

- ▶ districts are no longer required to set aside specific amounts of their budgets for capital needs, risk management activities, and instructional supplies and materials;
- ▶ the cap on the amount of additional local property tax revenue that a school district may raise and spend (the override limit) is increased from 20% of total program funding to 25%;
- ▶ charter school capital construction is set at \$140 and \$160 per charter school student in the next two years, and grows by inflation thereafter;
- ▶ a pilot residential school for at-risk students is established; and
- ▶ every student enrolling in 6th grade must register with the online college planning and preparation resource, "College in Colorado."

Other Provisions. The bill increases the statewide base per pupil funding per constitutional requirements of inflation plus 1% (from \$5,250.41 to \$5,507.68). In addition, the bill maintains the supplemental kindergarten funding of 8% of per pupil revenue through FY 2009-10.

The bill also modifies the TABOR reserve requirements for school districts. Specifically, it authorizes school districts to designate real property as all or a portion of their required TABOR reserve if they have already provided for a 3% General Fund reserve in a given budget year. It also authorizes governmental entities to invest in qualifying certificates of participation (COPs) issued by school districts under certain conditions and permits the state treasurer to grant permission to include a moral obligation for repayment in a lease-purchase agreement if it is in the best interests of the state or will reduce borrowing rates.

State Revenue

The bill establishes a new pilot residential boarding school for at-risk students, which is funded by gifts, grants, and donations; state appropriations; and federal funds. Money received will be deposited into the Pilot School Fund, which must be appropriated by the General Assembly for the direct and indirect costs of the school. In the event that Colorado receives "Race to the Top" program funding from the federal government as part of the American Recovery and Reinvestment Act of 2009, the bill encourages the Governor to allocate money to the Pilot School Fund. It is unknown how much federal funding will be received or the amount of gifts, grants, and donations.

State Expenditures

Background. School finance in Colorado is governed both by the constitution (Amendment 23 - Article IX, Section 17) and statutes (the Public School Finance Act of 1994 - Title 22, Article 54, C.R.S.). Under current law, the program is estimated to cost about \$5.5 billion in FY 2009-10, of which over \$3.5 billion comes from state sources, mainly the state General Fund. Current law requirements are funded through the Long Bill; any changes to law require a separate appropriation.

SB09-256 increases state General Fund expenditures for K-12 education by an estimated **\$2.2 million in FY 2009-10** and reduces State Education Fund expenditures by **\$148.1 million** relative to the requirements of current law. The components of these expenditure impacts are shown in Tables 1 and 2.

State Education Fund expenditures are increased \$4.5 million for incentive payments to certain high-performing schools serving at-risk pupils, and a combined \$5.7 million to hold school districts and charter schools harmless from the change in how at-risk students are funded. Categorical program expenditures are reduced proportionately by \$6.8 million, which includes programs such as English language proficiency, transportation, and special education. State Education Fund expenditures are also reduced \$151.5 million through a decrease in the size and at-risk factors and the change in enrollment averaging from five years to four years in FY 2009-10.

General Fund expenditures are increased \$2.2 million in FY 2009-10 and \$10.5 million in FY 2010-11. The bill provides additional charter school capital construction money of \$2.2 million in FY 2009-10 and \$3.3 million in FY 2010-11. In addition, the bill creates a new residential boarding school for at-risk students that is projected to cost \$7.2 million in FY 2010-11 and \$14.4 million in FY 2011-12. Funding for the boarding school comes from gifts, grants, and donations; money appropriated by the General Assembly; or federal funds. Since it is unknown how much will be received as gifts, grants, and donations or from the federal government, the fiscal note assumes that funding for the school will be from the General Fund.

Table 1. State Education Fund Expenditures under SB09-256		
Provision	FY 2009-10	FY 2010-11
Centers of Excellence	\$4,500,000	\$4,500,000
Reduced Size and At-Risk Factors, plus Enrollment Averaging	(151,489,440)	(160,163,073)
Charter School Hold-harmless for At-Risk Student Funding	4,459,800	3,344,862
District Hold-Harmless for At-Risk Student Funding	1,234,605	925,954
Categorical Programs	(6,813,637)	(4,270,816)
TOTAL	(\$148,108,672)	(\$155,663,073)

Table 2. General Fund Expenditures under SB09-256		
Funding Source and Provision	FY 2009-10	FY 2010-11
Charter School Capital Construction	\$2,206,164	\$3,318,037
Pilot Residential Boarding School for At-Risk Students	0	7,200,000
TOTAL	\$2,206,164	\$10,518,037

Centers of Excellence (\$4.5 million). The bill establishes a new "centers of excellence" incentive payment program. Through the program, additional funding is available for middle, junior, or high schools that enroll high percentages of at-risk students and meet specific achievement goals. The bill specifies that 100% of the incentive payments be allocated by districts to the qualifying schools.

In FY 2009-10, it is assumed that \$4.5 million in centers of excellence incentive payments will be paid. For a school to qualify, more than 40% of its enrollment must be at-risk students *and* growth in student test scores in grades eight through eleven must exceed some defined statewide growth measure. The incentive payment is \$250, \$500, and \$1,000 per at-risk student in each qualifying school and is determined as follows:

- ▶ between 40% and 75% at-risk—\$250 per at-risk pupil;
- ▶ between 75% and 90% at-risk—\$500 per at-risk pupil; and
- ▶ greater than 90% at-risk—\$1,000 per at-risk pupil.

Reduced Size and At-Risk Factors (decrease of \$151.5 million). The bill reduces the existing district size and at-risk factors specified in statute and decreases the time period allowed for enrollment averaging. All size factors are reduced proportionally by approximately 2.5%. The at-risk factor is reduced from 12.0% to 11.9%. In FY 2009-10, five-year averaging is not allowed and in subsequent years, neither four-year nor five-year averaging is allowed in determining student enrollment. The change in both factors will decrease total program payments by an estimated \$151.5 million in FY 2009-10 and \$160.2 million in FY 2010-11.

Hold-harmless Provisions for At-Risk Funding (\$5.7 million). Under current law, charter schools receive at-risk funding based on the overall percentage of at-risk students in the school district, regardless of the number of at-risk students in the charter school. The bill bases at-risk funding for charter schools on how many at-risk students are enrolled in the school and the average amount of at-risk funding per at-risk student in the district. As a result, some charter schools will receive less funding and some more than they would have under the current system. Likewise, some districts will have less funding available for non-charter schools and some districts will have more.

The bill contains two provisions that hold both charter schools and districts harmless from the change in funding, which is phased-out over a four-year period. For example, in the first year, a charter school that was going to lose funding will receive a supplemental payment equal to 100% of the difference between the amount of at-risk funding they would have received under the old system and what they would receive under the bill. In the second, third, and fourth years, they will receive 75%, 50%, and 25% of this amount, respectively. A similar supplemental payment process is provided for school districts that would receive less at-risk funding for non-charter schools. In FY 2009-10 and FY 2010-11, the charter school hold-harmless provision is expected to increase state expenditures by **\$4,459,800** and \$3,344,862, respectively. The school district provision is expected to cost **\$1,234,605** in FY 2009-10 and \$925,954 in FY 2010-11.

Categorical Programs (decrease of \$6.8 million). The bill specifies that hold-harmless funding for charter schools and school districts will be considered a categorical program. As a result, funding for categorical programs is reduced proportionately and includes the following reductions:

- ▶ English language proficiency (\$2.2 million);
- ▶ school transportation (\$2.4 million);
- ▶ vocational education (\$1.0 million); and
- ▶ special education/gifted and talented students/expelled students/health education (\$1.2 million).

Charter School Capital Construction (\$2.2 million). The bill provides additional funding for charter school capital construction projects. Starting in FY 2009-10, funding will be set at \$140 per student enrolled in charter schools and institute charter schools. An estimated 51,473 pupils are projected to be enrolled in charter schools in FY 2009-10, resulting in capital construction funding of \$7.2 million. Current law already provides \$5 million for charter school capital construction, with the net increase of \$2.2 million reflected in the fiscal note. In FY 2010-11, the per pupil amount increases to \$160, and in following years the per pupil amount grows by inflation.

Pilot Residential School. The bill creates a new pilot residential boarding school for at-risk students. The State Board of Education will contract with an operator to provide a year-round educational program for students in grades nine through twelve, focusing on science, technology, engineering, and mathematics. Funding for the program will be based on gifts, grants, and donations; state appropriations; and federal funds. Based on data relating to the operation of the Colorado School for the Deaf and Blind, it was estimated that the annual operating expenses in the first year would be \$7.2 million. This assumes that 100 students enroll, beginning in FY 2010-11. These costs will grow in subsequent years as 100 new students are enrolled each year for four years. Since the bill does not make the school contingent upon receiving sufficient federal funds or donations, the fiscal note assumes that these costs will be borne by the General Fund.

School District Certificates of Participation (conditional). The bill allows school districts to enter into an agreement with the state whereby the state treasurer would request an appropriation from the General Assembly to restore the balance in the Certificates of Participation Reserve Fund to a level specified when the COPs were issued. This allows but does not require the state to invest in COPs issued by school districts. If the state appropriates money to restore the fund balance, and the district defaults on its COP payments, the bill specifies that the state has the right of first refusal to purchase the property financed by the COP issuance for an amount equal to the remaining principal.

Institute Charter School Funding. Currently, institute charter school funding is allocated to the school from the state share of a district's total program funding. When the district pays the majority of program funding, there may not be enough state share to fully fund the institute charter school. In these cases, the institute charter school receives the total amount of the state share payable to the district. This bill requires the CDE to apply for supplemental funding to make the institute charter school whole. However, providing supplemental funding is at the discretion of the General Assembly.

School District Impact

Table 3 shows the estimate of school finance act funding under SB09-256.

Table 3. School Finance Act Funding					
	Pupil Count	Per Pupil Funding	Total Program Funding	State Aid	Local Share
FY 2008-09 Act.	778,136	\$6,882	\$5,354,966,916	\$3,399,098,235	\$1,955,868,682
FY 2009-10 Est.	787,213	\$7,046	\$5,551,306,383	\$3,549,506,661	\$2,001,799,722
Percent change	1.17%	2.38%	3.67%	4.43%	2.35%
Increase	9,077	\$164	\$196,339,467	\$150,408,426	\$45,931,040

Centers of Excellence. Qualified schools that meet academic performance requirements are eligible to receive incentive payments of \$250, \$500, and \$1,000 per at-risk pupil. The bill specifies a performance criteria using longitudinal assessment scores. The fiscal note assumes that the definition of a high-performance school will be adjusted to award \$4.5 million in FY 2009-10.

Reduced Size, At-Risk Factors, and Enrollment Averaging. A reduction of the size and at-risk factors in combination with the use of four-year enrollment averaging reduces total program payments by \$151.5 million in FY2009-10 and \$160.2 million in FY 2010-11. The impact of this provision on individual districts will depend on the district's enrollment, at-risk student population, and whether the district's enrollment is growing or shrinking.

Hold-harmless Provisions for At-Risk Funding. Changes to the calculation of at-risk funding will result in some charter schools receiving less funding and some districts having less at-risk funding available for non-charter schools. However, due to the hold-harmless provision, the state will supplement total at-risk funding such that charter schools that would have otherwise received less funding will get 100% of the level of funding specified in current law in FY 2009-10, 75% in FY 2010-11, 50% in FY 2011-12, and 25% in FY 2012-13. Charter school funding will increase by \$4,459,800 in FY 2009-10 and \$3,344,862 in FY 2010-11. Similarly, school districts that would have less at-risk funding available for other schools because of higher allocations to charter schools will receive \$1,234,605 in FY 2009-10 and \$925,954 in FY 2010-11 due to the hold-harmless provisions.

The bill also makes two other changes regarding at-risk funding. First, an increasing percentage of charter school at-risk funding must be spent on direct instruction or staff development related to educating at-risk students. Second, school districts must allocate an increasing percentage of at-risk funding to the schools at which at-risk students are enrolled.

Categorical Programs. The reduction in categorical program spending of \$6.8 million in FY 2009-10 will reduce the amount of money available for those programs in school districts. Districts that receive a larger share of those funds will see a disproportionate reduction compared with other districts.

Institute Charter Schools. Institute charter schools that would receive reduced funding due to the small state share of a district's total program funding may be eligible for funding through the supplemental budget process.

Charter School Capital Construction. The bill provides \$2.2 million for charter school construction projects in FY 2009-10. This amount grows to \$3.3 million in FY 2010-11 and increases by the rate of inflation each year thereafter.

District Set Aside Amounts. The bill eliminates the existing requirement that each district and charter school set aside a percentage of its budget for capital needs, risk management activities, and instructional supplies and materials. Although school districts will still have expenditures for these budget items, elimination of this requirement increases budget flexibility for district spending in FY 2009-10 and beyond. It is anticipated that districts and charters would set aside a total of \$395.1 million in FY 2009-10 under the existing requirements.

District Property Tax Overrides. The bill modifies the requirements for requesting voter approval of additional property taxes, known as overrides. Current law caps overrides at 20% of the district's school finance act funding or \$200,000 plus a cost-of-living adjustment from 2001, whichever is more. The bill increases the existing cap on the amount of additional property tax revenue that a school district may raise and spend in excess of its total program through a special election. This bill raises the cap to the larger of 25% of the district's total program or \$200,000 plus the 2001 cost-of-living adjustment. Any district that seeks voter approval to increase the cap is required to submit a proposal to the State Board of Education concerning the use of the new revenue.

It is unknown how many districts would seek voter approval to increase the cap. Currently, only 103 of 174 districts have voted to provide additional property tax revenue, and most of these districts have approved amounts below the allowable 20% of total program. This bill raises the total revenue authority for districts by an estimated \$285.0 million. Any impact resulting from this change is conditional on the district seeking and obtaining voter approval to collect and expend additional property tax revenue.

Other Provisions. The bill contains three other provisions that may impact policies at school districts and charter schools. First, school districts' boards of education must ensure that all 6th grade students are registered with the online college planning and preparation resource. Second, the bill allows school districts to meet their TABOR reserve requirements with real property owned by the district. This effectively frees up money that districts have currently allocated to meet the reserve requirement. At the end of FY 2007-08, the total money set aside for the TABOR reserve was just over \$154 million. Third, the bill allows charter schools to lease, purchase, or otherwise use state school lands for building sites.

State Appropriations

For FY 2009-10, the Department of Education requires the following appropriations:

- ▶ \$2,206,164 for charter school capital construction from the General Fund; and

the following appropriations from the State Education Fund:

- ▶ \$4,500,000 for Centers of Excellence schools;
- ▶ (\$151,489,440) for Public School Finance;
- ▶ \$4,459,800 for Hold-harmless At-risk Funding in charter schools;
- ▶ \$1,234,605 for Hold-Harmless At-Risk Funding in school districts; and
- ▶ (\$6,813,637) for categorical programs.

Departments Contacted

Education
Human Services

Legislative Council Staff
Higher Education