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**REVISED
FISCAL NOTE**

(replaces fiscal note dated January 25, 2019)

Drafting Number: LLS 19-0388
Prime Sponsors: Sen. Todd
 Rep. Buentello

Date: March 22, 2019
Bill Status: Senate Appropriations
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Bill Topic: HIGH-COST SPECIAL EDUCATION TRUST FUND GRANTS

Summary of Fiscal Impact:

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> School Districts
<input checked="" type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill creates the high-cost special education trust fund and an associated grant program. The bill transfers state funds, increases expenditures for the Colorado Department of Education, and increases workload and revenue for some school districts through FY 2026-27.

Appropriation Summary: No appropriation required; see State Appropriations section.

Fiscal Note Status: This fiscal note reflects the bill as amended by the Senate Finance Committee.

**Table 1
State Fiscal Impacts Under SB 19-066**

		FY 2018-19 <i>(current year)</i>	FY 2019-20	FY 2020-21
Revenue		-	-	-
Expenditures	Cash Funds		\$108,000	\$193,800
	Centrally Appropriated		\$3,780	\$3,780
	Total		\$111,780	\$197,580
	Total FTE		0.3 FTE	0.3 FTE
Transfers	Marijuana Tax Cash Fund	(\$1,000,000)	(\$2,600,000)	(\$2,860,000)
	Cash Fund	\$1,000,000	\$2,600,000	\$2,860,000
	Total	\$0	\$0	\$0
TABOR Refund	General Fund	-	-	-

Summary of Legislation

The bill creates the High Cost Special Education Trust Fund (trust fund), to be administered by the Colorado Special Education Fiscal Advisory Committee (SEFAC).

Funding. On June 30, 2019, the bill transfers \$1.0 million from the Marijuana Tax Cash Fund (MTCF) to the trust fund. On August 1, 2019, the bill transfers \$2.6 million from the MTCF to the trust fund. In subsequent years, the amount transferred from the MTCF increases by 10 percent over the prior year. The initial and recurring transfers constitute the principal of the fund and cannot be appropriated, transferred, or expended.

The State Treasurer will manage the fund through investments, with a targeted minimum annual return of 3 percent on the principal. The interest and income is continuously appropriated to the Colorado Department of Education (CDE).

Grants. An administrative unit may apply for a grant from the trust fund if the unit had qualified expenditures in the preceding year to meet the needs of a single student with an individualized education plan (IEP); and those expenditures exceeded either \$100,000 or 2.5 percent of the unit's annual audited operating expenses for the previous year, whichever is lower.

The bill defines the qualified grant expenditures for which an administrative unit may use the grant, and criteria for determining grant recipients and grant amounts.

Reporting. For each year in which the SEFAC awards a grant, the committee must include information concerning the balance in the trust fund, the number of applications received, and the amount awarded in grants to specific administrative units in their annual SEFAC report that is submitted to the State Board and education committees of the General Assembly.

The bill is repealed on July 1, 2027. Prior to the bill's repeal, any remaining interest in the fund must be transferred to the General Fund and any remaining principal must be transferred to the MTCF.

Background

Administrative unit. State law defines an administrative unit as a school district, board of cooperative educational services (BOCES), a multi-district administrative unit, or the state Charter School Institute that is providing educational services to gifted students or students with a disability.

Marijuana Tax Cash Fund. The MTCF contains state sales tax revenue collected on medical and retail marijuana and a portion of the revenue from the special sales tax on retail marijuana. The MTCF funds are appropriated annually and cannot be spent until the fiscal year after the year the funds were collected. Under current law, the General Assembly may appropriate 93.5 percent of the amount deposited in the fund. Based on the Legislative Council Staff December 2018 Economic Forecast, approximately \$129.9 million in FY 2019-20 and \$142.9 million in FY 2020-21 will be available for appropriation by the General Assembly.

Colorado Special Education Fiscal Advisory Committee. The SEFAC is made up of 12 members and currently administers a grant program to provide funding to administrative units that incur high costs to provide services to students with disabilities. Grants are awarded to administrative units based on the IEP expenditures in a single year, as a percentage of the unit's total expenditures. Of the amount appropriated, 50 percent must be provided to administrative units with students placed in-district and 50 percent must be provided to administrative units with

students placed in out-of-district programs. In FY 2017-18, administrative units submitted grant applications for almost 400 students, with requests totaling about \$18.8 million. SEFAC provided \$4.0 million in grants to 22 administrative units for 27 students with out-of-district placement and 88 students with in-district placement.

State Transfers

In the current FY 2018-19, the bill transfers \$1.0 million from the MTCF to the trust fund. In FY 2019-20, the bill transfers \$2.6 million from the MTCF to the trust fund. In subsequent years, the transfer from the MTCF must increase by 10 percent over the previous year.

State Expenditures

The bill increases state expenditures from the trust fund by \$108,000 in FY 2019-20 and \$193,800 in FY 2020-21.

Table 2 shows income to the fund, the amount available to be spent, and the amount that will be spent on grants and administration. The amount available is based on an assumed 3.0 percent interest rate on trust fund principal; however, should interest rates be below or exceed that interest rate, the amount of money available for grants will vary from this estimate. In subsequent years, the amount available to be spent from the trust fund is expected to grow as the principal grows.

**Table 2
 High-Cost Special Education Trust Fund
 SB 19-066**

	FY 2018-19 <i>(current year)</i>	FY 2019-20	FY 2020-21
Transfer from MTCF	\$1,000,000	\$2,600,000	\$2,860,000
Cumulative Principal in Trust Fund	-	\$3,600,000	\$6,460,000
Amount Available (3% interest rate)	-	\$108,000	\$193,800
Administrative Costs	-	\$20,446	\$20,446
Amount Available for Grants	-	\$87,554	\$173,354
Estimated Number of Grants	-	1-2 grants	3-4 grants

Administrative costs. Beginning in FY 2019-20, CDE requires approximately \$20,446 to implement the bill. The costs include personnel and conducting additional SEFAC meetings. Beginning in FY 2019-20, CDE requires 0.3 FTE to modify the application process, review applications, award grants, support SEFAC, and work with administrative units to apply for grants. This estimate assumes some efficiencies with the current program, and that, based on the demand for the current program, there will be significant interest in the new program. In addition, based on current expenses of \$1,625 per meeting, \$3,250 is required to hold two additional SEFAC meetings. The fiscal note assumes that the staff costs will remain constant in subsequent years, despite increasing grant funding, due to additional efficiencies with the current program.

Grants. Under the current program, grants range between \$22,000 and \$74,000 per student, depending on whether the student is served in-district or out-of-district. Assuming a grant size of \$50,000, the \$87,554 available for grants in FY 2019-20 will provide one to two additional grants, and the \$173,354 available in FY 2020-21 will provide three to four additional grants. As the principal amount in the fund grows, the number of grants provided will increase.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$3,780 in FY 2019-20 and FY 2020-21.

School Districts

The bill increases workload and revenue for school districts that apply for and receive grants funded through the trust fund. The impact will vary by district based on current need and resources. In future years, the amount of funding available and number of grants awarded will increase.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

Because the trust fund income and interest is continuously appropriated to the Colorado Department of Education, the bill does not require an appropriation.

State and Local Government Contacts

Education Treasury