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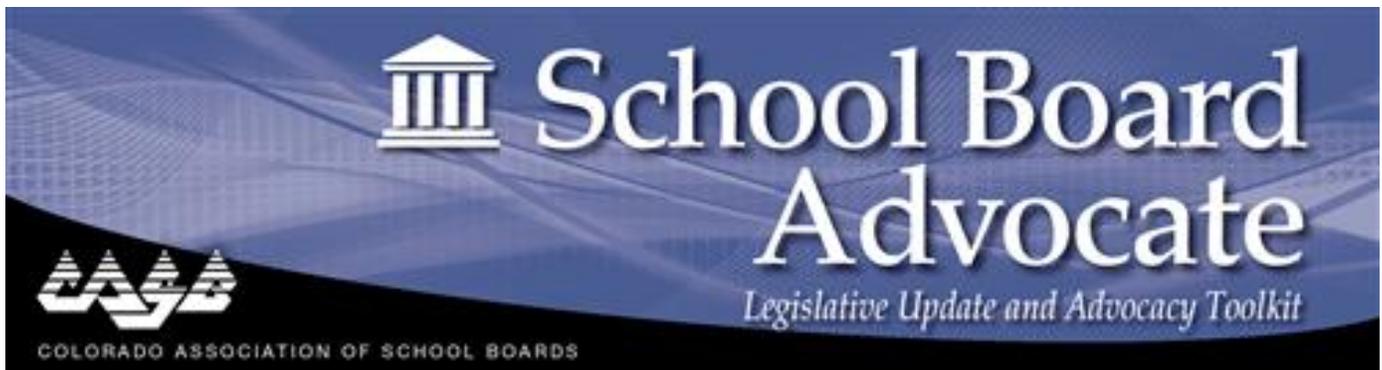


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Stuck in place on the budget

Legislators received the latest revenue forecast on Friday, and the bottom line on the state budget is that we're in slightly worse shape than after the last revenue forecast in December.

Economists from the governor's office and the legislative branch said that even though Colorado's economy continues to expand, state revenues will be lower. That will result in a fiscal-year deficit of between \$98 million and \$111 million.

There is \$90 million available in supplemental savings, but that is only because of cuts made in December. At this point, we believe it may be difficult to hold the negative factor flat.

Jane Urschel summed it up this way: “The light at the end of the tunnel is still off.”

Legislators will begin writing the state budget today.



Coming soon: Hospital Provider Fee

We’re not predicting success for the Hospital Provider Fee (HPF), but CASB has heard rumors that it may yet make it all the way to the Senate floor for a vote. Previously, it appeared that **Senate President Bill Cadman’s** pledge to block the bill would hold sway. However, there are whispers of ongoing negotiations. We think it

likely that if the bill gets to the Senate floor, it will pass.

The HPF is a state program that uses revenue collected from hospitals to provide care for Coloradans who can’t afford insurance and to help the state expand health care coverage through Medicaid and programs for children and pregnant women. The revenues are matched with federal funds.

Currently, the revenues are part of the General Fund. If the program is converted to an enterprise, the revenues don’t count toward TABOR revenue limits. Converting to an enterprise this year would free up more than \$750 million in the next budget year. (See Q&A below.)

When the bill is introduced, dueling legal opinions will come into play.

Colorado Legislative Legal Services, the in-house counsel for the General Assembly, issued a memo stating the HPF is not a “business” enterprise because its funds just pass from the state agency to the federal government. As a result, the HPF is not eligible to be classified as a state enterprise.

Colorado **Attorney General Cynthia Coffman** disagrees. Coffman opined that the HPF does serve a business function and that the related revenue could be excluded from TABOR. Both opinions are [available on the CASB website](#).

Coffman said the debate should shift to the General Assembly, and soon Colorado legislators will have a chance to grapple with the question. In a tight budget year, several groups are lining up to support the HPF in the hopes that additional money will be made available to K-12, transportation and higher education. CASB is supportive of converting the HPF to an enterprise, CASB resolution 3.25:

... CASB urges the General Assembly to free up critical state dollars for K-12 education by designating the hospital provider fee as an “enterprise.”

Here is a Q&A on HPF, which can be found in the Learning Center of CASB’s website:

Q: What is the Hospital Provider Fee (HPF)?

A: The HPF was created in 2009 by the Colorado Health Care Affordability Act. This 2009 legislation directed the Colorado Department of Health Care Policy and Financing to seek federal permission to collect a provider fee from Colorado hospitals. Following federal approval, revenues from the HPF were used to fund an expansion of Medicaid benefits and the Children’s Basic Health Plan. HPF was also used to compensate hospitals for uncompensated costs. These HPF revenues may not be used for any other purposes.

Q: How much revenue is generated by the HPF?

A: In the current 2015-16 fiscal year, the HPF is projected to collect about \$805 million. In the 2016-17 fiscal year, the HPF will raise about \$756 million, and in 2017-18 about \$799 million. These state revenues are matched roughly dollar-for-dollar by federal dollars for the programs funded by the HPF.

Q: Is the HPF revenue counted against the state’s TABOR revenue cap?

A: Yes. All revenues raised by the HPF from Colorado hospitals are included in the revenues that count against the state’s TABOR revenue limit. The federal matching funds do not count against the TABOR cap.

Q: Will the state collect more revenues than the state’s TABOR cap permits over the next several years and, if so, what will happen?

A: The state must refund to taxpayers revenues received in excess of the TABOR revenue limit. Current projections show the state will collect revenues over the TABOR limit totaling \$212 million in 2016-17 and \$340.9 million in 2017-18.

Q: Has the state’s TABOR revenue limit been adjusted in some way to account for the additional revenues raised by the

HPF?

A: No. The base year for calculating the state TABOR revenue limit is the 2007-08 fiscal year, before the HPF was collected or in the law.

Q: If the HPF had not been created in 2009, and the revenues it generates were not a part of the state's budget, would Colorado exceed its TABOR revenue limit in the 2015-16, 2016-17 and 2017-18 fiscal years?

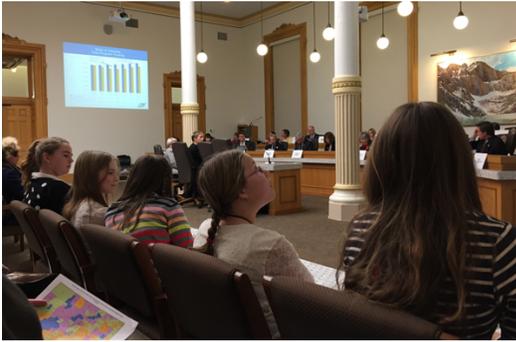
A: No. The HPF revenues would not exist if the 2009 Colorado Health Care Affordability Act had not been passed. Without those HPF revenues, the state would not exceed its TABOR limit for the next several years.

Q: Will funding for school finance be less as a result of the state revenues exceeding its TABOR revenue cap during the next several years?

A: Yes. The taxpayer refunds, now projected for the next several years, would be available to fund school finance if HPF revenues and the programs funded by HPF were not in the law. Almost certainly the legislature would not use all of those revenues for school finance, but school finance and other programs now on the chopping block would benefit if refunds were not necessary.

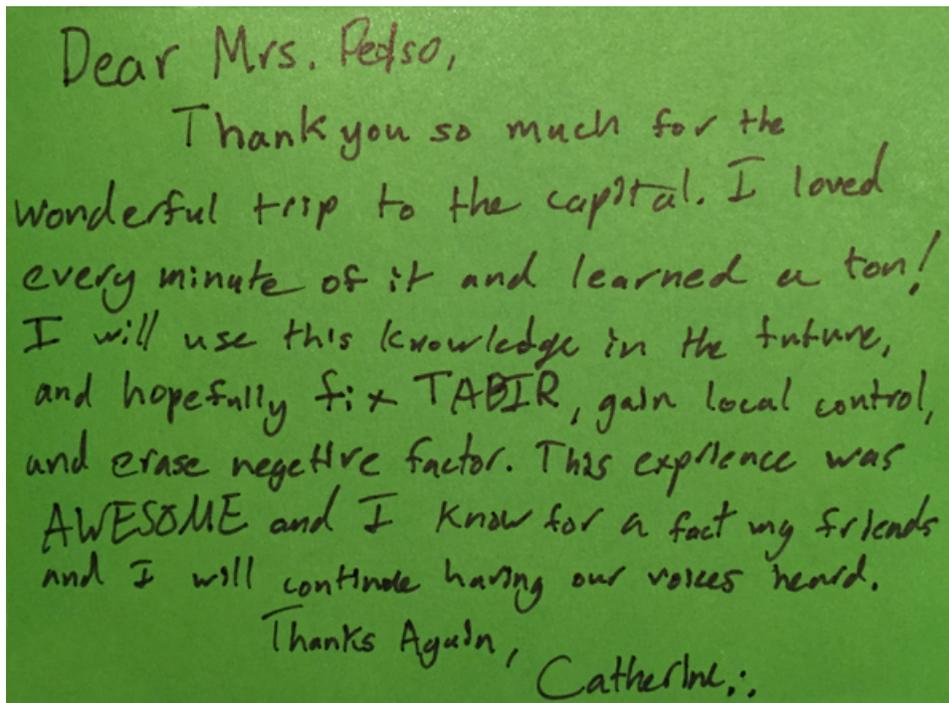
Q: Is there any way to exclude HPF revenues from revenues that count against the state's TABOR cap?

A: Yes. It is possible to craft legislation that would create an enterprise to collect and disburse HPF revenues. TABOR explicitly provides that revenues collected and disbursed by an enterprise are not included in state TABOR revenues. For example, a number of years ago the legislature made Colorado's universities enterprises so that tuition collected by the universities would not count against the state's TABOR limit.



Sixth-graders from Cheyenne Mountain Elementary got a complete tour of the Colorado Capitol recently. They attended a hearing of the Joint Education and Joint Budget Committees and met with lawmakers (including **Rep. Jim Wilson**). The trip made quite an impression, judging by a thank-you note to their escort, CASB Board Member

Monica Peloso.



Dear Mrs. Peloso,
 Thank you so much for the wonderful trip to the capital. I loved every minute of it and learned a ton! I will use this knowledge in the future, and hopefully fix TABIR, gain local control, and erase negative factor. This experience was AWESOME and I know for a fact my friends and I will continue having our voices heard.
 Thanks Again,
 Catherine;



'Sexting'

Representatives and senators from both sides of the aisle have come together to craft [House Bill 16-1058](#) to address a problem that didn't exist before the age of the smartphone – "sexting."

Following several high-profile cases of widespread "sexting" among students, local law enforcement officials and district attorneys found a limited set of laws to handle these cases. Many officials questioned if youthful offenders who got caught up in group messaging that included "sexting" should be treated the same as an adult sexual offender.

HB 1058 would create additional options for students who were swept up in a group "sexting" message. **Jane Urschel**, CASB's deputy executive director, testified in support of the bill.

"When I served on a school board, what kids did to each other – passing notes or a Kodak moment photo – didn't produce images that lasted forever," Urschel said. Times and technology have changed, and "our children are the most vulnerable members of our society."

"CASB and our members see this bill as a safety net for kids who become victims of technology," she continued. "If students are charged with a less-serious offense, students will have less involvement with the criminal system, which benefits students, schools and districts."

Rep. Yeulin Willett (R) opened his presentation of the bill by saying, "I resist more laws except where something has changed in our society, and we need to address it."

After many hours of testimony, the bill was laid over to allow time for amendments to be crafted.

Dome dealings

The CASB Legislative Resolutions Committee (LRC) flexed its muscles this week in helping to kill a bill that would have added new unfunded rules and regulations. [House Bill 16-1162](#) would have required boards to hold additional public notice before



discussing salary for administrators of low-performing schools. Colorado school boards already have to comply with numerous regulations regarding financial transparency and budget public hearings.

The LRC team expressed its opposition of HB1162 to members of the House Education Committee via email. The message was well-received by some members of the committee, who in turn voted the bill down.

As we head into the home stretch of the legislative session there will be many opportunities for CASB members to testify on bills. As a locally elected school board member, your voice needs

to be heard at the state capitol.



Join us for CASB's Days at the Capitol

Board members will gather for a breakfast briefing with CASB's advocacy team and then visit the Colorado Legislature to see the House and Senate in action and attend education committee meetings. The next [Day at the Capitol](#) is Wednesday, March 23. Each CASB region is assigned a day, but members are encouraged to attend whenever it is convenient.

No one can speak for local control of public education like board members – and that means you! If you have never attended, this is a good way to get an introduction to what goes on at the capitol.

School Board Advocate is CASB's semimonthly newsletter on our advocacy efforts and the latest developments at the state capitol that impact K–12 education. During the legislative session, we share this newsletter with CASB member districts and affiliates, board members, superintendents, superintendent secretaries, secretaries to the board, legislators, the governor's office, various statewide organizations, BOCES executive directors and the Colorado Council of School Board Attorneys.



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