

Legislative Preview 2010

Budget, teacher quality top education agenda

PERA, higher ed funding also in the spotlight



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Teacher quality will be the top education policy issue of the 2010 legislative session, but looming cuts in state K-12 support and proposed changes in teacher and public employee pensions will cast long shadows over the session.

The state's 100 lawmakers will gather at 10 a.m. Jan. 13 in the Capitol for the usual stately but modest ceremonies, high-minded speeches by legislative leaders and good-natured greetings between people who may not be so nice to each other in the months to come.

In addition to K-12 budget cuts, teacher quality and pensions, top education issues are expected to include charter school regulation, testing, how to slice the shrinking higher ed financial pie and improved alignment between community and four-year colleges.

Legislators traditionally can't resist introducing education bills, and 2010 looks to be no exemption, with proposals teed up a wide variety of other issues, perceived needs and special-interest wishes.

But, the substantial policy debate is expected over legislation being crafted by freshman **Sen. Michael Johnston, D-Denver**. It would tie teacher and principal evaluations more closely to

student performance, expand the "grading" system for teachers and substantially change teacher tenure.

"This is a historic and unique time for reforming education," Johnston says. If the 2010 legislature passes such legislation, it would mark the third straight session of major changes in state education law. (The Colorado Achievement Plan for Kids was passed in 2008, and 2009 saw a major overhaul of the accountability system.)

"Historic and unique" aside, 2010 also looks to be a bleak year for Colorado schools and colleges.

"It's going to be a hard year for education. There's no way to avoid cuts," predicts **Rep. Christine Scanlan, D-Dillon** and a member of the House Education Committee.

As was the case a year ago, the 2010 session opens under dark budget clouds that aren't expected to dissipate before the mandated adjournment date of May 12. Even if some say the recession is formally over, it has battered state revenues. Legislative staff economists estimate the lawmakers will have to make cuts and revenue shifts of \$600 million to balance the current, 2009-10 state general fund budget.

Similar financial gymnastics totaling up to \$1.5 billion will be needed to balance the budget in 2010-11. (Current spending from the tax-supported general fund is about \$7.5 billion out of total state spending of some \$19 billion from all sources of revenue.)

Lawmakers also will be maneuvering in a new political landscape, given **Gov. Bill Ritter's** bombshell Jan. 6 announcement that he won't seek re-election. Ritter and **Lt. Gov. Barbara O'Brien** have made education a priority, and their sudden lame-duck status may change their roles in 2010 policy debates.

One might think the fiscal crisis would focus lawmakers' attention on possible budget fixes. And, given that there's no state money for new education programs, and that major education reforms passed in 2008 and 2009 are still being digested by the bureaucracy and school districts, it might seem logical that lawmakers would pull back on education-related initiatives.

Some wish that were the case. "I'm hoping there isn't too much [education legislation], quite frankly," said **Rep. Karen Middleton, D-Aurora** and a member of House Ed.

That wish doesn't look like it will come true. "The legislature never stops reforming public education," notes **Sen. Pat Steadman, D-Denver**, a veteran human-services and education lobbyist who was appointed to Senate earlier this year. He'll serve on Senate Education.

Based on what EdNews learned during interviews with a wide range of legislators, lobbyists, advocates and

executive branch officials, the 2010 legislature will face dozens of education bills.

It's dicey to predict the content of individual bills before they're formally introduced. Lawmakers have been working for months on 2010 legislation, crafting language with legislative staff, schmoozing with colleagues to gain support and enduring the pitches of interest groups and state agencies. That's a process that can continue until the night before a bill is read across the clerk's desk in the House or Senate.

But, the outline of major education issues for 2010 seems fairly clear. Here's the rundown:

Budget & School Finance

For the first time in this downturn, state aid to K-12 schools (currently at \$3.6 billion) is on the chopping block, despite what you think about Amendment 23 protecting such spending. By triggering an "escape clause" created by the 2009 legislature, lawmakers are expected to trim \$110 million (a little less than 2 percent) from current K-12 support within weeks after they convene.

It also looks like that the legislature won't backfill for \$20 million costs of higher-than-projected 2009-10 enrollment and an increased number of at-risk students.

For the 2010-11 budget, Ritter has proposed K-12 aid cuts of nearly \$375 million, or about 6 percent, when calculated against the full amount school districts would otherwise have expected to receive in 2010-11. But, based on the

state's December revenue forecasts, that figure could rise by \$65 to \$70 million.

The budget-cutting plan has made people anxious because it seems, in some minds, to violate Amendment 23, the constitutional formula that governs state aid to schools. In essence, the Ritter plan would apply A23 to only part of state K-12 support. In past years, legislators have applied A23 multipliers to virtually all education spending.

That has left A23 supporters in the uncomfortable position of not wanting to bend the amendment but seeing no alternative.

"I don't think anybody wants to go there, but there aren't other places to go," notes **Frank Waterous**, who monitors the Statehouse for the Bell Policy Center.

Steadman says, "We may not be violating the letter of the law (A23), but there's a strong argument that we would be violating the spirit of the law. ... We have a budget to balance, and none of the available options are really that attractive."

Part of Ritter's overall 2010-11 budget-balancing plan includes raising about \$132 million in new revenue by eliminating some tax exemptions. That's expected to be highly controversial, even if Ritter's recent decision in fact reduces the partisan temperature under the Capitol dome.

But, some of the more traditional public education interests still hope that new revenue can blunt K-12 cuts.

"We're really going to be pushing" for revenue increases, says **Karen Wick**,

lobbyist for the Colorado Education Association. "I'm still kind of thinking maybe we can cushion some of this, but ...," says retired teacher **Rep. Judy Solano, D-Brighton** and vice-chair of House Education.

It's more likely that the substantive debate about K-12 cuts will be over the mechanism for making them. Ritter has proposed taking the money from a budget calculation factor that funnels additional money to districts based on living costs in various regions of the state. Some interest groups and lawmakers fear that will set a bad precedent even when state revenues come back. They want a different mechanism for cutting.

Some voices have suggested using a statewide device like cutting the school year as a way to make cuts simple – and easily understandable by the public.

"We have to make it transparent," says **Lisa Weil** of Great Education Colorado, a group that consistently advocates for increased education spending.

While school districts would like an early resolution of the 2010-11 budget so that they can craft their own budgets, that appears unlikely.

"There are a lot of moving parts that make me think school finance is going to be [decided] very late," says **Jane Urschel**, veteran lobbyist for the Colorado Association of School Boards. The association has been consistently advising its members to prepare for three possible scenarios – state cuts of 4, 6 or 8 percent.

Beyond budget cutting, it appears there will be no shortage of other financial proposals that would affect education funding. Here's a look at some of those, with the likely sponsor or source in parenthesis:

Small district aid: A pilot program that would allow school districts with fewer than 2,000 students to receive guaranteed state funding for five years, regardless of enrollment declines, in exchange for working with neighboring districts to achieve administrative savings. (Middleton and **Rep. Tom Massey, R-Poncha Springs**)

Seat time: Another pilot program designed to develop alternative state aid formulas for districts that use proficiency in standards rather than seat time to advance students. (Middleton)

Enrollment counts: Yet another pilot program in using average daily membership, rather than the one-time October enrollment count, to determine district enrollments. This is a sensitive issue, given the potential to change the amount of state aid individual districts receive. (Johnston)

Categorical programs: Legislation to streamline the allocation of categorical funds (a separate pot of education aid earmarked for special education, transportation and other specific programs) and to give the education committees a say in spending the funds. Currently, recommendations on this spending are made by the Joint Budget Committee. (Steadman)

Money follows kids: Creation of a grant program for districts to encourage use of funding systems weighted by individual

student needs. (**Sen. Keith King, R-Colorado Springs**)

The Freeze: Directing to the soon-to-be-insolvent State Education Fund state savings from the property tax freeze established in 2007. (King)

Constitutional reform: Creation of a commission to study the fiscal provisions of the state constitution and recommend changes to voters. (**Sen. Rollie Heath, D-Boulder**, and the interim Fiscal Stability Commission)

Taxes: Establishment of an experts' panel (probably run by the University of Denver) to study state and local tax structures. (Fiscal Stability)

Rainy day: Setting up a beefier state reserve, or rainy-day fund. (Fiscal Stability)

Educator Pensions

The other sticky financial issue for legislators this year will be the solvency of the Public Employees' Retirement Association, whose pension program covers a wide range of state and local civil servants but which is dominated by employees of school districts and colleges.

PERA's board has proposed a detailed plan to return the system to solvency over the next 30 years, including increased contributions from employees and employers, reduced cost-of-living benefits for retirees and a long, complicated list of changes in retirement ages and other eligibility requirements.

A few days before the session was to convene, legislative leaders announced

they were close to agreement on a PERA bill, but that may not guarantee smooth passage.

Employee groups are concerned about some of the proposed eligibility changes, and retirees – to judge by the e-mails that have been flowing to lawmakers – are steamed about the idea of reducing their COLA.

“I think you’ll find it to be one of the biggest battles of the session,” says King, who has concerns about the financial burden increased contributions would put on school districts.

Still, many lawmakers have the same air of resignation about PERA that they have about K-12 budget cuts. “It’s time of all of us to sacrifice,” says **Sen. Bob Bacon, D-Fort Collins** and chair of Senate Education. He’s a retired teacher and a PERA member.

Lawmakers may not have the last word. Some observers expect a lawsuit will challenge whatever solution the legislature comes up with.

Teacher Quality

Reform of how Colorado evaluates and improves the quality of teachers and principals is expected to be the major education policy debate of the 2010 session.

Teacher quality wasn’t addressed in the major education reforms of 2008 and 2009, and state officials have readily acknowledged that teacher effectiveness is the one area where Colorado might not rate well in the federal Race to the Top competition. (Colorado’s draft R2T application promises to “develop and

implement robust education evaluation systems, recognize and reward innovation and excellence [and] ensure students with the greatest needs have access to effective educators.”)

Turning such promises into realities will require new laws and programs, and Johnston, a former teacher and principal, is taking the lead on a package of legislation.

Here’s what he has in mind:

One bill that would correlate teacher performance (anonymously) with where teachers were trained to help improve those training programs.

There are rumors that this bill may be pushed through in the early days of the session so the new law can be cited in Colorado’s Race to the Top application.

Provisions of the second and major bill in Johnston’s package include:

- Changing the current satisfactory/unsatisfactory evaluation system to a four-step ranking.
- Making student achievement a substantial part of evaluations, and principals would be evaluated on both the effectiveness of their teachers and school growth.
- Involving teachers evaluating other teachers.
- Revising the tenure system so that probationary teachers would have to have strong evaluations and student growth to receive

tenure after three years. Probation could be extended to a fourth or fifth year. And, teachers would have to continue to show good evaluations to keep tenure.

- Creation of a “career ladder” system under which high-performing teachers could gain additional state-funded stipends of \$3,000 to \$5,000 by moving into roles Johnston is calling model teacher, master teacher, instructional coach and peer observers. The highest rung on the ladder would be the Colorado Teacher Corps, whose members would work in turnaround schools.
- Requiring mutual consent of individual teachers and principals for teachers to be assigned to a specific school.

Johnston has been shopping his ideas around to a wide variety of legislators and interests, including the CEA. “We don’t agree on all the provisions yet,” Johnston said. “It’s a big thing to change. It will take a lot of comfort to get it there, [but] I think we’ll get something.” **Rep. Mike Merrifield, D-Colorado Springs** and chair of House Education, has said he’ll cosponsor the Johnston bill.

Johnston acknowledges there’s no way legislation will pass before the R2T application deadline – he can’t even say when the bill will be introduced. But, he hopes the state will be able to demonstrate some sort of commitment on the issue before the federal government awards grants later in the spring.

“I think we will see some really positive changes when it comes to teacher evaluation,” says Solano, a former teacher who generally has traditional views on teacher evaluation and tenure. “There will be some interesting conversations about how that will work.”

Despite the efforts to build consensus, one observer predicts debate on the issue will “dwarf” the prolonged 2009 discussion about teacher and principal identifiers, which ultimately passed.

Sen. Nancy Spence of Centennial, a leading Republican voice on education issue, says she expects to introduce her own teacher quality bill, which would extend the probationary period from three to five years and require tenure renewal every five years thereafter.

Teacher quality is a focus for a wide range of people, including the governor and lieutenant governor and the State Board of Education.

Politics and emotions aside, updating and improving teacher evaluation systems will cost money, a dwindling resource for Colorado schools at the moment. “It does beg the question of the resources to do all this,” says CASB’s Urschel about the debate.

State education leaders hope R2T can help with the cost.

Higher Education

Lawmakers this year will again face the sorry financial condition of the state’s colleges and universities without the ability to do much about it.

To help balance this year's budget, Ritter has proposed cutting state support drastically but backfilling the loss with federal stimulus funds. That would leave little stimulus cash to prop up college budgets in 2010-11. But, a proposed 9 percent tuition increases would keep overall higher education revenue at about where it was in 2008-09.

The fight looks like it will be over how much state money individual colleges and universities receive in 2010-11. The governor's budget office has proposed the deepest trims at colleges and universities that, during the early years of the Ritter administration, received "catch up" increases that were larger, on a percentage basis, than those given other institutions. The current Ritter plan also penalizes colleges that have had high enrollment growth in recent years.

Working with **Senate Majority Leader John Morse, D-Colorado Springs**, college presidents are pushing for legislation that would give institutions more flexibility in areas like foreign student enrollment, real estate transactions, allocation of financial aid, purchasing and accounting rules and building construction.

Flexibility legislation got a late start in the 2009 session and was killed. Many believe the proposal has better chances this year, but smooth sailing isn't assured. An initial draft of the bill was endorsed by the interim Fiscal Stability Commission, but the version that's ultimately introduced is expected to be substantially different.

Many college leaders also would like the power to set their own tuition rates, but Ritter has said he won't support that.

There also will be efforts to better articulate community college classes with four-year schools. There may be language in the flexibility bill, or there may be separate proposals. King is a perennial advocate of setting common course requirements in selected popular majors. The idea is to make it easier for some community college students to transfer all their credits to four-year schools, increasing their chances of graduating in four years.

The higher ed establishment, which presides over an extensive but patchwork system of credit transferability and which is well represented by skilled lobbyists, has opposed King's overarching plan in the past.

King also has a proposal to include private colleges, including for-profit institutions, in the current system of transferable courses.

Johnston, working with the community college system, plans to carry a bill that would allow community college students to declare academic majors, another mechanism for smoothing the transfers of credits to four-year schools.

Bacon says he plans to introduce legislation that would make it easier for college students to qualify for College Opportunity Fund stipends. Students now have to apply separately for those. Bacon wants a simple check-off box on college applications. (The COF isn't a true stipend or scholarship; it's more of a budgetary accounting device that takes colleges out from under some provisions of the Taxpayer's Bill of Rights.)

And, a bill being pushed by Colorado Mountain College and being carried by Scanlan may ruffle some feathers. CMC is a multi-campus community college in the central mountains, financed largely by local property taxes and some state aid. It wants to offer bachelor's degrees in selected fields, a plan likely to bring cries of "mission creep" from other colleges.

A proposal to give a student member voting rights on the Colorado State University Board of Governors also is expected to be back this year.

Testing & Accountability

Just because a Department of Education task force already is hard at work on the previously mandated update of CSAP tests doesn't mean the legislature won't stick its fingers back into the issue this year.

The testing landscape has changed since the 2008 Colorado Achievement Plan for Kids, which calls for the State Board of Education to adopt new statewide tests by the end of this year. (They won't hit classrooms until later.) Now, partly prompted by Obama administration education reform efforts, there's increased interest in multi-state or even national tests.

Scanlan and Solano are expected to sponsor legislation that would allow Colorado to participate in multi-state testing.

King says he plans a bill that would require statewide tests to be administered online and to provide results that would be quickly available to teachers for diagnostic uses. "What we

need to do in Colorado is go to a computer-based assessment." The CDE task force is also strongly inclined toward online tests.

Some lawmakers are nervous about the possible costs of a new testing system. A preliminary estimate by a now-departed CDE executive put the switchover costs at up to \$80 million.

Testing looks to be one of those wildcard legislative issues – it's hard to predict what might happen. "There's a lot up in the air right now," says Solano.

Another hard-to-predict issue is what may happen with possible revisions to Senate Bill 09-163, the landmark 2009 legislation that revamped the state's accountability system, including how the state accredits school districts and how school performance is reported to the public.

Sen. Evie Hudak, D-Westminster, is planning some revisions concerning parent involvement, and CDE may want some tweaks in the law. Still uncertain is whether there will be more substantive efforts to amend the law. There's been some concern in school board circles that the new system impinges too much on local control. But, CDE staffers are still drafting the regulations needed to implement the law, and that process may alleviate concerns some interests have.

Race to the Top

Several provisions of the state's R2T Application probably will require legislation.

Those ideas include the proposed Center for Education Excellence, the Educator

Effectiveness Office, the Colorado Turnaround Center and perhaps improvements in data systems.

At-risk Students

Potential legislation related to Colorado's efforts to win a R2T grant are all about improving the education of the lowest-performing students, but there likely will be other bills as well.

Hudak will be sponsoring bills to encourage greater cooperation between school districts and county welfare agencies in providing services and to require education services for juveniles being held in county jails.

There may be legislation that would make it easier for districts to create groups of schools that would cooperate in innovative programs. (Yes, the 2008 legislature did pass the Innovation Schools Act – so far only used by Denver Public Schools – but advocates say more needs to be done in the statute books.)

One piece of legislation we apparently won't see this year is a Colorado "dream act" allowing undocumented students to attend state colleges at resident rates. The proposal by **Sen. Chris Romer, D-Denver**, to allow that died in the Senate last year after emotional debate. **Rep. Joe Miklosi, D-Denver**, was to carry the torch this year but recently told a Denver newspaper he's changed his mind.

It's likely Democrats in swing districts are privately sighing with relief – few issues can be touchier in an election year than immigration.

Charter Schools

The controversies and problems surrounding the Cesar Chavez charter network are expected to spark multiple proposals to change the authorization and regulation of charter schools.

House Speaker Terrance Carroll, D-Denver, is among the sponsors of a bill that would improve transparency, accountability and oversight of charters, although details were very sketchy before the session started. Spence also is expected to be involved in that issue.

The indefatigable King says he's preparing legislation that would beef up the authorizer role of the Colorado Charter School Institute, perhaps allowing school districts to opt out of authorization and let the institute do it. "[We] should really make it into a true authorizer. CSI has become too much like a school district. I would think it needs to be only an authorizer," King told EdNews.

The Colorado League of Charter Schools' 2010 legislative agenda includes increased funding for charter facilities, greater access to other sources of facilities funding and changes in authorization laws.

As happens every session, such proposals will get critical scrutiny from charter critics among lawmakers. Merrifield, who falls in that camp, unsuccessfully tried to get the Legislative Audit Committee to study the performance of Colorado charters. He indicates he may take another run at that.

All but the kitchen sink

As happens every session, expect a rich selection of bills on almost every conceivable education topic. Here are some of the proposals EdNews has heard about:

Early Childhood: Another legislative study group, the Early Childhood and School Readiness Commission, is proposing five bills intended to improve the quality of early childhood and preschool services, including new grant programs and teacher scholarships. Four of the five bills reportedly would require landing federal grant money.

Financial records: The school finance interim committee worked up a bill requiring school districts to put their financial records online. A 2009 Republican bill to do much the same thing died. This year Democrats and school boards seem to have gotten out front the issue.

Health & Fitness: The last two legislative sessions have seen lively debates over bills to restrict unhealthy food and drink at schools. There will be a bill this year to create grants for programs that would encourage kids to get outdoors more. (The program itself would depend on grants.)

Let CDE do the shopping: Massey is planning a bill that would create a system for the Department of Education to help provide food services for small districts.

Safety: There reportedly will be another attempt to pass a bill on school and college safety drills and procedures. A similar measure was killed last year

amid complaints that it was yet another “unfunded mandate.”

Uh, we can't spend the money: In recent years the desire of lawmakers to create new education programs has collided with the state's lack of revenue. The solution has been to pass laws that require “gifts, grants and donations” (GGD in legislative lingo) for funding. CDE has discovered state law is murky about whether the department actually has the authority to spend such money, so it wants legislation clarifying that.

Going out on a high note: Merrifield, a retired music teacher, is planning legislation that would require music instruction and classes at various levels of the K-12 system. Influential as chair of House Education, this is Merrifield's last legislative session because of term limits. He's running for El Paso County commissioner, a brave endeavor for a Democrat in that heavily Republican county.

And, as always, there will be surprises. Follow EdNews' coverage throughout the session to find out what they are.

For more information

The online version of this story at ednewscolorado.org has links to EdNews background articles on key issues and to pertinent legislative and other documents.

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