

2011 Interim Legislative Newsletter

September 2011
Salazar & Associates

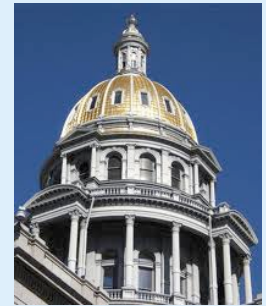
2011 Interim Committees

Educational Success Task Force

SB 11-111 created the Educational Success Task Force to address remediation issues in all levels of education in Colorado. The committee is chaired by Sens. Keith King (R), Bob Bacon (D) and Geri Anderson, from the CO Community College System. The group has met twice so far and was given the charge to submit final recommendations in July of 2012. However, the group has been given up to 8 bill titles to submit for the 2012 session and is working to determine how to use those titles. The group has had presentations from policy experts and state department officials on current remediation practices and statistics in Colorado, Response to Intervention framework, CO Preschool Program statistics, Adams 50 School District grade-less model, policy concerning remediation generating from the department of higher education, and a student panel. Future meetings will include presentations on blended learning models and career and technical education. Upcoming meetings will be held on September 27th and October 4th. Additional information including materials, committee make-up, agendas, and meeting minutes can be found at: <http://www.colorado.gov/lcs/EdSuccessTF>.

Task Force to Study School Discipline

SB 11-33 created the School Discipline Task Force to address the current policy of 'zero-tolerance discipline' in schools and to create a more 'common sense approach' to school discipline policies. The committee is chaired by Sens. Linda Newell (D), Keith King (R) and Evie Hudak (D). The group has scheduled six meetings during the interim period and given up to 8 bill titles to submit for the 2012 session. The group has largely heard and discussed testimony from a wide variety of experts in school discipline, including testimony from teachers, administrators, law enforcement officials, students, policy experts, stakeholder groups and state department officials. Bill drafts modifying the definitions of expulsion, suspension and student behaviors, codes of conduct and school and district discipline policies have been discussed. Issues like separating out the definition of firearm from dangerous weapon, changing any mandatory language in statute regarding punishment to discretionary language, etc. The committee has not reached consensus on the issues and will continue discussions at their next meeting on October 18th. Additional information can be found at: <http://www.Colorado.gov/LCS/SchoolDisciplineTF>.



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Governor's Education Leadership Council

On his first day in office, Governor Hickenlooper issued an executive order creating the Governor's Education Success Council. This council is deemed by many to be a continuation of the Ritter Administration's P-20 council. It is comprised of 38 members, including education experts, business leaders, lawmakers and community members and is led by Lieutenant Governor Joe Garcia and former legislator now lobbyist Christine Scanlan. The group is charged with: 1) helping to implement any of the Ritter administration education reforms, such as SB 08-212 CO Achievement Plan for Kids (CAP4K) and SB 10-191 Educator Effectiveness and rules associated with 191; 2) assist with efforts and reforms to increase the percentage of students who are rated proficient in reading on 3rd grade assessments by examining the early childhood education systems in the state for greater collaboration and efficiency; 3) assisting with the implementation of a new assessment system since all previous education reforms are contingent upon a new system; 4) remediation reform in conjunction with SB 11-111 Educational Success Taskforce 5) assist the governor by evaluating legislation introduced during the 2012 session; 5) consider recommending legislation that is being vetted by other groups or this group. Funding was brought up as an issue, and the group was told that FY 2012-13 budget needed to be cut by \$250-500M and K-12 and Higher Education were the only discretionary funding. This group's next meeting is Nov. 8. For list of members appointed to this group

For more information including mission statements and a list of committee members, please go to:

<http://www.colorado.gov/cs/Satellite?c=Page&childpagename=GovHickenlooper%2FCBONLayout>

School Finance Partnership

During this summer interim period, education leaders partnered with business leaders and legislators across the metro area to work on a permanent funding solution for education in Colorado. This group is led by former State Treasurer and current Deputy Mayor of Denver Cary Kennedy, Chris Watney of the Children's Campaign, and Bob Diebel who is the President and Owner of Officescapes. The group has had several steering committee meetings, and larger meetings open to the public to hear presentations on topics such as pay for performance, other state models of funding, and basic primers on our state's school finance system. The biggest obstacle with this group is the basic assumption the group is expected to adopt: 'assume adequate funding for schools and all the proposals are to be over and above that funding'. It is difficult for those in the room to make that assumption and dive into conversations about a new finance act, weighted funding, and new categoricals. Up to this point there has not been a proposal that has garnered consensus, but the group continues to meet and discuss potential fixes for the complex and controversial funding predicament that continues to plague Colorado's education system and on-going reform efforts.

For more information including mission statements and a list of committee members, please go to:

http://www.coloradokids.org/our_issues/k12_education/schoolfinancepartnership.html

CDE Update: Assessments and NCLB Waiver

On Wednesday 9/14 the CO State Board of Education (SBE) voted 6-1 to seek bids for the new statewide assessment system expected to roll out in 2014. Commissioner Robert Hammond explained to the board that the process of going out for vendor bids comes with a \$25M price tag, which is an unanticipated request for the upcoming FY12-13 budgeting process. Commissioner Hammond has asked Governor Hickenlooper to include the request in his upcoming November 1st budget proposal to the Joint Budget Committee. The current CAP4K plan includes two years of a transition test with the full test to be released in 2014. Without the additional \$25M in funding, the Commissioner warned that the state will be forced into 3 years of transition tests and the complete CSAP will not be introduced until 2015.

Commissioner Hammond also announced to the board that the Department of Education is submitting a waiver to the US Department of Education to allow CDE and school districts to use only the state system of accreditation and rating for individual schools and districts. Currently, districts are rated using both the state system and the NCLB system. Colorado's system relies heavily on student academic growth over time, with the overall goal of all students being proficient by 10th grade and college and workforce ready by high school graduation. The NCLB system utilizes the adequate yearly progress (AYP) of individual schools, concentrating on annual test scores with the goal of all students being proficient by 2014. The waiver application will also seek additional flexibility in the use of Federal funds going towards struggling schools and educator effectiveness programs.



Courtesy of edworkforce.gov

September 2011 State Revenue Forecast

On Sept. 20 both Legislative Council and the Governor's Office of State Budget and Planning (OSPB) presented their forecast for the 3rd quarter. The current FY 11-12 budget remains in balance with no need for mid-year cuts. Projection for FY 12-13 appear to be 0.8% lower than what Legislative Council predicted in June; OSPB's projections remained the same. Because of an amendment by Rep. Matt Jones, an additional \$294M will be flowing in to the State Education Fund, with \$67M ear-marked for any supplementals needed to fulfill the FY 11-12 school finance act. Early data indicates that assessed valuation, estimated to be significantly lower, is not as low as expected. Enrollment data and at-risk counts provided after Oct. 1 are the other factors that make up the supplemental requests made later in the fiscal year.



Henry Sobanet, budget director for Governor Hickenlooper, voiced concern over State Education Fund Expenditures. He noted that the appropriation for FY11-12 school finance exceeded \$500M. On an annual basis, that dollar amount is higher than the 1/3 of 1% of the income tax that flows into the State Education Fund. He stated that sustaining the appropriation is the challenge, and moving forward we need to look at all the sources that don't create future cliffs going forward for K-12.

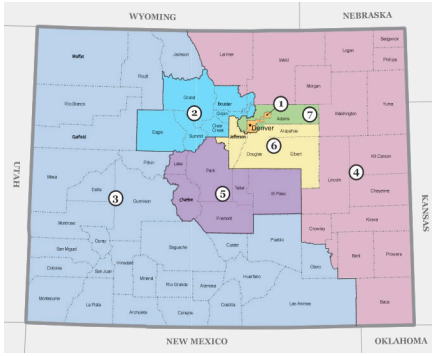
While we have no hard numbers on cuts to K-12 or higher education for FY 12-13, it is estimated that there will be on-going cuts.

Federal Funding Issues

As Congress returns from summer break, the reauthorization of the Elementary and Secondary Education Act (ESEA) is on the minds of many. The ESEA allocates funding for a number of significant education programs around the country. Unfortunately, the partisan struggles that have been occurring during the FY 2012 budgeting process have caused many to believe that reauthorization of the ESEA will not occur before the end of this year. Additionally, President Obama has outlined a plan to offer No Child Left Behind Waivers for states willing to embrace particular reform agendas outlined by the administration. Colorado plans to apply for more



flexibility in the utilization of Federal funds under this waiver plan. Furthermore, the Center for Budget and Policy Priorities has predicted a 9% cut across the board for all non-defense programs in 2012, which roughly amounts to a \$4 billion cut to the US Department of Education. In jeopardy in 2012 are the Elementary and Secondary School Counseling Program (\$52M) and the Career and Technical Education Perkins grants.



Redistricting Update

One of the most contentious issues during the 2011 General Assembly was the drawing of new boundaries for Colorado's federal and state congressional districts. The changes in the composition of Colorado's population in recent years has brought about a need to redraw

boundaries to reflect a more equal and accurate representation of the districts around the state. A commission was appointed to vote on approved maps. That commission included an even split of democrats and republicans and was chaired by an Independent affiliated member, Mario Carrera. Just this past week, the final maps approved by the Commission were drawn by committee chair Carrera. In the meantime, a lawsuit is taking place at the filing of the general assembly asking the courts to redraw the boundaries. Proposals have been submitted to the court by the state Democrats, Republicans, elected officials, Latino groups and a variety of other influential organizations. Accusations of favoring one party or one sector of the population over another in the proposed maps and the failure of the General Assembly to agree over boundaries led to attorneys for both the state Democrats and Republicans to file suit. The lawsuit is expected to go to trial in Denver District Court sometime this October. The final proposals by state Democrats and Republicans were submitted earlier this year. Additionally, groups had until September 2nd to submit any supplementary proposals for consideration during the October 7th trial.

November 2011 Ballot

The upcoming Colorado statewide general elections in November will only feature one proposal and will not focus on the election of individuals to office. On the ballot will be Proposition 103, a tax increase measure championed by Senator Rollie Heath (R). If passed, this proposal would temporarily restore state income, corporate and sales taxes to their 1999 levels for the benefit of education. Details of the proposal include:

- Corporate income tax and personal income tax rates would increase from 4.63% to 5%.
- The state sales tax rate would increase from 2.9% to 3%.
- The initiative is anticipated to raise an additional \$532 million per year.
- The new rates would be in effect temporarily for five years, beginning in January 2012.

It is important to note that this proposal is temporary and a permanent funding solution for education is still being developed. The campaign for Proposition 103 has raised a modest \$21,040 last reporting cycle. Formal opposition to the measure has been established by the group Save Colorado Jobs, headed by former Representative Victor Mitchell (R) and supported by several Republican legislators in the current General Assembly.



Federal Elections Update

Several members of the General Assembly have already announced their intentions to run for seats in the United States Congress in the 2012 elections. Current Colorado Senate President Brandon Shaffer (D) has entered the race for the House of Representatives, challenging current Representative Cory Gardner (R) in District 4 in Northern Colorado. President Shaffer plans to continue as Senate

President and campaign concurrently during the upcoming 2011 session. Since President Shaffer is term limited in 2012 for the Colorado Senate, the Senate majority will be required to elect a new Senate President for the 2013 session. Also running for Congress is Colorado State Representative Joe Miklosi (D), challenging Representative Mike Coffman (R) in District 7 in the Southwest Metro Denver region. Furthermore, current House Minority Leader Representative Sal Pace (D) has announced a campaign to run for the House of Representatives in District 3, which encompasses a large portion of Southwestern Colorado. Scott Tipton is the current congressman in CD 3 and is a former member of the Colorado House where he held a seat on the House Education Committee.

Colorado General Assembly Elections

During the 2011 session the Colorado General Assembly convened with a new partisan composition in the chambers. The elections held in November 2010 provided a new legislative playing field this pas session. Colorado welcomed a new governor with the election of former Denver Mayor and Democrat John Hickenlooper and Lt. Governor Joe Garcia, former head of CSU Pueblo. The most notable change came in the swap in the majority in the House of Representatives, switching to a slim 33-32 margin with the GOP gaining the majority. The Senate remained in Democratic control with a 20-15 split. This year the 2011 elections will largely feature issues on the ballot for statutory and constitutional changes and will not play a critical role in changing the composition of the Colorado General Assembly. However, the upcoming 2012 elections will feature elections for all 65 House seats and about half of the Senate seats. The chairs of both the House and Senate Education committees are term-limited in 2012 (Rep. Tom Massey [R] and Sen. Bob Bacon [D]). Senators and Representatives that are term-limited or are up for reelection in 2012 include:

Term Limited in 2012:

- Senator Bob Bacon (D)
- Senator Shawn Mitchell (R)
- Sen. President Brandon Shaffer (D)
- Senator Nancy Spence (R)
- Senator Lois Tochtrop (D)
- Rep. Larry Liston (R)
- Rep. Judy Solano (D)
- Rep. John Soper (D)
- Rep. David Balmer (R)
- Rep. Nancy Todd (D)
- Rep. Tom Massey (R)
- Rep. Wes McKinley (D)

Up for Re-Election in 2012:

- Senator Pat Steadman (D)
- Senator Linda Newell (D)
- Senator Mark Sheffel (R)
- Senator Jean White (R)
- Senator Bill Cadman (R)
- Senator Keith King (R)
- Senator Rollie Heath (R)
- Senator Evie Hudak (D)
- Senator Betty Boyd (D)
- Senator Mary Hodge (D)
- Senator Suzanne Williams (D)
- Senator Morgan Carroll (D)
- Senator Joyce Foster (D)





Lobato Lawsuit Update

The landmark Lobato lawsuit was filed in 2006 by a group of parents from the Center School District seeking to address the adequacy of funding levels for Colorado's K-12 public education system. The state is required by the constitution to provide a 'thorough and uniform' free public education to all students in Colorado. The lawsuit is seeking to have the courts define what is adequate funding for a thorough and uniform public education system. Before the trial began, the district court rejected the state's central defense that TABOR is the reason for reduced K-12 funding. District court decided that TABOR may provide a reason for *why* the student's right to funding

rights have been violated. Opening arguments for the trial began on August 1, 2011, and the trial continued until September 2nd. Testimony during the month-long trial was plentiful and incorporated a wide variety of public education experts, stakeholders and concerned individuals, including state department officials, state legislators, teachers, students, parents and school district officials, notably including a variety of representatives from Littleton and Cherry Creek districts. The plaintiffs in the case argued that the rising levels of at-risk students coupled with falling funding levels for districts has led to disparities in achievement throughout the state. The state defended funding levels, arguing that additional funding is not guaranteed to raise student achievement levels. The education community in Colorado will be forced to hold its breath for a final answer to the question of funding adequacy, as Denver District Judge Sheila Rappaport has no deadline in which to make a final ruling on this case.

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