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Memorandum

August 11, 2021

TO: Members of the General Assembly

FROM: Anna Gerstle, Senior Fiscal Analyst, (303)866-4375

SUBJECT: Financing of Public Schools for Fiscal Year 2021-22

Summary

Three bills were enacted during the 2021 legislative session that substantively impacted the financing of public schools in Colorado:

- Senate Bill 21-268 provided funding for school districts in FY 2021-22, modified the school finance formula, and made administrative and grant program funding changes. It was signed into law by the Governor on June 11, 2021 and took effect on that date.

- House Bill 21-1164 began phasing out the total program mill levy tax credits that were put in place through the enactment of House Bill 20-1418.

- House Bill 21-1325 reestablished the Legislative Interim Committee on School Finance for two disadvantage.

This memorandum summarizes the primary funding changes for school finance which were enacted during the 2021 legislative session. Estimates in this memorandum will be adjusted during the 2022 legislative session through the enactment of the Colorado Department of Education (CDE) supplemental bill, based on actual pupil counts and local property tax collections.

Contents

Overview of School Finance Funding Changes

School Finance Act. The School Finance Act is expected to provide about $8.0 billion in total program funding to school districts in FY 2020-21. The state provides about 61 percent of this amount, or $4.8 billion, while local property and specific ownership taxes are projected to provide about $3.1 billion. For a breakdown of year-over-year funding changes for all school districts in the state, please see:
http://leg.colorado.gov/sites/default/files/images/year_over_year_impact_run_with_1164_in_268_1.pdf

Change from FY 2020-21. School district funding is expected to increase by 10.4 percent, or $750.8 million, in FY 2021-22, compared with the prior year. The change in funding will come from a $127.0 million increase in school district property and specific ownership taxes and a $623.8 million increase in state funding for school finance.

Base per pupil funding. Senate Bill 21-268 established the base per pupil funding amount at $7,225.28, which reflects a 2.0 percent inflation rate increase, as required by Amendment 23.

Statewide average per pupil funding. In FY 2021-22, the statewide average per pupil funding is expected to increase from $8,123 to $8,991, an increase of 10.7 percent, or $868.

Formula changes. SB 21-268 made the following changes to the school finance formula, beginning in FY 2021-22:

- Modified the definition of at-risk pupils by adding those pupils eligible for reduced-price lunch under the federal school lunch program and removing the subset of English language learner (ELL) pupils currently included; and

- Added a new ELL factor to the funding formula for all non-fully proficient ELL pupils. This factor is calculated as 8 percent of preliminary per pupil funding multiplied by ELL enrollment.

Total program mill levies. House Bill 21-1164 requires CDE to phase out the total program mill levy tax credits, by no more than one mill per year, thereby slowly increasing the number of mills levied, until the district reaches their reset mill levy, defined in House Bill 21-1418 and explained below in the total program mill levy section. The bill also requires that any savings in the state share of school finance resulting from phasing out tax credits must continue to be spent on school finance. This increases the local share of school funding by an estimated $91 million in FY 2021-22.

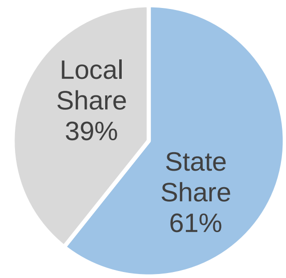
Interim committee. House Bill 21-1325 established an interim committee to study specific issues related to school finance during the 2021 and 2022 legislative interims.

Additional changes. Senate Bill 21-268 made a variety of changes to education-related programs, including technical and administrative changes, and funding changes for a variety of grant and other individual programs and line items. These changes are discussed in the Other Provisions section below.

School Finance Act Funding

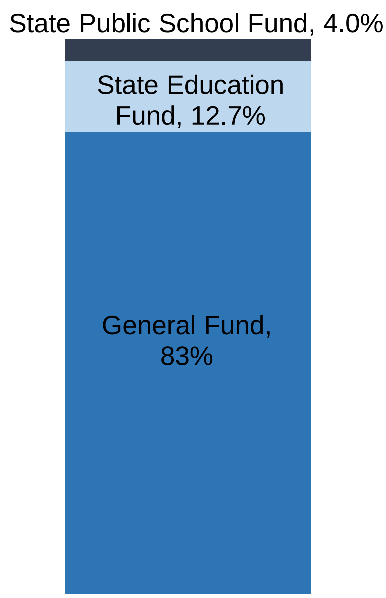
The Public School Finance Act of 1994 is the mechanism through which school districts receive state aid and local funds for operating purposes. In FY 2021-22, the act is expected to provide $8.0 billion to school districts. The state is expected to provide about $4.8 billion (61 percent), while the local revenue sources provide $3.1 billion (39 percent). Figure 1 shows the relative shares for state and local funding.

Figure 1
State and Local Shares, FY 2021-22



Sources of state funding. The General Assembly appropriates money for the state share of school finance from three funds: the General Fund, the State Education Fund, and the State Public Education Fund, as illustrated in Figure 2.

Figure 2
State Share Funding Sources, FY 2021-22
(Total state share is $4.8 billion)



Source: Joint Budget Committee Staff and Legislative Council Staff.

General Fund. The General Fund is the primary source for state aid to schools, accounting for 83 percent of the state share, or $4.0 billion, in FY 2021-22.

State Education Fund. The State Education Fund provides the next largest share at 13 percent, or $614.4 million. This fund was created by Amendment 23 and receives a portion of state income tax. Money in the fund can only be spent for certain educational purposes specified in the state constitution. The SEF also receives an allocation of funding from cigarette and tobacco tax revenue.

State Public School Fund. The State Public School Fund provides the remaining 4 percent, or $193.3 million, in FY 2021-22. This fund consists of interest earned by the Public School Fund and federal mineral leasing revenue dedicated by state law for public education.

Base Per Pupil Funding

Amendment 23 requires that the General Assembly increase the statewide base per pupil funding amount by at least inflation for FY 2020-21. Inflation for calendar year 2020 was 2.0 percent, and Senate Bill 21-268 increased the statewide base by this amount, from $7,083.61 in FY 2020-21 to $7,225.28 in FY 2021-22. The statewide base is the dollar amount to which each district's size, cost of living, and personnel costs factors is applied, in order to determine the district's per pupil funding. An increase in the statewide base also triggers an increase in per pupil funding provided to districts for students enrolled in online or extended high school. These amounts increase by the same percentage as the statewide base, or 2.0 percent, in FY 2021-22. As a result, online and extended high school per pupil funding increased from $8,541 in FY 2020-21 to $8,712 in FY 2021-22. After the application of the budget stabilization factor, this per pupil funding amount will be $8,130 in FY 2021-22.

At-Risk Funding and ELL Factor

Senate Bill 21-268 made two changes to the school finance formula, beginning in FY 2021-22. Table 1 lists the number of pupils and the cost of each factor change.

At-risk definition. The bill modified the definition of at-risk students for whom districts receive additional funding. Beginning in FY 2021-22, at-risk students are defined as those pupils eligible for free or reduced-price lunch under federal school lunch program. Prior to FY 2021-22, the definition included students only eligible for free lunch, as well as a subset of ELL pupils. The change increases the number of students counted as at-risk by 56,541, and increases the cost of school finance by $69.3 million in FY 2021-22.

ELL factor. SB21-268 added a new ELL factor to the funding formula for all non-fully proficient ELL pupils. The factor is calculated as 8 percent of each district's preliminary per pupil funding, multiplied by the district's ELL enrollment. In FY 2021-22, this new factor provides funding for 66,014 ELL pupils, increasing the cost of school finance by $47.8 million.

Table 1
Formula Changes Under SB 21-268

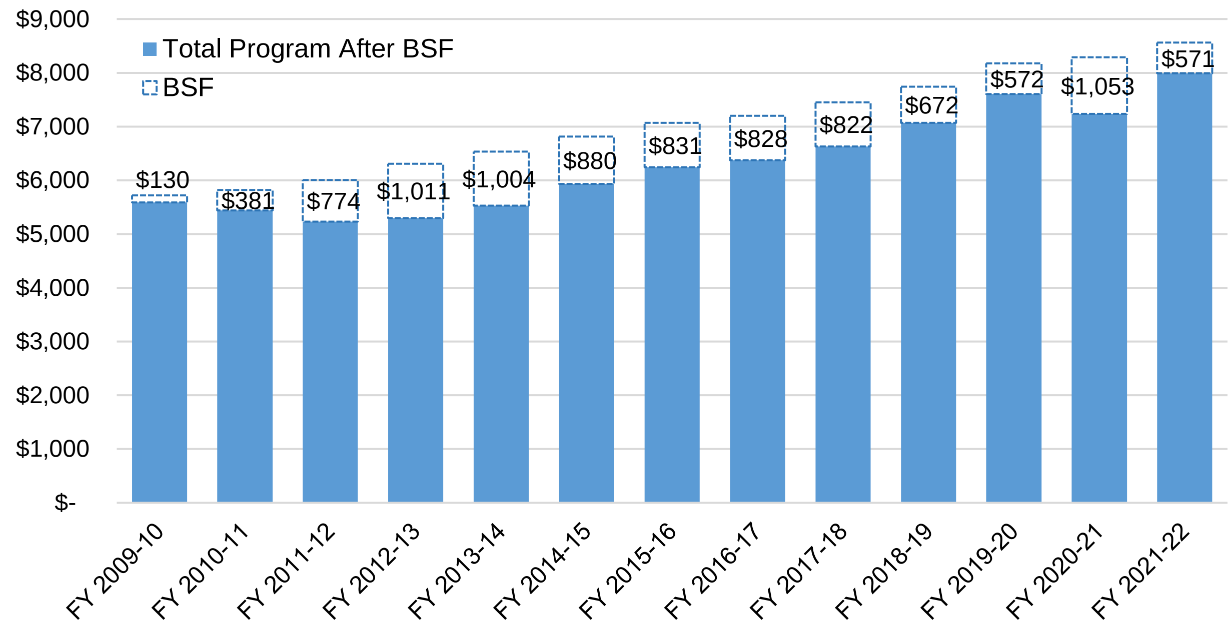
	FY 2021-22 Funded Pupils			
	Prior to SB 21-268	**Under SB 21-268**	**Change**	**Total Cost**
At-Risk Definition	307,452	363,993	56,541	$69,256,870
ELL Factor	-	66,014	66,014	$47,838,399
Total			**122,555**	**$117,095,269**

Budget Stabilization Factor

The school finance act includes a budget stabilization factor that reduces the amount of state aid allocated to school districts based on the available state revenue and other budget priorities set by the General Assembly. The budget stabilization factor reduces total program funding by a specific percentage; for FY 2021-22, it is set to reduce each school district's total program funding by 6.7 percent, which amounts to an overall reduction in state aid of $571.2 million; the local share of school finance is not impacted. Without the budget stabilization factor, school finance funding would have been about $8.56 billion in FY 2021-22.

For FY 2021-22, the budget stabilization factor decreased by $481.4 million compared to FY 2020-21. Figure 3 illustrates the level of total program funding and the budget stabilization factor for all school districts since it was implemented in FY 2009-10.

Figure 3
Total Program Funding After the Budget Stabilization Factor
Dollars in Million



Source: Joint Budget Committee Staff and Legislative Council Staff.
BSF = Budget stabilization factor.

The budget stabilization factor is generally the product of two separate policy decisions by the General Assembly. First, the Long Bill requires that the budget stabilization factor be established to determine an initial appropriation for state aid under the school finance act. The final budget stabilization factor is then set in the school finance bill, which adjusts the appropriation for state aid accordingly.

Under provisions of Senate Bill 21-268, the value of the budget stabilization factor in FY 2022-23 cannot exceed the FY 2021-22 level of $571.2 million. This is expected to increase overall funding by $224.9 million, and raise per pupil funding by $297, as a result of required inflationary increases and the projected change in enrollment. These changes will be reflected in the 2022 Long Bill, but the General Assembly may adjust this amount up or down in the 2022 school finance bill or other legislation.

Example of budget stabilization factor application. Calculation of funding for an individual school district begins with the district's total program funding level as determined by the statutory school finance formula. The budget stabilization factor is then applied to implement a specific percentage reduction in funding. Table 2 illustrates how the budget stabilization factor reduces funding for two school districts in FY 2020-21. The budget stabilization factor reduces funding for the Greeley and Hinsdale school districts by 6.7 percent, which decreases state aid for Greeley by $14.4 million and Hinsdale by $126,463. The local share is unaffected by the budget stabilization factor.

Table 2
Example of Budget Stabilization Factor Applications

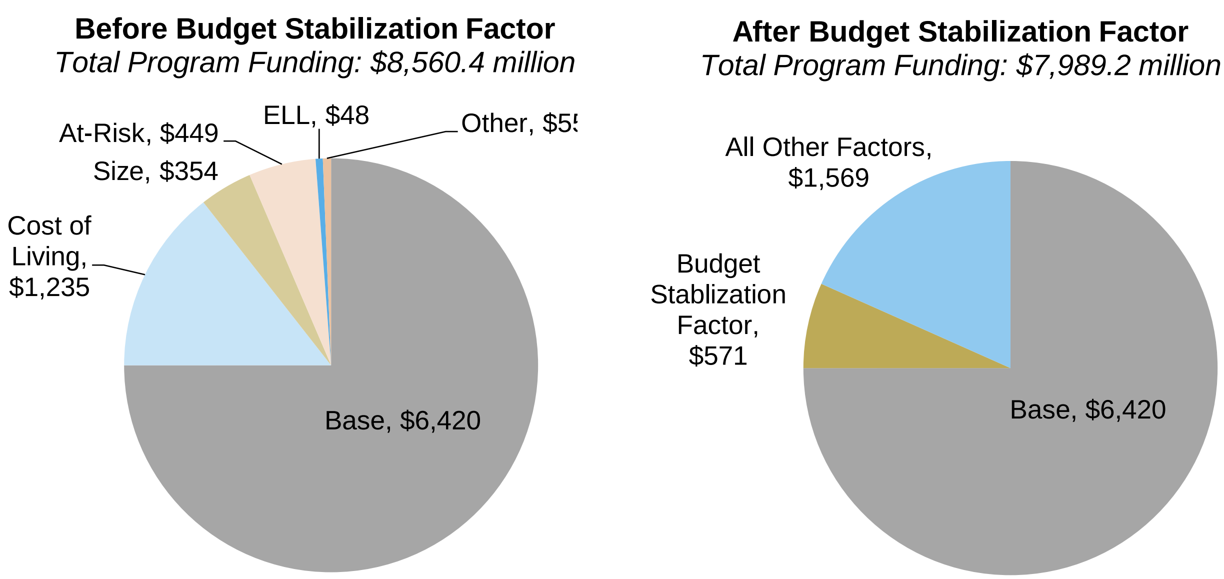
	Before BSF			After BSF	
School District	**Total Program**	**State Share**	**BSF (6.67%)**	**Total Program**	**State Share**
Greeley	$215,707,839	$155,324,977	($14,410,415)	$201,297,424	$140,914,563
Hinsdale	$1,893,455	$856,978	($126,493)	$1,766,962	$730,486

For some districts with limited state aid, the budget stabilization factor percent reduction may be less than 6.7 percent. Estes Park and Pawnee are the districts in this situation in FY 2021-22.

Contribution of Formula Factors

Figure 4 shows the allocation of funding through each factor in the school finance formula before the application of the budget stabilization factor, and the addition of the budget stabilization factor. Because the General Assembly cannot decrease base per pupil funding, the budget stabilization factor has the effect of reducing the funding attributed to the other formula factors.

Figure 4
Formula Factors
Dollars in Millions



Total Program Mill Levies and Mill Levy Credits

Background. House Bill 20-1418 reset the number of property tax mills levied for school funding (total program mill levy) for school districts that have obtained voter approval to retain revenue above the constitutional limit. Specifically, the mills were reset to the lesser of 27 mills or the level they were at when the district obtained voter approval, with any subsequent adjustments that would have occurred ("reset mill levy"). The bill's legislative declaration stated that the Colorado Department of Education had erroneously reduced the mill levies for districts, even though voters had approved retaining revenue above the constitutional limit.

HB 20-1418 also required districts to establish a tax credit for the difference between the reset mills and number of mills levied in tax year 2019. As a result, the bill did not change the amount of property tax collected in that year.

House Bill 21-1164. House Bill 21-1164 requires CDE to phase out the tax credits, by no more than one mill per year, thereby slowly increasing the mill levies paid, until the district reaches their reset mill levy. The bill also requires that any savings in the state share of school finance resulting from phasing out tax credits must continue to be spent on school finance.

Supreme Court ruling. Before the passage of HB 21-1164, the General Assembly asked to Supreme Court to rule on whether the bill was constitutional, including whether phasing out the tax credits required voter approval under the Taxpayers Bill of Rights (TABOR). The Supreme Court ruled that HB 21-1164 is constitutional because "school district voters previously approved waivers of the applicable TABOR limits". The ruling also states that "in House Bill 1164, the General Assembly seeks to eliminate the tax credits at issue simply to effectuate what the voters had previously authorized…the court perceives nothing in TABOR requiring further voter approval."

Fiscal impact of HB 21-1164. In FY 2021-22, the bill is expected to provide an additional $91.7 million in property tax revenue to fund the local share of total program; however, it will not affect the required state aid contribution for total program, as state aid may not be reduced to offset any increased local revenue from the reduction of the tax credits as long as the budget stabilization factor remains in place.

Categorical Programs

Categorical programs provide funding for specific educational purposes. Amendment 23 defines certain programs, including special education and pupil transportation, among others, as categorical programs and requires that state funding for these programs in the aggregate increase by at least inflation in FY 2021-22. Generally, funding for categorical programs is contained in the Long Bill, and substantive changes to the administration and financing of categorical programs are contained in other legislation.

Table 3 shows the FY 2021-22 state appropriation for categorical programs. Note that some of these programs, such as special education and English language proficiency, receive federal funds in addition to the amounts shown in Table 3.

Table 3
Appropriations for Categorical Programs
Dollars in Millions

Categorical Program	FY 2020-21 Appropriation	FY 2021-22 Appropriation	Change from Prior Year	Percent Change
Special Education	$206.2	$220.2	$13.9	6.8%
English Language Proficiency	$24.1	$25.3	$1.2	4.8%
Transportation	$61.6	$62.8	$1.2	1.9%
Vocational Education	$27.8	$28.2	$0.5	1.7%
Gifted and Talented	$12.8	$13.0	$0.2	1.2%
Expelled & At-Risk Student Services	$9.5	$9.5	$0.0	0.0%
Small Attendance Centers	$1.3	$1.3	$0.0	0.0%
Comprehensive Health Education	$1.1	$1.1	$0.0	0.0%
Total	**$344.5**	**$361.4**	**$16.9**	**4.9%**

Source: FY 2021-22 Appropriations Report, Joint Budget Committee Staff.
Numbers may not sum due to rounding.

Interim Committee Under HB 21-1325

HB 21-1325 established the legislative interim committee on school finance to meet during the 2021 and 2022 interims. The committee must contract for a study analyzing measures of student economic disadvantage and must consider the following topics:

- how to modernize the formula to make it more transparent, equitable, and student-centered;
- whether the current method for identifying at-risk pupils is an appropriate, accurate method;
- whether to redesign funding allocation based on district cost-of-living and personnel costs to only significantly high cost districts;
- the appropriate method to address small, remote, and rural school district funding;
- funding equity related to total program mill levy and mill levy overrides;
- alternative educator support for districts teaching kindergarten through second grade students;
- benefits and challenges of incorporating special education services into the formula; and
- a program to support students by incentivizing voter approval for MLOs in low property wealth districts by providing a state match for MLO revenue, beginning in FY 2022-23.

Other Provisions of Senate Bill 21-268

Total Program Reserve Fund. SB 21-268 makes two technical clarifications to provisions in Senate Bill 21-053, the school finance midyear adjustment bill, to allow districts nearly or fully locally funded to access the balance of their Total Program Reserve Fund in conjunction with calculating COVID-19 mitigation funding.

Administrative changes. SB21-268 made the following administrative changes to education policies and programs:

- allows the State Board of Education (SBE) to take action on a license, authorization, certificate, or endorsement if an educator is convicted of an offense, committed on or after the bill's effective date, in another state or under federal law that is substantially similar to a felony drug offense described in Colorado law;

- allows the accreditation contracts entered into between the SBE and school districts and the Charter School Institute (CSI) at the beginning of FY 2021-22 to be for an 18-month term, rather than a 12-month term;

- modifies deadlines related to transportation reimbursement;

- changes the time period during which an alternative count day may be established to within 45 school days of the first day of school, rather than 45 calendar days after the official count date;

- allows districts to carry over more than 15 percent of FY 2020-21 READ Act per pupil intervention funds for use in FY 2021-22;

- allows a district that operated preschool program in the 2019-20 school year with a waiver to serve children under age three to continue to use the same number of slots as were used in 2019-20 for children under three years who have multiple significant family risk factors;

- continues the modified district budget deadlines and notice requirements for the 2021-22 budget year only. Districts must submit a proposed budget by June 23, provide notice by June 25, and certain provisions are triggered if a budget is not adopted by June 30; and

- makes a technical correction to the definition of public body as it relates to open meetings, changing "school board" to "school district".

Charter school at-risk funding. The bill continues provisions that allow a charter school that switches authorizers to receive at-risk funding based on the formulas that applied prior to the change in authorizer. Innovation schools. The bill specifies that a local school board may not review or make changes to an existing innovation school or innovation school zone the 2020-21 school year, and may not make revisions to an existing innovation school or zone plan that have not been approved prior to the bill's effective date.

ELL professional development and student support. The bill eliminates the $27.0 million appropriation for the ELL Professional Development and Student Support Program.

Services for at-risk students. The bill modifies programs for students who are at risk of suspension or expulsion to instead apply to students who are at risk of dropping out due to chronic absenteeism and disciplinary issues. It specifies the supports that districts may provide to those students, including that the district may contract with other government agencies to provide training and support to employees who support those students. The bill also modifies the application requirements, review criteria, and report components for the Expelled and At-risk Students Services Grant Program.

BOCES schools. During FY 2021-22, a Board of Cooperative Educational Services (BOCES) must obtain written consent from a school district before authorizing a school or an additional location of an existing school that is physically located within the boundaries for that district, provided the school district is not a member of the BOCES. This requirement does not apply to a school operating prior to the bill's effective date, as long as the school continues to operate during the 2021-22 school year.

CSI mill levy equalization. The bill provides an additional $2.0 million for mill levy equalization payments to CSI schools geographically located in school districts with mill levy overrides.

Audit payments. The bill appropriates $400,000 to be used by CDE for school finance audit payments.

Imagination library program. The bill requires that the state appropriate money from the General Fund for the state's share of the cost of free books for eligible children through the imagination library program, with the intent of fully funding the program by 2026. The bill also modifies the program to:

- establish a deadline of December 31, 2021, for the state librarian to contract for the operation of the program;
- aligns the program's public awareness campaign with the READ Act;
- requires an independent evaluation of the program;
- requires a fund for gifts, grants, and donation to help county-based affiliate programs with financial difficulty.

Funding for grant programs. SB21-268 restores or provides additional funding for the following programs:

- $800,000 for the 9th Grade Success Program;
- $375,807 for the School Leadership Pilot Program;
- $280,730 for the Accelerated College Opportunity Exam Fee Program;
- $250,000 for the John Buckner Automatic Enrollment in Advanced Courses Grant Program;
- $2,500,000 for the K-5 Social Emotional Health Pilot Program;
- $493,907 for the Local Accountability Systems Grant Program;
- $3,000,000 for the Behavioral Health Care Professionals Grant Program; and
- $1,750,000 in federal American Recovery Plan Act (ARPA) funds for the Concurrent Enrollment and Innovation Grant Program;
- $1,750,000 in federal ARPA funds for the Career Development Success Program;
- $2.0 million for the School Counselor Corps Grant Program and removes the cap on funding for the program, currently set in statute at $10.0 million.