Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

SB 26-135: STATE PUBLIC K-12 EDUCATION FUNDING

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Fiscal note status: This fiscal note reflects the introduced bill, as amended by the Senate Finance Committee. This fiscal note has been revised to reflect the March 2026 Legislative Council Staff forecast.

Summary Information

Overview. The bill refers a measure to voters at the November 2026 election that, if approved, allows the state to retain revenue collected above the Referendum C cap, up to a newly established limit. Through FY 2036-37, revenue retained under the measure must first be used to fund reimbursements for the homestead property tax exemption and to support additional funding for K-12 education. Any additional revenue after required spending on homestead exemption reimbursements and K-12 education through FY 2036-37, and all retained revenue starting in FY 2037-38, may be spent or saved.

Types of impacts. The bill is projected to affect the following areas on an ongoing basis:

- State Expenditures
- TABOR Refunds
- School Districts

Appropriations. No change in appropriations is required.

Table 1
Conditional State Fiscal Impacts

Type of Impact	Budget Year FY 2026-27	Out Year FY 2027-28
State Revenue	$0	$0
State Expenditures	$0	$1,101.8 million
Transferred Funds	$0	$0
Change in TABOR Refunds	$0	-$1,101,8 million
Change in State FTE	0.0 FTE	0.0 FTE

Fund sources for these impacts are shown in the tables below.

Table 1A
Conditional State Expenditures

Fund Source	Budget Year FY 2026-27	Out Year FY 2027-28
General Fund	$0	$212.2 million
Excess Revenues Account in General Fund	$0	$889.5 million
Cash Funds	$0	$0
Federal Funds	$0	$0
Centrally Appropriated	$0	$0
Total Expenditures	**$0**	**$1,101.8 million**
Total FTE	**0.0 FTE**	**0.0 FTE**

Table 1B
Conditional Change in TABOR Refunds

Fund Source	Budget Year FY 2026-27	Out Year FY 2027-28
Property Tax Refunds	$0	-$212.2 million
Income Tax Rate Reduction	$0	-$386.1 million
Six-tier Sales Tax Refund	$0	-$503.4 million
Net Change in TABOR Refunds	**$0**	**-$1,101.8 million**

Summary of Legislation

This bill refers a ballot measure to voters at the November 2026 general election. If approved, the measure would allow the state to retain and spend additional revenue under TABOR above the current limit ("Referendum C cap") beginning in FY 2027-28. The additional retained revenue, after paying for the homestead property tax exemption, is deposited in the newly created Excess State Revenue Account in the General Fund, and spent as discussed below.

Retain and Spend Additional Revenue

Conditional on voter approval, the bill allows the state to retain and spend revenue in excess of the Referendum C cap, which would otherwise be refunded to taxpayers as TABOR refunds under current law. The additional amount that may be retained and spent is equal to the amount spent on state public education funding in the prior year. State public education funding includes prior year appropriations for the state share of school finance and categorical programs paid from sources that are subject to TABOR, as determined by Legislative Council Staff no later than August 1 each year.

Between FY 2027-28 and FY 2036-37, any additional revenue that is retained under this bill must first be spent to reimburse local governments for their lost revenue due to the homestead property tax exemption, and then on a newly established "positive factor" for K-12 education (described below). If additional revenue remains after funding the positive factor, the remaining revenue may be spent for any purpose. After FY 2036-37, there are no restrictions on how the additional revenue retained under this bill may be spent.

School Finance Positive Factor

For FY 2027-28 through FY 2036-27, the bill distributes retained revenue to school districts through the newly created positive factor. The total amount of the positive factor is the lesser of either two percent of statewide total program funding for FY 2026-27 or the total amount of revenue retained. A school district's distribution through the positive factor is equal to the district's percent of statewide total program funding for school finance multiplied by the total amount of the positive factor.

This calculation uses district total program funding under the Public School Finance Act of 2025 (new school finance formula), prior to the application of the phase in or hold harmless provisions for the new formula under current law.

The bill establishes procedures for Colorado Department of Education (CDE) and Legislative Council Staff to determine each district's positive factor allocation, and revise it through the mid-year adjustment. The positive factor is not included in a district's total program funding, and is available to districts to fund increased teacher pay, teacher retention, smaller class sizes, and access to career and technical courses.

State Audit

The bill requires the Office of the State Auditor to prepare a report for each fiscal year describing how much revenue was retained under the bill and how the state spent the additional revenue.

Background

Homestead Property Tax Exemption

Under current law, certain seniors, veterans with a disability, and Gold Star spouses are eligible for property tax exemptions. The state is required to reimburse local governments for lost property tax revenue due to the exemption. Under current law, in years where revenue exceeds the Referendum C cap, reimbursements to local governments are considered a TABOR refund mechanism. In years where revenue falls below the Referendum C cap, reimbursements must be paid from another source.

Triggered Tax Credits

There are four tax credits in current law, known as triggered tax credits, whose availability or amounts are dependent on state revenue conditions. Changes to state revenue subject to TABOR may affect the availability or level of these triggered tax credits. This bill increases the amount of revenue that the state is permitted to retain and spend, but it is not expected to impact the amount of nonexempt revenue that is collected. As a result, the bill is not expected to impact the availability or amounts of triggered tax credits. The bill also includes conforming amendments to ensure that the availability and amounts of the family affordability tax credit and the expanded earned income tax credit are not changed.

Affordable Housing Diversion

Under Proposition 123, a portion of taxable income is diverted to the Office of Economic Development and International Trade (OEDIT) for affordable housing, and is exempt from TABOR. Under current law, if the Legislative Council Staff March forecast anticipates that revenue will fall below the Referendum C cap in the upcoming year, the General Assembly may reduce the amount diverted to OEDIT to balance the state budget. The bill maintains the requirement that revenue must fall below the Referendum C cap, not the new cap created in this bill, for the General Assembly to be permitted to reduce the amount diverted to OEDIT to balance the state budget.

Assumptions

State Public Education Funding

The fiscal note assumes that state public education funding includes prior year appropriations for the state share of total program and categorical programs from the General Fund, and the Kids Matter Account within the State Education Fund (SEF). The fiscal note assumes that it does not include spending from the SEF that is already exempt from TABOR under Amendment 23 or from the State Public School Fund, which receives various sources of TABOR-exempt revenue. Based on current estimates and Joint Budget Committee Staff recommendations, the state is estimated to spend $4.8 billion on state public education funding in FY 2026-27.

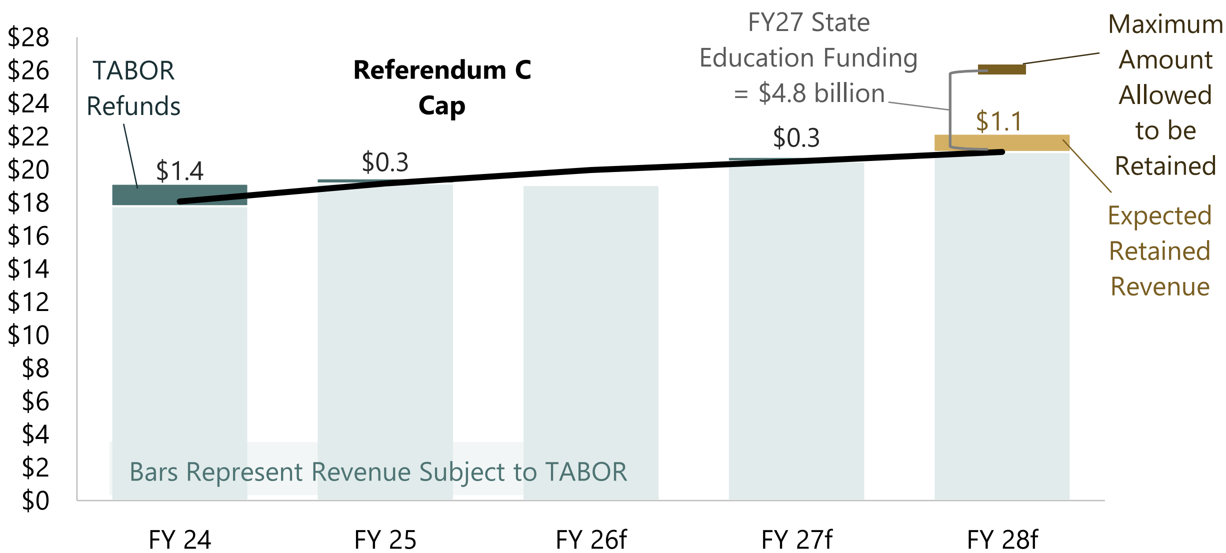
School Finance Assumptions

Based on current estimates for FY 2026-27 total program, about $203.6 million will be distributed through the positive factor each year from FY 2027-28 through FY 2036-37. The fiscal note assumes continued implementation of the school finance formula as specified under current law for FY 2026-27 and FY 2027-28, and the December 2025 LCS K-12 Enrollment and Assessed Values Forecast. Any changes to the school finance formula for those years will impact the estimates in the State Expenditures and School District sections of the fiscal note.

TABOR Refunds

Conditional on voter approval, the bill is expected to reduce TABOR refunds by $1.10 billion in FY 2027-28, and by varying amounts in future years. This estimate assumes the March 2026 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2027-28. Changes to the amount of state revenue permitted to be retained and spent are illustrated in Figure 1.

Figure 1
State Revenue Limits and Additional Retained Revenue under SB 26-135
Dollars in Billions



Source: Office of the State Controller and Legislative Council Staff. f = forecast.

As discussed in the Assumptions section, the state is estimated to spend $4.8 billion from nonexempt sources on state public education funding in FY 2026-27. As a result, the state would be permitted to retain and spend up to $4.8 billion in excess of the Referendum C cap in FY 2027-28. This increases the amount of revenue subject to TABOR permitted to be retained and spent from $21.07 billion under Referendum C to $25.87 billion under the bill. The amount that will actually be retained depends on the amount of revenue collected. The bill does not affect revenue collections.

The state is projected to collect $22.17 billion in revenue subject to TABOR in FY 2027-28 under the March LCS forecast, $1.10 billion more than the Referendum C cap. The bill allows the state to retain and spend this amount rather than refunding it to taxpayers. The amount retained is first used to pay for homestead exemption reimbursements. Any amount remaining after paying for the reimbursements is deposited in the Excess State Revenues Account in the General Fund. In FY 2027-28, $212.2 million is expected to be paid for the homestead exemption, resulting in $889.5 million deposited in the account.

State Expenditures

Conditional upon the referred measure being approved by voters, the bill increases state expenditures by $1.10 billion in FY 2027-28, and by varying amounts in subsequent years. Expenditures are from the General Fund and the Excess State Revenues Account in the General Fund. Impacted departments include Education, Legislative, Local Affairs, Treasury, Revenue, Personnel, and other state agencies as determined by the General Assembly. Costs are as shown in Table 2 and described in the sections below.

Table 2
Conditional State Expenditures
All Departments

Use	Budget Year FY 2026-27	Out Year FY 2027-28
School Finance – Positive Factor (CDE)	$0	$203.6 million
Property Tax Reimbursements (Treasury)	$0	$212.2 million
Other State Expenditures	$0	$685.9 million
Total Costs	**$0**	**$1,101.8 million**

Property Tax Reimbursements to Local Government

The bill is expected to increase General Fund expenditures for property tax reimbursements to local governments by $212.2 million in FY 2027-28. Under current law, local reimbursements for homestead property tax exemptions are expected to paid as a TABOR refund mechanism in FY 2027-28. By allowing the state to retain and spend revenue above the Referendum C cap, the bill eliminates the TABOR refund requirement for FY 2027-28, such that the reimbursements will not be counted as a TABOR refund mechanism. Instead, the bill specifies that the reimbursements are paid from retained revenue.

Department of Education

School Finance – Positive Factor

The bill increases state expenditures by up to $203.6 million annually from FY 2027-28 through FY 2036-37, paid from the Excess State Revenues Account in the General Fund. CDE must distribute this funding to school districts using the calculation specified in the measure. If less than $203.6 million is retained in a given year, the amount distributed to school districts will equal the total amount retained. Revenue is expected to be sufficient in FY 2027-28 to allow the full $203.6 million to be distributed.

Administrative Costs

CDE will have increased workload to distribute positive factor funding to school districts and state Charter School Institute schools. The fiscal note assumes that school districts are not required to report specifically how the funds are used to CDE. As a result, no change in appropriations is required.

Other State Expenditures

For FY 2027-28 through FY 2036-37, any amount retained in the account that exceeds $203.6 million in a given year may be spent on state programs or saved as determined by the General Assembly. In FY 2027-28, up to $685.9 million is expected to be available after paying homestead exemption reimbursements from the General Fund and making the positive factor distributions. After FY 2036-37, the General Assembly may determine how to spend the entire amount deposited in the fund after paying property tax reimbursements.

Legislative Department

The bill increases General Fund expenditures by $20,000 in the Office of the State Auditor beginning in FY 2028-29. The Office of the State Auditor requires a contractor to prepare the excess state revenues legislative report required by the measure following each year in which the state retains additional revenue as a result of the measure.

Additionally, Legislative Council Staff will have increased workload to annually calculate the amount that is counted as fiscal year spending and appropriated by the General Assembly for categorical programs and the state share of school finance in the prior year. No change in appropriations is required for Legislative Council Staff.

Office of the State Controller

The bill minimally increases workload for the State Controller’s Office in the Department of Personnel to account for the new revenue limit and to create a new account within the General Fund. No change in appropriations is required.

Election Expenditure Impact — Existing Appropriations

This bill includes a referred measure that will appear before voters at the November 2026 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 certain election costs; publishing the text and title of the measure in newspapers across the state; and preparing and mailing the ballot information booklet.

School District

As discussed in the State Expenditures section, the bill distributes up to $203.6 million per year to school districts in FY 2027-28 through FY 2036-37. Districts receive a positive factor distribution based on their share of statewide total program, under the new school finance formula prior to the application of the phase in and hold harmless provisions. Under preliminary estimates for FY 2027-28, school district distributions are estimated to range from $223 to $568 per pupil; however, actual distributions will depend on total program for FY 2026-27 and FY 2027-28.

This money is available to be spent on increased teacher pay, teacher retention, smaller class sizes, and access to career and technical courses. The bill specifies that the positive factor funding is not considered part of a district's total program. Thus, the fiscal note assumes that it will have no impact on a district's state and local shares of school finance.

Effective Date

If approved by voters at the 2026 election, the bill takes effect upon proclamation of the Governor, no later than 30 days after the official canvass of the vote is completed.

State and Local Government Contacts

Counties

Education

LCS Economists

Local Affairs

Office of Economic Development

Personnel

Revenue

State Auditor

Treasury