

# Amendment 59

Colorado Legislative Council Staff  
**FISCAL IMPACT STATEMENT**

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**BALLOT TITLE:** TABOR REBATES AND EDUCATION FUNDING

Fiscal Impact Summary	FY 2008-2009	FY 2009-2010	FY 2010-2011
<b>State Revenue</b> Cash Funds State Education Fund			No TABOR Rebates Anticipated*
<b>State Expenditures</b> Cash Funds State Education Fund		A Portion of State Education Fund Revenue is Credited to the State Education Fund Savings Account	
<b>FTE Position Change</b>	0.0 FTE	0.0 FTE	0.0 FTE
<b>School District Impact:</b> Any changes to funding made by the General Assembly will impact the amount of per pupil funding provided to school districts.			

\* TABOR rebates are not projected to occur until after FY 2011-12.

## Summary of Measure

Amendment 59 changes two sections of the Colorado Constitution that address the funding of public education for preschool through 12th grade (P-12).

**Article IX, Section 17 (Amendment 23).** Amendment 23 contains the following provisions related to this measure:

- ▶ it requires the statewide base per pupil funding and categorical funding to increase by inflation plus 1 percent until FY 2010-11 and by no less than the rate of inflation annually thereafter;
- ▶ it established the State Education Fund to receive state revenue collected from an existing tax of 0.33 percent on federal taxable income;
- ▶ it stipulates that State Education Fund moneys only be spent on the following: funding of public education, categorical funding, accountable education reform, school safety improvement, expansion of preschool and kindergarten programs, and public school building capital construction; and
- ▶ it requires that State Education Fund moneys not be used to supplant General Fund appropriations.

The measure makes two changes to Amendment 23. First, beginning FY 2009-10, it creates a new account within the State Education Fund: the State Education Fund Savings Account. This account will be credited 10 percent of State Education Fund tax revenue and will retain the interest it earns. Money can only be appropriated from the fund by a two-thirds majority vote of each house

of the General Assembly. However, when Colorado's personal income grows less than 6 percent in the prior calendar year, a simple majority is necessary to appropriate the moneys. Moneys may only be appropriated out of the account for the same educational purposes approved for the State Education Fund. When the account balance exceeds 8 percent of the prior year's total General Fund and State Education Fund appropriations, the 10 percent credit of State Education Fund moneys is cancelled.

Second, beginning FY 2009-10, General Fund transfers to the State Education Fund shall not be subject to any statutory limitation on the growth of General Fund appropriations so long as the Senate Bill 97-1 diversion to the Highway Users Tax Fund (HUTF) is fully funded. Finally, beginning in FY 2010-11, the measure credits rebates required as a result of Article X, Section 20 (TABOR rebates), to the State Education Fund.

**Article X, Section 20 (TABOR).** TABOR requires that state revenue above designated state spending limits be rebated to the taxpayers. In 2005, the voters authorized the state to retain all excess revenue for five years through FY 2009-10 and excess revenue up to a capped amount thereafter through Referendum C. Under current law, the state is required to rebate excess revenue above this cap beginning in FY 2010-11. This measure transfers these rebates to the State Education Fund.

### State Revenue

The mechanism to direct TABOR rebate moneys to the State Education Fund does not take effect until FY 2010-11. Current economic forecasts indicate that TABOR rebates are not anticipated prior to FY 2011-12. However, as the economy is ultimately expected to grow faster than TABOR's inflation plus population growth factor, TABOR rebates are expected to be directed to the State Education Fund at some point in the future.

### State Expenditures

The provisions of this measure do not take effect until FY 2009-10. In FY 2009-10, \$45.9 million will be placed in the State Education Fund Savings Account and will not be available for projected spending from the fund. The measure's impact is discussed in the sections that follow.

**Public Education Funding Increases.** With the removal of mandatory growth rates for the funding of public education, the General Assembly *could* fund education at a rate lower than inflation. However, calculation of the state share of public education has historically factored in population growth and inflation. This fiscal note does not anticipate either an increase or decrease in public education funding.

**State Education Fund Savings Account.** Ten percent of State Education Fund tax revenue will be credited to the State Education Fund Savings Account. Table 1 on page 3 shows the growth of this account based on Legislative Council Staff's June 2008 Economic and Revenue Forecast and 4.5 percent return on investments.

<b>Table 1. State Education Fund Savings Account (in millions)</b>			
	<b>FY 2008-09</b>	<b>FY 2009-10</b>	<b>FY 2010-11</b>
State Education Fund Tax Revenue	\$422.2	\$458.8	\$495.5
10% Credit to Savings Account	n/a	45.9	49.6
Interest Earnings	n/a	1.0	3.3
<b>Total to Savings Account</b>	<b>\$0.0</b>	<b>\$46.9</b>	<b>\$52.9</b>
<b>Savings Account Balance</b>	<b>\$0.0</b>	<b>\$46.9</b>	<b>\$99.8</b>

Moneys that are credited to the savings account become available for spending with a bill passed by a two-thirds majority vote or by a majority vote when the prior year's personal income growth is less than 6 percent. As shown in Table 2, projected State Education Fund spending exceeds fund revenue. This fiscal note assumes that the difference will be paid from the fund balance, General Fund, or through other legislative action.

<b>Table 2. Projected State Education Fund Revenue, Expenditures, and Fund Balance (in millions)</b>			
	<b>FY 2008-09</b>	<b>FY 2009-10</b>	<b>FY 2010-11</b>
State Education Fund Tax Revenue	\$422.2	\$458.8	\$495.5
State Education Fund Expenditures	488.1	494.0	584.8
Difference between Revenue and Expenditures	(65.9)	(35.2)	(89.3)
10 % Credit to Savings Account	n/a	45.9	49.6
Difference between Revenue and Expenditures with 10% Credit	(65.9)	(81.1)	(138.9)
State Education Fund Balance*	313.4	303.1	238.5

\* Projected State Education Fund balance is provided for reference and does not include any impact due to the passage of this measure.

**Credit of TABOR Rebates to State Education Fund.** Under the provisions of Referendum C, there can be no TABOR rebates until FY 2010-11. Currently, no TABOR rebates are anticipated prior to FY 2011-12. When TABOR rebates *are* credited to the State Education Fund, more money will be available for public education. The most likely use of these moneys are as follows: to expand public education services, to build the corpus of the State Education Fund, or to replace General Fund spending on school finance.

**Allowable Transfers of General Fund.** Provided that the Senate Bill 97-1 diversion<sup>1</sup> to the HUTF is fully funded, the General Assembly may transfer General Fund moneys to the State Education Fund by bill. These transfers are not subject to the Arveschoug-Bird 6 percent General Fund appropriations limit. The moneys available for transfer are those directed to capital construction and the HUTF through House Bill 02-1310<sup>2</sup>. The current economic forecast estimates the first General Fund excess reserve will be \$4.1 million in FY 2009-10. The economic forecast will continue to be updated quarterly.

**Fully Funding the State Education Fund Savings Account.** Using projected General Fund and State Education Fund appropriations and 4.5 percent interest earnings, the State Education Fund Savings Account will be fully funded in roughly 2023.

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<sup>1</sup>Senate Bill 97-1 diverts 10.355 percent of state sales and use tax revenue from the General Fund to the HUTF.

<sup>2</sup>House Bill 02-1310 allocates one-third of excess General Fund reserve to capital construction and two-thirds to the HUTF.