

2014 End of Session Report

State Board of Education and Colorado Department of Education

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Brandeberry McKenna (BBMK) is pleased to provide the following report to the State Board of Education (SBE) and the Colorado Department of Education (CDE).

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SECTION 1 SESSION OVERVIEW

The 2014 Legislative Session was characterized by substantive conversations on a variety of topics important to Colorado citizens. Compared to 2013, this session was less divisive though there were still several long floor debates. Gov. John Hickenlooper exercised his veto power for the first time on HB1108, Copayment for Physical Therapy, and SB089, Concerning a Prohibition for the State to Enter into an Agreement for Payment in Lieu of Taxes.

Despite press coverage to the contrary, many bills pass each year with bipartisan support. In 2014, there were several areas of consensus among legislators including: helping communities impacted by the Fall 2013 floods, updating Colorado’s telecommunications laws and creation of a statewide Medina alert which establishes a statewide hit and run alert system similar to the Amber alert.

Of course, there was also controversy under the Golden Dome. One of the biggest fights of the year was on SB125. The bill, which passed, created regulations to allow Transportation Network Companies such as Uber and Lyft to operate in Colorado. Additionally, there were dueling efforts to bolster mandatory prison sentences for sexual predators of children. In the education world, there was disagreement about the appropriate balance between additional money for schools and additional requirements designed to improve educational attainment.

In the wake of Colorado voter approval for the sale of marijuana, there were many bills considered. In addition to considerations of how much tax revenue would actually be produced and how to spend whatever comes in, there was legislation around labeling edibles, conducting research on medical benefits and banking for marijuana businesses.

Finally, the state budget generated more controversy this year than it did in 2013. There was significant disagreement around how much capital construction the state should fund and how much to invest in planes to be used for firefighting purposes. The final version allocates \$23 billion for the next fiscal year and increases funding for higher education by \$100 million, puts \$15 million in new money into economic development programs and increases the state's reserve from 5 percent to 6.5 percent.

SECTION 2 STATE BOARD OF EDUCATION POSITIONS

HB10-1078 by Rep. Pettersen and Sen. Johnston was a relatively minor bill run at the request of the Department to address a perceived discrepancy between state law and SBE rules. The bill clarified that for the purposes of accreditation an online program housed in a public school is not considered an online school. The SBE supported HB10-1078 and the bill passed.

HB14-1182 by Rep. Hamner and Sen. Kerr authorizes CDE to assign district accreditation ratings and school plan types based on their 2014 rating or plan type (and other factors included in current statute) for the 2015-16 school year while giving schools and districts the opportunity to provide additional data if they believe the 2014 rating is not justified. It also allows the SBE to exercise the same very modest flexibility they currently have for districts with schools that reach the end of the five year clock in 2015-16. The SBE supported HB14-1182 and it passed.

HB14-1294, the Student Data Privacy Act, by Rep. Murray and Sens. Steadman and Jahn passed unanimously in both the House and the Senate. The bill was targeted to CDE and requires a publicly available data inventory and dictionary and the development of policies and procedures to comply with FERPA. The bill also requires specific steps to protect personally identifiable data when shared with researchers, contractors or other outside entities. Finally, the Department is required to develop a data security template for use by school districts and other local education agencies. The SBE supported HB14-1294. Late in the session another bill addressing data privacy issues was introduced by Sen. Vicki Marble. SB14-204 would have placed requirements directly on school districts as well as CDE. The bill died in the Senate Judiciary Committee. The SBE did not take a position on SB14-204.

The final bill that the SBE took a position on was SB14-165. This bill, by Sen. Johnston and Rep. Murray, gave school districts some additional flexibility in the 2014/15 school year in terms of how much to weight student growth in the educator effectiveness evaluation system. The bill passed with bi-partisan support.

SECTION 3 STUDENT SUCCESS ACT AND SCHOOL FINANCE

Typically, the School Finance Act is the vehicle for funding schools and is one of the last bills to move through the process. This year, the legislature broke with that tradition and moved two bills to fund public schools, HB14-1292 The Student Success Act and HB14-1298 the School Finance Act.

As introduced, the Student Success Act would have reduced the negative factor by \$100 million; created a \$40 million Implementation Fund; required a shift from the October 1 count date system to an average daily membership system; required districts to provide school-level data to promote fiscal transparency; allocated the \$40 million in marijuana revenue to the BEST program and required that 75% of this money be spent for development of full-day kindergarten facilities; restructured and provided additional funding for English language learners; and increased funding for charter school capital construction.

The final version of the Student Success Act included a \$110 million dollar reduction in the negative factor, \$18 million for the READ Act, funding for charter school capital construction and a much-negotiated version of fiscal transparency.

The final version of the School Finance Act included the English Language Learner provisions that were originally in the Student Success Act (as amended) and \$27 million in new ELL funding; 5,000 new ECARE slots; \$298,000 to fund efforts to assign SASID or SASID-compatible identifiers to early childhood program participants; a requirement that CDE and DHS produce a report on the implementation of the Early Childhood Quality Rating and Improvement System; and \$24,800 for the Teacher of the Year.

The combined impact of both bills on charter school capital construction is to provide \$18 million this year and \$25 million each year going forward.

SECTION 4 ASSESSMENTS

One of the most vigorous conversations at the Capitol this year was about statewide assessments. Are we testing too much? What tests should we use? How do we stay in compliance with federal law? Will districts be able to successfully implement on-line testing? All of these questions permeated the debate around three specific bills: SB14-136, SB14-1202 and SB14-221.

SB14-136 was introduced first by Sen. Marble and Rep. Saine. The bill would have created the Colorado Academic Standards Task Force to study the adoption and implementation of the Colorado Academic Standards. It also would have delayed implementation of Colorado's new statewide assessments which are currently scheduled to begin in the 2014-15 school year. The bill died on a party line vote in the Senate Education Committee on February 13.

As introduced, HB14-1202 would have allowed the SBE to waive most of the statewide testing requirements for a school district if that district submitted an assessment plan meeting specific requirements. It also allowed parents in districts with a waiver to opt his or her child out of

standardized testing. The bill was modified significantly from its introduced form in the first committee hearing. As passed by the legislature, the bill creates a Standards and Assessment Task Force to study statewide and local assessments. The task force must report back to the legislature by January 31, 2015. The twelve members will be appointed by the Speaker and minority leader of the Colorado House, the President and minority leader of the Colorado Senate and the Chairman of the SBE.

Late in the session, Sen. Kerr brought forward SB14-221 which would have delayed the twelfth grade social studies test to 2015-16. The bill would have also allowed CDE to administer the social studies assessment annually to a representative sample of public schools. After passing the Senate, the bill died in the House Education Committee on the last Monday of the legislative session.

SECTION 5 LOW PERFORMING SCHOOLS

There were several bills introduced in 2014 designed to help low performing schools.

HB14-1262 by Rep. Priola intended to incentivize highly effective teachers to teach in low performing schools. The bill died, but had it passed it would have provided grants to local education providers to enable them to provide financial bonuses to teachers who are rated highly effective and teach in struggling schools.

HB14-1381 by Rep. Fields and Sen. Todd directs a school district or the State Charter School Institute to create a school closure plan if they decide to close a public school due to low academic performance. The plan must address communications, timeline and plans for assigning students to other schools. HB14-1381 passed in the last week of the legislative session.

SB14-124 by Sen. Zenzinger and Rep. Fields was adopted by the legislature. The bill creates the School Turnaround Leaders Development Program which has a \$2 million budget in the first year. CDE will administer the program which will focus both on the development of leadership curriculum and on providing training opportunities to leaders in low performing schools.

SB14-167 by Sen. Zenzinger and Rep. Fields was targeted at schools that serve high-risk students, not necessarily low performing schools. The bill would have created a pilot program to identify and support the creation of innovative school models to serve high-risk students. The bill failed in the House primarily because of competition for limited financial resources from the State Education Fund.

SECTION 6 BUILDING EXCELLENT SCHOOLS TODAY (BEST)

Related to the audit released by the Legislative Audit Committee in the Fall of 2013, HB14-1190 added two factors for consideration in determining the amount of matching money required from a school district that receives assistance from the BEST program. As a result of the legislation, a school district's available bond capacity and its unreserved fund balance as a percentage of its annual budget will be taken into account when considering match requirements.

HB14-1287 by Rep. Young and Sen. Nicholson was recommended by the Flood Disaster Study Committee. The bill, which passed, requires the Division of Public School Capital Construction to conduct an outreach assessment if the Governor declares a disaster emergency. It also allows the BEST board to use up to ten percent of moneys in the fund for disaster assistance. The bill passed.

SB14-112, which passed, was a Joint Budget Committee bill. It requires that the cash grants portion of the BEST program be appropriated by the General Assembly each year. The General Assembly already appropriates the cost of the lease-purchase agreements and administrative costs.

SECTION 7 OTHER BILLS OF INTEREST

HB14-1102 encourages each Administrative Unit (AU) to adopt a gifted education program that can be implemented within existing available resources. AUs are required to make a good faith effort to hire and retain at least one qualified person to implement the program. Each AU is also strongly encouraged to conduct a screening of all enrolled students prior to the second grade and a second screening when the ICAP is written. The bill passed with an appropriation of \$1.5 million and 1 FTE.

HB14-1118 the Advanced Placement Incentives Pilot Program, which Rep. Wilson came to the SBE to discuss before the legislative session began, passed. In its final form the bill contained a total appropriation of \$261,561 and .3 FTE for implementation.

HB14-1268 by Rep. Salazar would have prohibited school districts from placing a teacher on unpaid leave if the teacher held non-probationary status as of May 20, 2010. At the sponsor's request, the bill was postponed indefinitely (killed) in the House Education Committee.

Late in the session, Rep. Bucker introduced HB14-1376. The bill requires that CDE create a core course level participation performance report by November 1, 2014. This report will be created from data CDE is already collecting under the requirements of previously passed legislation. Beginning with the 2016-2017 academic year, schools and districts must use the data when preparing their performance or improvement plan. The data is also to be posted on the CDE website.

HB14-1382 by Reps. Young and Wilson and Sens. Kerr and Roberts changed significantly from the introduced version of the bill. In its final form, the bill creates a Task Force composed of persons with expertise and experience in authorizing, overseeing and operating on-line programs and on-line schools. The Task Force will be organized by CDE and the Commissioner will make the appointments no later than July 1, 2014.

Finally, SB14-150 expands the existing School Counselor Corps Grant Program at CDE which focuses on improving and increasing counseling services to students in secondary schools. The bill appropriates an additional \$3 million bringing the total program budget to \$8 million.

SECTION 8 CDE BUDGET

Most of the Department's budget requests were approved as part of the Long Bill which has been signed by the Governor. The major approved requests include:

- \$3,002,696 in General Fund and 4.6 FTE for Information Technology Services and Information Technology Asset Maintenance. The request was for \$3.1 million and 4.6 FTE.
- \$3.8 million for additional costs for standardized assessments in FY 2014-15.
- \$311,682 and 4.1 FTE to provide additional training and technical assistance to support school districts' English Language Learner programs.
- \$2,679,484 and 1 FTE to provide ongoing funding for the early literacy assessment tool originally approved through HB12-1345.
- \$170,845 and 1.8 FTE to increase technical assistance associated with college and career readiness reforms.

SECTION 9 COMPREHENSIVE LIST OF K-12 LEGISLATION

Bill #	Sponsors	Short Title	Final Status
HB14-1039	SCHAFFER / NEWELL	Linking Student Data Preschool To Kindergarten	Failed
HB14-1076	PENISTON / ZENZINGER	Early Childhood Quality Incentive Program	Failed
HB14-1078	PETTERSEN	Changes To Resolve Education Rule Conflicts	Passed
HB14-1085	FIELDS / ZENZINGER	Adult Education And Literacy Programs	Passed
HB14-1094	PABON / JAHN	Sales & Use Tax Holiday For Back-to-school Items	Failed
HB14-1102	PENISTON / KERR	Gifted Education Programs	Passed
HB14-1110	PENISTON / HODGE	School Boards & Executive Session	Failed
HB14-1118	WILSON	Advanced Placement Incentives Pilot Program	Passed
HB14-1139	PRIOLA	Average Daily Membership For School Finance	Failed
HB14-1145	WILSON	Summary Financial Expenditures Info K-12 Schools	Failed
HB14-1147	SZABO / RENFROE	Charter School Capital Construction Funding	Failed

Bill #	Sponsors	Short Title	Final Status
HB14-1156	MORENO / ULIBARRI	Eligibility Age School Lunch Protection Program	Passed
HB14-1167	NAVARRO	English Language Proficiency Programs	Failed
HB14-1175	FIELDS	Minority K-12 Teachers Study Strategy Report	Passed
HB14-1182	HAMNER	Public Ed Accountability 2015-16 School Year	Passed
HB14-1190	RYDEN / KING	School Dist Financial Capacity Cap Constr Grants	Passed
HB14-1202	SCOTT	Local Accountability Reqmts For School Districts	Passed
HB14-1204	WILSON	Flexibility For Rural School Districts	Passed
HB14-1208	WRIGHT / ZENZINGER	Authorizing Multi-district Administrative Units	Passed
HB14-1212	WILSON	Full-day Kindergarten Funding For Districts	Failed
HB14-1234	DURAN / STEADMAN	Suppl Approp Dept Of Education	Passed
HB14-1250	MAY / STEADMAN	School Dist Payments For Floods & Total Program	Passed
HB14-1251	MAY / STEADMAN	School Finance FY 2013-14 Adjustments	Passed
HB14-1262	PRIOLA / NEWELL	Highly Effective Teachers & Low-performing Schools	Failed
HB14-1268	SALAZAR / TODD	Nonprobationary Teacher No Indefinite Unpaid Leave	Failed
HB14-1276	PRIMAVERA / HODGE	Grant Program To Train High School Students In CPR	Passed
HB14-1287	YOUNG / NICHOLSON	BEST Moneys For Disaster Damaged Public Schools	Passed
HB14-1291	MCLACHLAN	Permit Charter Schools Hire Armed School Security	Passed
HB14-1292	HAMNER / JOHNSTON	The Student Success Act	
HB14-1294	MURRAY / STEADMAN	Student Data Privacy Act	Passed
HB14-1298	HAMNER / KERR	Financing Of Public Schools	
HB14-1314	PETTERSEN / KERR	School Dist & Charter School Mill Levy Overrides	Passed

Bill #	Sponsors	Short Title	Final Status
HB14-1376	BUCKNER	Analysis Of Student Opportunity Gaps	Passed
HB14-1381	FIELDS / TODD	Requirements For A School Closure Plan	Passed
HB14-1382	YOUNG / KERR	K-12 On-line Education	Passed
HB14-1384	PETTERSEN / ULIBARRI	Higher Education Tuition Assistance	Passed
HB14-1385	PRIOLA / JOHNSTON	Academic Growth Awards To Mirror Athletic Awards	Passed
SB14-058	TODD / MURRAY	GED Or High School Equivalency Examinations	Passed
SB14-112	STEADMAN / DURAN	Pub School Cap Constr Assistance Fund Approp	Passed
SB14-124	ZENZINGER / FIELDS	School Turnaround Leaders Development Program	Passed
SB14-136	MARBLE / SAINE	Delay Statewide Testing Study Academic Standards	Failed
SB14-150	TODD / HAMNER	School Counselor Corps Grant Program	Passed
SB14-165	JOHNSTON / MURRAY	K-12 Academic Growth Performance Eval 2014-15	Passed
SB14-167	ZENZINGER / FIELDS	Opportunity Schools Pilot Initiative	Failed
SB14-168	LAMBERT / MAY	Teacher Salaries At CO Sch For Deaf & Blind	Passed
SB14-182	HODGE / PENISTON	School Boards Meeting In Executive Session	
SB14-185	JOHNSTON / PETTERSEN	Pay For Success Contracts For Early Childhood Ed	Failed
SB14-186	SCHWARTZ / TYLER	Efficient School & Community Performance Contract	Passed
SB14-202	KERR	Funding For Energy Efficiency In Schools	
SB14-204	MARBLE / EVERETT	Education Data Privacy And Security Act	Failed
SB14-215	STEADMAN / DURAN	Disposition Of Legal Marijuana Related Revenue	
SB14-221	KERR	Statewide Social Studies Test Administration	Failed

SECTION 10 LOOKING AHEAD

Now that the legislature has completed its work for 2014, the focus will shift to the Fall elections. While there are several statewide offices up for consideration, most political attention will be focused on the Governor's race and the U.S. Senate seat currently held by Mark Udall. Governor Hickenlooper's opponent in the Fall will be chosen by Republican primary voters on June 24. The Republican candidates include Bob Beauprez, Scott Gessler, Mike Kopp and Tom Tancredo. Current Congressman Cory Gardner will be the Republican candidate for the U.S. Senate. The Gardner-Udall race will be one of the top contested U.S. Senate seats in the entire country, so expect a great deal of money to flow into Colorado and many television commercials.

In the Colorado House, there are 17 members who are either term-limited or who have decided not to run again. The Democrats currently enjoy a 37-28 margin of control in the House, which means Republicans have to pick up five seats to regain control. Some of the key races to watch include:

- Southwest Colorado – Mike McLachlan (D, incumbent) vs. J. Paul Brown (R, candidate)
- Aurora – John Buckner (D, incumbent) vs. Julie Marie Shepherd (R, candidate)
- Jefferson County – Brittany Pettersen (D, incumbent) vs. Stacia Kuhn (R, candidate)
- Greeley – Dave Young (D, incumbent) vs. Isaia Aricayos (R, candidate)
- Cherry Hills Village -- Daniel Kagan (D, incumbent) vs. Rita Russell (R, candidate) or Candice Benge (R, Candidate)
- Broomfield – Dianne Primavera (D, incumbent) vs. Marijo Tinlin (R, candidate)
- Colorado Springs – Pete Lee (D, incumbent) vs. Michael Schlierf (R, candidate)

In the Colorado Senate, the current margin of control is 18-17 in the Democrats favor. This means that Republicans only have to pick up one seat to gain control. Some key races to watch include:

- Jefferson County – Rachel Zenzinger (D, incumbent) vs. Lang Sias (R, candidate), or Laura Woods (R, candidate)
- Jefferson County – Andy Kerr (D, incumbent) vs. Mario Nicolais (R, candidate), or Romualdo Sanchez (R, candidate)
- Jefferson County – Jeanne Nicholson (D, incumbent) vs. Tim Neville (R, candidate), or Richard Wenzel (R, candidate)
- Colorado Springs – Bernie Herpin (R, incumbent) vs. Michael Merrifield (D, candidate)
- Central Mountain Counties – Open Seat (Gail Schwartz term-limited) Kerry Donovan (D) vs Donald Suppes (R)
- Adams County – Open Seat (Lois Tochtrop term-limited) Beth Martinez Humenik (R, candidate) vs. Judy Solano (D, candidate)
- Jefferson County – Cheri Jahn (D, incumbent) vs. Arthur Carlson (R, candidate) or Larry Queen (R, candidate)

BBMK's professionals will spend a great deal of time over the Summer and Fall meeting with candidates for the legislature. We look forward to providing additional information.