RECOMMENDATIONS FOR 2006

INTERIM COMMITTEE ON SCHOOL FINANCE

Report to the
Colorado General Assembly

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COLORADO GENERAL ASSEMBLY

LEGISLATIVE COUNCIL

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To Members of the Sixty-fifth General Assembly:

Submitted herewith is the final report of the Interim Committee on School Finance. This committee was created pursuant to Senate Joint Resolution 05-047. The purpose of the committee is to study the funding for students in public schools statewide.

At its meeting on November 15, 2005, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills herein for consideration in the 2006 session was approved.

Respectfully submitted,

/s/ Senator Joan Fitz-Gerald
Chairman

TABLE OF CONTENTS

PAGE

http://www.state.co.us/gov_dir/leg_dir/lcsstaff/2005/05interim.htm

Recommended Bills and Fiscal Notes

Interim Committee on School Finance

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EXECUTIVE SUMMARY

Committee Charge

Pursuant to Senate Joint Resolution 05-047, the Interim Committee on School Finance was charged with studying the funding for students in public schools statewide, analyzing the needs of public school facilities throughout the state, and determining funding factors and formulas that should be adopted to ensure that all students in public schools in the state are receiving a thorough and uniform education in a safe and effective learning environment. The committee was directed to consider issues including, but not limited to:

- the impact of recent education reforms on the ability of school districts and the state to meet their legal and constitutional obligations with respect to public education;
- whether there are any legislative or constitutional barriers working in concert with the current school finance act that have created difficulties for school districts or the state to meet their obligations;
- the components of a new school finance act that would maximize the ability of school districts and the state to meet their constitutional obligations;
- whether the current system by which school districts pay for capital facility needs is thorough and uniform;
- whether the state needs to adopt state standards for public school facilities; and
- the methods by which school districts account, under the chart of accounts, for the allocation of moneys to the schools within the districts.

A 16-member School Finance Task Force was appointed to assist the committee in its work. The task force was directed to attend meetings of the committee, make presentations, and provide written and oral comments and other relevant data to the committee.

Committee Activities

The committee held six meetings during the 2005 interim. The first meeting was held jointly with the School Finance Task Force. At this joint meeting, task force members and legislative staff provided an overview of school finance within a national context, reviewed the history of the current school finance law, and examined Colorado judicial guidance and rulings on school finance. Representatives of the task force further provided perspectives concerning adequate education funding and mandates for universal student proficiency.

The joint meeting of the committee and task force culminated in the issuance of a committee charge to the task force. Following the joint meeting, the task force met separately to prepare its report to the committee; however, many task force members continued to attend and provide information at the committee's subsequent meetings as requested. The task force presented a final report to the committee that included its guiding principles, recommendations, and a review of potential revenue sources and issues for consideration by the General Assembly.

The committee's remaining five meetings included a variety of presentations by staff and by representatives of the Colorado Department of Education, the task force, and other interested parties. These presentations provided background information for the committee and raised issues for its consideration. The presentations and discussions covered many areas pertaining to funding, including: factors impacting the state and local share of K-12 funding; components of a new school finance act; school districts' ability to meet state and federal mandates; state categorical funding; and K-12 capital construction needs.

Factors impacting the state and local share of K-12 funding. The committee was briefed by staff and heard testimony regarding factors that impact K-12 funding in Colorado, some of which have led to a growing state share of funding under Colorado's school finance act. Task force members and representatives of school districts described issues that arise out of various constitutional and statutory provisions. Discussion included constitutional limits on property tax growth, declining local mill levies, and the effects of a two-year reassessment cycle. Committee discussion also recognized various contextual factors, including the recent economic downturn and requirements for increased funding under Amendment 23. In the midst of testimony on funding factors, the committee heard a presentation on the plaintiffs' case in *Lobato v. the State of Colorado*, which asks the court to issue an injunction against the current K-12 funding system. The Office of the Attorney General subsequently briefed the committee on the state's response to the lawsuit.

Components of a new school finance act. As a result of its study, the task force recommended revising the current school finance act, increasing education spending, and examining adjustments to base per pupil funding. More specifically, it advocated identifying a higher level of base funding to allow school districts to meet accountability standards. The task force outlined recommendations for determining an adequate base funding level and for adjusting base funding appropriately based on specific factors and categorical programs.

Mandates and impacts on local school districts. The committee heard testimony from representatives of school districts regarding the impact of state and federal mandates. Some suggestions for increased funding stemmed from new expectations and accountability measures under the Colorado Student Assessment Program (CSAP), the state accreditation system, and the federal No Child Left Behind (NCLB) Act. The discussion recognized the funding shortfall that many school districts experience when trying to meet requirements with current levels of state categorical funding and limited federal funds. Members of the task force and school district representatives testified that any school funding formula must continue to take into account school district services for special populations such as special education students, English language learners, and at-risk populations.

Capital construction needs. Representatives of local school districts, the task force, and an education foundation recommended that the committee consider ways to increase funding for school districts' capital construction needs, particularly to address conditions and factors that directly impact health and safety in schools. Presentations and resources provided to the committee reviewed the current system for funding capital needs through grants and loans, examined the history and current context for capital construction funding, and highlighted specific needs brought to light in a recent nonprofit study. The task force recommended that funding for capital needs ensure "safe and effective learning environments" for all Colorado students and that such funding be based on school districts' needs, relative wealth, and local effort.

The Interim Committee considered and approved six legislative proposals based on these suggestions. Five of the proposals were approved by the Legislative Council.

Committee Recommendations

Bill A — Special Education Funding. Special education funding was a topic of discussion at several committee meetings. Committee members, task force members, and staff discussed the current method of funding special education and the impact on school districts of high-cost special education students. Representatives of small districts in particular noted that educating one or two high-cost special education students may require a large portion of the district's total budget. Bill A addresses special education funding through two major provisions. First, it would phase in, over five years, a uniform statewide funding amount per special education pupil, without causing an administrative unit to receive less state special education funding than it received in the 2005-06 budget year. Next, the bill requires the General Assembly to designate annually a portion of the amount appropriated for special education programs to be distributed to administrative units as reimbursement for up to 50 percent of tuition costs for special education students who are placed by court order or by a public agency in an approved facility and for up to 50 percent of special education costs incurred above a threshold amount to be determined by the State Board of Education. The Department of Education's administrative costs are expected to be offset because it is authorized to withhold a portion of moneys designated for distribution to eligible administrative units.

Bill B — Local Revenues for Full-Day Kindergarten. Discussion of kindergarten was a part of several committee meetings. In addition, the task force recommended in its final report to the committee that all kindergarten students be funded for a full-day program. Bill B addresses this issue by allowing school districts, upon voter approval, to impose an additional mill levy to fund an additional half day of kindergarten. In addition, the bill allows the school district to ask voters to approve an additional mill levy of a stated amount and limited duration to fund capital construction needs associated with full-day kindergarten. The bill precludes a school district that imposes the additional mill levy from participating in the full-day kindergarten component of the Colorado Preschool Program. The bill also allows a school district that funds a portion of its full-day kindergarten program with an additional mill levy to charge tuition to out-of-district students enrolled in the locally funded portion of the full-day kindergarten program. The bill is assessed as having no state fiscal impact.

Bill C — State School Lands. Bill C addresses concerns brought to the committee by the Colorado School Land Trust Steering Committee as well as recommendations from the task force, the Department of Treasury, and the State Land Board. The bill requires that all moneys earned from the management of state school lands and from interest on the Public School Fund be deposited into the Public School Fund and treated as principal until the value of the fund reaches $2.35 billion. An exception is provided: if state personal income grows less than four and one-half percent in any year, current provisions for expenditures of up to $19 million of interest earned on the fund and up to $12 million of proceeds received for mineral leases, land surface leases, and timber sales apply. The bill also gives the State Treasurer authority to invest in equities and modifies how a loss is calculated. An appropriation from the General Fund in FY 2006-07 is required to supplant moneys retained in the Public School Fund under Bill C.

Bill D — Technical Revisions to Charter School Funding. Concerns about ambiguity in several statutory sections addressing charter schools prompted the recommendation of Bill D. The bill makes technical changes clarifying and relocating statutory provisions for the funding of institute and district charter schools. The bill is assessed as having no fiscal impact.

Bill E — Study of a P-16 Education System. The committee heard testimony regarding a P-16 education system, which refers to an integrated system of education spanning early childhood education through higher education. Major goals of a P-16 system, according to task force representatives, include expanded access to preschool programs and increased efforts toward closing the achievement gap. Bill E establishes a legislative oversight committee and a P-16 council to study and make legislative recommendations pertaining to a P-16 education system. The bill is assessed as having a conditional state fiscal impact for staff support and per diem and expenses for members of the legislative oversight committee.

STATUTORY AUTHORITY AND RESPONSIBILITIES

Recognizing a philosophical shift in public education from universal access to universal proficiency, as well as the impact of numerous state and federal mandates, the General Assembly adopted Senate Joint Resolution 05-047 to study the financing of public schools. Pursuant to the resolution, the Interim Committee on School Finance was charged with studying the funding for students in public schools statewide, analyzing the needs of public school facilities throughout the state, and determining funding factors and formulas that should be adopted to ensure that all students in public schools in the state are receiving a thorough and uniform education in a safe and effective learning environment. The committee was directed to consider issues including, but not limited to:

- the impact of recent education reforms on the ability of school districts and the state to meet their legal and constitutional obligations with respect to public education;
- whether there are any legislative or constitutional barriers working in concert with the current school finance act that have created difficulties for school districts or the state to meet their obligations;
- the components of a new school finance act that would maximize the ability of school districts and the state to meet their constitutional obligations;
- whether the current system by which school districts pay for capital facility needs is thorough and uniform;
- whether the state needs to adopt state standards for public school facilities; and
- the methods by which school districts account, under the chart of accounts, for the allocation of moneys to the schools within the districts.

A 16-member School Finance Task Force was appointed to assist the committee in its work. The task force was directed to attend meetings of the committee, make presentations, and provide written and oral comments and other relevant data to the committee. The final report of the task force is included as an appendix to this report.

Pursuant to the resolution, the task force consisted of:

- two school district chief executive officers and two school district chief financial officers, representing large, medium, and small districts;
- a representative of the Colorado Department of Education;
- a member of the State Board of Education;
- an expert in school finance with national experience;
- two members of school district boards of education, representing a large and a small school district;
- a representative of a statewide school board association;
- a member of the business community;
- a representative of an organization in Colorado that is studying school finance;
- a representative of a charter school;

- a public school teacher;
- a representative of a statewide teachers' association; and
- a parent of a child in a public school.

Committee Activities

The committee held six meetings during the interim, including one held jointly with the School Finance Task Force established through Senate Joint Resolution 05-047. The committee's meetings included briefings from the Department of Education and legislative staff, as well as representatives of the task force, school districts, educational nonprofit organizations, and academia. Discussions focused on the components of the current school finance act and future funding needs.

Committee members solicited ideas from the task force, department personnel, and others who provided testimony and discussed the potential for constitutional, statutory, and policy changes. In addition, the committee received formal recommendations from the task force through a final report. While some of the legislation considered by the committee was based on suggestions provided by the task force or through testimony, the impetus for other bills came from committee members.

Following is a summary of committee discussions, including a review of conversations that led to legislation.

Background and History of Colorado School Finance

A national perspective. The first committee meeting, held jointly with the task force, included presentations on the background and history of school finance. A nationally recognized expert on school finance, who also served on the task force, provided an historical overview of school finance from a national perspective. He described the evolution of school funding across the country, which saw a recognition by the beginning of the 20th century, that the level of educational services, spending, and wealth varied greatly across school districts, leading to formulas to equalize funding. More recent developments have included taxing and spending limitations imposed by states, the establishment of funding systems for students with special needs, and implementation of standards-based reform. The presentation noted recent discussions in other states concerning how best to measure the fiscal capacity of school districts, address costs for capital and transportation, determine how to fund charter schools, and identify "at-risk" students. The overview also covered the evolution of school finance litigation from federal constitutional questions of access and equity to state constitutional questions of adequacy.

Evolution of school finance law in Colorado. Legislative staff briefed the committee on the history of Colorado's school finance act and on the case law and judicial guidance that impact Colorado's school funding system. A review of the evolution of and circumstances around Colorado's three most recent school finance laws highlighted the distinguishing characteristics and results of each act. Whereas Colorado's 1973 act guaranteed the revenue-raising capability of a mill and recognized the need to increase funding for lower spending districts, the 1988 act categorized districts for funding purposes and implemented a uniform mill levy. Colorado's current act, enacted in 1994, is recognized for implementing a base funding level for each student, recognizing the costs associated with at-risk students, and attempting to address other costs that cannot be controlled by school districts. A legislative staff attorney reviewed the rulings and guidance of the Colorado Supreme Court on Colorado's system of school funding. This discussion provided the committee with the court's interpretations of Colorado's constitutional mandates for a "thorough and uniform system of free public schools" and for local control of instruction.

Determinations of Adequacy in School Funding

The committee discussed and heard testimony on issues surrounding adequacy in K-12 funding. Much of the discussion focused on how much funding school districts need to meet state and federal mandates for student achievement and how best to serve special needs students. The committee heard that Colorado's relative wealth appears to be at odds with its rank in spending on K-12 education, which is in the bottom third in most studies. Although consensus was not reached on a base funding amount sufficient to achieve adequacy, there was some agreement that current funding levels are inadequate.

Determining adequacy. The Colorado School Finance Project, which performed an adequacy study in 2002, described its methodology and conclusions to the committee as well as its efforts to continue to update the 2002 work. The project defined an adequate education as one that fulfills state and federal expectations with respect to student performance, including requirements set by state accreditation, model content standards, and the federal No Child Left Behind Act (NCLB). A number of parameters were specified in the study in order to estimate the cost of adequacy in funding including:

- a base cost figure to be revised in the future based on changes in inflation and changes in student performance expectations under the state's plan to implement NCLB;
- a formula to adjust the base cost relative to district size and cost of living; and
- a series of formulas to set student weights for special education, for students from low-income families, and for English language learners.

The committee learned that two different base amounts were reached in the study. The first used a *successful schools* model to examine the basic amount spent today by school districts who already meet state standards. The second used a *professional judgement* model to estimate the cost of providing resources necessary to assure that the average student attending school in an average school district can meet state and federal objectives. The professional judgement model helps estimate the additional costs of providing services to students with special needs, at-risk students, and English language learners. This model also considers how costs can vary with the size of a school district. The presentation of the two models focused largely on the methodology used in the two approaches, rather than projections for a base amount.

Additional testimony around adequacy in funding prompted committee discussion on how Colorado compares with other states in K-12 funding. The committee heard that Colorado is approximately $700 per student below the national average.

School district perspectives. The committee heard testimony outlining the challenges faced by both small and growing school districts. A representative of a small school district described challenges including the impact of one or two high-cost special needs students on the district's budget; limited bonding capacity; the burden of reporting requirements for districts with very limited administrative staff; and relatively high per student transportation, food services, and maintenance costs.

A representative of a growing school district described issues his district faces, noting that tax rates and wealth differences in districts have a great impact, and that both high growth and declining enrollment districts face unique challenges. He told the committee that his district is challenged with providing services for students who do not meet state proficiency standards, including special education students.

Legal challenges based on adequacy in funding. The committee discussed the evolution of legal challenges to state school finance systems. The committee learned that in the 1960s, parents and taxpayers began suing states over equity of school funding systems. In response, states began to modify their systems to address the special circumstances faced by school districts including special needs and low-income students. Beginning in the 1970s, tax and spending limitations began to impact school finance. More recently, states began to look at standards-based reform in response to school finance lawsuits. These reforms changed the role of the state and set new expectations for student performance and for accountability. The passage of NCLB in 2001 continued the shift away from issues of "equity" to issues of "adequacy." New lawsuits were based on whether funding was adequate to meet state and federal mandates.

The committee heard from the plaintiffs' attorney in a recently filed lawsuit, *Lobato v. the State of Colorado.* Areas of committee discussion included existing constitutional constraints and the interplay of The Taxpayer's Bill of Rights (TABOR), the Gallagher Amendment, and Amendment 23; property tax issues; funding of special needs students; assessment of proficiency; and the possibility of a state analysis of funding needs.

Task force recommendations relating to adequacy in funding. The task force's final report contains a discussion of adequacy in the context of its recommendation to revise the school finance act, significantly increase education spending, and examine the adjustments to base per pupil funding. The report states that the base funding amount should provide adequate resources to allow school districts to meet local, state, and federal academic accountability standards. The task force indicates in its report that it discussed several ways the General Assembly could calculate how much additional revenue is necessary for per pupil funding to be termed "adequate."

Committee recommendations. In response to discussion surrounding adequacy in funding, the committee proposed Bill B, which allows school districts, with voter approval, to impose an additional mill levy to fund an additional half day of kindergarten for students. In addition, the bill authorizes a school district to ask voters to approve an additional mill levy to fund capital construction needs associated with full-day kindergarten. The bill precludes a school district that imposes the additional mill levy from participating in the full-day kindergarten component of the Colorado Preschool Program.

The committee also recommended a bill to add to a school district's per pupil funding a proficiency adjustment. The adjustment would provide supplemental funding to assist school districts in meeting the proficiency standards in state and federal law. The bill was not approved by the Legislative Council.

Tax Issues and Constitutional Constraints

Overview. Legislative staff provided an overview of school district property tax issues for the committee. The committee learned that approximately 53 percent of all property taxes, a total of over $2.5 billion, are collected by school districts. In fiscal year 2003-04, school districts received 50 percent of their revenue from local sources, 73 percent of which came from property taxes. In discussion about the evolution of the mill levy, it was noted that, under a 1988 law, a uniform mill levy drove state aid. Currently, however, mill levies for school districts vary widely, from a low of 2.725 to a high of 40.080.

Committee discussion recognized that decreases in the local share of school finance funding correspond with increases in the state share. Each percentage point increase in the state share represents a $44 million shift from local taxes to state taxes without any increase in per pupil funding.

Constitutional limitations on mill levies. Committee discussion recognized the constitutional limitations on school district mill levies. Prior to the passage of TABOR, individual district mill levies were set so as to make property tax rates for schools equitable across district lines, resulting in a statewide mill levy of approximately 40 mills, with some exceptions. Since TABOR, increases in property value beyond the allowable limit act to lower the mill levy for the district in which the increase occurs. As a result, school districts may end up with very different mill levies.

The committee also discussed the impact of the Gallagher Amendment on school finance. The Gallagher Amendment requires the residential assessment rate to be adjusted each year there is a statewide revaluation of property; however, TABOR prohibits any increase in an assessment rate without prior voter approval. Thus, TABOR prevents any increase in the residential assessment rate that would occur under the Gallagher Amendment, unless it is approved by the voters.

Property tax issues and mill levies. Legislative staff provided examples of school districts that have experienced declining mill levies due to rapid increases in property values from one year to the next. The committee's discussion took into account the impact of the two-year reassessment cycle and property tax limitations imposed by TABOR. In this context, staff noted three specific reasons that a school district's mill levy may decline.

- New construction – unlike other local governments, which include new construction in calculating the property tax revenue limit, school districts use enrollment growth; therefore, school districts rarely realize property tax revenue gains from significant new construction in the district. Instead, the mill levy is effectively pushed down by new construction unless the district sees a proportionate increase in school enrollment.

- Oil and gas values – districts that rely heavily on oil and gas property taxes often see spikes in property values because the determination of those values is related to the prices of oil and natural gas. These spikes may drive down the mill levy and, in conjunction with TABOR, ultimately impact property tax revenue in the district.

- High property value growth – because the limit on property tax revenues is applied to the amount of property tax revenue collected, regardless of increases in property values, high property value growth acts to push down mill levies. Furthermore, due to the reassessment cycle, increases in valuation occur every other year, while the property tax limit applies each year.

No committee recommendation. The committee recommended no legislation related to tax issues.

K- 12 Capital Construction

In discussions with representatives of the Department of Education, the Donnell-Kay Foundation (a nonprofit education foundation), and the task force, the committee explored K-12 capital construction needs. Specific areas of discussion included requirements under the *Giardino v. State Board of Education* lawsuit settlement, the current system for funding through the School Capital Construction Expenditures Reserve and the School Construction and Renovation Fund, traditional capital funding methods utilized by school districts, and an assessment of statewide needs. For FY 2000-01 through FY 2005-06, approximately $62.6 million in state funds have been appropriated for school district capital construction.

Giardino v. State Board of Education. The context for discussing Colorado's current system for funding K-12 capital construction includes the state's settlement of a lawsuit filed in 1998, *Giardino v. State Board of Education*. In this settlement, the state agreed to provide a legislative mechanism for dedicating $190 million from the General Fund over 11 years to address the most serious capital construction needs in Colorado's public schools. To this end, Senate Bill 00-181 established a capital construction assistance program of grants and loans through which school districts apply to the State Board of Education for moneys based on specific criteria. The legislation also sets a threshold for the required annual appropriations, providing that if annual General Fund revenues do not exceed specified annual state obligations by more than $80 million, "no appropriation shall be made." Because this threshold has not been met since FY 2000-01, the committee recognized the shortfall that currently exists relative to the original schedule of appropriations under the lawsuit settlement.

Funding methods established through Senate Bill 00-181. The Department of Education briefed the committee on the status of current state funding methods for capital construction, as established under the *Giardino* lawsuit settlement. Specifically, the department reviewed evaluation criteria for and a funding history of grants under the School Capital Construction Expenditures Reserve and the School Construction and Renovation Fund. The School Capital Construction Expenditures Reserve provides supplemental aid to school districts or charter schools for *immediate* capital expenditure needs, and the School Construction and Renovation Fund allots matching grants to school districts or charter schools for capital needs involving instructional facilities. The department's presentation also highlighted funding for capital construction through state lottery funds, as well as provisions for charter school capital construction funding.

As the committee engaged in discussion with the department, members focused on the evaluation criteria utilized in awarding state grants and requested information on the role of the Capital Construction Advisory Committee and on determinations of a school district's need and priority for funding. The funding history provided to the committee indicated declining sources of revenue, as well as the scope of the difference between the original schedule of appropriations and actual appropriations under *Giardino*. Recent funding history provided to the committee also shows that recent grants have primarily addressed immediate needs in the state's rural school districts.

The Donnell-Kay Foundation, which reported on its own capital needs assessment, made several recommendations for reforming the current funding system. Among the ideas put forward by the foundation were:

- establishing a new oversight board, with staff, specifically for the purpose of overseeing and administering the state's K-12 school capital construction program;
- creating distinct programs for repairs and renovations, new school construction, technology, and emergency capital needs;
- basing funding programs on district capacity for bonding and current tax effort;
- funding capital projects, as much as possible, with a combination of state and local revenue;
- determining the ratio of state and local funding using a formula that measures a school district's relative wealth within the state, as well as a district's "non-optional" property tax efforts; and

- allowing waivers of school district match requirements for grants based on specified criteria.

The task force's final report also contains several specific ideas for assisting local school districts in meeting their capital needs. These recommendations include:

- addressing the backlog of immediate health and safety needs;
- funding capital projects based upon the educational needs at each school site or within each learning environment;
- anticipating school districts' unique circumstances in regard to learning environments emerging through technology and school choice;
- maximizing efficiencies through incentives for appropriate maintenance and through consideration of the relative costs of new construction versus renovations; and
- providing appropriate technical assistance to school districts applying for grants.

Statewide needs assessment. The committee further heard recommendations for a statewide assessment of K-12 capital construction needs. Testimony provided by the department and the Donnell-Kay Foundation brought to light the lack of a statewide inventory of K-12 capital needs. The task force's final recommendations urge the General Assembly to consider an assessment of K-12 capital needs and to provide a standard method for identifying and assessing minimum standards for safe and effective school learning environments. The Donnell-Kay Foundation specifically advocated that the state contract with a professional facilities company to undertake a comprehensive assessment of the condition of the state's school buildings. A related recommendation by the foundation urged the state to develop minimum statewide standards for health and safety in school buildings, as well as standards for building conditions, building capacity, educational suitability, and technological readiness.

Traditional funding mechanisms utilized by school districts. Committee discussion of capital construction also acknowledged the local efforts and methods that school districts have used to fund their capital needs. The Donnell-Kay Foundation and representatives of school districts highlighted issues arising out of school districts' bonding capacity. State law sets parameters for voter approval of bonded debt, including the purposes for which bonds may be issued and the amount of debt that a school district may incur. State law authorizes school districts to incur bonded debt of up to 20 percent of their *assessed* property value or 6 percent of the *actual* value of the taxable property in the district, whichever is greater. In recognition of the increased capital demands of high-growth school districts, these districts are authorized to take on debt of up to 25 percent of their assessed property value.

The Donnell-Kay Foundation described the current funding system and provisions for bonding as inequitable and inadequate, based on the backlog of capital needs, the disparities in bonding capacity among school districts, and the immediate health and safety concerns that exist in the state's poorest districts. The foundation's assessment, as of the spring of 2005, estimated the backlog of the state's K-12 capital needs at between $5.7 and $10 billion. The committee heard testimony that as many as 70 school districts do not have the total bonding capacity to build one new school. Based on its study of Colorado's funding system and its survey of capital funding systems in other states, the foundation urged the General Assembly to look at new revenue options for capital construction, such as increasing the state sales tax, dedicating a portion of severance tax revenue, diverting a portion of federal mineral lease royalties from school finance funding to capital funding, or addressing the constitutional constraints that currently prohibit establishment of a real estate transfer tax.

Impact of referred measures. Committee discussion also acknowledged the potential for additional funding for K-12 capital construction if two referred ballot measures on the November 1st ballot were passed by voters. Referendum C allows the state, for the next five years, to spend revenue it collects over its TABOR limit on health care, public education, transportation, and local fire and police pensions. It also establishes a new state spending limit at the end of the five-year period. Referendum D, which was contingent upon the passage of Referendum C, authorized the state to borrow up to $147 million to be transferred to the School Capital Construction Expenditures Reserve and used "to repair, maintain, make safe, and replace deteriorating public school facilities." If Referendum D had passed, provisions in Referendum C authorized the state to expend an additional $100 million to repay debt incurred under Referendum D.

No committee recommendation. Based on the presentations and its discussions, the committee recommended no legislation in the area of K-12 capital construction.

School Trust Lands and the Permanent School Fund

Overview. The committee discussed the status of school trust lands and the Permanent School Fund with representatives of the State Board of Education, the Office of the State Treasurer, and the State Land Board. The committee learned that the school trust consists of 2.6 million acres of surface land and 3.9 million acres of mineral rights managed by the Colorado Board of Land Commissioners. School trust lands generate revenue through mineral production; grazing, agriculture, commercial, and recreation leases; timber sales; surface sales; and real estate development. Revenues from mineral royalties are deposited to the Permanent School Fund, which currently has a balance of approximately $400 million. The first $12 million of proceeds from timber sales, rental payments, and mineral leases are credited to the State Public School Fund and any amount in excess of $12 million is credited to the principal of the Permanent School Fund. Interest earned on the Permanent School Fund, up to $19 million, is annually allocated to the State Public School Fund. Any amount in excess of $19 million remains in the Permanent School Fund. The committee discussed whether income generated from school trust lands currently supplants, rather than supplements, other school finance dollars. In addition, it was noted that the State Treasurer is limited by statute and by the state constitution in the ability to invest funds for optimal growth.

School Land Trust Steering Committee recommendations. The School Land Trust Steering Committee made a number of legislative recommendations including:

- creation of a flexible maintenance and investment fund;
- legislative authority for the staff of the State Land Board to increase the value of the land through zoning, platting, and other entitlement activities;
- reiterating in statute the constitutional mandate that the trust is not to supplant other methods of funding;
- earmarking interest earnings for specific areas;
- allowing the trust five years, rather than three, to recover a loss; and
- allowing broader investment authority.

Committee recommendation. The committee proposed Bill C to address the concerns of the Colorado School Land Trust Steering Committee, the Office of the State Treasurer, and the State Land Board.

Categorical Funding

Overview. Legislative and Colorado Department of Education staff provided an overview to the committee on funding of six categorical programs: transportation, the English Language Proficiency Act, small attendance centers, the Exceptional Children's Educational Act for children with disabilities, the Exceptional Children's Educational Act for gifted and talented children, and vocational education. The overview included a description of the funding formula as well as district-by-district data for each categorical program. The committee also heard from representatives of large, medium, and small school districts in the state, who provided perspectives regarding their categorical funding gaps.

Special education funding. Special education funding was a recurring theme throughout the committee's meetings. Many committee and task force members expressed concern about the impact on school districts of inadequate special education funding, specifically as it relates to high-cost special needs students. Representatives of small school districts in particular noted that educating one or two high-cost special education students may require a large portion of the district's total budget. The committee discussed a number of policy options for funding special education students including a special education insurance pool, a flat dollar amount per special education pupil, and a weighted formula based on the severity of a student's disability.

Task force recommendations relating to categorical funding. In addition to the committee discussion surrounding categoricals, the task force recommended in its final report a number of adjustments to the way categorical programs are funded. Recommendations included:

- considering transportation as part of total program funding and providing funding that takes into account the unique circumstances school districts face in transporting students;
- funding English language learners as part of total program, increasing the length of time that identified students are funded to match the federal definition, and tying funding to the size of the school district and student need in meeting academic expectations;
- creating an adjustment to total program funding for small attendance centers that recognizes the financial need resulting from the size of and distances between schools;
- funding special education as a part of total program funding. The task force further recommended that the state establish a level of funding that takes into consideration the district's size when distributing aid and suggested that funding outside the formula should be available for students with the most severe needs; and
- assuring, as part of total program funding, sufficient funding for gifted and talented students.

Committee recommendation. In response to the concerns expressed around special education funding, the committee recommended Bill A. The bill would phase in, over five years, a uniform statewide funding amount per special education student. The bill also requires the General Assembly to designate annually a portion of the amount appropriated to special education funding to be distributed to administrative units as partial reimbursement for special education students who are placed by court order or by a public agency in an approved facility and for special education costs incurred above a threshold amount to be determined by the State Board of Education.

School Choice

The committee discussed and heard testimony from school districts on the impact of choice on school finance. This discussion acknowledged the growing student enrollment in charter schools and on-line programs across the state and the impact of choice provisions in state law on school districts' budgets.

Charter schools. The Colorado League of Charter Schools testified to the disadvantages faced by charter schools in regard to accessing revenue available to school districts. More specifically, league representatives pointed to the required 95 percent transfer of per pupil revenue (PPR) to charter schools, which excludes revenue school districts receive through sources such as mill levy overrides. Charter schools' capital needs were also discussed, with the league requesting changes to state law to facilitate increased access to capital construction funding. In this context, committee members considered current statutory provisions that: allow charter schools to issue bonds through the Colorado Educational and Cultural Facilities Authority; establish the State Charter School Debt Reserve Fund and cap the state's "moral obligation"; and provide for an annual appropriation from the State Education Fund for charter school capital construction.

Legislative staff brought a further charter school issue before the committee, requesting consideration of certain statutory clarifications in charter school law. This clarification was requested to eliminate ambiguity in provisions for at-risk funding to charter schools.

Committee recommendation. In response to the discussion, the committee recommended Bill D, which clarifies statutory definitions pertaining to the funding of institute charter schools and delineates the at-risk funding formula for charter schools in a school district that has retained exclusive chartering authority and has an enrollment of at least 40 percent at-risk students. Bill D also relocates certain funding provisions for these school districts.

On-line programs. The Department of Education provided a brief overview of state enrollment in full-time on-line programs, often known as "cyberschools." Enrollment in full-time programs grew to over 3,800 students in the 2004-05 school year. In addition, school districts are utilizing supplemental on-line programs to enhance course offerings at their schools. The State Board of Education has established goals and objectives that include increasing student access to on-line programs and increasing accountability of on-line programs through accreditation.

The department also brought forward several issues that have arisen in the interpretation of statutory provisions for on-line programs. Students must meet certain criteria in order to be included in a school district's on-line enrollment count, for which school districts receive the state minimum per pupil funding level. Department staff noted potential ambiguity in current statutory provisions that may allow students who have not completed public school course work during the prior year and who also were not enrolled in a private school or home school program to be included in an on-line enrollment count. Other issues brought to the committee's attention:

- students who fail to pay requisite fees or fines to a school district for a prior year may cause enrollment or student count issues concerning their completion of a prior year's course work when trying to enroll in an on-line program;
- limited staff resources restrict the Department of Education's ability to audit accurately those students who transfer into an on-line program after October 1;
- school districts face difficulties in identifying on-line students who enroll in one or more courses at a traditional school, limiting the district's opportunity to negotiate with the on-line program for payment of costs incurred by the student's enrollment; and
- several on-line programs have established "learning centers" in areas across the state, enrolling students for the minimum number of hours required to count them as half-time on-line students, and subsequently allowing the students to be counted as full-time on-line students for the following year.

No committee recommendation. Upon consideration of the testimony, the committee failed to reach consensus on proposals concerning on-line programs and did not recommend any legislation in this area.

P-16 Education System

The committee heard testimony, and the task force made a recommendation in its final report, regarding a P-16 education system, which refers to an integrated system of education spanning early childhood education through higher education. Major goals of a P-16 system, the committee heard, include expanded access to preschool programs and increased efforts toward closing the achievement gap.

Committee recommendation. The committee recommended Bill E, which establishes a legislative oversight committee and a P-16 council to study and make legislative recommendations pertaining to a P-16 education system.

Additional Committee Activities

The committee reviewed and heard testimony regarding several other areas that impact school districts and school funding. Department and legislative staff provided background information as the committee considered the following issues.

Chart of accounts. The Department of Education reviewed statutory provisions for school district accounting through the chart of accounts. The department highlighted requirements in statute and in the state Financial Policies and Procedures Handbook and walked the committee through the specific accounting codes and elements in the chart of accounts. School district representatives responded to committee questions regarding the implementation and practices of reporting from the district perspective. Testimony from the school districts illustrated how different school districts utilize and track costs and expenditures through the chart of accounts.

Cost-of-living study. Legislative staff reviewed statutory provisions requiring a cost-of-living study. A statutory responsibility of legislative staff, the biennial study measures the cost of a market basket of goods in each school district in the state, which results in the certification of each district's cost-of-living factor. Based on the testimony and responses to questions, the committee discussed the evolution of the factor and the manner in which it is currently calculated and applied.

Federal funds. The Department of Education reported to the committee on Colorado's receipt of federal education funds. This presentation included information on the trends in funding levels since FY 2000-01 and on the distribution of those funds to school districts. Based on department estimates, Colorado expects to receive almost $554 million in federal grants for FY 2005-06. The department indicated that federal funds account for approximately 10 percent of the department's total funding and focused specifically on the increases in funding under NCLB. According to department officials, recent increases in federal funding, with Title I funds the most notable example, target school districts with the highest poverty levels. The committee raised questions regarding whether funding levels align with recent federal mandates and expressed concern about the ability of smaller, rural school districts to access certain federal grants.

State ballot issues. The committee requested a briefing from legislative staff on the two state ballot measures, Referendums C and D, referred to voters on the November 1 ballot. A staff attorney, the chief legislative economist, and the director of the Joint Budget Committee staff gave a joint presentation on the legal provisions of the referred measures, state spending and borrowing authority under the measures, and the state revenue outlook if the measures passed. The committee also received an overview of existing state General Fund obligations and inquired specifically about the potential for increased revenues for K-12 education and capital construction.

State Education Fund. The committee received an update on the status of the State Education Fund from legislative staff indicating that the current balance of the fund is approximately $181.8 million. The staff presentation reviewed the establishment of the fund in the state constitution and provided information on how fund revenues are forecasted. The committee considered the impact of future General Fund appropriations on the State Education Fund balance and discussed the history and future of appropriations from the fund.

Summary of Recommendations

As a result of the committee's activities, the following bills are recommended to the Colorado General Assembly.

Bill A — Concerning Special Education Funding

Bill A addresses special education funding through two major provisions. First, it would phase in, over five years, a uniform statewide funding amount per special education pupil, without causing an administrative unit to receive less state special education funding than it received in the 2005-06 budget year. Next, the bill requires the General Assembly to designate annually a portion of the amount appropriated for special education programs to be distributed to administrative units as reimbursement for up to 50 percent of tuition costs for special education students who are placed by court order or by a public agency in an approved facility and for up to 50 percent of special education costs incurred above a threshold amount to be determined by the State Board of Education. The Department of Education is expected to require $25,346 from the General Fund exempt account in FY 2006-07 to implement the bill. A separate appropriation is not anticipated because the department expects, through authority granted it in the bill, to withhold a portion of the moneys designated for distribution to eligible administrative units.

Bill B — Concerning the Authorization of Additional School District Revenues to Fund Costs Associated with Full-Day Kindergarten Programs

Bill B allows school districts, upon voter approval, to impose an additional mill levy to fund an additional half day of kindergarten. In addition, the bill allows the school district to ask voters to approve an additional mill levy of a stated amount and limited duration to fund capital construction needs associated with full-day kindergarten. The bill precludes a school district that imposes the additional mill levy from participating in the full-day kindergarten component of the Colorado Preschool Program. The bill also allows a school district that funds a portion of its full-day kindergarten program with an additional mill levy to charge tuition to out-of-district students enrolled in the locally funded portion of the full-day kindergarten program. The bill is assessed as having no state fiscal impact.

Bill C — Concerning State School Lands

Bill C requires that all moneys earned from the management of state school lands and from interest on the Public School Fund be deposited into the Public School Fund and treated as principal until the value of the fund reaches $2.35 billion. An exception is provided: if state personal income grows less than four and one-half percent in any year, current provisions for expenditures of up to $19 million of interest earned on the fund and up to $12 million of proceeds received for mineral leases, land surface leases, and timber sales apply. The bill also gives the State Treasurer authority to invest in equities and modifies how a loss is calculated. A $31 million appropriation from the General Fund in FY 2006-07 is required to offset the reduction in money available for school finance under Bill C.

Bill D — Concerning Technical Revisions to Provisions Affecting Funding for Certain Charter Schools

Bill D makes technical changes clarifying and relocating statutory provisions for the funding of institute and district charter schools. The bill is assessed as having no fiscal impact.

Bill E — Concerning the Study of an Education System Ranging from Pre-Kindergarten through Higher Education, and, in connection therewith, Creating a Legislative Oversight Committee and Special Council

Bill E establishes a six-member legislative oversight committee and a 25-member P-16 council to study and make legislative recommendations pertaining to a P-16 education system. The council includes members from higher education, K-12 education, the business community, and the public at large. The council is responsible for studying the creation and implementation of an integrated system of education stretching from pre-kindergarten through higher education. The legislative oversight committee is required to submit to the General Assembly on or before January 15, 2007, and each January 15 thereafter, a report summarizing issues that have been considered and any recommended legislation. The council is scheduled to sunset July 1, 2016. The bill is assessed as having a state fiscal impact for staff support from the Office of Legislative Legal Services, Legislative Council Staff, the Department of Education, and the Department of Higher Education and payment of per diem and expenses for members of the legislative oversight committee.

RESOURCE MATERIALS

The resource materials listed below were provided to the committee or developed by committee staff during the course of the meetings. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver, (303- 866-2055). The meeting summaries and materials developed by Legislative Council Staff are also available on our web site at:

www. state.co.us/gov_dir/leg_dir/lcsstaff/2005/05interim.

Meeting Summaries	Topics Discussed
July 21, 2005	Joint meeting with the School Finance Task Force. Introductory comments by committee and task force members. Overview of school finance by a nationally recognized expert on school finance, who also served on the task force. Legislative Council Staff and Office of Legislative Legal Services presentations on the history of Colorado's school finance act and Colorado Supreme Court guidance on school finance, respectively. Stakeholder discussion of integrating universal proficiency with a school finance system.
August 2, 2005	Presentation on funding and equity issues raised by Colorado's current school finance system by the executive director of Children's Voices (a nonprofit organization) who represents the plaintiffs in *Lobato v. the State of Colorado*. Presentation on 2004 report, *Stepping Up or Bottoming Out: Funding Colorado's Schools*, by a University of Colorado professor. Colorado School Finance Project report on the history and conclusions behind its adequacy studies. Briefing by Legislative Council Staff on Colorado's tax burden and property tax issues. Briefing by the Department of Education on school district accounting and the chart of accounts.
August 30, 2005	Briefing by the Department of Education and a nonprofit organization, the Donnell-Kay Foundation, on K-12 capital construction funding. Update on filings by the Office of the Attorney General in *Lobato v. the State of Colorado.* Briefing by Legislative Council Staff on categorical funding. Briefing by the Department of Education on charter school administrative costs and funding for on-line programs. Update on the progress of the task force and feedback from task force members on issues discussed at the meeting.

September 13, 2005	Colorado League of Charter Schools' report on charter school cost issues and capital construction needs. Legislative staff overview of the 2005 state ballot issues. Legislative Council Staff briefings on the cost-of-living study and the State Education Fund. School Finance Task Force presentation of its final report.
September 27, 2005	Department of Education briefing on the state's receipt of federal education funds. Discussion of potential legislative recommendations and requests for bill drafts to be reviewed at the October 18th meeting.
October 18, 2005	Committee discussion and approval of six legislative recommendations to the Legislative Council.

Staff Memoranda and Reports

July 21, 2005	*The Evolution and Funding Formula of the Public School Finance Act of 1994*
July 21, 2005	*Colorado Supreme Court & School Finance: What Guidance Has the Court Provided?*
August 2, 2005	*Colorado Tax Structure and State Rankings*
August 2, 2005	*School District Mill Levies*
August 2, 2005	*School District Property Taxes and State Rankings*
August 30, 2005	*Categorical Funding by School District*
August 30, 2005	*On-Line Education in Colorado*
August 30, 2005	*Regulation of School Facilities*
August 30, 2005	*School District Capital Construction*
September 13, 2005	*Estimated Balance of State Education Fund*
September 27, 2005	*How Was the Cost-of-Living Factor First Calculated in 1994?*
October 18, 2005	*Funding for High-Cost Special Education Students*

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

Bill A

DRAFT

LLS NO. 06-0211.02 Nicole Hoffman

HOUSE BILL

HOUSE SPONSORSHIP

King, and Benefield

SENATE SPONSORSHIP

Bacon, Anderson, and Windels

House Committees **House Committees**

A BILL FOR AN ACT

101 CONCERNING SPECIAL EDUCATION FUNDING.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Interim Committee on School Finance. For the 2006-07 through 2010-11 budget years, directs the department of education (department) to incrementally implement per pupil funding for special education services for children with disabilities (special education funding) in order to achieve a statewide per-pupil special education funding amount by the 2011-12 budget year without causing an administrative unit, during the incremental implementation period, to receive a lesser amount of state special education funding than it received in the 2005-06 budget year. Directs the department annually to report to the education committees of the general assembly, or any successor committees, its progress in implementing the statewide per pupil special education funding mechanism.

For the 2011-12 budget year and for budget years thereafter, provides for the distribution of a portion of the special education funding through a statewide per pupil amount. Directs the department annually to calculate the statewide per pupil special education funding amount by dividing the amount appropriated for special education funding, minus the amount designated for reimbursements, by the total number of children with disabilities enrolled in all administrative units in the state.

For the 2006-07 budget year and for budget years thereafter, directs the general assembly annually to designate a portion of the amount appropriated for special education funding to be distributed as reimbursement for:

- Tuition costs incurred by administrative units for children with disabilities who are placed in eligible facilities by court order or by a public agency (tuition costs); and
- Costs incurred above a threshold amount in providing special education services for children with disabilities (high costs).

Allows an administrative unit to receive, in addition to the per pupil special education funding amount, reimbursement of up to 50% of the tuition costs incurred and up to 50% of the high costs incurred. If the amount designated is insufficient to allow reimbursement of 50% for all applying and qualifying administrative units, instructs the department to prorate the reimbursements based on the administrative unit's percentage of the statewide aggregate tuition costs and the administrative unit's percentage of the statewide aggregate high costs. To offset the costs incurred in implementing reimbursement provisions of the act, authorizes the department to withhold up to a specified percentage of the amount designated for reimbursements.

Repeals the provisions specifying distribution of special education moneys for orphans who are placed in eligible facilities.

For the 2006-07 budget year, requires 100% of the amount designated for reimbursements to be distributed for reimbursements for tuition costs. For the 2007-08 budget year, authorizes the state board of education (board) to specify the percentages of the amount designated for reimbursements that will be used for reimbursement of tuition costs and reimbursements of high costs. After the 2007-08 budget year, requires the board to specify the percentages of the amounts designated for reimbursement that will be used for reimbursement of tuition costs and reimbursement of high costs. In any year in which the board specifies the amount designated for reimbursement of tuition costs and for reimbursement of high costs, prohibits either purpose from receiving less than 1/3 of the total amount designated for reimbursements. Gives the board rule-making authority as necessary for implementation of the act.

Makes conforming amendments.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 22-20-114 (1) (b.7), (1) (b.8), (1) (c), and (3), Colorado Revised Statutes, are amended, and the said 22-20-114 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

22-20-114. Funding of programs. (1) (b.7) (I) For the 1997-98 budget year ~~and budget years thereafter~~ AND FOR EACH BUDGET YEAR THROUGH THE 2005-06 BUDGET YEAR, forty-nine million eight hundred thousand seven hundred fifty-six dollars shall be distributed to each administrative unit that maintains and operates special education programs in proportion to the amount of state funding the administrative unit received for the 1994-95 budget year divided by the appropriation for the 1994-95 budget year.

(II) For the 1997-98 budget year ~~and budget years thereafter~~ AND FOR EACH BUDGET YEAR THROUGH THE 2005-06 BUDGET YEAR, any increase in the appropriation made to the department over the amount distributed in accordance with subparagraph (I) of this paragraph (b.7) shall be distributed to a school district or the state charter school institute in proportion to the number of children with disabilities residing in the district or the number of children with disabilities enrolled in institute charter schools, divided by the total number of children with disabilities in the state. The increase in the appropriation to be distributed to school districts and the state charter school institute pursuant to this paragraph (b.7) shall be distributed as soon as practicable after the beginning of the fiscal year. For purposes of this paragraph (b.7), the number of children with disabilities shall be based upon the count taken in December of the immediately preceding budget year.

(b.8) ~~(I) For the 2000-01 budget year and each budget year thereafter, in addition to any other moneys received pursuant to this subsection (1), five hundred thousand dollars shall be distributed to administrative units that have children with disabilities:~~

~~(A) For whom tuition is paid by the administrative units for such children to receive educational services at facilities approved by the state board pursuant to section 22-2-107 (1) (p); and~~

~~(B) For whom parental rights have been relinquished by the parents or terminated by a court, the parents of whom are incarcerated, the parents of whom cannot be located, the parents of whom reside out of the state but the department of human services has placed such children within the administrative unit, or who are legally emancipated.~~

~~(II) Said moneys shall be distributed in each budget year to administrative units based upon each administrative unit's share of the aggregate number of children with disabilities who are specified in subparagraph (I) of this paragraph (b.8); except that no administrative unit shall receive an amount that exceeds the aggregate amount of tuition paid by that administrative unit for such specified children with disabilities to receive educational services at facilities approved by the state board pursuant to section 22-2-107 (1) (p) during the immediately preceding budget year. For purposes of this paragraph (b.8), the number of children with disabilities that are specified in subparagraph (I) of this paragraph (b.8) shall be based upon the count taken in December of the~~

~~immediately preceding budget year.~~

(c) ~~No administrative unit shall receive the amount of funding to which it is entitled under the provisions of this subsection (1) unless the administrative unit has provided the department with the data collected concerning special education programs, as required by subsection (3) of this section, including the count of assessed special education students.~~

(1.5) (a) THE PROVISIONS OF THIS SUBSECTION (1.5) SHALL APPLY TO THE DISTRIBUTION OF THE TOTAL AMOUNT OF STATE MONEYS ANNUALLY APPROPRIATED TO FUND SPECIAL EDUCATION FOR THE 2006-07 BUDGET YEAR AND FOR EACH BUDGET YEAR THROUGH THE 2010-11 BUDGET YEAR, MINUS THE AMOUNT ANNUALLY DESIGNATED BY THE GENERAL ASSEMBLY IN SAID BUDGET YEARS FOR DISTRIBUTION PURSUANT TO SUBSECTION (1.7) OF THIS SECTION, PLUS ANY AMOUNT THAT MAY BE ADDED AS PROVIDED IN PARAGRAPH (d) OF SUBSECTION (1.7) OF THIS SECTION.

(b) BEGINNING IN THE 2006-07 BUDGET YEAR, AND CONTINUING THROUGH THE 2010-11 BUDGET YEAR, THE DEPARTMENT SHALL INCREMENTALLY IMPLEMENT THE PER PUPIL FUNDING METHOD DESCRIBED IN SUBSECTION (1.6) OF THIS SECTION FOR DISTRIBUTING THE AMOUNT DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1.5) OF THE STATE MONEYS APPROPRIATED TO FUND SPECIAL EDUCATION TO ADMINISTRATIVE UNITS THAT MAINTAIN AND OPERATE SPECIAL EDUCATION PROGRAMS. THE DEPARTMENT SHALL INCREMENTALLY IMPLEMENT THE DISTRIBUTION OF STATE MONEYS AS DESCRIBED IN SUBSECTION (1.6) OF THIS SECTION SO AS TO ENSURE THAT:

(I) BY THE 2011-12 BUDGET YEAR, EACH ADMINISTRATIVE UNIT RECEIVES A STATEWIDE PER PUPIL AMOUNT OF FUNDING FOR SPECIAL

EDUCATION FOR EACH CHILD WITH DISABILITIES WHO IS ENROLLED IN THE ADMINISTRATIVE UNIT; AND

(II) IN EACH OF THE FIVE BUDGET YEARS OF INCREMENTAL IMPLEMENTATION, EACH ADMINISTRATIVE UNIT RECEIVES AN AMOUNT OF FUNDING FOR SPECIAL EDUCATION PURSUANT TO THIS SUBSECTION (1.5) THAT EQUALS OR EXCEEDS THE AMOUNT OF FUNDING FOR SPECIAL EDUCATION RECEIVED BY THE ADMINISTRATIVE UNIT PURSUANT TO SUBSECTION (1) OF THIS SECTION FOR THE 2005-06 BUDGET YEAR.

(c) THE DEPARTMENT SHALL ANNUALLY SUBMIT TO THE EDUCATION COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, A REPORT CONCERNING THE DEPARTMENT'S PROGRESS IN INCREMENTALLY IMPLEMENTING THE METHOD DESCRIBED IN SUBSECTION (1.6) OF THIS SECTION FOR DISTRIBUTING A PORTION OF THE FUNDING FOR SPECIAL EDUCATION.

(1.6) (a) THE PROVISIONS OF THIS SUBSECTION (1.6) SHALL APPLY TO THE DISTRIBUTION OF THE TOTAL AMOUNT OF STATE MONEYS ANNUALLY APPROPRIATED TO FUND SPECIAL EDUCATION FOR THE 2011-12 BUDGET YEAR AND FOR EACH BUDGET YEAR THEREAFTER, MINUS THE AMOUNT ANNUALLY DESIGNATED BY THE GENERAL ASSEMBLY FOR DISTRIBUTION PURSUANT TO SUBSECTION (1.7) OF THIS SECTION, PLUS ANY AMOUNT THAT MAY BE ADDED AS PROVIDED IN PARAGRAPH (d) OF SUBSECTION (1.7) OF THIS SECTION.

(b) FOR THE 2011-12 BUDGET YEAR AND FOR EACH BUDGET YEAR THEREAFTER, THE DEPARTMENT SHALL DISTRIBUTE TO EACH ADMINISTRATIVE UNIT THE STATEWIDE PER PUPIL FUNDING AMOUNT FOR SPECIAL EDUCATION FOR EACH CHILD WITH DISABILITIES WHO IS ENROLLED IN THE ADMINISTRATIVE UNIT. THE DEPARTMENT SHALL ANNUALLY

CALCULATE THE STATEWIDE PER PUPIL FUNDING AMOUNT FOR SPECIAL EDUCATION BY DIVIDING THE AMOUNT OF STATE MONEYS TO BE DISTRIBUTED PURSUANT TO THIS SUBSECTION (1.6) BY THE TOTAL NUMBER OF CHILDREN WITH DISABILITIES ENROLLED IN ADMINISTRATIVE UNITS IN THE STATE. THE NUMBER OF CHILDREN WITH DISABILITIES ENROLLED IN AN ADMINISTRATIVE UNIT SHALL BE BASED UPON THE COUNT TAKEN IN DECEMBER OF THE IMMEDIATELY PRECEDING BUDGET YEAR.

(1.7) (a) (I) FOR THE 2006-07 BUDGET YEAR AND FOR EACH BUDGET YEAR THEREAFTER, THE GENERAL ASSEMBLY SHALL, BY BILL, DESIGNATE EITHER A DOLLAR AMOUNT OR A PERCENTAGE OF THE TOTAL AMOUNT OF STATE MONEYS APPROPRIATED IN THE ANNUAL GENERAL APPROPRIATION BILL FOR THAT BUDGET YEAR TO BE DISTRIBUTED AS REIMBURSEMENTS TO ADMINISTRATIVE UNITS IN THE MANNER SPECIFIED IN PARAGRAPHS (b) AND (c) OF THIS SUBSECTION (1.7). THE MONEYS APPROPRIATED FOR THE PURPOSES OF THIS SUBSECTION (1.7) SHALL BE APPROPRIATED FROM THE GENERAL FUND EXEMPT ACCOUNT CREATED IN SECTION 24-77-103.6 (2), C.R.S. ANY AMOUNT RECEIVED BY AN ADMINISTRATIVE UNIT AS REIMBURSEMENT PURSUANT TO THIS SUBSECTION (1.7) SHALL BE IN ADDITION TO THE AMOUNT RECEIVED BY THE ADMINISTRATIVE UNIT PURSUANT TO SUBSECTION (1.5) OR (1.6) OF THIS SECTION.

(II) FOR THE 2006-07 BUDGET YEAR, _____ OF THE TOTAL AMOUNT OF STATE MONEYS APPROPRIATED IN THE ANNUAL GENERAL APPROPRIATION BILL FOR SPECIAL EDUCATION FUNDING FOR CHILDREN WITH DISABILITIES SHALL BE DISTRIBUTED PURSUANT TO THIS SUBSECTION (1.7).

(b) (I) THE DEPARTMENT SHALL DISTRIBUTE A PERCENTAGE

SPECIFIED IN OR DETERMINED PURSUANT TO SUBSECTION (4) OF THIS SECTION AS REIMBURSEMENT TO ADMINISTRATIVE UNITS THAT PAID TUITION PURSUANT TO SECTION 22-20-109 IN THE IMMEDIATELY PRECEDING BUDGET YEAR FOR CHILDREN WITH DISABILITIES WHO ARE PLACED IN FACILITIES APPROVED BY THE STATE BOARD PURSUANT TO SECTION 22-2-107 (1) (p) BY ORDER OF A COURT OR BY A PUBLIC AGENCY AND NOT BY AN ADMINISTRATIVE UNIT. TO RECEIVE REIMBURSEMENT PURSUANT TO THIS PARAGRAPH (b), AN ADMINISTRATIVE UNIT SHALL APPLY TO THE DEPARTMENT AND PROVIDE SUCH INFORMATION AS MAY BE REQUIRED BY RULE OF THE STATE BOARD. AN ADMINISTRATIVE UNIT SHALL NOT RECEIVE REIMBURSEMENT UNDER BOTH THIS PARAGRAPH (b) AND PARAGRAPH (c) OF THIS SUBSECTION (1.7) FOR THE SAME COSTS.

(II) EACH ADMINISTRATIVE UNIT THAT APPLIES AND QUALIFIES FOR REIMBURSEMENT PURSUANT TO THIS PARAGRAPH (b) SHALL RECEIVE REIMBURSEMENT OF FIFTY PERCENT OF THE TUITION COSTS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b); EXCEPT THAT, IF THE AMOUNT AVAILABLE FOR DISTRIBUTION PURSUANT TO THIS PARAGRAPH (b) IS INSUFFICIENT TO PAY EACH APPLYING AND QUALIFYING ADMINISTRATIVE UNIT FIFTY PERCENT OF SAID TUITION COSTS, EACH APPLYING AND QUALIFYING ADMINISTRATIVE UNIT SHALL RECEIVE A PRORATED AMOUNT BASED ON THE ADMINISTRATIVE UNIT'S SHARE OF THE TOTAL AGGREGATE AMOUNT OF SAID TUITION COSTS INCURRED BY ALL APPLYING AND QUALIFYING ADMINISTRATIVE UNITS IN THE STATE IN THE PRECEDING BUDGET YEAR.

(c) (I) FOR BUDGET YEARS BEGINNING ON OR AFTER JULY 1, 2007, THE DEPARTMENT SHALL DISTRIBUTE A PERCENTAGE DETERMINED PURSUANT TO SUBSECTION (4) OF THIS SECTION AS REIMBURSEMENT TO

ADMINISTRATIVE UNITS FOR COSTS, IN EXCESS OF A THRESHOLD AMOUNT, INCURRED IN PROVIDING, EITHER DIRECTLY OR BY CONTRACT, SPECIAL EDUCATION SERVICES TO CHILDREN WITH DISABILITIES. THE STATE BOARD SHALL ESTABLISH THE THRESHOLD AMOUNT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION. TO RECEIVE REIMBURSEMENT PURSUANT TO THIS PARAGRAPH (c), AN ADMINISTRATIVE UNIT SHALL APPLY TO THE DEPARTMENT AND PROVIDE SUCH INFORMATION AS MAY BE REQUIRED BY RULE OF THE STATE BOARD. AN ADMINISTRATIVE UNIT SHALL NOT RECEIVE REIMBURSEMENT UNDER BOTH THIS PARAGRAPH (c) AND PARAGRAPH (b) OF THIS SUBSECTION (1.7) FOR THE SAME COSTS.

(II) EACH ADMINISTRATIVE UNIT THAT APPLIES AND QUALIFIES FOR REIMBURSEMENT PURSUANT TO THIS PARAGRAPH (c) SHALL RECEIVE REIMBURSEMENT OF FIFTY PERCENT OF THE COSTS INCURRED IN EXCESS OF THE THRESHOLD AMOUNT AS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (c); EXCEPT THAT, IF THE AMOUNT AVAILABLE FOR DISTRIBUTION PURSUANT TO THIS PARAGRAPH (c) IS INSUFFICIENT TO PAY EACH APPLYING AND QUALIFYING ADMINISTRATIVE UNIT FIFTY PERCENT OF SAID COSTS IN EXCESS OF THE THRESHOLD AMOUNT, EACH APPLYING AND QUALIFYING ADMINISTRATIVE UNIT SHALL RECEIVE A PRORATED AMOUNT BASED ON THE ADMINISTRATIVE UNIT'S SHARE OF THE TOTAL AGGREGATE AMOUNT OF SAID COSTS IN EXCESS OF THE THRESHOLD AMOUNT INCURRED BY ALL APPLYING AND QUALIFYING ADMINISTRATIVE UNITS IN THE STATE IN THE PRECEDING BUDGET YEAR.

(d) IF THE AMOUNT OF MONEYS DESIGNATED FOR DISTRIBUTION PURSUANT TO THIS SUBSECTION (1.7) IS GREATER THAN THE AMOUNT OF MONEYS NECESSARY FOR THE PURPOSES SPECIFIED THIS SUBSECTION (1.7), ANY UNEXPENDED MONEYS SHALL BE ADDED TO THE MONEYS

DISTRIBUTED PURSUANT TO SUBSECTION (1.5) OR (1.6) OF THIS SECTION.

(e) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (1.7) TO THE CONTRARY, THE DEPARTMENT ANNUALLY MAY WITHHOLD A PORTION OF THE MONEYS DESIGNATED FOR DISTRIBUTION PURSUANT TO THIS SUBSECTION (1.7) TO OFFSET THE DIRECT COSTS INCURRED IN IMPLEMENTING THIS SUBSECTION (1.7). THE AMOUNT WITHHELD BY THE DEPARTMENT SHALL NOT EXCEED ___ PERCENT OF THE AMOUNT DESIGNATED FOR DISTRIBUTION PURSUANT TO THIS SUBSECTION (1.7) IN ANY BUDGET YEAR.

(3) (a) AN ADMINISTRATIVE UNIT SHALL NOT RECEIVE THE AMOUNT OF FUNDING TO WHICH IT IS ENTITLED UNDER THE PROVISIONS OF THIS SECTION UNLESS THE ADMINISTRATIVE UNIT HAS PROVIDED THE DEPARTMENT WITH THE DATA COLLECTED CONCERNING SPECIAL EDUCATION PROGRAMS, AS REQUIRED BY PARAGRAPH (b) OF THIS SUBSECTION (3), INCLUDING THE COUNT OF ASSESSED SPECIAL EDUCATION STUDENTS.

(b) Each administrative unit shall be required to collect only the data required by the federal government concerning special education programs. The data collected concerning special education programs must be provided to the department for an administrative unit to receive the amount of funding to which it is entitled under the provisions of ~~subsection (1) of~~ this section.

(4) (a) (I) FOR THE 2006-07 BUDGET YEAR, ONE HUNDRED PERCENT OF THE MONEYS DESIGNATED PURSUANT TO PARAGRAPH (a) OF SUBSECTION (1.7) OF THIS SECTION SHALL BE AVAILABLE FOR DISTRIBUTION BY THE DEPARTMENT FOR THE PURPOSES SPECIFIED IN PARAGRAPH (b) OF SUBSECTION (1.7) OF THIS SECTION, AND THE

DEPARTMENT SHALL NOT DISTRIBUTE ANY PERCENTAGE OF SUCH MONEYS FOR THE PURPOSES SPECIFIED IN PARAGRAPH (c) OF SUBSECTION (1.7) OF THIS SECTION.

(II) SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (IV) OF THIS PARAGRAPH (a), FOR THE 2007-08 BUDGET YEAR, THE STATE BOARD MAY, BY RESOLUTION, ESTABLISH THE PERCENTAGE OF THE MONEYS DESIGNATED PURSUANT TO SUBSECTION (1.7) OF THIS SECTION THAT SHALL BE AVAILABLE FOR DISTRIBUTION FOR THE PURPOSES SPECIFIED IN PARAGRAPH (b) OF SUBSECTION (1.7) OF THIS SECTION AND THAT SHALL BE AVAILABLE FOR DISTRIBUTION FOR THE PURPOSES SPECIFIED IN PARAGRAPH (c) OF SUBSECTION (1.7) OF THIS SECTION. IF THE STATE BOARD DOES NOT ESTABLISH SUCH PERCENTAGES PURSUANT TO THIS SUBPARAGRAPH (II) FOR THE 2007-08 BUDGET YEAR, THE DEPARTMENT SHALL DISTRIBUTE THE MONEYS IN THE SAME MANNER IN WHICH THE MONEYS WERE DISTRIBUTED IN THE 2006-07 BUDGET YEAR.

(III) SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (IV) OF THIS PARAGRAPH (a), FOR THE 2008-09 BUDGET YEAR AND FOR EACH BUDGET YEAR THEREAFTER, THE STATE BOARD SHALL, BY RESOLUTION, ESTABLISH THE PERCENTAGE OF THE MONEYS DESIGNATED PURSUANT TO SUBSECTION (1.7) OF THIS SECTION THAT SHALL BE AVAILABLE FOR DISTRIBUTION FOR THE PURPOSES SPECIFIED IN PARAGRAPH (b) OF SUBSECTION (1.7) OF THIS SECTION AND THAT SHALL BE AVAILABLE FOR DISTRIBUTION FOR THE PURPOSES SPECIFIED IN PARAGRAPH (c) OF SUBSECTION (1.7) OF THIS SECTION.

(IV) IN ESTABLISHING THE PERCENTAGE OF THE MONEYS THAT SHALL BE AVAILABLE FOR DISTRIBUTION FOR THE PURPOSES SPECIFIED IN PARAGRAPHS (b) AND (c) OF SUBSECTION (1.7) OF THIS SECTION, THE

STATE BOARD SHALL ENSURE THAT:

(A) ONE HUNDRED PERCENT OF THE MONEYS DESIGNATED FOR DISTRIBUTION PURSUANT TO SUBSECTION (1.7) OF THIS SECTION IS ALLOCATED BETWEEN THE PURPOSES SPECIFIED IN PARAGRAPHS (b) AND (c) OF SUBSECTION (1.7) OF THIS SECTION; AND

(B) THE PERCENTAGE ESTABLISHED FOR DISTRIBUTION PURSUANT TO EACH OF PARAGRAPHS (b) AND (c) OF SUBSECTION (1.7) OF THIS SECTION IS AT LEAST ONE-THIRD OF THE AMOUNT DESIGNATED PURSUANT TO PARAGRAPH (a) OF SUBSECTION (1.7) OF THIS SECTION.

(b) THE STATE BOARD ANNUALLY BY RESOLUTION SHALL DETERMINE THE THRESHOLD AMOUNT OF COSTS INCURRED IN PROVIDING EDUCATIONAL SERVICES TO A CHILD WITH DISABILITIES ABOVE WHICH AN ADMINISTRATIVE UNIT MAY RECEIVE REIMBURSEMENT AS PROVIDED IN PARAGRAPH (c) OF SUBSECTION (1.7) OF THIS SECTION.

(c) THE STATE BOARD, IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., SHALL PROMULGATE RULES AS NECESSARY FOR THE IMPLEMENTATION OF THIS SECTION.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

DRAFT

Bill A

Colorado Legislative Council Staff

STATE and LOCAL FISCAL IMPACT

Drafting Number:	LLS 06-0211	**Date:**	December 6, 2005
Prime Sponsor(s):	Rep. King Sen. Bacon	**Bill Status:**	Interim Committee on School Finance
		Fiscal Analyst:	Harry Zeid (303-866-4753)

TITLE: CONCERNING SPECIAL EDUCATION FUNDING.

Fiscal Impact Summary	FY 2006/2007	FY 2007/2008
State Revenues General Fund		
State Expenditures General Fund (Exempt Account)	$25,346*	$23,844*
FTE Position Change	contract services	contract services
Effective Date: Upon signature of the Governor		
Appropriation Summary for FY 2006/2007: None Required		
School District Impact: The bill phases-in, over a six-year period, a method for achieving a uniform level of state funding per special education pupil. The bill also requires that a portion of the state funds appropriated for special education be earmarked for costs incurred for certain high needs students.		

**This amount will be withheld from moneys designated for distribution to administrative units that paid tuition for children with disabilities who are placed in approved facilities, and for reimbursement to administrative units for costs in excess of a threshold amount for special education services for children with disabilities.*

Summary of Legislation

For FY 2006-07 through FY 2010-11, this bill, recommended by the Interim Committee on School Finance, requires the Department of Education to incrementally implement a uniform statewide funding amount per special education pupil by FY 2011-12. Each administrative unit (school district, board of cooperative services, and the state charter school institute) would be held harmless so as not to receive a lesser amount of state special education funding than it received in FY 2005-06. An annual report would be prepared by the Department of Education concerning its progress in implementing the statewide per pupil special education funding mechanism. The report would be presented to the House and Senate Education Committees.

Beginning with FY 2011-12, the bill provides for the distribution of a portion of the special education funding through a statewide per pupil amount. The Department of Education would annually calculate this figure by dividing the amount appropriated for special education funding (minus reimbursements) by the total number of children with disabilities enrolled in all administrative units in the state.

Beginning in FY 2006-07, the General Assembly would, by bill, annually designate a portion of special education funding (either a fixed dollar amount or a specified percentage), from moneys set aside in the General Fund exempt account, to be distributed as reimbursement for tuition costs incurred for children with disabilities who are placed in eligible facilities by court order, or by a public agency; and for costs incurred above a threshold amount in providing special education services for children with disabilities. In addition to the per pupil special education funding amount, the bill also provides for reimbursement of up to 50 percent of the tuition costs incurred, and up to 50 percent of the high costs incurred that are greater than the threshold amount established by the State Board of Education. In addition, the bill authorizes the Department of Education to annually withhold a portion of the moneys designated for distribution, of up to a certain percentage (left blank in the bill), from the General Fund exempt account to offset its costs in implementing the special education reimbursement provisions of the bill.

State Expenditures

Per pupil funding for special education. Article IX, Section 17 of the Colorado Constitution (Amendment 23) requires that total state funding for all categorical programs grow annually by at least the rate of inflation plus an additional one percentage point through FY 2010-11. After FY 2010-11, the total funding for categoricals will grow annually by at least the rate of inflation. Categorical programs include: transportation programs, English language proficiency programs, expelled and at-risk student programs, special education programs, suspended student programs, vocational education programs, small attendance centers, comprehensive health education programs, and other current and future accountable programs specifically identified in statute as a categorical program.

The bill directs the Department of Education to implement per pupil funding for special education services from increased appropriations. This money can come from the State Education Fund from the increase attributable to the inflation plus one percentage point component of Amendment 23 and other increases in appropriations. During the six-year phase-in period, administrative units would be held harmless, with no administrative unit receiving less state special education funding than it received in FY 2005-06.

Funding for high needs students. Section 24-77-103.6 (2), C.R.S., authorizes the state to retain and spend all state revenues in excess of the constitutional revenue cap for FY 2005-06 through FY 2009-10. The excess revenue for any given fiscal year will be deposited in the General Fund exempt account. Current law prescribes the purposes that the General Assembly may appropriate moneys in the account, including the authority to fund education. The bill requires the General Assembly to annually designate a portion of the state funds appropriated for special education to be earmarked to provide additional funding to administrative units that incur costs for certain high needs students. Moneys appropriated for this purpose would be appropriated from the General Fund exempt account.

Department of Education administrative expenses. The Department of Education will require **$25,346 General Fund (exempt account) and 0.5 FTE contract services in FY 2006-07** to oversee the program requirements of the bill. A total of $23,844 General Fund (exempt account) will be necessary annually beginning in FY 2007-08. The Grants Fiscal Management Services Unit of the Department of Education will be responsible for processing reimbursement claims for children with disabilities in eligible facilities. The Unit will also be required to establish and implement a system for reimbursing expenses for high cost students with disabilities. Administrative expenses for the Department of Education are shown in Table 1 below.

Table 1. Administrative Expenses for the Department of Education

	FY 2006/07	FY 2007/08
Personal Services:		
Wages	$21,000	$21,000
PERA and Medicare	2,594	2,594
Subtotal	$23,594	$23,594
Operating Expenses	250	250
Non-Recurring Expenses	1,503	
Total Expenses	**$25,346**	**$23,844**

The bill authorizes the Department of Education to withhold an amount of up to a certain percentage (left blank in the bill) to offset its costs as shown above. This amount will be withheld from moneys designated for distribution to administrative units that paid tuition for children with disabilities who are placed in approved facilities and for reimbursement to administrative units for costs in excess of a threshold amount for special education services for children with disabilities.

School District Impact

Since 1994, local administrative units have received a constant "base funding amount" each year for special education. The current "base funding amount" is the amount administrative units received in FY 1997-98 as reimbursement based on the percentage of special education expenditures in 1994. This bill phases in, over a six-year period, a uniform statewide per-pupil special education funding amount. During the phase-in period, administrative units currently receiving the highest per-pupil amounts would be held at that funding level, while other administrative units receive increases to bring them to the same level of per-pupil funding.

Each year, a portion of the annual increase for special education categorical funding would be earmarked and made available to provide additional funding to administrative units that incur costs for certain high need students. Beginning in FY 2006-07, any administrative unit paying tuition would be eligible to apply for and receive reimbursement of up to 50 percent of the tuition paid in the previous fiscal year to eligible facilities for children who are placed in such facilities by the Court or by the Department of Human Services. Additionally, beginning in FY 2007-08, administrative units would be able to apply for reimbursement of costs above an identified threshold. The bill eliminates the existing reimbursement program for "educational orphans," currently funded at $500,000 (Section 22-20-114 (1) (b.8), C.R.S.), with a larger amount of earmarked funding designated for a similar purpose.

State Appropriations

Since the bill states that the Department of Education may withhold a portion of the moneys designated for distribution to offset the direct costs incurred in implementing the bill, no separate appropriation is required to implement the bill.

Departments Contacted

Education

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

Bill B

DRAFT

LLS NO. 06-0213.01 Christy Chase **HOUSE BILL**

HOUSE SPONSORSHIP

Pommer, Benefield, King, and Merrifield

SENATE SPONSORSHIP

Bacon, Anderson, Tupa, and Windels

House Committees **Senate Committees**

A BILL FOR AN ACT

CONCERNING THE AUTHORIZATION OF ADDITIONAL SCHOOL DISTRICT REVENUES TO FUND COSTS ASSOCIATED WITH FULL-DAY KINDERGARTEN PROGRAMS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Interim Committee on School Finance. Authorizes a school district, upon voter approval, to impose an additional mill levy for purposes of funding the school district's excess full-day kindergarten

costs. Allows the question submitted to the voters to also include a question of whether to impose an additional mill levy of a stated amount and limited duration to fund the capital construction needs associated with the district's full-day kindergarten program. Precludes a school district that imposes the additional full-day kindergarten mill levy from participating in the full-day kindergarten component of the Colorado preschool program. Allows a school district that funds a portion of its full-day kindergarten program with the additional mill levy to charge tuition to out-of-district pupils enrolled in the locally funded portion of the full-day kindergarten program.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 54 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

22-54-108.5. Authorization of additional local revenues for full-day kindergarten. (1) (a) NOTWITHSTANDING ANY LAW TO THE CONTRARY, EFFECTIVE JULY 1, 2006, ANY DISTRICT THAT WISHES TO RAISE AND EXPEND LOCAL PROPERTY TAX REVENUES IN EXCESS OF THE DISTRICT'S TOTAL PROGRAM, AS DETERMINED IN ACCORDANCE WITH SECTION 22-54-104, AND IN ADDITION TO ANY PROPERTY TAX REVENUES LEVIED PURSUANT TO SECTIONS 22-54-107 AND 22-54-108, MAY SUBMIT THE QUESTION OF WHETHER THE DISTRICT SHOULD BE AUTHORIZED TO RAISE AND EXPEND ADDITIONAL LOCAL PROPERTY TAX REVENUES, THEREBY AUTHORIZING AN ADDITIONAL LEVY IN EXCESS OF THE LEVY AUTHORIZED UNDER SECTIONS 22-54-106, 22-54-107, AND 22-54-108, TO PROVIDE FUNDING FOR EXCESS FULL-DAY KINDERGARTEN PROGRAM COSTS IN THE DISTRICT FOR THE THEN CURRENT BUDGET YEAR AND EACH BUDGET YEAR THEREAFTER. THE QUESTION AUTHORIZED BY THIS PARAGRAPH (a) MAY ALSO INCLUDE A QUESTION OF WHETHER TO IMPOSE AN ADDITIONAL MILL LEVY OF A STATED AMOUNT AND LIMITED DURATION TO MEET THE INITIAL CAPITAL CONSTRUCTION NEEDS OF THE DISTRICT ASSOCIATED

WITH THE ESTABLISHMENT OF A FULL-DAY KINDERGARTEN PROGRAM. IF A MILL LEVY FOR CAPITAL CONSTRUCTION NEEDS ASSOCIATED WITH THE DISTRICT'S FULL-DAY KINDERGARTEN PROGRAM IS APPROVED FOR MORE THAN ONE YEAR, THE BOARD OF EDUCATION OF THE DISTRICT MAY, WITHOUT CALLING AN ELECTION, DECREASE THE AMOUNT OR DURATION OF THE MILL LEVY IN SUBSEQUENT YEARS. THE QUESTIONS AUTHORIZED BY THIS PARAGRAPH (a) SHALL BE SUBMITTED AT AN ELECTION HELD IN ACCORDANCE WITH SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AND TITLE 1, C.R.S.

(b) NOTWITHSTANDING ANY LAW TO THE CONTRARY, EFFECTIVE JULY 1, 2006, UPON PROPER SUBMITTAL TO A DISTRICT OF A VALID INITIATIVE PETITION, THE DISTRICT SHALL SUBMIT TO THE ELIGIBLE ELECTORS OF THE DISTRICT THE QUESTION OF WHETHER THE DISTRICT SHOULD BE AUTHORIZED TO RAISE AND EXPEND ADDITIONAL LOCAL PROPERTY TAX REVENUES IN EXCESS OF THE DISTRICT'S TOTAL PROGRAM, AS DETERMINED IN ACCORDANCE WITH SECTION 22-54-104, AND IN ADDITION TO ANY PROPERTY TAX REVENUES LEVIED PURSUANT TO SECTIONS 22-54-107 AND 22-54-108, THEREBY AUTHORIZING AN ADDITIONAL LEVY IN EXCESS OF THE LEVY AUTHORIZED UNDER SECTIONS 22-54-106, 22-54-107, AND 22-54-108, TO PROVIDE FUNDING FOR EXCESS FULL-DAY KINDERGARTEN PROGRAM COSTS IN THE DISTRICT FOR THE THEN CURRENT BUDGET YEAR AND EACH BUDGET YEAR THEREAFTER. THE QUESTION AUTHORIZED BY THIS PARAGRAPH (b) MAY ALSO INCLUDE A QUESTION OF WHETHER TO IMPOSE AN ADDITIONAL MILL LEVY OF A STATED AMOUNT AND LIMITED DURATION TO MEET THE INITIAL CAPITAL CONSTRUCTION NEEDS OF THE DISTRICT ASSOCIATED WITH THE ESTABLISHMENT OF A FULL-DAY KINDERGARTEN PROGRAM. IF A MILL

LEVY FOR CAPITAL CONSTRUCTION NEEDS ASSOCIATED WITH THE DISTRICT'S FULL-DAY KINDERGARTEN PROGRAM IS APPROVED FOR MORE THAN ONE YEAR, THE BOARD OF EDUCATION OF THE DISTRICT MAY, WITHOUT CALLING AN ELECTION, DECREASE THE AMOUNT OR DURATION OF THE MILL LEVY IN SUBSEQUENT YEARS. THE QUESTIONS AUTHORIZED BY THIS PARAGRAPH (b) SHALL BE SUBMITTED AT AN ELECTION HELD IN ACCORDANCE WITH SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AND TITLE 1, C.R.S. AN INITIATIVE PETITION UNDER THIS PARAGRAPH (b) SHALL BE SIGNED BY AT LEAST FIVE PERCENT OF THE ELIGIBLE ELECTORS IN THE DISTRICT AT THE TIME THE PETITION IS FILED.

(c) IF A MAJORITY OF THE VOTES CAST IN AN ELECTION HELD PURSUANT TO PARAGRAPH (a) OR (b) OF THIS SUBSECTION (1) ARE IN FAVOR OF THE QUESTION, AN ADDITIONAL MILL LEVY SHALL BE LEVIED EACH YEAR, AND THE REVENUES RECEIVED FROM THE ADDITIONAL MILL LEVY SHALL BE DEPOSITED IN THE FULL-DAY KINDERGARTEN FUND OF THE DISTRICT CREATED IN SECTION 22-45-103 (1) (h). IF THE DISTRICT OBTAINED VOTER APPROVAL FOR AN ADDITIONAL MILL LEVY TO MEET THE CAPITAL CONSTRUCTION NEEDS ASSOCIATED WITH THE DISTRICT'S FULL-DAY KINDERGARTEN PROGRAM, THE REVENUES GENERATED FROM THAT MILL LEVY SHALL BE DEPOSITED IN THE CAPITAL CONSTRUCTION ACCOUNT OF THE DISTRICT'S FULL-DAY KINDERGARTEN FUND.

(d) FOR PURPOSES OF THIS SECTION, "EXCESS FULL-DAY KINDERGARTEN PROGRAM COSTS" MEANS AN AMOUNT EQUAL TO FIFTY PERCENT OF THE DISTRICT'S PER-PUPIL REVENUES FOR THE BUDGET YEAR IN WHICH THE ELECTION IS HELD, MULTIPLIED BY THE NUMBER OF PUPILS ENROLLED OR EXPECTED TO ENROLL IN THE DISTRICT'S FULL-DAY KINDERGARTEN PROGRAM.

(e) NOTWITHSTANDING THE PROVISIONS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION THAT ALLOW DISTRICTS TO SEEK VOTER APPROVAL FOR SPENDING AND REVENUE INCREASES, THE PROVISIONS OF THIS SUBSECTION (1) SHALL LIMIT A DISTRICT'S AUTHORITY TO RAISE AND EXPEND LOCAL PROPERTY TAX REVENUES IN EXCESS OF THE DISTRICT'S TOTAL PROGRAM AS DETERMINED IN ACCORDANCE WITH SECTION 22-54-104.

(2) A DISTRICT THAT OBTAINS VOTER APPROVAL PURSUANT TO THIS SECTION TO IMPOSE AN ADDITIONAL MILL LEVY TO FUND EXCESS FULL-DAY KINDERGARTEN PROGRAM COSTS IN THE DISTRICT SHALL NOT BE AUTHORIZED TO SERVE CHILDREN THROUGH A FULL-DAY KINDERGARTEN COMPONENT OF THE DISTRICT'S PRESCHOOL PROGRAM ESTABLISHED PURSUANT TO ARTICLE 28 OF THIS TITLE.

(3) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, A DISTRICT THAT PROVIDES AND FUNDS A FULL-DAY KINDERGARTEN PROGRAM WITH MONEYS GENERATED BY THE IMPOSITION OF AN ADDITIONAL MILL LEVY AS AUTHORIZED BY THIS SECTION MAY CHARGE TUITION TO A PUPIL WHO DOES NOT RESIDE IN THE DISTRICT FOR THE PORTION OF THE DISTRICT'S FULL-DAY KINDERGARTEN PROGRAM THAT IS FUNDED BY THE DISTRICT'S ADDITIONAL MILL LEVY.

SECTION 2. 22-45-103 (1) (a) (I), Colorado Revised Statutes, is amended, and the said 22-45-103 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

22-45-103. Funds. (1) The following funds are created for each school district for purposes specified in this article:

(a) **General fund.** (I) All revenues, except those revenues attributable to the bond redemption fund, the capital reserve fund, the special building and technology fund, a fund created solely for the management of risk-related activities, and any other fund authorized by THIS SECTION OR BY the state board of education, as provided in subsection (2) of this section, shall be accounted for in the general fund. Any lawful expenditure of the school district, including any expenditure of a nature ~~which~~ THAT could be made from any fund, may be made from the general fund. All expenditures from the general fund shall be recorded therein.

(h) **Full-day kindergarten fund.** (I) THE REVENUES FROM A TAX LEVIED PURSUANT TO SECTION 22-54-108.5 FOR THE PURPOSE OF PAYING EXCESS FULL-DAY KINDERGARTEN PROGRAM COSTS SHALL BE DEPOSITED IN THE FULL-DAY KINDERGARTEN FUND OF THE DISTRICT. EXPENDITURES FROM THE FUND SHALL BE LIMITED TO PAYMENT OF EXCESS FULL-DAY KINDERGARTEN PROGRAM COSTS AS AUTHORIZED IN THE BUDGET OF THE DISTRICT. ANY MONEYS REMAINING IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL BE USED TO REDUCE THE LEVY FOR EXCESS FULL-DAY KINDERGARTEN PROGRAM COSTS IN FUTURE YEARS.

(II) THE REVENUES FROM A TAX LEVIED PURSUANT TO SECTION 22-54-108.5 TO MEET THE CAPITAL CONSTRUCTION NEEDS ASSOCIATED WITH A DISTRICT'S FULL-DAY KINDERGARTEN PROGRAM SHALL BE CREDITED TO THE CAPITAL CONSTRUCTION ACCOUNT IN THE DISTRICT'S FULL-DAY KINDERGARTEN FUND. MONEYS IN THE ACCOUNT SHALL BE USED TO MEET THE DISTRICT'S CAPITAL CONSTRUCTION NEEDS ASSOCIATED WITH THE FULL-DAY KINDERGARTEN PROGRAM AND MAY NOT BE EXPENDED BY THE DISTRICT FOR ANY OTHER PURPOSE. ANY MONEYS REMAINING IN THE ACCOUNT AT THE END OF ANY FISCAL YEAR SHALL

REMAIN IN THE ACCOUNT AND MAY BE BUDGETED IN THE NEXT FISCAL YEAR.

SECTION 3. 22-54-106 (5) and (7), Colorado Revised Statutes, are amended to read:

22-54-106. Local and state shares of district total program. (5) (a) Except as otherwise provided in sections 22-54-107, ~~and~~ 22-54-108, AND 22-54-108.5, no district may certify a levy for its general fund in excess of that authorized by this section.

(b) No district is authorized to seek voter approval to impose additional mill levies for its general fund in excess of that authorized by this section and sections 22-54-107, ~~and~~ 22-54-108, AND 22-54-108.5. Therefore, voter approval obtained by any district in order to be capable of receiving additional revenues within the limitations on the district's fiscal year spending for any budget year under section 20 of article X of the state constitution does not constitute voter approval for such district to certify a levy for its general fund in excess of that authorized by this section and sections 22-54-107, ~~and~~ 22-54-108, AND 22-54-108.5.

(7) For the 1994 property tax year and property tax years thereafter, all mill levies authorized or required by this section or sections 22-54-107, ~~and~~ 22-54-108, AND 22-54-108.5 shall be rounded to the nearest one-thousandth of one mill.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

DRAFT

Bill B

Colorado Legislative Council Staff

LOCAL
CONDITIONAL FISCAL IMPACT

Drafting Number:	LLS 06-0213	**Date:**	December 5, 2005
Prime Sponsor(s):	Rep. Pommer Sen. Bacon	**Bill Status:** **Fiscal Analyst:**	Interim Committee on School Finance Harry Zeid (303-866-4753)

TITLE: CONCERNING THE AUTHORIZATION OF ADDITIONAL SCHOOL DISTRICT REVENUES TO FUND COSTS ASSOCIATED WITH FULL-DAY KINDERGARTEN PROGRAMS.

Fiscal Impact Summary	FY 2006/2007	FY 2007/2008
State Revenues General Fund		
State Expenditures General Fund		
FTE Position Change	0.0 FTE	0.0 FTE
Effective Date: Upon signature of the Governor		
Appropriation Summary for FY 2006/2007: None Required		
School District Impact: Upon voter approval, school districts may impose an additional property tax mill levy to fund full-day kindergarten programs.		

Summary of Legislation

Effective July 1, 2006, this bill, recommended by the Interim Committee on School Finance, authorizes school districts to seek voter approval to impose an additional mill levy to raise property taxes for purposes of funding a school district's excess full-day kindergarten costs. The school district may also request authorization to raise property tax revenues to meet the initial capital construction needs of the district that are associated with the establishment of a full-day kindergarten program.

The bill precludes a school district that imposes the additional full-day kindergarten mill levy from participating in the full-day kindergarten component of the Colorado Preschool Program. A school district that funds a portion of its full-day kindergarten program with the additional mill levy would be allowed to charge tuition to out-of-district pupils enrolled in the locally funded portion of the full-day kindergarten program.

Since voter approval is required to increase the school district mill levy, the bill is assessed as having a conditional fiscal impact at the school district level. The bill has no state revenue or expenditure impact.

School District Impact

Currently, 46 school districts in Colorado provide full-day kindergarten services to 1,914 kindergarten students, 100 percent of those districts' kindergarten populations. Forty other school districts in the state provide full-day kindergarten services to 10,417 students, ranging from 1 percent to 95 percent of their kindergarten populations. These full-time services are provided within the current revenue received by the school district, or by tuition that is charged for the second half of the school day. The Colorado Preschool Program (CPP) also provides funding for full-day kindergarten services to 1,500 pupils. Out of 59,657 kindergarten students statewide, 23.2 percent, or 13,831 kindergarten students, receive full-time educational services.

Section 22-54-108, C.R.S., authorizes school districts to submit a question to voters to raise and spend additional local property tax revenues, subject to certain limitations. The current override question may include language that is very general in nature or can be for a more specific purpose (i.e., building maintenance, purchase of buses, funding full-day kindergarten).

Ten school districts (Boulder, Kit Carson R-1, Eagle County 50, East Grand 2, Durango 9-R, Ignacio 11 JT, Moffat County Re-1, Aspen 1, Rangely Re-4, and Hayden Re-1) have reached their maximum limitations authorized under the current law. If these districts receive authorization to raise additional revenue to fund costs associated with full-day kindergarten programs, they would not be eligible to receive funding for full-day kindergarten through the CPP. Of these school districts, only Boulder and Moffat presently receive CPP funding. The number of school districts that would choose to seek voter approval to raise additional revenue to fund costs associated with full-day kindergarten programs is unknown.

State Appropriations

The fiscal note implies that no additional appropriation or spending authority is required in FY 2006-07 in order to implement the provisions of the bill.

Departments Contacted

Education

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

Bill C

DRAFT

LLS NO. 06-0214.01 Esther van Mourik **SENATE BILL**

SENATE SPONSORSHIP

Windels, Anderson, Bacon, Spence, and Tupa

HOUSE SPONSORSHIP

Penry, Benefield, King, Merrifield, and Pommer

Senate Committees **House Committees**

A BILL FOR AN ACT

CONCERNING STATE SCHOOL LANDS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Interim Committee on School Finance. Directs all money earned from the management of the state school lands, including interest earned on the public school fund and proceeds received by the state for mineral leases, land surface leases, and timber sales on said lands, to be deposited into the public school fund and treated as principal. Allows the

corpus of the public school fund to grow from the 2006-07 fiscal year until the value of the fund reaches $2.35 billion. Allows the expenditure of up to $19 million of interest earned on the fund and up to $12 million of proceeds received for mineral leases, land surface leases, and timber sales in any fiscal year in which Colorado personal income grows less than 4.5% between the 2 prior calendar years.

Allows the state treasurer to invest in additional types of securities, and modifies the manner in which a loss is calculated.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 22-41-101 (1) and (2), Colorado Revised Statutes, are amended to read:

22-41-101. Composition of fund. (1) ~~The general assembly hereby finds and declares that:~~

~~(a) For fiscal years 1994-95 and 1995-96, a total of ten million eight hundred thousand dollars was transferred from the state public school fund to the public school fund in accordance with sections 24 and 25 of House Bill 95-1327, enacted at the first regular session of the sixtieth general assembly;~~

~~(b) House Bill 95-1327 also amended this section to require that interest earned on moneys transferred to the public school fund during these two fiscal years be retained in the fund;~~

~~(c) Through the language added by section 3 of House Bill 95-1327, the general assembly intended that only the interest earned on the moneys transferred to the public school fund in accordance with sections 24 and 25 of House Bill 95-1327 be retained in the fund;~~

~~(d) The general assembly did not intend that interest earned on other moneys transferred to the public school fund during the 1994-95 and 1995-96 fiscal years also be retained in the public school fund;~~

~~(e) The fact that this interest has been retained in the fund does~~

~~not result in the interest becoming principal of the public school fund and does not prevent the transfer of this interest to any other fund in accordance with law;~~

~~(f) As soon as practicable and in accordance with law, the state treasurer should comply with the provisions of this section and transfer the interest earned on all moneys transferred to the public school fund during the 1994-95 and 1995-96 fiscal years, except for the interest earned on moneys transferred to the fund pursuant to sections 24 and 25 of House Bill 95-1327, to the public school income fund.~~

(2) The public school fund of the state shall consist of the proceeds of such lands as have been, or may be, granted to the state by the federal government for educational purposes; all estates that may escheat to the state; all other grants, gifts, or devises that may be made to the state for educational purposes; and such other moneys as the general assembly may appropriate or transfer. ~~The interest earned on any moneys transferred to the public school fund during the 1994-95 and 1995-96 fiscal years pursuant to sections 24 and 25 of House Bill 95-1327 shall remain in the public school fund and may not be transferred to any other fund.~~

SECTION 2. 22-41-102 (3), Colorado Revised Statutes, is amended to read:

22-41-102. Fund inviolate. (3) (a) For the 2003-04 fiscal year ~~and each fiscal year thereafter~~ THROUGH THE 2005-06 FISCAL YEAR, the amount of interest expended from the public school fund shall not exceed nineteen million dollars. Any interest earned on the investment of the moneys in the public school fund that exceeds the amount specified in this ~~subsection (3)~~ PARAGRAPH (a) shall remain in the PUBLIC SCHOOL fund and shall become part of the principal of the fund.

(b) EXCEPT AS PROVIDED IN PARAGRAPH (c) OF THIS SUBSECTION (3), FOR THE 2006-07 FISCAL YEAR AND EACH FISCAL YEAR THEREAFTER UNTIL THE CORPUS OF THE FUND HAS A MARKET VALUE OF TWO BILLION THREE HUNDRED FIFTY MILLION DOLLARS, ANY INCOME EARNED ON THE INVESTMENT OF MONEYS IN THE PUBLIC SCHOOL FUND, INCLUDING INTEREST AS SET FORTH IN SECTION 22-41-106 SHALL REMAIN IN THE FUND AND SHALL BECOME PART OF THE PRINCIPAL OF THE FUND.

(c) IN ANY FISCAL YEAR IN WHICH COLORADO PERSONAL INCOME GROWS LESS THAN FOUR AND ONE-HALF PERCENT BETWEEN THE TWO MOST RECENT CALENDAR YEARS ENDING PRIOR TO THE FISCAL YEAR, UP TO NINETEEN MILLION DOLLARS OF INTEREST EARNED ON THE INVESTMENT OF THE MONEYS IN THE PUBLIC SCHOOL FUND MAY BE EXPENDED FROM THE PUBLIC SCHOOL FUND IN THE MAINTENANCE OF THE SCHOOLS IN THE STATE.

SECTION 3. 22-41-104 (1) and (2), Colorado Revised Statutes, are amended to read:

22-41-104. Lawful investments. (1) The state treasurer in the state treasurer's discretion may invest and reinvest moneys accrued or accruing to the public school fund in the types of deposits and investments authorized in ~~sections 24-36-109, 24-36-112, and 24-36-113, C.R.S.,~~ SECTIONS 22-41-104.5, 24-36-109, 24-36-112, AND 24-36-113, C.R.S., and bonds issued by school districts.

(2) (a) The state treasurer has authority, to be exercised at the state treasurer's discretion, to effect exchanges or sales whenever such exchanges or sales will not result in ~~any ultimate loss of principal and to effect exchanges or sales that will result in a loss of principal whenever~~

~~such loss can be offset by a corresponding gain within three fiscal years of such exchange or sale. No exchange or sale of securities shall be consummated by the state treasurer that will result in a net loss of principal unless the general assembly has previously appropriated a sum to the public school fund equivalent to the anticipated net loss of principal from such exchange or sale~~ A REALIZED AGGREGATE LOSS OF PRINCIPAL FOR THE PUBLIC SCHOOL FUND FOR THE FISCAL YEAR IN WHICH THE TRANSACTION OCCURS.

(b) A REALIZED AGGREGATE LOSS OF PRINCIPAL IS DEEMED TO HAVE OCCURRED WHEN, IN A FISCAL YEAR, THE EARNINGS RETAINED IN THE PUBLIC SCHOOL FUND COMBINED WITH THE TOTAL PROCEEDS DERIVED FROM THE LIQUIDATION OF INVESTMENTS AND ANY WRITE-OFFS OF ALL OR A PORTION OF ANY INVESTMENTS DOES NOT EXCEED THE COST OF THOSE INVESTMENTS.

SECTION 4. 22-41-104.5 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

22-41-104.5. Other financial transactions. (1) The state treasurer may engage in financial transactions whereby:

(e) PUBLICLY TRADED CORPORATE EQUITY SECURITIES ARE PURCHASED WITH MONEYS ACCRUED OR ACCRUING TO THE PUBLIC SCHOOL FUND; EXCEPT THAT:

(I) ANY INVESTMENT OF THE PUBLIC SCHOOL FUND MONEYS IN THE COMMON OR PREFERRED STOCK, OR BOTH, OF ANY SINGLE CORPORATION SHALL NOT EXCEED FIVE PERCENT OF THE THEN-BOOK VALUE OF THE FUND.

(II) THE PUBLIC SCHOOL FUND SHALL NOT ACQUIRE MORE THAN

FIVE PERCENT OF THE OUTSTANDING STOCK OR BONDS OF ANY SINGLE CORPORATION.

(III) THE AGGREGATE AMOUNT OF MONEYS OF THE PUBLIC SCHOOL FUND INVESTED IN COMMON OR PREFERRED STOCK OR IN CORPORATE BONDS, NOTES, OR DEBENTURES THAT ARE CONVERTIBLE INTO COMMON OR PREFERRED STOCK SHALL NOT EXCEED FIFTY PERCENT OF THE THEN-BOOK VALUE OF THE FUND. NO MORE THAN TEN PERCENT OF THESE INVESTMENTS SHALL BE IN THE COMMON OR PREFERRED STOCK OF CORPORATIONS NOT ORGANIZED UNDER THE LAWS OF THE UNITED STATES OR ANY STATE, TERRITORY, OR POSSESSION OF THE UNITED STATES OR THE DISTRICT OF COLUMBIA OR OF THE DOMINION OF CANADA OR ANY PROVINCE THEREOF.

(f) PUBLICLY TRADED CORPORATE EQUITY SECURITIES OWNED BY THE PUBLIC SCHOOL FUND ARE SOLD AND PROFITS REINVESTED PURSUANT TO SECTION 22-41-104 (1).

SECTION 5. 22-41-105, Colorado Revised Statutes, is amended to read:

22-41-105. Income distinguished from principal. Any amount paid as a premium for an interest-bearing obligation in excess of the amount realized upon disposition of said obligation shall be recovered as a return of principal. ~~out of interest thereafter derived from the public school fund.~~ Such recovery shall be made and recorded on a systematic basis applied consistently from year to year.

SECTION 6. 22-41-106, Colorado Revised Statutes, is amended to read:

22-41-106. Disposition of income. EXCEPT AS PROVIDED IN SECTION 22-41-102 (3) (c), FOR THE 2006-07 FISCAL YEAR AND EACH

FISCAL YEAR THEREAFTER UNTIL THE CORPUS OF THE PUBLIC SCHOOL FUND HAS A MARKET VALUE OF TWO BILLION THREE HUNDRED FIFTY MILLION DOLLARS, all interest derived from the investment and reinvestment of the public school fund shall be credited to the ~~public school income fund and periodically transferred therefrom to the state~~ public school fund.

SECTION 7. 22-41-109 (9), Colorado Revised Statutes, is repealed as follows:

22-41-109. Bond guarantee loans. (9) ~~In order to assure sufficient liquidity to meet obligations under the provisions of this section, the state treasurer shall invest moneys in the public school fund in an amount equal to at least ten percent of the principal amount of bonds guaranteed under this section in interest-bearing obligations of the United States as provided in section 22-41-104 (1) (d) with maturity dates of three years or less.~~

SECTION 8. 36-1-116 (1) (a) and (1) (b) (I), Colorado Revised Statutes, are amended to read:

36-1-116. Disposition of rentals, royalties, and timber sale proceeds. (1) (a) (I) Except as provided in ~~subparagraph (II)~~ SUBPARAGRAPHS (II) AND (III) of this paragraph (a), proceeds received by the state for the sale of timber on public school lands; rental payments for the use and occupation of the surface of said lands; and rentals or lease payments for sand, gravel, clay, stone, coal, oil, gas, geothermal resources, gold, silver, or other minerals on said lands shall be credited to the public school ~~income~~ fund ~~for distribution as provided by law.~~ AS PROVIDED FOR IN SECTION 22-41-101(2), C.R.S.

(II) For the 2005-06 state fiscal year, ~~and each state fiscal year thereafter,~~ the first twelve million dollars of proceeds received by the state for the sale of timber on public school lands, rental payments for the use and occupation of the surface of said lands, and rentals or lease payments for sand, gravel, clay, stone, coal, oil, gas, geothermal resources, gold, silver, or other minerals on said lands shall be credited to the public school income fund for distribution as provided by law. Any amount of such proceeds and payments received by the state during such fiscal year in excess of twelve million dollars shall be credited to the ~~permanent~~ PUBLIC school fund AS PROVIDED FOR IN SECTION 22-41-101 (2), C.R.S., and shall become part of the principal of the ~~permanent~~ PUBLIC school fund.

(III) FOR THE 2006-07 STATE FISCAL YEAR AND EACH STATE FISCAL YEAR THEREAFTER, IF COLORADO PERSONAL INCOME GROWS LESS THAN FOUR AND ONE-HALF PERCENT BETWEEN THE TWO MOST RECENT CALENDAR YEARS ENDING PRIOR TO THE FISCAL YEAR, UP TO TWELVE MILLION DOLLARS OF PROCEEDS RECEIVED BY THE STATE FOR THE SALE OF TIMBER ON PUBLIC SCHOOL LANDS, RENTAL PAYMENTS FOR THE USE AND OCCUPATION OF THE SURFACE OF SAID LANDS, AND RENTALS OR LEASE PAYMENTS FOR SAND, GRAVEL, CLAY, STONE, COAL, OIL, GAS, GEOTHERMAL RESOURCES, GOLD, SILVER, OR OTHER MINERALS ON SAID LANDS SHALL BE EXPENDED IN THE SUPPORT OF COMMON SCHOOLS.

(b) (I) Except as provided in subparagraph (II) of this paragraph (b), royalties and other payments for the depletion or extraction of a natural resource on ~~said~~ PUBLIC SCHOOL lands shall be credited to the ~~permanent~~ PUBLIC school fund AS PROVIDED FOR IN SECTION 22-41-101 (2), C.R.S.

SECTION 9. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Bill C

Colorado Legislative Council Staff

STATE FISCAL IMPACT

Drafting Number:	LLS 06-0214	**Date:**	December 8, 2005
Prime Sponsor(s):	Sen. Windels	**Bill Status:**	Interim Committee on School Finance
	Rep. Penry	**Fiscal Analyst:**	David Porter (303-866-4375)

TITLE: CONCERNING STATE SCHOOL LANDS.

Fiscal Impact Summary	FY 2006/2007	FY 2007/2008
State Revenues Cash Fund Exempt (Public School Fund)	 $33,417,860*	 $35,601,346*
State Expenditures General Fund Cash Fund Exempt (State Public School Fund)	 $31,000,000 ($31,000,000)	 $31,000,000 ($31,000,000)
FTE Position Change	0.0 FTE	0.0 FTE
Effective Date: Upon signature of the Governor		
Appropriation Summary for FY 2006/2007: $31,000,000 from the General Fund for school finance.		
Local Government Impact: None		

**Of these amounts, $2,417,860 in FY 2006-07 and $4,601,346 in FY 2007-08 is revenue expected from new financial management practices.*

Summary of Legislation

This bill seeks to increase the Public School ("Permanent") Fund's balance to $2.35 billion in two ways:

- a portion of the money presently used for school finance is retained within the Public School Fund; and
- investment options are expanded.

If Colorado's personal income grows less than 4.5 percent over the two prior calendar years, the bill allows for $19 million in interest income and $12 million of land management proceeds to be spent on school finance. Once the Fund reaches the target value of $2.35 billion, the land management proceeds and interest income become available for use in school finance.

The bill allows the State Treasurer to invest up to 50 percent of the Fund in additional types of securities and it modifies the manner in which a loss is calculated.

Background

At statehood, the federal government granted Colorado lands designated to be a resource to support schools - the State School Lands. The management of these lands generates income from mineral leases, land surface leases, and timber sales. Further, proceeds from the sale of any state school lands are held in a permanent school fund, named the Public School Fund. This fund is held inviolate and only the interest earned on the fund can be directed towards school finance. Considered together, income from the management of state school lands and from interest on the Public School Fund contribute $31 million yearly to the state's portion of school finance. This money accounts for 3 percent of the total state contribution to school finance; the remainder is primarily supplied by the General Fund and the State Education Fund.

This bill directs the $31 million available to school finance to be held within the Public School Fund until the fund reaches a balance of $2.35 billion.

The other aspect of the bill relates to the financial management of the Public School Trust Fund. Current law requires that the Fund be invested in a secure and profitable manner. Exchanges or sales of Fund assets where a net loss in principal is expected require an appropriation by the General Assembly in an amount that will offset the loss. This bill changes the definition of a loss to one that looks at the aggregate loss of principal over a fiscal year rather than the loss of principal for each exchange. The bill also specifies that corporate equity securities are reasonable investments provided they follow specified guidelines.

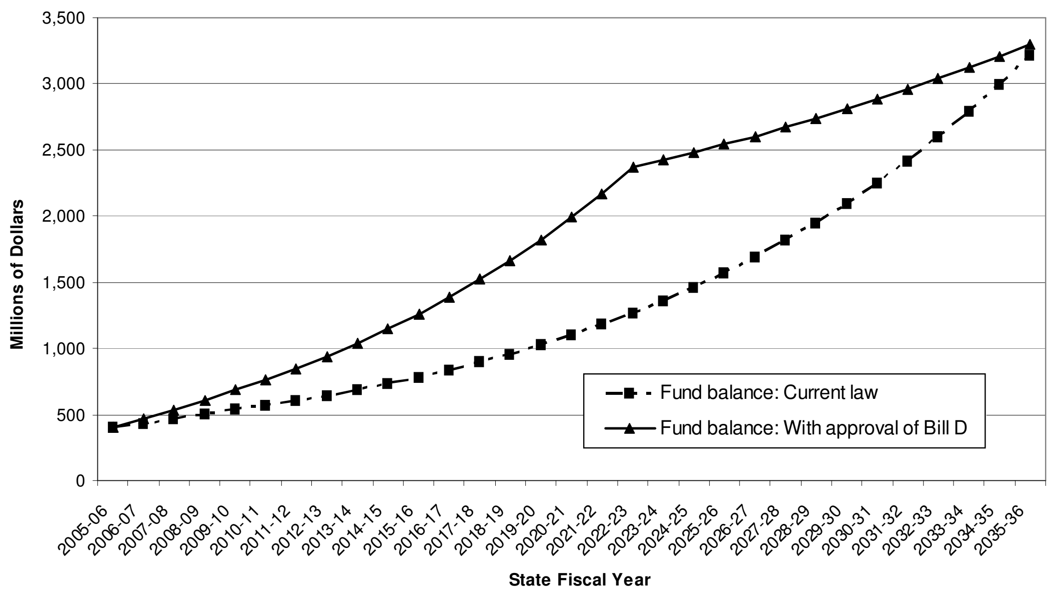
State Revenues

By retaining interest income and by keeping all land management income, the corpus of the Public School Fund will increase by an additional $31 million annually. This alteration to the account, compounded with the change in financial management investments, will result in the balance of the account growing faster than previously.

The State Treasurer estimates that by using greater financial management options, the Fund's growth rate will increase from 5.4 percent to 6.0 percent in the first five years to 6.5 percent each year thereafter. The growth of the fund under current law compared with Bill D is depicted in Figure 1.

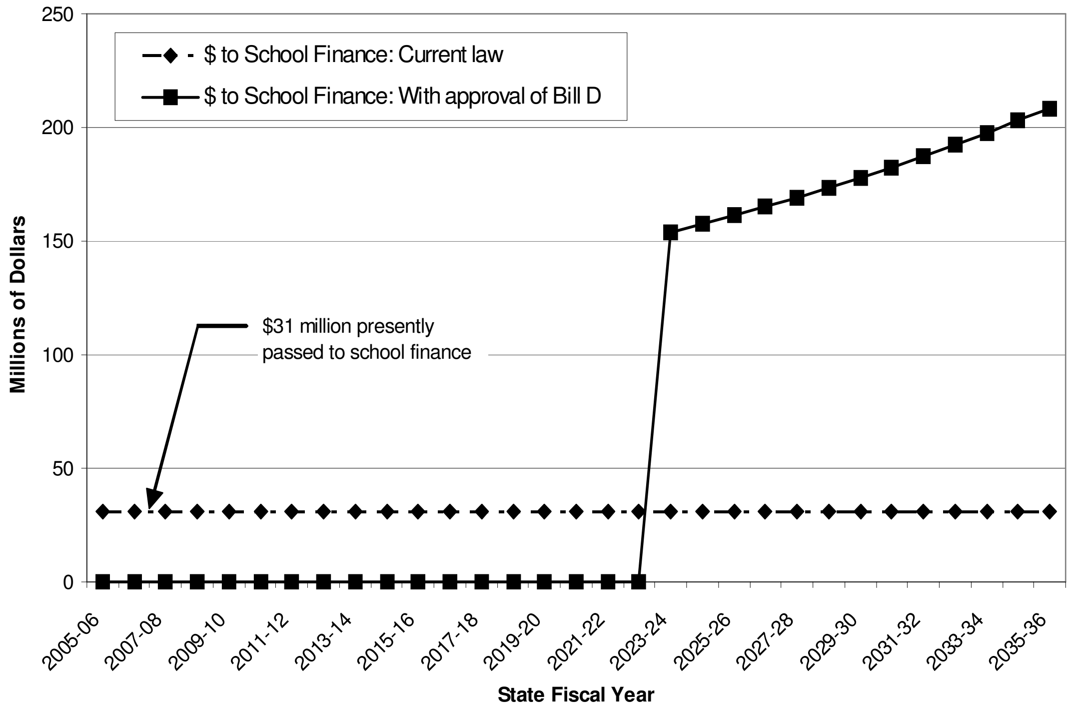
Using these assumptions, the Fund is predicted to reach the goal of $2.35 billion in FY 2035-36. At this point, the account will no longer grow at the same pace and the interest may no longer be reinvested in the account. However, the Fund begins to generate over $150 million yearly for possible use for education purposes.

Figure 1: Growth of Public School Fund



The revenue generated by interest on the Public School Fund continues to increase after the corpus of the fund has reached $2.35 billion. Figure 2 shows the interest income available to the State Public School Fund through FY 2035-36.

Figure 2: Funds Available to School Finance



As mentioned earlier, it is projected that new investment options for the Public School Fund will create a growth rate of 6.0 percent for five years and 6.5 percent thereafter. The revenue generated by these changes is shown in Table 1. It should be noted that while the option to invest in corporate equities provides an opportunity for more profitable investment of the account moneys, there is a degree of risk associated with these investment options.

Table 1: Interest earned on Public School Fund Balance (Millions of Dollars)

Fiscal Year	Current Law	Upon Approval of Bill D	Difference (New Revenue)
2006-07	$21.8	$24.2	$2.4
2007-08	23.4	28.0	4.6

Also note that the increase in revenue is the result of two factors. First, the investments are growing faster due to the higher return on investments. Second, since the Public School Fund is growing in total size, this results in more money being invested, which in turn leads to a higher dollar amount of investment income.

State Expenditures

This bill requires a $31 million appropriation from the General Fund in FY 2006-07 to supplant the moneys that are being retained by the Public School Fund and no longer available to school finance. The Public School Fund will grow by a value of $31 million as it retains all interest earned and also keeps all income from the public school trust lands.

State Appropriations

The fiscal note indicates that $31 million should be appropriated from the General Fund to school finance in FY 2006-07.

Departments Contacted

Education Treasury

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

Bill D

DRAFT

LLS NO. 06-0215.01 Julie Pelegrin

SENATE BILL

SENATE SPONSORSHIP

Windels, and Bacon

HOUSE SPONSORSHIP

King, Benefield, and Penry

Senate Committees | **House Committees**

A BILL FOR AN ACT

CONCERNING TECHNICAL REVISIONS TO PROVISIONS AFFECTING FUNDING FOR CERTAIN CHARTER SCHOOLS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently

adopted.)

Interim Committee on School Finance. Clarifies the definitions pertaining to funding institute charter schools. Relocates provisions concerning funding, central administrative overhead costs, and purchase of services that pertain to certain district charter schools. Clarifies the formula for calculating district at-risk per pupil funding for certain district charter schools.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 22-30.5-513 (1), Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

22-30.5-513. Institute charter schools - funding. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ACCOUNTING DISTRICT" MEANS THE SCHOOL DISTRICT WITHIN WHOSE GEOGRAPHIC BOUNDARIES AN INSTITUTE CHARTER SCHOOL IS PHYSICALLY LOCATED.

(b) "ACCOUNTING DISTRICT'S ADJUSTED PER PUPIL REVENUES" MEANS THE ACCOUNTING DISTRICT'S PER PUPIL FUNDING PLUS THE ACCOUNTING DISTRICT'S AT-RISK PER PUPIL FUNDING.

(c) "ACCOUNTING DISTRICT'S AT-RISK FUNDING" MEANS THE AMOUNT OF FUNDING FOR AT-RISK PUPILS IN THE ACCOUNTING DISTRICT DETERMINED IN ACCORDANCE WITH THE FORMULAS DESCRIBED IN SECTION 22-54-104 (4).

(d) "ACCOUNTING DISTRICT'S AT-RISK PER PUPIL FUNDING" MEANS THE AMOUNT OF FUNDING DETERMINED IN ACCORDANCE WITH THE FOLLOWING FORMULA:

(THE ACCOUNTING DISTRICT'S AT-RISK FUNDING DIVIDED
BY THE ACCOUNTING DISTRICT'S FUNDED PUPIL COUNT) X
(THE INSTITUTE CHARTER SCHOOL'S PERCENTAGE OF

AT-RISK PUPILS DIVIDED BY THE ACCOUNTING DISTRICT'S PERCENTAGE OF AT-RISK PUPILS)

(e) "ACCOUNTING DISTRICT'S FUNDED PUPIL COUNT" SHALL HAVE THE SAME MEANING AS THE TERM "DISTRICT FUNDED PUPIL COUNT" DEFINED IN SECTION 22-54-103 (7).

(f) "ACCOUNTING DISTRICT'S PER PUPIL FUNDING" MEANS THE PER PUPIL FUNDING CALCULATED FOR THE ACCOUNTING DISTRICT PURSUANT TO THE FORMULA DESCRIBED IN SECTION 22-54-104 (3).

(g) "ACCOUNTING DISTRICT'S PER PUPIL ON-LINE FUNDING" MEANS THE MINIMUM PER PUPIL FUNDING, AS DEFINED IN SECTION 22-54-104 (3.5), FOR ANY BUDGET YEAR

(h) "ADMINISTRATIVE OVERHEAD COSTS" MEANS ALL ACTUAL AND REASONABLE COSTS INCURRED BY THE INSTITUTE AS A RESULT OF ITS PERFORMANCE OF ITS OBLIGATIONS PURSUANT TO THIS PART 5. "ADMINISTRATIVE OVERHEAD COSTS" SHALL NOT INCLUDE ANY COSTS INCURRED IN ORDER TO DELIVER SERVICES THAT AN INSTITUTE CHARTER SCHOOL MAY PURCHASE AT ITS DISCRETION.

(i) "AT-RISK PUPILS" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 22-54-103 (1.5).

(j) "ON-LINE PUPIL ENROLLMENT" MEANS THE NUMBER OF PUPILS, ON OCTOBER 1 WITHIN THE APPLICABLE BUDGET YEAR OR THE SCHOOL DAY NEAREST SAID DATE, ENROLLED IN, ATTENDING, AND ACTIVELY PARTICIPATING IN AN ON-LINE PROGRAM CREATED PURSUANT TO SECTION 22-33-104.6 BY THE INSTITUTE CHARTER SCHOOL, WHICH PUPILS MEET THE REQUIREMENTS SPECIFIED IN SECTION 22-33-104.6 (4) (a) OR ARE EXEMPT PURSUANT TO RULES ADOPTED BY THE STATE BOARD PURSUANT TO SECTION 22-33-104.6 (7).

(k) "PUPIL ENROLLMENT" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 22-54-103 (10).

(l) "QUALIFIED CHARTER SCHOOL" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 22-54-124 (1) (f.6).

SECTION 2. 22-30.5-513 (2) (b) and (4) (a), Colorado Revised Statutes, are amended to read:

22-30.5-513. Institute charter schools - funding. (2) (b) For budget year 2004-05 and budget years thereafter, each institute charter school and the institute shall negotiate funding under the charter contract at a minimum of ninety-five percent of the institute charter school's accounting district's adjusted per pupil revenues for each pupil enrolled in the institute charter school who is not an on-line pupil and ninety-five percent of the institute charter school's accounting district's per pupil on-line funding for each on-line pupil enrolled in the institute charter school. The institute may retain the actual amount of the institute charter school's per pupil share of the administrative overhead costs for services actually provided to the institute charter school; except that the institute may retain no more than the actual cost of the administrative overhead costs not to exceed three percent of the accounting district's ADJUSTED per pupil revenues for each pupil, who is not an on-line pupil, enrolled in the institute charter school, and three percent of the accounting district's per pupil on-line funding for each on-line pupil enrolled in the institute charter school.

(4) (a) For each institute charter school, the department shall withhold from the state equalization payments of the institute charter school's accounting district an amount equal to one hundred percent of the ACCOUNTING DISTRICT'S adjusted per pupil revenues multiplied by the

number of pupils enrolled in the institute charter school who are not on-line pupils plus an amount equal to one hundred percent of the ~~district~~ ACCOUNTING DISTRICT'S per pupil on-line funding multiplied by the number of on-line pupils enrolled in the institute charter school. The department shall forward to the institute the amount withheld minus an amount not to exceed two percent of the amount withheld that may be retained by the department as reimbursement for the reasonable and necessary costs to the department to implement the provisions of this part 5. The institute shall forward to each institute charter school an amount equal to the institute charter school's pupil enrollment multiplied by the ACCOUNTING DISTRICT'S adjusted per pupil revenues of the institute charter school's accounting district, minus the amount of the actual costs incurred by the institute in providing necessary administration, oversight, and management services to the institute charter school, not to exceed three percent of the amount withheld, and minus the amount agreed to in the institute charter contract for any additional services, as provided in paragraph (b) of this subsection (4).

SECTION 3. Repeal. 22-30.5-513 (7) and (8), Colorado Revised Statutes, are repealed.

SECTION 4. Part 1 of article 30.5 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

22-30.5-112.1. Charter schools - exclusive jurisdiction districts - authorized on or after July 1, 2004 - financing. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ADJUSTED DISTRICT PER PUPIL REVENUES" MEANS THE QUALIFYING SCHOOL DISTRICT'S PER PUPIL FUNDING PLUS THE QUALIFYING

SCHOOL DISTRICT'S AT-RISK PER PUPIL FUNDING.

(b) "AT-RISK FUNDING" MEANS THE AMOUNT OF FUNDING DETERMINED IN ACCORDANCE WITH THE FORMULAS DESCRIBED IN SECTION 22-54-104 (4).

(c) "AT-RISK PER PUPIL FUNDING" MEANS THE AMOUNT OF FUNDING DETERMINED IN ACCORDANCE WITH THE FOLLOWING FORMULA:

(THE QUALIFYING SCHOOL DISTRICT'S AT-RISK FUNDING DIVIDED BY THE QUALIFYING SCHOOL DISTRICT'S FUNDED PUPIL COUNT) X (THE DISTRICT CHARTER SCHOOL'S PERCENTAGE OF AT-RISK PUPILS DIVIDED BY THE QUALIFYING SCHOOL DISTRICT'S PERCENTAGE OF AT-RISK PUPILS)

(d) "AT-RISK PUPILS" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 22-54-103 (1.5).

(e) "CENTRAL ADMINISTRATIVE OVERHEAD COSTS" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 22-30.5-112 (2) (a.5) (I).

(f) "DISTRICT CHARTER SCHOOL" MEANS A CHARTER SCHOOL FOR WHICH THE CHARTER APPLICATION IS APPROVED ON OR AFTER JULY 1, 2004, BY A QUALIFYING SCHOOL DISTRICT.

(g) "DISTRICT FUNDED PUPIL COUNT" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 22-54-103 (7).

(h) "DISTRICT PER PUPIL FUNDING" MEANS A QUALIFYING SCHOOL DISTRICT'S PER PUPIL FUNDING AS DETERMINED IN ACCORDANCE WITH THE FORMULA DESCRIBED IN SECTION 22-54-104 (3).

(i) "DISTRICT PER PUPIL ON-LINE FUNDING" MEANS THE MINIMUM PER PUPIL FUNDING, AS DEFINED IN SECTION 22-54-104 (3.5), FOR ANY BUDGET YEAR.

(j) "DISTRICT PER PUPIL REVENUES" MEANS THE QUALIFYING SCHOOL DISTRICT'S TOTAL PROGRAM, AS DEFINED IN SECTION 22-54-103 (6), FOR ANY BUDGET YEAR DIVIDED BY THE QUALIFYING SCHOOL DISTRICT'S FUNDED PUPIL COUNT FOR SAID BUDGET YEAR.

(k) "ON-LINE PUPIL ENROLLMENT" MEANS THE NUMBER OF PUPILS, ON OCTOBER 1 WITHIN THE APPLICABLE BUDGET YEAR OR THE SCHOOL DAY NEAREST SAID DATE, ENROLLED IN, ATTENDING, AND ACTIVELY PARTICIPATING IN AN ON-LINE PROGRAM CREATED PURSUANT TO SECTION 22-33-104.6 BY THE DISTRICT CHARTER SCHOOL, WHICH PUPILS MEET THE REQUIREMENTS SPECIFIED IN SECTION 22-33-104.6 (4) (a) OR ARE EXEMPT PURSUANT TO RULES ADOPTED BY THE STATE BOARD PURSUANT TO SECTION 22-33-104.6 (7).

(l) "PUPIL ENROLLMENT" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 22-54-103 (10).

(m) "QUALIFYING SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT:

(I) THAT HAS RETAINED EXCLUSIVE AUTHORITY TO AUTHORIZE CHARTER SCHOOLS PURSUANT TO THE PROVISIONS OF SECTION 22-30.5-504; AND

(II) IN WHICH MORE THAN FORTY PERCENT OF THE PUPIL ENROLLMENT CONSISTS OF AT-RISK PUPILS.

(2) NOTWITHSTANDING THE PROVISIONS OF SECTION 22-30.5-112 (2) (a) TO (2) (a.5), (2) (b), (2) (b.5), AND (2) (c), THE AMOUNT OF FUNDING TO BE RECEIVED BY A DISTRICT CHARTER SCHOOL, THE ACCOUNTING OF CENTRAL ADMINISTRATIVE OVERHEAD COSTS BETWEEN A DISTRICT CHARTER SCHOOL AND A QUALIFYING SCHOOL DISTRICT, AND THE DIRECT PURCHASE OF DISTRICT SERVICES BY A DISTRICT CHARTER SCHOOL FROM A QUALIFYING SCHOOL DISTRICT SHALL BE DETERMINED

PURSUANT TO THE PROVISIONS OF THIS SECTION.

(3) (a) FOR BUDGET YEAR 2004-05 AND BUDGET YEARS THEREAFTER, EACH DISTRICT CHARTER SCHOOL AND THE QUALIFYING SCHOOL DISTRICT THAT APPROVED THE CHARTER SHALL NEGOTIATE FUNDING UNDER THE CHARTER CONTRACT. THE DISTRICT CHARTER SCHOOL SHALL RECEIVE ONE HUNDRED PERCENT OF THE ADJUSTED DISTRICT PER PUPIL REVENUES FOR EACH PUPIL ENROLLED IN THE DISTRICT CHARTER SCHOOL WHO IS NOT AN ON-LINE PUPIL AND ONE HUNDRED PERCENT OF THE DISTRICT PER PUPIL ON-LINE FUNDING FOR EACH ON-LINE PUPIL ENROLLED IN THE DISTRICT CHARTER SCHOOL; EXCEPT THAT THE QUALIFYING SCHOOL DISTRICT MAY CHOOSE TO RETAIN THE SUM OF THE ACTUAL AMOUNT OF THE DISTRICT CHARTER SCHOOL'S PER PUPIL SHARE OF THE CENTRAL ADMINISTRATIVE OVERHEAD COSTS FOR SERVICES ACTUALLY PROVIDED TO THE DISTRICT CHARTER SCHOOL, UP TO FIVE PERCENT OF THE ADJUSTED DISTRICT PER PUPIL REVENUES FOR EACH PUPIL WHO IS NOT AN ON-LINE PUPIL ENROLLED IN THE DISTRICT CHARTER SCHOOL AND UP TO FIVE PERCENT OF THE DISTRICT PER PUPIL ON-LINE FUNDING FOR EACH ON-LINE PUPIL ENROLLED IN THE DISTRICT CHARTER SCHOOL.

(b) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (3) TO THE CONTRARY, IF A QUALIFYING SCHOOL DISTRICT ENROLLS FIVE HUNDRED OR FEWER STUDENTS, THE DISTRICT CHARTER SCHOOL SHALL RECEIVE FUNDING IN THE AMOUNT OF THE GREATER OF ONE HUNDRED PERCENT OF THE DISTRICT PER PUPIL ON-LINE FUNDING FOR EACH ON-LINE PUPIL ENROLLED IN THE DISTRICT CHARTER SCHOOL PLUS ONE HUNDRED PERCENT OF THE DISTRICT PER PUPIL REVENUES FOR EACH PUPIL WHO IS NOT AN ON-LINE PUPIL ENROLLED IN THE DISTRICT CHARTER SCHOOL,

MINUS THE ACTUAL AMOUNT OF THE DISTRICT CHARTER SCHOOL'S PER PUPIL SHARE OF THE CENTRAL ADMINISTRATIVE OVERHEAD COSTS INCURRED BY THE QUALIFYING SCHOOL DISTRICT, BASED ON AUDITED FIGURES, OR EIGHTY-FIVE PERCENT OF THE DISTRICT PER PUPIL REVENUES FOR EACH PUPIL ENROLLED IN THE DISTRICT CHARTER SCHOOL WHO IS NOT AN ON-LINE PUPIL PLUS EIGHTY-FIVE PERCENT OF THE DISTRICT PER PUPIL ON-LINE FUNDING FOR EACH ON-LINE PUPIL ENROLLED IN THE DISTRICT CHARTER SCHOOL.

(4) WITHIN NINETY DAYS AFTER THE END OF EACH FISCAL YEAR, EACH QUALIFYING SCHOOL DISTRICT SHALL PROVIDE TO EACH DISTRICT CHARTER SCHOOL AUTHORIZED BY THE QUALIFYING SCHOOL DISTRICT AN ITEMIZED ACCOUNTING OF ALL ITS CENTRAL ADMINISTRATIVE OVERHEAD COSTS. THE ACTUAL CENTRAL ADMINISTRATIVE OVERHEAD COSTS SHALL BE THE AMOUNT CHARGED TO THE DISTRICT CHARTER SCHOOL. ANY DIFFERENCE, WITHIN THE LIMITATIONS SPECIFIED IN SUBSECTION (3) OF THIS SECTION, BETWEEN THE AMOUNT INITIALLY CHARGED TO THE DISTRICT CHARTER SCHOOL AND THE ACTUAL COST SHALL BE RECONCILED AND PAID TO THE OWED PARTY.

(5) THE DISTRICT CHARTER SCHOOL, AT ITS DISCRETION, MAY CONTRACT WITH THE QUALIFYING SCHOOL DISTRICT FOR THE DIRECT PURCHASE OF DISTRICT SERVICES IN ADDITION TO THOSE INCLUDED IN CENTRAL ADMINISTRATIVE OVERHEAD COSTS, INCLUDING BUT NOT LIMITED TO FOOD SERVICES, CUSTODIAL SERVICES, MAINTENANCE, CURRICULUM, MEDIA SERVICES, AND LIBRARIES. THE AMOUNT TO BE PAID BY A DISTRICT CHARTER SCHOOL IN PURCHASING ANY DISTRICT SERVICE PURSUANT TO THIS SUBSECTION (5) SHALL BE DETERMINED THROUGH AN AGREEMENT BETWEEN THE DISTRICT CHARTER SCHOOL AND THE

QUALIFYING SCHOOL DISTRICT USING ONE OF THE FOLLOWING METHODS:

(a) BY DIVIDING THE COST OF PROVIDING THE SERVICE FOR THE ENTIRE QUALIFYING SCHOOL DISTRICT, AS SPECIFIED IN THE QUALIFYING SCHOOL DISTRICT'S BUDGET, BY THE NUMBER OF STUDENTS ENROLLED IN THE QUALIFYING SCHOOL DISTRICT AND MULTIPLYING SAID AMOUNT BY THE NUMBER OF STUDENTS ENROLLED IN THE DISTRICT CHARTER SCHOOL;

(b) BY DETERMINING THE ACTUAL COSTS INCURRED BY THE QUALIFYING SCHOOL DISTRICT IN PROVIDING SUPPORT SERVICES; OR

(c) BY NEGOTIATING A SERVICES AGREEMENT BETWEEN THE DISTRICT CHARTER SCHOOL AND THE QUALIFYING SCHOOL DISTRICT PURSUANT TO WHICH MULTIPLE SERVICES ARE PROVIDED FOR A FIXED COST.

(6) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE CONTRARY AND FOR THE PURPOSES OF THIS SECTION ONLY, A SCHOOL DISTRICT IN WHICH MORE THAN FORTY PERCENT OF THE PUPIL ENROLLMENT CONSISTS OF AT-RISK PUPILS AT THE TIME A CHARTER SCHOOL'S APPLICATION IS FIRST APPROVED SHALL BE DEEMED TO HAVE THE SAME PERCENTAGE OF AT-RISK PUPIL ENROLLMENT FOR THE TERM OF THE CHARTER CONTRACT. FOR PURPOSES OF RENEWAL OF THE CHARTER CONTRACT, THE PERCENTAGE OF AT-RISK PUPILS IN THE SCHOOL DISTRICT AT THE TIME THE RENEWAL APPLICATION IS SUBMITTED SHALL BE THE PERCENTAGE USED FOR PURPOSES OF DETERMINING WHETHER THE SCHOOL DISTRICT IS A QUALIFYING SCHOOL DISTRICT AND SUBJECT TO THE PROVISIONS OF THIS SECTION.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

DRAFT

Bill D

Colorado Legislative Council Staff

NO FISCAL IMPACT

Drafting Number:	LLS 06-0215	**Date:**	November 23, 2005
Prime Sponsor(s):	Sen. Windels	**Bill Status:**	Interim Committee on School Finance
	Rep. King	**Fiscal Analyst:**	Harry Zeid (303-866-4753)

TITLE: CONCERNING TECHNICAL REVISIONS TO PROVISIONS AFFECTING FUNDING FOR CERTAIN CHARTER SCHOOLS.

Summary of Assessment

This bill, recommended by the Interim Committee on School Finance, clarifies certain definitions pertaining to funding institute charter schools under the Public School Finance Act. Specifically, the bill defines an accounting district to mean the school district within whose geographic boundaries an institute charter school is physically located. The bill clarifies the formula used to calculate accounting district's at-risk per pupil funding for institute charter schools.

The bill does not affect the funding calculations under the Public School Finance Act for individual school districts or the Charter School Institute. Therefore, the bill is assessed as having no state or local fiscal impact. The bill clarifies the definitions pertaining to at-risk funding, and allows institute charter schools and certain other district charter schools to receive the proportionate share of at-risk funding based on the percentage of at-risk students served by the charter school as compared to the number of at-risk students served by the school district.

The bill becomes effective upon signature of the Governor.

Departments Contacted

Education

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

Bill E

DRAFT

LLS NO. 06-0217.01 Jane Ritter

SENATE BILL

SENATE SPONSORSHIP

Tupa, Bacon, and Windels

HOUSE SPONSORSHIP

Merrifield, Benefield, and Pommer

Senate Committees | **House Committees**

A BILL FOR AN ACT

CONCERNING THE STUDY OF AN EDUCATION SYSTEM RANGING FROM PRE-KINDERGARTEN THROUGH HIGHER EDUCATION, AND, IN CONNECTION THEREWITH, CREATING A LEGISLATIVE OVERSIGHT COMMITTEE AND SPECIAL COUNCIL.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Interim Committee on School Finance. Finds and declares the

importance and necessity of a legislative oversight committee to work with a special council to study education issues associated with pre-kindergarten through higher education. Creates a legislative oversight committee ("committee") to oversee the work of the special council ("P-16 council"). Specifies membership and identifies duties of the committee.

Creates the P-16 council for continued examination of an integrated system of education from pre-kindergarten through higher education. Specifies membership and identifies duties of the P-16 council, including issues to be studied.

Creates a P-16 cash fund.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 22, Colorado Revised Statutes, is amended by THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 88

P-16 Education Study

22-88-101. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS THAT:

(a) NO SINGLE FACTOR IS MORE CRITICAL TO COLORADO'S ECONOMIC VITALITY AND DEVELOPMENT THAN THE EDUCATION OF ITS CITIZENS;

(b) A PERSON'S EDUCATION LEVEL IS A DEMONSTRATED INDICATOR OF THE PERSON'S FUTURE INCOME. THE BUREAU OF LABOR STATISTICS REPORTS THAT A POSTSECONDARY DEGREE IS THE MAIN SOURCE OF PREPARATION FOR FORTY-NINE OF THE FIFTY HIGHEST-PAYING OCCUPATIONS IN THE UNITED STATES ECONOMY.

(c) SKILL DEVELOPMENT THROUGH EDUCATION PROVIDES A QUALIFIED AND PRODUCTIVE WORKFORCE, AND A POOL OF WELL-EDUCATED WORKERS IS THE PRIMARY FACTOR IN ATTRACTING AND RETAINING HIGH-SKILL, HIGH-WAGE INDUSTRIES;

(d) AN EDUCATED, WELL-PAID POPULATION SUPPORTS HIGHER STATE AND LOCAL TAX BASES, SPENDS MONEY THROUGHOUT THE STATE, AND CONTRIBUTES TO A SUPERIOR QUALITY OF LIFE IN COMMUNITIES ACROSS THE STATE;

(e) BY MODERNIZING AND INVESTING IN AN EDUCATION SYSTEM DESIGNED TO MEET THE CHALLENGES THAT CONFRONT THE STATE, COLORADO CAN BETTER ATTRACT EMPLOYERS, BRING NEW WEALTH INTO THE STATE, BENEFIT INDIVIDUALS AND COMMUNITIES, AND ENHANCE THE QUALITY OF LIFE STATEWIDE; AND

(f) COLORADO MUST DEVELOP THE VISION AND CONVICTION TO BUILD AND SUSTAIN A WORLD-CLASS EDUCATION SYSTEM THAT PRODUCES GRADUATES WHO RANK WITH THE WORLD'S BEST IF COLORADO IS TO PROSPER IN THE FUTURE.

(2) THE GENERAL ASSEMBLY FURTHER FINDS THAT:

(a) TO FOSTER A UNIFIED FOCUS ON RAISING STUDENT ACHIEVEMENT AND TO PROVIDE OPPORTUNITIES FOR STUDENTS TO REACH THEIR HIGHEST POTENTIAL, COLORADO SHOULD ESTABLISH A LEGISLATIVE OVERSIGHT COMMITTEE AND A SPECIAL COUNCIL TO STUDY THE CREATION AND IMPLEMENTATION OF AN INTEGRATED, SEAMLESS SYSTEM OF EDUCATION STRETCHING FROM EARLY CHILDHOOD THROUGH HIGHER EDUCATION, REFERRED TO AS A "P-16 EDUCATION SYSTEM";

(b) A P-16 EDUCATION SYSTEM THAT IS ALIGNED AT EVERY CRITICAL TRANSITION POINT BUILDS ON THE EDUCATIONAL STANDARDS CURRENTLY IN PLACE AND ALLOWS A STUDENT TO MOVE THROUGH PROGRESSIVELY MORE COMPLEX MATERIALS AT THE STUDENT'S NATURAL PACE RATHER THAN ACCORDING TO AGE OR SEAT TIME;

(c) A P-16 EDUCATION SYSTEM WITH CLEAR EXPECTATIONS,

ALIGNED CURRICULA, AND STRONG SUPPORT SERVICES LEADS TO BETTER ACADEMIC PERFORMANCE AND REDUCED NEEDS FOR REMEDIATION AT ALL GRADE LEVELS;

(d) A FULLY FUNCTIONING P-16 EDUCATION SYSTEM EXPANDS ACCESS TO EARLY LEARNING FOR CHILDREN UNDER FIVE YEARS OF AGE AND IMPROVES THEIR READINESS FOR KINDERGARTEN; FOSTERS GREATER COLLABORATION AMONG EDUCATION PROFESSIONALS AT ALL GRADE LEVELS; ALIGNS STANDARDS AND CURRICULUM ACROSS GRADE LEVELS; PROMOTES WIDESPREAD PARENT, COMMUNITY, AND STUDENT UNDERSTANDING OF GOALS AND EXPECTATIONS; SIGNIFICANTLY REDUCES THE AMOUNT OF POSTSECONDARY REMEDIAL WORK REQUIRED; AND LOWERS DROPOUT RATES IN SECONDARY AND POSTSECONDARY SCHOOLS; AND

(e) THE BENEFITS OF A P-16 EDUCATION SYSTEM WILL LEAD TO HIGHER EDUCATION LEVELS FOR COLORADO CITIZENS FROM ALL INCOME AND ETHNIC GROUPS. HIGHER EDUCATION LEVELS, IN TURN, ARE ASSOCIATED WITH GREATER EMPLOYMENT STABILITY AND CIVIC ENGAGEMENT, AS WELL AS DECREASES IN PUBLIC ASSISTANCE AND CRIME RATES.

(3) THE COLORADO COMMISSION ON HIGHER EDUCATION AND THE COLORADO STATE BOARD OF EDUCATION HAVE ADOPTED RESOLUTIONS INDICATING THAT COOPERATION AMONG EDUCATORS AND ADMINISTRATORS AT ALL TRANSITION POINTS IN THE EDUCATION SYSTEM IS CRUCIAL TO ENSURE PROPER PREPARATION OF STUDENTS FOR HIGHER EDUCATION AND A FULFILLING CAREER IN THE FUTURE. EXPERTS IN HIGHER EDUCATION, KINDERGARTEN-THROUGH-TWELFTH-GRADE EDUCATION, AND ECONOMIC DEVELOPMENT AGREE UPON THE NEED TO

CREATE AN INTEGRATED, SEAMLESS P-16 EDUCATION SYSTEM.

(4) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT IT IS NECESSARY TO CREATE A LEGISLATIVE OVERSIGHT COMMITTEE AND A SPECIAL COUNCIL, KNOWN AS THE P-16 COUNCIL, CHARGED WITH STUDYING THE CREATION AND IMPLEMENTATION OF AN INTEGRATED SYSTEM OF EDUCATION STRETCHING FROM PRE-KINDERGARTEN THROUGH HIGHER EDUCATION.

22-88-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "COMMITTEE" MEANS THE LEGISLATIVE OVERSIGHT COMMITTEE ESTABLISHED PURSUANT TO SECTION 22-88-103.

(2) "P-16 COUNCIL" MEANS THE COUNCIL ESTABLISHED PURSUANT TO SECTION 22-88-104 TO STUDY THE CREATION AND IMPLEMENTATION OF AN INTEGRATED SYSTEM OF EDUCATION STRETCHING FROM PRE-KINDERGARTEN THROUGH HIGHER EDUCATION.

22-88-103. Legislative oversight committee - creation - duties. (1) (a) THERE IS HEREBY CREATED A LEGISLATIVE OVERSIGHT COMMITTEE TO STUDY THE CREATION AND IMPLEMENTATION OF AN INTEGRATED SYSTEM OF EDUCATION STRETCHING FROM PRE-KINDERGARTEN THROUGH HIGHER EDUCATION.

(b) THE COMMITTEE SHALL CONSIST OF SIX MEMBERS. THE PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES SHALL APPOINT THE MEMBERS OF THE COMMITTEE, AS FOLLOWS:

(I) THE PRESIDENT OF THE SENATE SHALL APPOINT TWO SENATORS TO SERVE ON THE COMMITTEE, AND THE MINORITY LEADER OF THE SENATE

SHALL APPOINT ONE SENATOR TO SERVE ON THE COMMITTEE;

(II) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL APPOINT TWO REPRESENTATIVES TO SERVE ON THE COMMITTEE, AND THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES SHALL APPOINT ONE REPRESENTATIVE TO SERVE ON THE COMMITTEE.

(c) THE PRESIDENT OF THE SENATE SHALL SELECT THE FIRST CHAIR OF THE COMMITTEE, AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL SELECT THE FIRST VICE-CHAIR. THE CHAIR AND VICE-CHAIR OF THE COMMITTEE SHALL ALTERNATE ANNUALLY THEREAFTER BETWEEN THE TWO HOUSES. THE CHAIR AND VICE-CHAIR OF THE COMMITTEE MAY ESTABLISH SUCH ORGANIZATIONAL AND PROCEDURAL RULES AS ARE NECESSARY FOR THE OPERATION OF THE COMMITTEE.

(d) A VACANCY OCCURRING IN A COMMITTEE POSITION APPOINTED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (1) SHALL BE FILLED AS SOON AS POSSIBLE BY THE APPROPRIATE APPOINTING AUTHORITY. IN ADDITION, AN APPOINTING AUTHORITY MAY REMOVE AND REPLACE AN APPOINTMENT MADE TO THE P-16 COUNCIL PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (1).

(e) (I) NOTWITHSTANDING THE PROVISIONS OF SECTION 2-2-307, C.R.S., THE COMMITTEE MAY RECEIVE PAYMENT OF PER DIEM AND REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES AUTHORIZED PURSUANT TO SAID SECTION AND ANY OTHER DIRECT OR INDIRECT COSTS ASSOCIATED WITH THE DUTIES OF THE COMMITTEE SET FORTH IN THIS ARTICLE ONLY FROM MONEYS APPROPRIATED FROM THE P-16 CASH FUND CREATED IN SECTION 22-88-106.

(II) THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL

AND THE DIRECTOR OF THE OFFICE OF LEGISLATIVE LEGAL SERVICES MAY SUPPLY STAFF ASSISTANCE TO THE COMMITTEE AS THEY DEEM APPROPRIATE, WITHIN EXISTING APPROPRIATIONS. IF STAFF ASSISTANCE IS NOT AVAILABLE WITHIN EXISTING APPROPRIATIONS, THEN THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL AND THE DIRECTOR OF THE OFFICE OF LEGISLATIVE LEGAL SERVICES MAY SUPPLY STAFF ASSISTANCE TO THE TASK FORCE ONLY IF MONEYS ARE CREDITED TO THE P-16 CASH FUND CREATED IN SECTION 22-88-106 IN AN AMOUNT SUFFICIENT TO FUND STAFF ASSISTANCE.

(2) (a) ON OR BEFORE JULY 1, 2006, THE COMMITTEE SHALL MEET AT LEAST ONCE. BEGINNING IN 2006 AND CONTINUING EACH YEAR THEREAFTER, THE COMMITTEE SHALL MEET AT LEAST THREE TIMES EACH YEAR AND AT SUCH OTHER TIMES AS IT DEEMS NECESSARY.

(b) THE COMMITTEE SHALL BE RESPONSIBLE FOR THE OVERSIGHT OF THE P-16 COUNCIL. THE COMMITTEE SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY ON OR BEFORE JANUARY 15, 2007, AND ON OR BEFORE EACH JANUARY 15 THEREAFTER. THE ANNUAL REPORT SHALL SUMMARIZE ISSUES CONCERNING A P-16 EDUCATION SYSTEM THAT HAVE BEEN CONSIDERED AND ANY RECOMMENDED LEGISLATIVE PROPOSALS. IN ADDITION, THE COMMITTEE MAY RECOMMEND LEGISLATIVE CHANGES THAT SHALL BE TREATED AS BILLS RECOMMENDED BY AN INTERIM LEGISLATIVE COMMITTEE FOR PURPOSES OF ANY INTRODUCTION DEADLINES OR BILL LIMITATIONS IMPOSED BY THE JOINT RULES OF THE GENERAL ASSEMBLY.

22-88-104. P-16 council - creation - membership - duties - repeal. (1) (a) THERE IS HEREBY CREATED A P-16 COUNCIL TO STUDY THE CREATION AND IMPLEMENTATION OF AN INTEGRATED SYSTEM OF

EDUCATION STRETCHING FROM PRE-KINDERGARTEN THROUGH HIGHER EDUCATION. THE P-16 COUNCIL SHALL CONSIST OF NO MORE THAN TWENTY-FIVE MEMBERS FROM HIGHER EDUCATION, KINDERGARTEN-THROUGH-TWELFTH-GRADE EDUCATION, THE BUSINESS COMMUNITY, AND THE PUBLIC AT LARGE, APPOINTED AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (1).

(b) THE CHAIR AND VICE-CHAIR OF THE COMMITTEE SHALL APPOINT MEMBERS AS FOLLOWS:

(I) ONE MEMBER WHO REPRESENTS THE STATE BOARD OF EDUCATION OR THE DEPARTMENT OF EDUCATION;

(II) ONE MEMBER WHO REPRESENTS THE COLORADO COMMISSION ON HIGHER EDUCATION;

(III) FIVE MEMBERS WHO REPRESENT SCHOOL DISTRICTS, SELECTED FROM RURAL AND URBAN DISTRICTS THROUGHOUT THE STATE;

(IV) TWO MEMBERS WHO ARE TEACHERS OR PRINCIPALS IN COLORADO;

(V) ONE MEMBER WHO REPRESENTS COLORADO CHARTER SCHOOLS;

(VI) FIVE MEMBERS WHO REPRESENT HIGHER EDUCATION IN COLORADO, INCLUDING ONE REPRESENTATIVE FROM A RESEARCH INSTITUTION, ONE REPRESENTATIVE FROM A STATE COLLEGE, AND ONE REPRESENTATIVE FROM THE COMMUNITY COLLEGE SYSTEM;

(VII) ONE MEMBER WHO REPRESENTS A STATEWIDE ORGANIZATION OF SCHOOL DISTRICTS;

(VIII) TWO MEMBERS FROM ORGANIZATIONS WORKING TO IMPROVE EARLY CHILDHOOD SCHOOL READINESS, INCLUDING ONE REPRESENTATIVE FROM THE EARLY CHILDHOOD AND SCHOOL READINESS

COMMISSION CREATED IN SECTION 26-6-304, C.R.S.;

(IX) THREE MEMBERS WHO REPRESENT ECONOMIC DEVELOPMENT INTERESTS THROUGHOUT THE STATE; AND

(X) FOUR MEMBERS OF THE PUBLIC AS DEEMED NECESSARY BY THE CHAIR AND VICE-CHAIR.

(c) A VACANCY OCCURRING IN A POSITION APPOINTED BY THE CHAIR AND VICE-CHAIR OF THE COMMITTEE PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (1) SHALL BE FILLED AS SOON AS POSSIBLE BY THE CHAIR AND VICE-CHAIR OF THE COMMITTEE IN ACCORDANCE WITH THE LIMITATIONS SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (1). IN ADDITION, THE CHAIR AND VICE-CHAIR OF THE COMMITTEE MAY REMOVE AND REPLACE ANY APPOINTMENT TO THE P-16 COUNCIL MADE PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (1).

(d) IN MAKING APPOINTMENTS TO THE P-16 COUNCIL, THE CHAIR AND VICE-CHAIR OF THE COMMITTEE SHALL ENSURE THAT THE MEMBERSHIP OF THE P-16 COUNCIL REFLECTS THE ETHNIC, CULTURAL, AND GENDER DIVERSITY OF THE STATE AND INCLUDES REPRESENTATION OF ALL AREAS OF THE STATE.

(2) THE P-16 COUNCIL SHALL BE RESPONSIBLE FOR STUDYING THE CREATION AND IMPLEMENTATION OF AN INTEGRATED SYSTEM OF EDUCATION STRETCHING FROM PRE-KINDERGARTEN THROUGH HIGHER EDUCATION. THE P-16 COUNCIL SHALL SPECIFICALLY CONSIDER, BUT NEED NOT BE LIMITED TO, THE FOLLOWING ISSUES:

(a) STRATEGIES FOR CLOSING THE ACHIEVEMENT GAP AMONG SOCIOECONOMIC GROUPS;

(b) RAISING ACADEMIC STANDARDS;

(c) ALIGNING KINDERGARTEN-THROUGH-TWELFTH-GRADE

CURRICULUM WITH HIGHER EDUCATION ADMISSION REQUIREMENTS;

(d) IMPROVING TEACHER QUALITY;

(e) STRATEGIES TO HELP STUDENT TRANSITIONS FROM ONE LEVEL OF LEARNING TO THE NEXT; AND

(f) ANY OTHER ISSUES CONCERNING EDUCATION FROM PRE-KINDERGARTEN THROUGH A FOUR-YEAR COLLEGE DEGREE, AS WELL AS POST-GRADUATE WORK, THAT ARISE DURING THE COURSE OF THE P-16 COUNCIL'S WORK.

(3) ON OR BEFORE AUGUST 1, 2007, AND ON OR BEFORE EACH AUGUST 1 THEREAFTER, THE P-16 COUNCIL SHALL ORALLY PROVIDE GUIDANCE AND MAKE FINDINGS AND RECOMMENDATIONS TO THE COMMITTEE FOR ITS DEVELOPMENT OF REPORTS AND LEGISLATIVE RECOMMENDATIONS FOR MODIFICATION OF THE KINDERGARTEN-THROUGH-TWELFTH-GRADE AND HIGHER EDUCATION SYSTEMS IN COLORADO. IN ADDITION, THE P-16 COUNCIL SHALL:

(a) ON OR BEFORE AUGUST 1, 2006, AND ON OR BEFORE EACH AUGUST 1 THEREAFTER, SELECT A CHAIR AND A VICE-CHAIR FROM AMONG ITS MEMBERS;

(b) MEET AT LEAST SIX TIMES EACH YEAR FROM THE DATE OF THE FIRST MEETING, OR MORE OFTEN AS DIRECTED BY THE CHAIR OF THE COMMITTEE;

(c) COMMUNICATE WITH AND OBTAIN INPUT FROM GROUPS THROUGHOUT THE STATE AFFECTED BY THE ISSUES IDENTIFIED IN SUBSECTION (2) OF THIS SECTION;

(d) CREATE SUBCOMMITTEES AS NEEDED TO CARRY OUT THE DUTIES OF THE P-16 COUNCIL. THE SUBCOMMITTEES MAY CONSIST, IN PART, OF PERSONS WHO ARE NOT MEMBERS OF THE P-16 COUNCIL. SUCH

PERSONS MAY VOTE ON ISSUES BEFORE THE SUBCOMMITTEE BUT SHALL NOT BE ENTITLED TO VOTE AT MEETINGS OF THE P-16 COUNCIL.

(e) SUBMIT A WRITTEN REPORT TO THE COMMITTEE ON OR BEFORE OCTOBER 1, 2006, AND ON OR BEFORE EACH OCTOBER 1 THEREAFTER, THAT, AT A MINIMUM, SPECIFIES:

(I) ISSUES TO BE STUDIED IN UPCOMING P-16 COUNCIL MEETINGS AND A PRIORITIZATION OF THOSE ISSUES;

(II) FINDINGS AND RECOMMENDATIONS REGARDING ISSUES OF PRIOR CONSIDERATION BY THE P-16 COUNCIL;

(III) LEGISLATIVE PROPOSALS OF THE P-16 COUNCIL THAT IDENTIFY THE POLICY ISSUES INVOLVED, THE AGENCIES RESPONSIBLE FOR THE IMPLEMENTATION OF THE CHANGES, AND THE FUNDING SOURCES REQUIRED FOR IMPLEMENTATION.

(4) MEMBERS OF THE P-16 COUNCIL SHALL SERVE WITHOUT COMPENSATION AND WITHOUT REIMBURSEMENT FOR EXPENSES.

(5) (a) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2016.

(b) PRIOR TO SAID REPEAL, THE P-16 COUNCIL SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 2-3-1203, C.R.S.

22-88-105. Committee funding - staff support. (1) THE DEPARTMENT OF EDUCATION, ON BEHALF OF THE COMMITTEE AND THE P-16 COUNCIL, IS AUTHORIZED TO RECEIVE AND EXPEND CONTRIBUTIONS, GRANTS, SERVICES, AND IN-KIND DONATIONS FROM ANY PUBLIC OR PRIVATE ENTITY FOR ANY DIRECT OR INDIRECT COSTS ASSOCIATED WITH THE DUTIES OF THE COMMITTEE AND THE P-16 COUNCIL SET FORTH IN THIS ARTICLE.

(2) THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL, THE DIRECTOR OF THE OFFICE OF LEGISLATIVE LEGAL SERVICES, THE

COMMISSIONER OF EDUCATION, AND THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HIGHER EDUCATION MAY SUPPLY STAFF ASSISTANCE TO THE COMMITTEE AND THE P-16 COUNCIL AS THEY DEEM APPROPRIATE WITHIN EXISTING APPROPRIATIONS. IF STAFF ASSISTANCE IS NOT AVAILABLE FROM A GOVERNMENTAL AGENCY WITHIN EXISTING APPROPRIATIONS, THEN THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HIGHER EDUCATION, THE COMMISSIONER OF EDUCATION, THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL, AND THE DIRECTOR OF THE OFFICE OF LEGISLATIVE LEGAL SERVICES MAY SUPPLY STAFF ASSISTANCE TO THE COMMITTEE AND THE P-16 COUNCIL ONLY IF MONEYS ARE CREDITED TO THE P-16 CASH FUND CREATED IN SECTION 22-88-106 IN AN AMOUNT SUFFICIENT TO FUND STAFF ASSISTANCE. THE COMMITTEE AND THE P-16 COUNCIL MAY ALSO ACCEPT STAFF SUPPORT FROM THE PRIVATE SECTOR.

22-88-106. P-16 cash fund. (1) ALL PRIVATE AND PUBLIC FUNDS RECEIVED THROUGH GRANTS, CONTRIBUTIONS, AND DONATIONS PURSUANT TO THIS ARTICLE SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE P-16 CASH FUND, WHICH FUND IS HEREBY CREATED AND REFERRED TO IN THIS SECTION AS THE "FUND". THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THIS ARTICLE. ALL MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF THIS ARTICLE MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND

AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

(2) COMPENSATION AS PROVIDED IN SECTIONS 22-88-103 (1) (e) (I) AND 22-88-105 (2) FOR MEMBERS OF THE GENERAL ASSEMBLY AND FOR STAFF ASSISTANCE TO THE COMMITTEE AND THE P-16 COUNCIL PROVIDED BY THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL AND THE DIRECTOR OF THE OFFICE OF LEGISLATIVE LEGAL SERVICES SHALL BE APPROVED BY THE CHAIR OF THE LEGISLATIVE COUNCIL AND PAID BY VOUCHERS AND WARRANTS DRAWN AS PROVIDED BY LAW FROM MONEYS APPROPRIATED FOR SUCH PURPOSE AND ALLOCATED TO THE LEGISLATIVE COUNCIL FROM THE FUND.

SECTION 2. 2-3-1203 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

2-3-1203. Sunset review of advisory committees. (3) The following dates are the dates for which the statutory authorization for the designated advisory committees is scheduled for repeal:

(cc) JULY 1, 2016: THE P-16 COUNCIL ESTABLISHED IN SECTION 22-88-104, C.R.S.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Bill E

Colorado Legislative Council Staff

STATE FISCAL IMPACT

Drafting Number:	LLS 06-0217	**Date:**	December 9, 2005
Prime Sponsor(s):	Sen. Tupa Rep. Merrifield	**Bill Status:**	Interim Committee on School Finance
		Fiscal Analyst:	David Porter (303-866-4375)

TITLE: CONCERNING THE STUDY OF AN EDUCATION SYSTEM RANGING FROM PRE-KINDERGARTEN THROUGH HIGHER EDUCATION, AND, IN CONNECTION THEREWITH, CREATING A LEGISLATIVE OVERSIGHT COMMITTEE AND SPECIAL COUNCIL.

<table>
<tr><th>Fiscal Impact Summary</th><th>FY 2005/2006</th><th>FY 2006/2007</th><th>FY 2007/2008</th></tr>
<tr><td>State Revenues
General Fund
Cash Funds Exempt (P-16 Cash Fund)</td><td colspan="3">Potential Gifts, Grants, Donations</td></tr>
<tr><td>State Expenditures
General Fund
Cash Funds Exempt (P-16 Cash Fund)</td><td>$6,719</td><td>$20,156</td><td>$20,156</td></tr>
<tr><td>FTE Position Change</td><td>0.1 FTE</td><td>0.4 FTE</td><td>0.4 FTE</td></tr>
<tr><td colspan="4">Effective Date: Upon signature of the Governor.</td></tr>
<tr><td colspan="4">Appropriation Summary for FY 2005/2006: Legislative Department - $6,719 GF and 0.1 FTE
Appropriation Summary for FY 2006/2007: Legislative Department - $20,156 GF and 0.4 FTE</td></tr>
<tr><td colspan="4">Local Government Impact: None</td></tr>
</table>

Summary of Legislation

This bill, recommended by the Interim Committee on School Finance, creates both a 25-member P-16 Council and a 6-member legislative oversight committee. The council and the committee are both charged with studying the creation and implementation of an integrated system of education stretching from pre-kindergarten to higher education. The council is required to meet six times annually and the committee is required to meet three times annually. Additionally, the committee is required to hold one meeting on or before July 1, 2006. The bill establishes reporting requirements.

The bill creates the P-16 Cash Fund, and the Department of Education is authorized to receive and expend private and public funds received through grants, contributions, and donations credited to the fund. Moneys in the fund are subject to annual appropriation by the General Assembly. The cash fund is intended to cover the following:

- per diem and actual expenses for committee members; and
- reimbursement of staff assistance from the Office of Legislative Legal Services, the Legislative Council, the Department of Education, and the Department of Higher Education where existing appropriations are not sufficient to fund assistance.

The P-16 Council will sunset on July 1, 2016.

State Revenues

This bill creates the P-16 Cash Fund consisting of grants, contributions, and donations. The amount of annual donation to the fund is unknown and has not been estimated. Moneys in the fund are deemed cash funds exempt.

State Expenditures

The bill is assessed as having a fiscal impact of $6,719 in FY 2005-06 and $20,156 in each year thereafter through FY 2015-16. The bill is technically problematic insofar as it mandates both the committee and council to meet, but the source of funding to support them is discretionary or reliant on gifts, grants, and donations. Thus, the fiscal note assumes the need for General Fund support because no such donations are identified for deposit in the P-16 Cash Fund. Costs included in the fiscal note are limited to those incurred in the legislature. At this time, the fiscal note assumes that support for the P-16 Council will come from either existing appropriations in the Departments of Education and Higher Education or from donations to the P-16 Cash Fund should they be forthcoming.

Per diem and expenses. The bill requires that the six-member Legislative Oversight Committee meet at least once on or before July 1, 2006. Beginning in FY 2006-07, the committee will meet at least three times each year. Members of the committee are authorized to receive per diem and reimbursement for actual and necessary expenses. On this basis, reimbursable per diem and expenses are $954 in FY 2005-06 (6 members x 1 meeting x $159), and $2,862 each year thereafter (6 members x 3 meetings x $159).

State expenditure summary. Table 1 summarizes the annual expenses of the Legislative Oversight Committee for FY 2005-06 through FY 2007-08.

Table 1. P-16 Committee and Council Expense Estimates - FY 2005-06 through FY 2007-08

	FY 2005-06*	FY 2006-07	FY 2007-08
Personal Services Senior Research Assistant (0.3 FTE) Staff Attorney (0.1 FTE)	$5,765 0.1 FTE	$17,295 0.4 FTE	$17,295 0.4 FTE
Committee Per Diem and Expenses	$ 954	$ 2,862	$ 2,862
Total - General Fund	**$6,719**	**$20,157**	**$20,157**

**All FY 2005-06 values are 1/3 year calculations*

State Appropriations

The Legislative Department will require a General Fund appropriation of $6,719 and 0.1 FTE for FY 2005-06, and a General Fund appropriation of $20,157 and 0.3 FTE for FY 2006-07.

Departments Contacted

Education Higher Education State Treasurer Legislative Council
Office of Legislative Legal Services

Table of Contents

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Executive Summary

Today's rigorous demands of state education systems require school finance structures that reflect an adequate level of state education spending for each school district, the schools within those districts and the needs of each student within the schools.

The Task Force believes that the existing school finance system needs to fundamentally change so that funding is based on a combination of adequate resources to meet local, state and national performance goals and is distributed equitably among all Colorado school districts. As we move from an expectation of universal access towards meeting an expectation of universal proficiency, one that leaves no child behind, we are also moving toward more clearly identifying the programs and resources needed to support this goal. The move from fiscal equity to adequacy in school finance is a momentous shift.

The Task Force believes a foundation expenditure level must be "adequate[1]," i.e. sufficient to enable every student to reach proficiency in the local, state and federal performance standards. An "adequate" foundation of spending should be established through a higher amount of statewide base per pupil spending that reflects the academic accountability requirements of public schools. The level of base per pupil spending has been inadequate in prior school finance acts because it has never been set based on the academic performance expectations. Success in setting an "adequate" foundation expenditure level and developing an "adequate" school finance system can only happen if a reliable and predictable state tax policy structure capable of generating adequate resources is formed.

The Task Force has two recommendations for the Interim Committee:

I. The Task Force recommends the General Assembly should:
   a. revise the 1994 School Finance Act;
   b. significantly increase education spending; and
   c. examine the adjustments to base per pupil funding.

II. The Task Force recommends state funding and laws for capital should ensure that all Colorado students attend school in safe and effective learning environments. This funding should be included within the state's school finance funding, but would be in addition to per pupil total program funding.

As an additional consideration, the Task Force believes Colorado should establish a P-16+ Council which is charged exploring issues related to an integrated education system from preschool through higher education.

Realizing that most of these recommendations cannot be accomplished without additional revenue, the Task Force created a list of potential funding sources. The list includes issues that could be addressed by the General Assembly and others that require a vote of the people. The Task Force has not attempted to develop a consensus on which of these sources should be pursued, nor is the group advocating for any particular funding source.

This report provides a philosophical context for the school finance discussion, with tools to consider as the Interim Committee debates what's possible. The Task Force stands ready to further assist with this important public policy debate that is so critical to the quality of Colorado's public education system.

[1] The Task Force uses the word "adequate" to mean the amount of funding necessary to provide the programs and services needed for a student to meet the academic expectations of accreditation, school accountability reports and the federal No Child Left Behind Act. This is not to say that school districts should not be permitted to generate revenue above an adequate level in order to meet their unique needs, some of which cannot be quantified by the state. The Task Force is aware that the word "adequate" is being used in school finance discussions across the country and that the term is defined differently in other states. The Task Force does not want the use of this term, which is the subject of debate in other contexts, to detract from the Task Force's work.

INTRODUCTION

Today's rigorous demands of state education systems require school finance structures that reflect an adequate level of state education spending for each school district, the schools within those districts and the needs of each student within the schools.

Colorado has been a leader among the states in designing school finance systems that promote student and taxpayer equity while also permitting a significant level of local control. Thirty years ago, the system was designed so that districts that chose to make higher tax effort could spend more while simultaneously assuring that higher amounts of state aid went to districts with relatively lower wealth.

In 1988, the state moved to a "foundation" approach, designed to assure a minimum spending level in every district but assuming that the uncontrollable costs districts faced could be accounted for by organizing all districts into eight groups in which the needs of districts within each group were thought to be similar while the needs across groups were viewed as being different.

In 1994, a new school finance act was developed that recognized the costs associated with school district size, cost-of-living differences across districts, and the cost pressures associated with serving students coming from low income families. That system also provided "categorical" funding that was not sensitive to district wealth differences to support the costs of special education and students with English language problems. Too, the system limited the extent to which districts could generate funds on their own. At the time, that system was designed to achieve a high level of equity for students and taxpayers.

Neither the 1988 nor 1994 Acts established a base level of per pupil funding prior to addressing other school finance adjustments that were meant to achieve funding equity. Base per pupil funding was set at a dollar figure that represented the amount of money not already dedicated for other purposes. In effect, base per pupil funding became an afterthought in prior Acts.

Since 1994 many changes have taken place in our state, both from legislative action and from ballot initiatives, that affect school districts' ability to generate local property tax revenue, set a minimum level by which state aid must rise from year to year, and hold school districts accountable for the performance of their students. Over the last 10 years, the ability of the system to promote inter-district fiscal equity or to assure that adequate funds would be available in all school districts has deteriorated. A revised school finance system is needed that builds on the strengths of the existing one while addressing the myriad of issues that have arisen in the last 10 years.

The Task Force believes that it is essential to develop a strong state aid formula, one that recognizes as many of the uncontrollable cost pressures districts face as is possible to measure and is sensitive to the wide variations in wealth and property value per student that exists among the state's 178 districts.

The Task Force agreed on a set of attributes that should be used to evaluate the state's school finance system. Those attributes answer the following questions:

a. Is the system equitable?
b. Is the system adequate?
c. Is the system accountable?
d. Is the system adaptable?
e. Is the system understandable?
f. Is the system supportive of local community values?

In addition, the Task Force believes that a set of principles should guide the revision of Colorado's school finance system. The Task Force reached general consensus on a set of principles, which are shown on the following page. It should be noted that not every Task Force member agreed with every principle, but no one objected to forwarding the list of principles to the Interim Committee for discussion.

Guiding Principles for Revision of a School Funding Formula

Resource Allocation

1. Funding should be adequate and reliable, structured to equitably meet the educational needs of those students served by public education in Colorado.

2. The majority of funding, including state grants, should be distributed to school districts through a formula that considers the needs and fiscal capacities of individual school districts.

3. The funding system must support student achievement and be flexible enough to deal with economic fluctuations (boom/bust) and changes in educational expectations.

4. The funding system should be built on a per-student base cost that reflects the revenue needed for a regular student (a student without any special needs) to meet the state-mandated model content standards and other legislated accountability requirements.

5. Adjustments to the per-student base cost should equitably reflect added costs of delivery of services associated with the school district or the student that require supplementary expenditures.

6. Adjustments to the per-student base cost should be based on verifiable indicators which impose costs that are beyond a district's control.

7. There should be a regularly scheduled review of the economic factors on which funding is based.

8. The state should identify and implement a consistent definition for determining the actual number of "at-risk" students for funding purposes.

9. State funding for capital should be based on needs of districts and their relative fiscal capacity to pay, as well as evidence of reasonable local effort.

10. Funding for transportation should be provided that takes into consideration the unique circumstances districts face in transporting students.

11. Adjustments to total program funding should be made to reflect the impact of public school choice.

12. The state funding system should be based on a reasonable and consistent state and local effort.

Accountability

13. School districts should make it a priority to continue to develop procedures for allocating resources to schools that reflect the needs at those sites.

14. The state should hold districts accountable for student performance and appropriate legal requirements.

15. School districts should be accountable to taxpayers.

Local Control

16. The state should not specify how district funds are allocated.

17. Any funding formula should preserve local control when allocating resources. The locally elected school board should allocate resources to align with its district programs for educational delivery.

18. There should be flexibility, based on local factors, in implementing mandated programs.

19. To reflect the differing needs of their students and communities, school districts should be permitted, with limitation and voter approval, to utilize additional local revenue in excess of the adjusted base amount determined in the formula.

School Finance Act History

The Public School Finance Act of 1988 (1988 Act) was developed and adopted to establish a financial base of support that was adequate for the delivery of educational services. The factors and characteristics utilized were evolutionary steps in the General Assembly's effort to achieve equity in school funding. To understand the 1988 Act, it is necessary to study the development of equity to both the taxpayer and the student, and to review the components of efficiency that would improve financial equity among school districts. For purposes of funding, the state adopted eight "setting categories" and placed each school district into one of these categories.

The 1988 Act:

addressed taxpayer equity by:

- moving toward a uniform property tax levy.
- limiting the growth of and reliance on property tax for the support of public education.

addressed student equity by:

- requiring the State Board of Education to adopt high measurable goals for student achievement, attendance and graduation of Colorado students.
- providing financing for instructional supplies and materials for public education.

addressed district equity by:

- providing state assistance for the financing of projects through the capital reserve fund and insurance.
- creating a mechanism to better recognize the effects of enrollment trends on the funding of public education.
- providing each district in a setting category with the same amount of per-pupil funding.

Shortly after passage of the 1988 Act, districts began to challenge the lack of equity that grew out of the setting categories. Placing each of 176 school districts into one of eight funding categories opened the door to challenges based on the dissimilarities between districts. In the early 1990's, threatened litigation was based on the differences in equity between similarly classified districts. A Legislative Council Staff study concluded that the use of discrete categories of districts for school funding purposes was not warranted.

1994 School Finance Act

Pressure arising from these equity issues led the Colorado General Assembly to adopt the Public School Finance Act of 1994, (1994 Act) substantially revising the formula for distributing state money to school districts. The legislative intent was the same for both the 1988 and 1994 Acts. However, in 1994, the statute was amended to declare that the new act was a furtherance of the General Assembly's duty under Section 2 of Article IX of the state's constitution to provide a thorough and uniform system of public schools throughout the state that would operate under the same finance formula. In addition, equity considerations dictated that all districts be subject to the same expenditure and mill levy maximums defined by state statute.

Under the 1994 Act, funding for each district is determined through a formula reflecting per-pupil funding amounts, distributed based upon the number of pupils and adjusted for at-risk students, district size, each district's cost of living, and a personnel cost factor. At-risk student needs are measured by the number of students qualifying for the federal free lunch program.

Other nuances of the 1994 Act designed to ensure equity were:

- a limit on property tax mill levies in an amount equal to the lesser of the prior year's mill levy or the levy allowed by TABOR.
- state categorical support funds were established as part of the Act but outside the formula to include special education, English language proficiency, gifted and talented, vocational education and transportation.

School district funding has not kept pace

Prior to the 1994 Act, school districts faced several years of unanticipated mid-year revenue cuts that caused a loss of revenue for K-12 public education on a per pupil basis. The change of the school district fiscal year to coincide with the state's fiscal year was done primarily to balance the state's budget by reducing the state's fiscal obligation for funding the 1988 Act. This shift by the state significantly reduced local school district cash resources. At the time of implementation of the 1994 Act, school districts had collected and analyzed data to create a concrete and verifiable image of what six years of losses cost the students of Colorado.

Part of the work of the Colorado School Finance Project (CSFP) is to quantify the impacts of the changing financial situation and reflect it in terms of district and state losses. In the eighth in a series of annual school district profiles[1] issued by the CSFP in 2002, based on data from the Colorado Department of Education, there was a range of loss per student from $400 to $800 per year. This became known as the "gap," which assumes that dollars spent in the 1988 Act were adequate if accompanied by an adjustment for district growth and inflation.

In the late 1990's this gap in funding resulted in a ballot initiative known as Amendment 23, which was approved by the voters in 2000. The initiative was designed to bring districts up over ten years to the 1988 spending levels. This was a "catch up" measure to be accomplished by providing an additional 1% after growth in the student population and inflation. This formula should not be construed as adequate and equitable funding, because that was not the intent of Amendment 23. The intent of Amendment 23 was to help stabilize funding for school districts and ensure an increase in funding that would mirror growth plus inflation.

Amendment 23 was *not* intended to be reflective of the demands of a standards-based approach to education or to provide sufficient funding to meet the increased academic expectations found in new legislative programs (see diagram on page 11). While some may believe that Amendment 23 was burdensome to the state during the recent economic downturn, it in effect created a "rainy day" fund that helped the state avoid making deep cuts in public school funding during the recession.

Withholding a portion of per-pupil funding intended for distribution to school districts has become a standard practice since Amendment 23 was implemented. The state is required to increase base per-pupil funding by at least inflation plus 1% and has done so. However, funding for the School Finance Unit of the Department of Education was previously provided by the state's general fund. Now it is funded with monies withheld from school districts.

How does Colorado compare today?

Numerous studies and statistical reports have demonstrated to the Interim Committee and Task Force a funding system for K-12 education that has failed to keep pace with demand. The "gap" in funding on a per pupil basis was discussed above. In addition, categorical programs have been significantly underfunded. Legislative Council staff presented a report to the Interim Committee that showed a total of $646 million in unreimbursed expenditures for categorical programs.[2] These unreimbursed expenses for high cost, but necessary programs, negatively impact school budgets, which in turn affect the ability of school districts to provide a quality education program for every child.

So, how does Colorado compare to other states? From a variety of sources we learn that Colorado ranks very low in funding schools on a per pupil basis, has a relatively low state and local tax burden, at the same time its citizens are relatively wealthy in comparison to other states.[3] The Task Force believes the state can do better for its children.

Where does Colorado rank in comparison to other states?

1. Colorado ranks 50th in the nation in state and local taxes. (U.S. Department of Commerce, Bureau of Economic Analysis, April 2004)

2. Based on revenue per pupil, Colorado ranked 29th in FY 2002-03, the most recent year for which census data is available. Meanwhile, Colorado fell to 49th in revenue when measured per $1,000 of personal income. (Harwood, "School District Mill Levies," Memorandum to Interim Committee on School Finance, August 2, 2005)

3. Colorado was 49th in federal revenue received per pupil, 39th in state revenue per pupil and 17th in local revenue per pupil in FY 2002-03. These rankings follow a similar trend when revenue is measured per $1,000 of personal income, with rankings of 48th in federal revenue, 41st in state revenue and 23rd in local revenue. (Harwood memorandum)

4. Colorado is one of the 10 richest states in per capita income, 2nd in the country for the percent of people with college degrees and in the bottom 10 for school spending. (Quality Counts, Education Week 2005)

5. The US Department of Commerce's Bureau of Economics Analysis 2002 calculates each state's total taxable resources dedicated to education. The national average is 3.8%, Colorado is 3.2% and ranks 45th in the country.

6. Colorado's average elementary class size is 23.3, one of the highest in the nation. The national average is 21.2 (Quality Counts, Education Week 2005)

Colorado School Finance 2005

The Task Force believes that the existing School Finance Act needs to fundamentally change so that the funding is based on a combination of adequate resources to meet local, state and national performance goals, and is distributed equitably among all Colorado school districts. Experts agree that some form of standards-based education will remain the focal point of educational policy for many more years. As noted before, the 1994 Act was created in large part to address the distribution of resources equitably across the state. It did not contemplate the effects of constitutional amendments such as TABOR and Gallagher in creating a wide range of mill levies, nor did it anticipate the federal No Child Left Behind Act (NCLB) and state education reforms.

What has changed?

As we move towards meeting an expectation of universal proficiency, one that leaves no child behind, we are also identifying the programs and resources that different districts need to serve the diverse populations they serve. The move from fiscal equity to adequacy in school finance is a momentous shift. The new level of federal involvement in education is unprecedented. Implementation of NCLB, through Colorado's state plan, has a financial impact on school districts that exceeds the level of federal funding provided.

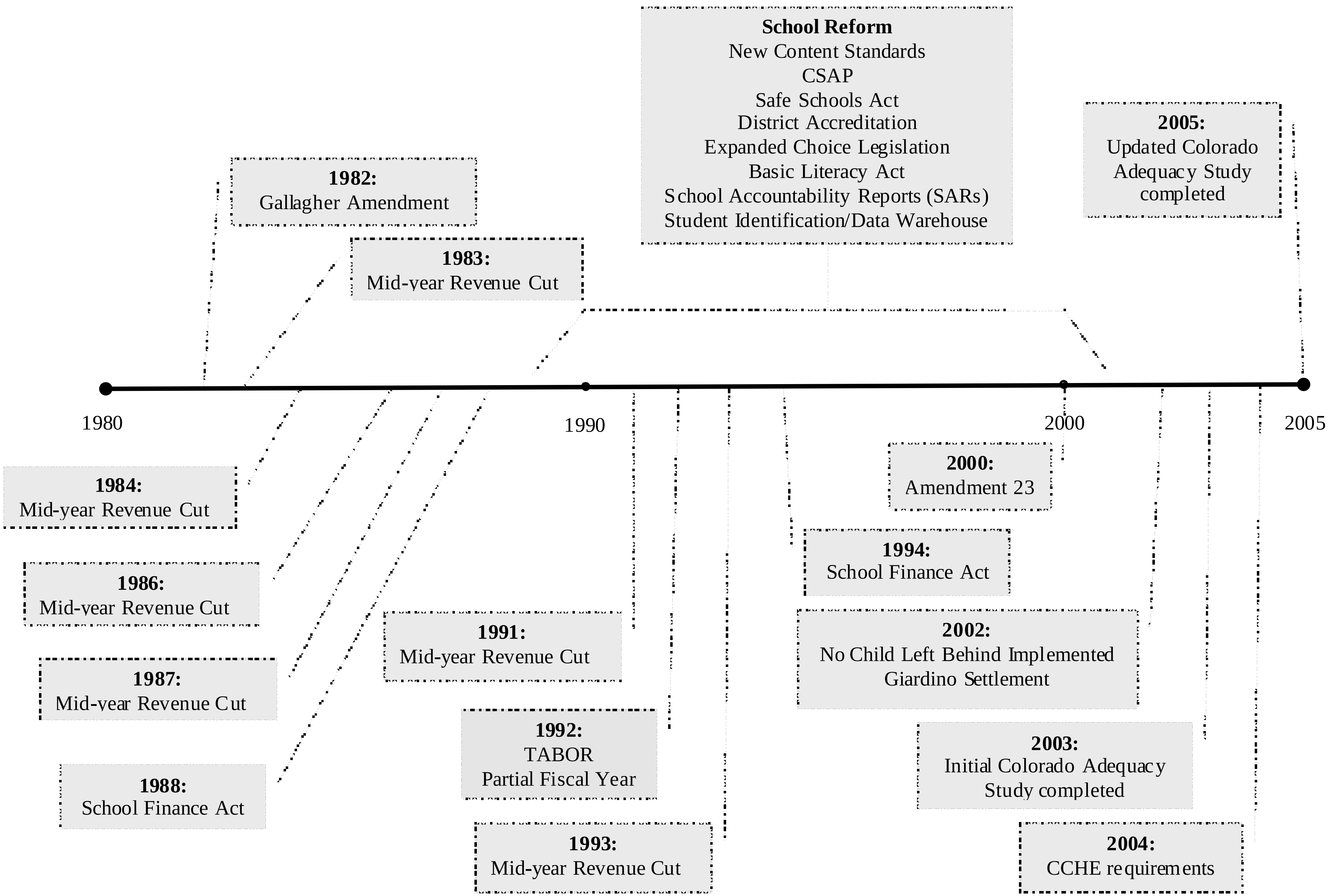
Over 30 states have completed an analysis to determine adequate spending levels. The Colorado School Finance Project (CSFP) commissioned an Adequacy Study for Colorado in 2002[4] (updated in 2004). The study was performed by Augenblick Palaich and Associates (APA).

As presented to the Task Force and the Interim Committee, the Adequacy Study:

- objectively demonstrated that issues of both adequacy and equity must be considered in funding a thorough and uniform system of public education in Colorado.
- quantified the financial concerns of school districts around the state through a credible and defensible analysis.
- articulated financial needs tied to academic achievement, helping communities be proactive regarding state policies.
- considered how a new school finance system might address the variety of pressures districts face under the current system.
- specifically addressed issues around special education, English language learners and at-risk populations.

The Task Force believes a foundation expenditure level must be "adequate," i.e. sufficient to provide the programs and services needed for a student to meet the academic expectations of accreditation, school accountability reports and NCLB. Success in this area can only happen if an adequate school finance system is coupled with a reliable and predictable state tax policy structure capable of generating adequate resources.

A Generation of Colorado School Finance and Educational Reform



RECOMMENDATIONS

I. The Task Force recommends the General Assembly should:

a. revise the 1994 School Finance Act;

b. significantly increase education spending; and

c. examine the adjustments to base per pupil funding.

The Task Force supports a base that is defined as “the amount needed for a student with no special needs to meet the expectations implicit in accreditation, school accountability reports and NCLB.” The Task Force supports increasing the base amount to an adequate expenditure level as opposed to allocating on the less reliable basis of revenues available.

The Task Force believes identifying an adequate level of base per pupil funding should be the first priority in a new state school finance formula. The base funding amount should provide adequate resources to allow school districts to meet academic accountability standards that exist at the local, state and federal levels. Adjustments to the base are necessary, but should not take precedence over properly identifying this dollar amount.

The Task Force discussed several different ways the General Assembly could calculate how much additional revenue is necessary for per pupil funding to be termed “adequate.” There are many assumptions that go into this analysis and different models to use. A good place to start the discussion, though, is to calculate the current gap in funding, compared to a previous point in time and address the $646 million of unreimbursed expenditures for categorical programs. The CSFP’s adequacy study estimated that funding must increase in the range of $800 million to $1.5 billion to be “adequate.”

It is important that any funding formula should preserve local control when resources are allocated. The locally elected school board is in the best position to allocate resources to align with its district programs for educational delivery.

Adjustments to Total Program Funding

The Task Force recommends the following adjustments, many of which have been modeled for the Task Force:

1) **Size**:
   The Task Force recommends a formula that recognizes the cost impact of size on each school district, which may be different than the calculation of the size factor in the current formula.

2) **At-risk**:
   The Task Force recommends the current definition of at-risk be expanded so there is a direct correlation to the kinds of programs needed for a student to meet the academic expectations.

3) **English Language Learners:**
   The Task Force recommends that the state provide funding for English Language Learners as part of total program. This includes increasing the length of time that identified students are funded in order to match the federal definition of three years and tying this adjustment to the size of the district and any student need relative to meeting academic expectations.

4) **Special Education:**
   The Task Force recommends funding for special education be part of total program. The state should use information that establishes a level of resources needed for a special education student to meet the standards and takes into consideration the district's size when distributing aid. The state should look at different models for distribution of special education funding.

   The Task Force recommends that the students with the most severe needs have additional dollars outside the formula.

5) **Gifted and Talented**:
   The Task Force recommends that the state assure sufficient funding for gifted and talented students as part of total program. Current statewide identification and numbers of students identified are being revised. This new data needs to be utilized when available.

6) **Cost of Living**:
The Task Force recommends that cost of living remain in total program, but the current methodology should be reviewed or revised. The state has never fully implemented the recommendations of the study that created this factor for the 1994 Act. Full implementation may be one consideration. Other suggestions include a more regional look at cost of living, or applying other indices used by the state such as the wage index that more accurately reflect the costs of school districts.

7) **Transportation:**
The Task Force recommends that transportation be considered as part of total program and the policy around transportation costs be given serious attention. Funding for transportation should be provided that takes into consideration the unique circumstances districts face in transporting students.

8) **Small Attendance Centers**:
The Task Force recommends there be an adjustment for small attendance centers that recognizes the financial need resulting from size and distances between schools and that this adjustment be included in total program.

9) **Kindergarten:**
The Task Force recommends that all kindergarten students be funded as a full time equivalents as part of total program. The research shows this is an investment in the future. This approach ensures consistency in funding and opportunity for all kindergarten students.

10) **Preschool:**
The Task Force recommends that funding for preschool be part of total program so districts will have the resources available for eligible students to access the programs needed. Districts should be allowed to provide their own services or contract out, which is the current methodology.

11) **Public School Choice:**
The Task Force recommends that an adjustment to total program funding be made to reflect the impact on school districts of public school choice. Choice includes online and charter schools, inter-and

intra-district open enrollment, as well as other options that may emerge in the future. Such impacts may include both those resulting from an immediate loss of student enrollment as well as those related to the ongoing oversight of choice programs. In addition, the school finance system must recognize and accommodate changing school structures that result from public school choice.

12) Other Considerations (based on district experience with various aspects of the formula)

The Task Force recommends:

a) The student count should not become more cumbersome or require increased reporting for districts.

b) The current count dates in October and December for special education students are workable.

c) The pupil count process needs to be examined to address issues related to declining enrollment, student mobility and high growth districts.

d) The inflation factor needs to be addressed to more accurately reflect the real costs borne by school districts. For example, this past year school districts experienced double-digit inflation in the costs of insurance, water and fuel while receiving an increase in funding that reflected 0.1% for inflation and an additional 1% from Amendment 23.

e) The current limitation on school districts that desire to seek additional local revenues, with voter approval, should be increased by five percent.

f) There should be an analysis of the adequacy of the school funding formula every 3 years to reflect legislative changes and educational reforms. This practice should ensure the financing system is reflective of costs needed for implementation.

Recommendations

II. State funding and laws for capital should ensure that all Colorado students attend school in safe and effective learning environments. This funding should be included within the state's school finance funding, but would be in addition to per pupil total program funding.

The Task Force believes that the State's responsibility for funding public school capital needs is similar to its responsibility for funding education programs. As a result, the Task Force believes the State ought to provide funding for capital projects in those instances when local districts and schools are unable to do so.

In order to meet its obligation to fund public school capital needs, the Task Force recommends the state:

a) Assess the actual capital needs of public schools;

b) Address the backlog of current capital needs[4]. Even before an assessment of all actual capital needs is completed, state funding for capital projects ought to be made immediately available in order to address health and safety risks at individual schools; and

c) Provide future revenue to address ongoing capital needs.

The current method of funding school capital construction through local property taxes is insufficient in that it undermines the state's ability to provide a thorough and uniform education through the distribution of state equalization funding by requiring that operating funds be directed from classroom expenditures towards capital projects. As a result of this, Colorado classrooms:

a) Include learning environments for some Colorado students that fail to meet basic minimum health and safety requirements; and

b) Include learning environments for some Colorado students that are insufficient to facilitate satisfaction of applicable state and federal student academic achievement and accountability requirements.

At a minimum, every public school facility should be free from basic health and safety defects and sufficient for purposes of meeting state content and academic accountability standards.

Other Considerations:

The Task Force recommends:

a) The state should adopt a consistent definition of capital that includes the breadth of capital needs of public schools.

b) The state should require that a standard method be used to identify and assess minimum adequacy standards for a safe and effective learning environment that incorporates:

i) basic health and safety requirements;
ii) graduation course requirements; and
iii) other state and federal student academic requirements.

c) Funding for capital projects should be based upon the educational needs of students at each site or within each learning environment.

d) Funding and laws for capital projects should anticipate the particular circumstances of emerging and unique learning environments, such as use of technology, rural, online, charter and others which may not be appropriately considered when considering district needs.

e) Funding for capital projects should seek to maximize efficiencies by:
(i) providing incentives or requirements that districts complete appropriate maintenance; and
(ii) considering the full relative costs of new construction versus renovation.

The process of distributing grants for capital projects through a competitive process should be accompanied by adequate technical assistance to applicants in order to avoid:
(i) disadvantage to small and rural districts; and
(ii) awards being made to most effective grants as opposed to highest needs.

Additional consideration

Colorado should establish a P-16+ Council which is charged with exploring issues related to an integrated education system from preschool through higher education.

The public education funding challenge facing the state creates a unique opportunity for state policymakers to bring interested parties to the table to begin a discussion about the impact each part of the system has on the other. Among the issues that have funding implications for K-12 education are the following:

a. Vocational education;
b. Fifth year programs for high school students;
c. Higher education admission standards;
d. Teacher education programs; and
e. Issues related to high school remediation and acceleration.

The Task Force recommendations already recognize the importance of preschool and full day kindergarten programs. The Task Force is forwarding the concept of a P-16+ Council as part of this report to express the group’s willingness to work together with other members of the education community on issues of common concern. However, this invitation is not intended in any way to compromise important issues related to adequate funding for a K-12 pubic education system, which are the Task Force’s top priority.

IV. Potential Funding Sources

The Task Force understands additional revenue will be required to accomplish the recommendations in this report. It is likely that multiple sources of revenue will be needed to get to the funding level we are suggesting. The Task Force conducted a brainstorming session on various revenues sources that could be explored further, assuming that the Interim Committee decides to address the significant lack of resources for public schools. The Task Force has not attempted to develop a consensus on which of these sources should be pursued, nor is the group advocating for any particular funding source. Before implementing any one funding source, individually or in combination with others, the legislature will have to carefully evaluate whom it would impact, whether it represents a short-term or long-term solution and what the consequences of it may be. Some of the suggestions can be done through legislation, others will require a vote of the people. The following potential sources of revenue are not in a priority order.

Revenue sources and issues for General Assembly:

1. Study the State's Tax Policy System

   The State's current tax policy system has become handcuffed by a variety of conflicting constitutional amendments. The State should do a comprehensive study of state tax policy in order to provide equity to taxpayers throughout the State of Colorado and to provide the necessary resources to fund our State government.

2. Freeze the Local Mill Levy Used for School Finance (with hold harmless)

   Local property tax mill levies determine the local share of property taxes that each of Colorado's 178 school districts provide as one of the component parts of the school finance act. The remainder of school finance funding comes from vehicle specific ownership taxes and the state budget. Due to the combined effects of TABOR and Gallagher, the local share of revenue has grown ever so slightly with the bulk of increased K-12 costs being funded by the state, putting further strain on the state budget. Freezing the local mill levies at current rates would stop or at least reduce future exaggerations of that imbalance between state and local funding.

3. Change to Annual Reassessment of Property
   Currently, property in Colorado is reassessed every two years. As a result, the local contribution to school funding is unable to fully capture any increase in property values during non-reassessment years. Working in combination with the freezing of the local mill levy, an annual reassessment of property would allow local taxpayers to pick up a higher share of the K-12 funding sooner and provide some relief to the state budget. Another alternative is to average the two years, which will lessen the saw-tooth fluctuations that occur now every two years.

4. Increase the Mill Levy Override Limit
   One mechanism in the school finance act that allows local school districts to generate more funding is to submit a question to voters for additional local property tax revenue, called a mill levy override. This mechanism allows local taxpayers to approve an election question to allow the District to increase taxes in their district. The current limit of the mill levy override is 20% of Total Program Funding. Increasing this limit would allow local school districts to seek voter approval for additional funding. However, this raises issues about equity in the school funding system as it may exacerbate disparities in local funding.

5. Increase Revenue from School Trust Lands (Permanent Fund)
   A long-term plan for optimization of the Permanent Fund includes providing the State Treasurer with more investment flexibility. This includes allowing the State Treasurer to invest in equities and also allowing the State Treasurer to pay back investment losses over a longer period of time beyond the current requirement of three years.

6. Securitize Tobacco Settlement Revenue
   Securitization of the tobacco settlement would provide a guaranteed payment from the tobacco companies that would

be exempt from bankruptcy. While this funding is a non-recurring lump sum, it could allow for significant expenditures on non-recurring uses like capital construction.

7. Seek Medicaid Reimbursement for Special Education Statewide

   Special education is one of the largest unfunded mandates on local school districts, putting a great strain on district budgets. One potential source of existing funds that could remedy this problem is the federal Medicaid reimbursement. Unfortunately, many districts, particularly rural and small ones, lack the resources to apply for these funds. If the State could coordinate Medicaid reimbursement on qualifying expenditures, the State could receive significant funding from the federal government to help cover some of the unfunded portion of special education costs.

Issues that must be submitted to voters:

8. Address Disparate Mill Levies

   Another of the impacts of TABOR and Gallagher has been the creation of a wide disparity of mill levies assessed at one local school district compared to another depending on their localized combination of assessed valuation growth and enrollment growth. The result is that local school district mill levies can vary between four and 50 mills. This disparity has not only created some of the inequities in the current school finance act but has also led to the state shouldering more of the K-12 education funding burden. Legislation that would rebalance these mill levies could provide substantial relief to the state budget.

9. Change the TABOR Revenue Limit Formula

   Changing the revenue limit formula would allow the State to recalculate its TABOR revenue limit and thus keep more revenues in the state budget.

10. Provide Permanent Statewide Flexibility to Retain Revenues Above the TABOR Limit and Spend for State Programs

    Permanent statewide flexibility to retain and spend revenues above the TABOR limit (also commonly known as de-Brucing) would allow for exemption of the State's revenue and expenditure limits without changing other provisions of TABOR, i.e. voter approval of tax increases, emergency reserves and election reform. At a minimum, this option should be considered because it is provided as an option under TABOR and has been exercised many times at the local level.

11. Repeal or Modify TABOR

    Economic circumstances and programmatic needs have changed since TABOR's adoption in 1992. Adjustments to TABOR should be explored to repeal provisions in that voters may not even know exist, such as the double TABOR reserve requirement.

12. Implement a New Statewide Sales Tax Measure

    Sales taxes in Colorado are generally assessed at the local level; however, many states use a state sales tax as a critical part of their state budget. A new statewide sales tax might provide the needed balance to buy the time for tax policy considerations while providing the resources to help address dwindling state resources.

13. Repeal or Modify the Gallagher Amendment

    The Gallagher Amendment, which sets the balance of property taxes between residential and non-residential taxpayers, needs to be addressed by the State. The residential assessment rate has already dropped from 29 percent to less than eight percent. Conceivably, the residential assessment rate will eventually drop to less than 1%. As the residential assessment rate drops, local mill levies and property taxes for K-12 education will also continue to decrease. Unless this continual loss of revenue at the local level is addressed, the State will be required to cover this decreasing revenue through the school finance act.

14. Use State-Issued Bonding to Fund K-12 Capital Construction

    While this concept requires a funding stream for debt service repayment, a state-issued bond would allow the State to address significant non-recurring expenditure requirements across the state. The proceeds of such an issue would be used to begin addressing the statewide backlog of K-12 capital funding needs.

15. Use Lottery Proceeds for K-12 Education

    "Sin" taxes such as gambling, lottery, cigarette taxes and liquor taxes are often used in other states to fund K-12 education. There may be an opportunity to impose new taxes or reallocate existing lottery proceeds for the benefit of public education. Given the saturation of lottery proceeds on parks and prisons, it might be time to reevaluate the allocation of those proceeds and shift some lottery resources to K-12 education.

16. Make Structural Changes to the Colorado Tax Code

    The Colorado tax code has significant structural issues and differences from the federal tax code. Modifying some of these structural issues could increase state income tax revenues.

17. Implement a Differential Real Estate Tax on 2nd Homes

    Some states either assess or tax second homes differently than principal residences. Given Colorado's large number of resort communities, combined with low property taxes relative to other states, a differential tax on 2nd homes could help provide some revenue relief to local districts and/or the State.

18. Implement a Dedicated Tax for Education

    Colorado voters passed a constitutional amendment in 2000 (Amendment 23) to guarantee funding for K-12 education. The economic recession of the last few years combined with the depletion of the State Education Fund created by Amendment 23 has jeopardized the resources set aside by voters for K-12 education. A dedicated tax to fund public schools, presumably to be restricted in the State Education Fund and not allowed to be diverted for other purposes, would allow for the State to meet voter intent and improve the Colorado's ranking in comparison to other states in funding K-12 education.

ENDNOTES

[1] See "Profile of Changes in Colorado Public School Funding 1988-89 to 2000-01," prepared for the Colorado School Finance Project by Augenblick & Myers, Inc. (September 2002). According to the Profile, after adjusting for inflation (which rose by 52 percent between 1988-89 and 2000-01 based on the Denver-Boulder Consumer Price Index, the official state figure), central spending (for instruction, operation and maintenance of facilities, school and school district administration, and student and staff support) was $379 per pupil, or $263 million, lower than it had been in 1988-89. At that time, the gap represented a 14% loss in revenue compared to 1988 spending.

[2] See "Categorical Funding by School District," a report by Deb Godshall, assistant director of the Colorado Legislative Council (August 30, 2005). This analysis indicates a statewide level of under funding in the following categorical programs for 2003-04:

Transportation	$ 112,897,324
Special Education	$ 376,444,403
English Language Learners	$ 90,142,057
Voc Ed	$ 66,831,020
Total	$ 646,314,804

[3] There is no question that over the past 15 years, Colorado spending on education has declined compared to its own past level of spending and relative to other states. Specifically, today Colorado ranks about 40th of the 50 states in spending, adjusted for regional cost-of-living differences, which is unusual for a state that ranks in the top 10 for median family income. Teske, *Stepping Up or Bottoming Out? Funding Colorado's Schools*. Report from Donnell-Kay Foundation (January 2005).

[4]See "Calculation of the Cost of an Adequate Education in Colorado Using the Professional Judgement and the Successful School District Approaches," prepared for the Colorado School Finance Project by Augenblick & Myers, Inc. (January 2003). Available at www.cosfp.org

[5] In 2000, Colorado settled the claims made in *Alec Giardino, et. al. v Colorado State Board of Education, et. al.* (Denver District Court Case No. 98CV0246) by agreeing with the plaintiffs to provide $190 million over an 11 year period for capital construction needs of school districts across the state. The Task Force's recommendations that the backlog of capital projects be addressed is that such projects include both those required to be met under the *Giardino* settlement as well as others.

According to a 2003 State Auditor's report, the backlog in school capital needs at that time was $4.7 billion. *Public School Capital Construction Grant Program Colorado Department of Education Performance Audit,* Report of the State Auditor (May 2003).

In 2005, the Donnell-Kay Foundation undertook a needs assessment project that included a survey of all Colorado school districts and assessments by nationally renowned experts of schools in eight targeted school districts across the state. Those projects estimated the statewide backlog of school capital needs at between $5.7 billion to $10 billion. *Donnell-Kay, Colorado K-12 Capital Needs Assessment Project* (April 2005).

The range of $5.7 to $10 billion within the Donnell-Kay report reflects two different methods of estimating the actual costs. The $10 billion is based upon applying the amount per pupil of capital projects backlog in 8 districts to the entire state pupil population. The amount of backlog in these 8 districts was based upon external site assessors estimates. The $5.7 billion is based upon taking self-reported survey results from facilities managers in 72 districts. Donnell-Kay used these self-reported amounts to extrapolate the total need for the entire state based on each region's student enrollment.