HB 19-1257

Legislative Council Staff
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FISCAL NOTE

Drafting Number:	LLS 19-0810	**Date:**	March 28, 2019
Prime Sponsors:	Rep. Becker; McCluskie Sen. Court; Priola	**Bill Status:**	House Finance
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Bill Topic: VOTER APPROVAL RETAIN REVENUE - EDUCATION & TRANSPORTATION

Summary of Fiscal Impact:

- ☒ State Revenue
- ☒ State Expenditure
- ☒ State Transfer
- ☒ TABOR Refund
- ☐ Local Government
- ☐ Statutory Public Entity

Beginning in the current FY 2018-19, this bill permits the state to retain all revenue collected in excess of the state TABOR limit and to spend this revenue for public schools, higher education, and transportation projects. The bill requires approval by voters to become law.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 19-1257

		FY 2018-19 *(current year)*	FY 2019-20	FY 2020-21
Revenue	General Fund	-	$3.0 million	-
Expenditures		-	-	-
Transfers		-	-	-
TABOR Refund	General Fund	($64.8 million)	-	-

Summary of Legislation

If adopted by the General Assembly, HB 19-1257 is referred to voters at the 2019 statewide election and will be designated as Proposition CC unless another statutory measure is referred at an earlier date. With voter approval, Proposition CC permits the state to retain and spend or save all revenue it collects in the current FY 2018-19 and subsequent years as a voter-approved revenue change under the TABOR amendment. Revenue retained under Proposition CC is required to be spent for:

- public schools;
- higher education; and
- roads, bridges, and transit.

The Office of the State Auditor is required to contract for an annual financial audit of funds retained and appropriated or transferred under Proposition CC.

House Bill 19-1258. If Proposition CC is approved by voters, HB 19-1258 directs allocations of revenue retained under the measure in thirds to public school, higher education, and transportation.

Background

TABOR revenue limit. Article X, Section 20, of the Colorado Constitution (TABOR) limits annual growth in state fiscal year spending, the amount of collected revenue that the state may retain and spend or save each year. Revenue is subject to this TABOR limit unless it satisfies a constitutional exception. The largest exceptions are for federal funds, revenue collected by enterprises, and revenue changes approved by voters.

The TABOR limit is set each year according to inflation, population growth, and voter-approved revenue changes. Under Referendum C, a voter-approved revenue change described below, the TABOR limit equals the amount of revenue collected in FY 2007-08, grown each year by inflation plus population growth. Revenue collected in excess of the TABOR limit (Referendum C cap) is refunded to taxpayers in the following fiscal year.

Additional background information on the TABOR revenue limit is available here: http://leg.colorado.gov/sites/default/files/the_tabor_revenue_limit.pdf

Referendum C. HB 05-1194 was referred to voters as Referendum C and approved at the 2005 statewide election. As a voter-approved revenue change, Referendum C permitted the state to retain and spend all revenue collected during a "timeout period" between FY 2005-06 and FY 2009-10. Additionally, Referendum C allows the state to retain and spend revenue up to a capped amount determined by the greatest amount of TABOR revenue collected during the timeout period, grown each year by inflation plus population growth. Revenue retained under Referendum C must be spent for health care, education, firefighter and police officer retirement plans, and transportation projects.

State Revenue

General Fund revenue is expected to increase by $3.0 million in FY 2019-20 because partial refundability of the conservation easement income tax credit would not be triggered in tax year 2019 as expected under current law. Part of the gross conservation easement income tax credit becomes refundable during tax years when the state is required to refund a TABOR surplus. Taxpayers claiming a conservation easement credit, or carrying forward credits from prior tax years, receive up to $50,000 as a refundable credit in these years. Under current law and the March 2019 Legislative Council Staff (LCS) forecast, the state is expected to issue TABOR refunds in FY 2019-20 and the tax credit is expected to be partially refundable in tax year 2019. Under Proposition CC, the TABOR refund obligation is eliminated and the tax credit will not become refundable, thereby increasing state revenue from income taxes. Because the bill must be approved by voters in November 2019 in order to become law, the entire revenue impact for tax year 2019 is expected to affect state revenue for FY 2019-20.

State Transfers

Proposition CC requires that retained revenue be spent for roads, bridges, and transit, in addition to public schools and higher education. Transportation expenses are generally paid from cash funds and federal funds, and General Fund contributions to transportation are generally made via transfers to cash funds. HB 19-1258 would require that one-third of revenue retained under Proposition CC be transferred to the Highway Users Tax Fund (HUTF). If Proposition CC is approved and HB 19-1258 does not become law, this bill may require future transfers from the General Fund to the HUTF, the State Highway Fund, the Multimodal Transportation Options Fund, or another fund. These transfers are not specified in the bill and their amount(s) cannot be estimated.

State Expenditures

The bill increases state expenditures for FY 2019-20 and all subsequent years when the state would otherwise be required to issue TABOR refunds. In these years, General Fund obligations for TABOR refunds will be eliminated and state expenditures for P-12 education, higher education, and transportation will correspondingly increase as directed by HB 19-1258, if adopted, or as determined in the future by the General Assembly. For FY 2019-20, the amount retained under Proposition CC is estimated at $64.8 million based on the March 2019 LCS forecast.

Table 2 presents changes in FY 2019-20 General Fund obligations to local government reimbursements for property tax exemptions for seniors and disabled veterans, and for revenue retained under Proposition CC. These obligations are described below.

Table 2
Selected FY 2019-20 General Fund Obligations Under Current Law and Proposition CC

	FY 2019-20 *Current Law*	FY 2019-20 *Proposition CC*	Change *Under Prop. CC*
Property Tax Reimbursements	**$140.8 million**	**$140.8 million**	**$0**
Paid from FY 2018-19 TABOR Surplus	*$64.8 million*	*$0*	*($64.8 million)*
Paid from FY 2019-20 GF Revenue	*$76.0 million*	*$140.8 million*	*$64.8 million*
Retained Revenue - Prop. CC Purposes*	**$0**	**$64.8 million**	**$64.8 million**
		Total Change	**$64.8 million**

* *Amount to be expended for public schools, higher education, and transportation projects, as required by HB 19-1258 or otherwise determined by the General Assembly.*

Retained revenue. Proposition CC requires retained revenue to be spent for public schools and higher education, in addition to roads, bridges, and transit. Education and higher education expenses are often paid from the General Fund. HB 19-1258 would require that two-thirds of revenue retained under Proposition CC be appropriated from the General Fund for education and higher education. If Proposition CC is approved and HB 19-1258 does not become law, this bill may require future expenditures from the General Fund to public schools and/or the Department of Higher Education. These expenditures are not specified in the bill and their amount(s) cannot be estimated.

TABOR refunds. Proposition CC eliminates the state obligation to refund revenue collected in excess of the TABOR limit for the current FY 2018-19 and all future fiscal years. Under the March 2019 LCS forecast, the bill is expected to reduce the state TABOR refund obligation for FY 2018-19 by $64.8 million, which is required to be refunded during FY 2019-20 under current law. Under current law, TABOR refunds are paid first for senior and disabled veteran property tax exemptions via reimbursements to county governments. Because the $64.8 million retained under Proposition CC is required to be spent for public schools, higher education, and transportation projects, the amount of new General Fund revenue expended for FY 2019-20 property tax reimbursements is expected to increase by $64.8 million, as shown in Table 2.

No TABOR surplus is currently expected for FY 2019-20 or FY 2020-21. A forecast of state revenue subject to TABOR is not available for fiscal years beyond FY 2020-21. For years when the state would collect a TABOR surplus under current law, the obligation for subsequent TABOR refunds is eliminated, and state expenditures for P-12 education, higher education, and transportation projects will correspondingly increase.

Audit. The bill requires the Office of the State Auditor in the Legislative Branch to contract for an annual financial audit of revenue retained and appropriated or transferred under Proposition CC. Contracting for this audit can be accomplished within existing appropriations for audits under the annual legislative appropriations act.

Election expenditure impact — existing appropriations. This bill includes a referred measure that will appear before voters at the November 2019 statewide election. While no additional appropriation is required in this bill, certain election costs are incurred by the state when ballot measures are referred to voters. These costs, paid using existing appropriations, are in two areas. First, current law requires the state to reimburse counties for costs incurred conducting a ballot measure election, paid from the Department of State Cash Fund in the Secretary of State's Office, estimated at $3.2 million in FY 2019-20. Second, the text and title of the measure must be published in one legal newspaper per county and an analysis of the measure must be included in the Ballot Information Booklet mailed to all registered voter households, paid from the Ballot Analysis Revolving Fund in the Legislative Department, which is estimated to cost $920,000 in FY 2019-20. Publication costs increase by approximately $115,000 per measure beyond this base amount for each additional referred or initiated measures placed on the ballot.

Effective Date

If approved by voters at the 2019 statewide 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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