



# Fiscal Note

## Legislative Council Staff

Nonpartisan Services for Colorado’s Legislature

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

**Prime Sponsors:**

Sen. Bridges; Kipp  
Rep. Bacon; Lukens

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**Published for:** Senate Second Reading

**Drafting number:** LLS 26-0140

**Version:** Third Revised Note

**Date:** April 20, 2026

**Fiscal note status:** This revised fiscal note reflects the introduced bill, as amended by the Senate Finance and Appropriations Committees. It also has been revised to reflect the FY 2026-27 Long Bill Package.

### 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. 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, with any remaining money spent or saved as determined by the General Assembly.

**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	Out Year FY 2028-29
State Revenue	\$0	\$0	\$0
State Expenditures	\$0	\$0	\$969.7 million
Transferred Funds	\$0	\$0	\$0
Change in TABOR Refunds	\$0	-\$969.7 million	not estimated
Change in State FTE	0.0 FTE	0.0 FTE	0.0 FTE

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

**Table 1A  
 Conditional State Expenditures**

<b>Fund Source</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>	<b>Out Year FY 2028-29</b>
General Fund	\$0	\$0	\$212.2 million
Excess Revenues Account in General Fund	\$0	\$0	\$757.4 million
Cash Funds	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0
Centrally Appropriated	\$0	\$0	\$0
<b>Total Expenditures</b>	<b>\$0</b>	<b>\$0.0</b>	<b>\$969.7 million</b>
<b>Total FTE</b>	<b>0.0 FTE</b>	<b>0.0 FTE</b>	<b>0.0 FTE</b>

**Table 1B  
 Conditional Change in TABOR Refunds**

<b>Fund Source</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>	<b>Out Year FY 2028-29</b>
Property Tax Refunds	\$0	-\$212.2 million	Not estimated
Income Tax Rate Reduction	\$0	-\$354.0 million	Not estimated
Six-tier Sales Tax Refund	\$0	-\$403.4 million	Not estimated
<b>Net Change in TABOR Refunds</b>	<b>\$0</b>	<b>-\$969.7 million</b>	<b>Not estimated</b>

## 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 2026-27. 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. Additional retained revenue is spent in the fiscal year following the year in which it is retained.

### 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, including the amount of the positive factor, in the highest previous year. State public education funding includes 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.

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.

### **School Finance Positive Factor**

Beginning in FY 2027-28, the bill distributes retained revenue to school districts through the newly created positive factor. For FY 2026-27 through FY 2035-36, the positive factor equals two percent of the program foundation plus the prior year positive factor. Program foundation is equal to the state share of school finance until the new school finance formula is fully phased in, and is equal to the total program after the new formula is phased in. The positive factor is distributed in two ways:

- first, the positive factor is used to accelerate the phase-in of the new school finance formula; and
- after the new school finance formula is fully phased in or if there is money remaining after accelerating the phase in, a school district’s distribution through the positive factor is equal to the district’s percent of statewide total program funding under the new school finance formula fully implemented, multiplied by the total amount of the positive factor. This portion of the positive factor is not included in a district’s total program funding.

The positive factor is available to districts to fund increased teacher pay, teacher retention, smaller class sizes, and access to career and technical courses. Local education providers must post information online about how they spend the positive factor distributions.

If there is not sufficient revenue in the Excess Revenue Account to pay the full positive factor, the state must increase the amount paid via the positive factor in future years when revenue is available to make up the difference, known as the deferred positive factor. After FY 2035-36, the positive factor does not increase, but continues based on the FY 2035-26 program foundation and the deferred positive factor amount, if applicable.

### **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**

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### **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**

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### **State Public Education Funding**

The fiscal note assumes that state public education funding includes 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). 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, the state is estimated to spend \$4.7 billion on state public education funding in FY 2026-27.

## **School Finance Assumptions**

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.

## **Pending Legislation and Current Forecast**

This fiscal note reflects the FY 2026-27 Long Bill package, assumes passage of Senate Bill 26-023 (School Finance Act) as introduced, and accounts for placeholders approved by the Joint Budget Committee for FY 2026-27 budget balancing.

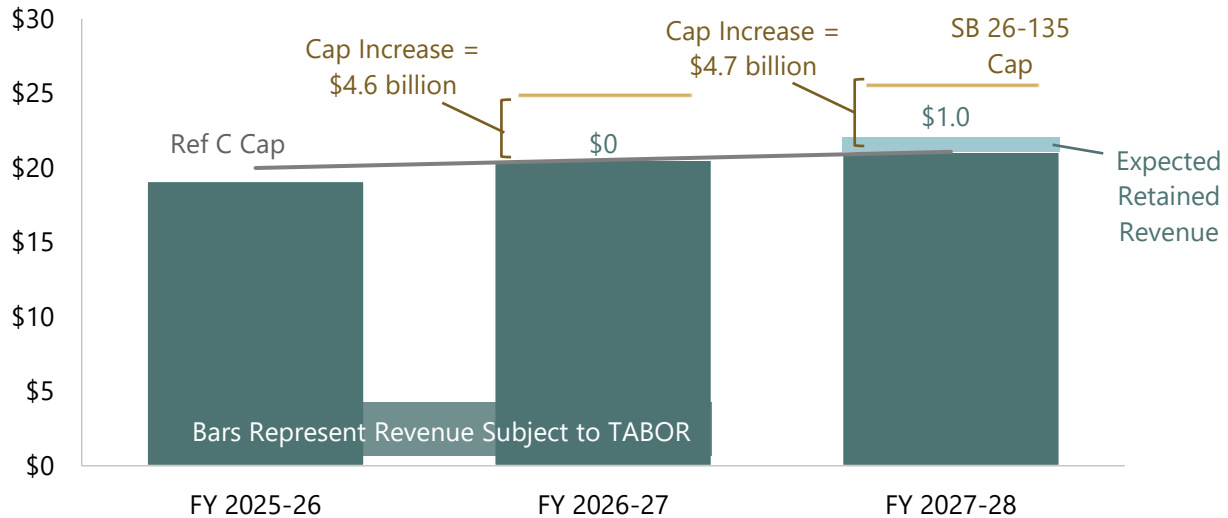
Under the March 2026 LCS revenue forecast and the assumptions for pending legislation discussed above, the state is not expected to have TABOR refunds in FY 2026-27. As a result, the fiscal note assumes that no money will be retained as a result of the bill in FY 2026-27, or spent from the Excess State Revenues Account in FY 2027-28.

## **TABOR Refunds**

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Conditional on voter approval, the bill is expected to reduce TABOR refunds by \$969.7 million 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 \$4.6 billion from nonexempt sources on state public education funding in FY 2025-26 and \$4.7 billion in FY 2026-27. As a result, the state would be permitted to retain and spend up to \$4.6 billion in excess of the Referendum C cap in FY 2026-27 and \$4.7 billion in FY 2027-28. 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 \$20.65 billion in revenue subject to TABOR in FY 2026-27 and \$22.04 billion in FY 2027-28 under the March LCS forecast after accounting for the FY 2026-27 Long Bill package and budget balancing bills. Under these assumptions, revenue subject to TABOR is not expected to exceed the Referendum C cap in FY 2026-27 and will exceed the cap by \$969.7 million in FY 2027-28. 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.

**State Expenditures**

Conditional upon the referred measure being approved by voters, the bill increases state expenditures by \$969.7 million in FY 2028-29, 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**

<b>Use</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>	<b>Out Year FY 2028-29</b>
Property Tax Reimbursements (Treasury)	\$0	\$0	\$212.2 million
School Finance – Positive Factor (CDE)	\$0	\$0	\$551.4 million
Other State Expenditures	\$0	\$0	\$206.0 million
<b>Total Costs</b>	<b>\$0</b>	<b>\$0</b>	<b>\$969.7 million</b>

**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 2028-29. Under current law, local reimbursements for homestead property tax exemptions are expected to be paid as a TABOR refund mechanism in years when the state collects revenue above the Referendum C cap. By allowing the state to retain and spend revenue above the Referendum C cap, the bill eliminates the TABOR refund requirement for FY 2028-29, 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 will not result in increased state expenditures for school finance in FY 2026-27 or FY 2027-28. Positive factor distributions begin in FY 2028-29 and are estimated to be \$551.4 million, paid from the Excess State Revenues Account in the General Fund. This includes a \$332.6 million positive factor for FY 2028-29 and a \$218.9 million deferred positive factor that was not paid in FY 2027-28 because no revenue is expected to be retained in FY 2026-27.

CDE must distribute this funding to school districts using the calculations specified in the measure. Of the \$551.4 million expected to be distributed in FY 2028-29, \$204.2 million will be used to fully implement the new formula and \$347.3 million will be distributed outside the formula based on each district's percent of statewide total program under the new formula.

### **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 positive factor distributions in a given year may be spent on state programs or saved as determined by the General Assembly. No additional funding is expected to be available in FY 2027-28. In FY 2028-29, up to \$206.0 million is expected to be available after paying homestead exemption reimbursements from the General Fund and making the positive factor distributions.

### **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, and to project the accelerated percentage used to increase phase in of the new school finance formula. 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**

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As discussed in the State Expenditures section, the bill is not expected to result in increased state expenditures for school finance in FY 2027-28. In FY 2028-29, an estimated \$551.4 million is expected to be distributed through the positive factor, of which \$204.2 million will be used to fully phase in the new formula and \$347.6 million will be distributed outside total program based on their share of statewide total program prior to the application of the phase in and hold harmless provisions. For fully locally funded districts, increased total program may impact local share property tax revenue by a minimal amount.

This money is available to be spent on increased teacher pay, teacher retention, smaller class sizes, and access to career and technical courses. Districts will have increased workload to post information on their websites about how they spend the positive factor.

## **Effective Date**

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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**

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Counties	Personnel
Education	Revenue
LCS Economists	State Auditor
Local Affairs	Treasury
Office Of Economic Development	