# SB 24-033

**Legislative Council Staff**

*Nonpartisan Services for Colorado's Legislature*

# Fiscal Note

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| **Drafting Number:** | LLS 24-0388 | **Date:** | February 5, 2024 |
| **Prime Sponsors:** | Sen. Hansen<br>Rep. Weissman | **Bill Status:** | Senate Finance |
| | | **Fiscal Analyst:** | David Hansen \| 303-866-2633<br>david.hansen@coleg.gov |

**Bill Topic:** **LODGING PROPERTY TAX TREATMENT**

**Summary of Fiscal Impact:**

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

The bill reclassifies certain residential properties as lodging property if they are used for short-term rentals more than 90 days per year. On net, the bill decreases state expenditures, increases local property tax revenue, and increases costs for local governments.

**Appropriation Summary:** No appropriation is required.

**Fiscal Note Status:** The fiscal note reflects the introduced bill, recommended by the Legislative Oversight Committee Concerning Tax Policy.

**Table 1**
**State Fiscal Impacts Under SB 24-033**

| | | Budget Year 2024-25 | Out Year FY 2025-26 | Out Year FY 2026-27 |
|---|---|---|---|---|
| **Revenue** | | - | - | - |
| **Expenditures** | General Fund | - | $196,073 | $64,603 |
| | School Finance[1] | - | - | ($50.7 million) - ($79.5 million) |
| | Centrally Appropriated | - | $17,711 | $17,711 |
| | **Total Expenditures** | **-** | **$213,784** | **($50.6 million) - ($79.4 million)** |
| | **Total FTE** | **-** | **1.0 FTE** | **1.0 FTE** |
| **Transfers** | | - | - | - |
| **Other Budget Impacts** | General Fund Reserve | - | $29,411 | $9,690 |

[1] *The state share of school finance may be paid out of the General Fund, State Education Fund, State Public School Fund, or a combination of these.*

## Summary of Legislation

The bill classifies property designed for use as a residence, but that is only used for short-term rentals, as lodging property under the definition of hotels and motels. This excludes bed and breakfasts.

Beginning in the 2026 property tax year, the bill requires that homes not used as primary residences be assessed as lodging property if they were leased for short-term stays more than 90 days during the year, and will be assessed as residential property if they were leased for short-term stays for 90 days or fewer during the year. The bill requires the owner of a property used at least one time per year for a short term stay to annually sign an affidavit with the county assessor noting the number of days the home was used for short-term stays during the previous year.

The Division of Property Taxation in the Department of Local Affairs is required to develop the affidavit form. Additionally, the Division is required to establish and administer a program to develop a statewide database and reporting system that allows an assessor to determine the number of days a home was leased for short term stays.

## Comparable Crime Analysis

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or creates a new factual basis for an existing crime. The following section outlines crimes that are comparable to the offense in this bill and discusses assumptions on future rates of criminal convictions resulting from the bill.

**Prior conviction data.** The bill creates the new basis for perjury by prohibiting giving false information on an affidavit identifying the total number of days during the previous year that a short-term rental unit was leased for short-term stays, a class 2 misdemeanor. To form an estimate of the prevalence of this new crime, the fiscal note analyzed the existing offense of false swearing. From FY 2020-21 to FY 2023-24, 3 individuals have been convicted and sentenced for this existing offense. Of the persons convicted, 1 was male and 2 were female. Demographically, 2 were white and 1 was Hispanic.

Based on the low number of sentences for the comparable crime, the bill is not expected to have a tangible impact on criminal justice-related expenditures or revenue at the state or local levels, these potential impacts are not discussed further in this fiscal note. Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

## State Expenditures

The bill increases state expenditures by about $214,000 in FY 2025-26, before decreasing net state expenditures between $50.6 million and $79.4 million in FY 2026-27 and future years. Expenditures are shown in Table 2 and detailed below.

**Table 2**
**Expenditures Under SB 24-033**

| | FY 2024-25 | FY 2025-26 | FY 2026-27 |
|---|---|---|---|
| **Department of Local Affairs** | | | |
| Personal Services | - | $63,323 | $63,323 |
| Operating Expenses | - | $1,280 | $1,280 |
| Capital Outlay Costs | - | $6,670 | - |
| Computer Programming | - | $124,800 | - |
| Centrally Appropriated Costs[1] | - | $17,711 | $17,711 |
| FTE – Personal Services | - | 1.0 FTE | 1.0 FTE |
| **DOLA Subtotal** | **-** | **$213,784** | **$82,314** |
| **School Finance** | | | |
| State Share of School Finance | - | - | ($50.7 million) - ($79.5 million) |
| **School Finance Subtotal** | **-** | **-** | **($50.7 million) - ($79.5 million)** |
| **Total Cost** | **$0** | **$213,784** | **($50.6 million) - ($79.4 million)** |
| **Total FTE** | **-** | **1.0 FTE** | **1.0 FTE** |

*[1] Centrally appropriated costs are not included in the bill's appropriation.*

**Department of Local Affairs.** The bill is expected to increase General Fund expenditures in the Division of Property Taxation for 1.0 FTE beginning in FY 2025-26 to track and report short-term rental units as required in the bill. Development of a database and system to track short-term rentals will also require a $124,800 one-time computer programming cost in FY 2025-26 for the Office of Information Technology, paid using reappropriated funds from the Department of Local Affairs. The system may require ongoing maintenance costs in later years.

**School finance.** The bill increases property tax collections from school district total program mill levies, allowing an equivalent decrease in the state share of total program funding for school finance. The state aid obligation is expected to decrease between $50.7 million and $79.5 million in FY 2026-27, with similar amounts in future years. The state aid obligation may be paid from the General Fund, the State Education Fund, the State Public School fund, or a combination of these funds.

*Fully-locally funded school districts.* The decrease in the state share of school finance will partially depend on the number of school districts that are fully locally funded in property tax year 2026. Due in part to the rapid increases in residential property and oil and gas values in the past few years, there were 12 fully-locally funded school districts in FY 2023-24, several which are resort communities that have higher concentrations of short-term rentals. Based on the LCS December 2023 forecast, about half of these districts, including Aspen and East Grand, are projected to again receive state aid for school finance, and no longer be locally funded, in FY 2024-25. A forecast of fully-locally funded districts beyond FY 2024-25 is not available.

To the extent that the fully-locally funded districts in the 2026 property tax year are those with a significant number of short-term rentals, the expected decrease in the state share will be less than estimated above.

**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 Table 2.

## Other Budget Impacts

**General Fund Reserve**. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

## Local Government

**Property tax revenue.** The bill increases property tax revenue for local taxing jurisdictions by between $184.5 million and $293.3 million beginning in property tax year 2026, with similar impacts in subsequent years, by assessing homes leased largely for short-term stays as lodging property. Actual impacts depend on the response of short-term rental owners to the bill. Property tax revenue increases are estimated to be smaller if owners choose to list their home for a number of days falling below the threshold in the bill, representing the lower end of the above range. The upper end of the range represents the impact if all owners that are currently renting for more than 90 days per year choose to continue to list for more than 90 days and pay taxes under the higher assessment rate for lodging property.

*Assumptions – properties impacted.* The estimate is based on short-term rental listings by county and for nights rented over the 12 months ending January 2024, based on an analysis by Deckard Technologies. The data encompasses about 74,300 listings in Colorado from several short-term rental listing platforms. Of these, about 27,800 rented for more than 90 days. Based on an analysis of Colorado short-term rental listings from AirDNA, about 93 percent of listings are for entire homes, or an estimated 25,700 listings if applied to listing data from Deckard.

Further, the fiscal note assumes that:

- those that rent for more than 150 days will continue listing rentals for more than 90 days and pay taxes under the higher lodging assessment rate; and
- properties that rent for less than 90 days are assumed to list their rentals for less than 90 days and continue paying tax under the residential assessment rate;
- for properties renting between 90 and 150 days, between 0 percent (upper end of the revenue impact range) and 50 percent (lower end of the revenue impact range) will either quit renting or list for less than 90 days, and the remainder are assumed to list for more than 90 days and pay taxes under the lodging assessment rate.

Combining these assumptions, between 16,500 and 25,700 properties are estimated to be impacted by the bill.

*Assumptions – assessed values.* Based on the affected properties as a percent of 2023 estimated housing units in each county and residential valuation estimates from the LCS December 2023 Assessed Valuation Forecast, residential assessed value for affected short-term rental units will total between $1.2 billion and $1.9 billion in property tax year 2026. After applying the higher assessment rate for lodging properties, assessed value would increase to between $4.9 billion and $7.9 billion.

*Assumptions – property taxes.* Property tax impacts were estimated assuming 2022 weighted average mill levies by county. Property tax revenue is expected to increase for local governments that levy fixed mills that are not constrained by revenue limitations under TABOR or the 5.5 percent property tax growth limit under current law. Local governments where revenue is expected to reach the applicable limit under current law will not experience a revenue increase, as they are assumed to lower their mill levies to continue to collect revenue up to their limit. School finance impacts were estimated using projected total program mill levies in 2026 for impacted school districts under current law. Actual impacts may differ from estimates to the extent that the bill discourages more owners from listing properties as short-term rentals for more than 90 days than anticipated. To the extent that the bill decreases sales prices and subsequent assessed valuations, it will partially offset the increase in local property tax revenue estimated.

The bill may influence other market dynamics, which are not estimated in this analysis. These include the impacts on supply and demand, lodging and home prices, local regulations, tourist activity, and population growth, among other factors.

**School districts.** The bill is expected to increase the local share of school finance, and correspondingly decrease the state aid requirement, for school districts between $50.7 million and $79.5 million for property tax year 2026, as a result of increased property tax revenue from total program mill levies as noted in the State Expenditures section.

**County assessors.** The bill increases expenditures for county assessor to implement the property classification requirements in the bill. County assessors will require more personnel to administer the bill's requirements.

## Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed. The provisions affecting short-term rental unit classification begin with the 2026 property tax year.

## State and Local Government Contacts

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| Counties | Municipalities |
| County Assessors | Property Tax Division - Local Affairs |
| Information Technology | Special District Association |
| Judicial | |

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit: leg.colorado.gov/fiscalnotes.