

Colorado Legislative Council Staff Fiscal Note

**STATE and LOCAL
REVISED FISCAL IMPACT**

(replaces fiscal note dated April 8, 2009)

Drafting Number: LLS 09-0933 **Date:** April 20, 2009
Prime Sponsor(s): Sen. Romer; Bacon **Bill Status:** House Appropriations
 Rep. Pommer; Scanlan **Fiscal Analyst:** Todd Herreid (303-866-233)

TITLE: CONCERNING THE FINANCING OF PUBLIC SCHOOLS, AND MAKING AN APPROPRIATION THEREFOR.

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011
State Revenue		
State Transfers or Diversions Transfer from the Read-to-Achieve Cash Fund to the: School Awards Program Fund Closing the Achievement Gap Cash Fund	 (\$250,000) (1,750,000)	
State Expenditures General Fund Cash Funds - State Education Fund - School Awards Program Fund - Closing the Achievement Gap Cash Fund	 \$55,706 (110,000,000) 250,000 1,750,000	 \$250,000
FTE Position Change		
Effective Date: Upon the signature of the governor or upon becoming law without his signature.		
Appropriation Summary for FY 2009-2010: See State Appropriations section.		
School District Impact: See School District Impact section.		

Summary of Legislation

This bill, *as amended by the House Education Committee on April 20, 2009*, makes changes to the funding of public schools and the Public School Finance Act of 1994. The following provisions affect the fiscal impact of the bill:

- ▶ the formula for total program funding is decreased \$110 million proportionally across districts due to the establishment of a new financial crisis factor;
- ▶ a district must return any unspent money received for full-day kindergarten in FY 2008-09 prior to the end of the fiscal year;
- ▶ a \$250,000 award program is created for schools with high rates of academic growth and at least 75 percent at-risk student enrollment;
- ▶ a one-time transfer of \$1.75 million is made to the Closing the Achievement Gap Cash Fund from the Read-to-Achieve Cash Fund in FY 2009-10;

- ▶ one-half of the increase in the appropriation for the Expelled and At-Risk Student services Grant Program must go to applicants that will reduce the number of truancy cases requiring court involvement;
- ▶ if an institute charter school resides in a district that does not receive sufficient state funding to fully cover per pupil funding, the Colorado Department of Education (CDE) is required to submit a supplemental request for the amount that the institute charter school is short;
- ▶ 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%, and specific ownership taxes are no longer included in the limit;
- ▶ the CDE is required to prepare a study examining the feasibility of a residential school for students who are in need of greater academic support and who are at risk of academic failure; and
- ▶ prior to the start of ninth grade, each student must submit an individual career and academic plan with the district, which may include the use of various college preparation and planning services.

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 Transfers or Diversions

The bill requires a one-time transfer of \$250,000 from the Read-to-Achieve Cash Fund to the School Awards Program Fund in FY 2009-10. It also requires a one-time transfer of \$1.75 million from the Read-to-Achieve Cash Fund to the Closing the Achievement Gap Cash Fund.

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.). The program is estimated to cost about \$5.6 billion in FY 2009-10, of which over \$3.6 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 **\$55,706 in FY 2009-10** and reduces State Education Fund expenditures by **\$110.0 million** relative to the requirements of current law.

State Education Fund expenditures are decreased \$110.0 million in FY 2009-10 due to the establishment of a financial crisis factor in the total program funding formula. This factor reduces each district's total program expenditures 1.93 percent compared with current law.

General Fund expenditures will increase \$55,706 in FY 2009-10 to allow the CDE to prepare a study on the feasibility of opening a residential boarding school for students who are at risk of academic failure and who need greater academic support. The study must be completed by February 1, 2010, and must include information on the performance of similar schools operating in other states as well as recommendations concerning the school's governance structure, funding sources, curriculum, anticipated student population, methods of selecting students, and the number and location of possible schools. The study is expected to require the equivalent of a full-time General Professional V from July 1, 2009, through February 1, 2010, thereby costing the CDE \$55,706. The fiscal note assumes that this will be a one-time contracting expense for the department.

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, but it does create a moral obligation for the state to cover any shortfall in the reserve fund. However, if the state chooses not to cover the shortfall, it could have an adverse impact on the state's overall credit rating. 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.

Centers of Excellence Awards. The bill creates a Centers of Excellence Award Program, which requires the State Board of Education to award \$250,000 annually to schools that demonstrate the highest rates of academic growth, as measured by the state longitudinal growth model, and that have at least 75 percent at-risk student enrollment. Money for this award program will be transferred from the Read-to-Achieve Cash Fund in FY 2009-10. In subsequent years, it is unclear how the award program will be funded. Schools that receive this award are not eligible to receive a Governor's Distinguished Improvement Award.

Closing the Achievement Gap Program. The bill makes a one-time transfer of \$1.75 million from the Read-to-Achieve Program to the closing the Achievement Gap Program. The CDE has continuous spending authority from the Closing the Achievement Cash Fund, so no additional appropriation is needed.

School District Impact

Table 1 shows the estimate of school finance act funding under SB09-256.

Table 1. 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.	788,648	\$7,086	\$5,588,295,818	\$3,586,141,511	\$2,002,154,385
Percent change	1.35%	2.96%	4.36%	5.50%	2.37%
Increase	10,512	\$204	\$233,328,902	\$187,043,276	\$46,285,703

Financial Crisis Factor. A new factor was introduced into the total program funding formula, which reduced expenditures proportionately across districts by 1.93 percent. This decreased total program funding by \$110.0 million in FY 2009-10.

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 does not provide additional funding for charter school capital construction, but encourages the Governor to allocate a portion of the money received by the state from the American Recovery and Reinvestment Act for such purposes.

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. Plus, specific ownership taxes that previously counted against

the cap are no longer included, which thereby raises the amount of the available override. 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, schools are required to have students submit individual career and academic plans with the district, which may include the use of various college preparation and planning services. 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 a \$55,706 appropriation from the General Fund and a \$250,000 appropriation from the School Awards Program Fund. The school finance act appropriation from the State Education Fund must be reduced by \$110,000,000. Because the Department of Education has continuous spending authority from the Closing the Achievement Gap Cash Fund, no additional appropriation is needed.

Departments Contacted

Education
Human Services

Legislative Council Staff
Higher Education