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MEMORANDUM

February 1, 2012

TO: Joint Budget Committee
House and Senate Education Committees
Office of State Planning and Budgeting

FROM: Legislative Council Staff, 303-866-3521

SUBJECT: Report on the State Education Fund

Summary

The forecast for the State Education Fund and the level of General Fund appropriations needed to pay for school finance have changed from when the General Assembly adjourned in May 2011. Property values have stabilized and are expected to grow slowly over the next few years, helping to boost the local contribution to school finance. Similarly, income tax receipts are growing, which is increasing deposits into the State Education Fund and the General Fund. Despite these improvements, education funding requirements for new students and inflation continues to put increasing pressure on state resources. In FY 2012-13, General Fund support for school finance will need to increase by $94 million compared with the prior year to pay for the preliminary funding level set by House Bill 12-1201, and to maintain a $50 million State Education Fund balance.

The model used to project the State Education Fund balance was updated to reflect actual data for the current budget year and the December 2011 Legislative Council Staff revenue and economic forecast. Limited funding capacity from the State Education Fund will place further strain on the General Fund. Increases in school finance and categorical funding are based on an estimated inflation rate of 4.1 percent applicable for FY 2012-13. The income tax diversion to the State Education Fund is projected to grow modestly, increasing at an average annual rate of 5.1 percent through FY 2013-14. The State Education Fund balance is projected to fall to $50 million in FY 2012-13.

Amendment 23 and the State Education Fund

Article IX, Section 17, of the Colorado Constitution, enacted by the voters at the November 2000 election as Amendment 23, creates the State Education Fund. It diverts an amount equal to one-third of one percent of Colorado taxable income to the fund. It also required the

General Assembly to increase the statewide base per pupil funding amount under the school finance act and total state funding for categorical programs by at least the rate of inflation plus one percentage point through FY 2010-11, and by at least the rate of inflation thereafter in the current budget year and beyond. Money in the State Education Fund may be used to meet these minimum education funding requirements. In addition, the General Assembly may appropriate money from the State Education Fund for a variety of other education-related purposes as specified in the state constitution. However, Amendment 23 no longer imposes a "maintenance of effort" spending requirement from the General Fund, under which appropriations have to grow by at least 5 percent if certain conditions are met. This requirement expired after FY 2010-11.

Requirements for a Study

Following voter approval of Amendment 23, the Legislative Audit Committee contracted with Pacey Economics Group to develop a model to predict the results of policy decisions and economic conditions on the balance of the State Education Fund and on General Fund appropriations for public elementary and secondary education. As the Pacey Economics Group indicated, the balance of the State Education Fund is integrally tied to the level of General Fund appropriations. The greater the level of increase in General Fund appropriations, the greater the State Education Fund balance and the greater the amount of money available for public education programs. Appropriations for public education affect the amount of money available for other state programs because they compete for the same pool of money. The model developed by the Pacey Economic Group provides a method to project school finance and categorical program spending under the requirements of Amendment 23. Legislative Council Staff and the model also predict the amount of income tax revenue diverted to the fund. Given the projections for revenue and spending, the model is used to estimate the impact of General Fund appropriation increases on the State Education Fund balance or, conversely, General Fund appropriations necessary to meet the funding requirements of Amendment 23.

State law anticipates an annual updating of the "Pacey model" to accommodate actual data and changes in policy or economic conditions. Section 22-55-104 (3), C.R.S., requires a yearly report on the State Education Fund that addresses the following:

- the reasonableness of the assumptions used to forecast State Education Fund revenue and expenditures and revisions to the assumptions;
- revenue projections for the State Education Fund;
- projections of the total amount of state money necessary to increase the statewide base per pupil funding amount and total categorical program funding by the rate of inflation in FY 2012-13;
- projections of the amount of money available from sources of revenue other than the General Fund and the State Education Fund to meet the funding requirements of Amendment 23;
- the stability of the State Education Fund;

- an estimate of the maximum amount of money that can be appropriated from the State Education Fund and the minimum amount of money that can be appropriated from the General Fund for FY 2012-13 to meet the Amendment 23 funding requirements without adversely impacting the solvency of the State Education Fund or the ability of the General Assembly to provide the Amendment 23 minimum funding increases in the future; and

- estimates of various General Fund appropriation levels above the minimum level and their impact on the amount of money available in the State Education Fund to provide funding in FY 2012-13 for additional programs that are consistent with the provisions of Amendment 23.

This year's report assumes passage of the supplemental budget bill for school finance, House Bill 12-1201. This bill makes mid-year adjustments for education funding in FY 2011-12 and sets a preliminary funding level for FY 2012-13. The Joint Budget Committee, the Governor's Office, and the General Assembly will analyze in greater detail the FY 2012-13 appropriations from the General Fund and the State Education Fund — and the laws that drive these appropriations — in the coming weeks. In addition, the actual inflation rate applicable for FY 2012-13 will be released at the end of February and cost of living factors for school districts will be updated in the next several weeks. Thus, much will occur during the 2012 legislative session that will affect the analysis presented in this report.

Updated Revenue and Expenditure Forecasts

Beginning with FY 2011-12, the General Assembly no longer has a maintenance of effort requirement under Amendment 23, and is thus able to allocate funding for public schools between the General Fund, the State Education Fund, and other cash funds as it wishes. However, there is increasing pressure on the General Fund because of declining funds available in the State Education Fund. Under current law, the projected balance in the State Education Fund is forecast to fall from $110 million in FY 2011-12 to $50 million in FY 2012-13.

The basic framework of the Pacey model is retained for this report; there are no major changes in the structure of the model since this report was published in 2011. Inputs to the model have been updated to incorporate law changes enacted by the General Assembly, actual school funding data for FY 2011-12, revisions to forecasts of economic indicators, and the most recent Legislative Council Staff forecast of pupil counts and assessed values. Like the prior school finance bill, Senate Bill 11-230 included a negative factor that reduced the overall amount of funding for school finance. In addition, it is assumed that a $24 million increase in local taxes will be used to fund an unanticipated $20 million increase in school finance funding caused by an increase in the number of pupils and at-risk students. This mid-year adjustment requires the General Assembly to approve the supplemental funding bill, which is assumed for this report. The net impact of updating the model is a decrease in state aid of $4 million for the current budget year, compared with last year's projections. A comparison of subsequent budget years is not possible because the size of the negative factor was not previously set.

Projections for property and specific ownership taxes are higher. Property and specific ownership taxes provide the local contribution for school district funding under the school finance act. When these local revenue sources produce more revenue, requirements for state aid decrease for a given level of education funding.

Assessed value and property tax growth. Property taxes account for about 93 percent of the local contribution to fund the school finance act. Most school districts impose the same property tax rate, or mill levy, from year to year. Thus, yearly changes in tax revenue depend upon changes in the tax base, or assessed value, of school districts. Assessed values declined 5.3 percent in 2010, and fell another 5.4 percent in 2011, accounting for an overall reduction in the local contribution for school finance. However, the actual decline in assessed values in 2011 was smaller than anticipated, which generated slightly higher property taxes than was previously projected. In the following years, assessed values are expected to increase modestly, causing an increase in property taxes for school districts.[1]

The higher assessed value forecast in December 2011 relative to 2010 raised the cumulative projection of school district property tax collections by about $70 million through FY 2012-13. In FY 2011-12, property taxes for school finance are estimated to total almost $1.8 billion, with the forecast rising $33 million, or 1.9 percent from last year's forecast. In FY 2012-13, the projection increased $37 million, or 2.1 percent.

Specific ownership taxes. In addition to property taxes, the local contribution includes specific ownership taxes. Specific ownership taxes are paid annually on motor vehicles. Counties collect most specific ownership taxes and distribute them to all governments in the county that collect property taxes, like school districts and special districts. By law, counties distribute specific ownership tax revenue to governments in proportion to the amount of property taxes collected by each jurisdiction. Specific ownership taxes make up about 7 percent of the local contribution to school finance funding.

Specific ownership taxes had been a declining source of revenue to fund the school finance act earlier in the decade. It appeared that the decline in revenue was attributable to several factors:

- economic recessions and increases in gas prices that affected automobile sales and the types of cars purchased, which led to lower rates of growth in specific ownership tax collections statewide;
- the decrease in the proportion of total property taxes collected by school districts; and
- the decrease in the proportion of property taxes attributable to the school finance act.

The change in the method of calculating school district mill levies for school finance purposes implemented in FY 2007-08 is expected to slow the slide in specific ownership taxes for school finance.[2]

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[1] Legislative Council Staff, *Focus Colorado: Economic and Revenue Forecast,* December 20, 2011

[2] Senate Bill 07-199 contains provisions sometimes referred to as the mill levy stabilization or mill levy freeze, which prevents most school district mill levies from falling in the future. This will act to maintain school district property taxes and the share of specific ownership taxes allocated to school districts.

Specific ownership tax rates are set by state law and decrease as a vehicle ages. For example, a 2012 model-year passenger vehicle will pay a rate of 2.1 percent, while a 2006 model-year passenger vehicle will pay a rate of 0.45 percent. Consequently, increases in specific ownership tax collections are sensitive to purchases of new vehicles. During the recession of 2008 and 2009, new car sales dropped dramatically, which adversely affected specific ownership taxes. This caused the contribution of specific ownership taxes to the local share of school finance to fall from just over 8 percent to less than 7 percent.

Specific ownership tax receipts applied to the school finance act lag one year behind revenue collections; that is, specific ownership taxes collected in FY 2011-12 count as part of the local contribution for school finance funding in FY 2012-13. Despite a rebound in new car sales last year, specific ownership taxes for school finance were $9 million less than projected in FY 2011-12, totaling $128.9 million. This reduction may be partly explained by some households keeping older cars for a longer period of time, thereby paying less in specific ownership taxes. The projection for FY 2012-13 was similarly reduced by about $9 million, thereby producing a cumulative decrease of $18 million compared with last year's projection.

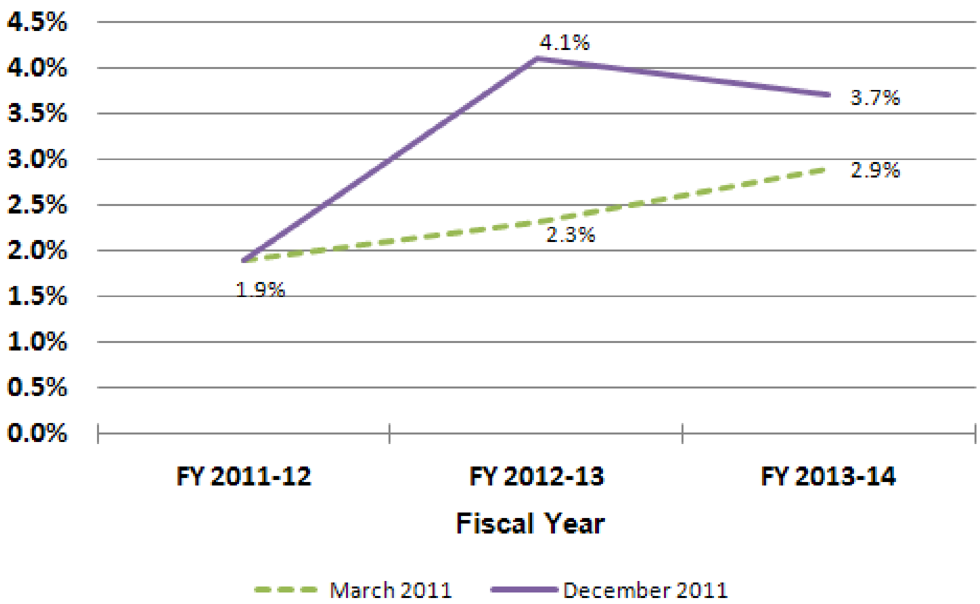
Total local share change. For the next two fiscal years, school districts' property and specific ownership taxes are projected to increase $52 million, compared with the projection last year.

Higher inflation raises overall funding requirements for school finance and categorical programs. Expenditures for school finance are a function of pupil counts and inflation. The statewide base per pupil funding level must increase by inflation each year, as specified by Amendment 23. The base level is subsequently adjusted for cost-of-living and size factors unique to each school district, and multiplied by pupil count to determine each school district's funding level prior to the application of the negative factor. Additional funding is also provided for at-risk and online pupils. The change in projected inflation rates is illustrated in Figure 1.

As described in more detail later in this report, a higher inflation forecast raises the overall cost of school finance, but most of that increase is offset by the application of a larger negative factor. The negative factor, set by the General Assembly, essentially caps the overall school finance funding formula at an amount that meets its budget objectives.

Total state funding for categorical programs is also affected by higher projections for inflation. In the next two years, total projected state expenditures for categorical programs will increase $11 million compared with last year's projections.

Figure 1
Comparison of Inflation Rate Projections
(Legislative Council Staff Forecasts)



Revenue Projections for the State Education Fund

One-third of one percent of Colorado taxable income on state income tax returns is deposited in the State Education Fund. This amount translates to about 7.2 percent of state income tax revenue. Money is diverted to the fund monthly based on quarterly estimates of taxable income. Errors in the amount deposited in the fund in any fiscal year are corrected in the following fiscal year by adjusting the amount of the transfer. Any money remaining in the fund at the end of a fiscal year stays in the fund.

The projections of revenue to the fund in this report are based on the December 2011 Legislative Council Staff revenue forecast. The income tax revenue deposited in the fund is expected to increase at an average annual growth rate of 5.1 percent between FY 2010-11 and FY 2013-14, as illustrated in Figure 2. Figure 2 also compares the current projections of income tax revenue to the State Education Fund with those from the March 2011 forecast. Actual income tax diversions to the fund for FY 2010-11 were $3.4 million lower than what was projected last March. However, income tax diversions over the next three years are expected to be $25.3 million more than what was projected in March. For FY 2012-13, income tax revenue to the State Education Fund is expected to total $403.6 million.

Figure 2
Projections of Income Tax Revenue to the State Education Fund
(Millions of Dollars)

Fiscal Year	December 2011 Forecast		March 2011 Forecast		Change in Projected State Education Fund Revenue
	Income Tax	Year-to-Year % Change	Income Tax	Year-to-Year % Change	
FY 2010-11	$370.9	12.7%	$374.3	13.8%	($3.4)
FY 2011-12	$387.6	4.5%	$369.7	-1.2%	$17.9
FY 2012-13	$403.6	4.1%	$400.2	8.3%	$3.4
FY 2013-14	$430.5	6.7%	$426.5	6.6%	$4.0
Total	**$1,592.6**		**$1,570.7**		**$21.9**

The projected rise in revenue to the State Education Fund compared to last year results from a modestly improving economy and its impact on income tax revenues. Corporate income tax revenue has exhibited strong growth, which is expected to continue, albeit at a slower pace. Job growth and wage hikes, coupled with stock market improvements and capital gains, are expected to positively affect growth in individual income taxes.

In addition to the income tax diversion, the State Education Fund also earns interest. Amendment 23 requires that all interest earned on money in the fund be deposited into the fund and be used before any principal is depleted. The fund is invested in both short-term investments — the "treasury pool" — and long-term investments, although the majority of the fund is invested with the treasury pool. The treasury pool is currently earning 1.4 percent. The relatively modest rate of return is attributed to the types and timing of investments: much of the treasury pool is invested in fixed income securities. These securities provide a guaranteed rate of return for the duration of the investment. As these securities mature, the rate of return will depend on available investment options and market conditions. Under the current practice of disbursing the school finance appropriation as late in the fiscal year as possible, the balance of the State Education Fund builds over the course of the fiscal year, earning interest, and then drops at the end of the fiscal year when the most significant expense is paid.

State Money Needed to Meet Amendment 23 Funding Requirements in FY 2012-13

Amendment 23 requires the statewide base per pupil funding amount for preschool through twelfth grade education to increase annually by the inflation rate in FY 2011-12 and each year thereafter. The same spending increase requirement applies to state funding for categorical programs. Under current law, meeting these two obligations is expected to cost the state just under $3.6 billion in FY 2012-13, as illustrated in the last row of Figure 3. However, this result incorporates a $314.5 million increase in the negative factor and a $24.0 million increase in the local contribution to school finance. The increase in the negative factor applies to other elements of the school funding formula, such as the size factor and the cost of living factor. The negative factor contained in House Bill 12-1201, totals almost $1.1 billion. Note that the school finance and categorical program dollar amounts in Figure 3 are based on an estimated inflation rate of 4.1 percent for 2011; the actual inflation rate will be released by the federal government on February 17, 2012.

School finance funding. Under current law, the projected statewide base per pupil funding amount for FY 2012-13 is $5,685.80, an increase of $231.03 over the current budget year. When combined with a 1.1 percent increase in the funded pupil count, total funding for school finance is projected to be $6,322.9 million, an increase of $316.0 million over the current budget year, before application of the negative factor. Local property and specific ownership taxes are expected to increase $24 million, resulting in a net increase in state aid of $292.0 million. Assuming passage of the supplemental school finance bill, the negative factor will increase by $314.3 million, thereby reducing state aid for school funding by $22.3 million compared with the previous year.

Categorical programs. Total state funding for categorical programs is estimated at $245.2 million for FY 2012-13, an increase of 4.1 percent over the prior year, or $9.7 million.

Figure 3
State Money Required to Meet School Finance Act Funding Requirements in FY 2012-13 under Current Law, Assuming Passage of House Bill 12-1201
(Millions of Dollars)

	Calculation of Funding Amounts	Estimated FY 2012-13 Amount	Change from FY 2011-12
	School Finance		
1.	Total funding under the school finance act for base increase of inflation, before application of the negative factor	$6,322.9	$316.0
2.	Minus property and specific ownership taxes	<u>$1,924.5</u>	<u>$24.0</u>
3.	Equals state aid for school finance funding, before application of the negative factor	$4,398.4	$292.0
4.	Negative factor (assuming passage of House Bill 12-1201)	($1,088.7)	($314.3)
5.	Equals state aid for school finance funding	$3,309.7	($22.3)
	Categorical Programs		
6.	Total funding for categorical programs with a 4.1 percent increase in inflation	$245.2	$9.7
	Total: School Finance Plus Categorical Programs		
7.	Total state funding required for School Finance (sum of lines 5 and 6)	$3,554.8	($12.6)

Other Revenue Available to Meet State Funding Requirements of Amendment 23

In addition to General Fund and State Education Fund revenue, other revenue from federal mineral leases and state school trust lands, among other smaller sources, are available to meet the funding requirements of Amendment 23 and the school finance act. These revenue sources are deposited in and appropriated from the State Public School Fund. The estimated amount available in FY 2012-13 for school finance is $228.3 million. This amount is based on federal mineral lease deposits of $70 million, state land royalties and income of $31 million, permanent trust fund interest of $27 million, and a beginning fund balance of $100 million. The fund balance is primarily due to the transfer of $67.5 million from the General Fund surplus into the State Public School Fund, as specified in Senate Bill 11-230. The $228.3 million estimate assumes continuation of appropriations from the State Public School Fund for three specific programs: just under $2.5 million to pay the state match for the National School Lunch Act; $530,000 to provide supplemental online educational programs and a grant program; and $35,000 for distributing school laws. The net result of these changes is a $91.9 million reduction in funding requirements from the General Fund and the State Education Fund for FY 2012-13 compared with the prior year.

Figure 4
Other Revenue for School Finance Act Funding Requirements under Current Law and Appropriations
(Millions of Dollars)

	Other Revenue Amounts	Estimated FY 2012-13 Amount	Change from FY 2011-12
1.	State Public School Fund revenue	$228.3	$79.3
2.	Plus Comprehensive Health Education Fund	$0.0	$0.0
3.	Equals total other revenue	$228.3	$79.3
4.	Total state funding required for school finance (Figure 3, line 5)	$3,554.8	($12.6)
5.	General Fund and State Education Fund for school finance funding requirements (line 4 minus line 3)	$3,326.5	($91.9)

Note: Numbers may not sum due to rounding.

General Fund and State Education Fund Appropriations for FY 2011-12 and Their Impact on the Stability of the State Education Fund

This portion of the report focuses on the future balance of the State Education Fund in FY 2012-13: it addresses the statutory requirement for an estimate of the maximum amount of money that can be appropriated from the State Education Fund and the minimum amount of money that can be appropriated from the General Fund in FY 2012-13 without adversely affecting the solvency of the State Education Fund.

At the close of FY 2010-11, the balance of the State Education Fund was estimated at $363 million, as illustrated in Figure 5. By the end of FY 2011-12, the balance in the State Education is projected to fall to $110 million because of the increase in spending from the fund resulting from the transfer of the General Fund surplus into the State Education Fund.

Based on current law requirements for school finance, and assuming passage of House Bill 12-1201 and a $50 million minimum State Education Fund balance to account for forecast errors and unanticipated contingencies, the General Fund appropriation would have to increase by about $94 million in FY 2012-13 compared with the previous year. When money does not exist in the State Education Fund to meet the funding requirements of law, the General Fund must make up the difference. Figure 5 shows total school finance funding, total state aid, appropriations from the State Education Fund and General Fund, and the corresponding balance of the State Education Fund under this scenario. The projection for FY 2012-13 assumes that all money in the State Public School Fund is used for school finance purposes.

Figure 5
General Fund Appropriations for School Finance and State Education Fund Balances, Assuming Passage of House Bill 12-1201 and $50 Million State Education Fund Balance
(Millions of Dollars)

	Current Law					
Fiscal Year	**Total School Finance Funding***	**Total State Aid****	**State Education Fund Appropriation**	**General Fund Appropriation**	**General Fund Change from Prior Year**	**State Education Fund Balance**
2010-11	$5,442	$3,206	$284	$3,014	($63)	**$363**
2011-12	$5,232	$3,332	$511	$2,672	($342)	**$110**
2012-13	$5,234	$3,310	$316	$2,766	$94	**$50**
Total	**$15,908**	**$9,848**	**$1,111**	**$8,452**	**($311)**	

** FY 2010-11 includes $216 million in federal funds.*
*** Includes appropriations from the State Public School Fund.*

Alternatively, if General Fund appropriations are held constant at the same level in FY 2011-12 and FY 2012-13, the State Education Fund would have insufficient revenue to pay for the funding requirements of school finance under current law, while maintaining a minimum balance. Holding General Fund appropriations constant would therefore imply that total school funding must be cut by at least $94 million to maintain a $50 million balance in the State Education Fund. Any further cuts in General Fund appropriations for school finance would imply deeper cuts in total school funding and state aid in FY 2012-13.

Funding for Additional Programs

The final requirement for this report is an estimate of the impact of various levels of General Fund appropriations above the minimum desired level on the amount of money in the State Education Fund. The purpose of this requirement is to determine whether funding can be provided in FY 2012-13 from the State Education Fund for programs that are permitted but not required by Amendment 23. Given projections for General Fund revenue and State Education Fund balances, it is highly unlikely that additional funding can be provided from either source to expand programs.

Appendices

Appendix A contains projected State Education Fund balances and General Fund increases through FY 2012-13, based on current law. Appendix B is a copy of Amendment 23.

Estimated Balance of State Education Fund
Assumes Passage of House Bill 12-1201 and General Fund Increase of $94 million in FY 2012-13 to Maintain $50 million State Education Fund Balance
(Dollars in Millions)

	State Education Fund						General Fund			School Finance Act	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
Fiscal Year	Revenue to the State Education Fund	Spending for School Finance	Spending for Categorical Programs	Total State Education Fund Spending*	Change in Spending from Prior Year	State Education Fund Balance**	General Fund Approp for School Finance	Dollar Increase in General Fund Approp from Prior Year	Percent % General Fund Approp from Prior Year	Total School Finance Act Funding	Change in Spending from Prior Year
2008-09	$461.3	$362.2	$77.4	$494.0	$192.3	**$331.0**	$2,930.1	$139.5	5.00%	$5,349	$280
2009-10	$329.0	$339.6	$88.2	$482.2	($11.8)	**$188.2**	$3,076.3	$146.2	4.99%	$5,588	$239
2010-11	$592.4	$284.3	$89.3	$423.7	($58.5)	**$362.9**	$3,013.7	($62.6)	(2.03%)	$5,442	($146)
2011-12	$396.6	$511.1	$93.7	$654.3	$230.6	**$110.2**	$2,671.8	($341.8)	(11.34%)	$5,232	($210)
2012-13	$403.6	$315.6	$103.4	$469.3	($185.0)	**$49.7**	$2,765.8	$94.0	3.52%	$5,234	$2

** Includes other spending on education-related programs, such as facility school funding, student assessments, and charter school capital construction.*
***Assumes $50 million minimum fund balance in the State Education Fund for FY 2012-13.*

Appendix B

Article IX, Section 17
Colorado Constitution

Section 17. Education - Funding. (1) Purpose. In state fiscal year 2001-2002 through state fiscal year 2010-2011, the statewide base per pupil funding, as defined by the Public School Finance Act of 1994, article 54 of title 22, Colorado Revised Statutes on the effective date of this section, for public education from preschool through the twelfth grade and total state funding for all categorical programs shall grow annually at least by the rate of inflation plus an additional one percentage point. In state fiscal year 2011-2012, and each fiscal year thereafter, the statewide base per pupil funding for public education from preschool through the twelfth grade and total state funding for all categorical programs shall grow annually at a rate set by the general assembly that is at least equal to the rate of inflation.

(2) Definitions. For purposes of this section: (a) "Categorical programs" include transportation programs, English language proficiency programs, expelled and at-risk student programs, special education programs (including gifted and talented programs), suspended student programs, vocational education programs, small attendance centers, comprehensive health education programs, and other current and future accountable programs specifically identified in statute as a categorical program.

(b) "Inflation" has the same meaning as defined in article X, section 20, subsection (2), paragraph (f) of the Colorado constitution.

(3) Implementation. In state fiscal year 2001-2002 and each fiscal year thereafter, the general assembly may annually appropriate, and school districts may annually expend, monies from the state education fund created in subsection (4) of this section. Such appropriations and expenditures shall not be subject to the statutory limitation on general fund appropriations growth, the limitation on fiscal year spending set forth in article X, section 20 of the Colorado constitution, or any other spending limitation existing in law.

(4) State Education Fund Created. (a) There is hereby created in the department of the treasury the state education fund. Beginning on the effective date of this measure, all state revenues collected from a tax of one third of one percent on federal taxable income, as modified by law, of every individual, estate, trust and corporation, as defined in law, shall be deposited in the state education fund. Revenues generated from a tax of one third of one percent on federal taxable income, as modified by law, of every individual, estate, trust and corporation, as defined in law, shall not be subject to the limitation on fiscal year spending set forth in article X, section 20 of the Colorado constitution. All interest earned on monies in the state education fund shall be deposited in the state education fund and shall be used before any principal is depleted. Monies remaining in the state education fund at the end of any fiscal year shall remain in the fund and not revert to the general fund.

(b) In state fiscal year 2001-2002, and each fiscal year thereafter, the general assembly may annually appropriate monies from the state education fund. Monies in the state education fund may only be used to comply with subsection (1) of this section and for accountable education reform, for accountable programs to meet state academic standards, for class size reduction, for expanding technology education, for improving student safety, for expanding the availability of preschool and kindergarten programs, for performance incentives for teachers, for accountability reporting, or for public school building capital construction.

(5) Maintenance of Effort. Monies appropriated from the state education fund shall not be used to supplant the level of general fund appropriations existing on the effective date of this section for total program education funding under the Public School Finance Act of 1994, article 54 of title 22, Colorado Revised Statutes, and for categorical programs as defined in subsection (2) of this section. In state fiscal year 2001-2002 through state fiscal year 2010-2011, the general assembly shall, at a minimum, annually increase the general fund appropriation for total program under the "Public School Finance Act of 1994," or any successor act, by an amount not below five percent of the prior year general fund appropriation for total program under the "Public School Finance Act of 1994," or any successor act. This general fund growth requirement shall not apply in any fiscal year in which Colorado personal income grows less than four and one half percent between the two previous calendar years.