

K-12 EDUCATION

Charter Schools

SB 11-069 (Postponed Indefinitely)
Charter School Grant Applications

SB 11-188 (Enacted)
Charter School Moral Obligation Oversight

HB 11-1055 (Postponed Indefinitely)
Facilities for Charter Schools

HB 11-1098 (Enacted)
Charter School Grant Applications

Wellness and Safety

SB 11-012 (Enacted)
Student Possession of Prescription Drugs

SB 11-173 (Enacted)
Interoperable Communications in Schools

HB 11-1069 (Enacted)
Physical Activity Expectation in Schools

HB 11-1254 (Enacted)
Bullying in Schools

School Finance, Financial Policies, and Procedures

SB 11-001 (Postponed Indefinitely)
Knowledge-based Economy Fund

SB 11-079 (Postponed Indefinitely)
Education Noninstructional Support Services

SB 11-109 (Enacted)
Public Education Fund Tax Checkoff

SB 11-184 (Enacted)
Tax Reporting

SB 11-230 (Enacted)
Financing of Public Schools

SB 11-259 (Postponed Indefinitely)
School District Mill Levy Override Incentive

HB 11-1048 (Deemed Lost)
Income Tax Credits for Nonpublic Education

School Districts

SB 11-266 (Enacted)
Background Check School Contractors

HB 11-1053 (Enacted)
Incarceration for Truancy and Contempt

HB 11-1204 (Postponed Indefinitely)
Energy Efficient School Buildings

HB 11-1277 (Enacted)
Statutory Changes to K-12 Education

Special Education and Intervention Services

SB 11-061 (Enacted)
Special Education Appeals Process

SB 11-111 (Enacted)
Educational Success Task Force

HB 11-1077 (Enacted)
Education of Gifted and Talented Children

Struggling Schools

SB 11-080 (Postponed Indefinitely)
School Improvement Plans

HB 11-1126 (Enacted)
Improving Parent Involvement in Schools

HB 11-1270 (Postponed Indefinitely)
Parents Convert Low-Performing Schools

Teachers

HB 11-1121 (Enacted)
Bar Felons from School Employment

HB 11-1201 (Enacted)
Streamlining Educator Licensing

Miscellaneous

SB 11-106 (Enacted)
Sunset Science Technical Education Advisory Board

SB 11-133 (Enacted)
Discipline in Public Schools

The General Assembly considered a variety of K-12 education-related legislation during the 2011 session. Major topics addressed include: charter schools; wellness and safety; school finance, financial policies, and procedures; school districts; special education and intervention services; struggling schools; and teachers.

Charter Schools

Facilities. The General Assembly considered two bills to address issues faced by charter schools in obtaining facilities for their schools. **Senate Bill 11-188** makes several changes to the program in current law that allows qualified charter schools to finance capital construction with revenues from bonds issued on their behalf by the Colorado Educational and Cultural Facilities Authority (CECFA). The financing may be obtained on favorable terms because a source of state moneys is provided that can be used to make bond payments if the qualified charter school fails to make the payments. This program is commonly referred to as the charter school capital construction moral obligation program. The changes made in the bill increase state oversight of the program.

The second bill, **House Bill 11-1055**, was postponed indefinitely. As introduced, the bill would have allowed a charter school to request permission to occupy space in a school district facility or on school district land. In addition, it would have allowed an institute charter school to request permission to occupy space in a facility or on land owned by a state agency. If the school district or state agency denied the request, the bill would have allowed the charter school to appeal to the Colorado Department of Education (CDE). If the CDE determined that the facility or land was available and appropriate, the school district or state agency would have been required to allow the charter school to occupy the facility or land rent-free.

Grant applications. The General Assembly enacted a bill pertaining to charter school applications for state and federal grant programs. Under current law, the State Charter School Institute (CSI) may act as the local education authority (LEA) for a district or institute charter school that is applying for a federal grant program, except for grant programs under the "Individuals with Disabilities Education Act" (IDEA) or the "Elementary and Secondary Education Act of 1965" (ESEA). **House Bill 11-1098** removes the exception for the ESEA, but maintains the IDEA exception. Also, in addition to federal programs, the bill allows the CSI to act as the LEA for district and institute charter schools applying for competitive grant programs created in state law.

Educational management organizations. A bill that was postponed indefinitely, **Senate Bill 11-069**, would have required educational management organizations (EMOs) to be certified by the CDE. An EMO is an organization that contracts with a school district, board of cooperative educational services (BOCES), or the CSI to directly operate public schools. As introduced, the bill established the minimum criteria the CDE must consider when determining whether to certify an EMO. It would have required EMOs to apply to the CDE and pay a fee for certification, which would have been valid for five years. The bill would have required the State Board of Education (SBE) to adopt rules for the application, certification, and reporting process, as well as an appeals process for when the CDE denied an application. The bill also set restrictions and established requirements for individual contracts between EMOs and local education providers. It would have required school districts, BOCES, and the CSI to review the performance of an EMO yearly and, if found deficient, the EMO would have been required to prepare a plan of corrective action. Finally, the bill would have required a charter school's governing board to provide information concerning contracts with EMOs to the CDE.

Wellness and Safety

Prescription drugs. **Senate Bill 11-012** addresses school district policies for student possession and administration of prescription medication. The bill allows local boards of education to adopt and implement a policy allowing students to possess and self-administer prescription medication on school grounds, on school buses, and at school-sponsored events. The policy may prohibit the student from possessing and self-administering prescription medication, but only if school administrators make a determination doing so would pose a significant risk of harm to the student or other students. In addition, the policy must ensure that, if a student has medication prescribed for a life-threatening condition, a sufficient supply of the medication is provided to the school by the student's parent or guardian to be stored at school and kept readily available to be administered to the student in a timely manner in the event of a health emergency. Finally, the bill eliminates statutory language requiring a student to have a treatment plan before he or she may possess or self-administer medication to treat asthma, food or other allergy, anaphylaxis, or other related conditions.

Wellness. Over the past several years, the General Assembly has considered a number of bills that seek to address the issue of childhood obesity, including bills that would have required school districts to offer opportunities for physical activity to students during the school day. In 2011, the General Assembly enacted **House Bill 11-1069**, which requires local boards of education and the CSI to adopt a policy that incorporates into elementary school students' schedules an opportunity to engage in a minimum amount of physical activity each month as follows:

- 600 minutes per month if the school meets five days per week and the student attends school for a full day;
- 300 minutes per month if the school meets five days per week and the student attends school for a half day;
- 30 minutes per day if the school meets fewer than five days per week and the student attends school for a full day; and
- 15 minutes per day if the school meets fewer than five days per week and the student attends school for a half day.

The policy may include an exception for any month that includes a planned or unplanned full-day or half-day school closure. The bill further stipulates that if the school currently provides more than the minimum required number of minutes of physical activity, it cannot reduce the number of minutes, except for budgetary reasons. In addition, a school cannot substitute noninstructional physical activity for standards-based physical education instruction. Finally, the bill encourages the SBE to include information about districts' and schools' physical activity policies in school performance reports.

Bullying. The General Assembly also enacted legislation addressing bullying in schools. **House Bill 11-1254** creates the School Bullying Prevention and Education Grant Program in the CDE. Under the program, a school or group of schools may apply for grants to fund programs aimed at reducing the frequency of bullying incidents. The bill requires the CDE to post on its website evidence-based best practices and other resources for educators who are engaged in bullying prevention and education. Under current law, school districts are required to have a specific policy addressing bullying prevention and education. The bill encourages districts to ensure that the bullying policy incorporates: the administration of biennial surveys of students' impressions of the severity of bullying in their schools; character building; and the designation of a team at each school

to advise the school administration on bullying issues. The bill also requires charter schools and the CSI to adopt bullying policies. Finally, the bill requires the School Safety Resource Center in the Department of Public Safety to consult with the CDE, districts, schools, and charter schools about best practices for bullying prevention and education.

School safety. To address issues related to the lack of interoperable communications between schools and first responders during an emergency, the General Assembly enacted **Senate Bill 11-173**. The bill augments the Colorado School Response Framework, which was created in 2008 to improve crisis response in schools, by clarifying that interoperable communications is included in a school district's school safety, readiness, and incident management plan. Under the provisions of the bill, schools will test emergency communications equipment and its interoperability with state and local emergency personnel. In addition, the Division of Fire Safety in the Colorado Department of Public Safety, as a part of its regular fire safety inspections, will ask about all-hazard drills conducted by a school, the school's communications interoperability, and the school's implementation of the National Incident Management System (NIMS) as required in the 2008 legislation. The division may also provide training on NIMS and interoperable communications and provide information about best practices in incident management. The bill requires the division to collaborate with the Governor's Office of Information Technology, the School Safety Resource Center, and other government entities and partners to provide information to schools.

School Finance, Financial Policies, and Procedures

School finance. Under **Senate Bill 11-230**, the estimated FY 2011-12 total program for schools is approximately \$5.2 billion, which is a combination of state and local funds and represents a 4.21 percent decrease from last year's total program funding. The bill also renames the budget stabilization factor as the negative factor, and extends its applicability indefinitely. Seven school districts that do not receive enough state aid to fully implement the cut applied by the negative factor will be supplemented by the use of each district's total program mill levy to buy down some of the state aid that the district receives for categorical programs. Additionally, if the June 2011 General Fund revenue forecast prepared by the Governor's Office of State Planning and Budgeting (OSPB) increases compared with its March 2011 forecast, a maximum of \$67.5 million of the increase in the surplus will be transferred to the State Public School Fund, which could mitigate some of the cuts enacted in the legislation. This concept was originally included in separate legislation, **Senate Bill 11-001**, which was postponed indefinitely after it was essentially incorporated into Senate Bill 11-230.

Senate Bill 11-259, which was postponed indefinitely, would have authorized school districts to seek voter approval to impose a new property tax, called the Colorado's Vision of Tomorrow's Education (C-VOTE) mill levy override. School districts that received voter approval would have been eligible to receive partial state matching funds, provided the district imposed a C-VOTE mill levy equal to \$300 per pupil. For all school districts, the maximum C-VOTE mill levy that could have been imposed was 8 mills, even if this generated less than \$300 per pupil in new property tax revenue. The bill used the framework of the school finance funding formula to determine the state matching amount for districts receiving voter approval for the C-VOTE mill levy.

Taxes. Senate Bill 11-109 creates a tax checkoff for voluntary contributions to the Public Education Fund. Currently, state law permits a maximum of 15 checkoffs to appear on the state income tax form, and all 15 lines are currently being used. When the legislature approves more than 15 checkoffs, there is a queueing process for adding the additional checkoffs as lines become available. The order of these is determined by the date the bills creating the checkoff became law and is overseen by the Colorado Department of Revenue (DOR). Once a checkoff is placed on the form, state law requires that the total amount contributed to a checkoff must be greater than or equal to \$75,000 between January 1 and September 30 during the period for which moneys are collected for the third income tax year in which the contribution appears on the Colorado income tax form. Otherwise, the checkoff will not appear on the form in the following year.

Senate Bill 11-184 establishes a tax amnesty program within DOR that will allow taxpayers to pay certain overdue taxes, including one-half of any interest due, without being subject to any fine or civil or criminal penalty. The majority of the money collected will be appropriated to K-12 public education. It is estimated that the program will result in \$9.7 million being transferred to the State Education Fund.

House Bill 11-1048, which was deemed lost, would have established an income tax credit for individuals who:

- enrolled their dependent child in a home-based or private school; or
- offered a scholarship to a child who enrolls in a private school.

In order to qualify, the child would have been required to attend a public school for at least a full school year before enrolling in the private or home-based school and would have been required to complete a full school year in that private or home-based school. Taxpayers would have qualified for the credit each year until their children graduated or returned to a public school. The credit would not have been refundable, but could have been carried forward for three years.

Competitive bidding for noninstructional services. **Senate Bill 11-079**, which was postponed indefinitely, would have required school districts with 10,000 or more students to review the district's noninstructional support services, such as custodial service, food services, transportation, grounds maintenance, printing, and technology repair. Districts would then have been required to seek competitive bids for the services from independent sources. Nineteen school districts could have been impacted by the legislation. A district would have been exempted from these requirements if a collective bargaining agreement or other existing contractual obligation precluded it from doing so; however, when those agreements expired, the district would have been required to comply.

School Districts

A number of bills considered by the General Assembly during the 2011 legislative session impact school districts, ranging from energy efficient school buildings to background checks for school contractors.

State mandates and reporting requirements. As introduced, **House Bill 11-1277** sought to reduce state mandates and reporting requirements on school districts. Most notably, it would have prohibited the General Assembly and the SBE from imposing any new mandate on school districts,

or from requiring an increase in the level of service for an existing mandate, unless additional funding was provided. As the bill moved through the process, it was amended, and this provision was removed. As enacted, HB11-1277 stipulates that if a bill is introduced that imposes a new mandate or requires an increase in service, each affected school district has seven days to submit to Legislative Council Staff a brief summary of the fiscal impact on the district. Summaries received must be included with the fiscal note prepared by Legislative Council Staff. In addition, the bill makes a number of changes to education statutes, including:

- permitting an alternative education campus to serve additional high-risk students;
- removing the requirement that school boards annually renew a request that a school be designated as an alternative education campus;
- requiring the CDE to provide data on student longitudinal growth to individual schools within ten days of providing student growth data to the district, and requiring school principals to ensure that educators in the school have access to student level data;
- allowing, rather than requiring, the Commissioner of Education to approve final restructuring options and district and school turnaround plans;
- allowing a school district with fewer than 1,000 students to submit a single performance plan, instead of separate plans for each school and for the district;
- expanding the ways that schools can qualify for the Governor's Distinguished Improvement Awards;
- amending Colorado's Exceptional Children's Education Act to conform with local practice and with the federal Individuals with Disabilities Education Act;
- requiring the CDE to develop guidelines and timelines to assist districts and BOCES to conform to new disability categories, which districts must fully implement by July 1, 2016;
- changing the date by which CDE must submit its annual report on the School Counselor Corps Grant Program from April 15 to May 15; and
- permitting charter school collaboratives to function as a school food authority.

The bill also makes several changes to the accreditation, certification, and reporting requirements of online education programs. The bill removes the requirement that district authorizers of online schools report annually to the Division of Online Learning in the CDE. The bill also removes the requirement that the division compile and prepare a summary report of these annual reports, and further eliminates the division's authority to conduct reviews of multi-district online programs. In place of existing reporting deadlines, the bill requires the division to report to the SBE and the education committees of the General Assembly every five years, instead of annually. Each online program must annually submit to its authorizer and to the CDE information concerning sound financial and accounting practices. The division will collect and review this information. Multi-district online programs must inform their authorizer and the CDE if the program intends to expand grade levels, to change education service providers, or make other changes as defined by state board rules. If the division believes an online program is not in compliance with existing regulatory requirements, the school and the school's authorizer may be required to adopt a plan to come into compliance.

Background checks. **Senate Bill 11-266** requires that any entity that contracts with a school district to provide services such as transportation, instruction, or food services run a criminal background check on employees that will have regular, not incidental, contact with students. The provisions of the bill do not apply to faculty members from institutions of higher education who contract to teach for the school district and have already undergone a background check.

Truancy and contempt. Recognizing that detention and incarceration may not be the most effective method to prevent or reduce unexcused school absences, the General Assembly enacted **House Bill 11-1053**, which directs school districts and the courts to use judicial proceedings as a last resort approach in addressing truancy.

Energy efficient school buildings. **House Bill 11-1204**, which was postponed indefinitely, would have established energy efficiency standards for new school buildings and school buildings undergoing major improvements.

Special Education and Intervention Services

Special education appeals process. Under current law, when a parent of a child with a disability disagrees with a local education provider concerning determination of need or special educational services provided, a two-step process is followed. State law first requires a due process hearing by a local hearing officer as established in rules of the SBE. The decision of the local hearing officer may then be appealed to the Commissioner of Education. **Senate Bill 11-061** provides parents and local education providers a one-step process in compliance with the requirements and provisions of the federal Individuals with Disabilities Education Act (IDEA).

To request a hearing, either the parent or the local education provider may file a complaint directly with the Commissioner of Education, and the CDE must provide the hearing in accordance with all the requirements and provisions of IDEA. The findings and decision made by the CDE are final; however, any party that feels aggrieved by the decision may bring a civil action pursuant to the provisions of IDEA.

Gifted and talented students. **House Bill 11-1077** separates the "Exceptional Children's Educational Act" into two parts, relocating provisions related to gifted children to a new part. The bill does not make any substantive changes to the law.

Educational Success Task Force. **Senate Bill 11-111** creates a task force charged with studying and reviewing data on intervention education services in elementary and secondary education and remedial education in postsecondary education, recommending best practices and strategies to school districts and public schools, and recommending statutory and regulatory changes, as it deems appropriate, to the General Assembly, the SBE, and the CCHE. There is no set number of members of the task force, but it includes six legislators, representatives from the education and business communities, and parents. One or more representatives of the task force must meet with the education committees of the House and Senate no later than January 31, 2012, and must submit a first report of its findings to the State Board of Education and the CCHE by July 1, 2012.

Struggling Schools

The General Assembly continues to wrestle with issues related to struggling schools. Three bills were considered in the 2011 legislative session, two of which were postponed indefinitely.

Parental and community involvement. Recognizing that parental involvement is a key component of a successful education, the General Assembly enacted **House Bill 11-1126**, which encourages local school boards to adopt parent involvement policies that may take into account best

practices and strategies and the national standards for family-school partnerships. School boards are encouraged to work with the parent members of the district accountability committee in creating, adopting, and implementing the policy.

In an effort to keep parents informed, the bill also requires districts to notify parents if their child's school is required to adopt an improvement, priority improvement, or turnaround plan, and the timeline for developing and adopting the plan. Prior to final adoption of the plan, the principal or the school board must hold a public hearing to review the plan and the school's progress in improving its performance over the previous school year. School districts are allowed to solicit and accept gifts, grants, and donations to implement parent involvement programs created by the district policy. Finally, the bill encourages the CSI to adopt a similar policy for institute charter schools, and requires it to comply with the notice and public hearing requirements. The CSI is also authorized to solicit and accept gifts, grants, and donations to implement programs created by the policy.

House Bill 11-1270, which was postponed indefinitely, sought to create a "parent trigger" under which parents could force the closure or conversion of a school. The bill would have allowed parents of students enrolled in a low-performing school to petition the local school board to close the school, convert the school into a charter or innovation school, or give students priority to enroll in a higher-achieving school in the district.

A third bill, **Senate Bill 11-080**, was also postponed indefinitely. As introduced, the bill would have required that, prior to adopting a school turnaround plan for a low-performing school, a local school board to seek input from the public by conducting a public meeting. A summary of the input received and any recommendations made by the school accountability committee would have been submitted with the turnaround plan to the Commissioner of Education for evaluation by the state review panel. The bill also would have added to the strategies local boards may consider when creating a turnaround plan.

Teachers

In an effort to reduce the CDE's backlog in processing educator licenses, the General Assembly adopted **House Bill 11-1201**. The bill allows educators to submit an affidavit affirming that they have completed their professional development requirements; under current law, the CDE must verify their completion. In addition, the bill requires educators to demonstrate lawful presence in the United States only once, eliminating the requirement that it be demonstrated each time they renew their educator license.

The bill establishes the legislature's intent that license applications be processed in six weeks or less and gives the CDE continuous spending authority for moneys in the Educator Licensing Cash Fund in fiscal years 2011-12 through 2013-14 in an effort to reduce license processing time. Finally, the bill specifies that staff hired to reduce the licensing backlog may not have contracts that extend beyond June 30, 2014.

Under current law, applicants for nonlicensed positions at public schools are required to 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 crime of which he or she was convicted and other related information. While this information must be disclosed, current law does not specify which

convictions constitute grounds for dismissal or application rejection for these nonlicensed employees. **House Bill 11-1121** specifies grounds for dismissal or application rejection. The change made by the bill aligns the requirements for nonlicensed personnel with the requirements for licensed positions. In addition, the bill requires denial or revocation of licenses for licensed educators who have been convicted of a felony drug offense within the last five years. The bill also treats a plea of *nolo contendere* in a similar manner as conviction.

Miscellaneous

School Discipline Task Force. **Senate Bill 11-133** creates a legislative task force to study and assess practices and statutes concerning zero tolerance practices in schools, and the interaction of school discipline practices with the juvenile justice system. The task force must include three legislators from each house of the General Assembly, and up to ten nonvoting members with experience and knowledge in the areas of school discipline and juvenile justice, selected jointly by the chair and vice chair of the task force.

The task force must hold at least four public meetings. In addition to any testimony or written comments received, the task force must review any available, nonidentifying state data collected by the CDE, school districts, or law enforcement agencies. The task force may also solicit information from national research organizations that have expertise in evidence-based practices for addressing school discipline issues. The task force must report its finding and recommendations for legislation to the Legislative Council.

Sunset review. **Senate Bill 11-106** repeals the Science and Technology Education Center Grants Advisory Board, but does not repeal the grant program. The SBE will administer the program.