SB 26-042

Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

SB 26-042: REVENUE CLASSIFICATION TAXPAYERS BILL OF RIGHTS

Prime Sponsors:
Sen. Weissman; Amabile
Rep. Zokaie; Sirota

Fiscal Analyst:
Emily Dohrman, 303-866-3687
Amanda Liddle, 303-866-5834

Published for: Senate Finance
Drafting number: LLS 26-0419

Version: Initial Fiscal Note
Date: February 6, 2026

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

Summary Information

Overview. The bill specifies that certain revenues are considered to be collections for another government or damage awards, and are therefore exempt from TABOR.

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

- Minimal State Workload
- State Revenue
- TABOR Refunds

Appropriations. No appropriation is required.

Table 1
State Fiscal Impacts

Type of Impact	Current Year FY 2025-26	Budget Year FY 2026-27	Out Year FY 2027-28
State Revenue (General Fund)	$0	$0	$105.8 million
State Expenditures	$0	$0	$0
Transferred Funds	$0	$0	$0
Change in TABOR Refunds	$0	-$30.9 million	$74.5 million
Change in State FTE	0.0 FTE	0.0 FTE	0.0 FTE

The change in TABOR refunds will affect the amount distributed through the six-tier sales tax refund mechanism.

Table 1A
Change in TABOR Refunds

Fund Source	Current Year FY 2025-26	Budget Year FY 2026-27	Out Year FY 2027-28
Revenue Reclassification	$0	-$30.9 million	-$31.3 million
Tax Credit Triggers	$0	$0	$105.8 million
Net Change in TABOR Refunds	**$0**	**-$30.9 million**	**$74.5 million**

Summary of Legislation

The state revenue limit in the Colorado Constitution's TABOR amendment applies to all state revenue that is not specifically excluded. Collections for another government and damage awards are two of the exclusions listed in TABOR. Beginning in the current FY 2025-26, the bill classifies certain additional sources of revenue under these exclusions such that they are exempt from the TABOR limit.

Collections for Another Government

Under current law, "collections for another government" is defined as any revenue that is collected by the state that is passed through to another government for the benefit and use of that government. The bill specifies that excise tax revenue from aviation gas and jet fuel that is distributed from the aviation fund to an airport or to a government that is operating an airport be classified as a collection for another government.

Damage Awards

Under current law, "damage award" is defined to mean pecuniary compensation received by the state as a result of any judgment or allowance in favor of the state. The bill specifies that the following sources of revenue be classified as damage awards:

- fines and penalties for certain traffic, vehicle, and license violations, including driving under the influence, that are deposited in the Highway Users Tax Fund (HUTF);
- civil penalties collected by the Commissioner of Insurance within the Division of Insurance (DOI), the Commissioner of Financial Services within the Division of Financial Services (DFS), and the banking board within the Division of Banking (DOB) for violating state laws, rules, and orders;
- civil penalties collected by the Department of Health Care Policy and Financing (HCPF) against nursing facilities, providers who received overpayments as a result of false representation, and litigation and settlements of fraudulent Medicaid claims;
- certain reimbursements from Medicaid collected by HCPF when another party is responsible for payment;

- fines and penalties collected by the Department of Public Health and Environment (CDPHE) for violations related to disease control, disposal of hazardous or solid waste, tanning facilities, payment for radiation control services, and hospital noncompliance with premium rate and network adequacy requirements;
- fines and penalties imposed by the Department of Labor and Employment (CDLE) related to unemployment insurance benefits overpayments and for obstructing access to a premises that is under investigation;
- fines imposed by the Division of Housing related to the Mobile Home Park Act;
- fines imposed by the Division of Gaming and the Division of Racing for violations of rules or standards related to gaming and racing licenses; and
- certain money deposited in the Crime Victim Compensation Fund.

State Revenue

The bill increases revenue by $105.8 million in FY 2027-28 by causing certain current law tax credits whose availability or amounts are dependent on state revenue conditions, known as triggered tax credits, to be available at a lower level than expected under current law in tax year 2028. Because the bill reduces revenue subject to TABOR by reclassifying certain sources of revenue, the bill changes the adjustment factor used to determine the amounts of the family affordability tax credit and the expanded earned income tax credit. As a result, these credits are expected to be reduced relative to the December 2025 forecast. For more information, see the LCS memorandum on Treatment of Tax Credit Triggers in Fiscal Notes.

State Expenditures

The bill increases workload in the Office of the State Controller beginning in the current FY 2025-26, and increases the amount of General Fund revenue available to spend or save in FY 2026-27 and ongoing. These impacts are discussed below.

Office of the State Controller

The bill increases workload for the Office of the State Controller in the Department of Personnel and Administration to make accounting changes required by the bill. This workload increase is expected to be minimal and can be accomplished within existing appropriations.

General Fund

By reclassifying revenue as exempt from TABOR, the bill increases the amount available to spend or save by $30.9 million in FY 2026-27 and $31.3 million in FY 2027-28, as described in the TABOR refunds section below.

TABOR Refunds

The bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by $30.9 million in FY 2026-27 and increase refunds by $74.5 million on net in FY 2027-28. These changes in TABOR refunds occur due to the reclassification of revenue as exempt from TABOR under the bill and from increased revenue from triggered tax credit changes, as outlined below.

Revenue Reclassification

The bill reduces revenue that will be refunded to taxpayers by $30.9 million in FY 2026-27 and $31.3 million in FY 2027-28 due to revenue reclassification, as shown in Table 2. The bill is not expected to reduce TABOR refunds in the current FY 2025-26 because the state is not projected to have a refund obligation for this fiscal year. This estimate assumes the December 2025 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2027-28. Because TABOR refunds are paid from the General Fund, decreasing the TABOR refund obligation, while also maintaining the same level of total revenue, increases the amount of General Fund revenue available to spend or save.

Table 2
Change in Revenue Subject to TABOR

Revenue Stream	Current Year FY 2025-26	Budget Year FY 2026-27	Out Year FY 2027-28
HUTF Traffic and Vehicle Violations	-$18.3 million	-$18.6 million	-$19.0 million
Crime Victim Compensation Fund	-$10.0 million	-$10.0 million	-$10.0 million
Excise Tax on Aviation Gas and Jet Fuel	-$1.6 million	-$1.8 million	-$1.9 million
CDPHE Hazardous Waste Penalties	-$206,000	-$206,000	-$206,000
CDPHE Solid Waste Disposal Penalties	-$105,000	-$105,000	-$105,000
DOI Penalties	-$25,000	-$60,000	-$60,000
Mobile Home Park Act Penalties	-$42,000	-$42,000	-$42,000
Fines on Tanning Facilities	-$10,000	-$10,000	-$10,000
Gaming and Racing License Violations	-$5,000	-$5,000	-$5,000
Change in TABOR Revenue	**-$30.3 million**	**-$30.9 million**	**-$31.3 million**
Change in TABOR Refunds	**$0**	**-$30.9 million**	**-$31.3 million**

In addition to the those listed in Table 2, the following revenue sources that are reclassified by the bill are assessed as having minimal fiscal impact in most years, barring larger penalty receipts:

- civil penalties collected by the Commissioner of Financial Services within DFS;
- civil penalties collected by the banking board within the DOB;
- fines and penalties imposed by CDLE for obstructing access to a premises that is under investigation;
- penalties imposed by CDPHE for failure to pay fee for radiation services;
- fines imposed by CDPHE for violations related to disease control; and
- fines collected by CDPHE from hospitals for not complying with premium rate and network adequacy requirements;
- civil penalties collected by HCPF related to overpayments as a result of false representation; and
- civil penalties collected as a result of litigation or settlements pertaining to fraudulent Medicaid claims.

The bill also reclassifies the 65 percent penalty related to unemployment insurance benefits overpayments collected by CDLE as a damage award. These penalties are already exempt from TABOR under current law because they are collected by an enterprise. Similarly, civil penalties against nursing facilities are already classified as damage awards under current law as a result of Senate Bill 25-173. Lastly, Medicaid reimbursements are a reduction in Medicaid expenditures, and thus do not count as revenue subject to TABOR under current law. Therefore, these three provisions are assessed as having no fiscal impact.

Triggered Tax Credits

The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by $105.8 million in FY 2027-28 due to triggered tax credits, as described in the revenue section above. This estimate assumes the December 2025 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2027-28. Because TABOR refunds are paid from the General Fund, increased General Fund revenue will increase the TABOR refund obligation, but result in no net change to the amount of General Fund available to spend or save in FY 2027-28.

Effective Date

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

State and Local Government Contacts

Health Care Policy and Financing

Labor

Law

Local Affairs

Public Health and Environment

Public Safety

Regulatory Agencies

Revenue

Transportation

Treasury