

<p>DISTRICT COURT, DENVER COUNTY, COLORADO Denver City and County Building 1437 Bannock St. Denver, Colorado 80202</p>	
<p>Plaintiffs: ANTHONY LOBATO, et al., and Plaintiff-Intervenors: ARMANDINA ORTEGA, et al. v. Defendants: THE STATE OF COLORADO, et al.</p>	
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PLAINTIFFS' EXPERT DISCLOSURE

Pursuant to the Case Management Order and Rule 26(a)(2), Plaintiffs Anthony Lobato, *et al.*, ("Plaintiffs"), make the following disclosures. Plaintiffs reserve the right to supplement such disclosures as discovery progresses, and Plaintiffs will make their Rule 26(a)(2) disclosures pursuant to the timeline set forth in the Case Management Order.

Plaintiffs' Expert Disclosures

I. Plaintiffs' Rule 26(a)(2)(B)(I) experts are as follows:

1. Justin Silverstein
Augenblick, Palaich, and Associates, Inc.
1120 Lincoln Street, Suite 1101
Denver, CO 80203
303-293-2175

Mr. Silverstein specializes in the analysis of the costs of funding public education and public school finance systems. The general substance of his opinions, the basis and reasons for such opinions, and the information considered in forming such opinions are set forth in his report (which is attached hereto as **Exhibit A**). The report took Mr. Silverstein's compensation for preparing his report \$150,000., which took an estimated time of 1,120 hours to complete. His hourly rate for testimony is \$200. His resume, and lists of publications and prior testimony are set forth in his report.

2. Dr. Linda Darling-Hammond
326 CERAS Building 520 Galvez Mall
Stanford, CA 94305
650-723-3555

Dr. Darling-Hammond is the Charles E. Ducommun Professor at Stanford University School of Education. The subject matter of her testimony includes, without limitation, teacher quality, teacher training, class size, accountability, skills for workforce/civic participation, student achievement including the effects of race and poverty, and necessary resources for education.

By agreement of the parties, Plaintiffs will make their Rule 26(a)(2)(B) disclosure of Dr. Darling-Hammond's expert report on April 29, 2011.

3. Dr. Bruce D. Baker
Rutgers, The State University of New Jersey
Graduate School of Education
10 Seminary Place
New Brunswick, NJ 08901-1183
732-932-7495

The subject matter of Dr. Baker's testimony includes, without limitation, Colorado's state school finance system and the inequities in programs, services and student outcomes that result from the system, and methodology utilized in education costing out studies. Dr. Baker's testimony also will address the finance system in relation to different and changing student demographics. Dr. Baker will testify about his report, "Is School Funding Fair? A National Report Card." The general substance of his opinions, the basis and reasons for such opinions,

and the information considered in forming such opinions are set forth in his report (which is attached hereto as **Exhibit B**). Dr. Baker's hourly rate, curriculum vitae, and lists of publications and prior testimony are set forth in his report.

4. Dr. W. Steven Barnett
National Institute for Early Education Research
Rutgers, The State University of New Jersey
120 Albany Street, Suite 500
New Brunswick, NJ 08901
(732) 932-4350

Dr. Barnett is a Board of Governors Professor and Co-Director of the National Institute for Early Education Research (NIEER) at Rutgers University. He specializes in the costs and benefits of early childhood education programs. The subject matter of his testimony includes, without limitation, the effects of high quality preschool and kindergarten programs on children's learning and development, the impact on school readiness and achievement of not providing early childhood education programs, the elements and resources necessary to implement a high quality early childhood education program, the quality and sufficiency of resources available for Colorado's preschool and kindergarten programs, and the quality and sufficiency of resources available for early childhood education programs in the Plaintiff school districts.

By agreement of the parties, Plaintiffs will make their Rule 26(a)(2)(B) disclosure of Dr. Barnett's expert report on April 11, 2011.

5. Dr. Henry M. Levin
Columbia Teacher's College
525 West 120th Street
New York, NY 10027

Dr. Levin is the William H. Kilpatrick Professor of Economics and Education at Columbia Teacher's College. His areas of specialization are economics of education, cost effectiveness analysis, school reform, education policy, and education vouchers. The subject matter of his testimony includes, without limitation, economic consequences of failure to educate students adequately; social and economic impacts of students who drop out or are otherwise inadequately educated; and programs that have shown evidence of effectiveness and that are certified by independent experts.

By agreement of the parties, Plaintiffs will make their Rule 26(a)(2)(B) disclosure of Dr. Levin's materials on a date triggered by Defendant's designation of a Rule 30(b)(6) witness to testify about issues involving at-risk students.

6. Professor Tom I. Romero, II
University of Denver Sturm College of Law
2255 East Evans Avenue
Denver, CO 80208
(303) 871-7784

Mr. Romero is a professor at the University of Denver Sturm College of Law. He specializes in the history of the Education Clause and Local Control Clause of the Colorado Constitution. The general substance of his opinions, the basis and reasons for such opinions, and the information considered in forming such opinions are set forth in his report (which is attached hereto as **Exhibit C**). Mr. Romero's hourly rate is \$300. His curriculum vitae and lists of publications and prior testimony are set forth in his report.

7. Dr. Margaret J. McLaughlin
Department of Special Education
University of Maryland
1308 Benjamin Building
College Park, MD 20742
301-405-2337

Dr. McLaughlin is the Dean for Research and Graduate Education and the Associate Director of the Institute for Study of Exceptional Children at the University of Maryland. Dr. McLaughlin's testimony is expected to include, without limitation, the education of children with disabilities and the importance of educational opportunities to enable all children to meet high standards.

By agreement of the parties, Plaintiffs will make their Rule 26(a)(2)(B) disclosure of Dr. McLaughlin's expert report on April 11, 2011.

8. Robert Lee Linn
PO Box 1815
Ouray, CO 81427
970-325-4235

Dr. Linn is a retired professor of the University of Colorado. The subject matter of Dr. Linn's testimony includes, without limitation, student testing, evaluations, and related consequences. The general substance of his opinions, the basis and reasons for such opinions, and the information considered in forming such opinions are set forth in his report (which is attached hereto as **Exhibit D**). Dr. Linn's compensation is \$1,500 per day, and his curriculum vitae and lists of publications and prior testimony are set forth in his report.

II. Pursuant to Rule 26, Plaintiffs also disclose the following individuals as Rule 26(a)(2)(B)(II) experts and/or fact witnesses who may provide expert opinion.

9. Carol Hedges
Colorado Center of Law and Policy
789 Sherman Street, Suite 300
Denver, CO 80203
303-573-5669

Plaintiffs initially designated Ms. Hedges as an expert under Rule 26(a)(2)(B)(I). Plaintiffs hereby re-designate Ms. Hedges as an expert under Rule 26(a)(2)(B)(II).

Ms. Hedges is the Director of the Colorado Fiscal Policy Institute. She has extensive knowledge about Colorado's budgeting process and the impact of TABOR and other constitutional and statutory constraints on Colorado's budget. The subject matter of her testimony will include, without limitation, opinions concerning Colorado's budgeting procedures, TABOR and constitutional and statutory constraints on Colorado's budget, the growth of special districts and the increase of elections due to TABOR, and the future options for the Colorado budget. Ms. Hedges's qualifications and a summary of her opinions are set forth below:

Carol Hedges is a recognized expert on the effects of Colorado's TABOR amendment. Her current research explores spending and taxation in Colorado in light of fairness, efficiency and adequacy. Ms. Hedges has experience in the philanthropic sector and in political service with former Colorado Gov. Roy Romer, the National Governors' Association and with Gov. John Carlin of Kansas. Ms. Hedges holds a Bachelor of Science degree in Public Affairs from Emporia State University and a law degree from the University of Kansas. She is a board member for the FRESC Good Jobs Strong Communities in Denver. She is a member of the Colorado Nonprofit Association's Leadership Advisory Committee and served on the Technical Advisory Committee for Gov. Gill Ritter's Blue Ribbon Transportation Panel. She represents COFPI on the Colorado Reform Roundtable as a convenor and as a co-chair of the Fiscal Reform Subcommittee. Carol is a founding member of the Steering Committee of the Colorado Civic Engagement Roundtable.

The budgeting process for Colorado may at first blush seem very complicated and challenging to understand. However, when you break down the process into components it becomes much easier to follow and to understand. I will address the following issues in this narrative: the various components of the Colorado budget; how the General Assembly has handled the two recessions we have faced since 2000; statutory and constitutional restraints on revenue collection and spending; how Colorado ranks with other states in regards to several of the largest components of our state budget: K-12; higher education; and health care; what constitutes an effective state tax system and how Colorado's current tax system fares when measured against these standards.

Colorado raises money from a variety of sources, including the federal government, general taxes such as income and sales tax, and fees and fines such as those paid to courts or for hunting and fishing or license plates and driver's licenses and many others. For budgeting purposes, the state divides the various revenues it receives into five broad fund categories: federal funds, cash funds, reappropriated funds, general funds and general funds exempt. Each of the main sources of revenue has different limitations on its use.

For fiscal year 2010-11, the Colorado budget totals more than \$19.5 billion. The General Fund is the largest portion of the state budget, with federal aid constituting the next largest share and cash funds from a wide variety of earmarked taxes and fees making up the other large portion of the state budget.

The largest portion of the total budget goes to cover the costs of health care and human services, K-12 education captures the second largest portion of the total state budget: \$4.3 billion.

The make up of spending from the general funds is different but nearly 95% of all general fund spending is for six essential services provided by the state---K-12 education, higher education, health care, human services, prisons, and courts.

Decisions about changing how Colorado spends money are difficult not just because so much state funding currently goes to six categories of basic services, but also because of the many limitations on how dollars the state receives can be spent.

Colorado's unique tax and expenditure limits compound the problem and severely restrict the discretionary authority of budget writers in Colorado.

TABOR is the most significant restriction on state revenue and spending. TABOR applies to every level of government, from special library districts and municipalities to school districts, county governments, and the state.

Referendum C was passed by the voters in 2005 and allowed the State to keep all revenue collected for 5 years. The "set aside" of the revenue limit contained in Referendum C ended last year on June 30, 2010. One of the most critical parts of Referendum C was the elimination of the "ratchet" effect. By changing the calculation of the annual revenue limit, state spending will be more insulated from effects of economic downturns. The elimination of the ratchet, however, does not generate additional revenue, it simply keeps the state from having to reduce investments as the economy recovers from a downturn.

In 2009, the General Assembly adopted a change to a state statute that contained a provision limiting annual growth in general fund appropriations for state operating expenses. This limit was known as Arveschoug-Bird and limited appropriations to 6% over the previous year's General Fund appropriations or to 5 percent of Colorado personal income, whichever was less. Senate Bill 09-228 adopted new general fund allocation requirements including a

provision that general fund spending for operating cannot exceed 5 percent of Colorado personal income.

Property taxes are an important source of revenue for public services provided by local governments. Today property taxes are used exclusively by local governments and are the primary source of local funding for schools.

A 1982 constitutional provision known as the Gallagher Amendment weakened the property tax base of school districts and other local governments and has, in combination with the TABOR amendment, resulted in the state paying a larger portion of the total bill for educating children. That in turn has reduced money available for other areas of the state budget, such as human services, Medicaid, and higher education.

Gallagher mandates two key factors to be used in determining property tax revenue. First, it requires that residential property, in effect, only account for no more than 45 percent of the total assessed value of all property in Colorado. Second, it fixes the assessment rate for non-residential property at 29 percent. While the assessment rate for non residential is fixed, the assessment rate of residential property fluctuates in order to maintain the ratio. In years when the value of residential property grows more than the value of non -residential property, the assessment rate for residential property drops in order to preserve the 45 percent limit.

In most years since 1982, the value of residential property statewide has increased faster than the value of non-residential property. As a result, the assessment rate for residential property has steadily declined since 1983 from 21 percent to 7.96 percent, where it has stayed since 2003. This reduction in the residential assessment rate means that business property is assessed at over 3 times the rate of residential property. The impact of this decline in assessment rates was somewhat moderated by the mill levy stabilization legislation.

The impact of Gallagher varies widely between regions of the state, and even within particular regions. Both the rate of growth of property and the mix of properties within a jurisdiction affect the impact of Gallagher on the local tax base.

Because of the constraints explained above, Colorado was in poor condition when the last recession started. Thus, the State was very limited in its ability to weather the effects of this recession. The Federal Recovery and Reinvestment Act helped temporarily moderate the impact of the recession but with those funds going away, the impact becomes even more challenging to address. K-12 education and higher education, have taken significant cuts in the past two years.

In 2009, Colorado when benchmarked against the national average, fell below that average in every area that I examined. I analyzed each area in two different ways: per \$1,000 of state personal income and per capita. The areas I examined were: total expenditures, K-12 education, Medicaid, CHP+, higher education, and highways.

A tax system is the set of rules and regulations that allow a government to collect the revenue needed to fund public services. The policies underlying a tax system define the efficiency and effectiveness of the tax system. The National Conference of State Legislatures (NCSL) has articulated a set of principles that help define a good tax policy structure. These principles require that an efficient and effective tax system should:

- 1) provide adequate and timely revenue;
- 2) distribute the tax burdens equitably; and
- 3) promote economic efficiency and growth.

To evaluate adequacy, I have looked at three approaches: the approach used by the fiscal stability commission, individual program estimates; and national averages. In each of these measures, Colorado falls below the average and or falls below an identified funding objective.

There are various methods to evaluate tax equity. I examined this issue by conducting an evaluation of who pays taxes and looking at the percentage of income paid in taxes by each income bracket. The Institute of Taxation and Economic Policy (ITEP) produces an annual report that analyzes the amount of each type of tax paid by each income quintile. The results show that the highest share of income paid in taxes is paid by the lowest income bracket while the top 1 percent of all Colorado taxpayers pays the lowest percentage of their income in taxes. The tax rate on the poorest Colorado families---those earning less than \$20,000---is the highest of all the tax rates. At 9.0 percent, it is more than twice the effective rate on the very wealthy.

In evaluating the third criteria, I looked at the sustainability of the tax structure. In evaluating this criteria, I looked at productivity and volatility. Productivity is evaluated by looking at rates, exemptions/credit, and what has been called leakage, e.g. internet, and services. When measured per \$1,000 of income, taxes have fallen in the ten year time period of 1998-1999 through 2008-2009. I also reviewed information on revenue volatility and how the rate of change compares with the rate of change with other states. Colorado's revenue system is more volatile than that of other states.

10. Dr. Monte C. Moses
11637 East Powers Avenue
Englewood, CO 80111
303-740-0355

Dr. Moses is the former superintendent of Cherry Creek Public Schools and was superintendent for 10 years. Dr. Moses will testify concerning the history, development, and policies supporting the education accountability, education reform, and contents-based education systems adopted and implemented in Colorado since 1993. Dr. Moses' resume is attached as **Exhibit E**, and he provides the following summary of his opinions:

Over the past 50 years three major transformations have impacted the face of public education in Colorado. The first has been an attempt to alter the condition of unequal access to a

quality education to universal access for all students regardless of race, gender, disability, or socio-economic status. More recently, the effort to provide universal access has evolved into an expectation of universal proficiency of all students as measured by a system of state standards and assessments and has constituted the second major transition.

The third transformation, directly related to the first two, has been the growing control of public education by state and federal mandates. Both transformations have been characterized by a proliferation of new statutes, rules, and regulations pertaining to standards and assessments. These mandates have added enormous new responsibilities and costs to school districts without the resources needed to meet the additional demands.

The issuance of the Nation at Risk Report in 1983 played a significant role in shaping the standards and assessment reforms over the past 25 years. One of the recommendations was that “schools, colleges, and universities should adopt more rigorous and measurable standards, and higher expectations, for academic performance and student conduct, and that 4-year colleges and universities raise their requirements for admission.” The admonitions from the report soon began shaping legislative reforms in Colorado and across the nation.

In the late 1980s Colorado school districts were directed by the legislature and State Board of Education to define rigorous standards in key content areas with a system of assessment for measuring attainment of them. A steady stream of new statutes and directives followed that further expanded the state role in standards and assessment reforms. Some of the major actions include: legislative passage of the Standards-Based Education Act (1993); legislative adoption of the Colorado Basic Literacy Act (1996); requirement of annual CSAP testing (1997); mandate of CSAP testing of all students 3-10 and ACT at 11th grade (2000); School Accountability Reports required and issued (2001); implementation of No Child Left Behind (2002); initial Longitudinal Student Academic Growth bill adopted (2004); first districts placed on Program Improvement under No Child Left Behind (2004); second longitudinal growth bill adopted (2007); legislative passage of Colorado Achievement Plan for Kids (2008). It is also noteworthy that Colorado’s Race to the Top application in 2010 proposed further expansion of standards and assessment reforms.

The enactment of No Child Left Behind in 2002, and the State of Colorado’s agreement to participate in the program, was a capstone event that solidified the shift from local control to state and federal control of education, established universal proficiency of all students in core subjects as the central goal of public education, and gave standards and assessment reforms even more leverage. One of the most important features of NCLB is the concept of “adequate yearly progress (AYP).” In order to meet adequate yearly progress, both school districts and individual schools must meet achievement benchmarks for the total population, and for disaggregated sub-groups. Consequently, it is exponentially more difficult for a large, diverse school or district to meet AYP than a small, homogenous one. As a result, the large and more diverse schools and districts are far more likely to be subject to consequences under NCLB, even though their overall performance may be better than their smaller counterparts. Falling under program improvement

or corrective action plans stipulated by NCLB for not meeting AYP places a large financial and human burden on schools and districts.

A review of the statutes and rules associated with standards and assessment reforms reveals a litany of new responsibilities placed upon school districts with enormous cost implications. The change in goals has radically changed the processes school districts must employ to reach the goals. For example, more personnel and time have to be invested in aligning local curriculum with state standards, training teachers in the new processes, and conducting the assessments that are required. Recent objective analyses estimate the State of Colorado to be hundreds of millions of dollars behind in funding its own mandates.

To illustrate, the State of Colorado has established a system of standards and assessments, in concert with federal rules, with the goal of every student being proficient in core subjects irrespective of background. Non-English speaking students commonly struggle to meet this expectation. In order to become proficient in core subjects, students who are learning English need extra support, different materials, smaller classes, and differentiated instruction, which all require more resources. The State of Colorado provides a very small amount of supplemental funding to meet the needs of these students. The funding levels are so low for Limited English Language learners that it makes the intent of the mandates, and their related expectations, appear meaningless. When adequate resources are not available, districts are forced to shift funds from one priority to another, gradually undermining the integrity of the academic program for all students.

Under the accountability laws and regulations, school districts and schools are required to meet state level student academic achievement and growth goals ultimately based on student performance on state-wide assessments, most prominently, the Colorado Student Assessment Program (CSAP). Inability to meet these goals over time results in escalating sanctions that are administered by the state, leading up to reconstituting so-called failing schools. Given the cumulative effect of continuous funding inadequacies since the early 1990s, it is impossible for essentially all school districts to meet all of the state performance standards. Even districts with programs and personnel recognized for their excellence cannot meet the goals of universal proficiency embedded in Colorado accountability law and NCLB. Thus, by the definitions and measures of a “thorough and uniform system of public education” adopted by the legislature, these schools cannot assure that all of their students have an equal opportunity to receive a constitutionally sufficient education. This has also placed greater pressure on school leaders to focus local curriculum and resources on efforts to meet state-wide requirements, to the detriment of local priorities and initiatives, further eroding the reality of local control.

The failure to adequately fund its own system of standards, assessments, and accountability is widely perceived as not a lack of resources, but a lack of will on the part of the State of Colorado. Although legislative and constitutional obstacles do exist, the inability to address them over an extended period of time is more indicative of political avoidance rather than genuine constraint.

Since the inception of the standards-based reforms, there have been numerous appeals to reduce the level of mandates, statutes, and regulations given the insufficient resources to meet them. These requests have generally been met with little or no response, inevitably leading to more aggressive demands for either greater funding or less regulations. While less regulation may be a desirable outcome to many citizens and school districts, the enactment of such an extensive amount of regulations over the past two decades have made them virtually impossible to untangle, leaving school systems “holding the bag.” Colorado is faced with an unsustainable situation – more and more mandates with little or no additional funding to meet them. It is an irrational system that should be revised to align expectations with available resources.

11. Dr. Scott D. Murphy
5776 South Crocker Street
Littleton, CO 80120
303-347-3300

Dr. Murphy is the superintendent of Littleton Public Schools and has held this position since 2006. The subject matter of Dr. Murphy includes, without limitation, the history of the current school finance system, the changes to the act since 1988, and the efforts made by the legislature to address school finance. Dr. Murphy’s qualifications and a summary of his opinions are set forth below:

I am the Superintendent of Littleton Public Schools. I also worked for Littleton as the CFO and as Assistant Superintendent. I have worked in public education for more than 30 years including positions at the Colorado Department of Education, Brighton and Aurora Public School Districts. I have lived in Colorado for more than 40 years. I graduated magna cum laude from Colorado State University and received my graduate degree from the University of Colorado at Boulder. I was selected as the Colorado School Business Executive of the Year and have served as the President of the Colorado Association of School Executives. I have also served on various boards and was elected statewide to serve with the State Treasurer and other officials on the Board of Trustees for the Colorado Public Employees Retirement Association. I also served on the Interim School Finance Committee in 2005 and testified before the Interim Committee on School Finance in 2009. I have also provided testimony on numerous occasions to various legislative committees on issues related to school finance.

I served on the Legislative Study Group for School Finance for the 1994 Public School Finance Act (“94 Act”). In serving with this group, I was involved in the discussions and studies that led to the 94 Act. The 94 Act did start to recognize that students have differing educational needs and tried to reflect those varying needs. The 94 Act also attempted to provide some recognition of the large differences in size and location of school districts in Colorado. However, while recognizing these differences both for districts and students, the 94 Act never addressed the actual costs of providing a quality education to all students in Colorado. In fact, the 94 Act is not rationally related to its own stated purpose: to provide a thorough and uniform system of public schools throughout the state and to address equity considerations. During the planning meetings for the 94 Act, I became concerned that no effort was made to try to calculate

an adequate base. The number that was used as the base was simply a number that was “backed into” from what the base had been in the prior act. In addition, there was no attempt to determine what the actual costs were in providing necessary services to children with disabilities, children who were learning English, or children who were defined to be at risk of academic failure. The reimbursement rates or weights for these students were an arbitrary number which has been carried forward to today. Despite improvements in methods to calculate actual costs for education, the State has never conducted any such study and continues to underfund public education. Other issues that I have worked on that arose out of problems with the 94 Act include the “j” curve, averaging, and declining enrollment and the impact of either growth or declining enrollment on a district’s ability to adequately fund its schools. While the “j” curve was solved, the issue of declining enrollment continues to have punitive impact on districts with stable or declining enrollment. This is an issue not only for Littleton, but also for the majority of school districts in the State.

I can also testify to the impact of the transition year imposed by the State on districts and how that still impacts districts today. The change in the fiscal year (known as the transitional year) both lowered the cash balances as the state made districts pay the majority of the school finance act in the first six months of the fiscal year. By changing the fiscal year to an ending date of June 30 (versus the December 31 date that districts had been using) the district had to increase its liabilities significantly by increasing accrued salaries as teachers had earned roughly 100% of what was owed to them in the final two months of their contract versus a lower month because only 4/9ths of the contract had been completed by December 31st. This increase lowered our fund balances as cash had to be set aside to pay these remaining liabilities in July and August.

The inequities and irrationality that were built into the funding levels in 1994 have never been addressed, much less corrected. From 1994 to the present, annual adjustments to district total program funding were made on the basis of incremental percentage increases to the 1994 base, thus perpetuating the problem. Until the passage of Amendment 23, those increases were typically less than the cost of living, even during periods of significant economic growth in Colorado. Real levels of funding persistently fell throughout this period. At no time were adjustments made to reflect the known or knowable real costs of meeting the mandates of state law, regulation, or the constitutional guarantee of a thorough and uniform system of free public education. Of course, in recent years, state budget cuts have substantially exacerbated the problem and have forced cuts in personnel and program that are very detrimental to the goals of public education.

I can also testify to the private fund raising activities of a district and how such fund raising activities are a function of wealth of the particular district. This creates additional issues with adequacy and equity. For example, we have one school that can raise roughly \$100,000 in a one night auction, while our poorest school can raise little, if anything. I believe that the Legislative Council studied this and published an analysis but nothing, that I can recall, was done with this.

TABOR, since it was enacted, has continued as a problem for school finance for K-12 public education. One of the effects of TABOR has been an increase in elections and resulting decreased equity, one of the goals of the 94 Act. The interplay between TABOR and Gallagher has also had a negative impact on K-12 finance. Because local property tax mill levies have been forced down, a substantial portion of increases in state level funding has effectively gone to replace local resources without any real increase in total funding for schools. Amendment 23, because of actions taken by the State has not fulfilled its own mandate of returning school districts to 1988 funding levels.

The lack of an adequate base and the arbitrary nature of the reimbursements continue to today and in fact have become exacerbated by the changing demographics. I served on the Interim Committee for School Finance in 2005 and helped draft the report to the Legislature. Littleton, as many other districts, has seen increased numbers of at risk children, ELL children and students with disabilities. Further, the nature and types of disabilities have increased significantly in intensity and need thereby increasing the costs to the district. Littleton, as all other districts, is charged with serving each and every child, regardless of disability or background, and the school finance act has not changed to reflect these changing demographics. Funding limitations and the effect it has on all populations has had the effect of lowering education excellence to meet all student's needs. In addition, in the last 11 years, technology needs have exploded and again, the school finance act has not changed to reflect these increased expectations. Mandates continue to be sent to districts by the State, again with no change in school finance.

Open enrollment and charter legislation created more problems as parents exited the districts and the State did not compensate the districts for the remaining costs.

Littleton is one of the districts that received the CDE "accredited with distinction" award designation in 2011. Littleton has also had the support of its community. Due to our demographics, Littleton has been able to pass override elections to supplement our Public School Finance Act total program funding. Still, Littleton continues to have an achievement gap and struggles to meet all of the accreditation and other mandates from the state. As these mandates increase with the implementation of, for example, new standards and assessments under CAP4K and the requirements of SB 191, particularly in a period of state-wide budget cuts, Littleton, along with all school districts, will encounter greater difficulties in providing the educational services mandated by law and meeting our children's right to a constitutional education.

12. Glenn E. Gustafson, CPA
1115 North El Paso Street
Colorado Springs, CO 80903
719-520-2000

Mr. Gustafson is the Deputy Superintendent of Business Services and Chief Financial Officer for Colorado Springs District 11 schools. Mr. Glenn E. Gustafson, CPA, has been with School District 11 since January 1992. The subject matter of Mr. Gustafson's testimony

includes, without limitation, how the current school finance system works statewide, the deficiencies and challenges of the current system, budget cuts, and the inability of school districts to provide the necessary programs, the future options for state funding, and the impact of PERA. Mr. Gustafson's resume is attached as **Exhibit F**, and she provides the follow summary of her opinions:

I was hired by School District 11 on January 12, 1992, shortly after the passage of the Taxpayer Bill of Rights (TABOR) constitutional amendment. I came from a Municipal background but quickly transitioned into School District finances. In my 19 years with District 11, I have had significant, and possibly substantial, involvement in nearly every aspect of school district operations, with the exception of Instruction. Throughout my District 11 career, I have been tasked with the financial leadership of the school district in one form or another. Since July 1, 2000, I have had primary the primary responsibility of financial leadership for School District 11 as its Deputy Superintendent/Chief Financial Officer.

Being the financial leader of a large, urban school district suffering from declining enrollment has been difficult and arduous. It seems that I have spent nearly my whole K-12 career cutting the District 11 Budget. Year after year we have had to deal while minimal revenue increases, sometimes decreases, and in a rising expenditure environment. The challenge of balancing the demands of programs, staffing level end compensation has been daunting.

School Finance Act (SFA) History

When I started my career with School District 11 the District was funded under the School Finance Act of 1988. District 11 was adversely impacted by the School Finance Act of 1988 since we were placed into the incorrect "setting" category for Per-Pupil Funding. This miscategorization cost the District millions of dollars. After extensive lobbying by District 11, the School Finance Act of 1988 was replaced after six year (very short timeframe in history) with the School Finance Act of 1994. School Districts in Colorado still operate under the School Finance Act of 1994. In 2005 (, I was appointed to the Interim School Finance Act committee as a task force member, to review the School Finance Act of 1994 and make recommendations to the legislature. The work of this committee was excellent and the committee made six (6) recommendations to "tweak" the School Finance Act in order to make it more equitable and adjust for the myriad of new educational mandates. Unfortunately, five of the six bills were defeated for one reason or another. A few years later, the legislature appointed another Interim School Finance committee to adjust or correct the funding formula. Again, no changes were adopted by the legislature. Beginning with FY 09-10, the State invoked a new component of the School Finance Formula called the Budget Stabilization Factor (BSF) in order to REDUCE funding within the structure of the School Finance Act OF 1994. The cumulative reduction in Per-pupil funding, through FY 11-12, will be approximately 14%! District 11's funding level for FY 11-12 will now be back to FY 05-06 or FY 06-07 levels. Regardless of the SFA mechanism, regardless of which party controls the legislature or the Governor's office, K-12 continues to struggle for funding.

In addition to the School Finance Act history, there was an important milestone in the analysis of K-12 funding. In fiscal year 94-95, the Colorado School Finance Project hired Augenblick, Myers & Associates to perform a gap analysis. These gap analyses were conducted annually through 2002. Then starting in 2003, Augenblick, Myers and Associates conducted the first of several adequacy studies. The results of the study conducted in 2008 showed that the School Finance formula was INADEQUATE in funding in an amount of close to \$2.9 Billion. The report also showed that the funding was inadequate in three key areas: Base Funding, Capital Funding and Special Needs programs.

Most importantly, the School Finance Act of 1994 was approved long before most of the State and Federal mandates requiring certain student outcomes were approved. These mandates include No Child Left Behind (NCLB), Colorado Achievement Plan for Kids (CAP4K), Individual Career and Academic Plan (ICAP), Concurrent Enrollment Programs Act (CEPA), Accreditation and the recently adopted Educator Effectiveness Bill (SB191). If we were to construct a highway, we would cost out the finished product and then fund the project. The 94 Act funds on a formula increase from prior years without regard to the mandated outcomes.

Relationship between Funding and Results

We CANNOT achieve greater student achievement gains with less funding. Each consecutive cut is forcing the elimination of programs, staffing and compensation. Without a doubt, school finance funding reductions are reducing or eliminating the programs that make the most significant difference in student achievement. These programs include summer school, tutoring, Response to Intervention (RtI), and Positive Behavior Support (PBS) among many others.

My greatest fear is that we are creating a lost generation of students. The students enrolled in our schools during this economic cycle will have fewer programs and less qualified people. Already our neighboring states of Nebraska, Wyoming, New Mexico and Texas are providing greater compensation than Colorado. Since we are a labor intensive business, our productivity and results depend upon our staff. Our ability to attract and retain the best quality staff will significantly impact our ability to deliver on our MANDATED outcome objectives.

Complicating Factors

Adding to the complexity of this discussion is a number of complicating factors. The biggest factor, by far, is our ability to deal with the challenge of serving at-risk and minority student populations. The percentage of students in the State of Colorado and in particular School District 11 continues to rise at a rate greater than inflation. In District 11 we have more than doubled our percentage of at-risk students in a decade. School District 11 is now OVER 50% at-risk students! Our number of English Language Learners (ELLs) is doubling approximately every five years. The correlation between student achievement and socio-economic levels of families is HIGHLY correlated to student achievement. Yet the State funding dedicated to these students is minimal at best. The School Finance formula must be adjusted in order to provide

funding for the programs and staff necessary to improve student achievement amongst these students. Adding to these complicating factors is the challenge of student achievement in terms of mobility. One particular example of the mobility challenge is our serving children who are homeless. District 11 is located in the center of Colorado Springs where the service providers (shelters and soup kitchens) for the homeless are located. Not only are these students struggling academically due to their transient status but their social needs create greater requirements for us to serve them in order to help them be prepared to learn.

At-risk students, special needs students and mobility, all increasing in proportion to our total student population, are making it extremely challenging to serve each child appropriately and are also siphoning resources away from regular Tier One instruction of other students.

Conclusion

So what is the problem with School Funding in Colorado? While no doubt it's complicated, in my opinion, the problems with School Funding are as follows:

- The School Finance Formula is INADEQUATE! There are not enough funds to meet the requirements
- The School Finance Formula is INEQUITABLE! There are not enough funds for at-risk kids.
- The School Finance Formula has been VIOLATED! The State continues to manipulate the formula in order cut the State budget.
- Without a School Finance correction, we WILL have a LOST generation!

13. Lucinda Hundley
5776 South Crocker Street
Littleton, CO 80120
303-347-3300

Lucinda Hundley is the Assistant Superintendent of Student Support Services at Littleton Public Schools, a member of the Special Education Fiscal Advisory Committee, and a former member of the P-20 Council. The subject matter of her testimony includes, without limitation, the provision of education services and costs related to: children with disabilities, children with specific health needs, children with discipline problems, children who are truant or at-risk of dropping out, and children with special needs in out-of-district placements. Ms. Hundley's resume is attached as **Exhibit G**, and she provides the follow summary of her opinions:

I have served as Littleton Public Schools Assistant Superintendent of Student Support Services and Director of Special Education since 2000. I am responsible for leadership of the District's programs for Alternative Education, Gifted and Talented Education, Special Education, English Language Learners, Cooperative Legal Services, Health Services, Homebound Services, and student suspensions and expulsions. I serve as the District's liaison to

the Office of Civil Rights in matters concerning students as well as liaison to the Greater Littleton Youth Initiative. Prior to being appointed as Assistant Superintendent, I was the Executive Director of Special Programs for the District, joining Littleton Public Schools in 1998. I currently serve on the Colorado State Directors' Leadership Team, served as an appointed member of Governor Ritter's P-20 Council regarding education, and in 2004 was instrumental in developing and currently sharing leadership of the statewide Consortium of Special Education Directors which works with policy makers regarding issues critical to the education of children with disabilities. I am also currently a member of the Special Education Fiscal Advisory Committee, appointed by the Colorado State Board of Education. I serve as a special education consultant for the Colorado Department of Education and previously was the Special Education Local Plan Area Director for the Santa Ana Unified School District in Orange County, California for 12 years. I served in various special education administrative positions in Santa Ana for 7 years prior and was also their Public Information Officer for two years. I received a Bachelor's Degree with honors from the University of the Pacific in 1971 and a Master's Degree with high honors from the University of the Pacific in 1972.

State studies on special education have stated that there is inadequate funding for special education in the State of Colorado. Last formally identified in an October 2000 report by the Colorado Mountain Plains Regional Resource Center, this has also since been documented annually in Special Education Fiscal Advisory Committee Reports to the State Legislature and State Board of Education, most recently in December 2010. These annual reports, first issued in 2007, reflect a consistent recommendation to increase funding for students with disabilities in Colorado. While Colorado has had one of the lowest identification rates of students with disabilities in the country, flat funding has not kept up with the increase in costs of services to students with disabilities, resulting in an increasing gap between funding and actual costs to address needs of students with significant disabilities. Local administrative units have to cover the significant portion of unfunded special education costs, which impacts funding available for general education students. These costs for serving students with disabilities have continually increased over time, in part due to basic legal obligations under Individuals with Disabilities Education Act (IDEA), increased state and federal legal requirements, the impact of critical judicial decisions, cost shifting from other agencies, trends of students with increasingly complex and more costly disabilities, a shortage of qualified special education personnel, the effect of charter schools on local district funding, costs of dispute resolution, among other impacts. In short, funding for special education students in Colorado is inadequate.

In an effort to create an effective model for special education funding in Colorado, beginning in 2005-2006, the Colorado Legislature created a tiered funding system. Unfortunately, funding allocated to this system has never been tied to actual student costs. Funding was determined by limited available resources and has never met the actual need for providing appropriate services to students with disabilities.

Insufficient funding for students with disabilities results in local districts and administrative units having to reallocate funds for general education priorities in order to meet the legal requirements for students with disabilities, essentially to fill the funding gap by taking

funds from non-disabled students. This results in diminishing the supports and quality programs available for all students. Compounding this is the restrictive nature of funding for students with disabilities, required to be solely allocated for students with disabilities, prohibiting districts or administrative units from using the limited funding to create economies of scale to address learning needs of all students. A third area of concern is the increased emphasis on compliance (often related to timelines, wording on specific documents, duplicative data collection and reporting, etc.) having limited impact on student achievement. Significant resources are spent meeting state and federal compliance requirements, while local district funds are often the only source for addressing the real needs of closing the achievement gap between students with disabilities and their non-disabled peers. This includes creating effective systems for response to intervention (RtI), a legal requirement for developing research based intervention systems for struggling learners prior to consideration as a child with a disability. No state or federal funding source exists for this significant requirement.

In addition there is insufficient funding to adequately plan for and meet the needs of children with significant health needs while at school, students with disabilities who require 504 plans, as well as students presenting a variety of discipline and attendance issues.

14. Randy K. Boyer
38798 Rd. N. 3
Mancos, CO 81328
970-749-5826

Mr. Boyer is the Executive Director of San Juan BOCES, Durango, Colorado. The subject matter of his testimony includes, without limitation, the provision of special education and related costs in rural Colorado. The subject matter of Mr. Boyer's testimony is the same subject matter for which Plaintiffs designated Jeanne Boice-Wiley. Mr. Boyer's resume is attached as **Exhibit H**, and he provides the follow summary of his opinions:

As the Executive Director for San Juan Board of Cooperative Services, I serve as the Director of Special Education for nine school districts in five counties in Southwest Colorado. In this role, I also supervise Gifted Education, Professional Development, English Language Learner support, and the oversight of a newly developing SJ BOCES On-Line High School. I am the current President of the Colorado BOCES Association, Vice President of the Mancos Re6 School Board, member of the Board and Treasurer for Tri-County Head Start. I am member of the Colorado Educational Data Advisory Committee, member of the Colorado Special Education Fiscal Advisory Committee, and member of the Colorado Consortium of Special Education Directors. I am also a member of the Colorado Commissioner's Superintendent Advisory Council. Prior to coming to Colorado in 2002, I worked for 28 years in a large urban Arizona school district. My career in that school district included positions as a special education teacher, special education program supervisor, Director of Special Education and High School Principal. I have an undergraduate degree in education with a minor in special education. Advanced degree and training are in the areas of special education administration and school

leadership. I am currently participating in an 18 month National Institute for School Leadership training being hosted by my BOCES for our nine member school districts.

Funding for students with disabilities **in Colorado is totally inadequate.** The State Board of Education appointed a Special Education Fiscal Advisory Committee in 2006 from legislation passed that year. The charge to this Committee was to study and report back to the legislature the status of funding for students with disabilities throughout the state. This advisory committee has reported annually to the state legislature since 2007. In this annual report, there is clear documentation that year after year the costs of educating children with disabilities are increasing and more and more demands are being placed on the local school districts to shoulder these mandated fiscal and educational responsibilities. School districts must take resources away from educating general education students and allocate them to supporting the costly services of educating students with disabilities, **the result of an underfunded mandate.**

The generally accepted intent of Colorado legislation in 2005-2006 that created the Special Education Fiscal Advisory Committee was to create an effective model for special education funding across the state. A two tiered funding system was developed with the purpose of establishing a guaranteed funding “base” for all students with disabilities (Tier A). A higher funding formula was established to address students with more significant disabilities (Tier B). In addition, that same year, funds were also allocated for specific “high cost” students with disabilities that exceeded the thresholds recommended by the Special Education Fiscal Advisory Committee. The high cost reimbursement process requires annual application by Special Education Administrative Units. The Special Education Fiscal Advisory Committee reports have annually reported the local districts have to bear the burden of an average of 60 to 70 % of the costs of educating children with disabilities in Tier A. For students with more significant disabilities, Tier B, districts must absorb closer to 85 to 90 % of the costs for educating these children. Only 45% of the In-District applications were funded for 08-09. Only 17% of the In-District High Costs applications were funded for that same year. What is becoming more apparent in these annual SEFAC reports to the General Assembly is that the baseline for Tier A and B as well as the High Cost Pool were not based on accurate costs required to educate students with disabilities. No assessment had been made to fully assess the costs related to educating students with disabilities. Instead dollars historically allocated to fund categorical services in the legislation were rolled up to fund a new model. Add to this the increased annual costs of educating students with disabilities and you have an underfunded mandate that leaves districts no options but to take dollars away from educating general education students. **Year after year the SEFAC Annual Reports have documented the actual gaps in funding allocated versus cost for services.**

Inadequate funding for students with disabilities results in local districts having to shoulder the majority of the costs for these mandated services. Districts must pull funds typically allocated to serve general education students. This reprioritizing of general fund dollars results in loss of services to general education students. As special education services have to be expanded due to documented needs in an Individualized Educational Plan (IEP), general education cuts in programs, supplies and other essential items to run schools have to be made.

Additional costs related to specialized transportation, special education data collections, compliance monitoring, legal challenges around dispute resolution; all must come from a school district's general fund balance. In rural areas, highly qualified staff shortages in the specialized areas of special education are a problem. Contracted hourly services are often required through employment agencies at exorbitant hourly rates. Licensed special education teaching staff is difficult to recruit and retain. Additional financial supports are often required of school districts to get teachers qualified and licensed. School Improvement initiatives like Response to Intervention are costly to train for and no funds are available. Colorado has adopted and mandated an RtI model for identification of students with Specific Learning Disability. Little or no support financially to help school districts ramp up implementation of this model have been made available. Rural school districts struggle with not only recruiting qualified staff but with retaining qualified staff. Rural school districts compete with higher paying urban districts and clinical facilities. Higher special education caseloads in the rural areas further diminish services to students with disabilities and burn staff out. Rural school districts do not have geographical access to specialized programs for students with significant disabilities. Consequently, rural districts have to design programs at high costs and lower student ratios. These programs or services, when established, further reduce the services that would go to general education students. **Rural districts simply do not have the funds or the capacity to serve students with disabilities, particularly those with significant disabilities. This unfortunately does not relieve them of the responsibility to serve students with significant disabilities in their community. Funds must be pulled from general education to meet these mandated responsibilities.**

15. Dan Maas
5776 South Crocker Street
Littleton, CO 80120
303-347-3300

Mr. Maas is the Chief Information Officer for Littleton Public Schools. His testimony is expected to include, without limitation, the current state of technology and technology-related issues, such as staffing and necessary professional development, at school districts throughout Colorado, the effect of adequate technology resources and implementation on student achievement, and the minimal standard of technology necessary to provide an adequate education. Mr. Maas' resume is attached as **Exhibit I**, and he provides the follow summary of his opinions:

My name is Dr. Dan Maas and I currently serve as Chief Information Officer for Littleton Public Schools of Colorado. I have served in this position since July, 2006. Prior to this assignment, I was Director of Technology at two different BOCES (Board of Cooperative Educational Services); from 2000-2006 at Centennial BOCES and 1997-2000 at South Central BOCES. I began my educational career as a math and science teacher at Aguilar High School. I hold a Doctorate of Education from the University of Northern Colorado in Education Leadership and Policy Studies and a Master of Science in Computer Information Science with an emphasis in education from Nova Southeastern University. I was recognized by the Colorado

Association of Leaders in Educational Technology (CALET) as the 2010 Technology Administrator of the Year and my IT department was just recognized by the Consortium for School Networking (CoSN is a national association for school technology leaders) as Honorable Mention for Best IT Team of the Year. In 2007-08 I served as President of the Colorado Association of School Executives (CASE). Since my first year in education in Colorado 17 years ago, I have consulted for, served or otherwise interacted directly with over 50 Colorado School Districts on matters of technology in school. I have presented at numerous conferences including most recently as a Keynote speaker for the Colorado Association of School Business Officials Spring Conference.

The Colorado Constitution calls for a “thorough and uniform” system of public education in our State. The term “uniform” means opportunities and services need to be available to all children regardless of where they live in Colorado. The term “thorough” is also easy to understand when one considers the following question: “Would a 1950’s education be considered a thorough preparation for the world in 2011?” I think it is very easy to see that the world has changed dramatically since 1950, even since 1994 when the Colorado School Finance Act was last revised. Indeed, the world of 1994 was much more similar to 1950 than to 2011. In 1994, the Internet was not widely used and had only recently been declassified. Cellular networks barely existed and the idea of social networking was the realm of science fiction.

In my experience with schools across our state, I do not see a uniform level of readiness to offer a thorough education for the 21st Century. Consistently, schools acquire technology through grants, gifts and donations but cannot allocate sufficient funding for infrastructure, bandwidth, technical support and professional development needed to make such opportunities sustainable. Invariably, one or more of these critical aspects of the school technology enterprise must be sacrificed for lack of funding. And because gifts, grants and donations represent inconsistent opportunities for schools, it is quite common to find schools in Colorado completely ill-equipped and unprepared to educate children for the 21st Century. So while some schools have fiber-optic networking and wireless services, others have donated 10-year old desktop computers linked to an overburdened network that often struggles to support even reliable email and Internet access. The E-rate program from the federal government is the only significant technology funding support all schools can use to address the issues we face. Yet, E-rate is only for bandwidth services and, for only the neediest schools, it also can provide some funding support for networks. The funding that is necessary to support the teacher training, the technical support and the systems refresh is simply absent in Colorado public education.

There is no technology funding factor in the 1994 Colorado School Finance Act formula. Yet, the State has clearly declared that technology is an absolutely essential aspect of today’s educational system. This is established in the new P-12 Academic Standards recently adopted and then amended by the State Board of Education. Our new standards were developed through consultation with practitioners across the state in a process led by the Colorado Department of Education. These standards are rather unique in the country due to a peculiar feature built into every single topic. Instead of a set of “technology standards,” our State has embedded technology into every single subject area with a column within each dedicated to 21st Century

Skills. Within these descriptors, the Internet is referenced over 120 times. Skills with Social Media are called for as early as Fourth Grade Reading, Writing and Communicating. It is simply impossible to teach the skills codified in new state Standards without ample technology access for students. The State created these Standards and then revised them to incorporate the national Common Core. In that incorporation, the State was careful to retain the 21st Century Skills sections which they hailed as the most unique and fundamentally Colorado feature of our new Standards. By requiring these Standards for every school, the State establishes the definition of uniform and by having a comprehensive document establishing the minimum requirements for schools everywhere, the State defines what it takes for a public education to be thorough. The State fails, however, to provide any funding support for these requirements built into the Standards. For school districts across Colorado, I find the amount and condition of the technology resources to be inadequate to meet the requirements established by the State. The situation is worse in rural and low-income districts. Therefore, the current funding system is constitutionally inadequate because it does not provide adequate funding for technology.

My opinions on this matter are based on my formal education, my 17 years of experience in educational technology in Colorado, my observations in visits to schools in rural, sub-urban and metro areas, my knowledge of current research, my understanding of current trends in educational literature and my review and participation in the development of the Colorado P-12 Academic Standards.

16. Cary Kennedy
300 Jersey Street
Denver, CO 80220
303-916-1974

Ms. Kennedy is the former Colorado State Treasurer 2006-2010. Ms. Kennedy's testimony is expected to include, without limitation: Amendment 23, Referendum C, the mill levy freeze, Amendment 59, TABOR, Gallagher, and the constitutional and statutory structure as it relates to school finance.

By agreement of the parties, Plaintiffs will make their Rule 26(a)(2)(B) disclosure of Ms. Kennedy's summary of opinions on March 31, 2011.

17. George Welsh
550 South Sylvester Avenue
Center, CO 81125
719-754-3442

George Welsh is the Superintendent of Center School District and has held that position since 1997. Mr. Welsh's testimony will include, without limitation, the challenges faced by rural students, the mandates from the State and Federal Governments, the efforts made by rural school districts to try to provide educational opportunities to the students, and the impact of turn-around

grants. Mr. Welsh's resume is attached as **Exhibit J**, and he provides the follow summary of his opinions:

I have been Superintendent of Schools in the Center Consolidated School District since August 1997. In this position I am responsible for overseeing all of the academic, financial and physical operations of the Center School District. Prior to becoming Superintendent of Schools, I served Center Schools for one year as Principal at Center High School/Skoglund Middle School. During my 12th year as Superintendent of Schools I also served as Middle/High Principal in an effort to save the district funds so it could invest more in educational technology. My experience in education beyond Center Schools was as an 8th grade Social Studies Teacher in Marana, Arizona from 1986 to 1996. I have also been an adjunct instructor for Adams State College teaching school law, education finance, supervision of programs, data driven decision making and the politics of education in their educational leadership program. I am also currently the President Elect of the Colorado Association of School Executives.

I graduated from Marana High School in 1982, achieved a Bachelor of Arts Degree in Secondary Education with an emphasis in History and Science from the University of Arizona in 1986, and achieved a Masters of Education Leadership from Northern Arizona University in 1995.

Center Schools, with approximately 600 students, is one of poorest districts in state of Colorado with a Free or Reduced Lunch rate that consistently hovers around 90%. In addition, our minority population is usually in the range of 90%, our English Language Learner population is usually in the range of 50%, our Migrant student population hovers around 30% and we even have 33 students who have been identified as qualifying for "Homeless" services as per Title I guidelines.

As a small system Superintendent I have been involved in nearly all aspects of the operations of a Colorado school district: standards implementation and curriculum development, staff development, and supervision of special programs (such as Title I, Special Education, and ELL instruction). I have also been involved with supervision of teachers, supervision of administrators, supervision of financial services, and supervision of the physical aspects of the school district.

Because of my long tenure as a Superintendent in Colorado I have also been exposed to many other school districts and district administrators through my attendance at and participation in Colorado Department of Education, Colorado Association of School Executives and Colorado Association of School Boards meetings, conferences and staff development opportunities. In my nearly 15 years in Center I have become quite aware of the services we are unable to offer our students, in comparison to some districts similar in size, because of the lack of financial resources we have at our disposal.

Center, Colorado is geographically isolated in the middle of the San Luis Valley in Southern Colorado. Major economic activity includes farming (potatoes, barley, lettuce, wheat)

and cattle ranching. We are a four-hour drive from Denver, a three-hour drive from Colorado Springs and a two-hour drive from Pueblo. Our schools are the centerpiece of activity in the Center community and our citizens support and value education, though they don't have the financial capacity to support schools in the way school districts with wealthier populations can.

Because of our isolation and size, we struggle to meet many needs of our students. For example, we are unable to offer high quality upper level academic programs and a large variety of academic coursework. Being able to offer our students a high school Physics class is, at this time, absolutely dependent on our ability to attract and retain a qualified and effective high school Science teacher. An obvious solution to this problem would be to work together with other area school districts to offer such coursework through a distance learning model, but internet connectivity among SLV schools is quite limited by lack of broadband capacity and very few dollars are available for purchasing the equipment needed to operate two way video conferencing systems.

We also struggle greatly with simply attracting qualified and effective teachers to fill any teaching openings we have. Why would a person come to work in an isolated place like Center when they are going to be required to work harder, with a more at-risk population of students, for much less money than they could make in a district with fewer challenges?

Because of our high-risk student population we continually find ourselves diverting funds away from regular education or gifted students in order to meet the needs of Special Education, Migrant and English Language Learners. Currently state ELPA funding barely covers the cost of identifying our English Language Learners. As can also be imagined, because of our high instance of poverty, mobility and homelessness, Center Schools has a tremendous need for additional staff support such as specialized counseling services, nursing, social workers and behavior support staff.

Though we are part of the San Luis Valley BOCES and receive Special Education administrative and support services through this organization, because of our collective inability to pay a decent wage, we often run short of being able to provide our students with physical therapy, occupational therapy, speech and psychology services.

School districts like Center should be receiving better support from the Colorado Department of Education as well. It is appalling that 16 years after Colorado adopted its original model content standards, many school districts are still working on developing curriculum maps and instructional calendars to distribute to their teachers to guide their instruction. Many districts simply don't have the expertise or resources to do this. Now, as our standards are being updated, would be a great time for CDE produce model curriculum and calendars. However, the Colorado Department of Education is less able to support such an effort today than it was in the mid-1990's as the Department has been grossly underfunded as well. Center Schools simply views the Colorado Department of Education as a regulatory entity. Though it should and it wants to, the Department does not have the capacity to provide guidance and support to districts in need.

Because of our high risk, highly challenging population and our lack of success with raising student achievement, a lion's share of Center School's Title I dollars that might go to at-risk student program salaries and materials must go instead to specific types of professional development geared at increasing reading and math achievement. This has left us with poorly supported teachers in other content areas like Science, Social Studies, Special Education, ESL, and electives.

In the 15 years I have been in Center we have had to significantly reduce our general fund budget 6 times, 3 because of reduced pupil count and 3 because of overall state funding cutbacks. We have only frozen teacher salary lines once (this past year) because we have had among the lowest salary schedules in the SLV for many years. In order to attract, and retain, the quality teacher we need to work in such a challenging environment we have had to find ways to pay them more and treat them better. However, because of current funding constraints we anticipate freezing salaries once again this coming year. In addition, we don't even offer health care support for non-certified employees (one of the few districts even in the SLV that can not afford to do this).

One of the largest frustrations we experience each year when we design our budget is the total lack of local control we feel during the process. When we allocate the few precious resources we have we find we must first make sure we are taking care of all the mandated programs and processes we have been handed by the state, even though dollars are not attached to them. This leaves us very little ability to maintain momentum on locally preferred programs like the continued infusion of technology into classrooms, the offering of various vocational courses of local interest to our students and the inability to create new programs focused on 21st Century Learners.

Despite all the challenges listed above, Center Schools has been making good gains in middle and high school academic performance based on the Colorado CSAP Growth Model. In addition, a recent infusion of dollars through a federal Turnaround Grant has poised Haskin Elementary School to begin getting better than average student growth as well (recent growth has hovered around the 35th percentile in Reading, Writing and Math). Unfortunately this growth comes at the expense of continually applying for soft money resources through competitive grant processes. It is my opinion that we continually apply for grants to fund programs that should be a minimal requirement of the Education Finance Act in Colorado based on the things we are being held accountable for. In regard to our recent growth, I wonder if the parents in Telluride or Aspen would think it is OK to have growth in the 60th to 70th percentile for four-years straight and remain well below state average performance achievement at the high school level, as we have done in Center?

There are numerous ways we have tried to leverage our precious dollars in Center. As a School District we have worked with our community to share the burden of important services that benefit our constituents. We support Saguache County by providing space and resources for a local public library within our school building. In return we receive funding that helps us

support our collection and employee resources. We service Town of Center vehicles and technology equipment in return for School Resource Officer services and free utilities for the school/public library. We have a cooperative agreement with the Town to use the Center Community Park for our high school Soccer, Baseball, Track and Football facilities. This agreement saves dollars for the Town and the School District by sharing maintenance and upkeep costs. We have also worked with other area school districts to share staffing and program costs. A good model of this has been our cooperative SIED Special Education Services agreement with the Mountain Valley and Moffat School Districts. We also share athletic programs with area school districts; our students are able to participate in other school districts in programs we can't offer, and students from other districts participate in our programs not offered in their home districts.

Because of Colorado's commitment to Open Enrollment, Center Schools has become perceived as being the place to send ESL, Migrant and Special Education students for "effective" services in our area. Because of this, many low-risk students choose to enroll in other districts with much lower at-risk populations. What parent wants to send their child to a district where so much time and resources must be spent on such high-risk kids? This makes our job much more challenging in an environment where there are very few dollars allocated to such tasks. In addition, Colorado's commitment to Open Enrollment places neighboring rural school districts in direct competition with one-another. This circumstance does not foster cost saving cooperation among school districts because it becomes hard to justify to your local populace the action of supporting a competing district when that same district willingly tries to draw your students away.

On a final note, Center Schools recently maxed out its local taxing capacity for the purpose of building a new PK-12 school through the BEST program. I believe this was a smart thing to do because a new facility is much needed. 20% of our community property value (the maximum allowable by law) amounted to 4.7 million dollars contributed to a 31 million dollar BEST project. This increase in our mill levy of approximately 16 mills only raises a little more than \$300,000 per year for the next 20 years. As can be seen here, if we chose to go to our community for a mil override we would have increased our mills from 27 (the state maximum) to 43 mills (our statutory maximum based on property value) just to raise the amount of money we had to cut out of our budget in the 2010-11 fiscal year. Try selling that to your community. We currently have zero capacity to ask for more dollars to support programs because our BEST bond runs for the next 20 years.

18. Dr. Lisa Escárcega
Chief Accountability & Research Officer
Division of Accountability and Research,
Aurora Public Schools Educational Services Center 2
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303-340-0861

Dr. Escárcega is the Chief Accountability & Research Officer for Aurora Public Schools. The subject matter of her testimony includes, without limitation, programs, funding, state and federal standards and requirements for Colorado students learning English as a second or non-native language (commonly referred to as ELL, ELA, and/or ESL students), as well as the effectiveness of such programs, funding, standards and requirements.

By agreement of the parties, Plaintiffs will make their Rule 26(a)(2)(B) disclosure of Dr. Escárcega's summary of opinions on April 11, 2011.

19. Michael Poore

Deputy Superintendent/Chief Academic Officer - Instruction, Curriculum and Student Services
Colorado Springs School District 11
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Colorado Springs, CO 80903
719-520-2111

Mr. Poore is the Deputy Superintendent/Chief Academic Officer at Colorado Springs School District 11. The subject matter of his testimony will include, without limitation, the history, development, and policies of education accountability and reform. Mr. Poore's resume is attached as **Exhibit K**, and he provides the following summary of his opinions:

The State of Colorado has much to be proud of for creating standards for readiness. The last five years has brought major changes to Colorado in terms of expectations for all public school educators. The new standards and deliveries that accompany them have three key targets:

- Create the condition for a thorough and universal access for all students regardless of race, gender, disability, or socio-economic status
- Systemize delivery of curriculum and the accountability to track this delivery down to the student level
- Prepare students so that they can be successful in all transitions in a P-20 environment with emphasis on early childhood education, literacy proficiency by 3rd grade, algebra proficiency by 8th grade, and graduates that are both post-secondary and work force ready.

These targets have been endorsed and approved by our Governor, by the State Legislature and by the State Board of Education.

There have been several critical milestones that have set the wheels in motion for Colorado to move forward and meet these three critical targets:

2008-09 Critical Legislation and Actions

CAP4K (SB212)- This legislation sets the wheels in motion to have all new Standards and Assessments to create an aligned P-20 System with an emphasis on readiness as the target.

Concurrent Enrollment (SB 1319)- Emphasis on this legislation was to have K-12 work more closely with Higher Education to offer more post-secondary opportunities and options to high school students.

Education Accountability; Post-Secondary Readiness (SB 163)- Established work to create definitions for “readiness”; aligned accountability and accreditation standards and reporting with goals and purposes of CAP4K.

School Finance Bill (SB 256)- Within the School Finance Bill was a new expectation to have all students starting in 2011 have an Individual Career Academic Plan (ICAP)

2010 Critical Legislation and Actions

Teacher Effectiveness (SB 191)- The key aspect of this legislation was the creation of an expectation that Principals and Teachers would be evaluated on student performance data

State Board Action- The State Board confirmed that new State Standards would be put in place starting as early as 2011. In the Summer the State Board voted to use Common Core to align expectations of curriculum delivery in literacy and in math.

All of these reforms are necessary and have the potential to meet the targets as described above. The issue becomes that local districts have a huge responsibility to meet the requirements of each of these actions. These new expectations come at the exact time funding for K-12 has been reduced. School Districts have had to make historical budget reductions in 2010 and will have to make a similar substantial reduction in 2011. These reductions in funding in the past two years do not combine well with a decade’s long state funding allocation that is estimated to have Colorado underfunding its own mandates by millions of dollars.

The new targets that have been established by the State of Colorado are the appropriate and right targets. They align well with meeting the needs of our State to have a more prepared and educated citizenry as required by our constitution. They align well with our desire to have fewer dropouts, a higher graduation rate, and graduates that are post-secondary and work force ready. Given that everything is right with these targets why would we as a state not fund K-12 education to ensure that all students meet the expectation? Colorado, however, has failed to implement the funding that is absolutely necessary to accomplish these educational goals. There is not a national study out there that has Colorado funding K-12 education higher than 40th in the country. As stated this is not a new data trend and thus it must be deduced that Colorado currently does not have the will to address this basic funding requirement to truly meet its own targets.

20. Dr. Susan Scheibel
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Dr. Scheibel is an affiliate faculty member in the Gifted and Talented Masters Program at Regis University, past president of Colorado Association for Gifted and Talented, member of the State Advisory Council for Gifted and Talented, and former facilitator of a gifted and talented program in Littleton. She will testify regarding the academic and affective needs of gifted and talented students, the funding and programming limitations on gifted and talented programs in Colorado, and the consequences of not providing gifted and talented students with quality programs and services. Ms. Scheibel's resume is attached as **Exhibit L**, and she provides the following summary of her opinions:

I am Susan Scheibel, M.A. and Ed.D. in gifted and talented education, a Colorado parent of three young adults in our world, grandparent of one, Past President of the Colorado Association for Gifted and Talented (CAGT), member of Colorado's State Advisory Committee for Gifted and Talented Education, member of the Colorado Academy for Educators of Gifted, Talented and Creative, Regis University affiliate faculty in the Master of Gifted and Talented education program, practicum mentor for graduate Master of Gifted and Talented students at the University of Northern Colorado, retired Facilitator for Gifted and Talented and educator in Littleton Public Schools, private and public educator for over twenty years, and passionate advocate for high ability learners and individuals.

State law mandates the identification of gifted and talented students in Colorado schools and requires administrative units to develop plans for appropriate programming to support the nature and needs of identified learners in all districts, schools, and classrooms. While Colorado currently identifies almost 60,000 students as gifted and talented in the K-12 system, there is inadequate funding to provide what these highly able learners need for individual growth. Funding is neither tied to the needs of gifted students nor the components necessary for them to receive an adequate education, but rather is a state categorical formula with limited state funds. Less than two cents of every hundred dollars of federal education money goes toward gifted learners nationally and Colorado appropriates about \$152 per student, leaving school districts to shoulder the majority of the costs. Programs are insufficient to provide adequate differentiation, challenge, academic and affective research-based strategies, and best practices for highly able learners. Insufficient funds means that there is a lack of qualified staff, insufficient professional development and training, a lack of development and implementation of Advanced Learning Plans and programming, insufficient instructional materials and curriculum, and inadequate staff and support from the Colorado Department of Education. As a result, highly able students in Colorado are not receiving the education they require for adequate academic and affective growth. Negative consequences of their inadequate public education are reflected in lower test scores, unexpected drop-out rates, and greater private school, home school, and online enrollment. Additionally, gifted and talented students who do not receive adequate programs

and services often feel disenfranchised, bored, under challenged, and frustrated, which can impact their participation in higher education, productive employment, and STEM career choices and their ability to lead fulfilled lives and contribute creatively to society. If Colorado hopes to “Race to the Top,” the state must provide adequate and sustainable funding and programming to develop the potential of all students, including our most able. Let us not sacrifice excellence in the name of equity.

21. John Hefty
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303-815-3065

Mr. Hefty is the past executive director of the Colorado Association of School Executives. The subject matter of Mr. Hefty's testimony will include, without limitation, the school finance system, its history, and implementation, and the common ways in which non-plaintiff school districts and plaintiff school districts are affected by school finance, standards and assessments. Mr. Hefty's resume is attached as **Exhibit M**, and he provides the following summary of his opinions:

Beginning in the early 1990s and continuing through the present, the State of Colorado initiated and has progressively implemented a revolution in its public education system under the rubrics of educational accountability and standards-based education. The express purposes of this effort were to establish rigorous standards of educational achievement to prepare Colorado students for participation as citizens and in the economy and to create an objective method to measure if Colorado students were receiving a public education that met constitutional and statutory requirements.

This effort was founded on a system of state-wide content standards setting academic benchmarks by subject and grade level and standardized assessments of student performance in meeting those benchmarks and progress. It was expanded in the late 1990s to measure and rank school and school district performance and to expand upon the system of school accreditation and remediation. The net effect has been to transform public education and the educational and administrative mandates on school districts, all of which drove major increases in the costs of providing the requisite educational programs.

During this same time frame, the public school finance system was developing in parallel to the education reform initiatives. The basic source of public school general fund finance has been the Public School Finance Act of 1994 and its predecessor, the Public School Finance Act of 1988. Under these Acts, each school district begins with a base level of funding, which is then modified by statutory factors. The 1988 and 1994 school finance acts incorporated preexisting school funding levels as their base funding levels. These initial base funding levels were based upon historic school district expenditures, which were largely driven by local property tax resources. They were not based on a rational analysis of the actual costs to provide a level of educational quality.

The 1994 Act recognized the inequities and irrationality of the preexisting funding methods. It included a significant effort to equalize the inequitable effects of local property tax resources. This effort was relatively successful during the early years, but has been significantly eroded, with the result that property tax levels have once again become inequitable across the state, with the burden falling heavily on lower property wealth districts.

When the 1988 and 1994 Acts were adopted, the State did not study or determine the actual costs of providing public education services. Thus, the beginning school district base funding levels were not adjusted to reflect any rational determination of real costs. Since 1994, the base funding levels have been adjusted annually by an incremental increase of a statutorily specified dollar amount. These annual adjustments were likewise never determined by a rational determination of real costs.

Most critically, although the standards-based system intentionally established standards of educational achievement and measures of accomplishment of those standards, the finance system was never adjusted to address the costs of meeting those standards. Although the implementation of the standards-based system provided objective measures that could be costed-out and funded, the two systems remained in parallel, with no substantial effort to align funding with costs.

In recent years, new educational goals, such as school readiness and post-secondary and workforce readiness, and methods were mandated, and measurements of school and school district performance were (or are directed to be) implemented, as part of education accountability. Again, these changes in the education system have added and will continue to add significantly to the costs of education, but the funding system was completely unresponsive. As a result, there is not enough money in the system to permit school districts across the State to properly implement standards-based education and to meet the requirements of federal and state law and regulation. This is true for districts of every description – rural, suburban urban and those with small or large student populations.

In addition, during the same time frame Colorado and virtually every school district have experienced significant demographic changes, particularly in the number and concentrations of English language learners and at-risk children. There are now larger percentages of students with more expensive educational needs. The educational achievement requirements for these students are the same as for general education students, but the costs to achieve proficiency and growth requirements among these students is much higher. This represents a major source of additional expense that has not been funded. Here also, the State has not attempted to quantify and fund the costs of providing educational services to these and similarly situated students with special needs.

22. Sue Windels

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303-484-9596

Ms. Windels is currently the District Education Advocate for U.S. Congressman Jared Polis. She was the chair of the Colorado Senate Education Committee and served in both the Colorado House of Representatives and the Senate. The subject matter of Ms. Windels' testimony includes, without limitation, the education reform and school finance legislation that was considered and/or passed by the Legislature during her tenure. Ms. Windels provides the following qualifications and summary of her opinions:

I began my career as a Peace Corps Volunteer in El Salvador and Honduras and subsequently as a teacher in an individualized education program for the Migrant and Indian Education Center in Washington State. I taught Kindergarten in Tucson, Arizona's largely Hispanic school district and, upon moving to Colorado, I served in several leadership positions for local and state PTA, publishing a free legislative newsletter to facilitate parental involvement in advocacy for education. I was elected to the Colorado State House of Representatives in 1998 and then to the Colorado State Senate in 2000, serving as Chairman of the Education Committee for four years. Term limits forced my departure from the Senate in 2009. I am currently working for Congressman Jared Polis as his District Education Advocate. I am also a current board member for Great Education Colorado, a nonprofit statewide organization focused on increasing Colorado's investment in public education.

I have been an advocate supporting K-12 public education for most of my career. I ran for public office as I wanted to make a difference in the quality of the education that Colorado was offering to its children. Once elected, education became one of my primary focuses, as education is one of the most important services the State provides. Indeed the State's role in education is defined by our Constitution: the General Assembly is charged with providing a "thorough and uniform" system of free public schools to all the State's school children. To carry out my responsibility, I studied both the State budget and more specifically the School Finance Act of 1994 (the "SFA"). During my last four years in the Senate, I was the Senate sponsor of the SFA, which meant that I was responsible for drafting, negotiating and ensuring passage of the Act. Shortly after I was elected, the voters of Colorado passed Amendment 23. Thus, the Legislature was not only responsible for fulfilling the requirements of "thorough and uniform," but also the mandates of Amendment 23. During the years I carried the SFA, we met the bare minimum standards set by Amendment 23. At no time did we analyze or study the actual dollar amounts or resources, at either the State or district level, that were necessary to actually fund the education reform measures that we had enacted. Rather, the SFA was based on the prior year's funding or formula.

I served on two interim committees that related to the SFA: the 2003 Interim Committee on Gallagher, TABOR and Amendment 23 and I was the Chair of the Interim School Finance Committee in 2005. One of the charges of the Interim Committee on School Finance was to

consider: “the impact of recent education reforms on the ability of school districts and the state to meet their legal and constitutional obligations with respect to public education.” The committee conducted hearings, heard presentations, and had research conducted on pertinent issues to this charge. Of particular focus were presentations on the funding for categorical and the shortfall in funding these critical areas. This was of particular concern because the categorical funding, along with at-risk funding, is meant to address the needs of some of our most vulnerable children. After all the hearings and presentations, it became clear to me that the State was not meeting its legal and constitutional obligations for K-12 education. However, the only bills that were referred out of the committee were ancillary to the core issue facing the state and public education: the lack of resources to implement the programs that the legislature enacted to provide our students with a 21st century education.

During my tenure in the Legislature, we passed many bills that were part of what has been called education reform. These bills established standards that school districts were required to implement and a system of accountability by which the State would hold the districts responsible for implementing the standards based system. However, many of these bills identified “gifts, grants, and donations” as the funding source. I was concerned at the time, and remain concerned at the reliance on such funding sources for public K-12 education. Gifts, grants, and donations are short term solutions to a longer term, more systemic problem. In addition, funding by gifts, grants, and donations is not uniformly available to all districts and widens the disparity between wealthier and less wealthy districts. Finally, the expectations and accountability by donors may not be the same as those expressed by the General Assembly in its legislation.

During my time in the Legislature, it became clear to me that Colorado was underfunding education and that such underfunding had and continues to have a significant impact on the State and districts’ abilities to offer the programs and services that are necessary to comply with our constitutional obligation to Colorado’s children. I also became aware of the differing abilities of school districts across the state to meet the mandates that we had placed into law. The SFA has a different impact on school districts based on factors such as their size or their proximity to the Front Range or their access to technology, all of which add to the irrationality of the system as it currently exists.

After my tenure at the Legislature, I joined the board of directors for Great Education Colorado. In that capacity, I continued to urge the legislature to exercise its power to address the underfunding of education in our state by referring a ballot measure to the voters that would address education cuts. I supported the DECIDE legislation: decide education cuts or invest in democracy and our economy. DECIDE was drafted as a measure that, had it passed, would have referred a ballot measure to the voters returning the ability of the Legislature to address revenue as it relates to education.

23. Jack Pommer
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303-835-3532

Mr. Pommer is a former Colorado State Representative and Chair of the Joint Budget Committee. The subject matter of Mr. Pommer's testimony includes, without limitation, school finance legislation and the constitutional and statutory constraints and challenges faced by the Legislature as it relates to school finance and education reform and legislation. Mr. Pommer provides the following qualifications and summary of his opinions:

From 2003 through 2010, I represented parts of Boulder County in the Colorado House. During that time, I served on the House Education Committee, which oversees school funding; the House Appropriations Committee, which approves state spending; and the Joint Budget Committee, which prepares the first draft of the annual state budget.

Throughout my eight years in the legislature, the state continually wrestled with funding shortages. These were the result of three factors:

- two-dozen permanent tax cuts the legislature passed in 1999 and 2000
- constitutional and statutory limitations on state revenue and spending
- two national recessions

During my time in the Legislature, we passed a lot of bills relating to K-12 education and school funding. They included:

- The annual reenactment of the School Finance Act
- Expansion of the Colorado Preschool Program, increasing both enrollment and capital facilities
- Accreditation of school districts
- CAP4K
- BEST

I personally sponsored the annual School Finance Act, served on an interim committee that studied school finance, and helped to prepare state budgets that set overall school funding. I am familiar with the powers of the Legislature, the Colorado State budget, and the challenges faced by the State during the current budget crisis.

The annual School Finance Act primarily allocates the money available for K-12 to school districts and programs. It's formulaic. Each year's funding is an adjustment to the previous year's funding. It's not based on what schools actually need to offer an adequate education. Any changes to the Act are generally small and intended to repair glaring inequities and pay for new programs.

We know that the Colorado Constitution requires the Legislature to provide for a “thorough and uniform” education across the state, but our annual spending plan is based on previous amounts of funding and current revenue, not the amount of money necessary to meet the constitutional mandate. At no time did we ever try to connect actual funding of K-12 to the actual costs incurred by the districts in teaching children and implementing the education reform bills that we passed.

In 2005, the legislature authorized an Interim Committee on School Finance to examine K-12 funding in Colorado. Its mandate was to:

determine the funding factors and formula that should be adopted to ensure that all students in public schools in the state are receiving a thorough and uniform education in a safe and effective learning environment.

I served on the committee and helped to direct its efforts. We appointed a task force to examine the adequacy of school funding. The task force specifically recommended: revising the current school finance act, increasing education spending, and examining adjustments to base per pupil funding. More specifically, it advocated identifying a higher level of base funding to allow school districts to meet accountability standards. The task force outlined recommendations for determining an adequate base funding level and for adjusting base funding appropriately based on specific factors and categorical programs.

Despite the clear recommendations, the committee did not propose any legislation to increase, or even determine an adequate amount of, base funding.

It was a political decision: determining an adequate amount of base funding would have implied a legislative obligation to provide that funding. Members of the committee recognized that adequate funding for schools would likely require a tax increase and we did not want to put the Legislature in the awkward position of either requesting a politically unpopular tax increase or refusing to provide for adequate school funding.

The interim committee did propose some bills to address small problems within school finance. For instance, we proposed using some of the money from Referendum C to fix horrible inequities in special education funding. We repaired the worst of the inequities, but didn’t even try to provide adequate special education funding.

While the interim committee was meeting, Colorado voters approved Referendum C, which allowed the state to keep and spend the revenue from existing tax rates. It was an arbitrary amount of money, unrelated to specific funding needs. It did not address the loss of state revenue as a result of the legislature’s previously approved tax cuts.

The impetus for Referendum C was an impending shutdown of state government. Tax cuts, revenue restrictions, and the recession had combined to push Colorado to the brink of insolvency. One key factor was TABOR’s “ratchet-down.” As tax cuts and the recession forced

down state revenue, TABOR ratcheted down the amount of revenue the state could keep and spend. That locked Colorado into its recessionary level of spending.

The legislature referred Referendums C & D to the ballot with the support of then-Governor Owens. It was an emergency measure to forestall an imminent crisis. Many of us who supported the measures recognized that, if they passed, they would keep key state services, like higher education, from shutting down in 2006, but not fix the long-term problems with Colorado's budget.

We viewed Referendum C as a short-term solution that would give us five years to work on a permanent solution. However, during my remaining time at the Legislature, we did not address, in any substantial way, the systemic issues facing the state budget and school finance. Nor, did the Legislature ever refer any revenue measure.

In 2007, I amended the School Finance Act to stabilize local school tax revenues. TABOR and the Gallagher Amendment intertwined in a way that was artificially pushing down the mill levies that support school districts. This, in turn, increased the amount of money the state had to spend supporting the districts. Since the state, at that time, was obeying Amendment 23's minimum school funding requirement, the increase in the state share of school funding did not hurt districts, it hurt other state services. Stabilizing local mill levies protected other state services.

The mill levy stabilization was challenged in court. The Colorado Supreme Court ruled that the statute was constitutional and also gave the General Assembly more flexibility in making tax policy changes within the TABOR limit.

While I was on the JBC, the Legislature approved SB 09-228, which altered the Arveschoug-Bird limit on general fund spending. Arveschoug-Bird had limited the annual increase in general fund spending to six percent. Any money available above the limit was spent on capital construction projects (non-K-12), transportation, and the state excess general fund reserve.

Although SB 09-228 changed the six percent limit, it also directed that more money be spent on highways, effectively cutting the amount available for schools and other general fund items.

I also am familiar with the Budget Stabilization Factor that was introduced during last session and the efforts undertaken by the Legislature to balance the budget.

24. Andrew Romanoff
10403 W Colfax Ave. #500
Lakewood, CO 80215
303-232-4336

Mr. Romanoff served in the Colorado House of Representatives from 2000-2008 and served as Speaker of the House from 2005-2008. The subject matter of his testimony includes, without limitation, efforts made during legislative sessions to address issues relating to state budget, TABOR, Referendum C, Amendment 59, school finance, education reform, and the limits of the legislature to address finance problems. Mr. Romanoff provides the following qualifications and summary of his opinions:

I currently work as a senior advisor at International Development Enterprises (IDE). I served in the Colorado House of Representatives from 2001 to 2009 and as Speaker of the House from 2005 to 2009.

Before my election to the General Assembly, I analyzed state and national proposals for education reform on behalf of then-Governor Roy Romer. I have also taught at the University of Colorado's School of Public Affairs, the Community College of Aurora, Metropolitan State College of Denver, and Red Rocks Community College.

I served on the boards of the Center for Women's Employment and Education, the Colorado Children's Campaign, and the Colorado Health Foundation. I led a neighborhood association and a community center and volunteered for Denver Kids. I earned a bachelor's degree from Yale University, a master's degree in public policy from Harvard University's John F. Kennedy School of Government, and a juris doctorate from the University of Denver's Sturm College of Law.

I have dedicated much of my career to strengthening public education. As a legislator, I took seriously our constitutional obligation to provide a "thorough and uniform" system of free public schools. Sadly, the conditions I observed in schools throughout our state were unequal, often inadequate and even dangerous.

That's why I worked hard to enact a multimillion-dollar plan to repair and rebuild Colorado's crumbling classrooms. The BEST (Building Excellent Schools Today) Act represents the largest investment in school construction in state history. Yet as I reminded my colleagues, BEST will not bring every school up to 21st century standards.

Improving the physical conditions of our schools, of course, forms only part of our obligation. Every child, in my view, also deserves the benefit of high-quality early childhood education and a top-flight teacher in every classroom. Colorado faces significant challenges in meeting both of those goals as well.

Our progress has been impeded, to a large extent, by the constraints and conflicts embedded in our state constitution. TABOR made it more difficult for Colorado to recover from the 2001-2003 recession. To remedy that problem, I joined other legislative leaders and then-Governor Bill Owens in crafting Referenda C and D and referring those measures to the 2005 ballot. The passage of Referendum C gave Colorado a five-year timeout from TABOR's revenue limits and removed the TABOR's "ratchet" effect.

In 2008, I led the charge for a more comprehensive solution to our fiscal mess. Amendment 59 would have steered future TABOR "surpluses" into a Savings Account For Education (SAFE) and sunset the spending increases required by Amendment 23. While we succeeded in gathering enough signatures to place Amendment 59 on the ballot, the measure did not pass.

Amendment 59, like Referendum C and BEST, took shape in the General Assembly. In each case, a bipartisan coalition of lawmakers seized the initiative. What all three efforts prove is that the legislature is not powerless to lead.

Plaintiffs join in Plaintiff-Intervenors' disclosures, served concurrently herewith. Additionally, Plaintiffs reserve the right to further disclose other experts, particularly unretained experts who may provide both factual and expert opinions, as discovery continues. Moreover, Plaintiffs reserve the right to elicit factual and expert testimony from State employees including, without limitation, the Colorado Department of Education, who have not yet been deposed.

Dated: March 21, 2011

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The original, executed document is on file at the offices of Davis Graham & Stubbs LLP.

CERTIFICATE OF SERVICE

The undersigned certifies that on the 21st day of March, 2011, a true and correct copy of the foregoing **PLAINTIFFS' EXPERT DISCLOSURES** was served, via LexisNexis® File & Serve, addressed to the following:

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