Efforts toward improving education finance adequacy in the state suffered two major defeats in 2013. First, in May the state’s Supreme Court dismissed a finance adequacy lawsuit that had been working its way through the courts since 2005. Then in November voters rejected a $1 billion state tax increase for supporting PK-12 education by a nearly 2-1 margin.

- In May of 2013, the Colorado Supreme Court overturned a district court ruling in favor of the plaintiffs in the Lobato vs Colorado school funding adequacy lawsuit. The case had been working its way through the courts since 2005. The district court had been fairly scathing of the state’s failure to adequately fund state schools, but the Supreme Court overturned on a 4-2 vote, arguing that decisions concerning funding levels belonged with the legislature and local school boards. If the higher court had upheld the ruling and thrown out the state’s finance system it would have possibly initiated a collision between court-ordered school funding requirements and the Taxpayers’ Bill of Rights (TABOR), the state’s highly restrictive constitutional limitation on government revenues.

- In November of 2013, voters rejected a ballot initiative to raise state taxes in support of PK-12 education by a margin of 66%-34%. Amendment 66 proposed to raise state income taxes by $950 million in support of schools by creating a graduated income tax, with a 5% rate on incomes up to $75,000, and 5.9% on incomes over $75,000. Currently the state income tax is a flat 4.63%.

Had the initiative passed it would have also triggered enactment of a new school finance formula (SB 213), the first since 1993. The proposed formula would have:

- Changed the method of counting students from single count day to ADM;
- Fully funded full-day kindergarten and half-day Pre-K programs;
- Increased At-Risk counts to include both reduced and free lunch students;
- Increased the weightings for At-Risk and ELL students, including a concentration factor that raised weighting as concentrations of identified students increased – with weight ranging from 20%-40% of the base;
- Fixed the state share of formula costs at 60% state/40% local and capped school mill rates at 25 mills, unless the current rate exceeded this amount;
- Required districts to begin reporting expenditures at the school level rather than district level;
- Increased categorical funding for special education and G&T programs;
- Provided new funding of $441/pupil for a Teaching and Leadership Investment fund for implementing recently passed mandates such as SB 191, the educator evaluation and tenure bill, and Common Core standards and assessments;
- Provided Innovation Fund grants targeted primarily to lower-performing districts.

- However, voters did pass Proposition AA, a sales tax on the sale of recreational marijuana. Under Proposition AA, a new 15% excise tax and 10% sales tax is levied on recreational marijuana sales (legalized with the passage of Amendment 64 in 2012) in addition to the state’s current 2.9% sales tax and county sales taxes. The measure is projected to raise about $70 million per year with the first $40 million of revenues
dedicated to public school capital construction. The remainder of the funding is reserved for funding administration and enforcement of the legal marijuana market and for substance abuse prevention programs. The measure passed 65% to 35%.

With current revenue projections showing state revenues rising by more than $1 billion in the next fiscal year, a number of proposals for increasing funding to schools have been floated during the 2014 legislative session. These include:

- **Reducing the Negative Factor**: In 2000 voters passed Amendment 23 to halt the erosion of school funding levels. The amendment required K-12 school funding to be increased by at least inflation plus 1.0% annually through 2011, and then by inflation alone after that. Initially the state DOE applied the mandated increase to both the per pupil base funding amount and to adjustment factors for such things as cost of living, personnel costs and district size. However, beginning in 2009, the legislature reinterpreted the language in Amendment 23 to only require applying the increase to the base as a way to reduce spending to cope with severe budget shortfalls caused by the recession. This cut has been referred to as the “negative factor.” The estimated impact of the negative factor through 2013-14 has been to reduce funding by about $1 billion compared to the original Amendment 23 interpretation, or about $1,276 per pupil. Reductions in the impact of the negative factor for 2014-15 have been proposed by both the Governor and the Legislature. The Governor’s proposal would reduce it by about $200 million, while the House proposal would reduce the negative factor by about half that amount.

- **Other provisions from early drafts of this year’s school finance bills** (HB 1298 & HB 1292 include:
  - Funding for expanding prekindergarten slots by 5,000;
  - Appropriating $263 million for the Student Success Act for:
    - Reducing the negative factor by $100 million;
    - Providing $40 million for implementing Common Core standards and assessments and continuing implementation of SB 191;
    - Providing $20 million for the READ Act early literacy initiative;
    - Appropriating $35 million more for ELL programs;
    - Allocating $40 million from marijuana revenues for school facilities, including full-day kindergarten facilities, charter schools, and technology grants;
    - Providing an additional $13 million for charter school facility cost aid; and
    - Providing $15 million for implementing the proposed ADM and financial transparency standards.

- **State Education Fund Balance**: The state’s State Education Fund ended the last fiscal year with a $1 billion balance and current projections suggest a year-end balance of $650-$775 million in 2013-14. Some legislators and education groups are making the case that the amount of this fund balance is excessive, particularly in light of the cuts imposed over the past several years, and that more funding should be released to school districts this coming year.