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Legislative
Council
Staff

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MEMORANDUM

February 1, 2011

TO: Joint Budget Committee
Senate and House 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 have changed from when the General Assembly adjourned in May 2010. The ongoing economic recession is affecting forecasts for property values and income tax receipts, which in turn are placing pressure on state aid appropriations. Despite projected increases in General Fund revenue, declining local taxes are putting pressure on the State Education Fund to support education funding.

The model developed by Pacey Economic Group in February 2001 was updated to reflect actual data for the current budget year and Legislative Council Staff's December 2010 revenue and economic forecast. General Fund support for school finance is projected to increase by at least \$84 million in FY 2011-12 under current law. Proposals are currently under consideration to change current law. Increases in school finance and categorical funding are based on an estimated inflation rate of 1.2 percent applicable for FY 2011-12. The actual rate will be released by the federal government in February 2011. The income tax diversion to the State Education Fund is projected to remain relatively flat in FY 2011-12. The income tax diversion will grow at an average annual rate of 4.0 percent through 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 7, 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 requires 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. 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.

Amendment 23 also governs the appropriation of General Fund money for K-12 education. General Fund appropriations under the school finance act must increase by a minimum of 5 percent through FY 2010-11 in any year in which personal income grows by at least 4.5 percent. This provision is known as "maintenance of effort" or the MOE.

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, however, 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 affect 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 Amendment 23 requirement of the rate of inflation in FY 2011-12;
- 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 2011-12 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 the impact of various levels of General Fund appropriations above the minimum level on the amount of money available in the State Education Fund to provide funding in FY 2011-12 for additional programs that are consistent with the provisions of Amendment 23.

This year presents unique challenges for compiling this report. The Joint Budget Committee and the Governor's Office are examining current year appropriations from the General Fund and State Education Fund—and the laws that drive these appropriations—to deal with the impact of the economic recession on state revenue. Future expenditures for school finance and categorical programs are dependent on actual data for the current year, which have not yet been finalized. In addition to examining current year appropriations, laws and expenditures for FY 2011-12 are being analyzed. Thus, much will occur in the next several weeks that will affect the analysis presented in this report.

Model Inputs for Forecasting Revenue and Expenditures Have Been Updated, Resulting in More Pressure on State Resources

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 they wish. However, there is likely to be increasing pressure on the General Fund because of declining funds available in the State Education Fund. Under current law, the projected balance for the State Education Fund is forecast to fall from \$133.4 million in FY 2010-11, to under \$100,000 in FY 2011-12.

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 2010. Inputs to the model have been updated to incorporate law changes enacted by the General Assembly, actual school funding data for FY 2010-11; revisions to forecasts of economic indicators; and Legislative Council

Staff's December 2010 forecasts of pupil counts and assessed values. Most importantly, House Bill 10-1369 included a budget stabilization factor that reduced the overall amount of funding for school finance. In addition, a \$23 million reduction in local taxes is assumed to not be backfilled with state aid, since this requires the General Assembly to approve a supplemental funding bill, which has not happened to date. These updates result in total expenditures for school finance and categorical programs that are cumulatively \$26 million less than projected when the General Assembly adjourned the 2010 session through FY 2011-12. However, these overall expenditure decreases are occurring simultaneously with a reduction in local tax collections of about \$140 million through FY 2011-12. The net impact of the updating of the model is thus, a cumulative increase in state aid of \$114 million through FY 2011-12, compared with last year's projections.

Projections for property and specific ownership taxes are lower. Property and specific ownership taxes provide the local contribution for school district funding under the school finance act. When these local revenue sources produce less revenue, requirements for state aid increase.

Assessed value and property tax growth. Property taxes account for about 92 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 are projected to fall another 6.9 percent in 2011, before rebounding modestly in 2012 and 2013. High foreclosure rates, tighter mortgage loan requirements, and a slumping housing market are affecting values in the residential sector, while the state's economic downturn is expected to slow growth in values of commercial property. Although oil and gas prices are expected to rebound somewhat in 2011, this growth will not be enough to overcome the projected decline in assessed values for residential and commercial properties¹

The lower assessed value forecast in December 2010 relative to 2009 reduces the cumulative projection of school district property tax collections by about \$109 million through FY 2011-12. In FY 2010-11, the property tax forecast fell by \$9.4 million, while the 2011-12 projection dropped by almost \$100 million.

Specific ownership taxes. In addition to property taxes, the local contribution includes specific ownership taxes. Specific ownership taxes are paid annually on motor vehicles instead of property taxes. 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. Specific ownership taxes make up about 8 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: the recession 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

¹ Legislative Council Staff, *Focus Colorado: Economic and Revenue Forecast*, December 20, 2010

decrease in the proportion of total property taxes collected by school districts; and, within school district property taxes, the decrease in the proportion of property taxes that are directed 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 stem the slide in specific ownership taxes for school finance.² Although only three years of history are available on the change in the mill levy calculation, it does show a stabilization of the proportion of statewide property taxes collected by school districts.

Specific ownership tax rates are set by state law and decrease as a vehicle ages. For example, a 2011 model-year passenger vehicle will pay a rate of 2.1 percent, while a 2004 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. The media has widely reported on the recent national decline in sales of motor vehicles in the past two years. In Colorado, tax receipts sales of motor vehicles and auto parts were essentially flat, growing by only 2.2 percent in the first 8 months of 2010, compared to the same period a year earlier.

Specific ownership tax receipts applied to the school finance act are one year behind revenue collections; that is, specific ownership taxes collected now in FY 2010-11 count as part of the local contribution for school finance funding in FY 2011-12. Because auto sales are expected to remain sluggish in the short term, the projection for specific ownership taxes applied to the school finance act was lowered modestly. From FY 2010-11 through FY 2011-12, this portion of the local share was reduced about \$31 million.

Total local share change. Through FY 2011-12, school districts' property and specific ownership taxes are projected to fall \$140 million, compared with the projection last year.

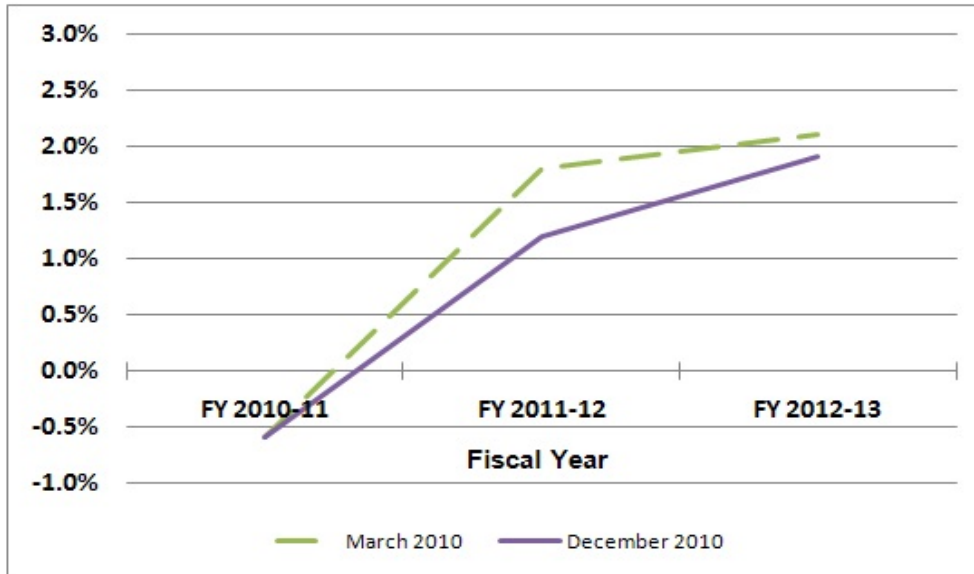
Lower inflation reduces overall funding requirements for school finance and categorical programs. Expenditures for school finance are a function of the pupil count and inflation. They are calculated by multiplying the statewide base per pupil funding level, as adjusted by the cost-of-living and size factors, by the pupil count. Additional funding is provided for at-risk and on-line pupils. The change in projected inflation rates is illustrated in Figure 1.

In House Bill 10-1369, the General Assembly also implemented a budget stabilization factor, reducing state aid for most districts in FY 2010-11 and FY 2011-12. The forecast for state aid funding in FY 2010-11, is largely unchanged from last year's projection, although a \$23 million reduction in local taxes is assumed to reduce total school finance funding unless the General Assembly decides to increase state aid correspondingly. Through FY 2011-12, state aid funding is \$114 million more than what was anticipated last year.

Total state funding for categorical programs is also affected by lower projections for inflation. In the next two years, total projected state expenditures for categorical programs will decrease by \$1.4 million compared with last year's projections.

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.

**Figure 1
Comparison of Inflation Rates
(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 Legislative Council Staff's December 2010 revenue forecast. The income tax revenue deposited in the fund is expected to increase at an average annual growth rate of 4.0 percent between FY 2009-10 and FY 2012-13, as illustrated in Figure 2. Figure 2 also compares the current projections of income tax revenue to the State Education Fund to those from the March 2010 forecast that were used to project fund balances when the General Assembly adjourned the 2010 legislative session. Actual income tax diversions to the fund for FY 2009-10 were \$18.1 million lower than what was projected last March. Income tax diversions over the next three years are expected to be \$19.0 million less than what was projected in March.

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

Fiscal Year	December 2010 Forecast		March 2010 Forecast		Change in Projected State Education Fund Revenue
	Income Tax	Percent Change	Income Tax	Percent Change	
FY 2009-10	\$329.0	0.0%	\$347.1	0.0%	(\$18.1)
FY 2010-11	\$368.5	12.0%	\$367.9	6.0%	\$0.6
FY 2011-12	\$369.9	0.4%	\$374.7	1.8%	(\$4.8)
FY 2012-13	\$399.3	7.9%	\$414.1	10.5%	(\$14.8)
Total	\$1,466.7		\$1,503.8		(\$37.1)

The projected drop in revenue to the State Education Fund compared to last year results from the deteriorating economy and its effect on income tax revenues. Fewer jobs, weaker pay increases, decreases in the stock market that affect capital gains, tight credit markets that inhibit small business growth, are all expected to negatively affect growth in individual income taxes. While corporate income tax revenue has rebounded and is now expected to be \$52 million higher over the next two years, it only partially offsets the \$111 million drop in individual income tax revenue over the same period, relative to what was expected last March.

In addition to the income tax diversion, the State Education Fund also earns money. Amendment 23 requires that all interest earned on money in the fund be deposited in 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 2.3 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.

Projections of the Amount of State Money Required to Meet Amendment 23 Funding Requirements for FY 2011-12

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 thereafter. The same increase requirement applies to total state funding for categorical programs. Under current law, meeting these two obligations is expected to require about \$3.8 billion in state funding in FY 2011-12, an increase of 4.6 percent over the current budget year. The derivation of this funding

amount is provided in Figure 3. Please note that the school finance and categorical program dollar amounts in Figure 3 are based on an estimated inflation rate of 1.2 percent for 2010; the actual inflation rate will be released by the federal government on February 17, 2011.

School finance funding. Under current law, the projected statewide base per pupil funding amount for FY 2011-12 is \$5,596.07, an increase of \$66.36 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 \$5,439.1 million, an increase of 0.4 percent or \$20.4 million over the current budget year. The budget stabilization factor muted most of the increase that would have otherwise occurred. Local property and specific ownership taxes are expected to decrease 7.1 percent, resulting in an increase in state aid of 4.8 percent.

Categorical programs. Total state funding for categorical programs is estimated at \$233.9 million for FY 2011-12, an increase of \$2.8 million.

Figure 3
State Money Required to Meet Amendment 23 Funding Mandates
in FY 2011-12 under Current Law
(Millions of Dollars)

Calculation of Funding Amounts	Estimated FY 2011-12 Amount	Change from FY 2010-11
School Finance		
1. Total funding under the school finance act for base increase of inflation	\$5,439.1	(\$2.5)
2. Minus property and specific ownership taxes	<u>\$1,876.3</u>	<u>(\$142.5)</u>
3. Equals state aid for the school finance funding formula	\$3,562.8	\$140.0
Categorical Programs		
4. Total funding for categorical programs with increase of inflation plus	\$233.9	\$2.8
Total: School Finance Plus Categorical Programs		
5. Total state funding required for Amendment 23 (sum of lines 3 and 4)	\$3,796.7	\$142.8

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. These revenue sources are deposited in and appropriated from the State Public School Fund. The estimated amount available for FY 2011-12 for school finance is \$109 million. The \$109 million is based on federal mineral lease deposits of \$68 million, interest and other earnings of \$11 million, and a beginning fund balance of \$34 million. The \$109 million 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 on-line programs and for a grant program; and \$35,000 for distributing school laws.

Figure 4
Other Revenue for Amendment 23 Funding Requirements
under Current Law and Appropriations
(Millions of Dollars)

Other Revenue Amounts	Estimated FY 2011-12 Amount	Change from FY 2010-11
1. State Public School Fund revenue	\$109.5	\$7.7
2. Plus Comprehensive Health Education Fund	<u>\$0.0</u>	<u>\$0.0</u>
3. Equals total other revenue	\$109.5	\$7.7
4. Total state funding required for Amendment 23 (Figure 3, line 5)	<u>\$3,796.7</u>	<u>\$142.8</u>
5. General Fund and State Education Fund for Amendment 23 funding requirements (line 4 minus line 3)	\$3,687.2	\$135.1

Note: Numbers may not sum due to rounding.

General Fund and State Education Fund Appropriations for FY 2010-11 and Their Impact on the Stability of the State Education Fund

At the close of FY 2009-10, the balance of the State Education Fund was \$185.9 million. The situation has changed significantly since that time. Higher requirements for state aid in the current budget year, lower projections for future local taxes, and lower projections for the income tax diversion to the State Education Fund indicate that a significant increase in General Fund appropriations will be required in FY 2011-12 to maintain funding with current law requirements. It should be noted that although the requirements in law for this report relate to the State Education Fund, funding for K-12 education has to be reconciled with the overall budget.

The focus of this portion of the report is future balances of the State Education Fund: 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 2011-12 without adversely affecting the solvency of the State Education Fund. Through FY 2010-11, Amendment 23 required a minimum increase of 5 percent in the General Fund appropriation for school finance whenever Colorado personal income grew by 4.5 percent or more. Because this year is the first year the General Assembly will no longer have to face this constraint, this section concentrates only on the solvency of the State Education Fund.

Based on current law requirements for school finance, the General Fund appropriation would have to increase by at least \$84 million to maintain a slightly positive State Education Fund balance in FY 2011-12. 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. Total program, total state aid, General Fund appropriations and the corresponding balance of the State Education Fund under current law are depicted in Figure 5.

Figure 5
General Fund Appropriations for School Finance
and State Education Fund Balances Under Current Law
(Millions of Dollars)

Fiscal Year	Current Law			
	Total Projected State Aid	General Fund Appropriations	General Fund Increase	State Education Fund Balance
2010-11	\$3,399	\$3,014	NA	\$133
2011-12	\$3,562	\$3,098	\$84	\$0
2012-13	\$4,225	\$3,870	\$772	\$4
Total	\$11,186	\$9,982	\$856	

Alternatively, if General Fund appropriations were constant at the same level in FY 2010-11 and FY 2011-12, the State Education Fund would have insufficient revenue to pay for the funding requirements of school finance under current law. Holding General Fund appropriations constant would therefore imply that total program must be cut by at least \$84 million to maintain a positive balance in the State Education Fund. Any further cuts in General Fund appropriations for school finance would imply deeper cuts in total program and state aid in FY 2011-12.

Finally, it should be noted that the expiration of the budget stabilization factor in FY 2012-13 will raise the overall cost of school finance by \$683 million. Consequently, the General Fund contribution to school finance is projected to increase by about \$772 million because of a decreasing contribution from the State Education Fund.

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 2010-11 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
Current Law: Assumes School Finance cut of \$23 million in FY 2010-11 and General Fund increase of \$84 million in FY 2011-12
(Dollars in Millions)

(1)	State Education Fund						General Fund			School Finance Act	
	(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	Percent General Fund Approp Increase	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	\$484.3	(\$9.7)	\$185.9	\$3,076.3	\$146.2	4.99%	\$5,588	\$239
2010-11	\$368.5	\$284.3	\$89.3	\$427.5	(\$56.8)	\$133.4	\$3,013.7	(\$62.6)	-2.03%	\$5,419	(\$169)
2011-12	\$369.9	\$356.1	\$92.1	\$504.7	\$72.2	\$0.1	\$3,097.2	\$83.5	2.77%	\$5,439	\$20
2012-13	\$399.3	\$245.8	\$96.6	\$399.4	(\$105.3)	\$3.7	\$3,870.0	\$772.9	25.0%	\$6,121	\$683

**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.