



**COLORADO**  
Department of Revenue  
Executive Director's Office

Physical Address:  
1881 Pierce Street  
Lakewood, CO 80214

Mailing Address:  
P.O. Box 17087  
Denver, CO 80217-0087

October 1, 2023

The Honorable Stephen Fenberg  
President of the Senate  
Colorado General Assembly

The Honorable Julie McCluskie  
Speaker of the House  
Colorado General Assembly

The Honorable Robert Rodriguez  
Senate Majority Leader  
Colorado General Assembly

The Honorable Monica Duran  
House Majority Leader  
Colorado General Assembly

The Honorable Paul Lundeen  
Senate Minority Leader  
Colorado General Assembly

The Honorable Mike Lynch  
House Minority Leader  
Colorado General Assembly

Dear Senators and Representatives:

The Colorado Department of Revenue (CDOR) is required to report annually on the refund mechanisms for Nonexempt District Revenues subject to Article X, Section 20 (TABOR) of the State's Constitution using data from the State Controller, State Auditor, Legislative Council Staff, and tax data from CDOR.

On September 1, 2023, the State Controller certified that the Fiscal Year 2023 (FY 2023) unaudited state revenues subject to TABOR were \$20,225,929,940. These revenues exceed the Excess State Revenue Cap (ESRC) by \$3,568,639,070 so refunds are required. Additionally, the State is required to refund any remaining TABOR surplus not refunded in prior fiscal years that have not yet been claimed by taxpayers, which this year total \$114,439,660 from Fiscal Years 2019, 2021, and 2022. Therefore, the total amount to be refunded is \$3,683,078,730 for FY 2023.

Several statutes<sup>1</sup> require CDOR to calculate estimates using values from the most recent forecast prepared by Legislative Council Staff (LCS), which differs from the forecast prepared by the Office of State Planning and Budgeting (OSPB).

Starting in January 2022, the income tax rate reduction refund mechanism (§39-22-627, C.R.S.) was rendered inoperable by Proposition 121, which permanently reduced the income tax rate below the temporary reduced rate of 4.5% under the TABOR refund mechanism.

Two sets of TABOR refund mechanisms and estimates are provided in this letter. The first set are the mechanisms under **current law**. The second set includes changes that would be in effect if **Proposition HH passes** in the November 7, 2023 statewide election.

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<sup>1</sup> §§39-22-627(4 & 5), 39-22-2003(4)(b), 39-22-2002(6)(a), 39-22-2004(2)(d), C.R.S.



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**Current Law:**

**TABOR refund mechanisms under current law:**

| 2023 TABOR Refund Mechanisms Under Current Law  |                                   |                   |
|---|-----------------------------------|-------------------|
| Refund Mechanism  | Statute                           | Refund Amount     |
| Property Tax Refund: Senior and Veterans Property Tax Exemptions Reimbursement (SB17-267) | §39-3-209, C.R.S.                 | \$163.2 million   |
| Property Tax Refund: Property Tax Assessed Value Reductions Reimbursement (SB22-238)      | §39-3-210, C.R.S.                 | \$240.0 million   |
| Sales Tax Refund: Six Tiers   | §§39-22-2001 through 2003, C.R.S. | \$3,279.9 million |

**Sales Tax Refund Details:**

CDOR estimates that each qualified taxpayer would receive an average sales tax refund of \$847, which can be claimed by filing their 2023 individual income tax return or filing a property tax, rent, and heat rebate application. Because the sales tax refund amount exceeds \$15 per qualified taxpayer, a flat refund amount will not be used, and instead, the refund amount per taxpayer will vary based on their modified adjusted gross income (AGI). Six modified AGI tiers are used. The AGI levels in each tier are set using the most recent available modified AGI data and the share of taxpayers that were within each tier in tax year 1999. Then, the refund amounts per taxpayer are set using the total amount available for the 2023 sales tax refund mechanism and the share of the total sales tax refund each tier received in tax year 1999.

| 2023 TABOR Sales Tax Refund: Six Tiers |                                |                     |                    |                                  |
|--|--------------------------------|---------------------|--------------------|----------------------------------|
| Tier                                   | Modified Adjusted Gross Income | Single Filer Refund | Joint Filer Refund | Total Estimated Sales Tax Refund |
| Tier 1                                 | \$51,000 or less               | \$586               | \$1,172            | \$788.5 million                  |
| Tier 2                                 | \$51,001 to \$104,000          | \$769               | \$1,538            | \$810.0 million                  |
| Tier 3                                 | \$104,001 to \$166,000         | \$900               | \$1,800            | \$603.1 million                  |
| Tier 4                                 | \$166,001 to \$235,000         | \$1,053             | \$2,106            | \$373.7 million                  |
| Tier 5                                 | \$235,001 to \$309,000         | \$1,143             | \$2,286            | \$192.3 million                  |
| Tier 6                                 | \$309,001 or more              | \$1,834             | \$3,668            | \$513.0 million                  |
| <b>Total</b>                           |                                |                     |                    | <b>\$3,280.5 million</b>         |

The estimated total needed for the sales tax refund is \$3,280.5 million, which is slightly higher than the total amount available for the sales tax refund, \$3,279.9 million. This variance occurs because the sales tax refund amounts are rounded.

**Proposition HH:**

If Proposition HH is approved by voters on November 7th, it would make the following changes to the 2023 TABOR refund mechanisms: For FY 2023 only, the property tax assessed value reductions



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reimbursements would be expanded, and the \$240 million cap would not apply due to SB23-303. For FY 2023 only, a new refund mechanism would create an identical refund for all taxpayers who qualify for the six-tier sales tax refund.

**TABOR refund mechanisms if Proposition HH passes:**

| <b>2023 TABOR Refund Mechanisms if Proposition HH Passes</b>                                    |   |                      |
|---|---|----------------------|
| <b>Refund Mechanism</b>   | <b>Statute</b>                          | <b>Refund Amount</b> |
| Property Tax Refund: Senior and Veterans Property Tax Exemptions Reimbursement (SB17-267)       | §39-3-209, C.R.S.                       | \$161.6 million      |
| Property Tax Refund: Property Tax Assessed Value Reductions Reimbursement (SB22-238 & SB23-303) | §39-3-210, C.R.S.<br>§24-77-202, C.R.S. | \$296.6 million      |
| Sales Tax Refund: Identical Refunds (HB23-1311)   | §39-22-2005, C.R.S.                     | \$3,224.9 million    |

CDOR estimates that each qualified taxpayer would receive an identical sales tax refund of \$833, which can be claimed by filing their 2023 individual income tax return or filing a property tax, rent, and heat rebate application. The estimated total needed for the sales tax refund is \$3,225.2 million, which is slightly higher than the total amount available for the sales tax refund, \$3,224.9 million. This variance occurs because the sales tax refund amounts are rounded.

| <b>2023 TABOR Sales Tax Refund: Identical Refunds</b> |                           |   |
|---|---------------------------|---|
| <b>Single Filer Refund</b>                            | <b>Joint Filer Refund</b> | <b>Total Estimated Sales Tax Refund</b> |
| \$833   | \$1,666                   | \$3,225.2 million                       |

Sincerely,

Heidi Humphreys  
Executive Director  
Colorado Department of Revenue