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SENATE BILL 11-230

BY SENATOR(S) Bacon, Harvey, King K., Lundberg, Mitchell;
also REPRESENTATIVE(S) Massey, Casso, Conti, Fields, Jones, Kagan,
Labuda, Levy, Summers, Williams A., Wilson.

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

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

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

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

(b) During the 2010 legislative session, the general assembly predicted that stabilization of the state budget for the 2011-12 budget year would again require a reduction in the annual appropriation to fund the

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

state's share of total program funding for all districts and the funding for institute charter schools. As a result, the general assembly determined that total program funding for the 2011-12 budget year would be five billion four hundred thirty-eight million two hundred ninety-five thousand eight hundred twenty-three dollars (\$5,438,295,823).

(c) The general assembly has determined that stabilization of the state budget for the 2011-12 budget year requires a further reduction in the annual appropriation to fund the state's share of total program funding for all districts and the funding for institute charter schools than the reduction that was established during the 2010 legislative session. As a result, through Senate Bill 11-230, enacted in 2011, the general assembly has reduced the amount of total program funding for the 2011-12 budget year by an additional two hundred twenty-seven million five hundred thousand dollars (\$227,500,000) from the total program funding amount that was previously established for the 2011-12 budget year.

(d) The total program funding amount for the 2011-12 budget year, absent any reductions in funding by the general assembly and taking into consideration increased funding for inflation, predicted growth in pupil enrollment, predicted growth in the at-risk pupil population, predicted changes in assessed valuations, and the specific ownership tax from the prior year, would be approximately five billion nine hundred eighty-seven million one hundred nine thousand sixteen dollars (\$5,987,109,016). The actual total program funding amount for the 2011-12 budget year, after applying the required additional reduction to stabilize the state's budget, is five billion two hundred ten million seven hundred ninety-five thousand eight hundred twenty-three dollars (\$5,210,795,823). This results in a difference of seven hundred seventy-six million three hundred thirteen thousand one hundred ninety-three dollars (\$776,313,193).

(2) The general assembly intends that the moneys transferred to the state public school fund pursuant to section 24-75-201.1 (1) (d) (XI.5), Colorado Revised Statutes, pursuant to Senate Bill 11-230, enacted in 2011, be available for appropriation during the 2011-12 budget year to account for mid-year changes in pupil enrollment and the at-risk pupil population and changes in assessed valuations and the specific ownership tax from the prior year.

SECTION 2. 22-54-104 (5) (a), Colorado Revised Statutes, is

amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

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

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

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

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

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

(B) That, for the 2011-12 budget year, the sum of the total program funding for all districts, including the funding for institute charter schools, AFTER APPLICATION OF THE NEGATIVE FACTOR, is not less than ~~five billion four hundred thirty-eight million two hundred ninety-five thousand eight hundred twenty-three dollars (\$5,438,295,823)~~ FIVE BILLION TWO HUNDRED TEN MILLION SEVEN HUNDRED NINETY-FIVE THOUSAND EIGHT HUNDRED TWENTY-THREE DOLLARS (\$5,210,795,823); except that the department of education and the staff of the legislative council shall make mid-year revisions to replace projections with actual figures including, but not limited to, actual pupil enrollment, assessed valuations, and specific ownership tax revenue from the prior year, to determine any necessary changes in the amount of the reduction to maintain a total program funding amount for the

2011-12 budget year that is equal to the TOTAL PROGRAM FUNDING amount AS initially established pursuant to this sub-subparagraph (B).

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

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

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

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

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

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

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

(B) An amount equal to the base per pupil funding amount specified

in paragraph (a) of subsection (5) of this section for the ~~2010-11 or 2011-12~~ APPLICABLE budget year, ~~as applicable~~, multiplied by the district's funded pupil count for the ~~2010-11 or 2011-12~~ budget year, as applicable BUDGET YEAR.

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

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

SECTION 5. 24-75-201.1 (1) (d) (XI.5), Colorado Revised Statutes, as enacted by Senate Bill 11-156, is amended to read:

24-75-201.1. Restriction on state appropriations - legislative declaration - definitions - repeal. (1) (d) Except as otherwise provided in paragraph (e) of this subsection (1), for each fiscal year, unrestricted general fund year-end balances shall be retained as a reserve in the following amounts:

(XI.5) For the fiscal year 2010-11, two and three-tenths percent of the amount appropriated for expenditure from the general fund for that fiscal year. The additional amount of general fund moneys made available for appropriation by the reduction in the required reserve from four percent to two and three-tenths percent may be appropriated during the fiscal year 2010-11 for any lawful purpose. Notwithstanding any provision of law to the contrary, ON THE DATE ON WHICH THE STATE CONTROLLER PUBLISHES THE COMPREHENSIVE ANNUAL FINANCIAL REPORT OF THE STATE FOR THE FISCAL YEAR 2010-11, the state treasurer shall transfer the general fund surplus designated in accordance with section 24-75-201 (1) for the fiscal year 2010-11, ~~less WHICH REPRESENTS THE UNRESTRICTED GENERAL FUND BALANCE AFTER the applicable amount of reserve required pursuant to this subparagraph (XI.5), to the state education fund created in section 17(4) of article IX of the state constitution. Such transfer shall be made on the date on which the state controller publishes the comprehensive annual financial report of the state for the fiscal year 2010-11.~~ AS FOLLOWS:

(A) EXCEPT AS OTHERWISE PROVIDED IN SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (XI.5), THE GENERAL FUND SURPLUS SHALL BE TRANSFERRED TO THE STATE EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE IX OF THE STATE CONSTITUTION.

(B) AN AMOUNT EQUAL TO THE ADDITIONAL ESTIMATED REVENUE SHALL BE TRANSFERRED TO THE STATE PUBLIC SCHOOL FUND CREATED IN SECTION 22-54-114, C.R.S.; EXCEPT THAT THE TRANSFER PURSUANT TO THIS SUB-SUBPARAGRAPH (B) SHALL NOT EXCEED SIXTY-SEVEN MILLION FIVE HUNDRED THOUSAND DOLLARS. FOR PURPOSES OF THIS SUB-SUBPARAGRAPH (B), "ADDITIONAL ESTIMATED REVENUE" MEANS THE AMOUNT BY WHICH THE JUNE 2011 ESTIMATE OF GENERAL FUND REVENUE PREPARED BY THE OFFICE OF STATE PLANNING AND BUDGETING FOR THE 2010-11 FISCAL YEAR EXCEEDS THE MARCH 2011 ESTIMATE OF GENERAL FUND REVENUE

PREPARED BY THE OFFICE OF STATE PLANNING AND BUDGETING FOR THE 2010-11 FISCAL YEAR.

SECTION 6. 22-54-114, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-54-114. State public school fund. (2.7) THE GENERAL ASSEMBLY INTENDS THAT THE MONEYS TRANSFERRED TO THE STATE PUBLIC SCHOOL FUND PURSUANT TO SECTION 24-75-201.1 (1) (d) (XI.5), C.R.S., PURSUANT TO SENATE BILL 11-230, ENACTED IN 2011, BE AVAILABLE FOR APPROPRIATION DURING THE 2011-12 BUDGET YEAR TO ACCOUNT FOR MID-YEAR CHANGES IN PUPIL ENROLLMENT AND THE AT-RISK PUPIL POPULATION AND CHANGES IN ASSESSED VALUATIONS AND THE SPECIFIC OWNERSHIP TAX FROM THE PRIOR YEAR.

SECTION 7. 22-42-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-42-104. Limit of bonded indebtedness. (1.2) FOR BONDED INDEBTEDNESS ISSUED AFTER JUNE 1, 2011, THE VALUATION FOR ASSESSMENT OF TAXABLE PROPERTY FOR THE PURPOSES OF THIS SECTION SHALL BE THE VALUATION FOR ASSESSMENT OF TAXABLE PROPERTY IN THE DISTRICT AS IT EXISTED ON THE DECEMBER 10 PRIOR TO THE DATE OF ISSUANCE OF THE BONDED INDEBTEDNESS. THE COUNTY ASSESSOR TO THE BOARD OF COUNTY COMMISSIONERS SHALL REPORT THE VALUATION FOR ASSESSMENT OF TAXABLE PROPERTY IN THE DISTRICT TO THE DISTRICT AND THE DEPARTMENT OF EDUCATION ON EACH DECEMBER 10.

SECTION 8. 22-41-102 (3) (b), Colorado Revised Statutes, is amended to read:

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

SECTION 9. 36-1-116 (1) (a) (II) (B), Colorado Revised Statutes,

is amended to read:

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

SECTION 10. 36-1-116 (1) (c), Colorado Revised Statutes, is amended to read:

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

SECTION 11. 39-29-109.5 (2), Colorado Revised Statutes, is amended to read:

39-29-109.5. Interest differential - public school energy efficiency fund - creation - uses - definitions - repeal. (2) On December 1, 2007, and the first day of every third month thereafter up to and including ~~September 1, 2010~~ SEPTEMBER 1, 2015, the legislative council staff shall calculate the interest differential earned during the prior calendar quarter and notify the state treasurer of such amount. Upon receiving notice, the treasurer shall transfer an amount equal to the interest differential from the

severance tax funds to the public school energy efficiency fund, which is hereby created in the state treasury; except that the total transfer to the fund for any state fiscal year shall not exceed one million five hundred thousand dollars. Moneys in the fund are hereby continuously appropriated to the governor's energy office for the purposes set forth in subsection (3) of this section. All income and interest derived from the deposit and investment of the moneys in the fund shall be credited to the fund.

SECTION 12. 22-54-104 (4.5) (c) (III), Colorado Revised Statutes, is amended to read:

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

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

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

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

SECTION 13. 22-54-104 (4.7) (c), Colorado Revised Statutes, is amended to read:

22-54-104. District total program. (4.7) (c) In any budget year in which the provisions of paragraph (g) of subsection (5) of this section

apply, the department of education shall calculate a district's ~~state budget stabilization~~ reduction amount for ASCENT program funding by multiplying the ~~state budget stabilization~~ NEGATIVE factor calculated for the applicable budget year pursuant to sub-subparagraph (A) of subparagraph (II) of paragraph (g) of subsection (5) of this section by the amount of the district's ASCENT program funding calculated pursuant to paragraph (b) of this subsection (4.7) for the applicable budget year. A district's ASCENT program funding for the applicable budget year shall be the greater of:

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

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

SECTION 14. Appropriation - adjustments in 2011 long bill.

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

(1) The appropriation for management and administration, for state charter school institute administration, oversight, and management, is decreased by four hundred eighty-one dollars (\$481). Said sum shall be from reappropriated funds transferred from the assistance to public schools, public school finance, state share of districts' total program funding line item appropriation.

(2) The general fund appropriation for assistance to public schools, public school finance, for the state share of districts' total program funding, is decreased by two hundred eighty-four million eight hundred ten thousand four hundred sixty-five dollars (\$284,810,465).

(3) The cash funds appropriation for assistance to public schools, public school finance, for the state share of districts' total program funding, is increased by thirty-six million dollars (\$36,000,000). Said sum shall be

from the state public school fund created in section 22-54-114 (1), Colorado Revised Statutes.

(4) The cash funds appropriation for assistance to public schools, public school finance, for the state share of districts' total program funding, is increased by twenty-two million three hundred seventy-nine thousand eight hundred eighty-five dollars (\$22,379,885). Said sum shall be from the state education fund created in section 17 (4) (a) of article IX of the State Constitution.

(5) The cash funds appropriation for assistance to public schools, public school finance, for hold-harmless full-day kindergarten funding, is decreased by three hundred twenty-nine thousand eight hundred ninety-seven dollars (\$329,897). Said sum shall be from the state education fund created in section 17 (4) (a) of article IX of the State Constitution.

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

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

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

SECTION 15. Appropriation - adjustments in 2011 long bill.

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

(1) The general fund appropriation for assistance to public schools, public school finance, for the state share of districts' total program funding,

is decreased by one hundred seventy-five million nine hundred forty-six thousand eight hundred seventy dollars (\$175,946,870).

(2) The cash funds appropriation for assistance to public schools, public school finance, for the state share of districts' total program funding, is increased by one hundred seventy-five million nine hundred forty-six thousand eight hundred seventy dollars (\$175,946,870). Said sum shall be from the state education fund created in section 17 (4) (a) of article IX of the State Constitution.

SECTION 16. The appropriation to the department of education for the fiscal year beginning July 1, 2011, as enacted in Part III (2) (A) Footnote 7 of section 2 of SB 11-209, is amended to read:

Section 2. **Appropriation.**

- 7 Department of Education, Assistance to Public Schools, Public School Finance, State Share of Districts' Total Program Funding -- It is the intent of the General Assembly that the Department of Education be authorized to utilize up to ~~\$4,647,614~~ \$4,433,980 of this appropriation to fund qualified students designated as Accelerating Students Through Concurrent Enrollment (ASCENT) Program participants as authorized pursuant to Section 22-35-108, C.R.S. This amount is calculated based on an estimated 753 participants funded at a rate of ~~\$6,172.13~~ \$5,888.42 per FTE pursuant to Section 22-54-104 (4.7), C.R.S.

SECTION 17. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Frank McNulty
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO