023.

TABOR refunds for FY 2023-24 through FY 2031-32. If voters approve the ballot measure, the bill allows the state to retain revenue that would otherwise be refunded to taxpayers for these fiscal years. Based on the March 2023 LCS forecast, the estimated amounts to be retained are:

- $166.6 million for FY 2023-24;
- $358.6 million for FY 2024-25; and
- larger amounts in subsequent fiscal years through at least FY 2031-32.

Growth in the Proposition HH cap is cumulative, such that each annual 1 percent increase adds to the prior year's cap and allows a greater amount to be retained. Because the cap is estimated to approach

$19.5 billion in FY 2024-25, the bill is expected to allow the state to retain about $200 million more each year than in the prior year, provided that state revenue meets or exceeds the cap.

A forecast of state revenue is not available beyond FY 2024-25. Based on the State Demographer's forecast for state population, and assuming annual inflation of 2.5 percent for years beyond the current forecast period, the Proposition HH cap is estimated to exceed the Referendum C cap by $2.2 billion in FY 2031-32, the last year when it applies. Through FY 2031-32, in years when revenue would be refunded to taxpayers under current law, the bill allows for a portion of this revenue, up to the Proposition HH cap, to be retained. The actual amount retained will depend on revenue collections, inflation, population growth, and any later fiscal policy changes.

Through at least FY 2024-25 and for all years when the measure allows for revenue to be retained, the measure will reduce the amount refunded to taxpayers via the six-tier sales tax refund mechanism. The impact on these refunds is equal to the amount of revenue retained. Estimated TABOR refund impacts on taxpayers of different incomes are presented in Table 6.

Table 6
Conditional Six-Tier TABOR Refund Impacts of SB 23-303

Tax Year 2023

Adjusted Gross Income	Current Law Refund Estimate *Single / Joint*	SB 23-303 Refund Estimate *Single / Joint*	Change in Refund Estimate *Single / Joint*
Up to $50,000	$480 / $960	$462 / $924	-$18 / -$36
$50,001 to $100,000	$639 / $1,278	$615 / $1,230	-$24 / -$48
$100,001 to $157,000	$736 / $1,472	$708 / $1,416	-$28 / -$56
$157,001 to $219,000	$875 / $1,750	$842 / $1,684	-$33 / -$66
$219,001 to $279,000	$941 / $1,882	$906 / $1,812	-$35 / -$70
$279,001 and up	$1,514 / $3,028	$1,457 / $2,914	-$57 / -$114

This impact occurs because the bill increases the amount of the TABOR surplus refunded via property tax reductions, paid via reimbursements to local governments. The total amount of TABOR refunds required for FY 2022-23 is unchanged.

Tax Year 2024

Adjusted Gross Income	Current Law Refund Estimate *Single / Joint*	SB 23-303 Refund Estimate *Single / Joint*	Change in Refund Estimate *Single / Joint*
Up to $52,000	$352 / $704	$320 / $640	-$32 / -$64
$52,001 to $103,000	$469 / $938	$427 / $854	-$42 / -$84
$103,001 to $164,000	$540 / $1,080	$491 / $982	-$49 / -$98
$164,001 to $227,000	$642 / $1,284	$584 / $1,168	-$58 / -$116
$227,001 to $291,000	$690 / $1,380	$628 / $1,256	-$62 / -$124
$291,001 and up	$1,111 / $2,222	$1,011 / $2,022	-$100 / -$200

This impact occurs because Proposition HH reduces the amount of TABOR refunds required for FY 2023-24.

Table 6
Conditional Six-Tier TABOR Refund Impacts of SB 23-303 (Cont.)

Tax Year 2025

Adjusted Gross Income	Current Law Refund Estimate *Single / Joint*	SB 23-303 Refund Estimate *Single / Joint*	Change in Refund Estimate *Single / Joint*
Up to $54,000	$294 / $588	$227 / $454	-$67 / -$134
$54,001 to $106,000	$392 / $784	$303 / $606	-$89 / -$178
$106,001 to $168,000	$452 / $904	$348 / $696	-$104 / -$208
$168,001 to $233,000	$537 / $1,074	$414 / $828	-$123 / -$246
$233,001 to $299,000	$577 / $1,154	$446 / $892	-$131 / -$262
$299,001 and up	$929 / $1,858	$717 / $1,434	-$212 / -$424

This impact occurs because Proposition HH reduces the amount of TABOR refunds required for FY 2024-25.

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes. Beginning in FY 2024-25, expenditures from the Proposition HH General Fund Exempt Account are required by statute and not appropriated, therefore they are not expected to be subject to the statutory reserve requirement.

Local Government

Local Revenue

City and county backfill under Senate Bill 22-238. The bill specifies that city and county entities are treated as counties, rather than cities, when determining backfill for lost property tax revenue under provisions in Senate Bill 22-238. The provision would require that the City and County of Denver receive 65 percent of the property tax revenue lost rather than 90 percent. The bill will decrease reimbursements to the City and County of Denver for the 2023 property tax year by an estimated $8.0 million in FY 2023-24.

Local Revenue – Proposition HH

Local property tax limit. The bill conditionally reduces local property tax revenues by imposing a property tax limit. The bill limits property tax revenues, except for certain exclusions, beginning with property tax year 2023 for local governments excluding school districts and home rule cities and counties. Property taxes are limited to the prior years' property tax revenue increased by the rate of inflation based on the Denver-Aurora-Lakewood Consumer Price Index. Sources and uses of revenue excluded from the limit include:

- revenue from new construction;
- revenue from changes in property tax classifications or annexations;
- revenue that has been abated or refunded;
- revenue from properties that were previously exempt and became taxable;
- payments or expenses incurred for reappraisals ordered or conducted by the State Board of Equalization;
- revenue from producing mines or oil and gas production;
- revenue for payment of bonds, interest, and other contractual obligations approved by voters; and
- revenue from mill levies approved by voters under certain conditions.

Local governments may exceed the property tax limit with adoption of a resolution or ordinance after conducting a public hearing. The bill allows local governments to create temporary property tax credits to refund revenue over the limit without reducing the permanent mill levy. Reduced local property tax revenue under the bill depends on the number of local governments that adopt resolutions or ordinances to exceed the bill's limitations, on the amount of revenue derived from exclusions in the bill, and whether the local government employs property tax credits to meet limitations under the bill rather than reducing its mill levy permanently. To the extent that local governments implement the property tax limit without opting out, property tax revenue will be reduced. Assuming all impacted local governments implement the limitation, local property taxes could be reduced up to an estimated $308 million for property tax year 2023, $248 million in property tax year 2024, and $329 million in property tax year 2025.

The analysis is based on revenue collected for impacted local governments for property tax year 2022, less mill levies assessed for bonds and contractual obligations, inflated by forecast increases in the Denver-Boulder-Lakewood Consumer Price Index from 2022 to 2024 from the March 2023 LCS forecast. Forecast revenue collections under the bill were inflated further utilizing the increase in assessed values by county from 2019 to 2020 to estimate potential increases from new construction, changes in use, and other increases from a previous intervening year. The analysis does not adjust for fixed or floating mill levies beyond those for bonded indebtedness or contractual obligations. Revenue losses under the bill were estimated utilizing changes in assessed value under the bill through the forecast period, less estimated assessed value from oil and gas and producing mines. To the extent local governments opt out of the limit, derive large portions of revenue from property excluded from the limit, or are constrained by revenue limitations under TABOR or the 5.5 percent property tax growth limit in current law, the revenue loss from the local limit provision will be less than estimated.

Lower assessment rates and reduced property values. Conditional on voter approval, the bill is expected to reduce local property tax revenue by net amounts of $106.6 million for property tax year 2023, $348.6 million for property tax year 2024, and $548.2 million for property tax year 2025 from the impact of lower assessment rates and reduced property values that will be partially offset by increased state aid to school districts and local government backfill as required in the bill. These components are summarized in Table 7.

Table 7
Local Government Revenue Impacts of Assessment Provisions in SB 23-303

	FY 2023-24 *Property Tax Year 2023 Collected in 2024*	**FY 2024-25** *Property Tax Year 2024 Collected in 2025*	**FY 2025-26** *Property Tax Year 2025 Collected in 2026*
Property Tax Revenue	($349.2 million)	($788.2 million)	($970.6 million)
School Districts – State Aid	$117.7 million	$278.2 million	$350.7 million
State Backfill to Local Govt's*	$124.9 million	$161.3 million	$71.7 million
Net Revenue Impact	**($106.6 million)**	**($348.6 million)**	**($548.2 million)**

** Reimbursements to counties, municipalities, and special districts only, excludes mill levies for bonds and contractual obligations.*

- *Property tax revenue.* The bill is expected to reduce property tax revenue to local governments by $349.2 million for property tax year 2023, $788.2 million for property tax year 2024, and $970.6 million for property tax year 2025. Estimates assume the December 2022 Legislative Council Staff forecast for assessed valuations by school district, prorated to counties according to each school district's share of county assessed valuation for the 2022 property tax year. The fiscal note assumes weighted average mill levies by county for the 2022 property tax year from the Division of Property Taxation, except that school district total program mills are adjusted where required under current law enacted in House Bill 21-1164.

- *State aid to school districts.* The bill is expected to increase the state aid requirement by $117.7 million for property tax year 2023, $278.2 million for property tax year 2024, and $350.7 million for property tax year 2025, as a result of reduced property tax revenue from total program mill levies.

- *State backfill to local governments.* The bill requires the state to reimburse county treasurers for revenue reductions in 2023 from changes in the bill that extend reductions from Senate Bill 22-238. The bill also requires reimbursements for property tax years 2024 through property tax year 2032 to the extent local governments remain eligible under the bill. The amount of backfill to counties, cities, and other property tax districts is determined by various thresholds in the bill as noted in the Summary section above. For property tax years 2024 through 2032, the amount of backfill is limited to 20 percent of the amount retained under the Proposition HH cap, or an estimated $33.3 million for FY 2023-24 and $71.7 million in FY 2024-25. Estimated backfill to local governments, except school districts, is expected to increase an estimated $124.9 million for property tax year 2023, $161.3 million for property tax year 2024, and $71.7 million for property tax year 2025.

  The backfill to local governments beginning in FY 2024-25 is largely limited by the 20 percent limit on payments from revenue retained under the Proposition HH cap. Without the limit, backfill to local governments would total about $284.2 million in FY 2024-25 and $267.0 million in FY 2025-26. Based on the assumed backfill requirements in this fiscal note, the limitation is expected to result in a 43 percent reduction in the amount that would otherwise be backfilled for FY 2024-25, such that local governments that would otherwise receive 100 percent of their loss will instead receive 57 percent; local governments that would otherwise receive 90 percent will instead receive 51 percent; and local governments that would otherwise receive 65 percent will instead receive

37 percent. In FY 2025-26, the limitation results in a 73 percent reduction, or backfill equal to 18 percent, 24 percent, or 27 percent of what the local governments would otherwise receive for the 65 percent, 90 percent, and 100 percent backfill levels, respectively.

Local Expenditures – Proposition HH

The bill increases expenditures for county treasurers and assessors to implement the property tax changes in the bill. County assessors estimate the need for more staff and personnel to administer the bill if approved by voters in the November 2023 election.

Technical Note

If Proposition HH is approved, statutory counties, municipalities, and special districts will have a limited time to either implement mill levy reductions to accommodate the local property tax revenue limit, or to notice and conduct public hearings and opt out of the revenue limit. Local governments that do not take either action may collect more revenue than permitted by the limit, requiring later payments of refunds to taxpayers.

Effective Date

The provisions of the bill that refer Proposition HH to voters and that change the treatment of the SB 22-238 backfill for consolidated city and county governments take effect upon signature of the Governor, or upon becoming law without his signature. If Proposition HH is approved, all other provisions of the bill take effect on the date of the official declaration of the vote by the Governor.

State Appropriations

For FY 2023-24, the bill conditionally requires and includes a General Fund appropriation of $62,426 to the Department of Local Affairs, with the entire amount reappropriated to the Office of Information Technology.

For FY 2023-24, the bill conditionally requires a provision that the appropriation for the state share of total program funding for school finance be increased by $117,700,000. The rerevised bill currently includes an appropriation of $94,162,222.

State and Local Government Contacts

Information Technology
Judicial
Local Affairs
Personnel
Property Tax Division
Public Health and Environment
Treasury