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FINAL FISCAL NOTE

Drafting Number: LLS 19-0388 **Date:** July 22, 2019
Prime Sponsors: Sen. Todd **Bill Status:** Signed into Law
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Bill Topic: HIGH-COST SPECIAL EDUCATION TRUST FUND GRANTS

- Summary of Fiscal Impact:**
- State Revenue
 - State Expenditure
 - State Transfer
 - TABOR Refund
 - School Districts
 - Statutory Public Entity

The bill creates the high-cost special education trust fund and an associated grant program. The bill transfers state funds, increases expenditures for the Colorado Department of Education, and increases workload and revenue for some school districts through FY 2026-27.

Appropriation Summary: No appropriation required; see State Appropriations section.

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

**Table 1
State Fiscal Impacts Under SB 19-066**

		FY 2019-20	FY 2020-21
Revenue		-	-
Expenditures	Cash Funds	\$50,000	\$43,750
	Total	\$50,000	\$43,750
Transfers	Marijuana Tax Cash Fund	(\$2,500,000)	-
	Cash Fund	\$2,500,000	-
	Total	\$0	-
TABOR Refund		-	-

Summary of Legislation

The bill creates the High Cost Special Education Trust Fund (trust fund), to be administered by the Colorado Special Education Fiscal Advisory Committee (SEFAC).

Funding. On July 1, 2019, the bill transfers \$2.5 million from the Marijuana Tax Cash Fund (MTCF) to the trust fund. The transfers constitute the principal of the fund and cannot be appropriated, transferred, or expended. The State Treasurer will manage the fund through investments, and the interest and income is continuously appropriated to the Colorado Department of Education (CDE).

Grants. An administrative unit may apply for a grant from the trust fund if the unit had qualified expenditures in the preceding year to meet the needs of a single student with an individualized education plan (IEP); and those expenditures exceeded either \$100,000 or 2.5 percent of the unit's annual audited operating expenses for the previous year, whichever is lower. The bill defines the qualified grant expenditures for which an administrative unit may use the grant, and criteria for determining grant recipients and grant amounts.

Reporting. For each year in which the SEFAC awards a grant, the committee must include information concerning the balance in the trust fund, the number of applications received, and the amount awarded in grants to specific administrative units in their annual SEFAC report that is submitted to the State Board and education committees of the General Assembly.

The bill is repealed on July 1, 2027. Prior to the bill's repeal, any remaining interest in the fund must be transferred to the General Fund and any remaining principal must be transferred to the MTCF.

Background

Administrative unit. State law defines an administrative unit as a school district, board of cooperative educational services (BOCES), a multi-district administrative unit, or the state Charter School Institute that is providing educational services to gifted students or students with a disability.

Marijuana Tax Cash Fund. The MTCF contains state sales tax revenue collected on medical and retail marijuana and a portion of the revenue from the special sales tax on retail marijuana. The MTCF funds are appropriated annually and cannot be spent until the fiscal year after the year the funds were collected. Under current law, the General Assembly may appropriate 93.5 percent of the amount deposited in the fund. Based on the Legislative Council Staff December 2018 Economic Forecast, approximately \$129.9 million in FY 2019-20 and \$142.9 million in FY 2020-21 will be available for appropriation by the General Assembly.

Colorado Special Education Fiscal Advisory Committee. The SEFAC is made up of 12 members and currently administers a grant program to provide funding to administrative units that incur high costs to provide services to students with disabilities. Grants are awarded to administrative units based on the IEP expenditures in a single year, as a percentage of the unit's total expenditures. Of the amount appropriated, 50 percent must be provided to administrative units with students placed in-district and 50 percent must be provided to administrative units with students placed in out-of-district programs. In FY 2017-18, administrative units submitted grant applications for almost 400 students, with requests totaling about \$18.8 million. SEFAC provided \$4.0 million in grants to 22 administrative units for 27 students with out-of-district placement and 88 students with in-district placement.

State Transfers

In FY 2019-20, the bill transfers \$2.5 million from the MTCF to the trust fund. This is a one-time transfer.

State Expenditures

The bill increases state expenditures from the trust fund by \$50,000 in FY 2019-20 and \$43,750 in FY 2020-21. Table 2 shows income to the fund, and the amount available to be spent on grants and administration. The amount available is based on an assumed 2.0 percent interest rate in FY 2019-20 and 1.75 percent interest rate in FY 2020-21 on trust fund principal; however, should interest rates be below or exceed that interest rate, the amount of money available for grants will vary from this estimate.

Table 2
High-Cost Special Education Trust Fund
SB 19-066

	FY 2019-20	FY 2020-21
Transfer from MTCF	\$2,500,000	-
Principal in Trust Fund	\$2,500,000	\$2,500,000
Interest / Amount Available for Grants	\$50,000	\$43,750

Administrative costs. The bill will increase the workload for CDE to work with SEFAC to adopt guidelines for the grants awarded through the trust fund. Due to the limited number of grants that are expected to be issued initially, the workload is expected to be accomplished by staff that administer the existing high cost grant program. No additional SEFAC meetings will be required. Should administering the new program exceed current staffing capacity in FY 2019-20 or subsequent years, a portion of the available funds may be used for administrative expenses.

Grants. Under the current program, grants range between \$22,000 and \$74,000 per student, depending on whether the student is served in-district or out-of-district. This fiscal note estimates that \$50,000 in FY 2019-20 and \$43,750 in FY 2020-21 will be available for grants.

School Districts

The bill increases workload and revenue for school districts that apply for and receive grants funded through the trust fund. The impact will vary by district based on current need and resources, as well as the amount of funding available.

Effective Date

The bill was signed into law by the Governor and took effect on May 30, 2019.

State Appropriations

Because the trust fund income and interest is continuously appropriated to the Colorado Department of Education, the bill does not require an appropriation.

State and Local Government Contacts

Education Treasury