

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



FY 2011-12 STAFF BUDGET BRIEFING

DEPARTMENT OF EDUCATION

**JBC Working Document - Subject to Change
Staff Recommendation Does Not Represent Committee Decision**

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**FY 2011-12 BUDGET BRIEFING
STAFF PRESENTATION TO THE JOINT BUDGET COMMITTEE**

DEPARTMENT OF EDUCATION

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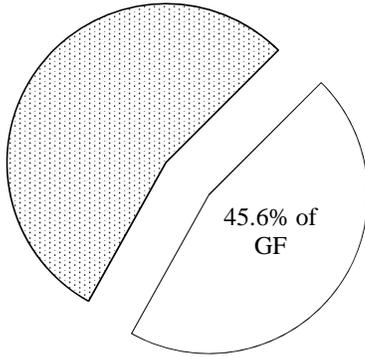
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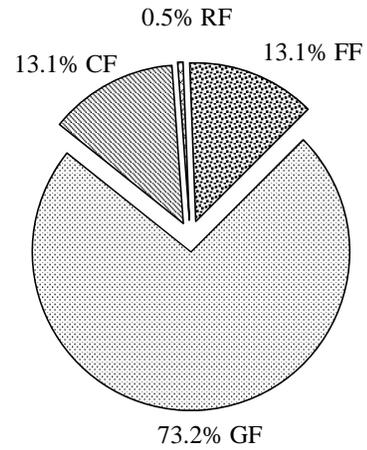
E - December 3, 2009 Joint Budget Committee staff issue brief concerning the Status of the "BEST" Capital Construction Assistance Program

**FY 2011-12 Joint Budget Committee Staff Budget Briefing
Department of Education
GRAPHIC OVERVIEW**

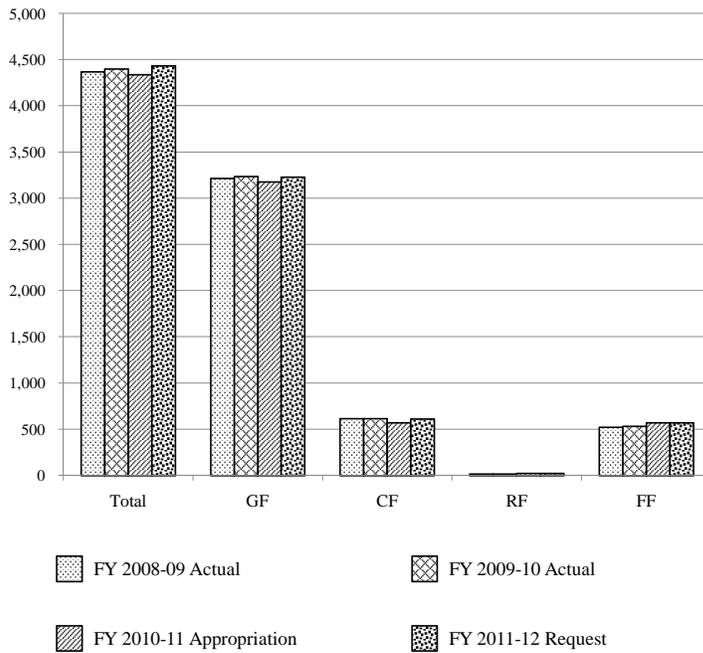
Department's Share of Statewide General Fund



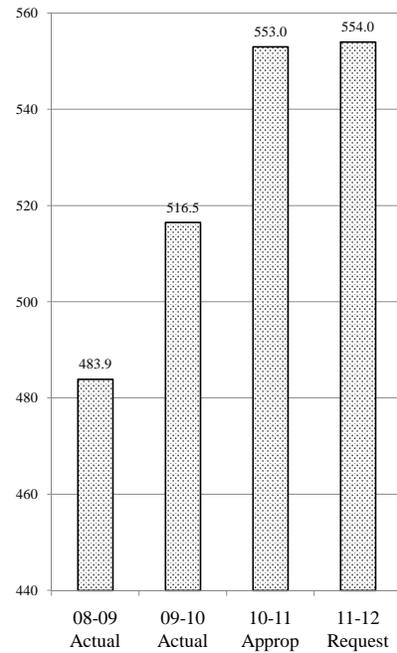
Department Funding Sources



**Budget History
(Millions of Dollars)**

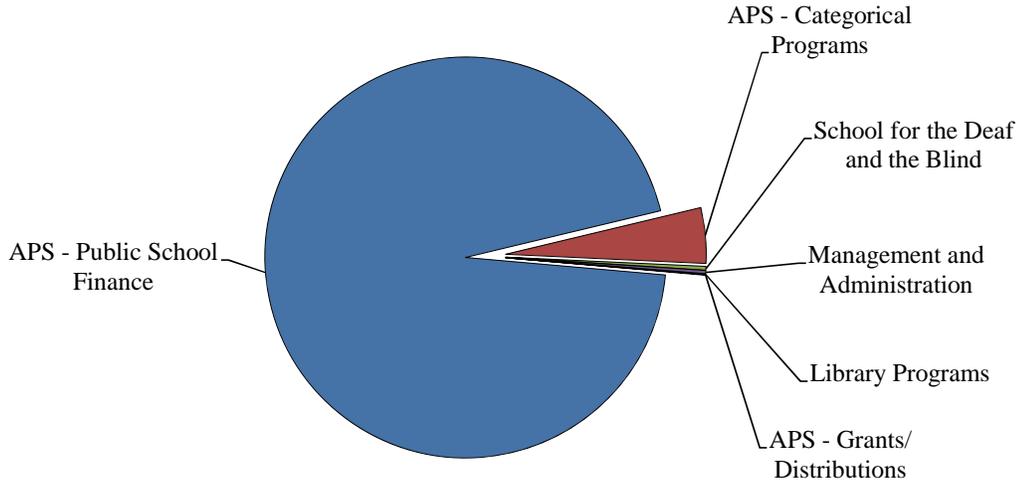


FTE History

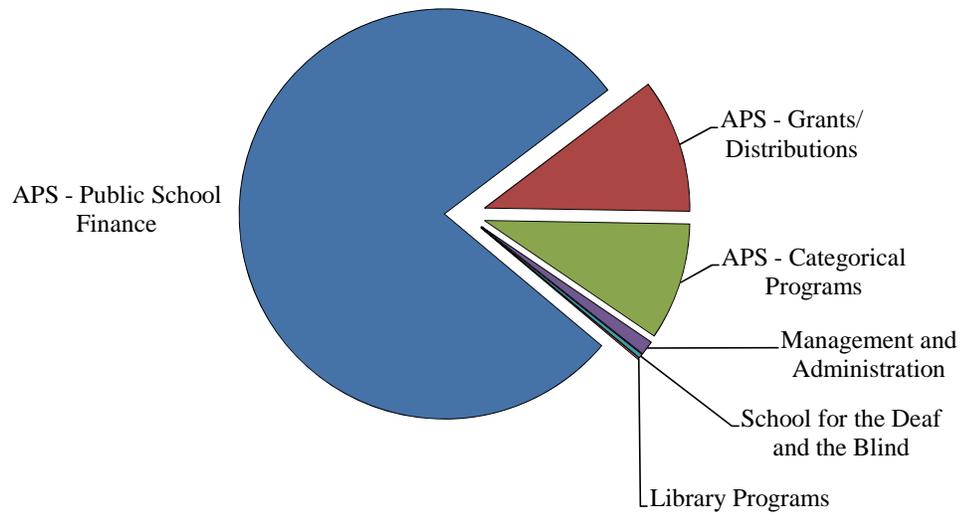


Unless otherwise noted, all charts are based on the FY 2010-11 appropriation.

Distribution of General Fund by Division

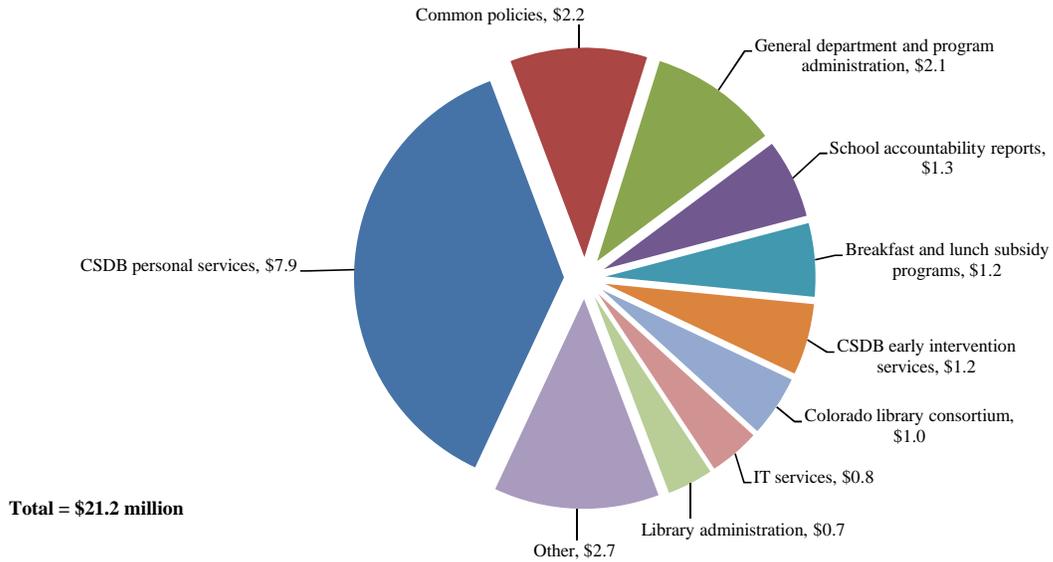


Distribution of Total Funds by Division

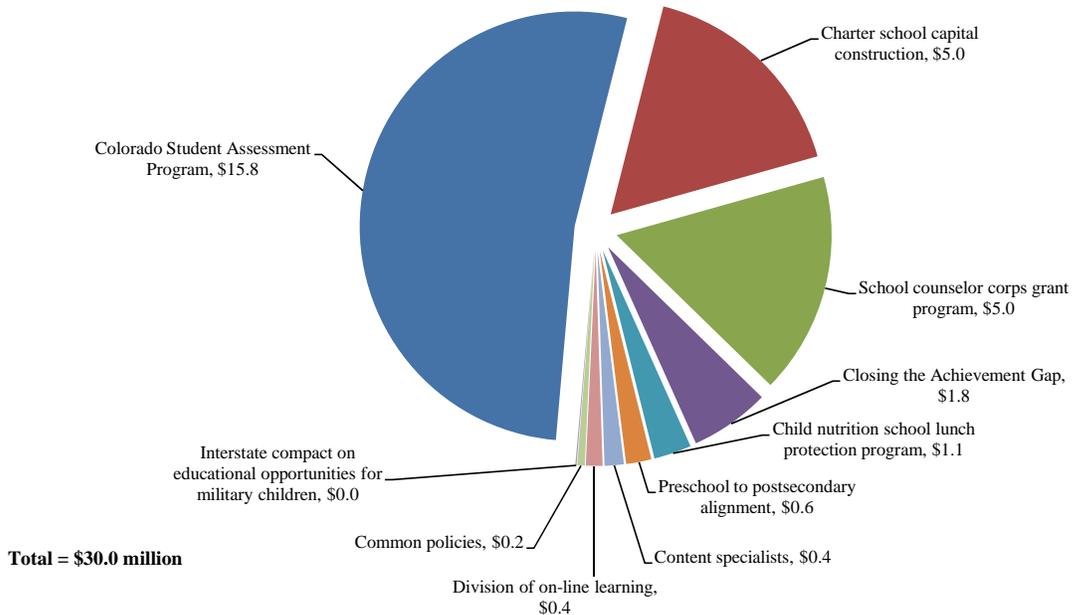


The following pie charts exhibit the distribution of General Fund and State Education Fund, excluding Public School Finance and Categorical Programs.

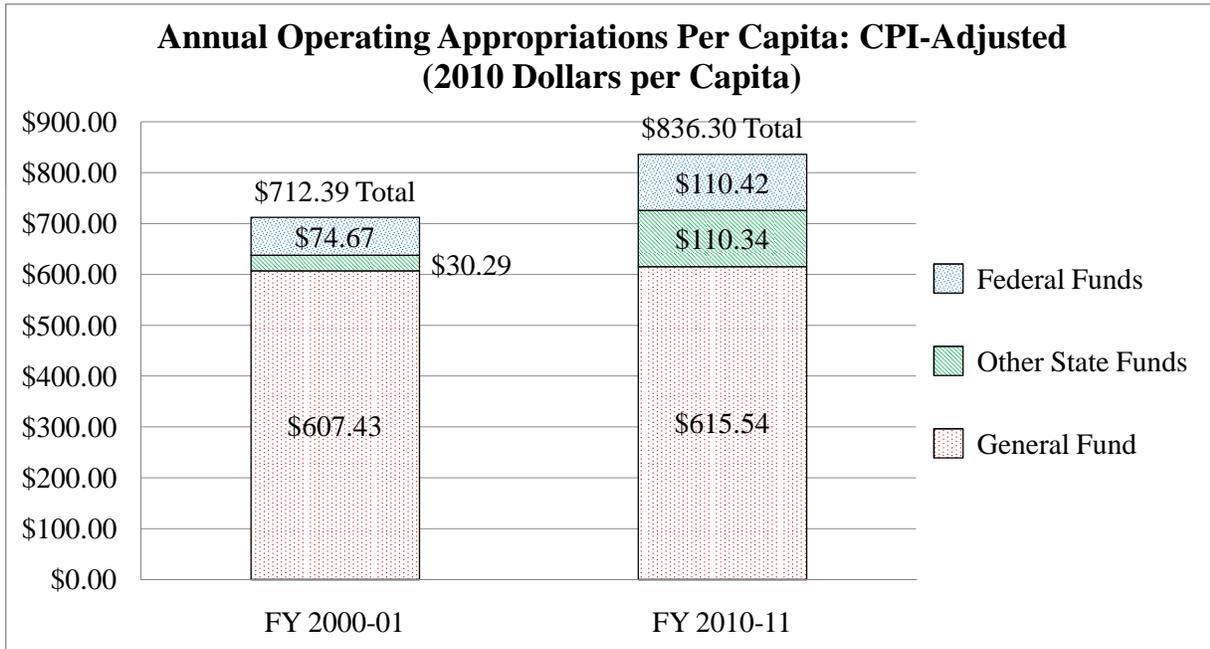
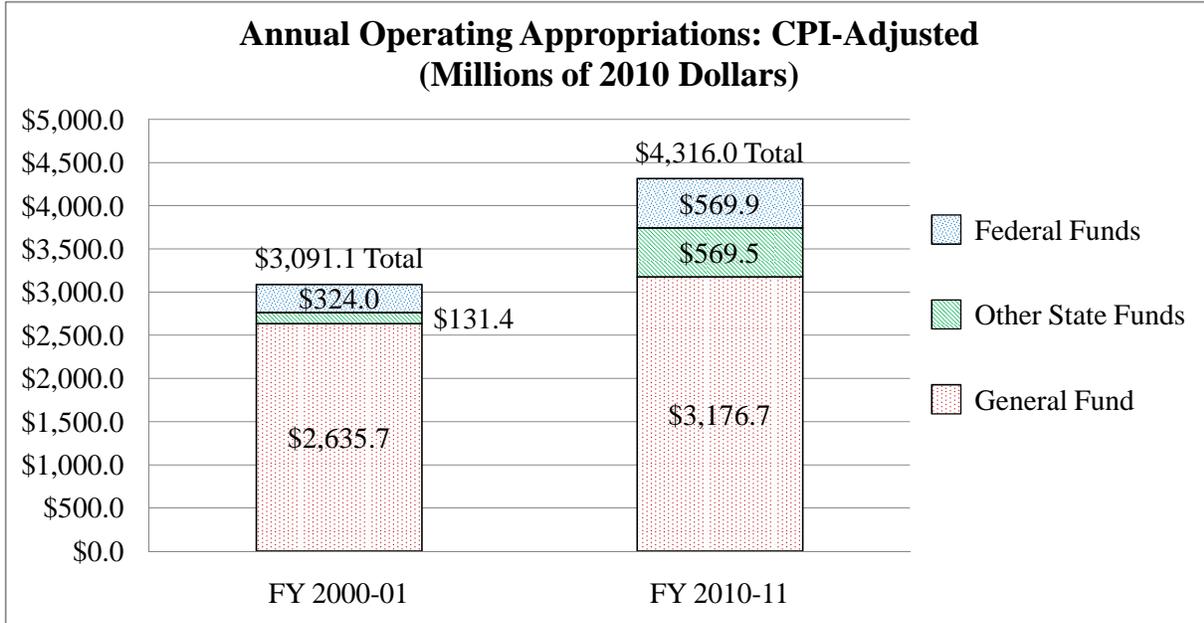
Distribution of General Fund (\$ millions)



Distribution of State Education Fund (\$ millions)



**FY 2011-12 Joint Budget Committee Staff Budget Briefing
 Department of Education
 COMPARISON OF FY 2000-01 AND FY 2010-11 APPROPRIATIONS**



NOTES: (1) All appropriations above *exclude* duplicate appropriations (i.e., these appropriations exclude reappropriated funds for FY 2010-11 and, for FY 2000-01, exclude amounts that would have been classified as reappropriated funds). For this department, these excluded amounts primarily reflect transfers from the Department of Human Services and the transfer of state and federal funds within this department to support the State Charter School Institute, the Colorado School for the Deaf and the Blind, and school finance-related administrative line items.

(2) For the purpose of providing comparable figures, FY 2000-01 appropriations are adjusted to reflect changes in the Denver-Boulder-Greeley consumer price index (CPI) from 2000 to 2010. Based on the Legislative Council Staff September 2010 Economic and Revenue Forecast, the CPI is projected to increase 21.9 percent over this period.

(3) In the per capita chart, above, appropriations are divided by the Colorado population (for 2000 and 2010, respectively). Based on the Legislative Council Staff September 2010 Economic and Revenue Forecast, Colorado population is projected to increase by 18.9 percent over this period.

**FY 2011-12 Joint Budget Committee Staff Budget Briefing
Department of Education**

DEPARTMENT OVERVIEW

Key Responsibilities

The Commissioner of Education, who is appointed by the State Board of Education, is the chief state school officer and executive officer of the Department of Education. The Commissioner and department staff, under the direction of the elected members of the State Board of Education, have the following responsibilities:

- ▶ Supporting the State Board in its duty to exercise general supervision over public schools and K-12 educational programs operated by state agencies, including appraising and accrediting public schools, school districts, and the State Charter School Institute (Institute);
- ▶ Developing and maintaining state model content standards, and administering the associated Colorado student assessment program;
- ▶ Annually accrediting the school districts and the Institute and making education accountability data publicly available;
- ▶ Administering the public school finance act and distributing federal and state moneys appropriated or granted to the Department for public schools;
- ▶ Administering educator licensure and professional development programs;
- ▶ Administering education-related programs, including services for children with special needs, services for English language learners, the Colorado preschool program, public school transportation, adult basic education programs, and various state and federal grant programs;
- ▶ Supporting the State Board of Education in reviewing requests from school districts for waivers of state laws and regulations and in serving as the appellate body for charter schools;
- ▶ Promoting the improvement of library services statewide to ensure equal access to information, including providing library services to persons who reside in state-funded institutions and to persons who are blind and physically disabled; and
- ▶ Maintaining the Colorado virtual library and the state publications library.

The Department also includes three "type 1"¹ agencies:

- ▶ A seven-member Board of Trustees that is responsible for managing the Colorado School for the Deaf and the Blind, located in Colorado Springs;
- ▶ A nine-member State Charter School Institute Board that is responsible for authorizing and monitoring the operations of "institute charter schools" located within certain school districts; and
- ▶ A nine-member Public School Capital Construction Assistance Board that is responsible for assessing public school capital construction needs statewide and making recommendations concerning the prioritization and allocation of state financial assistance for school construction projects.

Factors Driving the Budget

Although local government revenues provide a significant source of funding for K-12 education in Colorado (e.g., an estimated \$2 billion for FY 2010-11), local funds are not reflected in the State's annual appropriations to the Department of Education. Appropriations to the Department of Education for FY 2010-11 consist of 73.2 percent General Fund, 13.1 percent cash funds, 13.1 percent federal funds, and less than one percent reappropriated funds. The two most significant factors driving the budget are reviewed below: school finance and categorical programs.

School Finance - State's Share of Districts' Total Program

The General Assembly has established a statutory public school finance formula under which all public school districts operate. The school finance formula takes into consideration the individual characteristics of each school district in order to equalize funding among districts and to provide thorough and uniform educational opportunities throughout the state. The school finance formula allocates state and local funds to school districts by calculating a specific per pupil level of funding for each school district, as well as a specific state and local share of funding for each district.

The formula provides the same base amount of funding per pupil for every district (\$5,530 per pupil for FY 2010-11). The formula then increases this statewide base per pupil funding for each district based on factors that affect districts' costs of providing educational services. Thus, per pupil funding allocations vary for each district. For FY 2010-11, per pupil funding allocations are anticipated to range from \$6,358 to \$14,749, with a statewide average allocation of \$6,822 per pupil. Each district's per pupil funding allocation is multiplied by its funded pupil count to determine its "total program" funding. For FY 2010-11, pursuant to the school finance formula, a total of \$5.4 billion in state and local funds will be allocated among school districts.

¹ Pursuant to Section 24-1-105 (1), C.R.S., a type 1 agency exercises its prescribed powers and duties independently of the head of the department.

Constitutional Inflationary Requirement (Amendment 23)

Pursuant to Section 17 of Article IX of the Colorado Constitution, the General Assembly is required to provide annual inflationary increases in *base* per pupil funding. For FY 2001-02 through FY 2010-11, the base per pupil amount was required to increase annually by inflation plus one percent; for FY 2011-12 and subsequent fiscal years, the base per pupil funding amount must increase annually by at least the rate of inflation. For example, for FY 2010-11, the General Assembly was required to increase *base* per pupil funding by at least \$22 (from \$5,508 to \$5,530, or 0.4 percent), based on the actual 0.6 percent reduction in the Denver-Boulder consumer price index in calendar year 2009 plus one percent. Given an estimated funded pupil count of nearly 800,000, the General Assembly was thus required to provide a minimum of \$4.4 billion in state and local funds for FY 2010-11 -- 81 percent of the \$5.4 billion in total program funding.

Factors Considered in Public School Finance Formula

The remaining 19 percent of state and local funds that will be allocated among school districts in FY 2010-11 is driven by other factors in the school finance formula that increase the base per pupil funding for each district by varying amounts to account for individual district characteristics. The formula includes three primary factors.

- *Cost of Living Factor (11.3% of Total Program Funding)* - Recognizes differences in the cost of living among districts, providing greater per pupil funding for higher cost districts
- *At-risk Factor (3.7%)* - Provides additional funding for districts serving students who may be at risk of failing or dropping out of school (determined based on the number and concentration of students eligible for free lunch under the federal school lunch program, and English language learners)
- *Size Factor (3.6%)* - Recognizes economies of scale experienced by larger school districts, providing greater per pupil funding for districts with low enrollment

In addition, the school finance formula requires a minimum level of per pupil funding (\$6,910 per pupil for FY 2010-11²), regardless of the impact of the above factors. For FY 2010-11, 14 districts are anticipated to receive funding based on this factor. The School Finance Act also provides a flat rate of funding per pupil (established at \$6,668³ for FY 2010-11) for two types of students:

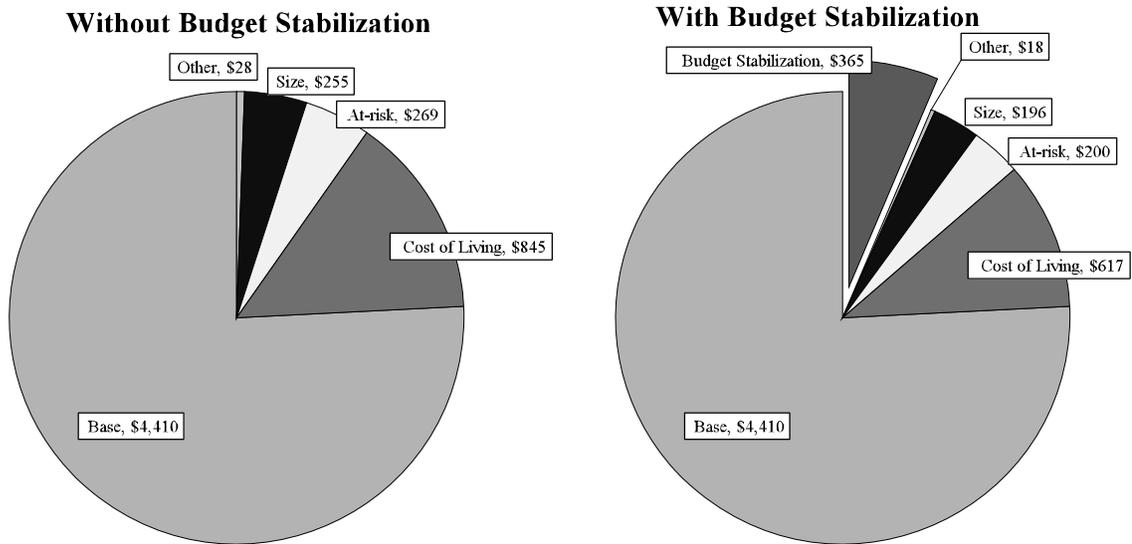
- Students receiving full-time on-line instruction through a multi-district program; and
- Students in their fifth year of high school who are participating in the Accelerating Students Through Concurrent Enrollment (ASCENT) Program.

² This amount is applied in the formula prior to the application of the Budget Stabilization Factor, so some districts will actually receive less than \$6,910 per pupil in FY 2010-11.

³ This amount is applied in the formula prior to the application of the Budget Stabilization Factor; districts will actually receive \$6,244.85 per on-line or ASCENT student in FY 2010-11.

Finally, for FY 2010-11 and FY 2011-12 only, the formula includes a negative "state budget stabilization" factor designed to reduce districts' total program funding to a specified total amount (\$5.44 billion). For FY 2010-11, this factor is estimated to be -6.35%, requiring a statewide reduction of \$365.4 million. Thus, the Department calculates total program funding for each district based on the formula described above, and then reduces each district's total program funding by 6.35 percent⁴. This new factor has the effect of reducing the funding attributed to the other formula factors, as illustrated in the following graphic.

Total Program Funding by Component: FY 2010-11 (\$ millions)



Determining the State and Local Shares of Public School Funding

Once the total program funding amount is determined for each district, the state and local share of such funding is calculated for each district. Local property and specific ownership taxes provide the first source of revenue for each district's total program funding, and the remainder is covered by state funds. Property taxes are based on each district's tax rate (the mill levy) and the portion of property value that is taxable (the assessment rate). Specific ownership taxes are paid when a registering motor vehicle. For FY 2010-11, local taxes are expected to contribute about \$2.0 billion toward public school finance. Thus, the General Assembly appropriated \$3.4 billion in state funding to provide a total of \$5.4 billion for school district operations.

⁴ Please note that for some districts, this reduction exceeds the state share of total program funding. In this case, the reduction in total program funding is limited to the state share of funding.

Two constitutional provisions, combined with a statutory provision in the School Finance Act of 1994, have limited property tax revenues available for public school operations:

- In 1982, voters approved a property tax reform measure that included a provision (generally called the "Gallagher amendment"⁵) which initially reduced the residential assessment rate from 30 percent to 21 percent, and capped the residential share of property taxes.
- In 1992 voters approved the Taxpayer's Bill of Rights (TABOR)⁶. Prior to TABOR, local governments could generally collect and spend the same amount of property tax revenue each year by periodically adjusting mill levies up or down. With respect to school district property taxes, TABOR: (1) imposed a property tax revenue limit based on inflation and changes in student enrollment; (2) prohibited districts from increasing a mill levy without voter approval; and (3) required voter approval for any increase in the assessment rate for a class of property.

As a result of the combined impact of the Gallagher amendment and TABOR, the residential assessment rate has declined from 30.0 percent to 7.96 percent (to keep the residential share of property tax revenues at about 47 percent), and school district mill levies have declined from the uniform mill of 40.080 (established by the General Assembly in 1988) to disparate mill levies that currently range from 1.472 to 27.000. These reductions have caused the local share of total program funding to increase at a slower rate than overall funding, requiring the State's relative share of funding to rise. Specifically, from CY 1988 to FY 2006-07, the ratio of the State share of funding to the local share of funding shifted from 43:57 to 64:36. Senate Bill 07-199 changed the method for calculating school district property taxes, thereby allowing property tax revenues to increase at a rate more commensurate with overall funding. Due to the passage of S.B. 07-199 and increases in assessed valuation, the percent State share of funding actually decreased in FY 2007-08 (to 62 percent). For FY 2010-11, the State is projected to provide 63 percent of total program funding.

In summary, several factors affect the amount of state funding appropriated for public school finance, including:

- The number of pupils enrolled in public schools (including children attending state-supported preschool programs, full-time on-line programs, and students participating in the ASCENT program);
- The rate of inflation;
- Changes in the relative cost-of-living in various regions of the state;

⁵ See Article X, Section 3 (1) (b) of the Colorado Constitution.

⁶ See Article X, Section 20 of the Colorado Constitution.

- The number of at-risk students enrolled in public schools;
- Fluctuations in local property and specific ownership tax revenues, as well as constitutional and statutory provisions that limit property tax revenues; and
- Changes in statutory definitions, procedures, or mathematical factors that impact the calculation of per-pupil funding or state aid for each district.

The table on the following page provides key data related to school finance funding for the last five fiscal years, as well as appropriations for FY 2010-11.

School Finance Funding						
Description	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Actual	FY 2010-11 Approp.
Funded Pupil Count	741,328	753,065	760,884	778,108	789,497	797,439
<i>Annual Percent Change</i>	<i>1.6%</i>	<i>1.6%</i>	<i>1.0%</i>	<i>2.3%</i>	<i>1.5%</i>	<i>1.0%</i>
<i>Change in Denver-Boulder Consumer Price Index for Previous Calendar Year</i>	<i>0.1%</i>	<i>2.1%</i>	<i>3.6%</i>	<i>2.2%</i>	<i>3.9%</i>	<i>(0.6)%</i>
Statewide <u>Base</u> Per Pupil Funding	\$4,718	\$4,864	\$5,088	\$5,250	\$5,508	\$5,530
<i>Annual Percent Change</i>	<i>1.1%</i>	<i>3.1%</i>	<i>4.6%</i>	<i>3.2%</i>	<i>4.9%</i>	<i>0.4%</i>
Statewide <u>Average</u> Per Pupil Funding	\$6,168	\$6,359	\$6,661	\$6,874	\$7,078	\$6,824
<i>Annual Percent Change</i>	<i>1.5%</i>	<i>3.1%</i>	<i>4.7%</i>	<i>3.2%</i>	<i>3.0%</i>	<i>(3.6)%</i>
Total Program Funding/1	\$4,572,154,012	\$4,788,862,198	\$5,068,284,706	\$5,349,019,294	\$5,587,765,303	\$5,441,381,052
<i>Annual Percent Change</i>	<i>3.2%</i>	<i>4.7%</i>	<i>5.8%</i>	<i>5.5%</i>	<i>4.5%</i>	<i>(2.6)%</i>
<u>Local Share</u> of Total Program Funding	\$1,701,427,703	\$1,729,362,067	\$1,915,971,895	\$1,956,083,870	\$2,068,895,672	\$2,041,563,656
<i>Annual Percent Change</i>	<i>0.9%</i>	<i>1.6%</i>	<i>10.8%</i>	<i>2.1%</i>	<i>5.8%</i>	<i>(1.3)%</i>
<u>State Share</u> of Total Program Funding	\$2,870,726,309	\$3,059,500,131	\$3,152,312,811	\$3,392,935,424	\$3,518,869,631	\$3,399,817,396
<i>Annual Percent Change</i>	<i>4.6%</i>	<i>6.6%</i>	<i>3.0%</i>	<i>7.6%</i>	<i>3.7%</i>	<i>(3.4)%</i>
<i>State Share as Percent of Districts' Total Program Funding</i>	<i>62.8%</i>	<i>63.9%</i>	<i>62.2%</i>	<i>63.4%</i>	<i>63.0%</i>	<i>62.5%</i>
General Fund Portion of State Share Appropriation	\$2,480,460,455	\$2,657,663,684	\$2,790,546,868	\$2,930,074,211	\$3,076,277,922	\$3,013,683,712
<i>Annual Percent Change</i>	<i>5.9%</i>	<i>7.1%</i>	<i>5.0%</i>	<i>5.0%</i>	<i>5.0%</i>	<i>(2.0)%</i>

1/ For FY 2008-09 and FY 2009-10, these figures exclude amounts that were rescinded mid-year due to insufficient appropriations (\$5,777,656 and \$129,813,999, respectively).

Categorical Programs

Programs designed to serve particular groups of students (*e.g.*, students with limited proficiency in English) or particular student needs (*e.g.*, transportation) have traditionally been referred to as "categorical" programs. Unlike public school finance funding, there is no legal requirement that the General Assembly increase funding commensurate with the number of students eligible for any particular categorical program. However, Section 17 of Article IX of the Colorado Constitution requires the General Assembly to increase *total state funding* for all categorical programs annually by at least the rate of inflation plus one percent for FY 2001-02 through FY 2010-11, and by at least the rate of inflation for subsequent fiscal years. For example, in calendar year 2009 the percentage change in the Denver-Boulder consumer price index was actually negative (-0.6 percent), so the General Assembly was required to increase state funding for categorical programs by at least \$920,774 (0.4 percent) for FY 2010-11.

The General Assembly determines on an annual basis how to allocate the required increase among the various categorical programs. Since FY 2000-01, the General Assembly has increased annual state funding for categorical programs by \$88.9 million. In certain fiscal years, the General Assembly elected to increase state funding by more than the minimum constitutionally required amount, resulting in appropriations that are now \$34.7 million higher than the minimum amount that would have otherwise been required. The following table details the allocation of the \$88.9 million among categorical programs.

Increases in State Funding for Categorical Programs				
Long Bill Line Item	FY 2000-01 Appropriation	FY 2010-11 Appropriation	Total Increase in Annual Appropriation of State Funds Since FY 2000-01	
Special education - children with disabilities	\$71,510,773	\$127,362,125	\$55,851,352	78.1%
English Language Proficiency Program	3,101,598	12,396,353	9,294,755	299.7%
Public school transportation	36,922,227	49,541,821	12,619,594	34.2%
Career and technical education programs	17,792,850	23,296,124	5,503,274	30.9%
Special education - gifted and talented children	5,500,000	9,059,625	3,559,625	64.7%
Expelled and at-risk student services grant program	5,788,807	7,493,560	1,704,753	29.4%
Small attendance center aid	948,140	959,379	11,239	1.2%
Comprehensive health education	600,000	1,005,396	405,396	67.6%
Total	\$142,164,395	\$231,114,383	\$88,949,988	62.6%

**FY 2011-12 Joint Budget Committee Staff Budget Briefing
Department of Education**

DECISION ITEM PRIORITY LIST

Decision Item	GF	CF	RF	FF	Total	FTE
1	\$51,087,298	\$40,072,406	\$0	\$0	\$91,159,704	0.0
<p>Total Program Funding and Hold-Harmless Full-day Kindergarten Funding</p> <p>Assistance to Public Schools, Public School Finance. The Department requests a \$91,199,641 (2.7 percent) increase in <i>state</i> funding for school districts' total program funding, and a \$39,937 decrease in Hold-Harmless Full-day Kindergarten Funding. This request includes an increase to cover a projected 1.4 percent increase in the funded pupil count and the cost of increasing base per pupil funding by 1.0 percent (based on the OSPB projected rate of inflation for CY 2010). The proposal also includes an adjustment to the State Budget Stabilization Factor (established through H.B. 10-1369), which offsets the increase in state funds by \$92.2 million. While the proposal would increase total program funding by 0.8 percent, it would <u>decrease</u> average per pupil funding by 0.6 percent. <i>Statutory authority: Article IX, Section 17 of the Colorado Constitution; and Sections 22-54-101, et seq., and 22-55-106, C.R.S.</i></p>						
2	\$0	\$2,311,143	\$0	\$0	\$2,311,143	0.0
<p>Required Increase for Categorical Programs</p> <p>Assistance to Public Schools, Categorical Programs. Categorical programs serve particular groups of students or particular student needs. The General Assembly is constitutionally required to increase <i>total state funding</i> for all categorical programs annually by at least the rate of inflation for FY 2011-12. The Department requests additional appropriations from the State Education Fund to increase state funding for categorical programs by 1.0 percent, based on the OSPB projected rate of inflation for CY 2010. The request specifies the allocation of the additional funds among the following seven categorical programs: \$1,183,747 for special education programs for children with disabilities; \$498,433 for public school transportation; \$335,063 for English language proficiency programs; \$140,150 for vocational education; \$74,936 for the Expelled and At-risk Student Services Grant Program; \$68,760 for educational services for gifted and talented children; and \$10,054 for health education programs. <i>Statutory authority: Article IX, Section 17 of the Colorado Constitution; and Sections 22-55-102 and 107, C.R.S.</i></p>						
3	\$0	\$74,997	\$0	\$0	\$74,997	1.0
<p>GED Spending Authority Increase</p> <p>Management and Administration, General Department and Program Administration. General Education Development (GED) tests measure the major outcomes and concepts generally associated with four years of high school education. The Department is requesting an increase of \$74,997 cash funds spending authority and 1.0 FTE to accommodate the growing demand for services. Additionally, the State is at risk of violating acceptable standards for testing compliance and could endanger the State's authorization from the American Council on Education to provide GED testing services. <i>Statutory authority: Section 22-33-104.7, C.R.S.</i></p>						

Decision Item	GF	CF	RF	FF	Total	FTE
NP-5	\$2,056	\$0	\$0	\$0	\$2,056	0.0
<p>Printing of Statewide Warrants and Mainframe Documents</p> <p>Management and Administration, General Department and Program Administration. The Department is requesting an increase of reappropriated spending authority to accommodate the need to capture costs associated with centralized printing services provided to state agencies. These costs will be offset with corresponding decreases in rates charged to the affected agencies through the Purchases of Services from the Computer Center line item that was included as a part of the Office of Information Technology (OIT) base reduction request in FY 2010-11. Such printing services include laser printing services for warrants produced by the State Controller's Office on behalf of state agencies and general mainframe printing including COFRS reports, W2s collection notices, and payroll advices. <i>Statutory authority: Section 24-30-101, et seq., C.R.S.</i></p>						
Total	\$51,089,354	\$42,458,546	\$0	\$0	\$93,547,900	1.0

**FY 2011-12 Joint Budget Committee Staff Budget Briefing
Department of Education**

BASE REDUCTION ITEM PRIORITY LIST

Base Reduction Item	GF	CF	RF	FF	Total	FTE
NP-1	(\$261,696)	\$0	\$0	\$0	(\$261,696)	0.0
<p>Across the Board 2.0 Percent General Fund Personal Services Reduction</p> <p>All Divisions. The Department is requesting, as part of a statewide General Fund reduction strategy, to decrease the appropriation for personal services funded with General Fund by 2.0 percent. [Note: The Department's request includes decreases to Categorical Programs totaling \$6,551. However, funding for Categorical Programs is currently at the Constitutional minimum level; thus to accommodate the statewide General Fund reduction, a commensurate amount of General Fund will need to be reduced elsewhere in the budget.] <i>Statutory authority: Various.</i></p>						
NP-2	(\$318,823)	(\$71,025)	(\$111,527)	(\$284,871)	(\$786,246)	0.0
<p>Statewide 2.5 Percent PERA Reduction</p> <p>All Divisions. The Department is requesting, a part of a statewide General Fund reduction strategy, to decrease the State's contribution to the Public Employees' Retirement Association (PERA) equal to 2.5 percent and increasing the employee contribution by a commensurate amount, a one-year continuation of S.B. 10-146 (Concerning a Modification of Contribution Rates to PERA). [Note: The Department's request includes decreases to Categorical Programs totaling \$6,852. However, funding for Categorical Programs is currently at the Constitutional minimum level; thus to accommodate the statewide General Fund reduction, a commensurate amount of General Fund will need to be reduced elsewhere in the budget.] <i>Statutory authority: 24-51-401 (1.7), C.R.S.</i></p>						
NP-3	(\$8,314)	\$0	\$0	\$0	(\$8,314)	0.0
<p>Pro-Rated Benefits</p> <p>Management and Administration, Administration and Centrally-Appropriated Line Items. The Department is requesting a decrease to its General Fund appropriation for the provision of health, life, and dental benefits for its employees who work less than fifty percent of full-time. <i>Statutory authority: Various.</i></p>						
NP-4	(\$2,574)	\$0	\$0	\$0	(\$2,574)	0.0
<p>Annual Fleet Vehicle Replacement</p> <p>School for the Deaf and Blind, School Operations. The Department is requesting a decrease to its Vehicle Lease Payments line item to accommodate decreases to facility vehicle costs including fuel, maintenance, and insurance. <i>Statutory authority: Section 24-30-1104 (2), C.R.S.</i></p>						
Total	(\$591,407)	(\$71,025)	(\$111,527)	(\$284,871)	(\$1,058,830)	0.0

**FY 2011-12 Joint Budget Committee Staff Budget Briefing
Department of Education**

OVERVIEW OF NUMBERS PAGES

The following table summarizes the total change, in dollars and as a percentage, between the Department's FY 2010-11 appropriation and its FY 2011-12 request.

Total Requested Change, FY 2010-11 to FY 2011-12 (millions of dollars)

Category	GF	CF*	RF	FF	Total	FTE
FY 2010-11 Appropriation	\$3,176.7	\$569.5	\$22.7	\$569.8	\$4,338.7	553.0
FY 2011-12 Request	3,227.9	612.0	22.8	569.7	4,432.4	554.0
Increase / (Decrease)	\$51.2	\$42.5	\$0.1	(\$0.1)	\$93.7	1.0
Percentage Change	1.6%	7.5%	0.4%	0.0%	2.2%	0.2%

* The FY 2010-11 appropriation does not reflect \$2,998,551 in interim supplemental increases approved by the Joint Budget Committee in September 2010.

The following table highlights the individual changes contained in the Department's FY 2011-12 budget request, as compared with the FY 2010-11 appropriation, by Long Bill division. For additional detail, see the numbers pages in Appendix A.

Requested Changes, FY 2010-11 to FY 2011-12

Category	GF	CF	RF	FF	Total	FTE
Management & Administration						
Common Policy Adjustments	\$452,204	\$126,338	\$92,524	\$178,807	\$849,873	0.0
Restore FY 2010-11 PERA reduction	78,586	45,969	52,892	18,486	195,933	0.0
GED Spending Authority (DI #3)	0	74,997	0	0	74,997	1.0
Printing of warrants and mainframe documents (statewide DI)	2,056	0	0	0	2,056	0.0
Continuation of PERA rate adjustment (statewide DI)	(80,837)	(42,359)	(64,230)	(19,379)	(206,805)	0.0
2% personal services reduction (statewide DI)	(77,590)	0	0	0	(77,590)	0.0
Pro-rated benefits for part-time employees (statewide DI)	<u>(8,314)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(8,314)</u>	<u>0.0</u>
Subtotal	\$366,105	\$204,945	\$81,186	\$177,914	\$830,150	1.0

Category	GF	CF	RF	FF	Total	FTE
Assistance to Public Schools - School Finance						
<u>State share of districts' total program funding</u>						
Increase in total program funding based on enrollment and inflation projections (prior to state budget stabilization factor)	\$95,080,735	\$40,112,343	\$0	\$0	\$135,193,078	0.0
Additional increase in state funding based on anticipated decrease in local revenues	48,164,144	0	0	0	48,164,144	0.0
Proposed increase in state budget stabilization factor to reduce required state funding	<u>(92,157,581)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(92,157,581)</u>	<u>0.0</u>
Net annual change in the State Share of Districts' Total Program Funding (DI #1)	51,087,298	40,112,343	0	0	91,199,641	0.0
Reduction to hold-harmless full-day kindergarten funding based on above proposal (DI#1)	0	(39,937)	0	0	(39,937)	0.0
Continuation of PERA rate adjustment (statewide DI)	<u>0</u>	<u>0</u>	<u>129</u>	<u>0</u>	<u>129</u>	<u>0.0</u>
Subtotal	\$51,087,298	\$40,072,406	\$129	\$0	\$91,159,833	0.0
Assistance to Public Schools - Categorical Programs						
Required increase for categorical programs (DI #2)	\$0	\$2,311,143	\$0	\$0	\$2,311,143	0.0
Restore FY 2010-11 PERA reduction	5,371	0	0	123,027	128,398	0.0
Continuation of PERA rate adjustment (statewide DI)	(6,852)	(2,131)	0	(127,071)	(136,054)	0.0
2% personal services reduction (statewide DI)	<u>(6,551)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(6,551)</u>	<u>0.0</u>
Subtotal	(\$8,032)	\$2,309,012	\$0	(\$4,044)	\$2,296,936	0.0

Category	GF	CF	RF	FF	Total	FTE
Assistance to Public Schools - Grant Programs						
Restore FY 2010-11 PERA reduction	\$1,889	\$23,269	\$14,462	\$119,081	\$158,701	0.0
Anticipated Federal Funding	0	0	0	(300,000)	(300,000)	0.0
Continuation of PERA rate adjustment (statewide DI)	(1,799)	(25,758)	(13,399)	(108,703)	(149,659)	0.0
2% personal services reduction (statewide DI)	<u>(1,632)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(1,632)</u>	<u>0.0</u>
Subtotal	(\$1,542)	(\$2,489)	\$1,063	(\$289,622)	(\$292,590)	0.0
Library Programs						
Restore FY 2010-11 PERA reduction	\$16,260	\$777	\$0	\$30,972	\$48,009	0.0
Continuation of PERA rate adjustment (statewide DI)	(16,260)	(777)	0	(29,718)	(46,755)	0.0
2% personal services reduction (statewide DI)	<u>(14,020)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(14,020)</u>	<u>0.0</u>
Subtotal	(\$14,020)	\$0	\$0	\$1,254	(\$12,766)	0.0
Colorado School for the Deaf and Blind						
Restore FY 2010-11 PERA reduction	\$207,864	\$0	\$11,187	\$0	\$219,051	0.0
Common Policy Adjustments for FY 2010-11	21,854	0	0	0	21,854	0.0
Continuation of PERA rate adjustment (statewide DI)	(213,075)	0	(6,028)	0	(219,103)	0.0
2% personal services reduction (statewide DI)	(161,903)	0	0	0	(161,903)	0.0
Annual Fleet Vehicle Replacements (NP-4)	<u>(2,574)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(2,574)</u>	<u>0.0</u>
Subtotal	(\$147,834)	\$0	\$5,159	\$0	(\$142,675)	0.0
Total Change	\$51,281,975	\$42,583,874	\$87,537	(\$114,498)	\$93,838,888	1.0

**FY 2011-12 Joint Budget Committee Staff Budget Briefing
Department of Education**

BRIEFING ISSUE

ISSUE: Significant Actions Taken from FY 2007-08 to FY 2010-11 to Balance the Budget

Total appropriations to the Department of Education have increased since FY 2007-08, primarily due to rising student enrollment and to provide constitutionally required increases in base per pupil funding and in state funding for categorical programs. Since the most recent economic downturn started in 2008, the General Assembly has taken several actions to mitigate General Fund increases in this department. As a result, the General Fund appropriation to the Department of Education increased by only \$153.3 million (5.1 percent) from FY 2007-08 to FY 2010-11.

SUMMARY:

School Finance

- State appropriations for school districts' total program funding were insufficient to fully fund the statutory school finance funding formula in both FY 2008-09 and FY 2009-10, requiring mid-year recisions of state funding from school districts.
- The General Assembly modified the school finance formula, thereby reducing the amount of state funding required for school finance beginning in FY 2008-09.
- The General Assembly increased the amount of state school trust land revenues available for appropriation for three fiscal years, thereby temporarily reducing General Fund expenditures.

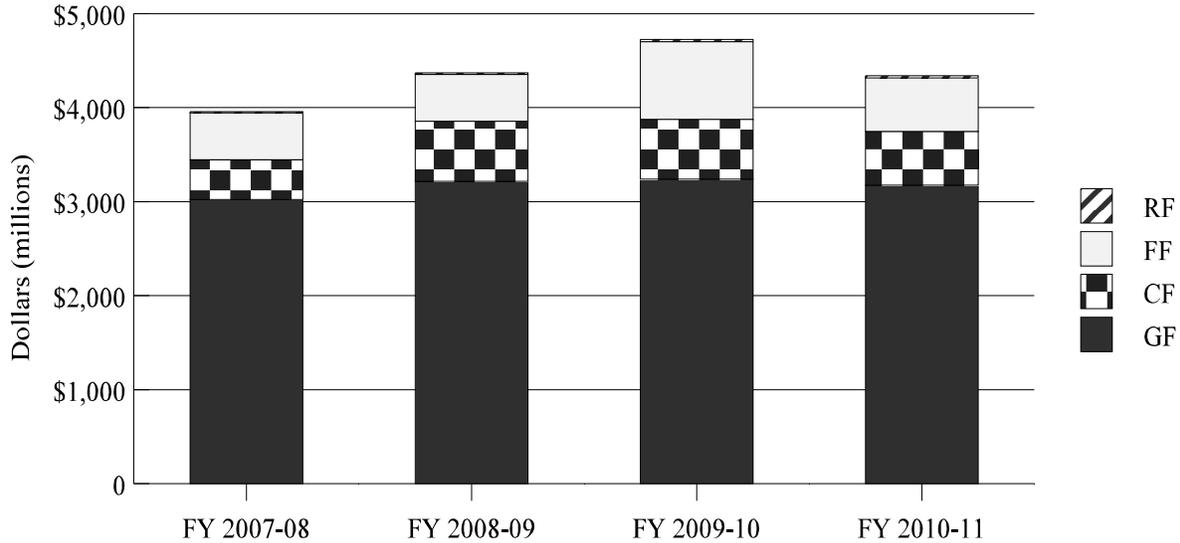
Other Programs

- The General Assembly has used State Education Fund moneys and reappropriated funds to replace General Fund support for a number of programs.
- The General Assembly reduced, suspended, or eliminated funding for several programs.

DISCUSSION:

From FY 2007-08 to FY 2010-11, total appropriations to the Department of Education increased by nearly 10 percent (\$382 million). Most of this increase was provided through state funds, including \$153 million General Fund and \$147 million cash funds. Primarily, state funding increased due to rising student enrollment (including legislative action to increase funding for preschool and full-day kindergarten) and to provide constitutionally required increases in base per pupil funding and in state funding for categorical programs. Appropriations to the Department for FY 2007-08 through the current fiscal year are illustrated in the bar chart and detailed in the table on the next page.

Department Appropriations FY 2007-08 to FY 2010-11



Department of Education Appropriations FY 2007-08 to FY 2010-11					
	Total Funds	General Fund	Cash Funds	Federal Funds	Reappropriated Funds
FY 2007-08 /a	\$3,957,180,035	\$3,023,327,981	\$422,934,014	\$496,839,889	\$14,078,151
FY 2008-09	4,371,057,290	3,215,359,907	640,392,536	497,653,179	17,651,668
FY 2009-10	4,725,438,549	3,239,325,619	636,538,236	826,873,489	22,701,205
FY 2010-11	4,338,711,337	3,176,663,441	569,464,505	569,850,639	22,732,752
Increase/(Decrease) /b	\$381,531,302	\$153,335,460	\$146,530,491	\$73,010,750	\$8,654,601
Percent Change /b	9.6%	5.1%	34.6%	14.7%	61.5%

a/ FY 2007-08 Appropriations have been adjusted to reflect the same "cash funds" and "reappropriated funds" format implemented in FY 2008-09. Source: Page 69 of the FY 2008-09 Appropriations Report, plus 2009 legislation affecting FY 2007-08 appropriations (S.B. 09-185).

b/ Increase/(Decrease) and Percent Change compare FY 2007-08 and FY 2010-11.

As illustrated in the bar chart above, appropriations to the Department peaked in FY 2009-10 primarily due to a temporary increase in federal funds. Specifically, appropriations for FY 2009-10 reflected \$308 million in federal funds available pursuant to the federal American Recovery and Reinvestment Act (ARRA). Most of these funds have been made available to school districts and will be spent over approximately two and half years.

Beginning in January of 2009 and continuing through the 2010 Session, the General Assembly has taken a number of actions to reduce General Fund expenditures. These actions are discussed in more detail below.

Major Budget Balancing Actions from FY 2007-08 to FY 2010-11

School Finance

Assistance to Public Schools, Public School Finance, Total Program Funding Appropriations FY 2007-08 to FY 2010-11						
	General Fund	Cash Funds	Subtotal: State Funds	Local Funds	Total Program Funding	Annual % Change
FY 2007-08 /a	\$2,790,546,868	\$362,163,909	\$3,152,710,777	\$1,915,779,555	\$5,068,490,332	5.8%
FY 2008-09 /b	2,930,074,211	462,870,995	3,392,945,206	1,955,868,681	5,348,813,887	5.5%
FY 2009-10 /b	3,076,277,922	442,677,995	3,518,955,917	2,068,616,086	5,587,572,003	4.5%
FY 2010-11	3,013,683,712	386,133,684	3,399,817,396	2,041,563,656	5,441,381,052	-2.6%
Incr./(Decr.) /c	\$223,136,844	\$23,969,775	\$247,106,619	\$125,784,101	\$372,890,720	
% Change /c	8.0%	6.6%	7.8%	6.6%	7.4%	

a/ FY 2007-08 Appropriations have been adjusted to reflect the same "cash funds" and "reappropriated funds" format implemented in FY 2008-09.

b/ Total Program Funding and State Funds figures exclude amounts that were rescinded mid-year.

c/ Incr./(Decr.) and % Change compare FY 2007-08 and FY 2010-11 appropriations.

1. Total program funding, which includes appropriated state funds and available local tax revenues, increased by 5.5 percent in FY 2008-09 and 4.5 percent in FY 2009-10. Despite these funding increases, state appropriations in each of these fiscal years were insufficient to fully fund the statutory school finance formula. Specifically, *mid-year rescissions* of \$5.8 million and \$129.5 million were required in FY 2008-09 and FY 2009-10, respectively.
2. The General Assembly also *modified the school finance formula* to reduce state expenditures:
 - For FY 2008-09, the General Assembly initially increased the statewide base per pupil funding by a total of \$182.52 per pupil (3.6 percent) – \$19.72 per pupil above what was constitutionally required. Through S.B. 09-215, the General Assembly limited the increase in the statewide base per pupil funding to \$162.80 (3.2 percent), thereby eliminating the extra \$19.72 per pupil. This action reduced the annual amount of state funding required for districts’ total program funding beginning in FY 2008-09 by \$20.0 million.
 - For FY 2010-11 and FY 2011-12, the General Assembly added a temporary, negative "state budget stabilization factor" to the formula. This factor reduces districts’ total program funding to a specified dollar amount. For FY 2010-11, this factor is estimated to be -6.35 percent, reducing the amount of General Fund otherwise required for school finance by \$365.4 million.
3. The General Assembly made statutory modifications to *increase the amount of state school trust land revenues available for appropriation*, thereby reducing the amount of General

Fund required for school finance (or perhaps mitigating the reductions in state funding for school finance). Specifically, for FY 2008-09 through FY 2010-11, S.B. 09-260 and S.B. 10-150 require the transfer of certain moneys to the State Public School Fund that would otherwise be credited to the Public School ("Permanent") Fund. These transfers are estimated to increase funds available for appropriation for the State Share of Districts' Total Program Funding by a total of \$93 million over three fiscal years.

Other Programs - Using Cash and Reappropriated Funds to Replace General Fund Support

In addition to relying heavily on the State Education Fund (SEF) to reduce General Fund expenditures for school finance, the General Assembly made significant appropriations from the SEF and from reappropriated funds to replace General Fund support for the following programs:

- *Categorical Programs (\$33.0 million annual General Fund savings)*: Following the passage of Amendment 23 in 2000, the General Assembly used a combination of General Fund and SEF moneys to comply with the constitutional requirement to annually increase state funding for categorical programs. In FY 2008-09, General Fund appropriations for categorical programs were reduced by \$33.0 million, to the minimum level allowed pursuant to Section 17 (5) of Article IX of the Colorado Constitution. These funds were replaced with appropriations from the SEF.
- *Colorado Student Assessment Program or "CSAP" (\$15.7 million annually)*: The General Fund appropriation for CSAP was replaced by an appropriation from the SEF in FY 2008-09.
- *Closing the Achievement Gap (\$1.8 million annually)*: The General Fund appropriation for this program was replaced by an appropriation from the SEF in FY 2008-09.
- *School Finance Administration (\$1.3 million annually)*: In FY 2008-09, \$1.6 million appropriated for the administration of the School Finance Act (including \$1.3 million General Fund and \$0.3 million from the SEF) was replaced with reappropriated funds transferred "off-the-top" from the State Share of Districts' Total Program Funding (i.e., withheld from payments to school districts).
- *Content Specialists (\$0.4 million annually)*: The General Fund appropriation for 5.0 FTE content specialists was replaced by an appropriation from the SEF in FY 2008-09.

Other Programs - Reducing, Suspending, or Eliminating Funding

The General Assembly reduced, suspended, or eliminated funding for several programs, including both General Fund and SEF appropriations. By reducing discretionary SEF expenditures the General Assembly increased the amount of SEF available for school finance, thereby reducing General Fund expenditures. The following table identifies those areas in which significant funding reductions have occurred.

Programs for Which Funding Has Been Reduced, Suspended, or Eliminated				
Program/ Function (bill reference)	Annual Savings (\$ millions)	One-time/ Ongoing	Fund Source	FY of Savings
Full-day Kindergarten Facility Capital Construction (HB 08-1388)	\$34.6	One-time	State Education Fund (SEF)	FY 2008-09
Charter School Facility Funding (HB 08-1388 authorized a one-time funding increase, which was subsequently reduced)	4.9	One-time	SEF	FY 2008-09
Additional Aid for Districts Affected by Troop Movements (established in HB 07-1232)	1.8	Three fiscal years	General Fund (GF)	FY 2008-09 through FY 2010-11
Stipends for Nationally Board Certified Teachers (HB 08-1384)	1.2	Ongoing	SEF	FY 2008-09+
Colorado Virtual Library (HB 08-1375 authorized an increase of \$1.0 million for on-line database products)	1.0	Ongoing	GF	FY 2009-10+
Regional Service Cooperatives (SB 08-038)	1.0	Ongoing	SEF	FY 2010-11+
Summer School Grants (SB 01-129)	1.0	Ongoing	SEF	FY 2008-09+
Alternative Teacher Compensation Plan (HB 08-1388)	1.0	One-time	SEF	FY 2008-09
Science and Technology Center Grants (HB 01-1365; \$1.4 million appropriated for FY 2001-02 and \$300,000 for FY 2008-09)	0.3	One-time	SEF	FY 2008-09
Grants to Boards of Cooperative Services (SB 06-130)	0.2	Ongoing	GF	FY 2009-10+
First Responder School Mapping System (HB 08-1267)	0.2	Ongoing	SEF	FY 2009-10+
Civic Education (SB 05-200)	0.2	Ongoing	SEF	FY 2008-09+
National Credential Fee Assistance (HB 05-200)	0.1	Ongoing	SEF	FY 2009-10+

Actions Taken to Increase Available State Revenues

The General Assembly transferred \$3,082,452 from the Contingency Reserve Fund to the General Fund in FY 2008-09.

**FY 2011-12 Joint Budget Committee Staff Budget Briefing
Department of Education**

BRIEFING ISSUE

ISSUE: School Finance Act Funding Projections

This issue brief provides preliminary projections of the state funding that will be required for school finance for the next five fiscal years under current law.

SUMMARY:

- ❑ Under current law, for FY 2011-12, the General Assembly has the discretion to determine whether total state and local funding for school finance should remain the same or increase. For FY 2012-13, when the state budget stabilization factor no longer applies, total state and local funding is projected to increase by \$677.3 million (12.4 percent).
- ❑ Local revenues are anticipated to decrease by \$27.3 million in the current fiscal year, and by another \$48.2 million next year, causing the State's share of school finance funding to continue to increase. The State share is projected to exceed 66 percent by FY 2012-13.
- ❑ The General Assembly appropriated a total of \$428 million from the State Education Fund for FY 2010-11, compared to annual Fund revenues of \$360 million, causing the Fund balance to decline to \$127 million by the end of this fiscal year.
- ❑ Based on current law, the General Fund appropriation for school finance should increase by \$30 million in FY 2011-12, and by more than \$700 million (23.2 percent) in FY 2012-13. Over the next five fiscal years, the General Fund appropriation would need to increase by more than one billion dollars, based on the current school finance formula.

RECOMMENDATIONS:

Given the magnitude of the existing revenue shortfall, and given the limited General Fund revenue growth anticipated in the short-term, it appears unlikely that the General Assembly will be able to fully fund the existing school finance formula in FY 2012-13. In the short-term, staff recommends that the General Assembly consider extending the state budget stabilization factor for another year, through FY 2012-13. For the longer term, staff recommends that the General Assembly consider making permanent changes to the school finance formula. The formula should comply with the constitutional requirement to provide for a "thorough and uniform" system of free public schools, while providing for a level of funding that is sustainable for the State and predictable for school districts.

DISCUSSION:

Projections of Total Program Funding

Based on information available to date, staff has prepared projections of the state and local funding estimated to be required annually for school finance for fiscal years 2011-12 through 2015-16. Staff's total program projections, which are reflected in the top portion of Table 1, are based on the following assumptions:

- For FY 2011-12, staff assumes that total program funding will remain at its current level (\$5,441.4 million). House Bill 10-1369 established the state budget stabilization factor to reduce school finance appropriations for FY 2010-11 and FY 2011-12. The amount of the appropriation reduction in each year will be calculated based on a specific total program funding amount¹. While the Department is proposing a slight increase in total program funding in FY 2011-12, staff's projections assume no change.
- Consistent with current law, staff's projections for FY 2012-13 and subsequent fiscal years are significantly higher because the state budget stabilization factor no longer applies. Thus, under current law, funding would increase in FY 2012-13 to restore the funding increases that would otherwise have occurred in both FY 2010-11 and FY 2011-12. Total program funding amounts are based on projected enrollment increases and projected inflationary increases in base per pupil funding.
- All figures in Table 1 assume that the General Assembly will continue to fund each kindergarten student based on 0.58 FTE.
- Staff's projections assume no increase in the number of students participating in the ASCENT Program.

Table 1 also reflects the Department's request for FY 2011-12, which would provide a modest increase (0.8 percent) in total program funding. However, per pupil funding would decline by 0.6 percent.

For FY 2011-12, the General Assembly has the discretion under current law to determine whether total program funding should remain the same or increase. For FY 2012-13, staff projects that total program funding will increase by \$677.3 million (12.4 percent) based on current law. Staff projects that the State's share of school finance funding will continue to increase, exceeding 66 percent of total funding by FY 2012-13.

¹ See Section 22-54-104 (5) (g) (I), C.R.S.

TABLE 1
FIVE-YEAR PROJECTION OF STATE FUNDING NEEDED FOR DISTRICTS' TOTAL PROGRAM FUNDING
(Dollar amounts reflected in millions unless otherwise noted)

	FY 2010-11 Appropriation	FY 2011-12 Request	JBC STAFF PROJECTIONS				
			FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16
PROJECTED FUNDING NEED:							
Funded Pupil Count (FTE) <1> <i>Annual Percentage Change</i>	797,438.5 1.0%	808,472.0 1.4%	805,990.6 1.1%	814,054.1 1.0%	826,917.7 1.6%	841,620.8 1.8%	856,920.8 1.8%
Multiplied by: Average Per-pupil Funding (NOT in millions) <i>Annual Percentage Change in Base Per Pupil Funding <2></i> <i>Annual Percentage Change in Average Per Pupil Funding</i>	\$6,824 0.4% -3.6%	\$6,784 1.0% -0.6%	\$6,751 1.3% -1.1%	\$7,516 1.9% 11.3%	\$7,689 2.3% 2.3%	\$7,889 2.6% 2.6%	\$8,126 3.0% 3.0%
Districts' Total Program Funding <3> <i>Annual Percentage Change</i>	\$5,441.4 -2.6%	\$5,484.4 0.8%	\$5,441.4 0.0%	\$6,118.7 12.4%	\$6,358.3 3.9%	\$6,639.6 4.4%	\$6,963.1 4.9%
PROJECTED STATE AND LOCAL SHARES:							
Local Share <4> <i>Annual Percentage Change</i>	\$2,041.6 -1.3%	\$1,993.4 -2.4%	\$1,993.5 -2.4%	\$2,046.2 2.6%	\$2,214.0 8.2%	\$2,271.6 2.6%	\$2,457.8 8.2%
Remainder: State Share	\$3,399.8	\$3,491.0	\$3,447.9	\$4,072.5	\$4,144.3	\$4,368.1	\$4,505.3
General Fund Portion of State Share <5> <i>Annual Dollar Change</i> <i>Annual Percentage Change</i>	\$3,013.7 (\$62.5) -2.0%	\$3,064.8 \$51.1 1.7%	\$3,043.7 \$30.0 1.0%	\$3,749.4 \$705.7 23.2%	\$3,800.9 \$51.5 1.4%	\$4,004.3 \$203.4 5.4%	\$4,121.4 \$117.1 2.9%

Notes:

<1> Projected funded pupil counts were provided by Legislative Council Staff. The request for FY 2011-12 is based on an estimated 805,990.6 FTE, plus an estimated 2,481 ASCENT Program participants.

<2> For purposes of this projection, it is assumed that the General Assembly will provide funding sufficient to increase the base per-pupil funding amount by the Denver-Boulder inflation rate, as projected by Legislative Council Staff, for the previous calendar year. The FY 2011-12 request is based on the Office of State Planning and Budgeting's projected inflation rate for CY 2010.

<3> For purposes of this document, staff assumes that total program funding will remain constant in FY 2011-12 [consistent with Section 22-54-104 (5) (g) (I), C.R.S.]. Projections for subsequent fiscal years are based on projected enrollment and base per pupil funding, and the existing public school finance formula. Please note that the state budget stabilization factor only applies for FY 2010-11 and FY 2011-12; thus, the current formula requires a significant funding increase in FY 2012-13.

<4> Projected local revenues through FY 2012-13 were provided by Legislative Council staff; subsequent projections are based on the Pacey model.

<5> Projections of the General Fund portion of the State Share are based on maintaining existing appropriations from the State Education Fund (SEF) and the State Public School Fund (SPSF), maintaining a balance of at least \$50 million in the SEF, and revenue estimates for both the SEF and the SPSF.

Projections of the State Share of Districts' Total Program Funding

The bottom portion of Table 1 provides projections of the state and local funding estimated to be required annually for school finance for fiscal years 2011-12 through 2015-16. These projections are based on Legislative Council Staff's estimates of local property tax and specific ownership tax revenues; state funds then cover the remainder of total program funding. Local revenues are anticipated to decrease by \$27.3 million (1.3 percent) in the current fiscal year, decrease by another \$48.2 million (2.4 percent) in FY 2011-12, and then increase in subsequent fiscal years.

With respect to the state share of funding, there are three sources of state funding available to the General Assembly to comply with the constitutional requirements related to funding for public schools: the State Public School Fund, the State Education Fund, and the General Fund. Each of these fund sources is discussed below.

State Public School Fund

The State Public School Fund (SPSF) is the smallest source of revenue available for public school finance. The SPSF currently receives revenues from three primary sources²:

1. *Federal Mineral Lease Revenues.* A portion of the federal funds received by the State for sales, bonuses, royalties, and rentals of federal lands within the state are annually credited to the SPSF.
2. *Interest and Income Earned on the Public School Fund.* The Public School Fund (often called the "Permanent Fund") consists of proceeds from lands that were granted to the State by the federal government for educational purposes. A portion of interest and income earned on the Permanent Fund is credited to the SPSF.
3. *District Audit Recoveries.* The balance of annual revenues to the SPSF come from amounts recovered by the Department pursuant to school district audits.

Staff's revenue projections for the SPSF are based on: Legislative Council Staff's revenue forecast for federal mineral lease revenues or the statutorily capped amount, whichever is less; \$8.5 million in interest/investment income (this amount is statutorily capped); and actual audit recoveries.

² Please note that the Department is required to transfer to the SPSF, on a quarterly basis, amounts appropriated from the General Fund for the State Share of Districts' Total Program Funding [see Section 22-54-114 (1), C.R.S.]. The SPSF thus serves as a flow-through account for much of the state funding for school finance. This function of the SPSF is excluded from the above discussion.

State Education Fund

The State Education Fund (SEF) consists of approximately 7.4 percent of annual state income tax revenues³, plus any interest earned on the fund balance. Fund revenues are not subject to the Taxpayer's Bill of Rights (TABOR) limitation on fiscal year spending, and appropriations from the SEF are not subject to statutory limitations on state General Fund appropriations. The General Assembly may annually appropriate moneys from the State Education Fund for a number of education-related purposes, including school finance.

As detailed in Table 2, the General Assembly appropriated a total of \$427.5 million from the SEF for FY 2010-11. This compares to \$360.1 million in projected fund revenues. Of the total amount appropriated from the SEF, \$390.4 million (91 percent) was appropriated for public school finance and categorical programs. The remaining \$37.1 million was appropriated for the Colorado Student Assessment Program (\$15.8 million), hold-harmless full-day kindergarten funding (\$7.3 million), charter school capital construction (\$5.0 million), the School Counselor Corps Grant Program (\$5.0 million), closing the achievement gap (\$1.8 million), and for various other purposes.

TABLE 2	
FY 2010-11 Appropriations from the State Education Fund	
School Finance and Categorical Programs:	
Public School Finance, State Share of Districts' Total Program Funding	\$284,307,808
Facility schools funding	16,779,077
Categorical programs (various line items)	<u>89,348,909</u>
Subtotal	390,435,794
Other Programs:	
Colorado Student Assessment Program	15,756,521
Hold-harmless full-day kindergarten funding (H.B. 08-1388)	7,268,854
Charter school capital construction	5,000,000
School counselor corps grant program (H.B. 08-1370)	4,998,500
Closing the Achievement Gap	1,800,000
Child nutrition school lunch protection program (S.B. 08-123)	850,000
Preschool to postsecondary alignment (S.B. 08-212)	569,332
Content specialists	437,392
Division of On-line Learning	371,720

³ Constitutionally, revenues collected from a tax of one-third of one percent on federal taxable income are required to be deposited into the State Education Fund. Given the current state income tax rate of 4.63 percent, this equates to 7.20 percent of revenues (0.0033/0.0463). However, due to certain state tax credits which reduce federal taxable income, deposits to the State Education Fund actually represent a slightly larger percent of actual income tax revenues (7.38 percent for FY 2009-10).

TABLE 2	
FY 2010-11 Appropriations from the State Education Fund	
Interstate compact on educational opportunities for military children (H.B. 08-1317)	<u>30,185</u>
Subtotal	37,082,504
GRAND TOTAL	\$427,518,298

For purposes of the projections included in this document, staff assumes that discretionary programs and functions that are currently supported by SEF appropriations will continue to be supported in future fiscal years. Staff also assumes that the General Assembly will use moneys in the SEF to provide constitutionally required annual increases in funding for categorical programs.

General Fund

Although moneys available in the State Public School Fund and the SEF are used to provide a portion of the funding required for districts' total program and for categorical programs, the state General Fund has always been and will continue to be the primary source of funding for this purpose. Currently, the General Fund provides 88.6 percent of the *state* funding for districts' total program funding and categorical programs.

For purposes of providing a historical perspective, Table 3 summarizes annual appropriations for the *state share* of school districts' total program funding since FY 1994-95 (when the current School Finance Act was adopted). From FY 1994-95 to FY 2000-01, the compound annual growth rate in General Fund appropriations for districts' total program funding was 6.13 percent. This compares to a compound annual growth rate of 4.32 percent for the ten years following the passage of Amendment 23 (FY 2001-02 through FY 2010-11).

TABLE 3						
Recent History of Appropriations for the State Share of Districts' Total Program Funding						
Fiscal Year	General Fund	Annual % Change	State Public School Fund/ State Education Fund	Annual % Change	Total Funds	Annual % Change
1994-95	\$1,393,562,842		\$34,016,762	-36.87%	\$1,427,579,604	
1995-96	1,469,655,920	5.46%	56,613,541	66.43%	1,526,269,461	6.91%
1996-97	1,594,123,930	8.47%	53,580,360	-5.36%	1,647,704,290	7.96%
1997-98	1,689,946,178	6.01%	35,647,023	-33.47%	1,725,593,201	4.73%
1998-99	1,776,015,806	5.09%	74,830,202	109.92%	1,850,846,008	7.26%
1999-00	1,887,449,285	6.27%	42,685,306	-42.96%	1,930,134,591	4.28%
2000-01	1,974,673,211	4.62%	73,400,663	71.96%	2,048,073,874	6.11%
Passage of Amendment 23						

TABLE 3
Recent History of Appropriations for the State Share of Districts' Total Program Funding

Fiscal Year	General Fund	Annual % Change	State Public School Fund/ State Education Fund	Annual % Change	Total Funds	Annual % Change
2001-02	2,073,406,872	5.00%	156,629,363	113.39%	2,230,036,235	8.88%
2002-03	2,137,582,405	3.10%	346,960,158	121.52%	2,484,542,563	11.41%
2003-04	2,247,917,791	5.16%	379,156,261	9.28%	2,627,074,052	5.74%
2004-05	2,342,782,148	4.22%	401,122,658	5.79%	2,743,904,806	4.45%
2005-06*	2,480,460,455	5.88%	390,768,821	-2.58%	2,871,229,276	4.64%
2006-07	2,657,663,684	7.14%	403,505,151	3.26%	3,061,168,835	6.62%
2007-08	2,790,546,868	5.00%	362,163,909	-10.25%	3,152,710,777	2.99%
2008-09*	2,930,074,211	5.00%	462,870,995	27.81%	3,392,945,206	7.62%
2009-10	3,076,277,922	4.99%	442,677,995	-4.36%	3,518,955,917	3.71%
2010-11	3,013,693,712	-2.03%	386,123,684	-12.78%	3,399,817,396	-3.39%

* Amounts exclude General Fund appropriations to the State Education Fund (\$3,551,904 in FY 2005-06 and \$120,964,055 in FY 2008-09).

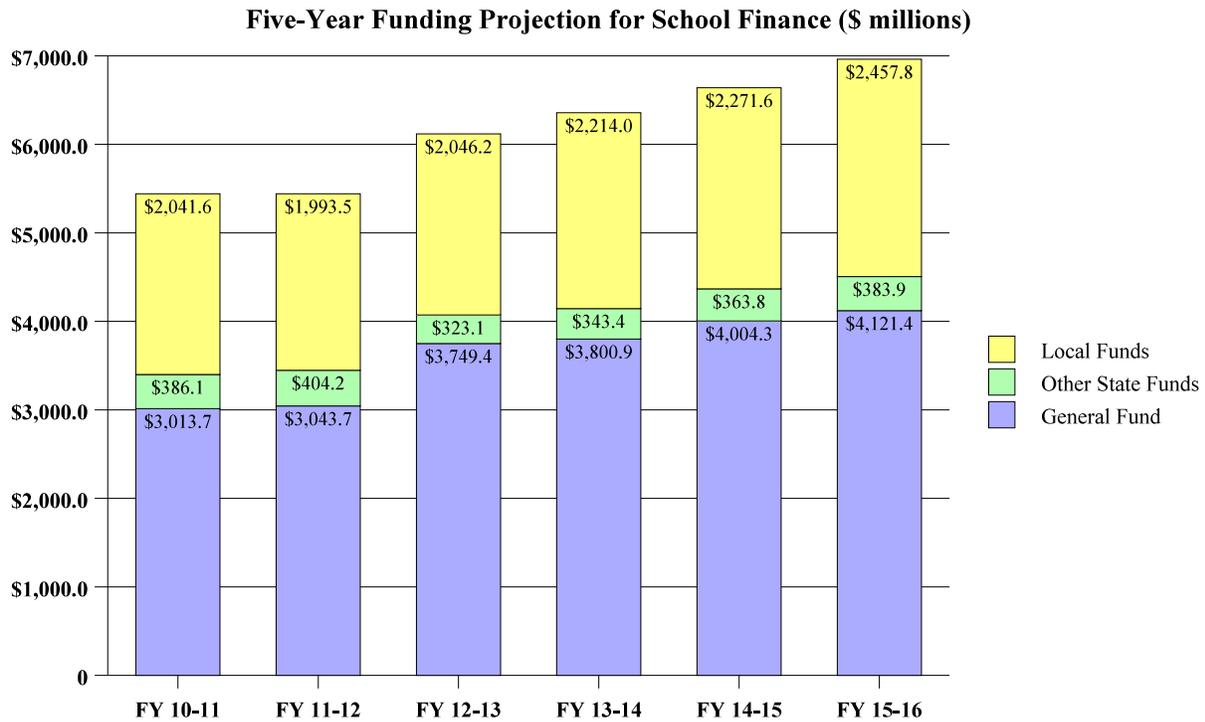
General Fund Appropriation Increases Required Under Current Law. Staff has utilized the model originally developed by Pacey Economics Group to estimate the annual General Fund appropriations required to fund the existing school finance funding formula. The model is periodically updated to reflect more recent estimates of inflation, actual and projected SEF revenues, productivity data, and population projections. The model has also been updated to reflect appropriations and estimates of future spending from the SEF based on legislation passed in the 2010 Session.

State Education Fund expenditures will exceed annual revenues by more than \$60 million in the current fiscal year, causing the fund balance to decline for the third straight fiscal year. Current projections indicate that the Fund balance will decline to \$127 million by the end of the current fiscal year – the lowest level since FY 2004-05, when it dropped to \$118 million. If the General Assembly intends to maintain existing SEF appropriations at similar levels in FY 2011-12 and future fiscal years, the Fund balance will continue to decline for the next three years.

Staff's projected General Fund appropriations are based on maintaining at least a \$50 million balance in the SEF for two reasons. First, SEF revenue estimates are based on projections of income tax revenues and SEF interest earnings. Given the possibility that actual income tax revenues may fall short of projections, it would be prudent to set appropriations at a level that allows for a cushion at fiscal year-end in order to avoid the need for either an emergency General Fund appropriation or an unanticipated recision late in the school year. Second, the State Treasurer currently has \$50 million of the SEF invested in corporate securities and treasury bonds. A \$50 million cushion is intended

to avoid any need for the State Treasurer to liquidate one or more of these long-term investments prematurely.

The following chart provides an illustration of staff’s projections of the state and local funding needed to support school finance for the next five fiscal years (as detailed in Table 1).



Staff projects the need to increase the General Fund appropriation for school finance by \$30 million in FY 2011-12, and by more than \$700 million (23.2 percent) in FY 2012-13. Over the next five fiscal years, staff projects that the General Fund appropriation would need to increase by more than one billion dollars, based on the current school finance formula.

Given the magnitude of the existing revenue shortfall, and given that General Fund revenues are projected to grow by only \$440 million from FY 2011-12 to FY 2012-13⁴, it appears unlikely that the General Assembly could increase General Fund appropriations for school finance by \$700 million in FY 2012-13. In the short-term, staff recommends that the General Assembly consider extending the state budget stabilization factor for one year, through FY 2012-13. Staff recommends that the General Assembly limit discretionary appropriations from the SEF to those that are essential in order to maximize funding available for school finance.

⁴ Source: Legislative Council Staff’s September 2010 forecast (page 4).

In the longer term, staff recommends that the General Assembly consider making permanent changes to the school finance formula – perhaps in the 2012 Session. The formula should comply with the constitutional requirement to provide for a "thorough and uniform" system of free public schools, while providing for a level of funding that is sustainable for the State and predictable for school districts.

**FY 2011-12 Joint Budget Committee Staff Budget Briefing
Department of Education**

BRIEFING ISSUE

ISSUE: The Accelerating Students Through Concurrent Enrollment Program

The Department's FY 2011-12 budget request includes \$15.4 million General Fund to support 2,481 students who are currently in 12th grade and who may participate in the Accelerating Students through Concurrent Enrollment (ASCENT) Program in FY 2011-12. This level of participation would represent at least a ten-fold increase in the total number of fifth year students, and a 25-fold increase in the number of ASCENT participants compared to FY 2010-11.

SUMMARY:

- ❑ Concurrent enrollment programs, which allow a student to simultaneously enroll in high school and higher education or career and technical courses, have existed in Colorado since the early 1980s. Since at least FY 1999-00, some school districts have allowed students to extend their high school education beyond 12th grade in order to enroll in college courses, using per pupil revenues to cover tuition expenses ("fifth year" students).
- ❑ In 2009, the General Assembly passed legislation to consolidate and clarify concurrent enrollment programs, broaden access, and ensure financial transparency and accountability. This legislation created the ASCENT Program for fifth year students; the ASCENT Program is subject to available appropriations. The legislation, however, allows school districts to continue to operate concurrent enrollment programs that existed prior to 2009 for three fiscal years (through FY 2011-12).
- ❑ While only 99 students are participating in the ASCENT Program in FY 2010-11, school districts have reported 2,481 potential participants in FY 2011-12 at an estimated cost of \$15.4 million. In the current budget environment and under the current school finance formula, a significant increase in the number of fifth year students will reduce per pupil funding for students in preschool through 12th grade.

RECOMMENDATION:

If the General Assembly intends to limit the amount of state funding available for fifth year high school students next year, it should prohibit school districts from receiving per pupil funding for fifth year students in a concurrent enrollment program other than ASCENT beginning in FY 2011-12 (rather than waiting until FY 2012-13).

DISCUSSION:

Concurrent Enrollment Program for High School Students

A student who is simultaneously enrolled in high school and in a higher education institution or career and technical courses is "concurrently enrolled". Concurrent enrollment programs have existed since the early 1980s in Colorado – both formally and informally. In 2009, the General Assembly passed legislation to broaden access to these programs, improve the quality of the programs, improve coordination between high schools and higher education institutions, and ensure financial transparency and accountability.

House Bill 09-1319 (Merrifield and Massey/S. Williams) replaced the High School Fast Track program¹, the *Postsecondary Enrollment Options Act*², and the *Fast College Fast Jobs Act*³ with the *Concurrent Enrollment Programs Act*⁴. The new Act continues to permit students under the age of 21 and in grades 9, 10, 11 or 12 to enroll in courses at institutions of higher education and apply credits toward the requirements of high school graduation. Subject to course availability and the approval of the school district, students may enroll in unlimited college courses. However, only 12th grade students may enroll in basic skills courses.

A school district includes qualified students in its funded pupil count, and thus continues to receive district per pupil funding for students participating in concurrent enrollment programs. Higher education institutions also include qualified students in determining the number of full time equivalent students enrolled in the institution. The higher education institution receives tuition (at the in-state rate for the local community college) from qualifying students' home school districts, as well as College Opportunity Fund (COF) stipend payments. A qualified student who does not complete a secondary course is required to reimburse the school district for the associated tuition. All college-level credit hours earned during concurrent enrollment count against that student's

¹ Established in 1981, the "High School Fast Track" program allowed a pupil who fulfills the requirements for high school graduation to take one or more higher education courses during his or her 12th grade year.

² The General Assembly enacted the *Postsecondary Enrollment Options Act* in 1988, allowing a school district to allow 11th and 12th grade students to enroll in higher education courses while still in high school. School districts were allowed to include these students in their enrollment count for purposes of receiving per pupil funding.

³ The General Assembly enacted the *Fast College Fast Jobs Act* in 2007. Under the Act, certain school districts (including any district that had in place an agreement with a community college to implement a fifth year program in the two years prior to the passage of the act) may offer a Fast College Fast Jobs (FCFJ) education program in target high schools in the district. Students participating in FCFJ enroll in the program in 9th grade and enroll in courses designed to complete a high school diploma and an associates degree or a career and technical education certificate within five years.

⁴ See Section 22-35-101 et seq., C.R.S.

lifetime limit of 145 COF credits, with the exception of credit hours earned from enrollment in a basic skills course. The amount of the tuition paid for qualified students and other details are specified in a cooperative agreement negotiated between the school district and the institution of higher education.

The act included a provision essentially grand fathering in existing concurrent enrollment programs for three fiscal years, from FY 2009-10 through FY 2011-12. Specifically, Section 22-35-110 (3), C.R.S., states that nothing in the act shall be construed to abrogate obligations assumed by a local education provider or an institution of higher education which enabled a high school student to enroll in postsecondary courses pursuant to the concurrent enrollment programs that existed prior to May 2009.

For FY 2010-11, school districts have reported a total of 6,237 high school students participating in concurrent enrollment programs, including 317 freshmen, 605 sophomores, 1,778 juniors, and 3,537 seniors. Nearly two-thirds of these students are participating under the new Concurrent Enrollment Program; most of the remaining students are participating through the old Post Secondary Enrollment Options Act.

Concurrent Enrollment Program for Students Beyond 12th Grade

House Bill 09-1319 also created the *ASCENT Program* for students who voluntarily extend their high school education beyond 12th grade in order to attend college courses ("fifth year" students). The stated objectives of the program include the following:

- increasing the percentage of students who participate in higher education, especially among low-income and traditionally under-served populations;
- decreasing the number of high school dropouts;
- decreasing the amount of time required for a student to complete a postsecondary degree;
- reducing state expenditures for public education; and
- increasing the number of educational pathways available to students.

Similar to students participating in multi-district online programs and the Colorado Preschool Program, ASCENT students are counted and funded separately from other students. Funding for the ASCENT Program was established at \$6,668 per full-time student for FY 2010-11. This flat dollar amount is applied in the school finance formula prior to the application of the budget stabilization factor. Thus, for FY 2010-11 districts will actually receive less than \$6,668 (currently estimated at \$6,245) per ASCENT student in FY 2010-11. Similar to other concurrent enrollment programs, higher education institutions include ASCENT students in determining the number of full time equivalent students enrolled in the institution. The higher education institution receives tuition from ASCENT students' home school districts, as well as COF stipend payments.

Unlike the Concurrent Enrollment Program, the ASCENT Program is subject to available appropriations. In order to inform the General Assembly of the level of interest in the ASCENT Program, the following process occurs annually:

- Local education providers submit, by September 1, an estimate of the number of current grade 12 seniors who will seek to be designated as ASCENT Program participants in the following fiscal year.
- The Department includes, as part of its annual budget request, the total number of students identified as potential participants.
- The State Board of Education, by June 1, determines how many qualified students may be designated as ASCENT Program participants for the following school year. Subject to available appropriations, the Department may approve any student who:
 - ▶ is under age 21;
 - ▶ has completed or is on schedule to complete at least 12 credit hours of postsecondary course work prior to the end of grade 12;
 - ▶ is not in need of basic skills courses;
 - ▶ is accepted into a degree program at an institution of higher education; and
 - ▶ has not participated in the ASCENT Program in any previous year.

[For FY 2010-11 and FY 2011-12, the Department is to give priority to qualified students who are participating in the Fast College Fast Jobs Pilot Program⁵. The State Board of Education is to establish guidelines for the ASCENT Program, including the selection criteria the Department is to use in designating (and thus prioritizing) ASCENT participants.]

- Local education providers include students who have been designated as participants in their funded pupil count. The district's total program funding will include the district's ASCENT funding, calculated as the number of ASCENT participant FTE multiplied by the ASCENT per pupil funding amount.

Participation of and Funding for Fifth Year Students: FY 2010-11

Similar to funding for preschool and on-line students, ASCENT Program funding is included as part of the State Share of Districts' Total Program Funding line item appropriation. Consistent with the Department's FY 2010-11 budget request and the fiscal note for H.B. 09-1319, the FY 2010-11 Long Bill did not include any additional funding in the State Share line item for the ASCENT Program based on the assumption that the same overall number of 5th year students will be funded in FY 2010-11 as in FY 2009-10.

⁵ Of the districts with Fast College Fast Jobs (FCFJ) eligible schools, Denver was the only district to participate in FCFJ. A total of 393 9th graders at three high schools participated in FCFJ in FY 2007-08. In FY 2008-09, 255 of the initial 393 students (65 percent) participated in FCFJ as 10th graders, and 708 9th graders at four high schools began participation. For FY 2010-11, Denver has not reported any students participating in FCFJ.

Based on the number of students identified by local education providers as potential ASCENT participants, the Long Bill included the following footnote to specify the General Assembly’s intent and the portion of the appropriation that is intended to support the ASCENT Program:

6 Department of Education, Assistance to Public Schools, Public School Finance, State Share of Districts' Total Program Funding – It is the intent of the General Assembly that the Department of Education be authorized to utilize up to \$1,847,036 of this appropriation to fund qualified students designated as ASCENT Program participants as authorized pursuant to Section 22-35-108, C.R.S. This amount is calculated based on an estimated 277 participants funded at a rate of \$6,668⁶ per FTE pursuant to Section 22-54-104 (4.7), C.R.S.

School districts have reported a total of 237 fifth year students for FY 2010-11, including 99 ASCENT participants and 138 students being funded through the old Post Secondary Enrollment Options Act.

Participation of and Funding for Fifth Year Students: FY 2011-12 Request

The Department’s FY 2011-12 budget request includes \$15,416,785 General Fund for 2,481 ASCENT students (based on a per pupil rate of \$6,214). This represents at least a ten-fold increase in the total number of fifth year students, and a 25-fold increase in the number of ASCENT participants compared to FY 2010-11. The Department subsequently provided data concerning the number of current grade 12 seniors who will seek to be designated as ASCENT participants, as reported by individual school districts and the State Charter School Institute⁷. This data is detailed in the following table.

County	District	Number of Students Potentially Eligible for the ASCENT Program		FY 10-11 Grade 12 Pupil Count	Potential FY 11-12 ASCENT Students as % of FY 10-11 Grade 12 Count	District % At-risk Students (FY 10)
		FY 11	FY 12			
Adams	Mapleton		3	629	0.5%	62.4%
Adams	Commerce City (14)		10	376	2.7%	77.9%
Arapahoe	Englewood		29	277	10.5%	51.6%
Arapahoe	Cherry Creek		65	3,909	1.7%	19.9%

⁶ Again, the per pupil funding amount is calculated prior to the application of the state budget stabilization factor.

⁷ Please note that the total number of potential ASCENT participants in this table is slightly lower than the number included in the Department’s initial budget request. A year ago, districts reported 675 potential ASCENT participants in September; this number decreased to 277 by February, and the Department recently indicated that only 99 students are actually participating in ASCENT. Similar to last year, staff assumes that the number of potential participants will continue to be adjusted prior to next February when staff presents funding recommendations for FY 2011-12.

County	District	Number of Students Potentially Eligible for the ASCENT Program		FY 10-11 Grade 12 Pupil Count	Potential FY 11-12 ASCENT Students as % of FY 10-11 Grade 12 Count	District % At-risk Students (FY 10)
		FY 11	FY 12			
Arapahoe	Littleton		10	1,397	0.7%	17.3%
Arapahoe	Aurora	166	530	2,929	18.1%	60.5%
Baca	Vilas		100	46	217.4%	42.7%
Bent	McClave		4	20	20.0%	46.8%
Boulder	Boulder Valley		14	2,456	0.6%	15.7%
Chaffee	Buena Vista		68	82	82.9%	28.8%
Delta	Delta		50	417	12.0%	37.1%
Denver	Denver /a	60	505	4,081	12.4%	66.2%
Elbert	Elizabeth		52	227	22.9%	11.6%
El Paso	Harrison		3	601	0.5%	64.4%
El Paso	Widefield	5	5	702	0.7%	33.7%
El Paso	Colorado Springs		50	2,583	1.9%	45.5%
El Paso	Academy (Classical Academy)		7	1,719	0.4%	8.5%
El Paso	Ellicott		8	58	13.8%	53.0%
El Paso	Edison		16	49	32.7%	23.3%
Grand	East Grand		10	89	11.2%	21.4%
Jefferson	Jefferson	10	500	6,731	7.4%	26.2%
Kiowa	Eads (Eads HS)		12	12	100.0%	30.5%
La Plata	Durango		46	408	11.3%	23.5%
Larimer	Poudre		20	1,953	1.0%	24.1%
Las Animas	Branson		8	39	20.5%	13.4%
Las Animas	Kim	7	5	5	100.0%	25.7%
Lincoln	Limon		6	32	18.8%	36.3%
Mesa	Mesa Valley		114	1,733	6.6%	41.0%
Montezuma	Montezuma-Cortez		11	314	3.5%	51.8%
Prowers	Granada		7	13	53.8%	45.4%
Prowers	Lamar		18	115	15.7%	59.6%
Prowers	Wiley		14	13	107.7%	49.2%
Rio Grande	Del Norte		4	34	11.8%	55.7%
Saguache	Center		22	42	52.4%	84.0%
San Miguel	Norwood		3	18	16.7%	25.0%

County	District	Number of Students Potentially Eligible for the ASCENT Program		FY 10-11 Grade 12 Pupil Count	Potential FY 11-12 ASCENT Students as % of FY 10-11 Grade 12 Count	District % At-risk Students (FY 10)
		FY 11	FY 12			
Sedgwick	Platte Valley		4	7	57.1%	52.7%
Summit	Summit		56	214	26.2%	26.0%
Weld	Greeley (6) /b	29	41	1,457	2.8%	54.7%
State	Charter School Institute		20	1,151	1.7%	n/a
	Statewide Total	277	2,450	61,220	4.0%	34.8%

a/ Includes 55 FTE for Southwest Early College Charter High School.

b/ Includes 2 FTE for University Schools Charter School.

The number of school districts reporting potential ASCENT participants has increased from six to 38 (plus the State Charter School Institute). Four of the six school districts that were anticipated to participate in ASCENT in FY 2010-11 have reported a higher number of potential participants for FY 2011-12, including an increase from 10 to 500 for Jefferson, from 60 to 505 for Denver, and from 166 to 530 for Aurora. Four small school districts report a number of potential participants that would cover all or greater than 100 percent of their current 12th grade students (including Baca-Vilas, Kiowa-Eads, Las Animas-Kim, and Prowers-Wiley). Another seven school districts report a number of potential participants that would appear to cover nearly all or more than the number of students considered "at-risk" based on the school finance formula (including Chaffee-Buena Vista, Elbert-Elizabeth, El Paso-Edison, Las Animas-Branson, Prowers-Granada, Sedgwick-Platte Valley, and Summit). While this at-risk designation does not directly relate to ASCENT Program eligibility, it is a useful benchmark to use in this context given the stated objectives of the Program.

Considerations for Funding Concurrent Enrollment for FY 2011-12

In the current budget environment and the current school finance formula, a significant increase in the number of fifth year students will reduce per pupil funding for students in preschool through 12th grade. The General Assembly can choose to limit the number of students allowed to participate in ASCENT in FY 2011-12. However, under current law, this may exacerbate the situation.

Prior to the passage of H.B. 09-1319, some school districts had created programs through which students may choose to remain enrolled in "12th grade" for additional years, enroll in higher education courses, and simultaneously complete the requirements for a high school diploma and for an associates degree or a career and technical education certificate. These school districts have included the students enrolled in these programs in their pupil enrollment counts and have received the district's per pupil funding for them beyond the traditional one year of 12th grade^{8, 9}. House Bill

⁸ These "fifth year" programs were first identified in a 2001 State Auditor report, which indicated that in FY 1999-00 203 students in 19 school districts participated in fifth year programs at an estimated cost of \$370,000. The report questioned whether these programs were statutorily authorized, and

09-1319 allows districts to continue to receive funding through FY 2011-12 for fifth year students under concurrent enrollment programs that existed prior to the bill's passage.

Thus, if the General Assembly were to simply limit the number of students allowed to participate in the ASCENT Program in FY 2011-12 through a Long Bill footnote, impacted districts may choose to instead count fifth year students who are not designated as ASCENT participants under the old Post Secondary Enrollment Options Act. A district would actually receive more per pupil through this program compared to the ASCENT Program. Thus, limiting ASCENT participation may amplify the impact of fifth year students on per pupil funding for students in preschool through 12th grade.

If the General Assembly intends to limit the amount of state funding available for fifth year high school students next year, it should prohibit school districts from receiving per pupil funding for fifth year students in a concurrent enrollment program other than ASCENT beginning in FY 2011-12 (rather than waiting until FY 2012-13)¹⁰. A bill making the necessary statutory changes should be introduced early in the 2011 Session and allow districts an opportunity to resubmit information concerning the number of potential ASCENT participants for FY 2011-12. Similar to the Colorado Preschool Program, this would ensure that the General Assembly can effectively limit the number of fifth year students eligible for state funding.

questioned what would prevent a district from creating sixth and seventh year programs to allow students to earn a tuition-free bachelor's degree. Presumably in response to the audit, the State Board of Education adopted a rule that prohibited fifth year programs. The General Assembly considered repealing this State Board rule in 2006 and ultimately chose not to largely due to the potential fiscal impact of such repeal. The State Board repealed this rule in May 2007 and adopted a rule concerning the new Fast College Fast Jobs program. The Joint Budget Committee sent a letter to the Chairman of the State Board in July 2007 to express concern that these rule changes appeared to extend beyond the changes required by the Fast College Fast Jobs program and may have a significant fiscal impact.

⁹ Please note that from a data collection perspective, a fifth year student appeared the same as a student who failed to complete the necessary number of high school credits and who is thus required to repeat 12th grade in order to graduate high school. Until this school year, the Department has been unable to determine how many students are being funded as fifth year students through concurrent enrollment programs.

¹⁰ Please note that current law also allows another exception, stating that the Concurrent Enrollment Programs Act does not apply to an "early college". An Early College is a secondary school that provides only a curriculum that is designed to allow a student to complete either an associate's degree or sixty credits toward the completion of a postsecondary credential. Staff is not recommending any changes to this exception.

**FY 2011-12 Joint Budget Committee Staff Budget Briefing
Department of Education**

BRIEFING ISSUE

ISSUE: Public Funding for Students Enrolled in Nonpublic Schools

This issue brief recommends statutory modifications to clarify under what circumstances students attending a nonpublic school may become eligible for public funding.

SUMMARY:

- ❑ In 1993 the General Assembly passed the Charter Schools Act, establishing a framework for the authorization, funding, operation, and oversight of this new form of public school. Subsequently, the General Assembly has periodically reacted to district innovations and experiences, modifying the Charter Schools Act, establishing the State Charter School Institute, and enhancing the oversight of on-line educational programs.
- ❑ Under current law, there are two circumstances under which students attending nonpublic schools may become eligible for public funding through the *School Finance Act*. In the current budget environment and under the current school finance formula, an increase in the number of students eligible for public funding will decrease per pupil funding for all public school students. In the longer term, an increase in the number of funded pupils will increase the amount of state funding annually required for school finance.

RECOMMENDATION:

Staff recommends that the General Assembly consider clarifying the legislative intent related to two statutory provisions:

1. Current law prohibits the conversion of a private school to a public charter school. Staff recommends that the General Assembly: clarify what constitutes a conversion; and subject the State Charter School Institute to the same prohibition.
2. Current law authorizes school districts to contract with non-governmental entities to provide educational services. Pursuant to this provision, some school districts are contracting with nonpublic schools and receiving per pupil funding for students enrolled in these schools. Staff recommends that the General Assembly clarify under what circumstances (if any) these "contract schools" may receive public funding, and establish a statutory framework that ensures that contract schools are held educationally and financially accountable.

DISCUSSION:

Factors That Affect State Funding for Public Schools

The General Fund appropriation for the State Share of Districts' Total Program Funding, which provides the state contribution required under the School Finance Act, accounts for 43 percent of all General Fund appropriations in FY 2010-11. The amount of state funding required under this statutory formula is affected by many factors that are not under the control of the General Assembly (e.g., the rate of inflation and the number of school-age residents)¹. However, the General Assembly does have some control over two factors: (1) the statutory per pupil funding formula; and (2) when and how students will be counted by school districts for purposes of receiving per pupil funding.

The previous issue brief discussed the number of fifth year students potentially eligible for per pupil funding in FY 2011-12. Appendix C includes information about the number of children for whom per pupil funding is provided through the Colorado Preschool Program. This issue brief concerns policy issues related to per pupil funding for students enrolled in nonpublic schools.

Authorization of Charter Schools

In 1993 the General Assembly passed the *Charter Schools Act*², authorizing school districts to receive per pupil funding for students enrolled in charter schools within the district. A charter school was defined as a public, nonsectarian, nonreligious, non-home-based school that operates within a public school district that is accountable to the local board of education for purposes of ensuring compliance with applicable laws and charter provisions. Charter schools are subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services; enrollment must be open to any child who resides in the district. The Act was enacted for several stated purposes, including the following:

- To improve student learning and increase learning opportunities for all students, with special emphasis on academically low-achieving students;
- To encourage diverse approaches to learning and education;
- To create new professional opportunities for teachers and encourage different and innovated teaching methods; and
- To provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system and to encourage parental and community involvement with public schools.

¹ See the "Factors Driving the Budget" section of the Department Overview for more details concerning the school finance formula.

² Senate Bill 93-183 (Sen. Owens/Rep. Kerns).

The *Charter Schools Act* provides a robust framework for the authorization, funding, operation, and oversight of charter schools. The Act allows school districts and the State Board of Education to waive district policies, state regulations, and state statutes for charter schools; however, the Act prohibits the waiver of certain laws and requirements, including the Public School Finance Act, the Colorado student assessment program, and school performance reports. In addition to guidelines concerning student enrollment practices, the Act establishes guidelines concerning:

- the charter school application and renewal process;
- the contents of the contract between the district and the charter school;
- the funding of charter school students under the School Finance Act and the amount of charter school per pupil funding that a district may retain;
- employee background checks; and
- compliance with all state financial and budget rules, regulations, and reporting requirements, including the completion of an annual governmental audit.

The Act requires each local board of education to annually report to the Department information concerning each charter school so that it can evaluate the effectiveness of each charter school.

In 2004, the General Assembly established the State Charter School Institute as an independent agency within the Department of Education to provide an alternative mode of authorizing charter schools under certain circumstances, and to assist school districts in utilizing best practices for chartering and overseeing district charter schools.

Finally, in response to a report from the State Auditor released in December 2006, the General Assembly passed legislation to clarify policies related to the funding and operation of on-line education programs and to enhance the oversight of such programs to ensure quality and accountability.

Conversion of a Private School to a Charter School

The act that initially authorized charter schools included a provision that prohibits the conversion of a private school or nonpublic home-based educational program into a charter school:

"No person, group, or organization may submit an application to convert a private school or a nonpublic home-based educational program into a charter school or to create a charter school which is a nonpublic home-based educational program as defined in section 22-33-104.5."

This provision has remained unchanged since 1993³.

³ See Section 22-30.5-106 (2), C.R.S. Please note that the statutory provisions concerning applications submitted to the State Charter School Institute [see Section 22-30.5-509, C.R.S.] do not include a prohibition on the conversion of a private school or a nonpublic home-based educational program. If the General Assembly intends to prohibit the conversion of private schools to charter

A recent article in the Greeley Tribune⁴ concerns an interview with the private school principal who recently submitted a charter school application to the Greeley-Evans school board. The article indicates that in 1994 Victoria Martino opened Mountain View Academy, a private, nonprofit, non-sectarian school. The article states that the school currently serves 90 students in kindergarten through seventh grade⁵; enrollment is down from its peak of about 150 students. The article indicates that Ms. Martino is considering shutting down Mountain View Academy due to the economy:

"'When things get tight, private school is the first to go,' Martino said about her reason to shut down Mountain View."

The article states that in September 2010 Ms. Martino filed to form a new corporation and submitted a charter school application for West Ridge Academy Charter School; new bylaws and policies and a new board have been established for West Ridge Academy. The article indicates that Mountain View will donate its existing assets to West Ridge on June 30, 2011, including the property and the lease. The article describes the reason for this legal arrangement:

"Martino said she had to do it this way because the Colorado Charter School Act does not allow for private schools to convert to charter schools. However, she also said if the charter is denied, Mountain View will not dissolve and will continue to operate as it has."

The Greeley-Evans school board held a community listening session in October 2010 to hear public comments regarding two charter school applications under consideration by the board for the 2011-12 school year. The meeting announcement describes the West Ridge Academy proposal as follows:

"West Ridge Academy is proposing to open a kindergarten through ninth-grade school which will serve 250 students. The charter school is proposing to use a facility located on West 20th Street, which is currently Mountain View Academy private school. The founder and proposed director of West Ridge Academy is Victoria Martino, the principal of Mountain View Academy."

Current law does not specify what constitutes a charter school application that would convert a private school into a charter school. Staff is not aware of any formal legal opinions that have been prepared on this topic by either the Office of Legislative Legal Services or the Attorney General's

schools, the same prohibition should apply to the State Charter School Institute.

⁴ Sherrie Peif, "Educator Excited for Prospect of Charter," *Greeley Tribune*, 21 November 2010.

⁵ The most recent data available on the Department of Education's website indicates that Mountain View Academy reported a membership of 78 students in preschool through 8th grade in the Fall of 2009.

Office. However, given the nature of the application that is described above, staff recommends that the General Assembly clarify its intent with respect to this prohibition.

Current law requires charter school applications to cover a number of elements that define a school, including:

- a mission statement;
- the goals, objectives, and pupil performance standards to be achieved;
- evidence that an adequate number of parents, teachers and/or pupils support the formation of the charter school, and a description of the school's enrollment policy;
- a description of the school's research-based educational program;
- evidence that the charter school is economically sound, including a proposed budget;
- a description of the governance and operation of the charter school; and
- a description of the school's employment policies.

How many of these elements would need to remain the same to constitute a conversion of a private school to a public charter school? Does it matter how long after a private school closes the associated charter school opens? What if the closure of the private school is contingent on the approval of the charter application? What if the staff and curriculum remain the same? What if most of the students who enroll in the charter school were previously enrolled in the private school? For example, the West Ridge Academy charter school application, submitted September 30, 2010, provides the following evidence of community support:

"Without any formal advertising approximately one hundred thirty families representing 175 students have expressed written interest in attending a charter school offering an effective and rigorous academic curriculum such as West Ridge Academy will offer. These families represent 30 Greeley area schools."

Would it make a difference if a charter school applicant seeks and receives significant support from the broader school community prior to submitting the charter school application?

What if the private school facility is used to house the charter school? The West Ridge Academy application describes the facility that will house the charter school as follows:

"A major obstacle for most charter schools is leasing an appropriate facility for reasonable rates. An available school facility is hard to find, plus a new charter school rarely has a paper trail to document past lease payments. West Ridge Academy is extremely fortunate in that a Class A school facility is available for them to lease in 2011 at below market rates."

This statement implies that the same entity that has been paying the lease on the Mountain View Academy facility would be making lease payments for West Ridge Academy.

Based on membership data reported by nonpublic schools in the Fall of 2009, a total of 51,730 students attended nonpublic schools in Colorado, including 37,765 in kindergarten through 12th grade and 13,965 in pre-kindergarten. If current law is not clarified and it is interpreted to allow a school district to approve a charter school application similar to the West Ridge Academy proposal, it is possible that additional private schools will seek to close and open as charter schools in the future. To the extent that the applications are approved by school districts and students who previously attended a nonpublic school are included in the funded pupil count, the number of students funded under the *School Finance Act* will increase. In the current budget environment and under the current school finance formula, an increase in the funded pupil count will decrease per pupil funding for all public school students.

Given the potential fiscal impact on per pupil funding and the increase in state funding that would be required over the longer term, staff recommends that the General Assembly clarify its intent with respect to this prohibition. If the General Assembly does not intend to prohibit conversions, it should repeal this provision so that all school districts are operating under clear, consistent guidelines.

Contracting with Private Schools

Current law identifies various powers and duties of local school district boards, including the power to contract with various entities for various purposes. In 1993, the General Assembly amended this statute⁶ to specifically authorize local boards to contract with these various entities for the provision of educational services:

"Any school district has the power to contract...with any natural person, body corporate, or association for the performance of any service, including educational service, activity, or undertaking which any school may be authorized by law to perform or undertake. Such contract shall set forth fully the purposes, powers, rights, obligations, and responsibilities, financial or otherwise, of the parties so contracting and shall provide that the service...be of comparable quality and meet the same requirements and standards as would be necessary if performed by the school district... Any state or federal financial assistance which shall accrue to a contracting school district, if said district were to perform such service ... shall, if the state board finds the service...is of comparable quality and meets the same requirements and standards as would be necessary if performed by a school district, be apportioned by

⁶ House Bill 93-1118 (Rep. Faatz/ Sen. Wham). The legislative intent of this change is not clear from the text of the act. The Legislative Council Staff fiscal note for the bill indicated that the bill would authorize school districts "to contract with any individual or nonsectarian school for pupil instruction, including educational services for students enrolled in the school district". The fiscal note assessed the bill as having no fiscal impact, as the "amount paid per pupil for these services would not exceed the amount of per pupil operating revenues received by the school district". Thus, it appears that this change was not anticipated to increase a district's funded pupil count.

the state board of education on the basis of the contractual obligations and paid separately to each contracting school district in the manner prescribed by law. [Section 22-32-122 (1), C.R.S.]

There is not currently any specific reference to "contract school" in the *School Finance Act*. However, some school districts are currently contracting with other entities, including nonpublic schools, to provide educational services and are receiving per pupil revenues for students enrolled in these schools. For example, Denver Public Schools (DPS) currently contracts with three entities to provide educational services:

- *Florence Crittenton*, a nonprofit agency whose mission is to help teen parents raise healthy families, operates a DPS alternative school for pregnant or parenting 9th through 12th grade girls. The school provides DPS curriculum, including courses for elective credit that focus on parenting, career readiness, child development, and technology. The school also includes an early learning center for its students' infants and toddlers, as well as a family engagement center for young fathers and extended family. School staff include DPS teachers and paraprofessionals, counselors, a social worker, a registered nurse, a psychologist, and early childhood professionals.⁷
- *Rocky Mountain School of Expeditionary Learning* (RMSEL), a board of cooperative services, was created in 1993 through an intergovernmental agreement among five school districts: Aurora, Cherry-Creek, Denver, Douglas, and Littleton. RMSEL operates an Expeditionary Learning school that serves 348 students in kindergarten through 12th grade. Enrollment is determined through a lottery process.⁸ The Department's recent accreditation listing for school districts includes a rating of "Accredited with Distinction" for RMSEL.
- *Escuela Tlatelolco* (Escuela), a community-based private school, serves low-income, predominately Chicano, Mexicano, and Indigenous children and youth ages three through 18 who live in the Denver metropolitan area. The school currently serves 89 students in grades seven through 12, at a cost of \$8,300 per student per year; the school indicates that most of these students are considered "high risk", and many have not had success in traditional public school settings. The school also operates a Montessori program for preschool and elementary program, an extended-day program for youth in first through 9th grades and their families, and an on-site health office. The school is a nonprofit corporation which is governed by a board of trustees.⁹

⁷ All information is from the school's website: <http://florencecrittenton.dpsk12.org>.

⁸ This information is from the school's website: <http://www.rmsel.org>.

⁹ All information is from the school's website: <http://www.escuelatlatelolco.org>.

The students who enroll at these schools are included in DPS' enrollment and DPS thus receive per pupil funding for these students. Staff from DPS indicate that the amount of per pupil funding that it passes on to the contract schools is not less than what it provides charter schools (i.e., the contract schools receive 100 percent of the district's per pupil funding, less district administrative overhead, purchased services, and a constitutionally required reserve). These schools receive three payments annually (in July, October, and January); DPS records these payments under "instructional services - other purchased services" by each school location number. [In contrast, charter school expenditures are reported by each charter school and by the district using the Department-approved chart of accounts, thus disclosing the costs of administration, instruction, and other spending categories in a manner that allows comparison to other schools.] DPS requests that all contract schools provide annual audited financials and that they comply with the transparency laws (and DPS is currently updating its contract language to specify these requirements).

It appears that the Douglas County school board is considering a program which would allow private schools to apply to become contract schools. The current proposal under discussion would be limited to nonpublic schools located within the boundaries of the Douglas County school district. However, under open enrollment, the program may attract students who live outside the district. The district Superintendent indicates that each nonpublic school would "have to go through a rigorous process, much like [the district's] charter schools do" to become an approved district contract school¹⁰.

Similar to Denver's contract schools, the students who enroll at the approved contract schools would be included in the district's enrollment and the district would thus receive per pupil funding for these students. However, the "Option Certificate" program that is currently under discussion in Douglas County would make payments in the name of each student's parent rather than directly to the contract school. These checks would be sent to the contract school in which the student is enrolled, and the parent would be required to restrictively endorse the option certificate for the sole purpose of paying for educational services at the contract school. Each option certificate would be worth the lesser of the actual cost per pupil at the nonpublic school, or 75 percent of the per pupil revenue received by the district.¹¹

¹⁰ Letter dated November 4, 2010 from Dr. Elizabeth Celandia-Fagen, Superintendent for Douglas County School District, to Douglas County School District families.

¹¹ This description is based on documents describing the proposed "Options Certificate Program" which are posted on the Douglas County School District's website at:
http://www.dcsdk12.org/portal/page/portal/DCSD/Communications/Timely_Topics/DRAFT%20-%20Option%20Certificate.pdf

Staff Observations and Recommendations

Given the general nature of current law with respect to a school district's authority to contract with any entity to provide educational services, and the lack of any specific reference to contract schools in the *School Finance Act*, it is unclear whether the existing or proposed contract school arrangements are consistent with legislative intent. Similar to the potential conversion of private schools to charter schools, absent any clarification or change in state law, it is possible that districts will expand the use of contract schools in the future. To the extent that this allows a district to count and receive funding for students currently attending nonpublic schools, the number of students funded under the *School Finance Act* will increase. For most school districts, the local share of funding would not be impacted by an increased funded pupil count and all of the additional funding would come from State funds. In the current budget environment and under the current school finance formula, an increase in the funded pupil count will decrease per pupil funding for all public school students.

Staff recommends that the General Assembly clarify its intent concerning public funding for students enrolled in nonpublic schools. Specifically, the General Assembly should specify the circumstances -- if any -- under which a school district (or the State Charter School Institute) may contract with a nonpublic school to educate a student for whom the district is receiving per pupil funding. If the General Assembly intends to continue allowing these types of arrangements, staff recommends that contract schools be held accountable under a framework similar to the Charter Schools Act. Specifically, the General Assembly should consider the following types of statutory modifications:

- Define under what circumstances a district may contract with a nonpublic school for the provision of educational services, as well as when and how a district may receive per pupil funding for students enrolled in a nonpublic school.
- Clarify what constitutional provisions, state and federal laws, and state regulatory provisions apply to contract schools. Subject all publicly funded students to the same educational accountability requirements. Absent this, the State Board has no method to evaluate whether the educational services provided by a contract schools are "of comparable quality and [meet] the same requirements and standards" as public schools.
- Specify the contents of the contract between a school district and a nonpublic school, and require the local board of education to annually report to the Department information concerning each contract school so that the Department can determine the effectiveness of each contract school.
- Establish a reasonable limit on the amount of per pupil funding that a district may withhold from payments to contract schools, thereby eliminating any financial incentive to the district and ensuring that a decision to contract with a nonpublic school is based on student needs.

- Subject contract schools to the same requirements as charter schools with respect to financial reporting, audits, and transparency. Require contract schools to annually report expenditures to the district, and require a district to include contract schools as a component unit when submitting financial information to the Department (like charter schools). This will ensure that all public school expenditure data is accurately reported using consistent, comparable spending categories.

**FY 2011-12 Joint Budget Committee Staff Budget Briefing
Department of Education**

BRIEFING ISSUE

INFORMATIONAL ISSUE: Public School Capital Construction Assistance Program

This issue brief provides an overview and status update on the financial assistance provided by the Public School Capital Construction Assistance Program (i.e., "BEST" Program).

SUMMARY:

- ❑ Since 2008, the BEST Program has provided \$336.4 million in financial assistance for public school capital construction.
- ❑ Nearly half of all awards have been provided to school districts in four counties, however school districts in a total of 41 counties have received either lease-purchase or cash grant assistance from the Program.
- ❑ A discussion related to the debt limitations, financial instruments, and the assumptions used by the Public School Capital Construction Assistance Board to make funding recommendations is provided.

DISCUSSION:

PROGRAM OVERVIEW

Background: Pursuant to H.B. 08-1335, the Public School Capital Construction Assistance Program (PSCCAP) [a.k.a., the Building Excellent Schools Today (BEST) grant program] provides technical assistance and increases the level of financial assistance provided to school districts, charter schools, institute charter schools, BOCES, and the Colorado School for the Deaf and Blind for capital construction projects and allow projects to be completed more quickly. For additional background information, please see Appendix E, which is an issue brief included in the FY 2010-11 JBC Staff Budget Briefing presented on December 4, 2009.

Board & Division: The act created a nine-member PSCCA Board and Division (9.0 FTE) within the Department of Education to administer the grant program. Subject to State Board authorization, the PSCCA Board may provide financial assistance to applicants as matching grants or by instructing the State Treasurer to enter into lease-purchase agreements on behalf of the State to finance public school facility capital construction. The General Assembly must annually appropriate moneys from the PSCCA Fund for the direct and indirect administrative costs. In FY 2010-11, the General Assembly appropriated \$1,347,935 from the Assistance Fund and 9.0 FTE to administer the

program. Of this amount, \$895,147 is for costs associated with staffing the Division supporting the Board, \$396,000 to maintain the financial assistance priority assessment, and \$56,788 is for indirect costs.

Eligible Projects: Capital projects include new schools, major renovations, additions and smaller projects including roof repair/replacement, boiler replacements, fire alarms, etc.

Dedicated Revenue Sources: Rather than relying on annual General Fund appropriations and moneys from the State Education Fund as its predecessor program did, this augmented program is supported by royalty and rental income earned on state trust lands, interest earned on the Public School Fund, lottery proceeds, and interest generated on deposited funds. These state revenues, along with local matching funds, are deposited into the PSCCA Fund and are used to finance projects directly with grants but also to make payments on certificates of participation (COPs) used to finance construction projects. House Bill 08-1335, as amended by S.B. 09-257, required the following moneys to be credited to the Public School Capital Construction Assistance (PSCCA) Fund. The following table exhibits program revenues for FY 2009-10:

BEST Program Revenues for FY 2009-10	
Source	Revenues
State Public School Lands Income: 50 percent of the gross revenues from rental income and royalties, primarily derived from non-renewable resources. The amount as forecasted by the State Land Board for FY 2009-10. Note that S.B. 09-257 changed the amount of gross revenues from 35 percent to 50 percent to comply with federal income taxation guidelines.	\$33,197,441
Sale of COPs: All net proceeds from the sale of certificates of participation (COPs) payable to the State under the terms of such lease-purchase agreements.	1,490,184
Interest: Earned on the Assistance Fund	555,287
Lottery Proceeds: Lottery proceeds that would otherwise be transferred to the General Fund. The amount of lottery proceeds received in FY 2009-10 was \$88,550. This "spillover" amount was a drastic departure from the amounts that would have been provided to the program prior to H.B. 08-1335, which ranged from \$5.5 million in FY 2008-09 to \$12.5 million in FY 2005-06.	88,550
Local Matching Funds: All local matching cash funds. Bonded moneys will are not deposited into this fund. Program staff anticipates that more cash funds will be deposited in future fiscal years.	0
Total BEST Program Revenues for FY 2009-10	\$35,331,462

Timeline: Typically applications will be received between December and early March. Between March and June, staff performs numerous site visits, reviews, and summarizes applications for the PSCCA Board in the form of a summary book. In late June, the PSCCA Board meets to make recommendations for the State Board's final review and grants will be awarded in August.

FINANCIAL ASSISTANCE

Since 2008, the BEST Program has provided \$336.4 million in financial assistance for public school capital construction. Over 88 percent of financing has been allocated for new schools and major renovations. The following table exhibits the amount of financial assistance provided through lease-purchase (COPs) agreements and cash grants as well as the local matching contribution.

BEST Awards Since FY 2008-09					
Fiscal Year	Approved Projects	Lease-Purchase (COPs)	Cash Grants	Total Financial Assistance	Local Match
FY 2008-09	11	\$62,652,156	\$13,879,124	\$76,531,280	\$22,008,930
FY 2009-10	55	79,159,811	14,936,425	94,096,236	52,968,059
FY 2010-11	45	154,325,804	11,482,908	165,808,712	72,145,147
Total	111	\$296,137,771	\$40,298,457	\$336,436,228	\$147,122,136

The following table exhibits the amount of financial assistance provided to districts and charter schools by county through lease-purchase (COPs) agreements and cash grants. As is exhibited in the following table, nearly half of all awards have been provided to four counties. Program staff indicate that due to the relative nascency of the program, and the competitive nature of prioritizing applications, the choices made by the Board are constrained by the applications received. Some proposals from some of the neediest regions of the State are the weakest and require further development before the Board believes their masterplans are adequate enough to become a candidate to receive state financing through the Program.

BEST Awards by County Since FY 2008-09					
County	BEST Award Amount	District Match	Total Project	District Match % of Total	Total BEST Awards %
Alamosa	\$45,900,217	\$14,660,407	\$60,560,624	24.2%	13.6%
Rio Grande	44,408,933	9,526,126	53,935,059	17.7%	13.2%
El Paso	38,841,315	24,844,249	63,685,564	39.0%	11.5%
Adams	36,048,110	23,584,751	59,632,861	39.6%	10.7%
Saguache	32,274,643	5,563,681	37,838,324	14.7%	9.6%
Prowers	31,015,953	3,676,995	34,692,948	10.6%	9.2%
Park	21,712,029	16,045,929	37,757,958	42.5%	6.5%
Washington	16,478,238	7,750,743	24,228,981	32.0%	4.9%
Chaffee	12,667,762	18,229,220	30,896,982	59.0%	3.8%
Other 32 counties	57,089,028	23,240,036	80,329,064	28.9%	17.0%
Total	\$336,436,228	\$147,122,137	\$483,558,365	30.4%	100.0%

Local Match Below Expectations: When H.B. 08-1335 was being vetted through the legislative process, the Department had anticipated generating a 50 percent local match for lease-purchase agreements and a dollar-for-dollar state to local match for cash grants with the potential of leveraging upwards of \$900 to \$1 billion for state public school capital construction. However, after two and a half years, the total local match has been approximately 30 percent. Specifically for lease-purchase, the local match has been 28 percent and for cash grants, approximately 42 percent. This means that the state has contributed approximately \$41.2 million more (\$10.7 million cash and \$30.5 million for lease-purchase agreements) than was originally *anticipated*, thus reducing the amount of money available to provide additional financial assistance for qualifying and prioritized public school capital construction needs. This shortfall is caused in part to statutory restrictions with how the local match is calculated and due to the fact that smaller districts with low assessed valuations quickly maximize their legal bonded debt, which in some instances (in FY 2008-09) were as low as \$3.1 million (Edison 54, El Paso County), as compared to Denver Public Schools which was \$10.2 billion. State statute restricts the amount of debt a district can issue in order to build or renovate school facilities to 20 percent of district assessed value, pursuant to Section 22-42-104 (1), C.R.S.

Local Match Criteria: The local match is a function of several criteria outlined in statute [pursuant to Section 22-43.7-109 (9)(a), C.R.S.] and differs if the applicant is a school district, BOCES, School for the Deaf and Blind, or a Charter School. For example, for school districts or the School for the Deaf and Blind, the following are the criteria used to determine the local match: (a) assessed value per pupil relative to the state average; (b) median household income relative to state average; (c) bond redemption fund mill levy relative to the statewide average; (d) percentage of pupils eligible for free and reduced-cost lunch; and (e) bond election success over the last 10 years.

PROGRAM FINANCING

State Debt Limitations: The amount of financing available is regulated by statute which specifies the amount of lease-purchase payments that the state may enter into, pursuant to Section 22-43.7-110 (2), C.R.S., which states that the maximum total amount of annual lease payments payable by the State during any fiscal year is: \$20 million for FY 2008-09; \$40 million for FY 2009-10; \$60 million for FY 2010-11; and \$80 million for FY 2011-12 and thereafter. Statute further clarifies that the State may only contribute up to 50 percent of the specified limit, the remainder may be paid by school districts, BOCES, or Charter Schools. To date, Program debt service has been significantly below the statutory maximum, however as the program ramps-up and more lease-purchase agreements are contracted, the amount of debt service will hit its statutory debt payment ceiling in what is expected to be three years (FY 2013-14).

Financing Instruments: In order to finance capital construction projects the State Treasurer employs tax-exempt and tax-reducing financing instruments to minimize any tax implications and to stretch state moneys for more projects. To date, the Treasurer has utilized three types of financing mechanisms including Qualified School Construction Bond program (QSCB), Build America Bonds, and tax-exempt COPs. QSCB program bonds are a new financing structure that allows public

entities to borrow at zero percent interest to finance K-12 capital construction. Build America Bonds are taxable municipal bonds that carry a 35 percent federal subsidy of the interest. Lease-purchase grants were financed as such, by fiscal year: for FY 2008-09, all lease-purchase awards were financed with QSCB bonds; for FY 2009-10, 86 percent were financed with Build America Bonds and 14 percent were finance with tax-exempt COPs; and for FY 2010-11, 55 percent will be financed with Build America Bonds, 44 percent with QSCB, 1 percent with tax-exempt COPs.

BEST Program Financing Model: When the PSCCA Board considers approving applications for the State Board of Education's authorization, the Division has developed a financing model to help guide the Board's decision-making for the next 25 years. This financing model is based on assumptions that attempt to forecast all of the multitude of factors that drive revenue and expenditures with the intent of keeping the program solvent and financing available to the future public school capital construction needs of the State. It should be noted that the model can be considered conservative as it does not immediately obligate funding streams, but rather assumes historically low levels of revenue, creating a revenue cushion in the event there is unforeseen volatility. The following table exhibits the Program's major revenues, expenditures, and anticipated Assistance Fund balance for a four-year window. The following table provides a snapshot of the assumptions that the PSCCA Board employs when decide how much in awards to recommend to the State Board of Education each year. The ending balance in FY 2008-09 was approximately \$38.2 million. Please note that these figures are in millions of dollars and are subject to change.

State Fiscal Year	Revenue	Lease-Purchase Agreements (non-add)	Cash Grants	State Debt Service	Balance
FY 2009-10 actual	\$35.2	\$79.2	\$14.9	\$3.0	\$55.5
FY 2010-11 est.	44.5	154.3	11.5	9.0	79.6
FY 2011-12 est.	39.3	130.2	15.0	18.1	84.9
FY 2012-13 est.	42.5	148.3	16.0	30.5	80.9

**FY 2011-12 Joint Budget Committee Staff Budget Briefing
Department of Education**

BRIEFING ISSUE

INFORMATIONAL ISSUE: School Counselor Corps Program

This issue brief provides an overview of the School Counselor Corps Program, discusses its funding history, and raises concerns in light of projected State revenue shortfalls in the current and subsequent fiscal years.

SUMMARY:

- The School Counselor Corps Grant Program provides grant awards to education providers for a term of three years to improve and increase counseling services to students in secondary schools.
- It is premature to measure the Program's efficacy, however early signs indicate only modest improvements to the dropout rate for education providers included in the Program.

DISCUSSION:

OVERVIEW

Program Description: House Bill 08-1370 created the School Counselor Corps (SCC) Grant Program and was intended to provide grant awards to education providers for a term of three years to improve and increase counseling services to students in secondary schools. The emphasis of the program is on increasing the graduation rate within the State and increasing the percentage of students who appropriately prepare for, apply to, and continue into postsecondary education. In FY 2009-10, 90 schools in 37 districts (including Charter School Institute schools) participated in the program serving 82,452 students. The program just completed year two and is into its final year of its three year grant cycle.

Other Functions and Duties: The SCCP Coordinator collaborates with other Department units including the Office of Dropout Prevention as well as the Language, Culture, and Equity Unit through joint site monitoring and improvement visits. In addition, the Coordinator works with the McKinney-Vento Homeless Prevention Program staff to place homeless liaisons in higher education to ensure that homeless and highly mobile students can have access to college and financial aid.

Grants: To be considered for a grant, a school district, Board of Cooperative Educational Services, or charter school shall specify details of its current program, and how grant money will be spent to improve or increase services. The Department is required to apply specific criteria when reviewing

applications and making recommendations to the board. The Department is also required to give priority to applications for secondary schools where the dropout rate exceeds the statewide average, and/or where there are a high percentage of students receiving free or reduced-cost lunch. The act identified other criteria such as collaboration with institutions of higher education, community involvement, and the availability of matching funds. Education providers who receive a grant are required to report annually to the Department, which is then required to summarize and compile the information in a report to the Education Committees of the General Assembly.

Financing: Beginning in FY 2008-09, and subject to available appropriations, the State Board of Education is required to grant awards to education providers for a term of three years. The act created the School Counselor Corps Grant Fund to consist of any moneys appropriated to the fund by the General Assembly and from gifts, grants, and donations. Moneys in the fund shall be subject to annual appropriation by the General Assembly for the direct and indirect costs of the program. Any money remaining in the fund as of July 1, 2011, revert to the General Fund. The act authorizes the CDE to expend up to 2 percent of moneys annually appropriated from the fund to implement and administer the program (approximately \$100,000). The act included a \$5 million appropriation from the State Education Fund to the new cash fund. In FY 2009-10, the program supported 75.5 secondary counselors.

FUNDING ASPECTS

Funding History: From the Program's inception, it has been funded from the State Education Fund. In FY 2008-09, the program was appropriated \$5 million and 1.0 FTE and since then had various minor common policy adjustments to personal services, thus its current-year appropriation is \$1,500 less than two years prior. It is worthy to mention that for FY 2010-11, JBC Staff did not recommend funding this line item or provide FTE authority at the JBC Staff Figure Setting Presentation on March 9, 2010. This recommendation was based on the premise that this program is discretionary based on available appropriations and given the near-term insolvency of the State Education Cash Fund and the projected revenue shortfall in FY 2010-11, staff did not recommend funding this program. The JBC approved Staff's recommendation.

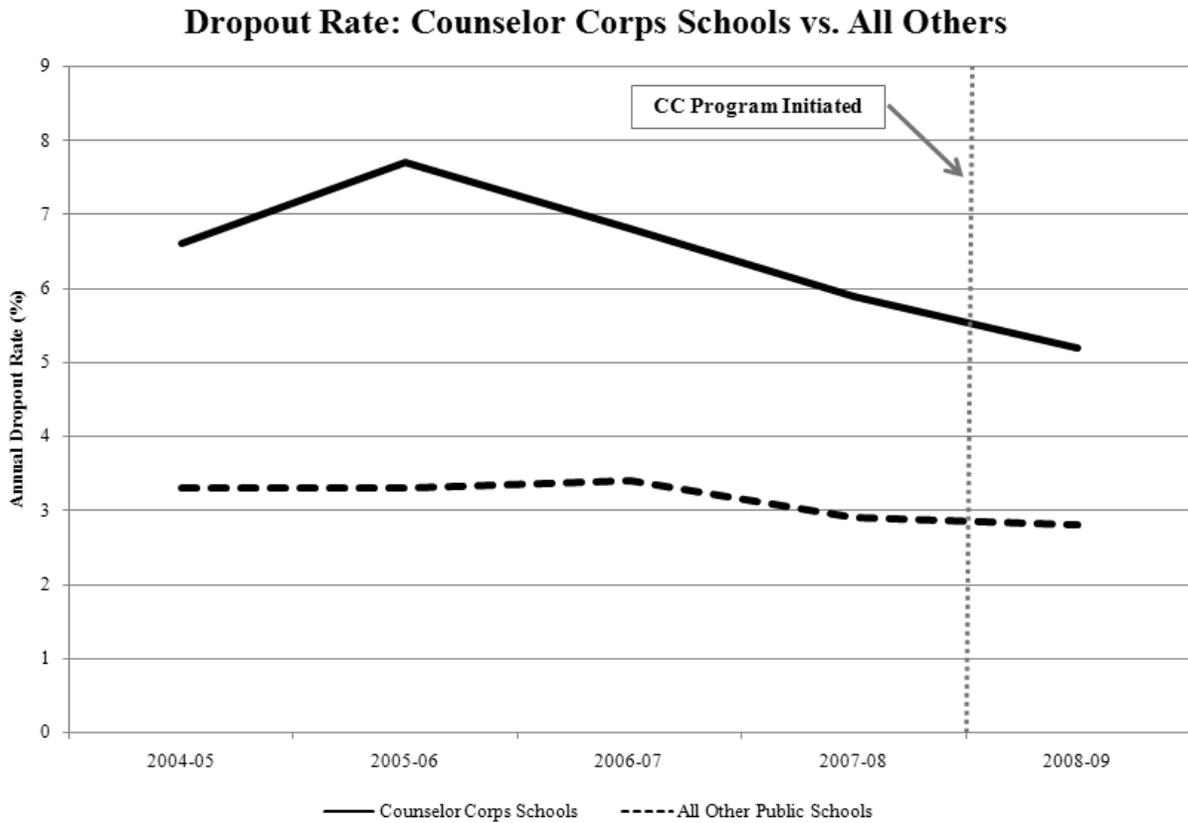
Department Priority: According to the FY 2010-11 Executive Department Figure Setting Comebacks document presented by the Director of the Office of State Planning and Budgeting (OSPB) on March 19, 2010, the School Counselor Corps Grant Program is considered a "high Department priority" and requested the funds and FTE authority to be reinstated. The JBC approved the OSPB request three days later.

PROGRAM ANALYSIS

Dropout Rate: A dropout is considered, "a person who leaves school for any reason, except death, before completion of a high school diploma or its equivalent, and who does not transfer to another public or private school or enroll in an approved home study program." The Colorado dropout rate is an annual rate, reflecting the percentage of all students enrolled in grades 7 through 12 who leave

school during a single school year. It is calculated by dividing the number of dropouts by a membership base which includes all students who were in membership any time during the year, however excludes expelled students. Data is reported annually to the Department by districts, BOCES, and State Charter School Institute Schools. Data includes sex, ethnicity/ race, and grade level of students.

Trends: The following chart provides a trend analysis of the dropout rates for schools included in the SCC Program and those that are not for students in grades 7 through 12. Please note that dropout reporting has a one year lag due to when schools report dropout numbers and the data has been scrubbed and analyzed by the Department.



Department Impact Analysis: The Department calculates that between FY 2007-08 and FY 2008-09, the SCCP decreased (improved) their cumulative dropout rate by 0.80 percentage points whereas non-SCCP schools decreased (improved) their cumulative dropout rate by 0.09 percentage points over the same period. Based on enrollment figures of 80,238 students in grades 7 through 12, if the dropout rate had not decreased by 0.8 percentage points for the SCC schools, 653 students in school would have otherwise dropped out, approximately .

SUMMARY

Staff Concerns:

- Trend Analysis. It is observed by staff that schools that were eventually included in the Counselor Corps Program were already exhibiting a decreased (improved) dropout rate prior to the implementation of the program, thus the program may only be augmenting what was already occurring within existing school resources. It also appears that schools not involved in the program did not see an increase (worsened) dropout rate during this time period, thus the program's effectiveness is not yet evident. Further, based on preliminary data, of the 90 schools involved in the program through FY 2009-10, 29 (33 percent) did not improve or hold the dropout rate constant, however of these schools, 16 of the school's dropout rates increased by 1 percent or less. It should be noted that the program is in its final year of a three-year grant program, thus it is too soon to adequately measure the program's efficacy.
- Opportunity Costs. When the General Assembly passed legislation enabling this program and funded it with \$5 million from the State Education Fund, the State and its future revenues were in good standing. However, since this point in time, several other Department programs were defunded either in whole or in part to accommodate the State's budgetary revenue shortfall. These reductions total approximately \$5.1 million. These programs include, but are not limited to stipends for nationally board certified teachers, regional services cooperatives, the Summer School Grant Program, alternative teacher compensation plan grants, funding for science, technology, engineering, and mathematics (STEM) after-school programs, grants for BOCES, civic education, financial literacy, and Colorado History Day. However, should there be further pressure to free-up State Education Fund moneys or make other reductions, then this program's merits will need to be compared to other program's merits and then weighed by the General Assembly.

Conclusion: Due to: (1) the lack of certainty about the program's efficacy; (2) possible future State revenue shortfalls; (3) given the near-term insolvency of the State Education Fund and the amount this program is appropriated from this funding source; and (4) the opportunity costs that develop as a result of its continued funding, this program will continue to be subject to future cost/ benefit evaluations.

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(1) MANAGEMENT AND ADMINISTRATION

This section provides funding and staff for: the State Board of Education; the administration of a variety of education-related programs and for the general department administration, including human resources, budgeting, accounting, information management, and facilities maintenance. This section also includes funding for the Office of Professional Services, the Division of On-line Learning, as well as funding associated with the State Charter School Institute. The primary source of cash funds is the Educator Licensure Cash Fund and the primary source of reappropriated funds consist primarily of indirect cost recoveries and transfers of funds from various cash- and federally-funded line items. Federal funds are from a variety of sources.

(A) Administration and Centrally-Appropriated Line Items

State Board of Education	237,412	267,099	287,257	283,670
FTE	<u>1.9</u>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>
General Fund	237,412	267,099	287,257	283,670
FTE	1.9	2.0	2.0	2.0
Cash Funds (State Education Fund)	0	0	0	0
General Department and Program Administration a/	3,526,740	3,552,289	3,728,582	3,767,830
FTE	<u>35.6</u>	<u>35.2</u>	<u>48.0</u>	<u>49.0</u>
General Fund	2,160,714	2,160,169	2,112,245	2,078,938
FTE	21.6	19.2	26.0	26.0
Cash Funds	98,109	92,233	93,572	169,039
FTE	1.5	1.5	1.5	2.5
Reappropriated Funds	1,267,917	1,299,887	1,522,765	1,519,853
FTE	12.5	14.5	14.5	14.5
Federal Funds	0	0	0	0
FTE	0.0	0.0	6.0	6.0

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Office of Professional Services - CF	1,711,574	1,765,442	1,860,700	1,859,867	
FTE	19.9	22.2	23.0	23.0	
Teaching and Learning Conditions Survey - CF (SEF)	85,000	0	0	0	
Division of On-line Learning	310,698	238,574	371,720	373,617	
FTE	<u>3.2</u>	<u>2.5</u>	<u>3.5</u>	<u>3.5</u>	
Cash Funds (On-line Education Cash Fund)	310,698	238,574	0	0	
FTE	3.2	2.5	0.0	0.0	
Cash Funds (State Education Fund)	0	0	371,720	373,617	
FTE	0.0	0.0	3.5	3.5	
Reappropriated Funds	0	0	0	0	
FTE	0.0	0.0	0.0	0.0	
Health, Life, and Dental	<u>2,323,089</u>	<u>2,642,463</u>	<u>2,902,393</u>	<u>3,131,888</u>	
General Fund	1,226,239	1,432,921	1,379,708	1,466,311	
Cash Funds	78,978	84,288	209,927	286,685	
Reappropriated Funds	138,156	186,393	323,487	366,635	
Federal Funds	879,716	938,861	989,271	1,012,257	
Short-term Disability	<u>34,573</u>	<u>43,717</u>	<u>46,423</u>	<u>56,920</u>	
General Fund	16,669	21,845	17,910	22,748	
Cash Funds	1,259	3,286	4,290	5,244	
Reappropriated Funds	2,582	0	5,745	7,749	
Federal Funds	14,063	18,586	18,478	21,179	

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S.B. 04-257 Amortization Equalization Disbursement	<u>425,246</u>	<u>580,925</u>	<u>714,960</u>	<u>900,439</u>	
General Fund	198,152	288,373	275,835	359,863	
Cash Funds	15,501	43,245	66,069	82,950	
Reappropriated Funds	26,161	0	88,481	122,587	
Federal Funds	185,432	249,307	284,575	335,039	
 S.B. 06-235 Supplemental Amortization Equalization					
Disbursement	<u>199,473</u>	<u>369,981</u>	<u>519,325</u>	<u>723,567</u>	
General Fund	90,684	177,137	200,359	289,175	
Cash Funds	7,266	27,028	47,990	66,656	
Reappropriated Funds	14,602	10,000	64,270	98,508	
Federal Funds	86,921	155,816	206,706	269,228	
 Salary Survey and Senior Executive Service	<u>910,214</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	468,087	0	0	0	
Cash Funds	35,413	0	0	0	
Reappropriated Funds	20,000	0	0	0	
Federal Funds	386,714	0	0	0	
 Performance-based Pay Awards	<u>336,590</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	123,091	0	0	0	
Cash Funds	14,928	0	0	0	
Reappropriated Funds	20,000	0	0	0	
Federal Funds	178,571	0	0	0	

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	Change
	Actual	Actual	Appropriation	OSPB Request	Requests
Workers' Compensation	<u>170,376</u>	<u>190,261</u>	<u>281,151</u>	<u>340,456</u>	
General Fund	40,649	29,109	122,610	148,473	
Cash Funds	10,012	12,211	34,441	41,706	
Reappropriated Funds	19,588	32,696	23,729	28,734	
Federal Funds	100,127	116,245	100,371	121,543	
Legal Services for 7,768 hours	<u>381,671</u>	<u>349,921</u>	<u>557,759</u>	<u>557,759</u>	
General Fund	175,454	168,075	204,169	204,169	
Cash Funds	161,869	178,366	207,946	207,946	
Reappropriated Funds	44,348	3,480	133,017	133,017	
Federal Funds	0	0	12,627	12,627	
Hours c/	5,082	4,644	7,602	7,602	
Administrative Law Judge Services	<u>42,623</u>	<u>56,177</u>	<u>79,754</u>	<u>41,457</u>	
Cash Funds	15,653	26,759	34,303	34,303	
Reappropriated Funds	26,970	29,418	45,451	7,154	
Payment to Risk Management and Property Funds	<u>131,213</u>	<u>104,085</u>	<u>30,477</u>	<u>76,294</u>	
General Fund	114,999	90,111	26,385	66,049	
Cash Funds	5,987	5,160	1,511	3,783	
Reappropriated Funds	10,227	8,814	2,581	6,462	
Federal Funds	0	0	0	0	

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	FY 2008-09 Actual	FY 2009-10 Actual	FY 2010-11 Appropriation	FY 2011-12 OSPB Request	Change Requests
Leased Space	<u>0</u>	<u>0</u>	<u>11,500</u>	<u>11,500</u>	
General Fund	0	0	0	0	
Cash Funds (State Education Fund)	0	0	0	0	
Reappropriated Funds	0	0	11,500	11,500	
Federal Funds	0	0	0	0	
Capitol Complex Leased Space	<u>554,753</u>	<u>555,362</u>	<u>547,414</u>	<u>585,877</u>	
General Fund	179,166	107,165	107,019	114,539	
Cash Funds	47,383	51,356	50,417	53,959	
Reappropriated Funds	38,870	121,935	120,103	128,542	
Federal Funds	289,334	274,906	269,875	288,837	
Communication Services Payments - GF	0	0	0	0	
Reprinting and Distributing Laws Concerning Education - CF (SPSF)	33,608	32,610	35,480	35,480	
Emeritus Retirement - GF	8,578	5,386	10,875	10,875	
Feasibility Study Concerning Creation and Operation of State Residential Schools - GF	0	42,356	0	0	

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	Change
	Actual	Actual	Appropriation	OSPB Request	Requests
(B) Information Technology					
Information Technology Services	901,339	868,059	1,459,861	1,443,442	
FTE	<u>9.7</u>	<u>9.8</u>	<u>17.0</u>	<u>17.0</u>	
General Fund	801,339	830,056	832,715	816,296	
FTE	9.7	9.8	10.1	10.1	
Reappropriated Funds	100,000	38,003	627,146	627,146	
FTE	0.0	0.0	6.9	6.9	
School Accountability Reports and State Data Reporting System - GF	1,318,734	1,257,200	1,292,172	1,273,929	
FTE	3.4	6.5	6.0	6.0	
Purchase of Services from Computer Center - GF	47,628	45,860	45,635	123,890	
Multiuse Network Payments - GF	35,952	35,952	0	28,303	
Information Technology Asset Maintenance - GF	89,224	303,540	303,830	303,830	
Disaster Recovery - GF	19,238	7,387	19,722	19,722	

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	Change
	Actual	Actual	Appropriation	OSPB Request	Requests
(C) Assessments and Data Analyses					
Colorado Student Assessment Program	20,893,265	21,422,184	21,689,344	21,690,661	
FTE	<u>13.0</u>	<u>14.9</u>	<u>11.8</u>	<u>11.8</u>	
General Fund	0	0	0	0	
FTE	0.0	0.0	0.0	0.0	
Cash Funds (State Education Fund)	15,719,422	15,717,448	15,756,521	15,758,731	
FTE	5.3	5.0	5.0	5.0	
Federal Funds	5,173,843	5,704,736	5,932,823	5,931,930	
FTE	7.7	9.9	6.8	6.8	
Federal Grant for State Assessments and Related Activities - FF	1,070,248	2,161,644	2,161,644	2,161,644	
FTE	0.0	5.7	5.7	5.7	
Longitudinal Analyses of Student Assessment Results - GF	280,395	255,792	288,489	282,260	
FTE	2.1	2.9	3.0	3.0	
Preschool to Postsecondary Education Alignment - CF (SEF)	542,451	716,891	569,332	569,198	
FTE	1.6	2.7	5.0	5.0	
Postsecondary and Workforce Readiness Assessments Pilot Program - CF (SEF)	17,120	0	0	0	

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(D) State Charter School Institute					
State Charter School Institute Administration, Oversight, and Management - RF (via SCSI Fund)	1,187,252	1,692,911	1,736,338	1,726,479	
FTE	8.3	12.5	17.5	17.5	
Direct Administrative and Support Services Provided by the Department to the State Charter School Institute - RF (from above line item)	0	0	0	0	
FTE	0.0	0.0	0.0	0.0	
Other Transfers to Institute Charter Schools - RF (via SCSI Fund)	1,572,253	1,924,569	2,013,615	2,013,615	
Transfer of Federal Moneys to Institute Charter Schools - RF	0	5,729,547	5,192,754	5,192,170	
FTE	0.0	4.0	6.0	6.0	
Department Implementation of Section 22-30.5-501 et seq., C.R.S. - RF (transfer from State Share line item)	323,444	250,747	202,842	204,859	
FTE	3.1	2.8	2.6	2.6	

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					<i>Req. v. Approp.</i>
SUBTOTAL - MANAGEMENT AND ADMINISTRATION	39,721,974	47,468,931	48,961,348	49,791,498	1.7%
FTE	<u>101.8</u>	<u>123.7</u>	<u>151.1</u>	<u>152.1</u>	<u>0.7%</u>
General Fund	7,632,404	7,525,533	7,526,935	7,893,040	4.9%
FTE	38.7	40.4	47.1	47.1	0.0%
Cash Funds	18,912,231	18,994,897	19,344,219	19,549,164	1.1%
FTE	31.5	33.9	38.0	39.0	2.6%
<i>CF (State Education Fund)</i>	<i>16,363,993</i>	<i>16,434,339</i>	<i>16,697,573</i>	<i>16,701,546</i>	<i>0.0%</i>
FTE	<i>1.6</i>	<i>2.7</i>	<i>5.0</i>	<i>5.0</i>	<i>0.0%</i>
<i>CF (State Public School Fund)</i>	<i>33,608</i>	<i>32,610</i>	<i>35,480</i>	<i>35,480</i>	<i>0.0%</i>
Reappropriated Funds	4,812,370	11,328,400	12,113,824	12,195,010	0.7%
FTE	23.9	33.8	47.5	47.5	0.0%
Federal Funds	8,364,969	9,620,101	9,976,370	10,154,284	1.8%
FTE	7.7	15.6	18.5	18.5	0.0%

a/ This consolidated line item provides funding for the majority of state-funded staff, who are responsible for supporting the State Board of Education, administering a variety of library and education-related programs, as well as general department administration.

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	Actual	Actual	Appropriation	OSPB Request	Requests

(2) ASSISTANCE TO PUBLIC SCHOOLS

This section provides funding that is distributed to public schools and school districts, as well as funding for Department staff who administer this funding or who provide direct support to schools and school districts.

(A) Public School Finance

Administration	1,434,916	1,332,914	1,494,503	1,494,632
FTE	<u>16.1</u>	<u>15.6</u>	<u>18.5</u>	<u>18.5</u>
General Fund	0	0	0	0
FTE	0.0	0.0	0.0	0.0
Cash Funds (Read-to-Achieve Cash Fund)	0	0	20,729	20,729
FTE	0.0	0.0	0.2	0.2
Cash Funds (Average Daily Membership Study)	0	0	0 a/	0
Reappropriated Funds (off-the-top of State Share)	1,434,916	1,332,914	1,473,774	1,473,903
FTE	16.1	15.6	18.3	18.3

Accelerating Students Through Concurrent

Enrollment Program (ASCENT) Administration -

FF	11,035	2,397	0	0
FTE	0.0	0.0	FTE shown above	FTE shown above

Declining Enrollment Study - CF (SEF)

	0	160,000	0	0
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Funded Pupil Count (FTE)	778,108.4	789,496.6	797,438.5	808,472.0	
<i>Percent Change</i>	<i>2.3%</i>	<i>1.5%</i>	<i>1.0%</i>	<i>1.4%</i>	
<i>Denver-Boulder Inflation Rate (prior CY)</i>	<i>2.2%</i>	<i>3.9%</i>	<i>-0.6%</i>	<i>1.0%</i>	
Statewide BASE Per Pupil Funding	\$5,250.41	\$5,507.68	\$5,529.71	\$5,585.01	
<i>Percent Change</i>	<i>3.2%</i>	<i>4.9%</i>	<i>0.4%</i>	<i>1.0%</i>	
Statewide AVERAGE Per Pupil Funding	\$6,874.39	\$7,077.63	\$6,823.57	\$6,783.68	
<i>Percent Change</i>	<i>3.2%</i>	<i>3.0%</i>	<i>-3.6%</i>	<i>-0.6%</i>	
Total Program	5,349,019,294	5,587,765,303	5,441,381,052 b/	5,484,416,549	
<i>Percent Change</i>	<i>5.5%</i>	<i>4.5%</i>	<i>-2.6%</i>	<i>0.8%</i>	
Local Share of Total Program Funding	1,956,083,870	2,068,895,672	2,041,563,656 b/	1,993,399,512	
<i>Percent Change</i>	<i>2.1%</i>	<i>5.8%</i>	<i>-1.3%</i>	<i>-2.4%</i>	
State Share of Districts' Total Program Funding c/	<u>3,392,935,424</u>	<u>3,518,869,631</u>	<u>3,399,817,396</u>	<u>3,491,017,037</u>	
General Fund	2,930,064,429	3,076,191,636	3,013,683,712	3,064,771,010	
<i>General Fund Exempt Account (included above)</i>	<i>39,251,792</i>	<i>0</i>	<i>161,444,485</i>	<i>161,444,485</i>	
Cash Funds (State Education Fund)	362,223,212	339,578,055	284,307,808	326,033,830	
Cash Funds (State Public School Fund)	100,647,783	103,099,940	101,825,876	100,212,197	
<i>Percent Change in State Share</i>	<i>7.6%</i>	<i>3.7%</i>	<i>-3.4%</i>	<i>2.7%</i>	
<i>State Share as Percent of Districts' Total Program Funding</i>	<i>63.4%</i>	<i>63.0%</i>	<i>62.5%</i>	<i>63.7%</i>	

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	FY 2008-09 Actual	FY 2009-10 Actual	FY 2010-11 Appropriation	FY 2011-12 <u>OSPB Request</u>	Change Requests
State Share Correction for Local Share Overpayments in Prior Fiscal Years - CF (SPSF)	0	3,684,365	0	0	
Appropriation to State Education Fund - GF	120,964,055	0	0	0	
Military Dependent Supplemental Pupil Enrollment Aid - GF	0	0	0	0	
Hold-harmless Full-day Kindergarten Funding - CF (SEF)	7,321,864	7,698,050	7,268,854	7,228,917	
District Per Pupil Reimbursement for Juveniles Held in Jail Pursuant to Section 22-32-141 (4) (c), C.R.S. - CF (Read-to-Achieve Cash Fund)	n/a	n/a	29,032	29,032	

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	FY 2008-09 Actual	FY 2009-10 Actual	FY 2010-11 Appropriation	FY 2011-12 OSPB Request	Change Requests
					<i>Req. v. Approp.</i>
Subtotal - Public School Finance	3,522,656,259	3,531,747,357	3,408,609,785	3,499,769,618	2.7%
FTE	16.1	15.6	18.5	18.5	0.0%
General Fund	3,051,028,484	3,076,191,636	3,013,683,712	3,064,771,010	1.7%
<i>General Fund Exempt Acct. (incl. above)</i>	39,251,792	0	161,444,485	161,444,485	0.0%
Cash Funds	470,192,859	454,220,410	393,452,299	433,524,705	10.2%
FTE	0.0	0.0	0.2	0.2	0.0%
<i>CF (State Education Fund)</i>	369,545,076	347,436,105	291,576,662	333,262,747	14.3%
<i>CF (State Public School Fund)</i>	100,647,783	106,784,305	101,825,876	100,212,197	-1.6%
Reappropriated Funds	1,434,916	1,332,914	1,473,774	1,473,903	0.0%
FTE	16.1	15.6	18.3	18.3	0.0%
Federal Funds	0	2,397	0	0	0.0%
FTE	0.0	0.0	0.0	0.0	0.0%

a/ On September 20, 2010, the Joint Budget Committee approved a request for a \$52,000 cash funds appropriation to allow the department to conduct the average daily membership study required by S.B. 10-008.

b/ House Bill 10-1369 requires certain districts with a relatively high local share of total program funding to use a portion of revenues generated by their total program mill levies to replace any state funding for categorical programs that the district would otherwise be eligible to receive (called "categorical buyout"). These figures include the \$1,488,060 in local funding that is anticipated to be used for such purpose.

c/ Pursuant to Section 22-54-114 (2.3), C.R.S., a portion of this appropriation is used to offset the direct and indirect administrative costs incurred by the Department in implementing the School Finance Act. These figures include amounts used for this purpose and thus not distributed to school districts.

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(B) Categorical Programs					
(I) District Programs Required by Statute					
Special Education Programs for Children with Disabilities					
	284,228,028	269,814,937	286,289,454	287,470,187	
FTE	<u>65.0</u>	<u>71.1</u>	<u>64.5</u>	<u>64.5</u>	
General Fund	71,572,347	70,784,064	71,572,347	71,572,347	
Cash Funds (State Education Fund)	55,789,778	55,789,778	55,789,778	56,973,525	
Cash Funds (local funds) a/	0	788,283			
Reappropriated Funds	0	0	101,812	101,812	
FTE	0.5	0.0	1.0	1.0	
Federal Funds	156,865,903	142,452,812	158,825,517	158,822,503	
FTE	64.5	71.1	63.5	63.5	
<i>State Funding Portion of Appropriation</i>	<i>127,362,125</i>	<i>126,573,842</i>	<i>127,362,125</i>	<i>128,545,872</i>	
<i>Annual Change in State Funding</i>	<i>4.9%</i>	<i>-0.6%</i>	<i>0.6%</i>	<i>0.9%</i>	
English Language Proficiency Program					
	18,429,452	22,328,316	23,696,750	24,030,783	
FTE	<u>4.8</u>	<u>6.4</u>	<u>4.6</u>	<u>4.6</u>	
General Fund	3,101,598	3,051,644	3,101,598	3,101,598	
Cash Funds (State Education Fund)	5,510,459	9,019,602	9,294,755	9,629,818	
Cash Funds (local funds) a/	0	49,954			
Federal Funds	9,817,395	10,207,116	11,300,397	11,299,367	
FTE	4.8	6.4	4.6	4.6	
<i>State Funding Portion of Appropriation</i>	<i>8,612,057</i>	<i>12,071,246</i>	<i>12,396,353</i>	<i>12,731,416</i>	
<i>Annual Change in State Funding</i>	<i>19.5%</i>	<i>40.2%</i>	<i>2.7%</i>	<i>2.7%</i>	

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(II) Other Categorical Programs					
Public School Transportation	45,833,107	50,106,914	49,991,821	50,487,075	
FTE	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>	
General Fund	36,896,492	36,342,243	36,922,227	36,919,048	
FTE	2.0	2.0	2.0	2.0	
Cash Funds (State Education Fund)	8,486,615	12,737,410	12,619,594	13,118,027	
Cash Funds (local funds) a/	0	577,261			
Cash Funds (Public School Transportation Fund)	450,000	450,000	450,000	450,000	
<i>State Funding Portion of Appropriation</i>	<i>45,383,107</i>	<i>49,079,653</i>	<i>49,541,821</i>	<i>50,037,075</i>	
<i>Annual Change in State Funding</i>	<i>0.9%</i>	<i>8.1%</i>	<i>0.9%</i>	<i>1.0%</i>	
Transfer to the Department of Higher Education for Distribution of State Assistance for Career and Technical Education					
	<u>21,672,472</u>	<u>23,189,191</u>	<u>23,296,124</u>	<u>23,436,274</u>	
General Fund	17,792,850	17,715,890	17,792,850	17,792,850	
Cash Funds (State Education Fund)	3,879,622	5,396,341	5,503,274	5,643,424	
Cash Funds (local funds) a/	0	76,960			
<i>State Funding Portion of Appropriation</i>	<i>21,672,472</i>	<i>23,112,231</i>	<i>23,296,124</i>	<i>23,436,274</i>	
<i>Annual Change in State Funding</i>	<i>2.2%</i>	<i>6.6%</i>	<i>0.8%</i>	<i>0.6%</i>	

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Special Education Programs for Gifted and Talented					
Children	8,394,542	8,988,280	9,059,625	9,127,885	
FTE	<u>0.0</u>	<u>0.0</u>	<u>0.5</u>	<u>0.5</u>	
General Fund	5,498,443	5,485,160	5,500,000	5,499,500	
FTE	0.0	0	0.5	0.5	
Cash Funds (State Education Fund)	2,896,099	3,431,684	3,559,625	3,628,385	
Cash Funds (local funds) a/	0	71,436			
<i>State Funding Portion of Appropriation</i>	8,394,542	8,916,844	9,059,625	9,127,885	
<i>Annual Change in State Funding</i>	5.3%	6.2%	1.6%	0.8%	
Expelled and At-risk Student Services Grant Program					
FTE	<u>1.0</u>	<u>1.8</u>	<u>1.0</u>	<u>1.0</u>	
General Fund	5,789,845	5,771,023	5,788,807	5,784,454	
FTE	1.0	1.8	1.0	1.0	
Cash Funds (State Education Fund)	551,869	1,554,753	1,704,753	1,779,689	
<i>Annual Change in State Funding</i>	0.2%	15.5%	2.3%	0.9%	
Small Attendance Center Aid					
General Fund	<u>943,333</u>	<u>959,379</u>	<u>959,379</u>	<u>959,379</u>	
Cash Funds (State Education Fund)	787,645	716,252	787,645	787,645	
Cash Funds (State Education Fund)	155,688	171,734	171,734	171,734	
Cash Funds (local funds) a/	0	71,393			
<i>State Funding Portion of Appropriation</i>	943,333	887,986	959,379	959,379	
<i>Annual Change in State Funding</i>	7.6%	-5.9%	8.0%	0.0%	

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Comprehensive Health Education	688,246	988,246	1,005,396	1,013,319	
FTE	<u>0.1</u>	<u>0.9</u>	<u>1.0</u>	<u>1.0</u>	
General Fund	0	300,000	300,000	300,000	
Cash Funds (State Education Fund)	105,396	105,396	705,396	713,319	
FTE	0.0	0.0	1.0	1.0	
Cash Funds (Comprehensive Health Education)	582,850	582,850	0	0	
FTE	0.1	0.9	0.0	0.0	
<i>Annual Change in State Funding</i>	<i>14.8%</i>	<i>43.6%</i>	<i>1.7%</i>	<i>0.8%</i>	
<i>Req. v. Approp.</i>					
Subtotal - Categorical Programs	386,530,894	383,701,039	401,792,109	404,089,045	<i>0.6%</i>
FTE	<u>72.9</u>	<u>82.2</u>	<u>73.6</u>	<u>73.6</u>	<i>0.0%</i>
General Fund	141,439,220	140,166,276	141,765,474	141,757,442	<i>0.0%</i>
FTE	3.0	3.8	3.5	3.5	<i>0.0%</i>
Cash Funds	78,408,376	90,874,835	89,798,909	92,107,921	<i>2.6%</i>
FTE	0.1	0.9	1.0	1.0	<i>0.0%</i>
<i>CF (State Education Fund)</i>	<i>77,375,526</i>	<i>88,206,698</i>	<i>89,348,909</i>	<i>91,657,921</i>	<i>2.6%</i>
Reappropriated Funds	0	0	101,812	101,812	<i>0.0%</i>
FTE	0.5	0.0	1.0	1.0	<i>0.0%</i>
Federal Funds	166,683,298	152,659,928	170,125,914	170,121,870	<i>0.0%</i>
FTE	69.3	77.5	68.1	68.1	<i>0.0%</i>
<i>State Funding for Categorical Programs</i>	<i>219,397,596</i>	<i>229,027,217</i>	<i>231,114,383</i>	<i>233,415,363</i>	
<i>Annual Change in State Funding</i>	<i>4.2%</i>	<i>4.4%</i>	<i>0.9%</i>	<i>1.0%</i>	

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a/ In some districts, local tax revenues more than offset the amount needed for total program funding pursuant to the school finance formula. In these cases, pursuant to Section 22-54-107 (2), C.R.S., the excess tax revenues are used to offset state funding of categorical programs (referred to as "categorical buyout"). For FY 2009-10, nine affected districts spent a total of \$1,629,288 in local tax revenues for various categorical programs; the General Fund appropriation for each of these programs was reduced by the same amount, and these state funds were instead distributed to districts to offset costs associated with children with disabilities, English language proficiency programs, public school transportation, career and technical education, gifted and talented programs, and for small attendance center aid.

**(C) Grant Programs, Distributions, and Other Assistance
(I) Health and Nutrition**

Federal Nutrition Programs	127,364,851	138,867,055	108,624,965	108,622,887
FTE	<u>7.6</u>	<u>8.6</u>	<u>9.0</u>	<u>9.0</u>
General Fund	76,668	64,409	82,507	80,965
FTE	0.9	0.9	0.9	0.9
Federal Funds	127,288,183	138,802,646	108,542,458	108,541,922
FTE	6.7	7.7	8.1	8.1
State Match for School Lunch Program - CF (SPSF)	2,472,644	2,472,644	2,472,644	2,472,644
Child Nutrition School Lunch Protection Program - CF (SEF)	697,071	739,790	850,000	850,000
School Breakfast Program - GF	498,500	500,000	500,000	500,000
Start Smart Nutrition Program Fund - GF	700,000	700,000	700,000	700,000

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Start Smart Nutrition Program - RF	654,458	696,019	670,000	670,000	
S.B. 97-101 Public School Health Services - RF	138,893	129,115	148,314	148,314	
FTE	1.3	1.3	1.4	1.4	
(II) Capital Construction					
Division of Public School Capital Construction Assistance - CF (Public School Capital Construction Assistance Fund)	461,528	650,749	895,147	891,328	
FTE	4.3	6.2	9.0	9.0	
Public School Capital Construction Assistance Board - Lease Payments - CF (Public School Capital Construction Assistance Fund)	0	3,535,000	20,000,000	20,000,000	
Financial Assistance Priority Assessment - CF (Public School Capital Construction Assistance Fund)	4,450,000	7,595,721	396,000	396,000	
Charter School Capital Construction	<u>5,135,000</u>	<u>5,000,000</u>	<u>5,000,000</u>	<u>5,000,000</u>	
General Fund	0	0	0	0	
Cash Funds (SEF)	5,135,000	5,000,000	5,000,000	5,000,000	
State Charter School Institute Capital Construction Assistance - CF (SCSI CC Assistance Fund)	0	0	875,636	875,636	

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(III) Reading and Literacy					
Federal Title I Reading First Grant - FF	8,336,811	3,962,715	300,000	0	
FTE	11.1	6.8	0.0	0.0	
Read-to-Achieve Grant Program - CF	5,918,882	4,403,643	6,290,713	6,290,393	
FTE	0.0	0.9	1.0	1.0	
Family Literacy Education Fund	<u>200,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	
General Fund	200,000	0	0	0	
Cash Funds (SEF)	0	0	0	0	
Family Literacy Education Grant Program - RF	200,000	33,875	30,000	30,000	
(IV) Professional Development and Instructional Support					
Closing the Achievement Gap	<u>1,701,000</u>	<u>1,800,000</u>	<u>1,800,000</u>	<u>1,800,000</u>	
General Fund	0	0	0	0	
Cash Funds (SEF)	1,701,000	1,800,000	1,800,000	1,800,000	

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Content Specialists	404,539	431,192	437,392	440,544	
FTE	<u>3.6</u>	<u>3.9</u>	<u>5.0</u>	<u>5.0</u>	
General Fund	0	0	0	0	
FTE	0.0	0.0	0.0	0.0	
Cash Funds (SEF)	404,539	431,192	437,392	440,544	
FTE	3.6	3.9	5.0	5.0	
Office of Drop-out Prevention and Student Re- engagement	0	157,772	150,172	150,172	
FTE	<u>0.0</u>	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>	
Cash Funds (Student Re-engagement Grant Program Fund)	0	157,772	0	0	
FTE	0.0	2.0	0.0	0.0	
Federal Funds	0	0	150,172	150,172	
FTE	0.0	0.0	2.0	2.0	
School Leadership Academy Program	0	42,469	75,000	75,000	
FTE	<u>0.0</u>	<u>0.0</u>	<u>0.7</u>	<u>0.7</u>	
General Fund	0	0	75,000	75,000	
FTE	0.0	0.0	0.7	0.7	
Cash Funds (SEF)	0	42,469	0	0	
FTE	0.0	0.0	0.0	0.0	
Cash Funds (gifts, grants, and donations)	0	0	0	0	
Stipends for Nationally Board Certified Teachers - CF (SEF)	0	0	0	0	

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National Credential Fee Assistance - CF (SEF)	125,000	0	0	0	
Science and Technology Education Fund - CF (SEF)	0	0	0	0	
Science and Technology Center Grant Program - RF	0	0	0	0	
Boards of Cooperative Services - GF	210,000	0	0	0	
Civic Education - CF (SEF)	2,305	0	0	0	
Financial Literacy - CF (SEF)	15,533	3,528	0	0	
Colorado History Day - CF (SEF)	10,000	10,000	0	0	
Innovative Schools Act of 2008 - GF	78,811	0	0	0	
FTE	0.5	0.0	0.0	0.0	
(V) Summer and After-school Programs					
Summer School Grant Program	27,026	15,236	0	0	
FTE	<u>0.3</u>	<u>0.2</u>	<u>0.0</u>	<u>0.0</u>	
Cash Funds (SEF)	27,026	15,236	0	0	
FTE	0.3	0.2	0.0	0.0	
Cash Funds (Read-to-Achieve Cash Fund)	0	0	0	0	
STEM After-school Education Pilot Grant Program - CF (SEF)	0	0	0	0	

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Dropout Prevention Activity Grant Program - CF	55,074	83,460	0	0	
Healthy Choices Dropout Prevention	0	0	14,953	14,953	
FTE	<u>0.0</u>	<u>0.0</u>	<u>0.2</u>	<u>0.2</u>	
General Fund	0	0	0	0	
FTE	0.0	0.0	0.0	0.0	
Cash Funds	0	0	14,953	14,953	
FTE	0.0	0.0	0.2	0.2	
(VI) Facility Schools					
Facility Schools Unit and Facility Schools Board	162,392	202,313	258,109	259,172	
FTE	<u>0.9</u>	<u>1.5</u>	<u>3.0</u>	<u>3.0</u>	
Cash Funds (SEF)	162,392	0	0	0	
FTE	0.9	0.0	0.0	0.0	
Reappropriated Funds	0	202,313	258,109	259,172	
FTE	0.0	1.5	3.0	3.0	
Facility School Funding - CF (SEF)	16,584,920	15,975,523	16,779,077	16,779,077	
Hold-harmless Facility School Student Funding - CF (SEF)	587,504	n/a	n/a	n/a	
District Per Pupil Reimbursement for Juveniles Held in Jail Pursuant to Section 22-32-141 (4) (d), C.R.S. - CF (Read-to-Achieve Cash Fund)	n/a	n/a	159,526	159,526	

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(VII) Other Assistance					
Appropriated Sponsored Programs	215,207,645	225,238,648	285,437,580	285,447,242	
FTE	<u>67.9</u>	<u>70.0</u>	<u>73.3</u>	<u>73.3</u>	
Cash Funds	518,973	1,173,326	3,237,000	3,235,748	
FTE	0.0	0.0	0.0	0.0	
Reappropriated Funds	4,710,538	0	4,475,388	4,475,388	
FTE	6.0	6.0	6.0	6.0	
Federal Funds	209,978,134	224,065,322	277,725,192	277,736,106	
FTE	61.9	64.0	67.3	67.3	
School Counselor Corps Grant Program - CF (SEF)	4,970,559	4,993,650	4,998,500	4,998,250	
FTE	0.7	1.0	1.0	1.0	
Contingency Reserve Fund	<u>1,532,288</u>	<u>130,152</u>	<u>500,000</u>	<u>500,000</u>	
General Fund	0	0	0 a/	0	
Cash Funds	1,532,288	130,152	500,000	500,000	
Alternative Teacher Compensation Plan Grants - CF (SEF)	0	0	0	0	
Regional Service Cooperatives - CF (SEF)	145,135	1,008,079	0	0	
FTE	0.7	0.7	0.0	0.0	
First Responder School Mapping System - CF (SEF)	150,000	0	0	0	
Supplemental On-line Education Services - CF (SPSF)	480,000	480,000	480,000	480,000	

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Supplemental On-line Education Grant Program - CF (SPSF)	50,000	50,000	50,000	50,000	
School Awards Program Fund - GF	0	0	0	0	
School Awards Program - CF (School Awards Program Fund)	0	250,000	250,000	250,000	
Interstate Compact on Educational Opportunity for Military Children - CF (SEF)	0	18,411	30,185	30,185	

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<i>Req. v. Approp.</i>					
Subtotal - Grant Programs, Distributions, and Other Assistance	399,728,369	420,176,759	459,173,913	458,881,323	-0.1%
FTE	<u>98.9</u>	<u>103.1</u>	<u>105.6</u>	<u>105.6</u>	<u>0.0%</u>
General Fund	1,763,979	1,264,409	1,357,507	1,355,965	-0.1%
FTE	0.9	0.9	1.6	1.6	0.0%
Cash Funds	46,657,373	51,020,345	65,516,773	65,514,284	0.0%
FTE	11.0	14.9	16.2	16.2	0.0%
CF (State Education Fund)	30,717,984	30,037,878	29,895,154	29,898,056	0.0%
FTE	6.2	5.8	6.0	6.0	0.0%
CF (State Public School Fund)	3,002,644	3,002,644	3,002,644	3,002,644	0.0%
Reappropriated Funds	5,703,889	1,061,322	5,581,811	5,582,874	0.0%
FTE	7.3	8.8	10.4	10.4	0.0%
Federal Funds	345,603,128	366,830,683	386,717,822	386,428,200	-0.1%
FTE	79.7	78.5	77.4	77.4	0.0%

a/ On September 20, 2010, the Joint Budget Committee approved an appropriation of \$2,946,551 General Fund to assist school districts experiencing temporary cash flow deficits in the absence of the State Treasurer's Interest Free Cash Flow Loan Program. The Department has expended \$1,565,000 to date and anticipates spending another \$70,000 once the Eagle school district submits actual cost documentation. Thus, this appropriation can likely be reduced to \$1,135,000 -- a reduction of \$1,788,383. In addition, the Department anticipates \$1,565,000 of expenditures to be repaid by school districts prior to the end of FY 2010-11. The General Assembly could choose to transfer the amounts repaid from the Contingency Reserve Fund to the General Fund.

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	FY 2008-09 Actual	FY 2009-10 Actual	FY 2010-11 Appropriation	FY 2011-12 OSPB Request	Change Requests
					<i>Req. v. Approp.</i>
SUBTOTAL - ASSISTANCE TO PUBLIC					
SCHOOLS	4,308,915,522	4,335,625,155	4,269,575,807	4,362,739,986	2.2%
FTE	<u>187.9</u>	<u>200.9</u>	<u>197.7</u>	<u>197.7</u>	<u>0.0%</u>
General Fund	3,194,231,683	3,217,622,321	3,156,806,693	3,207,884,417	1.6%
<i>General Fund Exempt Account (included above)</i>	39,251,792	0	161,444,485	161,444,485	0.0%
FTE	3.9	4.7	5.1	5.1	0.0%
Cash Funds	595,258,608	596,115,590	548,767,981	591,146,910	7.7%
FTE	11.1	15.8	17.4	17.4	0.0%
<i>CF (State Education Fund)</i>	477,638,586	465,680,681	410,820,725	454,818,724	10.7%
FTE	6.2	5.8	6.0	6.0	0.0%
<i>CF (State Public School Fund)</i>	103,650,427	109,786,949	104,828,520	103,214,841	-1.5%
Reappropriated Funds	7,138,805	2,394,236	7,157,397	7,158,589	0.0%
FTE	23.9	24.4	29.7	29.7	0.0%
Federal Funds	512,286,426	519,493,008	556,843,736	556,550,070	-0.1%
FTE	149.0	156.0	145.5	145.5	0.0%

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	FY 2008-09 Actual	FY 2009-10 Actual	FY 2010-11 Appropriation	FY 2011-12 OSPB Request	Change Requests
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(3) LIBRARY PROGRAMS

This section provides funding for various library-related programs. Library programs are primarily funded with General Fund and federal funds. Cash funds include grants and donations. Transfers from the Disabled Telephone Users Fund support privately operated reading services for the blind are reflected as reappropriated funds.

Administration	826,736	842,611	996,653	982,633	
FTE	<u>12.7</u>	<u>12.7</u>	<u>12.8</u>	<u>12.8</u>	
General Fund	738,698	747,162	747,430	733,410	
FTE	11.7	11.7	11.8	11.8	
Cash Funds	88,038	95,449	249,223	249,223	
FTE	1.0	1.0	1.0	1.0	
Federal Library Funding - FF	2,543,810	2,948,328	3,030,533	3,031,787	
FTE	21.1	21.7	23.8	23.8	
Colorado Library Consortium - GF	1,000,000	1,000,000	1,000,000	1,000,000	
Colorado Virtual Library	<u>1,359,731</u>	<u>359,796</u>	<u>379,796</u>	<u>379,796</u>	
General Fund	1,359,731	359,796	359,796	359,796	
Cash Funds	0	0	20,000	20,000	
Colorado Talking Book Library, Building Maintenance and Utilities Expenses - GF	58,728	70,660	70,660	70,660	

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Reading Services for the Blind	<u>550,000</u>	<u>250,000</u>	<u>250,000</u>	<u>250,000</u>	
General Fund	300,000	0	0	0	
Reappropriated Funds	250,000	250,000	250,000	250,000	
					<i>Req. v. Approp.</i>
SUBTOTAL - LIBRARY PROGRAMS	6,339,005	5,471,395	5,727,642	5,714,876	-0.2%
FTE	<u>33.8</u>	<u>34.4</u>	<u>36.6</u>	<u>36.6</u>	<u>0.0%</u>
General Fund	3,457,157	2,177,618	2,177,886	2,163,866	-0.6%
FTE	11.7	11.7	11.8	11.8	0.0%
Cash Funds	88,038	95,449	269,223	269,223	0.0%
FTE	1.0	1.0	1.0	1.0	0.0%
Reappropriated Funds	250,000	250,000	250,000	250,000	0.0%
Federal Funds	2,543,810	2,948,328	3,030,533	3,031,787	0.0%
FTE	21.1	21.7	23.8	23.8	0.0%

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	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	Change
	Actual	Actual	Appropriation	OSPB Request	Requests

(4) SCHOOL FOR THE DEAF AND THE BLIND

This section provides operational funding for the Colorado School for the Deaf and the Blind, which provides educational services for hearing impaired/deaf and visually impaired/blind children. The primary source of funding is General Fund. For each student eligible for funding under the School Finance Act, the CSDB receives funding from each student's "home" school district. Reappropriated funds reflects program funding that would otherwise be paid to the home school district (from the Facility School Funding section above), as well as federal funds transferred from local school districts. Cash funds consist of fees paid by individuals for workshops and conferences and housing reimbursements.

(A) School Operations

Personal Services	8,547,644	9,094,022	9,231,831	9,076,731
FTE	<u>140.6</u>	<u>138.7</u>	<u>141.3</u>	<u>141.3</u>
General Fund	7,218,419	7,707,110	7,919,475	7,764,375
FTE	118.7	117.5	120.4	120.4
Reappropriated Funds	1,329,225	1,386,912	1,312,356	1,312,356
FTE	21.9	21.2	20.9	20.9
 Early Intervention Services - GF	 1,119,568	 1,171,904	 1,168,106	 1,153,905
FTE	10.0	10.0	10.0	10.0
 Shift Differential - GF	 84,932	 65,638	 65,530	 89,571
 Operating Expenses - GF	 417,277	 417,277	 417,277	 417,277
 Vehicle Lease Payments - GF	 19,151	 26,729	 26,729	 24,155
 Utilities - GF	 457,103	 514,532	 554,810	 554,810

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	FY 2008-09 Actual	FY 2009-10 Actual	FY 2010-11 Appropriation	FY 2011-12 OSPB Request	Change Requests
Allocation of State and Federal Categorical Program					
Funding - RF	160,135	111,279	149,842	150,000	
FTE	0.2	0.1	0.4	0.4	
Medicaid Reimbursements for Public School Health					
Services - RF	76,887	105,269	83,254	85,000	
FTE	1.0	1.1	1.5	1.5	
					<i>Req. v. Approp.</i>
Subtotal - School Operations	10,882,697	11,506,650	11,697,379	11,551,449	-1.2%
FTE	<u>151.8</u>	<u>149.9</u>	<u>153.2</u>	<u>153.2</u>	<u>0.0%</u>
General Fund	9,316,450	9,903,190	10,151,927	10,004,093	-1.5%
FTE	128.7	127.5	130.4	130.4	0.0%
Reappropriated Funds	1,566,247	1,603,460	1,545,452	1,547,356	0.1%
FTE	23.1	22.4	22.8	22.8	0.0%

(B) Special Purpose

Fees and Conferences - CF	77,030	15,555	120,000	120,000	
Outreach Services	489,308	521,631	1,022,082	1,022,761	
FTE	<u>2.2</u>	<u>2.4</u>	<u>5.4</u>	<u>5.4</u>	
Cash Funds	0	403,280	753,082	753,082	
FTE	0.0	0.0	2.6	2.6	
Reappropriated Funds	489,308	118,351	269,000	269,679	
FTE	2.2	2.4	2.8	2.8	

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Tuition from Out-of-state Students - CF	53,236	55,185	200,000	200,000	
Summer Olympics Housing - CF	840	0	10,000	10,000	
Grants - RF	900,505	752,201	1,397,079	1,399,655	
FTE	6.4	5.2	9.0	9.0	
					<i>Req. v. Approp.</i>
Subtotal - Special Purpose	1,520,919	1,344,572	2,749,161	2,752,416	<i>0.1%</i>
FTE	<u>8.6</u>	<u>7.6</u>	<u>14.4</u>	<u>14.4</u>	<i>0.0%</i>
Cash Funds	131,106	474,020	1,083,082	1,083,082	<i>0.0%</i>
FTE	0.0	0.0	2.6	2.6	<i>0.0%</i>
Reappropriated Funds	1,389,813	870,552	1,666,079	1,669,334	<i>0.2%</i>
FTE	8.6	7.6	11.8	11.8	<i>0.0%</i>

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	FY 2008-09 Actual	FY 2009-10 Actual	FY 2010-11 Appropriation	FY 2011-12 OSPB Request	Change Requests
<i>Req. v. Approp.</i>					
SUBTOTAL - SCHOOL FOR THE DEAF AND THE BLIND	12,403,616	12,851,222	14,446,540	14,303,865	-1.0%
FTE	<u>160.4</u>	<u>157.5</u>	<u>167.6</u>	<u>167.6</u>	<u>0.0%</u>
General Fund	9,316,450	9,903,190	10,151,927	10,004,093	-1.5%
FTE	128.7	127.5	130.4	130.4	0.0%
Cash Funds	131,106	474,020	1,083,082	1,083,082	0.0%
FTE	0.0	0.0	2.6	2.6	0.0%
Reappropriated Funds	2,956,060	2,474,012	3,211,531	3,216,690	0.2%
FTE	31.7	30.0	34.6	34.6	0.0%
<i>Req. v. Approp.</i>					
TOTAL - DEPARTMENT	4,367,380,117	4,401,416,703	4,338,711,337	4,432,550,225	2.2%
FTE	<u>483.9</u>	<u>516.5</u>	<u>553.0</u>	<u>554.0</u>	<u>0.2%</u>
General Fund	3,214,637,694	3,237,228,662	3,176,663,441	3,227,945,416	1.6%
FTE	183.0	184.3	194.4	194.4	0.0%
<i>General Fund Exempt Account (included above)</i>	<i>39,251,792</i>	<i>0</i>	<i>161,444,485</i>	<i>161,444,485</i>	<i>0.0%</i>
Cash Funds	614,389,983	615,679,956	569,464,505	612,048,379	7.5%
FTE	43.6	50.7	59.0	60.0	1.7%
<i>CF (State Education Fund)</i>	<i>494,002,579</i>	<i>482,115,020</i>	<i>427,518,298</i>	<i>471,520,270</i>	<i>10.3%</i>
FTE	<i>7.8</i>	<i>8.5</i>	<i>11.0</i>	<i>11.0</i>	<i>0.0%</i>
<i>CF (State Public School Fund)</i>	<i>103,684,035</i>	<i>109,819,559</i>	<i>104,864,000</i>	<i>103,250,321</i>	<i>-1.5%</i>
Reappropriated Funds	15,157,235	16,446,648	22,732,752	22,820,289	0.4%
FTE	79.5	88.2	111.8	111.8	0.0%
Federal Funds	523,195,205	532,061,437	569,850,639	569,736,141	0.0%
FTE	177.8	193.3	187.8	187.8	0.0%

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	Actual	Actual	Appropriation	OSPB Request	Requests

KEY:
 ITALICS = non-add figure, included for informational purposes
 A = impacted by a budget amendment submitted after the November 1 request
 S = impacted by a supplemental appropriation

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APPENDIX B: SUMMARY OF MAJOR LEGISLATION

- ❑ **S.B. 10-150 (Tapia/Pommer): Temporary Transfer of Public School Lands Moneys.** Senate Bill 09-260 transferred certain moneys to the State Public School Fund (SPSF) in FY 2008-09 and FY 2009-10 that would otherwise be credited to the Public School ("Permanent") Fund. Senate Bill 10-150 extends these transfers for an additional year, through FY 2010-11. These two acts are estimated to increase funds available for appropriation from the SPSF for the State Share of Districts' Total Program Funding by a total of \$93.2 million, including \$24.6 million in FY 2008-09, \$37.0 million in FY 2009-10, and \$31.6 million in FY 2010-11.

- ❑ **S.B. 10-191 (Johnston & Spence/Scanlan & Murray): Ensuring Quality Instruction Through Educator Effectiveness (EQuITEE).** Requires that the State Board of Education (the Board) adopt guidelines for a system to evaluate the effectiveness of teachers and principals. Requires all school districts and boards of cooperative services (BOCES) to adjust their local performance evaluation systems to meet or exceed the adopted guidelines. Codifies the State Council for Educator Effectiveness (the Council) and requires that it make recommendations to the Board concerning the implementation and testing of the new performance evaluation system by March 1, 2011. Requires the new system to be implemented statewide in FY 2013-14 and finalized statewide in FY 2014-15. Creates the continuously appropriated Great Teachers and Leaders Fund (GTLF) to receive federal grants for purposes of implementing the act. The Department is anticipated to require \$237,869 and 3.0 FTE in FY 2010-11 for new staff to oversee departmental activities, support the Board and the Council in establishing the program and adopting rules, conduct analysis of existing performance evaluation systems, recommend conforming changes, and provide training and technical assistance to local districts. The act authorizes the transfer of state moneys to the GTLF if less than \$250,000 in federal grants are received by September 30, 2012; such transfers would be made from the Contingency Reserve Fund and, if necessary, the State Education Fund.

- ❑ **H.B. 10-1036 (Scanlan/Romer): Public School Financial Transparency.** Enacts the "Public School Financial Transparency Act", which requires school districts, boards of cooperative services, the State Charter School Institute, and charter schools to post specified financial information on-line, in a downloadable format, for free public access. Such requirements are phased in over three fiscal years.

- ❑ **H.B. 10-1318 (Pommer/Tapia): Minimum State Aid for School Districts.** Suspends the "minimum state aid" requirement for five fiscal years. The minimum state aid requirement is an exception to the formula for calculating the state and local shares of funding for public

schools, essentially setting a floor on the amount of *state* funding that each school district receives and thus reducing the required local share for certain districts.

☐ **H.B. 10-1369 (Scanlan/Bacon): School Finance Act.** Amends the "Public School Finance Act of 1994" and other statutory provisions to provide funding for school districts for FY 2010-11, making the following changes:

- Increases the statewide *base per pupil funding* from \$5,507.68 to \$5,529.71 (0.4 percent) to account for the annual change in the Denver-Boulder consumer price index in CY 2009 (-0.6 percent) plus one percent.
- For FY 2010-11 and FY 2011-12, requires the Department of Education to reduce total program funding for all school districts and Institute charter schools through the application of a *state budget stabilization factor*. Requires the Department and the staff of the Legislative Council to determine the amount of the funding reduction necessary to ensure that total program funding for FY 2010-11 and FY 2011-12 does not exceed \$5,438,295,823 each fiscal year. Requires the Department to then calculate the state budget stabilization factor for each fiscal year by dividing the amount of the required funding reduction by total program funding for all school districts and Institute charter schools. Requires the state budget stabilization factor to be revised mid-year, if necessary, based on actual pupil enrollment and local tax revenues.
- Modifies the school finance formula for FY 2010-11 and FY 2011-12, generally establishing a district's total program funding as the greater of:
 - (a) total program funding calculated for the district, including any funding for Institute charter schools located within the district, minus the district's state budget stabilization reduction amount for that fiscal year; or
 - (b) base per pupil funding multiplied by the district's funded pupil count.

However, applies the state budget stabilization factor differently for a district in which local property tax revenue is sufficient to fully fund the district's total program, or the amount of state aid a district receives is less than its state budget stabilization reduction amount. For these districts, the amount of the state budget stabilization reduction shall not exceed the district's state aid, ensuring that the district's total program mill levy is not affected by the budget stabilization factor. Instead, requires such a district to use revenues generated by its total program mill levy to replace any state funding for categorical programs that the district would otherwise be eligible to receive (called "categorical buyout"). The amount of the district's state aid plus the amount of categorical buyout shall not exceed the district's

state budget stabilization reduction amount. Requires the Department to distribute the state funding that is replaced by categorical buyout funds to other eligible districts.

Decreases the General Fund appropriation for the State Share of Districts' Total Program Funding by \$363,476,454 based on an estimated state budget stabilization factor of -6.35 percent. Also adjusts a number of other appropriations based on the resulting reduction in per pupil funding, including: Facility School Funding (reduce by \$1,120,923 State Education Fund); Hold-harmless Full-day Kindergarten Funding (reduce by \$487,964 State Education Fund); Colorado School for the Deaf and the Blind (reduce transfer from Facility School Funding by \$85,334 and substitute General Fund); and Department of Human Services, Mental Health Institutes (reduce transfer from Facility School Funding by \$13,439 and substitute General Fund).

- Under current law, up to \$11 million of rental *income earned on public school lands* is annually credited to the State Public School Fund (SPSF) and made available for appropriation; no interest or income earned on the Public School ("Permanent") Fund is credited to the SPSF. House Bill 10-1369 specifies that the \$11 million that is annually credited to the SPSF shall be from the interest or income earned on the Permanent Fund rather than from rental income. Adjusts three cash funds appropriations from the SPSF to identify interest and income earned on the Permanent Fund as the source of funds, rather than rental income. These appropriations include \$8,491,876 for the State Share of Districts' Total Program Funding, \$2,472,644 for the state match for the school lunch program, and \$35,480 for reprinting and distributing laws concerning education.

☐ **S.B. 09-163 (Hudak/Middleton): Education Accountability System.** Aligns accountability and accreditation measures and procedures, and adopts the Colorado growth model for measuring student longitudinal academic growth. Replaces school accountability reports (SARs) with school performance reports, and requires the Department to create and maintain a data portal for making school performance reports and other education accountability data publicly available. Redirects existing appropriations for printing and postage costs associated with the distribution of SARs to support development of the data portal and legal services expenses, reducing General Fund appropriations to the Department for FY 2009-10 by \$1,779 and increasing FTE authorizations by 2.7 FTE.

☐ **H.B. 09-1319 (Merrifield/Williams): Concurrent Enrollment Programs.** Repeals three existing concurrent enrollment programs and enacts the Concurrent Enrollment Programs Act to broaden access to, improve the quality of, and ensure financial transparency and accountability of concurrent enrollment programs. Creates the Accelerating Students Through Concurrent Enrollment Program (ASCENT) to allow certain students to continue concurrent enrollment after 12th grade. Creates the Concurrent Enrollment Advisory Board in the Department of Education to make recommendations concerning concurrent enrollment programs, among other duties. Appropriates a total of \$30,031 federal funds and 0.3 FTE

to the Department of Education to administer the ASCENT Program, and reappropriates \$10,139 of this amount to the Department of Law for the provision of legal services to the Department of Education.

- **S.B. 08-212 (Romer and Penry/Witwer and Scanlan): Alignment of Preschool to Post-secondary Education.** Directs the State Board of Education to adopt a description of school readiness by December 15, 2008, and to adopt assessments that are aligned with the school readiness description by December 15, 2010. Requires the State Board to adopt standards for preschool through elementary and secondary education by December 15, 2009, and to adopt a system of assessments that are aligned with such standards by December 15, 2010.

Requires the Department of Education to implement, beginning in FY 2008-09, a pilot program for the purpose of evaluating standards and collecting data regarding student performance on postsecondary and workforce planning, preparation, and readiness assessments. Requires the General Assembly to appropriate moneys to the Department for distribution to local education providers who participate in the pilot program to help defray assessment costs.

Requires the State Board and the Colorado Commission on Higher Education (CCHE) to negotiate a consensus and adopt a description of postsecondary and workforce readiness by December 15, 2009, and to adopt one or more postsecondary and workforce planning, preparation, and readiness assessments by December 15, 2010. Requires the Department of Education to submit to the federal Department of Education amendments to the state plan that incorporate the new standards and assessments. Requires each local education provider, by December 15, 2011, to revise its standards and curricula as necessary in response to the new standards adopted by the State Board.

Requires the State Board to adopt criteria that local school boards, boards of cooperative services, and Institute high schools may apply to endorse high school diplomas to indicate that a student has achieved postsecondary and workforce readiness. Allows the State Board to adopt additional endorsements.

Requires the Department of Education, by September 15, 2009, to contract for a study of the costs of implementing this act. Authorizes the Department of Education and CCHE to receive and expend gifts, grants, or donations to implement the act. Appropriates a total of \$792,453 cash funds from the State Education Fund and 5.0 FTE to the Department of Education for FY 2008-09, including: \$437,273 for the Department's administrative costs of implementing the act; \$250,000 for the postsecondary and workforce readiness assessments pilot program, and \$105,180 to be transferred to the Department of Higher Education to cover its administrative costs of implementing the act. Appropriates \$105,180 reappropriated funds and 1.0 FTE to the Department of Higher Education for FY 2008-09.

□ **H.B. 08-1335 (Romanoff/Groff): Building Excellent Schools Today (BEST).** In order to increase the amount and timeliness of state financial assistance for public school facility capital construction projects, replaces existing capital construction assistance programs with a new financial assistance program. Creates the Public School Capital Construction Assistance (PSCCA) Fund, and requires the following moneys to be credited to the PSCCA Fund beginning in FY 2008-09:

- 35 percent of the gross amount of income received during the fiscal year from income, mineral royalties, and interest derived from state public school lands (or more if required to make lease payments under the terms of lease-purchase agreements); [Amended by S.B. 09-257 to permit the gross amount received to be 50 percent based on action taken by the Treasurer, whom did take the ascribed action on July 31, 2009.]
- all net proceeds from the sale of certificates of participation (COPs) payable to the State under the terms of such lease-purchase agreements;
- all local matching moneys; and
- lottery proceeds that would otherwise be transferred to the General Fund.

Requires an emergency reserve of at least \$1.0 million dollars to be maintained within the PSCCA Fund to address public school facility emergencies. Effective July 1, 2008, abolishes the School Construction and Renovation Fund, the School Capital Construction Expenditures Reserve Fund, and the Lottery Proceeds Contingency Reserve Fund, and transfers their balances to the PSCCA Fund.

Creates the PSCCA Board and the Division of PSCCA within the Department of Education. Requires the PSCCA Board to: (a) establish public school facility construction guidelines for use in assessing and prioritizing public school capital construction needs; (b) conduct or contract for a financial assistance priority assessment of public school facilities throughout the state; (c) prioritize financial assistance applications for eligible public school facility capital construction projects based on specified criteria; and (d) annually submit a prioritized list of projects recommended for financial assistance to the State Board. Subject to State Board authorization, the PSCCA Board may provide financial assistance to applicants as matching grants or by instructing the State Treasurer to enter into lease-purchase agreements on behalf of the State to finance public school facility capital construction. Limits the total amount of annual lease payments payable by the State in any fiscal year, and requires payments above lower specified limits to be made only from applicant matching moneys. Requires continued payment of specified capital construction assistance awarded to school districts or charter schools prior to the end of FY 2007-08.

Reduces the amount of school lands-related moneys that are annually credited to the State Public School Fund by \$20.0 million, including \$19.0 million in interest earned on moneys in the Public School Fund and \$1.0 million from rental income earned on public school lands.

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**APPENDIX C: UPDATE OF FY 2010-11
LONG BILL FOOTNOTES AND REQUESTS FOR INFORMATION**

Long Bill Footnotes

- 5 Department of Education, Management and Administration; and Library Programs** -- In addition to the transfer authority provided in Section 24-75-108, C.R.S., up to 2.5 percent of the total General Fund appropriations for Management and Administration and Library Programs may be transferred between the line items in these two sections of the FY 2010-11 Long Bill.

Comment: The Department is in compliance with this footnote. To date, the Department has not made any transfers pursuant to this footnote in FY 2010-11. In FY 2009-10, a total of \$12,831 was transferred between three line items. The following table details the line items affected by such transfers.

FY 2009-10 Transfers	
Long Bill Line Item	Transfers In/ (Out)
Workers' Compensation	\$1,731
Capitol Complex	11,100
Salary Survey	(12,831)
Net Transfers	0

- 6 Department of Education, Assistance to Public Schools, Public School Finance, State Share of Districts' Total Program Funding** -- It is the intent of the General Assembly that the Department of Education be authorized to utilize up to \$1,847,036 of this appropriation to fund qualified students designated as Accelerating Students Through Concurrent Enrollment (ASCENT) Program participants as authorized pursuant to Section 22-35-108, C.R.S. This amount is calculated based on an estimated 277 participants funded at a rate of \$6,668 per FTE pursuant to Section 22-54-104 (4.7), C.R.S.

Comment: For information concerning the ASCENT Program and participation rates, see the issue brief that begins on page 33.

- 7 **Department of Education, Library Programs, Reading Services for the Blind** -- This appropriation is for the support of privately operated reading services for the blind, as authorized by Section 24-90-105.5, C.R.S. It is the intent of the General Assembly that \$200,000 of this appropriation be used to provide access to radio and television broadcasts of locally published and produced materials and \$50,000 of this appropriation be used to provide telephone access to digital transmissions of nationally published and produced materials.

Comment: The Department of Education indicates that it is in compliance with this footnote. The Department annually contracts with Audio Information Network of Colorado (AINC) to provide an on-the-air volunteer reading service for the blind, visually impaired, and print-handicapped citizens of Colorado. Broadcasts are provided in Boulder, Louisville, and Lafayette and are available on local cable as a standard radio frequency at 98.9 KHzs. AINC is currently working through cable associations with the cities to expand local coverage. In the FY 2009-10 update and annual evaluation of the AINC progress made to the Department, the expansion of AINC broadcasts on local cable systems in the rural areas of Colorado continues to be a high priority and is expanding its outreach services. The services provided by AINC are also made available through the internet, telephone, and podcasts.

For FY 2010-11, the Department was appropriated \$250,000 total funds. Of this appropriation, \$200,000 will be used for contracts with Audio Information Network of Colorado for the purposes described above, and \$50,000 was used to purchase additional services from the National Federation for the Blind (NFB) for its Newslines service, which provides eligible Coloradans access to newspapers nationwide and a few magazines via touch tone telephone, internet, and by email. Newslines services now includes television listings (based on an individual's zip code); the NFB indicates that this additional service has increased use of their Newslines service nationwide significantly. Anyone who is a patron of the Colorado Talking Book Library (CTBL) is eligible to access Newslines services. The CTBL is able to sign patrons up for the Newslines service through their existing database.

Requests for Information

- 1 **All Departments, Totals** -- Every department is requested to submit to the Joint Budget Committee, by November 1, 2010, information on the number of additional federal and cash funds FTE associated with any federal grants or private donations that were received in FY 2009-10. The Departments are also requested to identify the number of additional federal and cash funds FTE associated with any federal grants or private donations that are anticipated to be received during FY 2010-11.

Comment: Prior to FY 2008-09, this request for information has historically been submitted in the annual appropriations bill as a footnote and was repeatedly lined through by the Governor. However, the May 27, 2010 letter from the Governor to the Joint Budget

Committee included the following in response to this request for information, "Due to the substantial resources and other department priorities, I am directing the departments to comply to the extent to which this information can be provided without adversely impacting the operation of the executive branch or the delivery of government services, by November 1, 2010." To date the Joint Budget Committee has not received a report pursuant to this request for information.

- 2 Department of Education, Assistance to Public Schools, Categorical Programs; and Department of Higher Education, Division of Occupational Education, Distribution of State Assistance for Career and Technical Education pursuant to Section 23-8-102, C.R.S.** -- The Department of Education is requested to work with the Department of Higher Education and to provide to the Joint Budget Committee information concerning the distribution of state funds available for each categorical program, excluding grant programs. The information for special education programs for children with disabilities, English language proficiency programs, public school transportation, career and technical education, and small attendance center aid is requested to include the following: (a) a comparison of the state funding distributed to each district or administrative unit for each program in fiscal year 2009-10 and the maximum allowable distribution pursuant to state law and/or State Board of Education rule; and (b) a comparison of the state and federal funding distributed to each district or administrative unit for each program in fiscal year 2008-09 and actual district expenditures for each program in fiscal year 2008-09. The information for special education programs for gifted and talented children is requested to include a comparison of the state funding distributed to each district or administrative unit for each program in fiscal year 2008-09 and actual district expenditures in fiscal year 2008-09.

Comment: The Department provided the requested information, which is summarized below.

Background Information. Section 17 of Article IX of the Colorado Constitution requires the General Assembly to increase total state funding for all categorical programs annually by at least the rate of inflation plus one percent for FY 2001-02 through FY 2010-11, and by at least the rate of inflation for subsequent fiscal years. The General Assembly determines on an annual basis how to finance this increase, and how to allocate the required increase among the various categorical programs. The annual Long Bill includes the minimum required increase in state funding for categorical programs. Thus, the Joint Budget Committee makes a recommendation to the General Assembly each year concerning the allocation of these funds. This footnote is intended to provide the Committee with data to inform this decision.

Please note that pursuant to S.B. 07-199 [Section 22-55-107 (3), C.R.S.], the House and Senate Education Committees may submit to the Joint Budget Committee a joint recommendation regarding the allocation of the required state funding increase for categorical programs for the next budget year. The Joint Budget Committee is required to consider such a recommendation when developing the Long Bill for the following budget year. The Education Committees have not submitted any such recommendation to date.

Statutory Reimbursement Formula. State funding is provided through a statutory formula for five categorical programs. Table I provides a comparison of the state funding available and the maximum statutory reimbursement for each of these programs for FY 2008-09. Unless otherwise noted, data is derived from the Department's response to this request for information. Based on this comparison, state funding for English language proficiency programs is the least adequate, covering 18.3 percent of the statutory maximum.

TABLE I: Maximum Amount of State Funds Districts Were Statutorily Eligible to Receive for FY 2008-09

Long Bill Line Item	Description of What Determines Maximum State Funding	Total State Funds	Maximum State Funding	Percent of Maximum Covered by State Funds	Estimated Increase Required to Fund Statutory Maximum
District Programs Required by Statute:					
Special Education - Children With Disabilities a/	Driven by the number of children requiring special education services, characteristics of the children eligible for such services, and the cost of such services	\$148,416,838	\$219,652,500	67.6%	\$71,235,662
English Language Proficiency Program b/	Driven by the number of eligible students and statewide average per pupil operating revenue	7,961,658	43,477,905	18.3%	35,516,247
Other Categorical Programs (with specified statutory reimbursement levels):					
Public School Transportation	Driven by total miles traveled and total transportation-related costs (excluding capital outlay expenses)	45,653,856	81,263,541	56.2%	35,609,685
Colorado Vocational Act Distributions	Driven by the number of students participating in vocational education programs and the costs of such services per FTE in relation to each district's per pupil operating revenues	21,672,472	21,672,472	100.0%	0
Small Attendance Center Aid	Driven by the number of eligible schools, such schools' enrollment, and eligible districts' per pupil funding	943,333	943,333	100.0%	0
Total					\$142,361,594

a/ The estimated increase required to fund the statutory maximum for special education for children with disabilities is based on the following: \$104,032,500 (\$1,250 for each student with disabilities); \$111,120,000 (assuming districts received \$6,000 per student for 100 percent of the 18,520 students with specified disabilities, rather than for 11.8 percent of these students); \$4,000,000 for high cost grants; and \$500,000 for "educational orphans". Staff has not attempted to estimate the costs of "fully funding" the high cost grant program.

b/ Maximum state funding for ELPA calculated by Joint Budget Committee staff.

Percent of Actual Expenditures Covered by State and Federal Funds. Table I compares available state funding to the amount of state funding that districts are eligible to receive pursuant to state statute. However, these statutory formulas are generally designed to cover only a portion of districts' costs. One should also consider a comparison of actual district expenditures on categorical programs to the amount of state and federal funding available for categorical programs.

Table II provides a comparison of actual district expenditures for categorical programs to available state and federal funding. Based on the availability and relevance of district expenditure data, the table excludes data for three programs: Expelled and At-risk Student Services Grant Program, Small Attendance Center Aid, and Comprehensive Health Education. Unless otherwise noted, data is derived from the Department's response to this request for information.

This analysis indicates that districts spent \$823 million in FY 2008-09 on five categorical programs, over and above state and federal funding made available for these programs – the equivalent of 24.3 percent of districts' total program funding for FY 2008-09. Districts spent the largest portion of their total program funding to provide special education services to children with disabilities (\$456 million), followed by public school transportation services (\$156 million), and English language proficiency programs (\$130 million).

TABLE II: Categorical Program Revenues and Expenditures: FY 2008-09

	(a)	(b)	(c) = (a)+(b)	(d)	(e) = (c)/(d)	(f)=(d)-(c)
Long Bill Line Item	State Funds	Federal Funds	Total State and Federal Funds	Total District Expenditures	State/Federal Share of Expenditures	Local Share of Expenditures
District Programs Required by Statute:						
Special Education - Children With Disabilities a/	\$148,416,838	\$142,943,202	\$291,360,040	\$747,739,460	39.0%	\$456,379,420
English Language Proficiency Program	7,961,658	9,343,843	17,305,501	147,135,484	11.8%	129,829,983
Other Categorical Programs:						
Public School Transportation	45,653,856	0	45,653,856	201,749,357	22.6%	156,095,501
Colorado Vocational Act Distributions	21,672,472	5,538,911	27,211,383	81,244,933	33.5%	54,033,550
Special Education - Gifted and Talented Children	8,236,573	0	8,236,573	34,746,228	23.7%	26,509,655
Total						\$822,848,109

a/ State funding includes Public School Finance Act funding for preschool children with disabilities.

- 9 **Department of Education, Assistance to Public Schools, Public School Finance, State Share of Districts' Total Program Funding** -- The Department is requested to provide to the Joint Budget Committee, on or before November 1, 2010, information concerning the Colorado Preschool Program. The information provided is requested to include the following for fiscal year 2009-10: (a) data reflecting the ratio of the total funded pupil count for the Program to the total funded pupil count for kindergarten; (b) data indicating the number of three-year-old children who participated in the Program; (c) data indicating the number of children who participated in the Program for a full-day rather than a half-day; and (d) the state and local shares of total program funding that is attributable to the Program.

Comment: The Department provided the information as requested, and it is summarized below.

District Participation. The purpose of the Colorado Preschool Program (CPP) is to serve three-, four-, and five-year-old children who lack overall learning readiness due to significant family risk factors, who are in need of language development, or who are neglected or dependent children. School district participation in the program is voluntary. Participating districts are required to provide preschool classes four half-days each week throughout the school year, with the remaining half-day being used for home visits, teacher training, etc.

The number of school districts participating in CPP has increased from 32 in FY 1988-89 to 168 (of 178) in FY 2009-10; the State Charter School Institute also participates in CPP. Most districts that are not currently participating in CPP are small, rural districts. However, two non-participating districts have funded pupil counts in excess of 1,000: El Paso - Cheyenne Mountain (with a funded pupil count of 4,476 in FY 2009-10) and El Paso - Manitou Springs (with a funded pupil count of 1,337).

Total Number of Slots. The number of state-funded half-day preschool program "slots" is limited in statute. Since the program began operating in January 1989, its target population has been expanded and the maximum number of children that may be served has increased from 2,000 to 20,160 for FY 2009-10. Most recently, the General Assembly increased the number of authorized CPP slots from 14,360 in FY 2006-07, to 16,360 in FY 2007-08, to 20,160 in FY 2008-09. In addition, beginning in FY 2008-09, none of the CPP slots may be used to provide a full-day kindergarten program (full-day kindergarten is now funded through another mechanism), thereby freeing up 2,454 slots to serve additional preschool children.

For FY 2009-10, participating districts received funding to serve a total of 20,160 pupils. For comparison purposes, the number of pupils in public kindergarten programs statewide was 63,457. Thus, on a statewide basis, **the total number of CPP preschool slots authorized for FY 2009-10 represented 31.8 percent of the total number of public school kindergarten students.**

For purposes of putting this ratio in perspective, please note that the proportion of the funded pupil count considered "at-risk" in FY 2009-10 based on the School Finance Act formula (which counts the number of children eligible for the federal free lunch program or whose dominant language is not English) was 34.8 percent. If every district had received CPP preschool slots in proportion to its at-risk population entering kindergarten programs the following school year (using the number of children in kindergarten programs in FY 2009-10 as a proxy), a total of 22,077 CPP slots would have been funded. This analysis implies that an additional 1,917 slots would have been necessary to provide half-day preschool to all at-risk children.

The following table uses the School Finance Act definition of "at-risk" for purposes of estimating the shortfall of CPP *preschool* slots for fiscal years 2005-06 through 2009-10.

Fiscal Year	(a) Number of Authorized CPP Half-Day Preschool Slots	(b) Number of Children in Kindergarten Funded Through School Finance Act	(c)=a/b Ratio	(d) Percent of Children Considered At-risk Under School Finance Formula	(e)=(b*d)-a Number of Additional Slots Required to Serve Children "At-risk" Per Formula
2005-06	10,506	59,278	17.7%	31.6%	8,226
2006-07	12,206	60,774	20.1%	31.5%	6,938
2007-08	13,906	61,426	22.6%	31.6%	5,505
2008-09	20,160	63,304	31.8%	32.1%	148
2009-10	20,160	63,457	31.8%	34.8%	1,917

Allocation of Slots. The Department provided information comparing each district's CPP *headcount* to its funded kindergarten headcount. For small school districts with a small number of kindergarten students, this comparison is not very meaningful. However, for larger districts, this comparison can be useful when analyzing the allocation of slots. The ratio of CPP students to kindergarten students varies significantly among larger districts, but these variations appear to relate to the number of low income students served. However, **if one considers the number of pupils considered "at-risk" based on the School Finance Act formula, the CPP head count does not always directly correlate with the number of at-risk pupils.**

The following table compares the CPP preschool head count for those districts with more than 1,000 pupils in public kindergarten programs to the percent of each district's pupils that are considered "at-risk" for purposes of the School Finance Act (i.e., children who are eligible for the federal free lunch program or are English language learners). The last column (E) provides an estimate of the gap between the number of CPP students and the number of at-risk pupils. For example, Denver's 3,918 CPP students represent about 57 percent of

children in kindergarten. However, approximately 66 percent of Denver's students are considered "at-risk" (for purposes of the School Finance Act), so the gap for Denver is estimated at 645 students.

	(a)	(b)	(c)=a/b	(d)	(e)=(b*d)-a
Larger Districts (with 1,000+ kindergarten pupils) / Statewide	Total CPP Preschool Head Count (FY 09-10)	Kindergarten Funded Head Count (FY 09-10)	Ratio	Percent of Pupils "At-Risk" per School Finance Act (FY 09-10)	Estimated Number of At-Risk 4-year-olds Not Served
Denver	3,918	6,892	56.8%	66.2%	645
Arapahoe - Aurora	1,288	3,117	41.3%	60.6%	599
Adams - Northglenn	542	3,054	17.7%	31.7%	425
Arapahoe - Cherry Creek	336	3,760	8.9%	19.9%	411
Weld - Greeley	484	1,612	30.0%	54.7%	397
Boulder - St. Vrain	317	2,205	14.4%	31.3%	372
El Paso - Harrison	364	1,035	35.2%	64.4%	303
El Paso - Colorado Springs	812	2,435	33.3%	45.5%	295
Jefferson	1,294	6,061	21.4%	26.2%	292
Mesa - Mesa Valley	425	1,627	26.1%	41.0%	242
Larimer - Poudre	365	2,070	17.6%	24.1%	134
Douglas	231	4,708	4.9%	7.2%	109
Larimer - Thompson	180	1,092	16.5%	23.9%	81
El Paso - Academy	76	1,552	4.9%	8.5%	56
Arapahoe - Littleton	154	1,065	14.5%	17.3%	30
El Paso - Falcon	125	1,256	10.0%	13.8%	12
Boulder - Boulder	329	2,060	16.0%	15.7%	(5)
Adams - Brighton	416	1,300	32.0%	29.6%	(66)
Pueblo - Pueblo City	967	1,360	71.1%	58.3%	(175)

Please note that some of the at-risk children who are not served through CPP are receiving quality preschool services through the federal Head Start Program or locally funded programs. In addition, this analysis is based on a head count of the number of children receiving preschool services. As discussed below, many districts choose to use two half-day preschool slots to provide a child with a full-day preschool program, thereby reducing the number of children served through CPP.

Participation of Children Under Age Four. Since FY 2002-03, all districts have been allowed to serve eligible three-year-old children through CPP as long as the child lacks overall learning readiness that is attributable to at least three significant family risk factors. In FY 2009-10, 123 of 168 (73 percent) of participating school districts chose to use CPP slots to serve children under age four; the State Charter School Institute also uses slots to serve younger children. This compares to 128 districts in FY 2008-09.

These districts used 4,930¹ CPP slots (24.5 percent of CPP preschool slots) to serve a total of 4,708 children under the age of four. This compares to 4,620 slots (23.7 percent) in FY 2008-09.

Number of Children Allowed to Use Two Slots. Districts may apply to the Department to use two CPP slots to provide an eligible child with a full-day, rather than half-day, preschool program. The Department is required to limit the total number of CPP slots that can be used for this purpose to five percent of the total, or 1,008 for FY 2009-10. **A total of 27 school districts and the State Charter School Institute used 664 CPP slots to serve children through a full-day program.**

State and Local Funding. The CPP is funded through the School Finance Act by allowing districts to count each participating child as a half-day pupil. Thus, the program has always been financed with both local and state funds. The amount of funding that each district receives per participant is based on the statutory formula that determines per pupil funding. The Department provided details concerning the portion of each participating district's total program funding that was earmarked for CPP in FY 2009-10. **Statewide, \$73.3 million of districts' total program funding was earmarked for the CPP (1.3 percent), including \$45.3 million in state funding (61.8 percent of total CPP funding).**

¹ This figure includes 222 slots that were used to provide full-day preschool services for 3-year-olds, and 260 slots that were used to serve children younger than age three under a pilot waiver.

**FY 2011-12 Joint Budget Committee Staff Budget Briefing
Department of Education**

December 2010 Lawsuit Status Update

As indicated at the end of the following briefing issue, both the district court and the Court of Appeals initially ruled that the plaintiffs' claims in the *Lobato* case constituted a non-justiciable political question. In October 2009 the Colorado Supreme Court reversed the judgment of the Court of Appeals, holding that the plaintiffs may challenge the State's current school financing system as violating the Colorado constitutional mandate that the General Assembly provide for a thorough and uniform system of public education. The Supreme Court thus held that the plaintiffs must be given an opportunity to prove their claim, and that it is the responsibility of the judiciary to determine whether the existing funding system is rationally related to this constitutional mandate. The plaintiffs filed an amended complaint in March 2010, including additional plaintiffs. The parties are currently engaged in the discovery process, and a five-week trial has been set for August 1, 2011.

Briefing Issue Originally Prepared in December 2009

INFORMATIONAL ISSUE: Status of *Anthony Lobato, et al., v. the State of Colorado, et al.*

In June 2005, a complaint was filed in Denver District Court alleging that current system of funding public schools violates three constitutional provisions. The plaintiffs ask the court to declare the current system unconstitutional and compel the State to design and implement a new system. The Colorado Supreme Court recently ruled that the plaintiffs' claims are justiciable and the plaintiffs must be given an opportunity to prove their claim.

SUMMARY:

- ❑ In January 2003, Augenblick & Myers, Inc., conducted an educational funding adequacy cost analysis for Colorado, defining "adequacy" based on state and federal law. The study suggested setting base per pupil funding at \$4,798 in FY 2001-02, and, in addition to annual inflationary increases, increasing it incrementally each year as the federal performance benchmarks increase from 70 percent proficiency to 100 percent in FY 2013-14. This would require increasing base per pupil funding by 62.2 percent over a twelve year period, plus annual inflationary and enrollment increases. Based on current enrollment levels, this \$2,613 increase in base per pupil funding would require an additional \$2.1 billion.

- ❑ In June 2005 a complaint was filed that alleges that the Colorado Constitution guarantees the fundamental right to an adequate, quality education, and the current system of funding public schools does not provide the financial resources necessary to meet this qualitative mandate. The complaint further alleges that the Taxpayer's Bill of Rights (TABOR) and Gallagher provisions of the Constitution are in conflict with and must yield to the "thorough and

uniform" provision. The complaint also alleges that the current system of funding public schools does not fairly allocate the property tax burden among Colorado citizens.

- ❑ The Plaintiffs ask the Court to declare the entire existing system of funding public schools (including the School Finance Act, categorical programs, and funding for districts' capital needs) unconstitutional, and to force the General Assembly to enact and fund a new system of public school finance.
- ❑ The district court ruled that the question of whether the current system of funding public schools is adequate is a non-justiciable political question which the General Assembly has the sole authority to answer. The Court of Appeals affirmed this ruling. The Colorado Supreme Court recently ruled, however, that the plaintiffs' claims are justiciable and it is the responsibility of the judiciary to determine whether the existing funding system is rationally related to the constitutional mandate to provide for a thorough and uniform system of public schools. This case will now proceed to trial.

DISCUSSION:

BACKGROUND INFORMATION: EDUCATIONAL FUNDING ADEQUACY

Adequacy Lawsuits

Since the early 1970's, 45 states have been involved in some form of school finance litigation. Initially, lawsuits generally concerned issues of funding *equity* among school districts. Following the standards-based reform movement of the 1980s, litigation shifted to issues of funding *adequacy* and the state's responsibility for providing a quality education. Plaintiffs are attempting to link funding levels to educational achievement levels. Thirty-eight states have faced or are facing adequacy lawsuits. To date, 20 of these states (53 percent) have lost such suits, 11 (29 percent) have won, and seven are still pending.¹

The financial impact on some states of losing an adequacy lawsuit have been significant, both in terms of additional funding for school districts and the actual costs of litigating. For example, in New York, a trial court judge ordered the state to increase New York City's school operating budget by \$5.6 billion over the next four years -- a 44 percent increase². A study commissioned by the state of Arkansas after it lost a lawsuit found that a 33 percent funding increase was needed³. In South

¹ National Access Network, "Education Adequacy Liability Decisions Since 1989 (November 2009). [Please note that this document lists Colorado as one of 21 states with a plaintiff victory. Given the status of the *Lobato* lawsuit, staff has listed Colorado as one of seven states in which cases are still pending.]

² David J. Hoff. "States Resist Meeting K-12 Spending Levels Ordered by Courts". Education Week (April 6, 2005).

³ Ibid.

Carolina, it is estimated that the plaintiffs spent \$6.8 million litigating the case and the state spent \$3.7 million defending itself -- a total of \$10.5 million in legal costs⁴.

Adequacy Cost Studies

At least 30 states have conducted studies to determine what an adequate education costs, and at least 14 states have conducted studies to estimate the costs of the federal No Child Left Behind Act⁵. There have been four primary approaches to define "adequacy":

- the professional judgement model;
- the evidence or best-practice model;
- the successful schools model; and
- the advanced statistical model⁶.

Recent adequacy studies in contested states argue that educational funding needs to be increased anywhere from 20 to 40 percent⁷.

In January 2003, Augenblick & Myers, Inc., conducted an adequacy cost analysis for Colorado⁸. This study includes two different approaches: (1) the professional judgement model; and (2) the successful school district model. The study defined "adequacy" based on state and federal law, setting a standard that requires districts to: teach to and assess all Colorado content standards; prepare students sufficiently to achieve on year's academic growth in one year of schooling; comply with state accreditation standards; comply with federal law, which requires 100 percent of students to meet state standards in reading and mathematics proficiency by 2013-14; and (for purposes of the successful districts model only) meet a certain level of performance with respect to dropout and graduation rates.

The professional judgement approach asks experienced educators to identify the resources that need to be in place in a district in order for students to achieve a specific set of objectives. These resources, which include: personnel, professional development, student activities, assessment,

⁴ Ibid.

⁵ National Conference of State Legislatures, "Education Finance Litigation", Legisbrief: Volume 13, No. 26 (June/July 2005).

⁶ Paul Teske, Professor, Graduate School of Public Affairs, CU Denver and Health Sciences, and Director, Center for Education Policy Analysis. "Stepping Up or Bottoming Out: Funding Colorado's Schools" (January 2005).

⁷ Ibid.

⁸ Augenblick, John, and John Myers. "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 (January 2003).

instructional supplies and materials, equipment, technology, and other services (e.g., full-day kindergarten, preschool, extended-day and summer programs) are then costed out. The study asked panels of educators to identify necessary resources for five prototype districts, ranging in size from very small to very large. The study identified base per pupil spending levels ranging from \$6,815 per pupil (for large districts) to \$16,373 (for very small districts). The study indicated that additional funding would then be required when serving at-risk students, students with disabilities, and students who are English language learners. The study notes that these amounts represent the costs of achieving 100 percent proficiency in reading and math. In 2002, the average performance benchmark was about 70 percent of the FY 2013-14 goal. Thus, the study indicates that \$4,798 (70 percent of \$6,815) is the basic per pupil amount needed to achieve 2002 performance benchmarks.

The successful school district approach involves an examination of actual spending in a set of school districts that are considered successful based on their performance. A total of 27 districts were selected because: at least 95 percent of students took assessments (CSAPs) in FY 2001-02; the percent of students that were at least partially proficient in reading and math met the baselines established by the Department for FY 2001-02 (these baselines vary for each subject and grade level); and the graduation rate was at least 85 percent. The study indicates that the pupil-weighted average base revenue amount for these successful districts was \$4,654 per pupil in FY 2000-01. [The study indicates that this amount would be \$4,794 if one inflates this amount by 3.0 percent -- and this is the number that would be comparable to the \$4,798 identified above.]

Comparing the basic per pupil amount identified through the professional judgement approach (\$4,798) to the base per pupil funding amount for FY 2001-02 (\$4,202), it appears that base per pupil funding would have to have been 14.2 percent higher to be "adequate" in FY 2001-02. **The study suggests** setting base per pupil funding at \$4,798 in FY 2001-02, and, in addition to annual inflationary increases, increasing it incrementally each year as the performance benchmarks increase from 70 percent proficiency to 100 percent in FY 2013-14. This would require **increasing base per pupil funding by 62.2 percent over a twelve year period** (\$6,815 compared to \$4,202), **plus annual inflationary and enrollment increases**. Based on current enrollment levels, this \$2,613 increase in base per pupil funding would require an additional \$2.1 billion. Under the current School Finance Act, once the various factors are applied, the additional amount required would be even higher.

BACKGROUND INFORMATION: RECENT LEGISLATION, LAWSUITS, AND INITIATIVES

Colorado's current system of financing public schools is the result of several legislative measures, court decisions, and voter-approved measures. Since 1970, the General Assembly has adopted three different School Finance Acts. The **1973 Act** was generally intended to address issues of funding equity among school districts, providing greater funding increases for lower spending districts and capping increases in per pupil funding without approval. In 1977, 16 school districts sought a ruling that the 1973 Act was unconstitutional (*Lujan v. Colorado State Board of Education*). The Denver District Court found that the Act violated the equal protection provisions of the U.S. and Colorado Constitutions and it violated the "thorough and uniform" provision of the Colorado Constitution.

However, in 1982 the Colorado Supreme Court reversed the trial court decision and found the 1973 Act constitutional⁹.

Also in 1982, the General Assembly referred a property tax reform measure that was approved by the voters. This measure included the **Gallagher Amendment**, which capped the share of residential share of property taxes.

In 1987, another lawsuit was filed in Denver District Court (*Hafer v. Colorado State Board of Education*) on behalf of several children and taxpayers. The *Hafer* suit again challenged the constitutionality of the 1973 Act. Defendants filed a motion to dismiss, and the Court dismissed one of three claims. Prior to trial on the remaining two claims, the General Assembly enacted the **1988 Act** and the Plaintiffs voluntarily dismissed the *Hafer* suit¹⁰. The 1988 Act categorized similar districts for purposes of funding, and it reduced the local share of funding to approximately 50 percent. In addition, it introduced a uniform mill levy, phasing in both increases and decreases in districts' mill levies. By 1991, this phase-in was complete, with most districts levying 40.080 mills.

In the early 1990s, following the General Assembly's adoption of the **Arveschoug-Bird limit** on General Fund appropriations in 1991 and voter approval of the **TABOR** initiative in 1992, the General Assembly adopted the **1994 Act**. This Act moved away from categorizing districts for purposes of funding, and instead established the same base funding for every pupil. The 1994 Act continued to recognize cost differences and differences in economies of scale, and it included a broader recognition of the costs associated with educating at-risk pupils¹¹.

In 1998 a class action complaint was filed in Denver District Court (*Giardino v. State Board of Education*) alleging that the State had not fulfilled its constitutional responsibility to provide for the establishment and maintenance of a thorough and uniform system of free public schools because of conditions existing in public schools. Defendants filed a motion to dismiss, and the Court denied the motion on all claims save one. In April 2000, a few days after the *Giardino* trial began, the parties agreed to settle the action. The Settlement Agreement was contingent upon the General Assembly adopting legislation (**S.B. 00-181**) that would provide a mechanism for funding capital construction, repair and maintenance in public schools, and provide a total of \$190 million state funds over eleven years to address the most serious needs.

Also in 2000, voters approved **Amendment 23**, requiring the General Assembly to increase base per pupil funding and state funding for categorical programs by the rate of inflation plus one percent for

⁹ Christy Chase, Office of Legislative Legal Services. Presentation to the 2005 Interim Committee on School Finance (July 21, 2005).

¹⁰ *Ibid.*

¹¹ Deb Godshall, Legislative Council Staff. Presentation to the 2005 Interim Committee on School Finance (July 21, 2005).

ten years, and by the rate of inflation annually thereafter. The stated intent of this initiative was to restore and then maintain inflation-adjusted base per pupil funding to 1988 levels.

Finally, in 2002, a complaint was filed in Denver District Court on behalf of students with disabilities in four districts and their parents (*Haley v. Colorado Department of Education*). Plaintiffs alleged that special needs students were not receiving an "adequate" education, and the system of funding special education services violates the Colorado Constitution. Defendants filed a motion to dismiss, and the Court granted the motion based on two of the six arguments raised by Defendants.

ANTHONY LOBATO, ET AL., V. THE STATE OF COLORADO, ET AL.

Complaint Filed

On June 23, 2005, Kathleen J. Gebhardt LLC and Alexander Halpern LLC filed a complaint in Denver District Court on behalf of taxpayers, parents, and students in eight school districts¹². The student plaintiffs range from a one-year-old future student to high school seniors. Plaintiffs also include 14 school districts¹³. The defendants include the State of Colorado, the Colorado State Board of Education, the Commissioner of Education, and the Governor. In addition, several education and other advocacy groups are part of the case as "friends of the court", including: Colorado League of Charter Schools, Colorado Association of School Boards, Colorado Association of School Executives, Colorado Education Association, Education Justice, Colorado Lawyers Committee, Colorado Center on Law and Policy, Great Education Colorado, Padres Unidos, and Multi cultural Education, Training & Advocacy Inc.

Allegations

The Complaint alleges that the current statutory scheme for funding public schools in Colorado violates three state constitutional provisions:

1. *Article IX, Section 2 (thorough and uniform)*: The Complaint argues that this constitutional provision guarantees to each and every school-age Colorado resident the "fundamental right to attend free public schools that provide an equal opportunity to obtain a constitutionally adequate, quality education" [Complaint, ¶ 4]. The Complaint further argues that an education is constitutionally inadequate unless it "prepare[s] residents to participate meaningfully in the civic, political, economic, social and other activities of our society and

¹² Individual plaintiffs reside in the following school districts: Adams – Commerce City (14), Adams/Arapahoe - Aurora (28J), Boulder Valley, Saguache - Center (26JT), El Paso - Harrison, Pueblo - Rural (70), Adams - Westminster (50), and Washington - Woodlin.

¹³ School district plaintiffs include: Alamosa - Alamosa (11J), Costilla - Centennial, Saguache - Center (26JT), Mineral - Creede, Rio Grande - Del Norte, Saguache - Moffat, Rio Grande - Monte Vista, Saguache - Mountain Valley, Conejos - North Conejos, Conejos - Sanford, Alamosa - Sangre de Cristo, Rio Grande - Sargent, Costilla - Sierra Grande, and Conejos - South Conejos.

the world, and to exercise the basic civil and other rights of a citizen of the State of Colorado and the United States of America” [Complaint, ¶ 5]. Plaintiffs argue that this provision imposes a duty upon the State to provide the financial resources necessary and appropriate to meet this "qualitative mandate" [Complaint, ¶ 6]

2. *Article IX, Section 15 (local control)*: The Complaint argues that control of instruction by locally elected school boards is an integral component of a thorough and uniform system of public education, and a system of public school finance that fails to provide sufficient financial resources to permit local boards to provide services, materials, and facilities necessary to meet the "qualitative mandate" is unconstitutional [Complaint, ¶ 7].
3. *Article X, Section 3 (1) (a) (uniform taxation)*: The Complaint alleges that Colorado’s use of property taxes to partially fund public schools does not fairly allocate the tax burden among Colorado citizens, resulting in taxpayers in property poor districts paying significantly higher mill levies and bearing a greater individual tax burden than similarly situated property owners in high wealth districts [Complaint, ¶ 27].

The Complaint alleges that education reform legislation adopted since the early 1990's, along with the Consolidated State Plan that was adopted by the State Board of Education pursuant to the federal No Child Left Behind Act of 2001, assist in defining the "qualitative mandate", measuring whether the State has fulfilled its constitutional responsibilities, and determining whether there are sufficient resources [Complaint, ¶ 14]. The Complaint alleges that the current base per pupil funding amount was based on historical funding levels and political compromise, and not on the basis of an analytical determination of the actual costs to provide an adequate, quality education [Complaint, ¶ 21]. Further, the Complaint alleges that assessment data demonstrates that children are not being provided with an adequate, quality education [Complaint, ¶ 119], and funding currently available to school districts is not sufficient to cover the costs of providing an adequate, quality education [Complaint, ¶ 16].

The Complaint also alleges that the Public Schools of Choice law was enacted without making provision for funding the additional costs of compliance and it impedes the ability of districts to provide all students with an adequate, quality education [Complaint, ¶ 167].

Finally, the Complaint includes allegations concerning funding for categorical programs and for districts' capital needs, alleging that:

- the current school finance system (including funding for various categorical and other programs) "fails to meet the constitutional rights of and discriminates against students from lower socio-economic backgrounds, ethnic and racial minorities, non-English speaking families, and students with disabilities" [Complaint, ¶ 25]; and
- the current system of financing capital outlay expenditures does not provide sufficient funding for adequate facilities, "contravenes the constitutional mandate of local control", and

does not allocate the tax burden among citizens equally or uniformly [Complaint, ¶¶ 26, 175].

The Complaint includes several paragraphs concerning TABOR, the Gallagher amendment, and Amendment 23. The Plaintiffs argue that TABOR and Gallagher "prevent the state and school districts from raising and expending funds necessary to establish and maintain a thorough and uniform system of free public schools" [Complaint, ¶ 176]. The Plaintiffs also argue that Amendment 23 "does not address, amend, supplant, or diminish the qualitative mandate of the [thorough and uniform provision]; nor does it define or limit the level or method of funding necessary to fulfill that mandate" [Complaint, ¶ 194]. The Complaint alleges that TABOR and Gallagher are procedural amendments and "are in irreconcilable conflict with and must yield to the substantive rights guaranteed by the [thorough and uniform provision]" [Complaint, ¶ 213].

Relief Sought

Plaintiffs ask the Court to: (a) declare the entire existing system of public school finance in Colorado unconstitutional; and (b) enter interim and permanent injunctions compelling Defendants to design, enact, fund, implement, and maintain a new system of public school finance that "fulfills the qualitative mandate" [Complaint, ¶¶ 228 - 229]. The Plaintiffs also ask the Court to retain continuing jurisdiction over the matter and to award the Plaintiffs their costs, including reasonable attorneys' and expert witness fees, and "such other and further relief as the Court deems just and proper" [Complaint, ¶¶ 231 - 233].

Motion to Dismiss

On August 24, 2005, the Attorney General's Office filed a motion to dismiss the case "for lack of subjective matter jurisdiction and failure to state a claim upon which relief can be granted" [Motion to Dismiss, page 3]. The Motion included four arguments:

1. The people of the State of Colorado "have already determined the constitutionally-required minimum state-level contribution for funding public education by enacting Amendment 23". [Motion, page 5]. As the General Assembly has complied with Amendment 23, the Plaintiffs' first and second claims for relief should be dismissed (i.e., denial of the constitutional right to a quality education and violation of the constitutional authority to control of instruction) [Motion, page 8].
2. The Colorado Constitution commits the determination of educational adequacy to the legislative branch, and there are no judicial standards for measuring educational adequacy. Consequently, the Plaintiffs' first and second claims for relief are "not of the type that admit judicial resolution, and therefore this Court lacks jurisdiction over the claims" [Motion, page 19]. Further, TABOR bars the relief requested by the Plaintiffs because only a vote of the people can create new taxes or approve spending of surplus tax revenues [Motion, page 22].
3. Property tax mill levies are local, not state, property taxes, and control over local property tax revenue is an integral part of local control. As property taxes levied by each school

district fall evenly on classes of property within each district, the Plaintiffs' third claim for relief should be dismissed (i.e., violation of the uniform taxation guarantee).

4. Plaintiff school districts are political subdivisions and must be dismissed for lack of standing because they are political subdivisions and cannot challenge statutes that direct the performance of their duties.

Court Decisions to Date

In March 2006, without taking evidence, the *district court* granted the defendants' motion to dismiss, ruling that the plaintiffs failed to state a claim upon which relief could be granted. The court determined that Amendment 23 sets minimum standards for educational funding and that the question of whether Amendment 23 levels of funding are adequate is a non-justiciable political question which the General Assembly has the sole authority to answer. The court also ruled that plaintiff school districts lacked standing to challenge the constitutionality of school financing, but did not address the plaintiff parents' standing.

In January 2008, the *Court of Appeals* affirmed the district court's ruling that school districts lacked standing. It also affirmed the district court's holding that the plaintiffs' claims constituted a non-justiciable political question. The Court of Appeals did hold that plaintiff parents have standing.

The plaintiff school districts appealed their dismissal for lack of standing. Both plaintiff parents and plaintiff school districts appealed the holding that their claims present a non-justiciable political question.

On October 19, 2009, the *Supreme Court* announced its decision concerning the plaintiffs' appeal. The Supreme Court held that plaintiffs may challenge the State's current school financing system as violating the Colorado constitutional mandate that the General Assembly provide for a thorough and uniform system of public education. The Court held that the plaintiffs' claims are justiciable and the plaintiffs must be given an opportunity to prove their claim, and that it is the responsibility of the judiciary to determine whether the existing funding system is rationally related to this constitutional mandate.

The Supreme Court instructed the district court to "give substantial deference to the legislature's fiscal and policy judgments", and stated that the court "may appropriately rely on the legislature's own pronouncements concerning the meaning of a 'thorough and uniform' system of education" [Supreme Court opinion, page 10]. Further, the Supreme Court states that, "If the trial court finds the current system of public finance irrational and thus unconstitutional, then that court must permit the legislature a reasonable period of time to change the funding system so as to bring the system in compliance with the Colorado Constitution." [Supreme Court opinion, page 10].

The Supreme Court thus reversed the judgment of and remanded the case to the Court of Appeals to be returned to the district court.

Case Status

The *Lobato* case will now proceed to trial, where the plaintiffs will have an opportunity to prove their claim. Plaintiff lawyers involved in the case have indicated that they intend to file an amended complaint, and hope that the trial will begin within 12 to 18 months¹⁴. The trial is expected to be lengthy and expensive.

¹⁴ Education News Colorado, “High Court Revives Lobato ‘Adequacy’ Suit”, October 20, 2009.

**FY 2011-12 Joint Budget Committee Staff Budget Briefing
Department of Education**

APPENDIX E: FY 2010-11 JBC STAFF BUDGET BRIEFING
(Originally presented on December 4, 2009)

BRIEFING ISSUE

INFORMATIONAL ISSUE: Status of the “BEST” Capital Construction Assistance Program.

This issue brief summarizes a 1998 lawsuit filed against the State concerning public school facilities and the resulting settlement agreement, describes the program that was established in 2008 to increase the amount and timeliness of state assistance, and provides a status update on the implementation of this program.

SUMMARY:

- In 1998, a class action complaint was filed alleging that the State had not fulfilled its constitutional responsibility to provide a thorough and uniform system of public schools because of conditions existing in public school facilities. The parties settled the action, and the Settlement Agreement required the General Assembly to appropriate \$190 million General Fund over 11 years to assist school districts with capital improvements.
- House Bill 08-1335 replaced the financial assistance programs that were established in response to the lawsuit with the Building Excellent Schools Today (BEST) grant program. This program was designed to increase the amount and timeliness of state financial assistance. Rather than relying on General Fund appropriations, this program is supported by income earned on state public school lands and lottery proceeds. These moneys are used both for direct grants and to make lease payments on certificates of participation that are used to finance certain projects.
- The BEST Program has established public school facility construction guidelines for use in assessing and prioritizing district needs and it has contracted for an assessment of every public school facility in the state (to be completed next month). To date, the program has approved over \$200 million in state financial assistance for district capital improvement projects.

DISCUSSION:

Background Information: *Giardino* Lawsuit Settlement

Section 2 of Article IX of the Colorado Constitution requires that the General Assembly “provide for the establishment and maintenance of a thorough and uniform system of free public schools throughout the state, wherein all residents of the state, between the ages of six and twenty-one years, may be educated gratuitously.” In other states, courts have determined that similar constitutional provisions require school finance laws to ensure equitable *capital* funding, not just operational funding. For example, the Wyoming court determined that, “deficient physical disparities deprive students of an equal educational opportunity and any financing system that allows such deficient facilities to exist is unconstitutional.”

Capital construction for K-12 public schools in Colorado has historically been considered a local school district issue. Prior to 1988, Colorado’s school finance legislation authorized districts to impose a mill levy (up to four mills) for capital construction needs. Subsequently, school finance legislation required each district to reserve a minimum amount of funding each year for district capital construction needs (for FY 2008-09, the minimum capital reserve amount was \$298 per pupil). However, for most districts, this set-aside amount was inadequate and they rely on general district revenues and/or voter-approved debt instruments to meet their capital construction needs. A school district’s ability to meet their capital demands is limited by both the district’s assessed value per pupil (which affects the size of the mill levy required to raise a given amount of revenue) and the willingness of a district’s voters to approve mill levy increases.

In 1998 a class action complaint was filed in Denver District Court (*Alec Giardino, et al. v. the Colorado State Board of Education, et al.*) alleging that the State had not fulfilled its constitutional responsibility to provide for the establishment and maintenance of a thorough and uniform system of free public schools because of conditions existing in public schools, including:

- condemned portions of schools;
- leaking and failing roofs;
- over-crowded facilities;
- substandard plumbing and wiring;
- asbestos-containing materials requiring abatement;
- inadequate access for the disabled;
- inadequate technology infrastructure; and
- inadequate heating and cooling equipment.

The complaint alleged that the districts have insufficient funding to support needed capital improvements. The class action requested relief, including requiring the State to designate a "permanent source or sources of funding" for capital requirements that is separate and distinct from operational funding, as well as court costs and attorney fees.

In April 2000, a few days after the *Giardino* trial began, the parties agreed to settle the action. The Settlement Agreement was contingent upon the General Assembly adopting legislation that would provide a mechanism for funding capital construction, repair and maintenance in public schools, and provide a total of \$190 million state funds over eleven years to address the most serious needs.

The General Assembly subsequently adopted, and the Governor signed, S.B. 00-181 to implement the terms of the Settlement Agreement. This bill required the General Assembly to appropriate a total of \$190.0 million from the General Fund over an eleven-year period to provide grants and matching funds to districts for capital projects that would address immediate safety hazards or health concerns, relieve excessive operating costs created by insufficient maintenance or construction spending; or relieve conditions that detract from an effective learning environment.

A statutory provision was included in S.B. 00-181 prohibiting the General Assembly from making the General Fund appropriations set forth in the act in a fiscal year in which General Fund revenues do not exceed certain annual obligations by more than \$80.0 million¹. Due to revenue shortfalls, the General Assembly was not statutorily obligated to appropriate General Fund moneys for school capital construction from FY 2001-02 through FY 2006-07. However, the General Assembly elected to waive this provision for certain fiscal years. The General Assembly also appropriated moneys from the State Education Fund for capital construction purposes. In addition, lottery proceeds have been available for capital construction needs. The following table provides a summary of funding required by S.B. 00-181 (given sufficient revenues) and funding made available through FY 2007-08 for capital construction programs (excluding funding specifically for charter schools).

Fiscal Year	Appropriations Required Pursuant to S.B. 00-181 if General Fund Revenues are Sufficient	Funding Made Available To Date for Capital Construction			
		General Fund	State Education Fund	Lottery Proceeds	Total
00-01	\$5,000,000	\$5,000,000	\$0	\$0	\$5,000,000
01-02	10,000,000	10,000,000	6,471,052	0	16,471,052
02-03	15,000,000	0	6,500,060	8,499,940	15,000,000
03-04	20,000,000	0	10,000,000	3,690,377	13,690,377
04-05	20,000,000	0	5,000,000	2,396,438	7,396,438
05-06	20,000,000	25,000,000	5,000,000	1,691,454	31,691,454
06-07	20,000,000	15,000,000	0	12,545,316	27,545,316
07-08	<u>20,000,000</u>	<u>20,000,000</u>	<u>0</u>	<u>8,219,905</u>	<u>28,219,905</u>
Subtotal	130,000,000	75,000,000	32,971,112	37,043,430	145,014,542

¹ Through H.B. 06-1375, the General Assembly amended this language to allow (but not require) the General Assembly to make a General Fund appropriation even if the threshold is not met [see Section 24-75-201.1 (4) (c) (II), C.R.S.].

Fiscal Year	Appropriations Required Pursuant to S.B. 00-181 if General Fund Revenues are Sufficient	Funding Made Available To Date for Capital Construction			
		General Fund	State Education Fund	Lottery Proceeds	Total
08-09	20,000,000				
09-10	20,000,000				
10-11	<u>20,000,000</u>				
Total	\$190,000,000				

Building Excellent Schools Today (BEST) Program

House Bill 08-1335 replaced the capital construction financial assistance programs that were established in response to the *Giardino* lawsuit with the Building Excellent Schools Today (BEST) grant program. The BEST program was designed to increase the amount of state financial assistance provided and allow projects to be completed more quickly. Rather than relying on annual General Fund appropriations, this new program is supported by royalty and rental income earned on state trust lands, interest earned on the Public School Fund, and lottery proceeds. Specifically, the act requires the following moneys to be credited to the Public School Capital Construction Assistance (PSCCA) Fund beginning in FY 2008-09:

- 35 percent of the gross amount of income received during the fiscal year from income, mineral royalties, and interest derived from state public school lands (or more if required to make lease payments under the terms of lease-purchase agreements);
- all net proceeds from the sale of certificates of participation (COPs) payable to the State under the terms of such lease-purchase agreements;
- all local matching moneys; and
- lottery proceeds that would otherwise be transferred to the General Fund.

These state revenues, along with local matching funds, are to be used to finance projects directly and to make lease payments on certificates of participation (COPs) used to finance construction projects.

The act created a PSCCA Board and Division within the Department of Education to administer the grant program. The PSCCA Board is required to:

- (a) establish public school facility construction guidelines for use in assessing and prioritizing public school capital construction needs;
- (b) conduct or contract for a financial assistance priority assessment of public school facilities throughout the state;
- (c) prioritize financial assistance applications for eligible public school facility capital construction projects based on specified criteria; and

- (d) annually submit a prioritized list of projects recommended for financial assistance to the State Board.

Subject to State Board authorization, the PSCCA Board may provide financial assistance to applicants as matching grants or by instructing the State Treasurer to enter into lease-purchase agreements on behalf of the State to finance public school facility capital construction. The act limits the total amount of annual lease payments payable by the State in any fiscal year, and requires payments above lower specified limits to be made only from applicant matching moneys. Financial assistance is awarded based on specified statutory criteria, as well as the results of a statewide assessment of public school facilities. This assessment will cover building conditions and space requirements in all 178 school districts, charter schools, State Charter School Institute schools, boards of cooperative services, and the Colorado School for the Deaf and Blind.

Status of the BEST Program

The PSCCA Board has established public school facility construction guidelines, and it has contracted with a vendor (Parsons) to conduct the financial assistance priority assessment. Parsons has gathered information for each facility related to four areas: (1) physical condition; (2) code compliance; (3) energy usage; and (4) suitability. Parsons is currently finalizing its data collection, review, and validation, and preparing report templates. In January 2010, Parsons anticipates publishing a preliminary state report. The database constructed by Parsons will provide assessment information for each school, each district, and the state as a whole. The database will also allow the Division to prioritize projects based on weighing various parameters.

Following the first round of grant applications, in March 2009 the State Board of Education approved the following 11 capital improvement projects under the BEST program:

- Alamosa: two new elementary schools to replace three elementary schools;
- Logan - Buffalo: junior/senior high school renovation/addition;
- Costilla - Centennial: a new pr-K-12 school;
- El Paso - Edison: a new elementary school;
- Prowers - Holly: partial roof replacement;
- Saguache - Mountain Valley: roofing and repair under designed structure;
- Pueblo City: final phase to district-wide fire and security;
- Alamosa - Sangre De Cristo: a new pre-K-12 school;
- Rio Grande - Sargent: a new junior/senior high school and elementary school renovation;
- Routt - South Routt: district-wide HVAC replacement with renewable technology; and
- Morgan - Weldon Valley: core area remodel, physical education and athletic facilities upgrade.

These projects are estimated to cost \$98.5 million at completion, requiring a total of \$76.5 million in state financial assistance and \$22.0 million in local matching funds. Three of the approved projects (Alamosa, Sangre de Cristo, and Sargent) were initially anticipated to be financed primarily through COPs. In August, the State Treasurer announced that these projects will instead be financed

using the Qualified School Construction Bond program (QSCB), a new financing structure that allows public entities to borrow at zero percent interest to finance K-12 capital construction. The federal government pays the interest on the projects, lowering the costs of these projects by approximately \$45 million when compared to traditional tax-exempt financing.

For FY 2009-10, the State Board approved BEST cash grants totaling \$14.9 million for 43 projects; these grants will be matched with \$18.7 million in local funds. The State Board also approved BEST lease-purchase funding for 12 projects. These projects are estimated to cost \$169.4 million at completion, requiring \$112.5 million in state financial assistance and \$56.9 million in local matching funds. It is anticipated that these lease-purchase projects will be financed using a combination of QSCBs and interest-bearing COPs.