

2010 K-12 EDUCATION LEGISLATION

Charter Schools

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HB 10-1183 (Enacted)
Alternative School Finance Models

HB 10-1318 (Enacted)
Changes to Total Program Funding

HB 10-1369 (Enacted)
Financing of Public Schools

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Average Daily Membership Study

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Weighted Student Funding Formula Grants

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School Funds Award Program

SB 10-065 (Enacted)
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School Transparency Online Financial Database

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2010 K-12 EDUCATION LEGISLATION (Cont.)

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Charter Schools

Charter schools. The General Assembly considered several bills impacting charter schools. **House Bill 10-1345** establishes a process for the Commissioner of Education to grant emergency powers during emergency situations at charter schools. The bill sets out a process for charter school authorizers to request that the Commissioner of Education issue orders of external control over certain charter school functions during an emergency. The request must be a written statement that identifies the emergency that justified external control, the form(s) of external control requested, and that clearly states if the authorizer is requesting an order of reorganization. The commissioner may issue three types of orders, upon the request of an authorizer:

- a temporary order;
- a preliminary order; or
- an order of reorganization.

The commissioner may issue a temporary order without notice to the affected charter school in the event that immediate and irreparable injury, loss, or damage will occur as a result of the emergency. Once the order is issued, the authorizer must provide a copy of it to the charter school immediately. A temporary order is valid for ten days, and may be extended for an additional ten days if good cause is shown.

A temporary or preliminary order may appoint the authorizer or another entity or person to act as a fiduciary. An authorizer is prohibited from acting as the fiduciary if more than one authorizer is party to the complaint or if the authorizer is requesting an order of reorganization.

The bill also addresses matters concerning excess benefit transactions and defines excess benefit for the purposes of the bill. When a fiduciary who is not an authorizer is assigned to oversee a charter school and determines that a charter respondent has engaged in an excess benefit transaction, the fiduciary has the authority to:

- cancel in writing and without penalty any contract entered into by the charter school that awards the excess benefit to an individual or another entity and cancel any further compensation to the party that received the excess benefit; and
- file, in the name of the charter respondent, a civil action for recovery of the excess benefit and imposition of a civil penalty.

The legislature enacted legislation pertaining to charter school authorizer standards. **House Bill 10-1412** creates the Charter School and Charter Authorizer Standards Review Committee (the committee). The 13-member committee must submit recommendations to the State Board of Education (SBE) by August 1, 2011, on the following issues related to standards for charter schools and charter school authorizers, including standards for individual schools and charter management organizations:

- agency capacity;
- the charter school application process;
- performance contracting and school opening;
- ongoing oversight and evaluation;
- renewal decision-making; and
- ethical issues, including but not limited to: excess benefits, executive compensation, nepotism, and conflicts of interest in charter school governance.

To accomplish this task, the bill directs the committee to create two subcommittees at its first meeting: one to study and provide recommendations regarding charter school standards; and one to study and provide recommendations regarding charter school authorizer standards. Additional subcommittees may be established as necessary by the committee chair. From these recommendations, the SBE is required to promulgate rules detailing standards for charter schools and charter school authorizers.

The General Assembly also considered two measures concerning the state Charter School Institute (CSI). **Senate Bill 10-111** makes changes to the CSI and the schools that the CSI charters. Specifically, the bill:

- permits a board of cooperative educational services (BOCES) to contract with an institute charter school for the provision of services and vice versa;
- requires the CSI to convene a study group to study the feasibility and effect of identifying institute charter schools as a local education agency under federal law and to report its findings to the General Assembly;
- creates a separate account in the State Charter School Institute Fund for school food authority moneys and gives the CSI continuous spending authority over this account;
- renames the Institute Charter School Capital Construction Assistance Cash Fund and permits assistance from the fund to include other emergency needs, including special education needs;
- extends from 60 days to 75 days the time allowed for the CSI to rule on a charter school application;
- requires that each institute charter school collect and report certain information about its students for the school's first year of operation, and to update the information, if necessary, each May 1;
- repeals provisions that would allow the institute to opt out of the state procurement code;
- requires the institute board to meet at least once each year with the school accountability committees of the institute charter schools to discuss accountability and accreditation of institute charter schools; and
- requires the CSI to withhold a certain amount of funding to institute charter schools in years where the total amount of total program funding is reduced under the School Finance Act.

The other measure concerning the CSI, **Senate Bill 10-161**, authorizes the CSI and district charter schools to contract with boards of cooperative services (BOCES) and other district or institute charter schools. Under current law, the CSI and district charter schools can contract with school districts, state colleges and universities, the state of Colorado, school food authorities, and third parties for the use and maintenance of school buildings and grounds.

The bill also establishes the Charter School Collaborative Act. The act permits charter schools to contract with each other to provide any function, service, or facility as authorized by law for each of the participating schools. Charter schools that contract with each other are considered a charter school collaborative and operate as a local education agency. The collaborative can apply directly for state and federal grants and operates as a local education provider or administrative unit for these purposes. A charter school needs approval of its authorizing district to form or join a collaborative only under certain circumstances.

The legislature considered modifications to the application process for charter schools. Specifically, **House Bill 10-1419**, which was postponed indefinitely, required that local school boards:

- maintain a record of each charter school application review, including any documents pertaining to the decision, documentation of witness interviews, and meeting minutes;
- notify a charter applicant within seven calendar days if an application is incomplete, and provide seven days for the applicant to provide the additional information; and
- provide specific finding of fact in stating its reasons for denial or refusal to review a charter school application.

The bill also required that the State Board of Education (SBE) promulgate rules that establish the standards for charter schools to be applied by a school district. If a local school board decision were appealed to the SBE, the appealing person would have had the burden of proving that the board failed to make its decision based on the charter school standards established by the SBE, was not supported by the record, or was based on some other grounds permitted by law. Under the bill, the SBE would be prohibited from considering in its appeal review any evidence, information, or documents that were not contained in the appeal.

Finally, the bill required witnesses who testify at a community meeting regarding a charter school application to identify any affiliation they had with the school district or charter applicant. Discussion at the community meetings would have been limited to the application of the standards governing charter schools to the charter application.

School Districts and Students

The General Assembly considered a number of bills impacting school districts and students during the 2010 legislative session, ranging from green building standards to reading incentive programs. A summary of the key measures considered follows.

Arts education. **House Bill 10-1273** encourages all public schools to provide courses in performing and visual arts. Courses may include traditional arts classes, on-line study, internships, externships, mentor experiences, or independent study. Schools are encouraged to use innovative

ways to deliver arts education, such as technology and software, and the formation of partnerships with other schools, districts, or community colleges. Schools must include arts education in students' individual career and academic plans.

Additionally, the Office of Dropout Prevention and Student Re-engagement in the Colorado Department of Education (CDE) is encouraged to collaborate with both for-profit and nonprofit community arts organizations. The office may also assess arts education practices at high-needs schools. The bill specifies that arts education qualifies as a service for which a public school may seek grant assistance under the Student Re-engagement Grant Program. The bill also clarifies that state support for programs in postsecondary career and technical education may include programs in arts education.

Assessments. The legislature considered two measures concerning standardized assessments. **House Bill 10-1254**, which was postponed indefinitely, would have added an additional requirement for the graduation guidelines established by the SBE. The bill required that the guidelines include a requirement that each student enrolled in a public high school, except those who qualify for the CSAP-A or those who are home-schooled, must achieve either:

- a score of proficient on the tenth grade statewide assessments in reading, writing, and mathematics; or
- a score on a postsecondary and workforce readiness assessment that indicates that the student has achieved postsecondary and workforce readiness.

The bill additionally required that the SBE graduation guidelines include an allowance for students to retake an assessment as many times as necessary in order to meet the requirement.

A second measure, **House Bill 10-1430**, which was deemed lost, would have changed how the Colorado Student Assessment Program (CSAP) is administered. Most notably, the bill proposed to eliminate the writing assessment and to repeal the CSAP by July 1, 2013. It also changed the types of assessments administered in 9th and 10th grade and established three categories for assessments: formative, interim, and summative. Some of the modifications would have required CDE to request a change in the state's plan that is approved by the federal government.

At-risk students. The legislature considered three measures affecting at-risk students and juveniles in the justice system and out-of-home placements. **Senate Bill 10-154** expands the criteria for qualifying as an alternative education campus. Alternative education campuses are schools established to serve students who are involved in the juvenile justice system, were victims of child abuse or neglect, use drugs or alcohol, belong to street gangs, or are otherwise at a high risk of academic failure. These campuses are subject to different accreditation standards and may be exempted from school accountability reports.

One reason a school can be identified as an alternative education campus is that more than 95 percent of the student body are "high-risk students." The bill expands the current definition of "high-risk student" to include any student that:

- is a migrant student;
- is a homeless student; or
- has a documented history of psychiatric or behavioral disorders.

Under current law, a school may be considered an alternative education campus if 95 percent of the students have an individual education program (IEP), or it can become an alternative education campus if 95 percent of the students are high-risk students. Under SB 10-154, students with IEPs may be counted along with high-risk students to determine a school's eligibility.

The legislature also enacted legislation concerning the provision of educational services for juveniles who have been charged as an adult. Specifically, **Senate Bill 10-054**:

- limits school districts from providing more than four hours of instruction to such juveniles;
- permits school districts to determine whether they will provide educational services to juveniles who have graduated from high school, received a GED, or refused such services;
- stipulates that a contact person, who may be the child welfare education liaison, must be designated for the juvenile to ensure that the juvenile receives educational services while he or she is detained in the jail;
- allows a school district to include such juveniles in its pupil count or recover the costs from CDE and to become eligible for additional funding for serving such juveniles; and
- requires that educational services be provided in a safe environment.

House Bill 10-1274 addresses the transition from an out-of-home placement into the public school system for students who have been determined by a court or hospital to be a risk to themselves or the community within the 12 months prior to the transfer. To facilitate the transition for such individuals, the bill requires that the Colorado Department of Health and Human Services (DHS) and CDE enter into a memorandum of understanding that includes:

- a consistent approach to notification and data-sharing about these individuals;
- a plan for using current state and federal data and existing information-sharing activities;
- a plan for accountability and collecting and reporting data;
- identification of any necessary professional development for the successful implementation of transitions and data sharing; and
- a consideration of recommendations from working groups that have experience in the areas of student transition and data sharing.

Starting August 15, 2010, school districts must be notified about these student transitions at least ten days in advance of the transition. If circumstances prevent the notification to be made in the ten-day timeframe, then the notification must occur within five days of the student being placed in a public school.

Green building standards. The legislature also considered legislation requiring green building standards for school buildings. **House Bill 10-1406**, which was postponed indefinitely, would have required that each school district and each charter school ensure that a project to construct or redesign a building or structure, at a minimum, satisfied the rules established and adopted by the state fire suppression administrator in the Department of Public Safety, in consultation with the Governor's Energy Office, for energy-efficient design and construction of school buildings and structures.

Mascots. One bill addressed the issue of high schools using American Indian mascots. **Senate Bill 10-107**, which was postponed indefinitely, would have prohibited the use of American Indian mascots by public high schools unless the school obtained permission from the state Commission of Indian Affairs. For each month that a school used an unapproved American Indian mascot after July 1, 2013, the school district would have paid a \$1,000 fine.

Reading incentives. Senate Bill 10-210, which was postponed indefinitely, would have permitted the Read-to-Achieve Board to distribute up to \$1.0 million of program moneys to organizations that operate Promise Neighborhood or Choice Neighborhood programs pursuant to federal law. These programs target distressed neighborhoods for education and housing improvements. The bill defined "organization" as a BOCES or a tax-exempt nonprofit organization that receive federal funding targeted at neighborhoods having these criteria: severely distressed housing, a concentration of poverty, and potential for long-term viability.

Grants provided to these organizations would have been used for students in grades one through three or between third and fourth grade and to offer monetary incentives to the children for reading books. To receive the money, the student would have been required to pass a quiz that demonstrates he or she had read the book. Each year, the grant recipient would have reported to the Read-to-Achieve Board the number of books read and the amount earned per student. This information would have been included in the Read-to-Achieve annual report. The bill also established a grant application procedure and required that grant recipients work with one or more public schools or public libraries.

Religious rights in schools. The legislature considered one measure pertaining to student and employee religious rights in public schools. **Senate Bill 10-089**, which was postponed indefinitely, created the Religious Bill of Rights for Individuals Connected to Public Schools Act. The SBE would have been required to establish two religious bills of rights and guidelines for their usage: one for public school students and their parents or guardians and one for public school teachers and employees. Additionally, the SBE would have been required to create a standard form to report grievances that may occur as a result of the act and to post both religious bills of rights on its website.

Local school boards would have adopted written policies and procedures regarding the bill of rights and would have been required to allow a high school student to opt out of any class or refrain from the use of specific materials that were inconsistent with the student's religious beliefs. A parent or guardian of any student could have excused his or her child from a class or from using specific materials for religious reasons. Additionally, each local school board would have been required to certify to the Attorney General that it was in full compliance with the act.

Nutrition and Wellness

Nutrition. The legislature debated two measures related to school nutrition. **House Bill 10-1335** permits BOCES to operate as a school food authority in order to provide meals to students. BOCES are encouraged to provide food and beverages that satisfy nutritional standards established by the U.S. Department of Agriculture, and have been locally grown or produced. The bill also establishes the BOCES Healthy Food Grant Program within CDE. The purpose of the program is to make grants available to BOCES that operate as school food authorities so that they

can satisfy national nutritional standards for food and beverages served to children during the school day. Contingent upon available funds, the first grants will be awarded by June 1, 2011, and annually thereafter.

Senate Bill 10-081 establishes a 13-member farm-to-school interagency taskforce to study, develop, and recommend policies and methods to best implement a farm-to-school, including:

- creating farm-to-school pilot programs or expanding food focus education pilot programs;
- offering assistance in identifying funding sources and grants that allow school districts to recover the cost associated with purchasing locally grown food products;
- identifying, designing, or making available training programs to enable local farmers and ranchers to market their products to school districts, including programs related to crop production, marketing of crops, post-harvest handling of crops, food safety, business management, liability and risk management, contracting for crops, processing of crops, and any other topics deemed appropriate by the task force;
- advising school districts on methods by which a school district may improve facilities to allow for the purchase and use of minimally processed and fresh and locally produced foods in school meals; and
- providing assistance to school food services to establish procedures, recipes, menu rotation, proper handling, preparing, storing, and other internal processes that accommodate the use of locally grown foods in public schools.

The task force must report its progress, findings, and recommendations to the House and Senate Education committees, the Senate Agriculture and Natural Resources Committee, and the House Agriculture, Livestock, and Natural Resources Committee, or any successor committees, on or before February 1, 2013. The taskforce is repealed on December 31, 2013.

Wellness. The legislature also considered two measures pertaining to student wellness. Starting in July 2011, and every year thereafter, **Senate Bill 10-056** requires the CSI, each school district board of education, and the Colorado School for the Deaf and the Blind to annually provide parents and legal guardians with a copy of a standardized immunization document developed by the Colorado Department of Public Health and Environment (CDPHE). The form must be developed by March 1, 2011, updated annually, and include the following information:

- a list of the immunizations required for enrollment in a school and the age at which the immunization is required; and
- a list of immunizations currently recommended for children by the Center for Disease Control Advisory Committee on Immunization Practices and the recommended age at which each immunization should be given.

The document may be distributed through a newsletter or electronically, but only posting the document on a web site does not satisfy the distribution requirements under the bill. However, school districts and the CSI are encouraged to post it on their websites. Additionally, CDE must post the standard immunization document on its website.

The legislature also enacted legislation that promotes participation in outdoor activities by Colorado's metropolitan, low-income youth. **House Bill 10-1131** creates a new grant program in the Colorado Department of Natural Resources (DNR) and requires SBE to adopt a state plan for environmental education.

Subject to the receipt of sufficient money from public and private donations, the DNR will provide grants to fund opportunities for young people to engage in outdoor activities. The department will administer the grant program, adopt selection criteria, develop an application process, and distribute any moneys received. By February 1, 2011, and each year thereafter, the department must report to the General Assembly the amounts received from public and private sources, amounts awarded, and grant recipients and activities. The program is repealed July 1, 2020. The bill creates the five-member Colorado Kids Outdoors Advisory Council to assist the department in program administration.

Finally, subject to the receipt of sufficient money from public or private donations, SBE must adopt a state plan for environmental education that:

- addresses environmental education in public schools;
- provides professional development for educators; and
- ensures compliance with requirements imposed by federal rule or law.

School Finance

Budget balancing measures. The legislature considered several measures affecting education spending that were recommended by the Joint Budget Committee (JBC), in order to balance the FY 2009-10 and FY 2010-11 budgets. **Senate Bill 10-065** makes mid-year adjustments to the FY 2009-10 appropriations to the Department of Education. Last year's school finance bill, Senate Bill 09-256, included a provision that required school districts and the CSI to hold approximately 1.9 percent of their budgets in a fiscal emergency restricted reserve (totaling approximately \$110 million statewide). Under Senate Bill 09-256, the reserve was subject to a rescission, provided that the General Assembly act on such a rescission by January 29, 2010. Senate Bill 10-065 enacts this rescission. The bill also includes a reduction to account for higher-than-expected local revenue collection (approximately \$67 million statewide).

Senate Bill 10-150, recommended by the JBC as part of the FY 2010-11 budget package, transfers the following money to the State Public School Fund for use in the School Finance Act for FY 2010-11:

- interest or income earned on the investment of money in the Permanent School Fund;
- proceeds received by the state from timber sales, rental payments for surface use, and rental or lease payments for minerals on state public school lands; and
- royalties and other payments for natural resource extraction on these lands.

Under current law, this revenue would be credited to the Permanent School Fund.

House Bill 10-1318, also recommended by the JBC as part of the FY 2010-11 budget package, suspends the minimum state aid requirement for FY 2010-11 through FY 2014-15. Under

current law, each Colorado school district receives a minimum amount of state funding, notwithstanding the state and local shares of total program funding determined as part of the School Finance Act.

By January 15, 2015, the bill also requires the CDE to submit a report to the JBC and the House and Senate Education committees detailing the fiscal impact of restoring this requirement in FY 2015-16.

The bill specifies that, in the event that the state's share of total program is either not fully funded or reduced through a negative supplemental, each district's share of state aid will be reduced proportionately, even if the reduction results in an allocation less than minimum state aid. In addition, a district's share of state aid will be further reduced proportionately to cover CDE's administrative costs, even if the reduction takes the district's allocation below the minimum state aid level. The bill affects nine school districts: Clear Creek, West Grand, DeBeque, Park, Aspen, Meeker, South Routt, Summit, and Pawnee.

Senate Bill 10-151, recommended by the JBC, repeals the Colorado Comprehensive Health Education Fund effective July 1, 2010, and credits any money remaining in the fund on the repeal date to the State Public School Fund. Under current law, 50 percent of unexpended appropriations in the State Public School Fund is transferred annually to the Colorado Comprehensive Health Education Fund., which provides assistance to school districts in providing health education programs. This bill requires that any unexpended appropriation in the fund remain in the State Public School Fund.

***Financial transparency.* House Bill 10-1036**, recommended by the 2009 School Finance Interim Committee, requires school districts, BOCES, the CSI, district charter schools, and institute charter schools to post specific financial information on-line in a format that can be downloaded by the public. The bill establishes timelines for financial data to be posted, including annual budgets, financial statements, salary schedules, investment performance reports, and check, debit, and credit transactions. The department must recommend a uniform format for all information posted on-line.

Another measure on financial transparency for schools, **Senate Bill 10-091**, which was postponed indefinitely, would have required local education providers, which include school districts, BOCES, CSI, district charter schools, and institute charter schools, to develop and maintain online revenue and expenditure databases by September 1, 2011. Each database would have been required to provide the following:

- public review of moneys collected and expended;
- information about the source of revenue for amounts greater than \$50;
- detailed expenditure information including amounts, recipients, funding sources, and purposes;
- data that can be downloaded in an open, structured format; and
- data that is updated at least monthly and is archived.

The local education provider would have been required to place a link to the data on its website and provide a rich site summary feed with the data. Enabling a summary feed would have allowed the public to subscribe to the data stream and be automatically alerted when new data became available.

Interim committee legislation. In addition to HB 10-1036, the 2009 School Finance Interim Committee recommended seven additional bills. **Senate Bill 10-008** requires the department to study the development and implementation of a system to count pupils based on the average number of days they are enrolled during the school year, rather than on a single count date, which is how the state currently conducts its pupil count.

Senate Bill 10-018 authorizes the department to accept gifts, grants, and donations to pay for items of recognition, such as banners and trophies. These items are to be awarded to public schools identified as eligible to receive the John Irwin Schools of Excellence Award, the Governor's Distinguished Improvement Award, or the Centers of Excellence Award.

House Bill 10-1013 requires that school districts provide funding for capital construction to each qualified charter school, and for the Colorado Department of Education (CDE) to provide capital construction funding to the state Charter School Institute on a monthly basis. Under current law, this funding is provided in a lump-sum annual payment. The bill also repeals outdated reporting requirements in statute.

House Bill 10-1034 expands the positions for which the department is able to issue a one-year, emergency authorization for employment to include speech-language pathology assistants. This authorization may be issued if:

- a school district requests the emergency authorization;
- the district submits evidence to document the need for the specific educational services required that would otherwise be unavailable; and
- the SBE determines that employment of the applicant is essential to the preservation of the district's instructional program.

House Bill 10-1037 eliminates the current repeal date for the state's program for funding supplemental on-line education. Under current law, the state contracts with an outside vendor to provide on-line educational courses that are supplemental to the education program provided by a school district, charter school, or BOCES. Additionally, the state provides a grant assistance program to help eligible districts, schools, and BOCES purchase these supplemental programs. Funding for the vendor contract and grants is from federal mineral lease revenue.

The interim committee recommended two measures pertaining to alternative school financing models. **House Bill 10-1183** creates the Alternative School Funding Models Pilot Program to encourage school districts and charter schools to collect data to compare alternative school funding models with the existing method. A district or school that chooses to participate in the program will continue to receive its funding as provided in the "Public School Finance Act of 1994," but may accept gifts, grants, and donations to offset costs incurred.

An advisory council consisting of selected members of the General Assembly, the SBE, district and school executives, and the Commissioner of Education will review applications and select the participants for the program. Districts or charter schools selected must participate in the program for a minimum of two school years, and must annually submit collected data to the council, including estimated differences in funding for the district or school if it were funded under an alternative funding model, on or before by September 1 of the following budget year. On or before January 15, 2012, and each January 15 through 2015, the council must submit an annual summary

report of the data received from program participants to the SBE, the Governor, and the General Assembly. The council may seek and accept gifts, grants, donations, to offset programmatic costs. The program is repealed on July 1, 2015.

Senate Bill 10-017, which was postponed indefinitely, would have created a grant program in the department to provide financial assistance to school districts that choose to design weighted student funding formulas, and to provide professional development for implementing the formulas. Money for the grant program would have been from either federal funds or gifts, grants, and donations. **House Bill 10-1015**, which was also postponed indefinitely, would have created a pilot program to test different funding mechanisms for small school districts.

School Finance Act. House Bill 10-1369 amends the "Public School Finance Act of 1994" to modify the funding for K-12 public schools in FY 2010-11. The bill increases the statewide base per pupil funding to \$5,529.71 to reflect a -0.6 percent inflation rate plus 1 percent as required under the state constitution.

For FY 2010-11 and FY 2011-12, the bill decreases the state's share of total program funding for school districts and institute charter schools by an amount determined by CDE and Legislative Council Staff. The bill specifies that the maximum reduction cannot exceed an amount that would reduce total program funding below \$5,438,295,823 in FY 2010-11 and FY 2011-12. This would be \$260 million below the original appropriation for total program funding in FY 2009-10. The total reduction of \$365.4 million amount to 6.35 percent of total program compared to the requirements of current law. The reduction for FY 2011-12 is not specified.

These reductions will be accomplished through the creation of district level budget stabilization factors. The bill directs the CDE to determine the size of these budget stabilization factors and to apportion this reduction across school districts. Specifically, the CDE is directed to:

- calculate a budget stabilization factor for the applicable budget year by dividing the total reduction by the sum of total program funding for all districts;
- calculate the reduction for each district by multiplying the district's total program funding under current law by the district's budget stabilization factor; and
- reduce each district's state share of total program funding by the calculated reduction or the district's state share, whichever is less.

Districts that do not receive enough state aid to implement a 6.35 percent funding reduction will be required to achieve that reduction through a combination of the state aid they do receive, plus a temporary reduction in their override mill levy revenue. In districts that have enacted a mill levy override, the override revenue will be calculated based on the district's total program funding before the calculated budget stabilization reduction has been applied.

School district bond indebtedness. Current law identifies several purposes for which school districts may issue bonds upon approval in an election. **Senate Bill 10-205** expands the list to permit school districts to issue bonds to pay operating costs, but only if Amendment 61 is adopted by voters at the November 2010 election. The requirement for voter approval would remain. Amendment 61, which will be presented to voters statewide on the November 2010 ballot, would prohibit the state from issuing any kind of debt and therefore would render unconstitutional the mechanism that the state uses to help school districts alleviate temporary cash flow deficits. Currently, the state treasurer

offers school districts an interest-free loan program to provide cash flow to districts awaiting property tax collections. In 2009, the treasurer borrowed \$260.0 million to provide loans to approximately 14 districts. Since Amendment 61 prohibits the state from borrowing money, the loan program would end upon enactment.

However, Amendment 61 permits school districts to continue to borrow, contingent upon voter approval, if the debt is bonded and repaid within ten years, and if the total principle does not exceed 10 percent of the assessed taxable value of real property in the school district's jurisdiction. Therefore, school districts could ask local voters to incur debt for operating expenses and, upon voter approval, issue bonds to maintain cash flow in the same manner the state treasurer's loan program currently does.

Teachers and Other Personnel

Early childhood teachers. **House Bill 10-1030**, recommended by the Early Childhood and School Readiness Legislative Commission, creates the Early Childhood Educator Development Scholarship Program in CDE. Subject to the receipt of sufficient money from federal sources and other donations, the department must create a scholarship program to assist persons employed in early childhood education to obtain an associate of arts degree. The department must establish rules, application procedures, and award amounts for the scholarship program. The bill sets forth some of the criteria the department must use for making awards. The department may add additional criteria, as necessary, to identify applicants with the greatest need. Recipients of awards from the program must be assigned a unique educator identifier.

The bill also creates the Early Childhood Educator Development Scholarship Cash Fund to receive federal money and other donations. Scholarships from the program shall be paid from this fund. The Commissioner of Education must notify the Revisor of Statutes by July 1 each year if moneys are received and available for the grant program. The bill is repealed, effective July 1, following the notification that money has not been received or is no longer available.

Hiring and dismissal. Under current law, applicants for nonlicensed positions at public schools must submit fingerprints for a background check and certify that they have never been convicted of a felony or misdemeanor other than a traffic offense. Or, if the person has been convicted of a felony or misdemeanor, the applicant must specify the felony or misdemeanor for which he or she was convicted and other related information. While this information must be disclosed, current law does not specify misdemeanors or felonies that constitute grounds for dismissal or application rejection for these nonlicensed employees. **House Bill 10-1082**, which was postponed indefinitely, specified grounds for dismissal or application rejection of nonlicensed positions. This change aligned the requirements placed on nonlicensed personnel with the requirements of licensed positions. Additionally, the bill required denial or revocation of licenses for licensed professionals who have been convicted of a felony drug offense.

Teacher effectiveness. **Senate Bill 10-036** requires CDE to prepare an annual report on the effectiveness of teacher preparation programs as indicated by teacher performance during the first three years of placement. The report must examine the correlation between teacher preparation programs in the state and student achievement, teacher placement, and teacher mobility and retention.

The report is due by July 1 of each year, beginning in 2011. The bill creates the State Preparation and Readiness of Educators Program Fund for the receipt of both federal funds and gifts, grants, and donations. Implementation of this bill is dependent on the receipt of sufficient funds and may not be paid for with General Fund moneys.

Senate Bill 10-191 requires that the SBE adopt guidelines for a system to evaluate the effectiveness of teachers and principals. All school districts and BOCES must adjust their local performance evaluation systems to meet or exceed the adopted guidelines.

The bill codifies the State Council for Educator Effectiveness, originally established by executive order, sets the composition of the council, and requires that it make recommendations to the SBE concerning the implementation and testing of the new performance evaluation system. The recommendations must include an implementation cost analysis, developed in consultation with experts in school finance. The council must make its recommendations by March 1, 2011, and the board must adopt rules by September 1, 2011. The General Assembly is required to review the adopted rules in a separate bill during the 2012 session, and is given authority to repeal individual rules.

The evaluation system must ensure that:

- teachers and principals are evaluated using multiple fair, transparent, timely, rigorous, and valid methods;
- at least 50 percent of a teacher's evaluation is determined by the academic growth of the teacher's students; and
- at least 50 percent of a principal's evaluation is determined by a combination of the academic growth of the students and the demonstrated effectiveness of the teachers in the principal's school.

Beginning with the 2011-12 school year, CDE will work with districts to develop performance evaluation systems, and will provide a resource bank of assessments, processes, tools, and policies that a district or BOCES may use to develop their local programs. The system must be beta-tested in the 2012-13 school year, implemented statewide in the 2013-14 school year, and finalized statewide in the 2014-15 school year.

Under the new evaluation system, a probationary teacher is defined as a teacher who has not completed three consecutive years of demonstrated effectiveness or a nonprobationary teacher who has had two consecutive years of demonstrated ineffectiveness. Until the system is implemented, the current renewal process for probationary teachers is in place, allowing the school district to choose whether or not to renew employment after three years.

The bill sets out an appeals process for nonprobationary teachers who object to an ineffective rating. Additionally, after receiving an ineffective rating, a teacher is placed on a remediation plan to address the factors that led to the rating and is given a reasonable period of time to remediate the deficiencies identified. If the next evaluation results in a rating of ineffectiveness, the evaluator may make additional recommendations for improvement or may recommend the dismissal of the person.

The bill also requires mutual consent in employment contracts, meaning that a teacher will not be placed in an employment opening without consent, and a school will not be forced to take a

teacher. Under the bill, a teacher with an effective rating is placed in a priority hiring pool and is provided with a list of vacancies for which he or she can apply. Teachers applying to these vacancies will only be assigned to a particular school with the consent of the hiring principal and with input from at least two teachers at the school. If a teacher is unable to secure a mutual consent assignment after 12 months or two hiring cycles, whichever is longer, the school district must place the teacher on unpaid leave. If the teacher secures an assignment while on unpaid leave, his or her salary and benefits will be reinstated at the same level before the period of unpaid leave.

Finally, the bill establishes a new benefit of nonprobationary portability, beginning in the 2014-15 school year. The portability benefit allows a teacher with an effective rating for at least two years who is applying for a position at a different district to provide evidence of such status to the hiring school district and be automatically granted nonprobationary status in that school district.