

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 11-0841.02 Nicole Myers

SENATE BILL 11-230

SENATE SPONSORSHIP

Bacon,

HOUSE SPONSORSHIP

Massey,

Senate Committees
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE FINANCING OF PUBLIC SCHOOLS, AND MAKING AN**
102 **APPROPRIATION THEREFOR.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries.>)

The bill amends the "Public School Finance Act of 1994" (Act) to modify the funding for public schools from kindergarten through the twelfth grade for the 2011-12 budget year and, in some circumstances, for budget years thereafter, as follows:

Statewide base per pupil funding. For the 2011-12 budget year,

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
April 8, 2011

the statewide base per pupil funding is increased to \$5,634.77, to account for a 1.9% inflation rate.

Negative factor. During the 2010 legislative session, the general assembly amended the Act for the 2010-11 and 2011-12 budget years to reduce the amount of the annual appropriation to fund the state's share of total program funding for all school districts and the funding for institute charter schools (total program funding) to assist in stabilizing the state budget. The general assembly accomplished the reduction to each district through a calculation that resulted in a factor, called the budget stabilization factor, to be applied to each district's total program funding amount in the applicable budget year.

To assist in stabilizing the state budget for the 2011-12 budget year, the general assembly has determined that an additional reduction in the amount of the annual appropriation to fund the state's share of total program funding is necessary. The bill reduces the total program funding amount that is currently reflected in law for the 2011-12 budget year by an additional \$250,000,000.

The bill changes the name of the factor used to accomplish the reduction in total program funding from the budget stabilization factor to the negative factor. In addition, the bill extends the negative factor to each budget year following the 2011-12 budget year without specifying at this time the amount of total program funding for any budget year after the 2011-12 budget year.

In addition to the changes to the Act, the bill modifies other provisions related to funding for public schools as follows:

Determination of debt limit for bonded indebtedness.

Currently, a school district's debt limit is determined by the most recent assessed valuation certified to the district by the county assessor. The county assessor usually does a preliminary certification in August and a final certification in December. The bill changes the assessed valuation used to determine a district's limit of bonded indebtedness to the assessed valuation certified on the December 10 prior to the date on which the bonds are issued.

State trust lands. For the 2011-12 and 2012-13 state fiscal years, the bill transfers to the state public school fund, instead of the permanent school fund, moneys not otherwise allocated from:

- ! Interest or income earned on the investment of the moneys in the permanent school fund;
- ! Proceeds received by the state for the sale of timber on public school lands, rental payments for the use and occupation of the surface of said lands, and rentals or lease payments for minerals on said lands; and
- ! Royalties and other payments for the depletion or extraction of a natural resource on public school lands.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) For the 2010-11 budget year, the general assembly determined
5 that stabilization of the state budget required a reduction in the annual
6 appropriation to fund the state's share of total program funding for all
7 districts and the funding for institute charter schools. As a result, for the
8 2010-11 budget year, the general assembly reduced the total program
9 funding amount to five billion two hundred twenty-five million two
10 hundred forty-four thousand eight hundred eighty-five dollars
11 (\$5,225,244,885).

12 (b) During the 2010 legislative session, the general assembly
13 predicted that stabilization of the state budget for the 2011-12 budget year
14 would again require a reduction in the annual appropriation to fund the
15 state's share of total program funding for all districts and the funding for
16 institute charter schools. As a result, the general assembly determined
17 that total program funding for the 2011-12 budget year would be five
18 billion four hundred thirty-eight million two hundred ninety-five thousand
19 eight hundred twenty-three dollars (\$5,438,295,823).

20 (c) The general assembly has determined that stabilization of the
21 state budget for the 2011-12 budget year requires a further reduction in
22 the annual appropriation to fund the state's share of total program funding
23 for all districts and the funding for institute charter schools than the
24 reduction that was established during the 2010 legislative session. As a
25 result, through Senate Bill 11-230, enacted in 2011, the general assembly
26 has reduced the amount of total program funding for the 2011-12 budget

1 year by an additional two hundred fifty million dollars (\$250,000,000)
2 from the total program funding amount that was previously established
3 for the 2011-12 budget year.

4 (d) The total program funding amount for the 2011-12 budget
5 year, absent any reductions in funding by the general assembly and taking
6 into consideration increased funding for inflation, predicted growth in
7 pupil enrollment, predicted growth in the at-risk pupil population,
8 predicted changes in assessed valuations, and the specific ownership tax
9 from the prior year, would be approximately five billion nine hundred
10 eighty-seven million one hundred nine thousand sixteen dollars
11 (\$5,987,109,016). The actual total program funding amount for the
12 2011-12 budget year, after applying the required additional reduction to
13 stabilize the state's budget, is five billion one hundred eighty-eight million
14 two hundred ninety-five thousand eight hundred twenty-three dollars
15 (\$5,188,295,823). This results in a difference of seven hundred
16 ninety-eight million eight hundred thirteen thousand one hundred
17 ninety-three dollars (\$798,813,193).

18 **SECTION 2.** 22-54-104 (5) (a), Colorado Revised Statutes, is
19 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

20 **22-54-104. District total program.** (5) For purposes of the
21 formulas used in this section:

22 (a) (XVIII) FOR THE 2011-12 BUDGET YEAR, THE STATEWIDE BASE
23 PER PUPIL FUNDING SHALL BE \$5,634.77, WHICH IS AN AMOUNT EQUAL TO
24 \$5,529.71 SUPPLEMENTED BY \$105.06 TO ACCOUNT FOR INFLATION.

25 **SECTION 3.** The introductory portion to 22-54-104 (5) (g) (I)
26 and 22-54-104 (5) (g) (I) (B), Colorado Revised Statutes, as amended by
27 Senate Bill 11-157, are amended to read:

1 **22-54-104. District total program.** (5) For purposes of the
2 formulas used in this section:

3 (g) (I) For the 2010-11 ~~and 2011-12 budget years~~ BUDGET YEAR
4 AND EACH BUDGET YEAR THEREAFTER, the general assembly determines
5 that stabilization of the state budget requires a reduction in the amount of
6 the annual appropriation to fund the state's share of total program funding
7 for all districts and the funding for institute charter schools. The
8 department of education shall implement the reduction in total program
9 funding through the application of a ~~state budget stabilization~~ NEGATIVE
10 factor as provided in this paragraph (g). For the 2010-11 ~~and 2011-12~~
11 ~~budget years~~ BUDGET YEAR AND EACH BUDGET YEAR THEREAFTER, the
12 department of education and the staff of the legislative council shall
13 determine, based on budget projections, the amount of such reduction to
14 ensure the following:

15 (B) That, for the 2011-12 budget year, the sum of the total
16 program funding for all districts, including the funding for institute
17 charter schools AFTER APPLICATION OF THE NEGATIVE FACTOR, is not less
18 than ~~five billion four hundred thirty-eight million two hundred ninety-five~~
19 ~~thousand eight hundred twenty-three dollars (\$5,438,295,823)~~ FIVE
20 BILLION ONE HUNDRED EIGHTY-EIGHT MILLION TWO HUNDRED
21 NINETY-FIVE THOUSAND EIGHT HUNDRED TWENTY-THREE DOLLARS
22 (\$5,188,295,823); except that the department of education and the staff
23 of the legislative council shall make mid-year revisions to replace
24 projections with actual figures including, but not limited to, actual pupil
25 enrollment, assessed valuations, and specific ownership tax revenue from
26 the prior year, to determine any necessary changes in the amount of the
27 reduction to maintain a total program funding amount for the 2011-12

1 budget year that is equal to the TOTAL PROGRAM FUNDING amount AS
2 initially established pursuant to this sub-subparagraph (B).

3 **SECTION 4.** 22-54-104 (5) (g) (II), (5) (g) (III), (5) (g) (IV), and
4 (5) (g) (V), Colorado Revised Statutes, are amended to read:

5 **22-54-104. District total program.** (5) For purposes of the
6 formulas used in this section:

7 (g) (II) For the 2010-11 ~~and 2011-12 budget years~~ BUDGET YEAR
8 ANDEACH BUDGET YEAR THEREAFTER, the department of education shall:

9 (A) Calculate the ~~state budget stabilization~~ NEGATIVE factor for
10 the ~~2010-11 and 2011-12 budget years~~ APPLICABLE BUDGET YEAR by
11 dividing the reduction in total program funding for the ~~2010-11 or~~
12 ~~2011-12 budget year,~~ as applicable BUDGET YEAR, as specified in
13 subparagraph (I) of this paragraph (g), by the sum of the total program
14 funding amounts of all districts AS CALCULATED PURSUANT TO
15 SUBSECTION (2) OF THIS SECTION, including the funding for institute
16 charter schools, for the ~~2010-11 or 2011-12~~ APPLICABLE budget year; as
17 applicable; and

18 (B) Calculate each district's and each institute charter school's
19 ~~state budget stabilization~~ reduction amount by multiplying the ~~state~~
20 ~~budget stabilization~~ NEGATIVE factor by the district's total program
21 funding calculated pursuant to subsection (2) of this section for the
22 ~~2010-11 or 2011-12 budget year,~~ as applicable BUDGET YEAR for the
23 district and for any institute charter school located within the district.

24 (III) For the 2010-11 ~~and 2011-12 budget years~~ BUDGET YEAR
25 AND EACH BUDGET YEAR THEREAFTER, except as otherwise provided in
26 subparagraphs (IV) and (V) of this paragraph (g), a district's total
27 program shall be the greater of:

1 (A) The amount calculated pursuant to subsection (2) of this
2 section for the ~~2010-11 or 2011-12 budget year~~, as applicable BUDGET
3 YEAR, including funding for any institute charter school located within the
4 district, minus the district's ~~state budget stabilization~~ reduction amount for
5 the ~~2010-11 or 2011-12 budget year~~, as applicable BUDGET YEAR; or

6 (B) An amount equal to the base per pupil funding amount
7 specified in paragraph (a) of subsection (5) of this section for the ~~2010-11~~
8 ~~or 2011-12~~ APPLICABLE budget year, ~~as applicable~~, multiplied by the
9 district's funded pupil count for the ~~2010-11 or 2011-12 budget year~~, as
10 applicable BUDGET YEAR.

11 (IV) For the ~~2010-11 and 2011-12 budget years~~ BUDGET YEAR,
12 AND EACH BUDGET YEAR THEREAFTER, the total program funding for a
13 district that levies the number of mills calculated pursuant to section
14 22-54-106 (2) (a) (II) shall be the amount calculated pursuant to
15 subsection (2) of this section for the ~~2010-11 or 2011-12 budget year~~, as
16 applicable BUDGET YEAR. Any such district shall use the revenues
17 generated by the number of mills that the district levies pursuant to
18 section 22-54-106 (2) (a) (II) to replace any categorical program support
19 funds that the district would otherwise be eligible to receive from the
20 state; except that the amount of categorical program support funds that
21 the district is required to replace shall not exceed an amount equal to the
22 district's ~~state budget stabilization~~ reduction amount. The department
23 shall use the amount of categorical program support funds replaced by
24 property tax revenue pursuant to this subparagraph (IV) to make
25 payments of categorical program support funds to eligible districts as
26 specified in section 22-54-107 (4).

27 (V) For the ~~2010-11 and 2011-12 budget years~~ BUDGET YEAR AND

1 EACH BUDGET YEAR THEREAFTER, if a district levies the number of mills
2 calculated pursuant to section 22-54-106 (2) (a) (I) and the district's ~~state~~
3 ~~budget stabilization~~ reduction amount exceeds the district's state share of
4 total program funding, such district's total program funding shall be the
5 amount calculated pursuant to subsection (2) of this section for the
6 ~~2010-11 or 2011-12 budget year, as applicable~~ BUDGET YEAR, minus the
7 district's state aid. Any such district shall use the revenues generated by
8 the number of mills that the district levies pursuant to section 22-54-106
9 (2) (a) (I) to replace any categorical program support funds that the
10 district would otherwise be eligible to receive from the state; except that
11 the amount of categorical program support funds that the district is
12 required to replace shall not exceed an amount equal to the remainder of
13 the district's ~~state budget stabilization~~ reduction amount after the
14 reduction to the district's total program has been applied pursuant to this
15 subparagraph (V). The department OF EDUCATION shall use the amount
16 of categorical program support funds replaced by property tax revenue
17 pursuant to this subparagraph (V) to make payments of categorical
18 program support funds to eligible districts as specified in section
19 22-54-107 (4).

20 **SECTION 5.** 22-42-104, Colorado Revised Statutes, is amended
21 BY THE ADDITION OF A NEW SUBSECTION to read:

22 **22-42-104. Limit of bonded indebtedness.** (1.2) FOR BONDED
23 INDEBTEDNESS ISSUED AFTER JUNE 1, 2011, THE VALUATION FOR
24 ASSESSMENT OF TAXABLE PROPERTY FOR THE PURPOSES OF THIS SECTION
25 SHALL BE THE VALUATION FOR ASSESSMENT OF TAXABLE PROPERTY IN THE
26 DISTRICT AS IT EXISTED ON THE DECEMBER 10 PRIOR TO THE DATE OF
27 ISSUANCE OF THE BONDED INDEBTEDNESS. THE COUNTY ASSESSOR TO THE

1 BOARD OF COUNTY COMMISSIONERS SHALL REPORT THE VALUATION FOR
2 ASSESSMENT OF TAXABLE PROPERTY IN THE DISTRICT TO THE DISTRICT
3 AND THE DEPARTMENT OF EDUCATION ON EACH DECEMBER 10.

4 **SECTION 6.** 22-41-102 (3) (b), Colorado Revised Statutes, is
5 amended to read:

6 **22-41-102. Fund inviolate.** (3) (b) For the 2008-09 ~~2009-10~~, and
7 ~~2010-11~~ state fiscal ~~years~~ YEAR THROUGH THE 2012-13 STATE FISCAL
8 YEAR, all interest or income earned on the investment of the moneys in
9 the public school fund not credited to the public school capital
10 construction assistance fund created in section 22-43.7-104 (1) pursuant
11 to section 22-43.7-104 (2) (b) (I) shall be transferred to the state public
12 school fund created in section 22-54-114.

13 **SECTION 7.** 36-1-116 (1) (a) (II) (B), Colorado Revised
14 Statutes, is amended to read:

15 **36-1-116. Disposition of rentals, royalties, and timber sale**
16 **proceeds.** (1) (a) (II) (B) For the 2008-09 ~~2009-10~~, and ~~2010-11~~ state
17 fiscal ~~years~~ YEAR THROUGH THE 2012-13 STATE FISCAL YEAR, all proceeds
18 received by the state for the sale of timber on public school lands, rental
19 payments for the use and occupation of the surface of said lands, and
20 rentals or lease payments for sand, gravel, clay, stone, coal, oil, gas,
21 geothermal resources, gold, silver, or other minerals on said lands other
22 than proceeds, rentals, and payments allocated to the state land board trust
23 administration fund pursuant to section 36-1-145 (3) or credited to the
24 public school capital construction assistance fund created in section
25 22-43.7-104 (1), C.R.S., pursuant to section 22-43.7-104 (2) (b) (I),
26 C.R.S., shall be transferred to the state public school fund created in
27 section 22-54-114, C.R.S.

1 **SECTION 8.** 36-1-116 (1) (c), Colorado Revised Statutes, is
2 amended to read:

3 **36-1-116. Disposition of rentals, royalties, and timber sale**
4 **proceeds.** (1) (c) For the 2008-09 ~~2009-10, and 2010-11~~ state fiscal
5 ~~years~~ YEAR THROUGH THE 2012-13 STATE FISCAL YEAR, royalties and
6 other payments for the depletion or extraction of a natural resource on
7 public school lands not allocated to the state land board trust
8 administration fund pursuant to section 36-1-145 (3), not credited to the
9 public school capital construction assistance fund created in section
10 22-43.7-104 (1), C.R.S., pursuant to section 22-43.7-104 (2) (b) (I),
11 C.R.S., and not credited as specified in subparagraph (II) of paragraph (b)
12 of this subsection (1) shall be transferred to the state public school fund
13 created in section 22-54-114, C.R.S.

14 **SECTION 9.** 39-29-109.5 (2), Colorado Revised Statutes, is
15 amended to read:

16 **39-29-109.5. Interest differential - public school energy**
17 **efficiency fund - creation - uses - definitions - repeal.** (2) On
18 December 1, 2007, and the first day of every third month thereafter up to
19 and including ~~September 1, 2010~~ SEPTEMBER 1, 2015, the legislative
20 council staff shall calculate the interest differential earned during the
21 prior calendar quarter and notify the state treasurer of such amount. Upon
22 receiving notice, the treasurer shall transfer an amount equal to the
23 interest differential from the severance tax funds to the public school
24 energy efficiency fund, which is hereby created in the state treasury;
25 except that the total transfer to the fund for any state fiscal year shall not
26 exceed one million five hundred thousand dollars. Moneys in the fund
27 are hereby continuously appropriated to the governor's energy office for

1 the purposes set forth in subsection (3) of this section. All income and
2 interest derived from the deposit and investment of the moneys in the
3 fund shall be credited to the fund.

4 **SECTION 10.** 22-54-104 (4.5) (c) (III), Colorado Revised
5 Statutes, is amended to read:

6 **22-54-104. District total program.** (4.5) A district's on-line
7 funding shall be determined in accordance with the following formulas:

8 (c) (III) In any budget year in which the provisions of paragraph
9 (g) of subsection (5) of this section apply, the department of education
10 shall calculate a district's ~~state budget stabilization~~ reduction amount for
11 on-line funding by multiplying the ~~state budget stabilization~~ NEGATIVE
12 factor calculated for the applicable budget year pursuant to
13 sub-subparagraph (A) of subparagraph (II) of paragraph (g) of subsection
14 (5) of this section by the district's on-line funding calculated pursuant to
15 subparagraph (II) of this paragraph (c) for the applicable budget year. A
16 district's on-line funding for the applicable budget year shall be the
17 greater of:

18 (A) The district's on-line funding amount calculated for the
19 applicable budget year pursuant to subparagraph (II) of this paragraph (c)
20 minus the district's ~~state budget stabilization~~ reduction amount calculated
21 for the applicable budget year pursuant to this subparagraph (III) for
22 on-line funding; or

23 (B) An amount equal to the base per pupil funding amount
24 specified in paragraph (a) of subsection (5) of this section for the
25 applicable budget year multiplied by the district's on-line pupil enrollment
26 for the applicable budget year.

27 **SECTION 11.** 22-54-104 (4.7) (c), Colorado Revised Statutes, is

1 amended to read:

2 **22-54-104. District total program.** (4.7) (c) In any budget year
3 in which the provisions of paragraph (g) of subsection (5) of this section
4 apply, the department of education shall calculate a district's ~~state budget~~
5 ~~stabilization~~ reduction amount for ASCENT program funding by
6 multiplying the ~~state budget stabilization~~ NEGATIVE factor calculated for
7 the applicable budget year pursuant to sub-subparagraph (A) of
8 subparagraph (II) of paragraph (g) of subsection (5) of this section by the
9 amount of the district's ASCENT program funding calculated pursuant to
10 paragraph (b) of this subsection (4.7) for the applicable budget year. A
11 district's ASCENT program funding for the applicable budget year shall
12 be the greater of:

13 (I) The district's ASCENT program funding calculated for the
14 applicable budget year pursuant to paragraph (b) of this subsection (4.7)
15 minus the district's ~~state budget stabilization~~ reduction amount calculated
16 for the applicable budget year pursuant to this paragraph (c) for ASCENT
17 program funding; or

18 (II) An amount equal to the base per pupil funding amount
19 specified in paragraph (a) of subsection (5) of this section for the
20 applicable budget year multiplied by the district's ASCENT program
21 pupil enrollment for the applicable budget year.

22 **SECTION 12. Appropriation - adjustments in 2011 long bill.**

23 For the implementation of this act, appropriations made in the annual
24 general appropriation act to the department of education for the fiscal
25 year beginning July 1, 2011 shall be adjusted as follows:

26 (1) The appropriation for management and administration, for state
27 charter school institute administration, oversight, and management, is

1 decreased by one thousand one hundred eighty-one dollars (\$1,181). Said
2 sum shall be from reappropriated funds transferred from the assistance to
3 public schools, public school finance, state share of districts' total
4 program funding line item appropriation.

5 (2) The general fund appropriation for assistance to public schools,
6 public school finance, for the state share of districts' total program
7 funding, is decreased by two hundred eighty-four million eight hundred
8 ten thousand three hundred seventy-six dollars (\$284,810,376).

9 (3) The cash funds appropriation for assistance to public schools,
10 public school finance, for the state share of districts' total program
11 funding, is increased by thirty-six million dollars (\$36,000,000). Said
12 sum shall be from the state public school fund created in section
13 22-54-114 (1), Colorado Revised Statutes.

14 (4) The cash funds appropriation for assistance to public schools,
15 public school finance, for hold-harmless full-day kindergarten funding,
16 is decreased by three hundred twenty-nine thousand six hundred
17 thirty-seven dollars (\$329,637). Said sum shall be from the state
18 education fund created in section 17 (4) (a) of article IX of the State
19 Constitution.

20 (5) The cash funds appropriation for assistance to public schools,
21 grant programs, distributions, and other assistance, for facility school
22 funding, is decreased by six hundred fifty-three thousand dollars
23 (\$653,000). Said sum shall be from the state education fund created in
24 section 17 (4) (a) of article IX of the State Constitution.

25 (6) The general fund appropriation for the school for the deaf and
26 the blind, for personal services, is increased by fifty-seven thousand three
27 hundred thirty-five dollars (\$57,335).

1 (7) The appropriation for the school for the deaf and the blind, for
2 personal services, is decreased by fifty-seven thousand three hundred
3 thirty-five dollars (\$57,335). Said sum shall be from reappropriated funds
4 transferred from the assistance to public schools, grant programs,
5 distributions, and other assistance, facility school funding line item
6 appropriation.

7 **SECTION 13. Appropriation - adjustments in 2011 long bill.**

8 For the implementation of this act, appropriations made in the annual
9 general appropriation act to the department of education for the fiscal
10 year beginning July 1, 2011 shall be adjusted as follows:

11 (1) The general fund appropriation for assistance to public schools,
12 public school finance, for the state share of districts' total program
13 funding, is decreased by one hundred seventy-five million nine hundred
14 forty-six thousand nine hundred fifty-nine dollars (\$175,946,959).

15 (2) The cash funds appropriation for assistance to public schools,
16 public school finance, for the state share of districts' total program
17 funding, is increased by one hundred seventy-five million nine hundred
18 forty-six thousand nine hundred fifty-nine dollars (\$175,946,959). Said
19 sum shall be from the state education fund created in section 17 (4) (a) of
20 article IX of the State Constitution.

21 **SECTION 14. The appropriation to the department of education**
22 for the fiscal year beginning July 1, 2011, as enacted in Part III (2) (A)
23 Footnote 7 of section 2 of SB 11-209, is amended to read:

24 **Section 2. Appropriation.**

25 7 Department of Education, Assistance to Public Schools,
26 Public School Finance, State Share of Districts' Total
27 Program Funding -- It is the intent of the General Assembly

1 that the Department of Education be authorized to utilize
2 up to ~~\$4,647,614~~ \$4,433,980 of this appropriation to fund
3 qualified students designated as Accelerating Students
4 Through Concurrent Enrollment (ASCENT) Program
5 participants as authorized pursuant to Section 22-35-108,
6 C.R.S. This amount is calculated based on an estimated
7 753 participants funded at a rate of ~~\$6,172.13~~ \$5,888.42
8 per FTE pursuant to Section 22-54-104 (4.7), C.R.S.

9 **SECTION 15. Safety clause.** The general assembly hereby finds,
10 determines, and declares that this act is necessary for the immediate
11 preservation of the public peace, health, and safety.