SB 25-167

Fiscal Note

Legislative Council Staff

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SB 25-167: INVEST STATE FUNDS TO BENEFIT COMMUNITIES

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Published for: Senate Finance
Drafting number: LLS 25-0730

Version: Initial Fiscal Note
Date: March 11, 2025

Fiscal note status: The fiscal note reflects the introduced bill.

Summary Information

Overview. The bill creates a community investment portfolio in the Public School Fund and a loan program in the Department of Local Affairs.

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

- State Revenue
- State Expenditures
- State Loan
- State Diversion
- TABOR Refunds
- Local Government
- Special District
- School Districts

Appropriations. For FY 2025-26, the bill requires appropriations of $828,576 to the Department of the Treasury.

Table 1
State Fiscal Impacts

Type of Impact[1]	Budget Year FY 2025-26	Out Year FY 2026-27
State Revenue	Indeterminate	Indeterminate
State Expenditures	$31,387,009	$16,373,825
Loaned or Diverted Funds	$150,000,000	$15,000,000
Change in TABOR Refunds	Indeterminate	Indeterminate
Change in State FTE	13.2 FTE	13.4 FTE

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

Table 1A
State Expenditures

Fund Source	Budget Year FY 2025-26	Out Year FY 2026-27
General Fund	$0	$0
Cash Funds	$31,080,127	$16,063,302
Federal Funds	$0	$0
Centrally Appropriated	$306,882	$310,523
Total Expenditures	**$31,387,009**	**$16,373,825**
Total FTE	**13.2 FTE**	**13.4 FTE**

Table 1B
State Loans and Diversion

Fund Source	Budget Year FY 2025-26	Out Year FY 2026-27
General Fund	$0	$15,000,000
Unclaimed Property Trust Fund[1]	-$150,000,000	$0
Housing Development Grant Fund	$100,000,000	-$15,000,000
New Cash Fund in DOLA	$50,000,000	$0
Net Transfer	**$0**	**$0**

[1] This transfer is in the form of an interest-free loan from the Unclaimed Property Trust Fund to the Department of Local Affairs. The loan must be repaid by July 1, 2045. As described in the Technical Note section, it is assumed a new cash fund is required to receive funds for the new loan program in DOLA.

Summary of Legislation

Public School Fund

The Public School Fund (also known as the Permanent Fund) is an intergenerational trust fund. Investment income from the fund is used to support K-12 education through the School Finance Act, or to build the principal of the fund. The bill specifies that investment priorities for the fund include:

- preserving the principal;
- providing benefits through community investing;
- maintaining a minimum annual distribution of interest and income of at least 3 percent on a rolling five-year average; and
- targeting a 7.5 percent annual growth rate on a rolling five-year period.

Community Investment Portfolio

The bill specifies that community investing intends to generate a positive, measureable impact for school children, families, or communities, and may have a below-market rate of return. The portfolio may include:

- bonds or certificates of participation issued by school districts and charter schools;
- mortgage pass-through securities and collateralized mortgage obligations for residential real estate owned predominantly by public school employees;
- loans or bonds that fund rental housing developments that includes a preference for public school employees;
- mortgage revenue bonds that support public school employee mortgages with interest rates of up to 3 percent; or
- loans to community development financial institutions that fund housing construction developments, low-interest mortgages, or other financial mechanisms that support public school employees or education.

The State Treasurer must invest the following amounts from the Public School Fund and the Unclaimed Property Trust Fund in the portfolio, as shown in Table 2.

Table 2
Community Investment Portfolio Funding Sources

Fund	Amount Invested by July 1, 2027	Amount Invested by July 1, 2032
Public School Fund	at least 6 percent	at least 20 percent
Unclaimed Property Trust Fund	at least 5 percent	at least 20 percent

Within the community investment portfolio, the bill establishes the Educator First Home Ownership Program. 75 percent of the money in the program supports a shared equity down payment assistance program that allows the state to provide at least 15 percent of the home's cost in exchange for up to 10 percent of the home's appreciation. The remaining 25 percent of the money in the program is invested in community investments as described above. The Treasurer must invest in the Educator First Home Ownership Program the greater of 6 percent of the value of the Public School Fund or $100 million by July 1, 2027, and the greater of 12 percent of the fund's value or $200 million by July 1, 2028. The program must submit an annual report to the Public School Fund Investment Board.

Unclaimed Property Trust Fund

The bill permits the Unclaimed Property Trust Fund to be invested in direct and indirect equity investments, mutual funds, exchange-traded funds, real estate investments, and education-related community investments. At least 20 percent of the money in the fund must be invested into these asset classes by July 1, 2032.

On July 1, 2025, the Unclaimed Property Trust Fund in the Department of the Treasury must make interest-free loans to the Department of Local Affairs (DOLA) to create a zero-interest revolving loan program, as follows:

- $100 million to benefit affordable housing developers; and
- $50 million to benefit fire protection districts and ambulance districts.

DOLA may use up to 2 percent of the loan to cover its administrative costs. The loans must be repaid by July 1, 2045.

Housing Development Grant Fund

The Housing Development Grant Fund receives the loans from the Unclaimed Property Trust Fund for DOLA's revolving loan programs. Under current law, a certain amount of state sales tax revenue accrues to the Housing Development Grant Fund, based on the increase in revenue attributable to the vendor fee changes made by House Bill 19-1245, less $35,985,335 in FY 2026-27. The bill increases the exception to $50,985,335, resulting in an additional $15 million credited to the General Fund.

Investments of Public Funds

The bill authorizes the Department of the Treasury to invest in additional classes of assets, including equity investments, mutual funds, exchange-traded funds, real estate investments, and education-related community investments.

Background

Permanent Fund

Under current law, the interest and income earned on the Permanent Fund is used for the Public School Fund Investment Board expenses, and then distributed to the State Public School Fund (SPSF), and the Public School Capital Construction Assistance Fund (PSCCAF) on the following schedule:

- FY 2024-25: up to $11 million to SPSF, then up to $30 million to PSCCAF, any remaining stays in Permanent Fund unless credited elsewhere by General Assembly;
- FY 2025-26: up to $5 million to SPSF, then up to $36 million to PSCCAF, any remaining stays in Permanent Fund unless credited elsewhere by the General Assembly; and
- Beginning in FY 2026-27: nothing to the SPSF, and up to $41 million to PSCCAF, any remaining stays in Permanent Fund unless credited elsewhere by the General Assembly.

Changes to the amount of interest earned on the Permanent Fund may impact distributions for the PSCCAF and the SPSF. The PSCCAF is used for the Building Excellent Schools Today (BEST) school capital construction program and charter school capital construction. The SPSF is used for the state share of school finance, and other education related programs.

Note: The Permanent Fund is sometimes referred to in statute as the Public School Fund. This is different than the State Public School Fund (SPSF) that receives distributions of Permanent Fund interest, marijuana excise taxes, federal mineral lease revenues.

Unclaimed Property Trust Fund

The Unclaimed Property Division of the State Treasury holds, in perpetuity or until claimed, lost or forgotten assets of individuals and businesses in Colorado. The Unclaimed Property Trust Fund consists of all moneys collected under the Unclaimed Property Act, and interest earned on the account. As of January 2025, the fund has a balance of about $900 million. The Unclaimed Property Trust Fund is TABOR-exempt; however, transfers out of the fund are generally subject to TABOR.

Assumptions

The fiscal note assumes that DOLA will award about 20 percent of the available funds in loans each year. Actual expenditures will vary based on the number of applications DOLA receives and administrative decisions made in the programs.

State Revenue

While the bill targets a 7.5 percent average annual rate of return for the Public School Fund as a whole, the community investment portfolio is expected to produce below-market returns for the Public School Fund and the Unclaimed Property Trust Fund. This means that the portion of the Public School Fund that is not in the community investment portfolio must achieve higher rates of return, which carries additional risk, to maintain total investment earnings relative to current law. The impact on revenue to the fund overall is indeterminate. Interest earned on money in the Public School Fund is subject to TABOR.

The portion of the Unclaimed Property Trust Fund in the community investment portfolio is likewise expected to produce below-market returns, and the loans to DOLA are made interest-free. This results in a reduction of interest revenue for these funds. The actual revenue decrease will depend on rates of return generated by the community investment portfolio, which cannot be estimated. The amount of interest revenue lost depends on interest rates and other changes to the fund’s balance. Assuming a 3 percent annual interest rate, the amount of revenue lost due to the loan is estimated at $4.5 million in FY 2025-26, which compounds in future years. Over the 20-year lifespan of the loan, the total revenue lost is an estimated $120.9 million. Interest earned on money in the Unclaimed Property Trust Fund is not subject to TABOR.

State Loan and Diversion

On July 1, 2025, the bill transfers $150 million from the Unclaimed Property Trust Fund to DOLA, in the form of an interest-free loan which must be repaid by July 1, 2045. The fiscal note assumes that this occurs in the form of a $100 million transfer to the Housing Development Grant Fund and a $50 million loan to a new cash fund. See Technical Note.

In FY 2026-27, the bill diverts $15 million from the Housing Development Grant Fund to the General Fund.

State Expenditures

The bill increases state expenditures by about $31 million in FY 2025-26 and about $16 million in FY 2026-27. These costs will be incurred in the State Treasury and the Department of Local Affairs as shown in Table 3 and described in the sections below. Costs are paid from the Housing Development Grant Fund, a new cash fund in DOLA, the Public School Fund, and the Unclaimed Property Trust Fund.

Table 3
State Expenditures
All Departments

Department	Budget Year FY 2025-26	Out Year FY 2026-27
Department of Local Affairs	$30,447,091	$15,375,592
State Treasury	$939,918	$998,233
Total Costs	**$31,387,009**	**$16,373,825**

Department of Local Affairs

The bill increases expenditures in DOLA to administer the new revolving loan program from FY 2025-26 through FY 2044-45, and it reduces expenditures for existing housing development grants in FY 2026-27 only.

Table 3A
State Expenditures
Department of Local Affairs

Cost Component	Budget Year FY 2025-26	Out Year FY 2026-27
Personal Services	$740,134	$752,578
Operating Expenses	$13,056	$13,312
Capital Outlay Costs	$80,040	$0
Travel Costs	$7,800	$0
Loans	$29,400,000	$29,400,000
Information Technology	$10,521	$10,521
Housing Grants	$0	-$15,000,000
Centrally Appropriated Costs	$195,540	$199,181
Total Costs	**$30,447,091**	**$15,375,592**
Total FTE	**10.2 FTE**	**10.4 FTE**

Staff

Operating two new revolving loan programs requires 10.2 FTE beginning in FY 2025-26. Workload will decrease as the program winds down, ceasing altogether in FY 2044-45. The program requires staff for underwriting, servicing loans, and promoting the program, in addition to administrative and budgeting support. Standard operating and capital outlay costs are included. Additional operating costs are included for travel to regional meetings and prospective loan recipients.

Loans

DOLA has about $147 million to offer in zero-interest loans to school districts, fire protection districts, and ambulance districts. The amount shown in Table 3A assumes that DOLA awards 20 percent of the funding each year. The actual amount depends on administrative decisions made by DOLA staff.

Information Technology

DOLA will have about $10,500 in expenses for database upgrades for the new loan program and related tasks. This work will be performed by the Office of Information Technology.

Housing Grants

The bill diverts $15 million from the Housing Development Grant Fund to the General Fund in FY 2026-27 only, which decreases funding available for existing housing development programs.

State Treasury

The bill increases expenditures in the Treasury to create and manage the community investment portfolio, including evaluating additional asset classes and identifying new investment strategies. Costs may increase in future years as the size of the community investment portfolio grows. Costs are paid from the Public School Fund and the Unclaimed Property Trust Fund.

Table 3B
State Expenditures
State Treasury

Cost Component	Budget Year FY 2025-26	Out Year FY 2026-27
Personal Services	$576,708	$576,708
Operating Expenses	$3,840	$3,840
Capital Outlay Costs	$20,010	$0
Portfolio Management Fees	$78,325	$156,650
Software Licenses	$137,693	$137,693
Travel	$12,000	$12,000
Centrally Appropriated Costs	$111,342	$111,342
Total Costs	**$939,918**	**$998,233**
Total FTE	**3.0 FTE**	**3.0 FTE**

Staff

The Treasury requires 3.0 FTE beginning in FY 2025-26 to restructure its investment strategy for the Public School Fund and the Unclaimed Property Trust Fund. This includes investment staff with expertise in asset classes not currently managed by the Treasury. Standard operating and capital outlay costs are included.

Additional Operating Costs

Staff require additional operating expenses including software licenses and travel costs for meeting with brokers, visiting companies in which that state invests, and attending conferences.

Portfolio Management Fees

In order to meet the community investment portfolio requirements, some investments may be managed outside the Treasury, which will incur portfolio management fees. Fees are expected to increase as the size of the portfolios increase.

Treasury Pool Investments

The bill authorizes the Treasury to invest additional public funds in the asset classes included in the community investment portfolios. The fiscal note assumes that the Treasury will only apply these investment strategies to the community investment portfolios created in the bill. The cost to apply them to other funds depends on the amount of money to be managed and the range of assets included. To do so to the Treasury Pool, the department estimates it requires an additional $17.3 million and 20.0 FTE, paid mainly from the General Fund. If the Legislature or the Treasury chooses to manage investments this way in future years, costs will be addressed through the annual budget process.

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 the expenditure tables above.

TABOR Refunds

The bill is expected to decrease the amount of state revenue required to be refunded to taxpayers due to reduced interest earnings through FY 2026-27. This estimate assumes the December 2024 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2026-27. Because TABOR refunds are paid from the General Fund, decreased cash fund revenue will increase the amount of General Fund available to spend or save.

Funds in the Unclaimed Property Trust Fund are exempt from TABOR, but may become subject to TABOR when transferred to other funds to be used for governmental purposes. If DOLA is unable to repay the loan in full, any unpaid balance will constitute a transfer to a state cash fund and that amount will count against the state's TABOR limit. Because the loan to DOLA is interest-free and the loan program it operates is interest-free, the fiscal note anticipates that this will result in an increase to the state's potential TABOR refund obligation of at least $2 million in FY 2045-46. If DOLA's administrative expenditures increase, this refund obligation will likewise increase. See Technical Note below.

School Districts and Special Districts

The bill increases revenue and expenditures in school districts, fire protection districts, and ambulance districts that apply for and receive loans from DOLA.

Technical Note

The bill requires DOLA to repay its loan from the Unclaimed Property Trust Fund after 20 years. However, it may use up to 2 percent of the loan to cover its administrative costs and the program it operates offers zero-interest loans. Even if all loans are repaid to DOLA in full, it will be unable to repay the loan to the Unclaimed Property Trust Fund in full.

The bill limits DOLA's administrative costs to 2 percent of the loan total, or $3 million over twenty years. However, its annual expenses to administer the revolving loan program will reach this limit in about four years. In order to continue operating the program after this time, the department will require either a higher administrative cap or an alternative funding source, such as the General Fund.

The Housing Development Grant Fund is continuously appropriated to DOLA for its existing uses in statute. Although this bill does not add the revolving loan program to the authorized uses of the continuous appropriation, the fiscal note assumes that DOLA can operate the revolving loan program without further appropriation.

The loans are made from the Unclaimed Property Trust Fund to DOLA, rather than to one or more cash funds. The revolving loan program to benefit fire protection districts and ambulance districts has no fund identified. The fiscal note assumes that a new cash fund is required to operate that loan program.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2025-26, the bill requires the following appropriations to the Department of the Treasury, and 3.0 FTE:

- $673,863 from the Public School Fund; and
- $154,713 from the Unclaimed Property Trust Fund.

No appropriation is required from the Housing Development Grant Fund, which is continuously appropriated to the Department of Local Affairs. See Technical Note above.

State and Local Government Contacts

Education

Local Affairs

Natural Resources

Treasury