Colorado Legislative Council Staff

# LOCAL FISCAL IMPACT STATEMENT

No State General Fund Impact

**Date** July 16, 2002 **Fiscal Analyst:** Melodie Jones (303-866-4976)

#### **BALLOT TITLE:**

AN**AMENDMENT** TO THE **COLORADO CONSTITUTION** CONCERNING ENGLISH-LANGUAGE EDUCATION IN COLORADO PUBLIC SCHOOLS, AND, IN CONNECTION THEREWITH, REQUIRING CHILDREN WHO ARE LEARNING ENGLISH TO BE PLACED IN AN ENGLISH IMMERSION PROGRAM THAT IS INTENDED TO LAST ONE YEAR OR LESS AND, IF SUCCESSFUL, WILL RESULT IN PLACEMENT OF SUCH CHILDREN IN ORDINARY CLASSROOMS; EXEMPTING FROM SUCH REQUIREMENTS THOSE CHILDREN WHOSE PARENTS OR LEGAL GUARDIANS OBTAIN ANNUAL WAIVERS ALLOWING THE CHILDREN TO TRANSFER TO CLASSES USING BILINGUAL EDUCATION OR OTHER EDUCATION METHODOLOGIES, BUT MAKING SUCH WAIVERS VERY DIFFICULT TO OBTAIN BECAUSE THE SCHOOL CAN GRANT THEM ONLY IN VERY RESTRICTIVE CIRCUMSTANCES AND CAN DENY THEM FOR ANY REASON OR NO REASON THEREBY REDUCING THE LIKELIHOOD THAT BILINGUAL EDUCATION WILL BE USED; REQUIRING SCHOOLS THAT GRANT ANY WAIVERS TO OFFER BILINGUAL EDUCATION OR OTHER EDUCATIONAL METHODOLOGIES WHEN THEY HAVE AT LEAST 20 STUDENTS IN THE SAME GRADE WHO RECEIVE A WAIVER AND IN ALL OTHER CASES PERMITTING STUDENTS TO TRANSFER TO A PUBLIC SCHOOL IN WHICH BILINGUAL EDUCATION OR OTHER METHODOLOGIES ARE OFFERED, WITH THE COST OF SUCH TRANSFER, EXCLUDING TRANSPORTATION, TO BE PROVIDED BY THE STATE; ALLOWING A PARENT OR LEGAL GUARDIAN TO SUE PUBLIC EMPLOYEES GRANTING A WAIVER IF THE PARENT OR GUARDIAN LATER CONCLUDES THAT THE WAIVER WAS GRANTED IN ERROR AND INJURED THE CHILD'S EDUCATION; CREATING SEVERE LEGAL CONSEQUENCES IDENTIFIED IN THE AMENDMENT FOR SUCH PUBLIC EMPLOYEES WHO WILLFULLY AND REPEATEDLY REFUSE TO IMPLEMENT THE AMENDMENT; AND REQUIRING SCHOOLS TO TEST CHILDREN LEARNING ENGLISH, ENROLLED IN SECOND GRADE OR HIGHER, TO MONITOR THEIR PROGRESS, USING A STANDARDIZED NATIONALLY-NORMED TEST OF ACADEMIC SUBJECT MATTER GIVEN IN ENGLISH.

Fiscal Impact Summary	FY 2002/2003	FY 2003/2004
State Revenues		
General Fund	\$0	\$0
State Expenditures		
General Fund	\$0	\$0
FTE Position Change	0.0 FTE	0.0 FTE
Other State Impact: None		
Effective Date: Within 30 days after the election, if approved by the voters.		
Appropriation Summary for FY 2002/2003: None required		
Local School District Impact: Expenditure impacts for some local school districts.		

# **Summary of Referred Measure**

This initiative amends the Colorado constitution to require that all public school classes be taught in English except that pupils who are classified as "English learners" may be educated through an English immersion program. (English immersion programs provide nearly all classroom instruction and materials in English, but may use a minimal amount of the child's native language, when necessary.) English immersion programs are not anticipated to last longer than one year and English learners are required to be transferred into mainstream classrooms once the child is able to perform school work in English. Parents or legal guardians of English learners may sue school employees and school boards who willfully and repeatedly refuse to comply with the provisions of the initiative.

The initiative allows a parent or legal guardian of an English learner to apply for a waiver from the English immersion program if their child already knows English, their child is at least ten years of age, or their child has special needs. Schools have discretion in granting or denying the waiver. Children who are granted waivers will be transferred to classes that teach English and other subjects through traditional bilingual education instruction or other generally recognized educational methods that are permitted by law.

Lastly, the initiative requires all English learners in grades two through twelve to be tested annually in English using a national standardized test in order to monitor their progress in academic subjects and in learning the English language.

# **State Expenditures**

The initiative will not increase or decrease state expenditures. Under the Colorado *English Language Proficiency Act*, school districts receive additional funding from the state Department of Education for English learners. State funding is limited to two years for each student identified in the program and is allocated among the school districts per qualifying English learner. For FY 2002-03,

the state General Fund appropriation is \$3.1 million. The *English Language Proficiency Act* authorizes funding for bilingual programs, English-as-a-second-language programs and any other method that allows children to acquire English language fluency.

While the initiative requires a specific instructional method, the initiative does not change state funding formulas. The fiscal note assumes that state funding will continue at the current level. School districts will use current funding to implement the English immersion programs or for bilingual education, if waivers apply.

Furthermore, the fiscal note assumes no state savings from the passage of the initiative. While the initiative anticipates that English immersion programs will not last longer than one year, federal law requires English learners to continue to receive appropriate services until the child demonstrates a certain level of English proficiency. Therefore, it is assumed that children will continue to be eligible for state funding for up to two years.

# **Local School District Impact**

The initiative will have a fiscal impact on local school districts. Under the initiative, some school districts will have to revamp their curricula, staff assignments, and testing procedures. However, the impact to each school district cannot be predicted because the impact will vary depending on how each school district implements the program. It is assumed that most school districts will implement the program within the resources currently allocated for English acquisition programs. Some areas that may create fiscal impact include:

*Limit programs to one-year*: School districts could experience cost savings if the special instruction for English learners is limited to one-year programs. However, it is important to note that English learners who are mainstreamed after one year may still require additional services to ensure federal law requirements are met.

*Immersion classes*: Sheltered immersion programs may be more expensive than existing classes if schools provide more intensive services. A 2001 cost study of six immersion programs across the United States found an incremental cost range between \$192.10 per student to \$3,067.91 per student (this study was performed for the Arizona Department of Education). Again, the cost for each school district will depend on the level of funding the school district already devotes to English acquisition programs and how it implements the initiative.

*Bilingual education waivers*: Bilingual education waivers may require schools to offer more than one type of program for English learners. Currently, some schools offer more than one type of English acquisition programs. However, for those schools that don't, there could be additional costs for developing curriculums for both English immersion classes and bilingual education classes.

**Staff development:** Because English learners will be transferred into mainstream classes generally within one-year, there may be additional costs associated with training mainstream teachers on how to teach children still learning English fluency.

Testing requirements: The initiative requires that English learners in grades two through twelve be tested by a nationally-normed test. The costs for these tests can range from \$25 to \$40 per pupil per test, plus the staff time to administer the test and analyze the results. These tests would be in addition to the Colorado Standards Assessment Program tests. Currently, some school districts continue to use nationally-normed tests while others don't or have limited the grades where the test is given. Therefore, the testing requirement cost will vary widely from school district to school district.