



Legislative  
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**FISCAL NOTE**

**Drafting Number:** LLS 19-0388  
**Prime Sponsors:** Sen. Todd  
 Rep. Buentello

**Date:** January 25, 2019  
**Bill Status:** Senate Finance  
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**Bill Topic:** HIGH-COST SPECIAL EDUCATION TRUST FUND GRANTS

**Summary of Fiscal Impact:**

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> School Districts
<input checked="" type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

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

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

**Fiscal Note Status:** This fiscal note reflects the introduced bill.

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

		FY 2018-19 <i>(current year)</i>	FY 2019-20	FY 2020-21
<b>Revenue</b>		-	-	-
<b>Expenditures</b>	Cash Funds		\$107,923	\$193,644
	Centrally Appropriated		\$3,780	\$3,780
	<b>Total</b>		<b>\$111,703</b>	<b>\$197,424</b>
	<b>Total FTE</b>		<b>0.3 FTE</b>	<b>0.3 FTE</b>
<b>Transfers</b>	General Fund	(\$1,000,000)	-	-
	Marijuana Tax Cash Fund	-	(\$2,597,430)	(\$2,857,360)
	Cash Funds	\$1,000,000	\$2,597,430	\$2,857,360
	<b>Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>TABOR Refund</b>	General Fund	-	-	-

## **Summary of Legislation**

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

**Funding.** On June 30, 2019, the bill transfers \$1.0 million from the General Fund to the trust fund. On August 1, 2019 and each year thereafter, the bill transfers 2 percent of the amount in the Marijuana Tax Cash Fund (MTCF) that is available for appropriation by the General Assembly. The initial and recurring transfers constitute the principal of the fund and cannot be appropriated, transferred, or expended.

The State Treasurer will manage the fund through investments, with a targeted minimum annual return of 3 percent on the principal. The interest and income is continuously appropriated to the Colorado Department of Education (CDE).

**Grants.** An administrative unit may apply for a grant from the trust fund if:

- the administrative unit had expenditures over three consecutive years to meet the requirements of a single individualized education plan (IEP); and
- those expenditures exceeded either \$300,000 or 10 percent of the unit's general operating budget, whichever is lower.

The bill defines the qualified grant expenditures for which an administrative unit may use the grant, and criteria for determining grant recipients and grant amounts.

**Reporting.** For each year in which the committee awards a grant, the committee must report to the education committees of the General Assembly information concerning the balance in the trust fund, the number of applications received, and the amount awarded in grants to specific administrative units.

## **Background**

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

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

**Colorado Special Education Fiscal Advisory Committee.** The SEFAC is made up of 12 members and currently administers a grant program to provide funding to administrative units that incur high costs to provide services to students with disabilities. Grants are awarded to administrative units based on the IEP expenditures in a single year, as a percentage of the unit's total expenditures. Of the amount appropriated, 50 percent must be provided to administrative units with students placed in-district and 50 percent must be provided to administrative units with students placed in out-of-district programs. In FY 2017-18, administrative units submitted grant

applications for almost 400 students, with requests totaling about \$18.8 million. SEFAC provided \$4.0 million in grants to 22 administrative units for 27 students with out-of-district placement and 88 students with in-district placement.

**State Transfers**

In the current FY 2018-19, the bill transfers \$1.0 million from the General Fund to the trust fund. Beginning in FY 2019-20, the bill transfers two percent of the amount in the MTCF that is available for appropriation to the trust fund. The amount transferred from the MTCF is expected to be about \$2.6 million in FY 2019-20 and \$2.9 million in FY 2020-21.

**State Expenditures**

The bill increases state expenditures from the trust fund by \$107,923 in FY 2019-20 and \$193,644 in FY 2020-21.

Table 2 shows income to the fund, the amount available to be spent, and the amount that will be spent on grants and administration. The amount available is based on the an assumed 3.0 percent interest rate on trust fund principal. In subsequent years, the amount available to be spent from the trust fund is expected to grow as the principal grows.

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

	FY 2018-19 <i>(current year)</i>	FY 2019-20	FY 2020-21
Transfer from General Fund	\$1,000,000	-	-
Transfer from MTCF	-	\$2,597,430	\$2,857,360
<b>Cumulative Principal in Trust Fund</b>	-	<b>\$3,597,430</b>	<b>\$6,454,790</b>
<b>Amount Available (3% interest rate)</b>	-	<b>\$107,923</b>	<b>\$193,644</b>
Administrative Costs	-	\$23,696	\$23,696
Amount Available for Grants	-	\$84,227	\$169,948
Estimated Number of Grants	-	1-2 grants	3-4 grants

**Administrative costs.** Beginning in FY 2019-20, CDE requires approximately \$23,696 to implement the bill. The costs include personnel and conducting additional SEFAC meetings. Based on current expenses of \$1,625 per meeting, \$6,500 is required to hold four additional SEFAC meetings.

Beginning in FY 2019-20, CDE requires 0.3 FTE to establish an application process, review applications, award grants, support SEFAC, and establish a new data collection process. The current high-cost grant program uses IEP expenditures over a single year, while the new grant program will require CDE to collect IEP expenses over three years to determine eligibility for the new grants. As a result, the additional staffing is required to develop a new data submittal process, support and train administrative units on the data reporting, monitor for issues around personal identifiable information, and conduct data analysis to determine eligibility.

In future years, the FTE required to implement the program is likely to increase as the amount of available grant funding increases. The current grant program receives approximately 400 applications, with approximately 1.0 to 1.5 FTE working on the program during peak months. While there may be efficiencies to be gained as the new program becomes more established, the fiscal note assumes that there will be high interest in and additional workload for the new grant program when more funding is available.

**Grants.** Under the current program, grants range between \$22,000 and \$74,000 per student, depending on whether the student is served in-district or out-of-district. Assuming a grant size of \$50,000, the \$84,227 available for grants in FY 2019-20 will provide one to two additional grants, and the \$169,948 available in FY 2020-21 will provide three to four additional grants. As the principal amount in the fund grows, the number of grants provided will increase.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$3,780 in FY 2019-20 and FY 2020-21.

### **School Districts**

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

### **Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

### **State Appropriations**

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

### **State and Local Government Contacts**

Education