



Colorado State Board of Education

TRANSCRIPT OF PROCEEDINGS
BEFORE THE
COLORADO DEPARTMENT OF EDUCATION COMMISSION
DENVER, COLORADO
January 14, 2016, Part 1

BE IT REMEMBERED THAT on January 14, 2016,
the above-entitled meeting was conducted at the Colorado
Department of Education, before the following Board
Members:

Steven Durham (R), Chairman
Angelika Schroeder (D), Vice Chairman
Valentina (Val) Flores (D)
Jane Goff (D)
Pam Mazanec (R)
Joyce Rankin (R)
Debora Scheffel (R)



1 CHAIRMAN DURHAM: Scholarship Board of
2 Education will come back to order. Ms. Burdsall, would you
3 please call the roll.

4 MS. BURDSALL: Board Member Flores?

5 MS. FLORES: Here.

6 MS. BURDSALL: Board Member Goff?

7 MS. GOFF: Here.

8 MS. BURDSALL: Board Member Mazanec?

9 MS. MAZANEC: Here.

10 MS. BURDSALL: Board Member Rankin?

11 MS. RANKIN: Here.

12 MS. BURDSALL: Board Member Scheffel.

13 MS. SCHEFFEL: Here.

14 MS. BURDSALL: Board Member Schroeder?

15 MS. SCHROEDER: Here.

16 MS. BURDSALL: Chairman Durham?

17 CHAIRMAN DURHAM: Here. Quorum is present.

18 We'll proceed to Item 3.01, which is discussion of the data
19 sharing agreement with the University of Virginia. Mr.
20 Commissioner, if you would take charge, please?

21 MR. ASP: Thank you very much Mr. Chair.

22 This -- this item arose from some questions, from some --
23 some parents in the field, about our agreement with the
24 University of Virginia, which is doing ongoing research
25 study on the impact of Core Knowledge, charter schools, and



1 student achievement. A parent asked in particular, whether
2 or not, her child's data was included in the study. We
3 have determined that it was not, but it'll also raised some
4 questions about the purpose of this study, and the kind of
5 information that gets shared with researchers, and the
6 kinds that do not. And so, we have Marcia Bohannon with us
7 today, our Chief Information Officer and also Jill Stacey,
8 our Data Privacy Analyst. And I'll turn it over to Marcia
9 to walk us through the -- please. Thank you. And you also
10 have a hand out version, that kind of summarizes.

11 MS. BOHANNON: Yeah. What a -- Good
12 morning, Chairman Durham, the Board. We were gonna just
13 walk you through really at a high level, what the -- what
14 the agreement was like, what the history. First, before we
15 did that, we wanted to give you a sense of what the purpose
16 of the study was for, and some of the history of it, and
17 what the benefits might be to Colorado. So Gretchen Morgan
18 is going to walk us through that.

19 MS. MORGAN: Thank you, Mr. Chair. So I'll
20 begin by acknowledging that this predates me. So I am -- I
21 have gone back and read a lot. So this is what I have been
22 able to figure out. So this is a study that began in 2009
23 and is meant to be a longitudinal study of student
24 performance inside Core Knowledge of Charter schools. And
25 at the time that this was something that the department



1 agreed to, this is two Charter School Program grants to go.
2 So we had a 2010-15 grant we just rewarded a new one last
3 year, it was a 2007-9 grant before.

4 So this is under that grant program, Federal
5 Grant Program. Yup. And way back then, in the 2007-2009
6 grant that our department created, one of these sort of
7 research areas identified, was about comparing performance
8 of different models of school. So was a fascination
9 nationally at that time too. It was earlier in the charter
10 movement, where there was sort of more narrow range of
11 things happening. And so I think, it would make sense that
12 the department was interested in that because they had
13 written something into the grants at that time, about just
14 comparison of different approaches of schools. The other
15 thing that, I think, probably would be relevant, is that --
16 you know that -- that office has from its beginning, had a
17 strong commitment to trying to inform parents about choice,
18 there's a school choice office.

19 So the other intention than I can imagine,
20 back at that same time, that's not connected to any grant
21 program would just be wanting to be able to offer
22 information to parents, about the impact of particular
23 designs. So I think, there probably was an intersection
24 between those desires and the University of Virginia, who
25 had a specific desire around the Core Knowledge Program,



1 and that's how this began. This has been going, now, since
2 2009, and it's meant to be a seven years study. So this
3 spring, originally, will be the last time they wanted to
4 like get in the study. I think now that they've got into
5 it well, they might like to keep going a little bit longer.
6 But it would be the same question, which is how does
7 performance of students over time change, because of their
8 participation in the Core Knowledge (inaudible). So that's
9 sort of the background, I'm gonna let you guys talk about
10 some technical parts of this.

11 MS. RANKIN: Mr. Chair. I have a --

12 CHAIRMAN DURHAM: Yes. Ms. Rankin.

13 MS. RANKIN: I -- I have a question for you.
14 Was this specifically Core Knowledge -- Charter School
15 comparison?

16 MS. MORGAN: Yes.

17 MS. RANKIN: And -- and Colorado has been
18 offering information? Is there any -- any payment? Or is
19 it just something we do?

20 MS. MORGAN: I don't think so.

21 UNIDENTIFIED VOICE: No payment. No.

22 MS. RANKIN: Thank you.

23 CHAIRMAN DURHAM: Yes, Dr. Schroeder.

24 MS. SCHROEDER: I have a question but I

25 think, I would mention it's my understanding that Virginia



1 does use essentially Core Knowledge. Virginia is a state
2 that has a state curriculum, I believe and it is Core
3 Knowledge-ish, and so it would make a whole lot of sense
4 that it would come out of that community in general to see.
5 Because I think, there's a real strong support, at least
6 that's how it started out. Even in the -- not mid 90s,
7 there was talk about the Virginia curriculum, because it
8 wasn't basically Core Knowledge.

9 UNIDENTIFIED VOICE: Mr. Chair?

10 CHAIRMAN DURHAM: Yes.

11 UNIDENTIFIED VOICE: Along those lines, are
12 there other states that have offered that Core Knowledge
13 information to Virginia? And if so, are we privy to that -
14 - to those comparisons in that research?

15 UNIDENTIFIED VOICE: That's probably for
16 you.

17 MS. BOHANNON: Yeah. There are other states
18 that are involved in this study, and we would be -- we
19 would receive the results of that study once they are
20 completed. We may not receive their data but we would
21 receive the results.

22 MS. SCHROEDER: Could -- Mr. Chair, could we
23 have a report back when that comes in because I think that
24 might be interesting?

25 CHAIRMAN DURHAM: Yes. Oh, sorry go ahead.



1 MS. SCHROEDER: Are you -- are you gonna
2 continue to present or should I ask questions now?

3 MR. ASP: I think we've got a few more
4 things to --

5 MS. SCHROEDER: Okay. Keep going. Sorry.

6 MS. STACEY: So what we wanted to do was
7 just at a high-level kind of walkthrough, how -- how this
8 came about and -- and what procedures UVA is following.
9 And as Gretchen said, this predates all of us so, it
10 started several years back, but it has continued because of
11 the nature of the longitudinal analysis. When they first
12 set this up, set the research program up, they read it
13 through their own IRB and CDE did -- did a lot of review of
14 the procedures and the processes whatnot. So that IRB
15 review actually happens annually. So it -- at UVA, they --
16 they run it through their own internal IRB every year to
17 make sure that they're still following procedures and --
18 and doing the right thing. This is -- in our research,
19 this looks like pretty much a textbook, how you set up a --
20 a very good and effective research study. I mean, if
21 they're followed all of the -- the best practices and
22 whatnot, from everything we've been able to determine. And
23 -- and based on what Dr. Schroeder said, it does make a lot
24 of sense that they're focusing on that at UVA and they --



1 they know what they're doing with it, from what we can
2 tell.

3 Just as far as the actual data itself, we
4 give them data, but we only give them data after parents
5 have opted in. So they -- and they are actually running
6 all these. It's the University of Virginia researchers
7 that are -- are managing this, so they contact the parents.
8 I mean, the -- the communication is with the -- the schools
9 and UVA and with the parents. So there's no data that is
10 shared with them that has not been approved. Parents, all
11 parents have opted in, have approved the participation in
12 the study. And there are several -- it gets kind of
13 complicated how they're doing it, but the basic thing is
14 they -- they parents opt-in and if they choose to change
15 their mind they have the ability to do that as well, along
16 the way. So that part of it is -- is very solid. Once the
17 --

18 CHAIRMAN DURHAM: Yes.

19 MR. ASP: I'm sorry to interrupt. A piece I
20 wanted to point out is -- and I know you'll come back to
21 this is one of the reasons that parent asked us why there
22 was concern about the data privacy issues with this and
23 asked why their -- were their students' data included, and
24 they were not, because that parent did not opt-in to the
25 study.



1 CHAIRMAN DURHAM: Well, let me just take
2 this opportunity and ask. There are two opt-ins, one is
3 you don't object and the other is you specifically sign a
4 form. So if I wanted to go to the school and see the
5 signed form, they'd be able to produce a signed form
6 specifically, opting in. Is that the -- is that the
7 position of the department? And if the answer is yes, I
8 wanna see a few of those samples.

9 MS. BOHANNON: There is two different kinds
10 of opt-in, one was written, the other one was determined by
11 the IRB to be participation based. So, they were running
12 telephone surveys and student testing. So they determined
13 that if the parent determined and -- and chose to take
14 their student to the testing site, free will that would
15 opt-in their consent.

16 CHAIRMAN DURHAM: So there's a -- there's a
17 test that goes with it?

18 MS. BOHANNON: There's a voluntary testing,
19 yes, that went with this.

20 UNIDENTIFIED VOICE: The academic.

21 UNIDENTIFIED VOICE: Yeah.

22 MS. MAZANEC: Well, the question --

23 CHAIRMAN DURHAM: Ms. Mazanec.

24 MS. MAZANEC: -- question there, I think
25 leads -- next question is, are the parents who opt-in



1 voluntarily to the testing, are they aware that they are
2 also opting into the data sharing?

3 MS. BOHANNON: Yes, they are.

4 MS. MAZANEC: They are?

5 UNIDENTIFIED VOICE: Yes.

6 MS. MAZANEC: And how can we know that? Is
7 there -- can you provide an example of the form that
8 parents sign on to.

9 MS. BOHANNON: I believe that there is a
10 written form, yes, and I can provide an example of that,
11 yes.

12 MS. MAZANEC: Great. Thank you.

13 CHAIRMAN DURHAM: Does the data that's
14 shared include health disability information, child --
15 child characteristics, anything of that nature?

16 MS. BOHANNON: It includes child
17 characteristics such as disability, gifted, and talented,
18 special education, race, ethnicity, accommodations, and
19 student gender. So that is listed in the form, the full
20 list of data is provided.

21 CHAIRMAN DURHAM: So that would be it. No
22 other health data, no behavioral data, no -- none of that?

23 MS. BOHANNON: Absolutely not.

24 CHAIRMAN DURHAM: All right. Yes --



1 UNIDENTIFIED VOICE: Can we see the grant
2 and the results since 2009, where is it?

3 MS. BOHANNON: They've not published any
4 results till now because it is a longitudinal study. So I
5 don't know if Gretchen can provide the grant, the original
6 grant itself but --

7 UNIDENTIFIED VOICE: They'd already been
8 working through what, six years? So I guess I'd like to
9 see what they've done so far, exactly what they've done
10 before we decide -- before I would feel comfortable and
11 decide to extend it.

12 MS. BOHANNON: I'll see what I can provide.

13 UNIDENTIFIED VOICE: Has the university
14 (inaudible) that now?

15 MS. BOHANNON: Yeah.

16 UNIDENTIFIED VOICE: No. I just looked on
17 their website, I don't see anything.

18 MS. MORGAN: I mean, their intent was not to
19 publish until the end of the longitudinal studies.

20 MS. STACEY: Usually, universities have gone
21 through the IRB processes would risk the research, unless
22 they're engaged, I don't see any link for that, yet.

23 CHAIRMAN DURHAM: Okay. Please go ahead and
24 proceed.



1 UNIDENTIFIED VOICE: There's one other point
2 I wanted to make, just to clarify. The information that we
3 give them is masked to the individual child information,
4 that the individual child's name or identifier is masked.
5 So what they get is individual level data but it's
6 deidentified, so you can't tell who's who. So they don't -
7 - there's a key to unlock that and there's requirements
8 from their own IRB that states they have to keep that key
9 in a separate place and -- so they're following those
10 procedures. So without that key, they can't tell who's who
11 in that, in the full set of data.

12 So I wanna make sure that was clear, that
13 it's not individually identifiable data that we're giving
14 them. And I think we've pretty much gone through the
15 completion of it as Jill said, we're -- we're waiting for
16 them to -- I mean, if -- if -- if we do continue with this,
17 we'll give them the data that they need for this year and
18 then they will complete the research. And I know their
19 plan is to come out here and present to anywhere -- any of
20 the participating states, they will come and present the
21 results and then it sounds like their plan is to request
22 additional years. So we'll be reviewing it at that time.

23 CHAIRMAN DURHAM: Ms. Mazanec.



1 MS. MAZANEC: We're providing data for this
2 year. I thought the study was through 2014? Did I
3 misunderstand?

4 UNIDENTIFIED VOICE: It's the 2014-15 data
5 that they're actually requesting. But they're requesting
6 it now.

7 MS. MAZANEC: Okay. And you -- you think
8 that they will be requesting to continue the study?

9 UNIDENTIFIED VOICE: Yes. They would like
10 to -- that -- that's the indication we've gotten from them.
11 They would like to keep it going for the next three or four
12 years.

13 MS. MORGAN: That would be a new
14 (inaudible).

15 UNIDENTIFIED VOICE: It would be, right. It
16 would be a second (inaudible). Okay.

17 CHAIRMAN DURHAM: Dr. Scheffel and then Dr.
18 Schroeder.

19 MS. SCHEFFEL: I just had a question for Dr.
20 Schroeder, you were saying that Virginia has embraced --
21 what were you saying about their curriculum?

22 MS. SCHROEDER: I don't know where things
23 are currently. I know that in the mid 90s there was a lot
24 of discussion. I mean, common core was -- was being
25 requested by parents.



1 MS. SCHEFFEL: Core knowledge.

2 MS. SCHROEDER: Oh, sorry, Core Knowledge.

3 Thank you.

4 CHAIRMAN DURHAM: Common Core Knowledge.

5 MS. SCHROEDER: No, no, Core Knowledge. I
6 apologize. And there was actually discussion in my school
7 district, about adopting Virginia's standards because
8 Virginia's standards were actually curriculum. And so in
9 Colorado, we wouldn't -- we wouldn't have their standards
10 as our standards because it was much too like, much like
11 curriculum. But a district could and there was a lot of
12 interest. And one of the schools that was honored
13 yesterday, sort of was created roughly around that time and
14 it started out as a Core Knowledge.

15 MS. SCHEFFEL: I think it's shifted a lot,
16 since then from my research?

17 MS. SCHROEDER: Very possible.

18 MS. SCHEFFEL: And -- and there're very few
19 schools doing Core Knowledge now. So I would wonder just
20 what the protocol is for the research at UVA.

21 MS. SCHROEDER: Well, I'm -- but I'm
22 wondering whether their standards have changed because if
23 their standards have --

24 MS. SCHEFFEL: I think they have. I think
25 so.



1 MS. SCHROEDER: -- have changed then that
2 would reflect something different --

3 MS. SCHEFFEL: I think so.

4 MS. SCHROEDER: -- than if they were still
5 the same. That I don't know. I just know that back then,
6 that was my -- what was my question?

7 MR. ASP: Can I add a point while you look
8 for where your going?

9 CHAIRMAN DURHAM: Yes. Go ahead.

10 MS. SCHROEDER: Yes.

11 MR. ASP: Part of the interest, University
12 of Virginia comes above, it's E.D. Hirsch who was their,
13 basically, the designer of Core Knowledge was a professor
14 at the University of Virginia and so --

15 MS. SCHROEDER: He's from there.

16 MR. ASP: -- their interest in that flow,
17 some from -- from that particular piece. They have their
18 own set of standards of learning now that are certainly
19 much different before (inaudible).

20 UNIDENTIFIED VOICE: That's why it'd be
21 great to see the actual grant and see what their
22 methodologies were and what they're doing.

23 MS. SCHROEDER: In -- in terms of continuing
24 the grant, are they continuing with the same group of kids?
25 Or are they talking about doing it again with a new group?



1 In other words, it's an elementary school that's a part of
2 this, right? Not a K8?

3 UNIDENTIFIED VOICE: Yes. It is an
4 elementary school.

5 MS. SCHROEDER: So those -- those youngsters
6 would have gone all the way through by now. Right?

7 UNIDENTIFIED VOICE: Right. I believe that
8 they're starting on Cohort two of the --

9 MS. SCHROEDER: Cohort two? So it'll be a
10 different group of --

11 UNIDENTIFIED VOICE: Yeah.

12 MS. SCHROEDER: Okay. So that would give us
13 an opportunity to look very, very carefully, about the
14 process they go through, in getting the opt-in of the
15 participants. Also I did find it interesting yesterday
16 when high peaks was here. They were no longer talking so
17 much about Core Knowledge either. That was sort of a mode
18 -- I think they said a modified Core Knowledge. So it
19 sounds to me like there's been some progression over time.
20 I know there's been some changes over time anyway in Core
21 Knowledge, but there seems to be some adaptation overtime
22 on, some of these curricular.

23 UNIDENTIFIED VOICE: Thanks.

24 CHAIRMAN DURHAM: Are you? You're a little
25 left, I think in the presentation?



1 MS. STACEY: We're actually done. Are there
2 any, other questions?

3 CHAIRMAN DURHAM: Okay. So you, so it is --
4 it is our opinion that there are some signed consent form
5 somewhere?

6 MS. STACEY: Correct.

7 CHAIRMAN DURHAM: There is contention out
8 there, there are not any sign confessions form so I guess
9 we need to resolve that factually. So the schools would
10 then claim to have those can produce those for the
11 children. I think that before we transmit any additional
12 data, we probably need to -- to verify that that's the
13 case. And I guess -- guess I'd like to have some
14 determination of how voluntary this test is. We all know
15 that, you know, parents could be pressured into doing this.
16 It could be a, treated as a pretty serious opt-out, as
17 opposed to really an opt-in and it was stated if you show
18 up you presume, the school -- University of Virginia
19 presumes they opted in. I don't think that's necessarily a
20 safe presumption. So I think before we transmit in more
21 data we need answers to those questions and we'll put this
22 back on the agenda for the -- for the February meeting to
23 see if we can resolve those questions. And I -- I do have
24 one question. Can -- whoever's best qualified to answer.
25 What is the real purpose of this study? Is it to determine



1 that Core Knowledge schools have better outcome or worse
2 outcome? Is that the -- is that the purpose?

3 MS. GOFF: (Inaudible) no.

4 CHAIRMAN DURHAM: So let's -- we believe
5 that it's no more, so -- so to do that they really don't
6 need demographic information, do they?

7 MS. GOFF: Well they use that information in
8 order to narrow down the groups of students, so they know
9 that if there's underserved groups that they have -- take
10 that into account when they're doing the results.

11 CHAIRMAN DURHAM: So it -- it could be they
12 don't wanna just say Core Knowledge only works because the
13 right people are in those schools?

14 MS. GOFF: I don't think that's.

15 CHAIRMAN DURHAM: That could be a conclusion
16 they might wanna reach?

17 MS. GOFF: I don't think that's one of their
18 conclusions.

19 MS. SCHEFFEL: I think it's more likely that
20 they'll be trying to say that for this subgroup or that
21 subgroup this has outsized effect. Wanting to be able to
22 say when a Core Knowledge is serving this various kinds of
23 population, it does better than the schools around it.
24 With that subgroup, I think it's more likely to be their
25 research question.



1 CHAIRMAN DURHAM: And is it still true that,
2 if I recall at least the -- those schools that tend to be
3 the leading performance schools in the state tend to be
4 Core Knowledge schools? Congressman Schaefer School, for
5 example Senator King Schools, which are all top performers.
6 Their core knowledge as I recall.

7 MS. SCHEFFEL: I think there are a lot of
8 Core Knowledge schools in Colorado that are high performing
9 schools. I think that is true.

10 CHAIRMAN DURHAM: So we could almost answer
11 the question for them.

12 MS. SCHEFFEL: I'm guessing that we can pass
13 their IRB process.

14 CHAIRMAN DURHAM: Probably not, Dr.
15 Scheffel.

16 MS. SCHEFFEL: One more comment. The other
17 thing is that Core Knowledge has changed. And so that's
18 why when this research began in '09, very content driven
19 I'm not sure when some shifting occurred and they align
20 more with common core. So again I'd like to know kind of
21 what's behind the study and -- and how this is playing out
22 in the schools they're looking at, which set of standards
23 or approach from Core Knowledge they're using it as just a
24 lot of nuances there.



1 MS. STACEY: Maybe it would be helpful to
2 get the lead researcher like on the phone with you all or
3 something.

4 MS. GOFF: Just like to read the, I guess
5 for the person they've been through this six years. I mean
6 you know --

7 MS. FLORES: Yeah. They're doing a long
8 time.

9 MS. GOFF: -- give us some information.

10 MS. FLORES: Yeah.

11 MS. GOFF: If they wanna keep partnering, I
12 mean, I don't wanna just partner blindly.

13 CHAIRMAN DURHAM: Yes.

14 MS. SCHROEDER: One of the historic
15 critiques of Core Knowledge was that it didn't serve well
16 for some groups of kids. Dr. Flores has mentioned that.
17 So one of the reasons that they would need that kind of
18 demographic information, is to demonstrate whether in fact
19 it serves effectively all kids in those schools or just
20 kids who will come in with a -- with a much stronger
21 background, with (inaudible) experiences (inaudible).

22 MS. GOFF: Is it just daughters of the
23 American Revolution that are served well or are Latinos and
24 blacks served well?



1 MS. SCHROEDER: So a lot of the changes
2 they've made have been to address those concerns. And I
3 think Deb's question -- concern is a good one, how much has
4 it changed and maybe it's had an effect even over the --
5 that longitude. If in fact the changes have been going on
6 since, what was it? 2009?

7 MS. FLORES: 2009.

8 MS. SCHROEDER: Then that might actually
9 demonstrate that over time that this has changed the
10 outcome.

11 CHAIRMAN DURHAM: Okay. All right. Any
12 other questions? Just one more. Is it safe to say no data
13 will be transmitted until the Board has had a chance to
14 review? And -- and I -- I would say the burden of proof is
15 on the University of Virginia and its advocates to clearly
16 demonstrate the opt-in provisions, perhaps not beyond
17 reasonable doubt but certainly by a wide preponderance of
18 the evidence. And so we'll -- we'll see what kind of
19 information is available, and I -- I would suggest somebody
20 do a quick audit of that part of this program just to
21 ensure that, in fact the statements made by the University
22 of Virginia are accurate. Any further discussion of this
23 matter? Okay. Thank you very much.

24 MS. SCHROEDER: Thank you.



1 CHAIRMAN DURHAM: All right. We'll proceed
2 to -- where are we here? Oh my favorite. Okay let's see
3 here. No, not my favorite. Number four Categorical Funds
4 briefing. So let's see Dr. Asp you wanna introduce this --
5 this group?

6 MR. ASP: Thank you Mr. Chair. We have with
7 us today superintendents from our (inaudible) Switch. So
8 let me introduce our -- our distinguished panel here today
9 we have superintendents from Cripple Creek, Genoa-Hugo and
10 also Pawnee School District from Pawnee's Bret Robinson,
11 Genoa-Hugo Frank Reeves and Levin Landauer from Cripple
12 Creek. The Boards had a briefing on the Categorical Buyout
13 issue and the superintendents wanted to come before you
14 today to present their view of this issue and talk about --
15 be able to share their opinions on -- on this whole issue
16 that you've been looking at. We also have John Farrow with
17 us as well from the Attorney General's office. And so I
18 think I'd turn it over to Frank. Will you start us up?
19 Okay, great. Thank you very much.

20 MR. REEVES: Thank you Dr. Asp and -- and
21 Board Members. We -- we're really -- we're here today to
22 look for some clarification or try to get some
23 clarification and -- and discuss our views on -- on the
24 possible constitutionality of the Categorical Buyout
25 Statute that was made in 1988, which was our current School



1 Finance Act and pre (inaudible). And so basically as an
2 introduction we -- we've worked some with CDE this summer
3 and -- and through -- through a little bit last year, still
4 looking for -- for clarification and -- and we're not
5 contesting the amount of the calculations of -- of the
6 categoricals. They -- they pretty much match what -- what
7 we get from the state. Rather we're here to really present
8 our questions to you and -- and just so you have an
9 understanding of where we are and -- and kind of what we're
10 looking to do out of this.

11 So a little bit of background Total Program
12 Funding, as you know it's calculated and distributed based
13 on School Finance Act. The categorical funding for special
14 populations, things like transportation, Special Ed, ELL,
15 those are -- those are calculated based on their own
16 calculations each and grouped into categorical funding and
17 -- and given to each school. Then those are -- those are
18 distributed out as we see it separately than Total Program
19 Funding. And then the districts make up for paying the
20 rest of those categoricals out of our -- our general fund.
21 Districts with high assessed values, which currently the
22 three of us are plus three other districts in the state
23 relative to our student count. And so it's generally
24 districts with lower student count will be required to



1 fully fund by, through local taxes, our total program
2 funding.

3 So we're not collecting any money for our
4 total program from the state, whatsoever. Then we are also
5 required to assess an additional mill to raise the money
6 equal to the Categorical Money the State sends us, so we
7 can send that money back to the State on -- on top of our
8 Total Program Funding. So -- and -- and again that dates
9 back to '88. I'm -- I'm terrible with PowerPoints and so
10 I'll fall behind I can pretty (inaudible) hopefully you can
11 stay up on your copies. Basically, in statute it -- it
12 explains that the sum of the Total Program and the
13 (inaudible) buyout cannot exceed the last of the district's
14 levy for the preceding year, the district's Property Tax
15 Limit under TABOR. If you have not (inaudible) and then or
16 27 mills which was that cap said -- I believe in '92.

17 And then that -- that is happening. It's --
18 it's true with all of us. In 10-11 when basically the
19 negative factor was being built, they added a second
20 Categorical Buyout Provision to reflect that. If you go
21 back to the '88 and really research the history of it, that
22 was at a time, it was almost a result buyout. I remember
23 whether it was hearing it on the news, reading it on paper
24 in 88, the -- the talk of "Yes, let's -- let those second
25 home owners from Texas and California help pay for our



1 schools." We don't have many second homeowners in Hugo I
2 can promise you that. But -- but, and -- and then -- then
3 in -- in 10-11 it -- it became kind of tidy and with the
4 negative factor. So in that case and that -- that affects
5 less right now at Cripple Creek, that they -- they are,
6 have to pull it from the general fund to complete the
7 buyout of that -- that categorical. So if you wanna
8 address that (inaudible).

9 UNIDENTIFIED VOICE: Thanks again Board of
10 Education for allowing us this time. Before I get started,
11 I'd like to introduce one of my Board Members that's made
12 the trip up from Cripple Creek this morning because he
13 believes that, you know very strongly we have some opinions
14 on this Categorical Buyout with its, Cripple Creek. And
15 with that -- Dennis Jones, right there he is one of our
16 Board Members. Thank you Dennis. Just a quick thing on --
17 on Cripple Creek. You know the last, about -- about five
18 years for the most part we have been self funded through
19 our high assessed valuation. In Cripple Creek, we have a
20 very unique community there. We have casinos, and then we
21 have a very large gold mine. The gold mine makes up about
22 65 percent of the assessed valuation. Okay.

23 So we've been coastal along there almost
24 every year for the last five years being totally funded by
25 local value, assessed valuation. For this coming year --



1 but let -- let me back up just second, though you have, we
2 have a high assessed valuation, by no means is the school
3 district, a rich school district. We serve a very poor
4 population that -- with very high needs, and so it -- it's
5 kind of you look at that high assessed valuation and it's -
6 - it's misleading. Now what has happened to us since
7 coming year, so we're gonna be on the other end of the
8 stick this next year, because our assessed valuation, just
9 in the gold mine plummeted \$55 million, in one year. Okay,
10 that assess affects our total valuation by \$41 million. So
11 next year we will be facing, in our rich school district,
12 anywhere from five to \$800,000. We're estimating that this
13 time a reduction in revenue. So we go up and down as -- as
14 the price of gold, you could say fluctuates. So --

15 MR. REEVES: And -- and -- and that's one
16 example. So the districts that are -- are subject to this
17 right now are Cripple Creek, Weld at Platte Valley. I
18 never remember all the Weld REEs and all of that. But Weld
19 Platte, those are three districts that are not with us.
20 They -- I will say that they did pay their categorical, but
21 they are also, so to speak with us in spirit. They -- they
22 -- they believe this also that they want us to pursue this
23 and -- and find out what we can do to -- to get clarity on
24 it. And then Cripple Creek, Genoa-Hugo and -- Pawnee which
25 -- which Brett represents. It's a total right now of \$1.2



1 million. I believe next year two more districts become
2 totally self funded, Wigan's and Keansburg Weld Central, I
3 believe. I'm not 100 percent sure of (inaudible). Or this
4 year I guess it is now that we -- we've crossed January.

5 A -- a quick snapshot of our -- our
6 districts. Most of us have pretty high free and reduced
7 student count. Cripple Creek, as Liz said, they're at 58.3
8 percent with the total student count of 324 students.
9 Genoa-Hugo's, 55.8 percent, and a total student count of
10 154 students. And I can't say for MARS, I can't speak for
11 -- for them. But our free and reduced fluctuates anywhere
12 from 40 percent to close to 70 percent. A couple of
13 families move in, a couple families move out, it makes that
14 much difference on -- on their free and reduced population.
15 And -- and -- and Pawnee has a total of 76 students with --
16 with 31.5 percent right now. So the -- the issues really
17 presented on here is -- is, does CDE imposing the category
18 of a buyout mill comply with TABOR that requires a vote of
19 the people to address any additional taxes. So as we see
20 it, there's a total program funding, and then there's a
21 categorical that addressed, makes us raise an extra, in our
22 case, \$90,000 in mills that is not voted on by the people.

23 We are the six districts that have to
24 address that and no other districts in the state have to.
25 So if -- if both in equity and TABOR issues where we



1 question that and -- and are looking for the clarity. What
2 is the basis for the state treating Special Ed and English
3 ELL students in these six districts different from 172, to
4 the other 172? Those are federal programs that the money
5 then filters through the state, and we do have some
6 questions as to whether the state is responsible for that
7 or our local taxpayers are responsible for paying that.
8 Because it is a federally mandated program with -- with
9 some flow -- through dollars to the state. So and then,
10 can locally raised tax dollars be distributed to all other
11 districts in the state? What happens is we pay our
12 categoricals back to the state, and it is awash money-wise.

13 We collect \$90,000 from the state for
14 categoricals, we raised \$90,000 and send it back to the
15 state. And then \$1.2 million that is collected is
16 distributed to all 176 districts in the form of a second
17 transportation payment. And so our question there is, is
18 it local money that's going to the -- to the rest of state?
19 And court cases in the past, it's been pretty clear that
20 local property taxes need to stay local. So those are --
21 those are the -- the questions we have concerning all of
22 that. With that, that's really kind of what we wanted to
23 present and -- and talk about. I -- I know you received
24 this in your packet. And if you have questions, we'll be
25 happy to answer them.



1 CHAIRMAN DURHAM: Questions from members of
2 the Board? Ms. Goff.

3 MS. GOFF: Thank you. Good morning, thanks
4 for coming up. I guess I would ask for an explanation of
5 CDE imposing the mills because that's been stated, and
6 you've mentioned that. Can we -- can we have from you an
7 explanation of how you -- how you interpret that? That CDE
8 actually imposes the mills that caused this dilemma for
9 you?

10 UNIDENTIFIED VOICE: Great. Every year,
11 when we are certifying our mills in December, basically CDE
12 sends out a Mill Levy Certification Sheet that has "Here's
13 the total program funding mills, you must assess to get
14 your total program funding collection." There's another
15 category that says, "Here's a categorical mills you must
16 assess to collect for categorical mills and pay that back."
17 And so we get their sheet and then we -- we basically
18 certify our mills within the county based off of that --
19 that sheet that comes from CDE. So when we say CDE's
20 imposing, it's CDE's telling us what mills we need to
21 assess to pay for our program, or our school funding. Yes.

22 MS. GOFF: So -- so it's okay. It's okay
23 for us to understand it as CDE is the authorized
24 distributor, allocator of the funds that are determined by
25 the state finance formula.



1 UNIDENTIFIED VOICE: Not real clear on your
2 question, but --

3 MS. GOFF: I'm just -- I'm just a little
4 confused by the word imposed with CDE being the actor in
5 that sentence.

6 UNIDENTIFIED VOICE: Let me speak to that
7 just a little bit because Pawnee over the last five or six
8 years has been in and out of categoricals being collected
9 and paid back or equitization. And one year, we were even
10 invoked because we had such a fluctuation in our assessed
11 valuation. Again, pretty poor community, but high assessed
12 valuation due to oil and gas industry that has, you know,
13 just sparked in the last five or six years. You know, so
14 where we operate on a budget at about 1.1 or 1.2 for a
15 total program collecting locally and sending every dollar
16 to the state. About a quarter of a million dollars over
17 that time period is a pretty big impact to the community.

18 So I mean, we began this way back in '88,
19 where Frank talked about the, you know, the kind of resort
20 (inaudible). But what has happened over time is it's now
21 applying to some districts like ours, I think,
22 unintentionally, you know. And in -- in the defense of the
23 people that we work with on a daily basis as employees of
24 CDE, they're answering our questions, and saying there's a
25 part in the law here that says if you're 100 percent



1 funded, then you collect an equal amount and send it back
2 to the state. And so they're -- they're just doing their
3 job. They're just doing the way that they interpret that.
4 However, I don't believe that it's correct. I mean,
5 something needs to change at I believe the legislative
6 level so that the way that that's being interpreted, which
7 is why we're here today. We don't interpret it the same
8 way, that it's equitable as it's being interpreted. And
9 maybe imposition is a -- is a wrong word to use, enforcing.
10 They're -- they're just doing what their
11 interpretation of it is. So we just really want to express
12 to you our concern that there are some inequities for these
13 categoricals, and I think the intention was to try to make
14 it more fair for everybody because we could collect but it
15 is even constitutional to have a -- a mill levy sheet come
16 to us to have our Board certify that has an additional mill
17 on there that CDE says we need to collect and just send to
18 them, where our local taxpayers are -- are having a really
19 difficult time understanding that. I mean, it -- I'm
20 thinking, you guys, like us, probably, just some difference
21 in interpretation about that -- the way that might be. And
22 really some pretty strong conversations at the local level
23 from these people whose taxes are not going to the
24 district. They don't understand why we're setting a mill



1 and collecting it and sending it to the state to fund other
2 places.

3 CHAIRMAN DURHAM: Yes, Dr. Scheffel.

4 MS. SCHEFFEL: I really appreciate your
5 comments. It's a great way of depicting the issue.

6 UNIDENTIFIED VOICE: Thanks.

7 MS. SCHEFFEL: So are you saying that the
8 way that the language is being interpreted by CDE could
9 potentially be interpreted in another way? And if so then,
10 does this equate them to something where we need some legal
11 interpretation to help us think through? I mean, I think
12 you've painted the picture clearly and your challenge with
13 this.

14 UNIDENTIFIED VOICE: I don't think I said
15 that the statute is -- is hard to read. I think it's
16 fairly simple to read.

17 MS. SCHEFFEL: Yeah.

18 UNIDENTIFIED VOICE: I think the real
19 question is -- is does the statute needs some tweaking so
20 that -- that it's fair? I mean, why should my school
21 district taxpayers pay for categorical funding for our
22 school district when all the other school districts in the
23 state are funded either through the federal flow-through
24 for Special Ed and the other categorical buyouts. So
25 there's a bit of like inequity there, I believe, more than



1 anything. I think the statute is fairly clear. And so we
2 had to really think hard to say, you know, we're not gonna
3 pay right now until we get some attention brought to this -
4 - this inequity.

5 CHAIRMAN DURHAM: Yes, Ms. Rankin.

6 MS. RANKIN: So I agree that -- I -- I
7 believe this is a legal issue, but I'm not so sure that
8 hasn't already been determined. And so what I hear you
9 suggesting is that possibly the legislature needs to look
10 at the school finance formula and revise the whole thing.

11 UNIDENTIFIED VOICE: At -- at the very
12 least, that statute. I think if the statute was changed a
13 little bit, that would do away with this issue. I don't
14 think originally when the statute was written, I don't
15 think it was intended for a very poor school district to be
16 funding other school districts in the state.

17 MS. RANKIN: Right. But over time --

18 UNIDENTIFIED VOICE: It has.

19 MS. SCHEFFEL: So that's where I think that
20 in -- in waiting for the legislature to act is -- is
21 difficult, because I mean, my thought would be is if we
22 have a plain reading of the text in the statute, and if
23 there are interpretations that are not widely discrepant
24 with the plain language of the statute that we should get
25 another opinion about how that language is implemented at



1 CDE as opposed to waiting for the legislature to act
2 potentially. I mean, I don't know if that's possible, but
3 I -- I think it's at least one route that doesn't require
4 us to waiting.

5 UNIDENTIFIED VOICE: Right. And -- and I --
6 I think what I'm hearing you is -- is we agree with that,
7 and -- and to be -- to be -- to be fair, we have not paid
8 this. We know we're in violation of that existing statute.
9 We didn't do this to be civil disobedient or really
10 anything else, but to bring attention to it. It felt like
11 if -- if we paid it, it's easy to sweep it under the rug
12 and say, "Well, let's address it next year or let's bring
13 it up somewhere else and -- and -- and just allow it to
14 keep going." And so it's -- it -- it's fully our intention
15 to -- to pay what we owe on that, but we wanted to get this
16 brought up and -- and -- and brought out to where we can
17 get some resolution on it. Even if that resolution says
18 that statute is 100 percent constitutional and it is what
19 you'll do and -- and everything's right and fair with it,
20 then so be it. But at least, it's been reviewed and -- and
21 -- and we have that understanding. So --

22 CHAIRMAN DURHAM: Yes, Ms. Rankin.

23 MS. RANKIN: I just wonder if we can get a
24 legal opinion right now or if we need to get one in writing
25 just for this specific situation and -- and bring it --



1 bring it forth to light that you are here. I mean, I think
2 it's a very important issue, and I -- I think right here
3 and whoever's listening may not be enough people to hear
4 it. So maybe we can get a legal?

5 CHAIRMAN DURHAM: Ms. Mazanec.

6 UNIDENTIFIED VOICE: We have now with the
7 Attorney General's Office if that --

8 MS. MAZANEC: We have it in writing?

9 (Inaudible) I -- I was actually gonna say very much what
10 she said. I also appreciate you coming. I certainly hear
11 about this issue and not -- not just from small districts
12 who are struggling taxpayers, and -- and bigger districts
13 are unhappy with the way the money all goes to the state
14 and goes -- gets -- and then it's determined how much you
15 get back. So it is a -- it is an important issue. I -- I
16 would also like to hear what -- what our staff has to say
17 about this.

18 CHAIRMAN DURHAM: Okay. I think in -- and
19 again, in conclusion and we may get some legal advice in
20 executive session, but I think in conclusion, let me say
21 that I -- I -- I attended the -- the well, most of us
22 attended the Joint Budget Committee hearing, and I think
23 it's safe to say they expect us to do something about this
24 issue. I'm not sure they fully appreciate the -- and --
25 and I would say Mr. Farrell does not like me practicing law



1 without a license, but that -- that -- I know I'm not sure
2 is that everyone fully appreciates the fact that there is a
3 -- a constitutional question here. If you're in fact
4 levying mills that have not been approved by the voters,
5 personally, I think that's TABOR violation. Now, courts
6 may -- may beg to differ, and that's probably the basis on
7 which you might be able to get a legislative solution is
8 maybe they don't want that litigated either, because of --
9 it has effects far beyond this \$1 million case.

10 So I would encourage you to -- to talk
11 Senator Grantham, and Senator Sonnenberg, and I think who
12 represent you all and see if you can get a bill introduced
13 to -- to solve this problem. Because I think the original
14 statutes had passed in 1988, interesting to see how I voted
15 on that when I was there. There might be more information
16 that I needed. Let's not look that up. I'm sure Mr.
17 Farrell look it up for himself. But -- but I think -- I
18 think it's safe to say that the Joint Budget Committee is
19 likely to insist that we pursue the options if you can't
20 remedy it over there. And -- and I think Mr. Farrell did
21 give us some advice in -- in we -- we're not allowed to
22 talk about, but that I think likely we're obligated to
23 pursue this at some point. So I would encourage you to --
24 to go cross streets, see if you can get a resolution, and -



1 - and I'd be happy to -- to speak to Senator Grantham or
2 others about it if that might be helpful.

3 UNIDENTIFIED VOICE: Thank you. And -- and-
4 - and yeah, because even -- even -- even if it does follow
5 TABOR, it still brings about some other questions about the
6 ability to raise mills and -- and raise more money for our
7 districts and -- and you know, take that back. If we can
8 do it through categoricals, we can do it through a lot of
9 means and essentially bypassing certain things and -- and
10 pay down school funds, you know, the -- the negative factor
11 on things. And -- and so it -- it -- even if it is falls
12 under the guides of TABOR, which we don't feel like does,
13 but even if it does, it's still in -- in a kind of laid
14 those having missed. It -- it -- it still brings up
15 additional questions as to is it all equitable and -- and
16 fair that way so.

17 CHAIRMAN DURHAM: Thank you, Mr. Reeves.
18 (Inaudible), thank you. (Inaudible).

19 UNIDENTIFIED VOICE: Thank you. Thank you.

20 CHAIRMAN DURHAM: I appreciate you being
21 here, and John, maybe we can talk about this if -- if we
22 get a quick chance in the executive session.

23 UNIDENTIFIED VOICE: Thank you.

24 CHAIRMAN DURHAM: What have we got here?

25 Okay. All right. We're scheduled to go into recess now.



1 MS. BURDSALL: Mr. Chair?

2 CHAIRMAN DURHAM: Yes.

3 MS. BURDSALL: Before we go into recess,
4 would you like me to read you into executive session for --

5 CHAIRMAN DURHAM: Yes, would you please,
6 (inaudible).

7 MS. BURDSALL: An executive session has been
8 noticed for today's State Board meeting in conformance with
9 24-6-4023(a) CRS to receive legal advice on specific legal
10 questions pursuant to 24-6-4023(a)(II) CRS in matters
11 required to be kept confidential by Federal Law or rules or
12 State statutes pursuant to 24-6-4023(a)(III) CRS.

13 (Meeting adjourned)



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C E R T I F I C A T E

I, Kimberly C. McCright, Certified Vendor and Notary, do hereby certify that the above-mentioned matter occurred as hereinbefore set out.

I FURTHER CERTIFY THAT the proceedings of such were reported by me or under my supervision, later reduced to typewritten form under my supervision and control and that the foregoing pages are a full, true and correct transcription of the original notes.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 25th day of October, 2018.

/s/ Kimberly C. McCright
Kimberly C. McCright
Certified Vendor and Notary Public

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