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Final Fiscal Note

Drafting Number: LLS 22-1016 **Date:** September 19, 2022
Prime Sponsors: Rep. McCluskie; McLachlan **Bill Status:** Signed into Law
 Sen. Zenzinger; Lundeen **Fiscal Analyst:** Anna Gerstle | 303-866-4375
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Bill Topic: PUBLIC SCHOOL FINANCE

Summary of Fiscal Impact:

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input checked="" type="checkbox"/> State Transfer	<input checked="" type="checkbox"/> School District

This bill is the 2022 School Finance Act that sets funding levels for Colorado's 178 school districts. It also removes the cap on the participants in the ASCENT program, and modifies several education-related programs. The bill increases state expenditures and school district funding.

Appropriation Summary: For FY 2022-23, the bill requires and includes an appropriation of \$185,421,986 to the Colorado Department of Education.

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

Table 1
State Fiscal Impacts Under HB 22-1390

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue		-	-
Expenditures	General Fund	\$3,398,071	\$3,877,888
	State Education Fund	\$182,023,915	\$266,404,046
	Centrally Appropriated	\$8,259	\$8,556
	Total Expenditures	\$185,430,245	\$270,290,490
	Total FTE	0.5 FTE	0.5 FTE
Transfers¹	General Fund	(\$301,000,000)	(\$1,000,000)
	State Education Fund	\$300,000,000	-
	Mill Levy Equalization Fund ²	\$1,000,000	\$1,000,000
	Net Transfers	\$0	\$0
Other Budget Impacts	General Fund Reserve	\$509,711	\$581,683

¹ While the enacted bill for HB 22-1390 includes a transfer of \$300 million from the General Fund to the State Education Fund; this transfer was later reduced by \$10 million, to \$290 million, by Senate Bill 22-202.

² This transfer is made through an appropriation of General Fund to a cash fund.

Summary of Legislation

The bill makes changes to state law regarding the funding of public schools and associated programs within the Colorado Department of Education (CDE).

Base per pupil funding. The bill increases base per pupil funding for FY 2022-23 by \$252.88 to \$7,478.16, which reflects a 3.5 percent inflation rate.

Budget stabilization factor. The bill decreases the budget stabilization factor by \$182.0 million, from \$503.3 million in FY 2021-22 to \$321.2 million in FY 2022-23. For FY 2023-24, the bill specifies that the budget stabilization factor cannot exceed FY 2022-23 levels.

ASCENT program. The bill modifies the Accelerating Students through Concurrent Enrollment (ASCENT) program. The number of participating students, which is determined through the budget process, is currently capped at 500 students, and students must be designated by CDE to participate. The bill removes the limit on the number of students who can participate, and allows the district or school to designate eligible students for participation instead of the CDE.

The bill reduces the number of credit hours of postsecondary work ASCENT students are required to complete prior to the student's twelfth grade year from 12 to 9. Districts and charter schools must report to CDE the estimated number of ASCENT participants for the upcoming school year, and CDE must report the total estimated participants to the General Assembly as part of its budget request.

The bill repeals provisions requiring students who do not complete concurrent enrollment courses to repay the amount of tuition paid by the LEP on the student's behalf, and makes conforming amendments to the deadlines for and content of the annual concurrent enrollment report.

Mill levy override equalization. The bill appropriates \$1.0 million from the General Fund to the Mill Levy Equalization Fund.

District audits. Under current law, school districts must conduct an annual audit of financial statements, and submit the audit report to the Office of the State Auditor (OSA) within thirty days after receiving the report. If the audit is not submitted within three months after the deadline, the State Auditor may require the county treasurer to prohibit the release of local tax money to the district. The bill specifies that for FY 2021-22 through FY 2023-24, the contingency reserve fund may be used for a rural or small rural school district that experiences an unusual financial burden from the withholding of property tax revenue, as a result of a delay in filing the audit report due to extraordinary problems that could not have been reasonable foreseen or prevented.

American Indian mascots. If a public school was not notified by July 28, 2021 that their mascot is prohibited because it includes an American Indian tribe, individual, or custom, the school has one year from the time of notification to discontinue the use of the mascot.

BOCES schools. The bill extends for six months, through December 31, 2022 the requirement that a Board of Cooperative Educational Services (BOCES) obtain written consent from a school district before authorizing a school or an additional location of an existing school that is physically located within the boundaries for that district, provided the school district is not a member of the BOCES.

This requirement does not apply to a school operating prior to June 11, 2021, as long as the school continues to operate through December 31, 2022.

School choice. The bill specifies that if a school district enrolls a student whose parent is a resident of the state, but not the district, the school district must not charge tuition for the student to attend school in the district, regardless of the circumstances of the student's enrollment.

Home-based education codes. The bill requires that CDE issue a separate school code for the two homeschool enrichment programs in the St. Vrain and Aurora school districts, and any similar programs approved for a new code by CDE after May 21, 2022.

Program changes. The bill makes the following changes to education policies and programs:

- extends the dyslexia screening and intervention pilot program by one year;
- extends the K-5 Social – Emotional Health Pilot Program by one year and modifies the requirements for school mental health professionals participating in the program;
- allows districts to carry over more than 15 percent of FY 2021-22 READ Act per pupil intervention funds for use in FY 2022-23;
- allows recipients of the educator recruitment and retention grant to agree to teach in an educator shortage area as a condition of program participation, as determined by the State Board of Education;
- clarifies the program match requirement for vendors that contract with CDE to develop a quality teacher and recruitment program;
- repeals the provision allowing CDE to annually reallocate money among providers participating in the local school food purchasing program;
- allows 20 percent of the money appropriated for the Imagination Library program in FY 2022-23 and thereafter to be used by the contracted program operator for operating costs;
- clarifies use of paper and pencil for certain assessments; and
- specifies that, due to the suspension of funding in FY 2020-21, the third year of the local accountability system grant program is FY 2022-23. The bill appropriates \$100,000 for the program evaluation that must occur in the program's third year.

Background

The ASCENT program allows selected students to enroll in postsecondary courses and be included in a local education provider's pupil enrollment during the year following the student's fourth year of high school. In recent years, the General Assembly has approved 500 slots per year.

State Revenue

By modifying the deadline for certain schools to comply with the prohibition on American Indian mascots, the bill may decrease fine revenue that would have been deposited in the State Education Fund in FY 2022-23. The fiscal note assumes that schools will utilize the extension to comply, and that any fine revenue collected in FY 2023-24 will be minimal.

State Transfer

In FY 2022-23, the bill makes the following transfers:

- \$300.0 million from the General Fund to the State Education Fund, which was reduced to \$290.0 million by Senate Bill 22-202 (State Match for Mill Levy Override Revenue); and
- \$1.0 million from the General Fund to the Mill Levy Equalization Fund. The transfer to the Mill Levy Equalization Fund occurs through an appropriation; the fiscal note assumes that this transfer is ongoing.

State Expenditures

In FY 2022-23, the bill increases state expenditures by \$185.4 million. In FY 2023-24, the bill increases state funding by \$270.3 million; that amount does not include changes to school finance as a result of actual enrollment, local share, and inflation. The components of the expenditure changes are listed in Table 2 and discussed below.

**Table 2
Expenditures Under HB22-1390**

	FY 2022-23	FY 2023-24
Department of Education		
Personal Services	\$36,238	\$39,533
Operating Expenses	\$675	\$675
Capital Outlay Costs	\$6,200	-
State Share of School Finance – Base & BSF	\$182,023,915	\$266,404,046
State Share of School Finance – ASCENT	\$2,101,985	\$2,837,680
Mill Levy Equalization	\$1,000,000	\$1,000,000
Local Accountability Systems Grant Evaluation	\$100,000	-
Dyslexia Pilot Program Continuation	\$127,973	-
Data Coding Change	\$25,000	
Centrally Appropriated Costs ¹	\$8,259	\$8,556
Total Cost	\$185,430,245	\$270,290,490
Total FTE	0.5 FTE	0.5 FTE

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

School finance – FY 2022-23. The bill sets total program funding for FY 2022-23 at \$8.4 billion. This represents a 3.67 percent (\$321.2 million) reduction from what funding levels would be without the budget stabilization factor. Compared to current law, the bill increases total program funding in FY 2022-23 by \$184.1 million, including \$182.0 decrease in the budget stabilization factor (\$149 higher than the amount set aside by the Joint Budget Committee, due to a technical adjustment.), and \$2.1 million for the estimated increase in the ASCENT program.

Compared to actual funding in FY 2021-22, the bill increases total program funding by \$433.1 million. State expenditures for school finance will increase by \$356.6 million and the local share of funding will increase by \$76.5 million, compared to FY 2021-22. State funding is from the General Fund, State Education Fund, and State Public School Fund. Table 3 shows an estimate of school funding under this bill, after the budget stabilization factor, compared to FY 2021-22.

**Table 3
School Finance Act Funding Under HB22-1390**

Fiscal Year	Pupil Count	Per Pupil Funding	Total Program	State Share	Local Share
FY 2021-22 Actual	886,249	\$9,015	\$7,989,164,350	\$4,708,971,499	\$3,280,192,851
FY 2022-23 Est.	881,053	\$9,559	\$8,422,265,845	\$5,065,604,795	\$3,356,661,200
Change	(5,196)	\$545	\$433,101,495	\$356,633,297	\$76,468,348
Percent Change	-0.6%	6.0%	5.4%	7.6%	2.3%

Assumptions. The fiscal note assumes that 350 additional students in FY 2022-23 will participate in the ASCENT program, distributed among districts based on their portion of ASCENT slots over the last three years. This is based on the following data and assumptions:

- on average, LEPs have requested 795 slots in each of the last four years, or 295 more than the 500 slots that have been available;
- lowering the number of credit hours that must be completed will increase the number of participants; and
- due to the initial implementation time frame, the initial increase in participating students will occur over two years, with a 35 percent increase in new cost required in FY 2024-24.

The fiscal note assumes that beginning in FY 2023-24, funding for the program will be based on the actual number of expected participants, as reported to CDE, and actual extended high school per pupil funding after the application of the budget stabilization factor.

School finance – FY 2023-24 preliminary estimate. For FY 2023-24, total program funding will be \$269.3 million more than the FY 2022-23 funding level; this amount does not include changes to school finance as a result of actual enrollment, local share, and inflation. The estimate was made by increasing the \$249.0 million increase in total program before the budget stabilization factor by 7.0 percent, Legislative Council Staff’s current projection for inflation rate in 2022, and adding the estimated \$2.8 million cost for ASCENT.

Mill levy equalization. As discussed in the State Transfers section, the bill provides \$1.0 million for mill levy equalization. This amount is assumed to be ongoing. These funds are distributed by the state Charter School Institute (CSI) to CSI schools that are geographically located in school districts that collect mill levy overrides.

CDE. To implement the changes to the ASCENT program, CDE requires 0.5 FTE beginning in FY 2022-23 to support the expanded program, including providing technical assistance, guidance, and outreach to additional districts, supporting data collection and reporting, handling participation requests, and supporting districts that expand concurrent enrollment opportunities. Standard operating and capital outlay costs are included; personal services in FY 2022-23 are prorated for the General Fund paydate shift.

Local accountability systems grant program. CDE requires \$100,000 in FY 2022-23 to contract for the evaluation of the local accountability systems grant program. Current law requires that the program evaluation occur in the program's third year, which would have been FY 2021-22 if not for the suspension of funding in FY 2020-21 due to the pandemic. The bill specifies that the evaluation must occur in FY 2022-23.

Dyslexia pilot program. CDE requires \$127,973 in FY 2022-23 for the one-year extension of the dyslexia pilot program. This amount will be used for the contract with the University of Oregon, which currently runs the program.

Coding changes. CDE requires \$25,000 in FY 2022-23 only to modify computer systems to reflect the coding for certain homeschool enrichment programs.

Institutions of higher education. Institutions of higher education that provide concurrent enrollment to students through the ASCENT program will have additional enrollment and tuition revenue from expansion of the program. State funding for institutions of higher education is partially allocated based on changes in enrollment and degrees awarded. To the extent the bill increases enrollment and degrees awarded, an institution's allocation of state funding may increase. No change in appropriations for higher education is required.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Other Budget Impacts

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2022-23. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts in Table 1, which will decrease the amount of General Fund available for other purposes.

School District

Total program. Table 3 compares estimated FY 2022-23 school finance funding levels with actual funding in FY 2021-22. In FY 2022-23, the bill increases funding by \$545 per pupil and funds 5,196 fewer pupils statewide. Total program funding increases by \$433.1 million, from \$8.0 billion to \$8.4 billion. Of this amount, the state's share increases by \$356.6 million, from \$4.7 billion to \$5.1 billion, and the local share increases by \$76.5 million, from \$3.3 billion to \$3.4 billion. For a breakdown of the impact on individual districts, please see:

<http://leg.colorado.gov/agencies/legislative-council-staff/school-finance>.

ASCENT. The bill increases revenue and expenditures for school districts whose students participate in ASCENT. Districts will have additional workload to designate participating students, conduct outreach, and support students enrolling in postsecondary opportunities, as well as to distribute funds to the institutions of higher education.

Other changes. The programmatic and technical changes in the bill will impact some school districts. Exact impacts are unknown, as they will vary by district. For districts participating in the dyslexia pilot program or K-5 Social-Emotional Health program, revenue and expenditures associated with those programs will continue for one more year.

Effective Date

The bill was signed into law by the Governor and took effect on May 26, 2022.

State Appropriations

For FY 2022-23, the bill requires and includes the following appropriations to the Colorado Department of Education:

- \$2,101,985 from the General Fund for the state share of school finance (ASCENT changes);
- \$182,023,915 from the State Education Fund for the state share of school finance;
- \$43,113 from the General Fund for ASCENT administration, and 0.5 FTE;
- \$25,000 from the General Fund for data coding changes;
- \$100,000 from the General Fund for the local accountability systems grant program; and
- \$127,973 from the General Fund for the dyslexia pilot program.

The bill also includes an appropriation of \$1,000,000 from the General Fund to the Mill Levy Equalization Fund, to be used by the state Charter School Institute in CDE.

State and Local Government Contacts

Education

State Auditor