SENATE BILL 21-053

BY SENATOR(S) Moreno and Zenzinger, Hansen, Rankin, Bridges, Buckner, Danielson, Donovan, Fields, Ginal, Gonzales, Hisey, Jaquez Lewis, Kolker, Lee, Pettersen, Scott, Simpson, Smallwood, Sonnenberg, Story, Winter;
also REPRESENTATIVE(S) McCluskie and McLachlan, Herod, Bacon, Bernett, Bird, Bockenfeld, Caraveo, Cutter, Esgar, Froelich, Gonzales-Gutierrez, Gray, Jodeh, Kennedy, Kipp, Michaelson Jenet, Mullica, Ortiz, Pelton, Ricks, Sirota, Snyder, Titone, Valdez A., Valdez D., Weissman, Will, Woodrow, Young.

CONCERNING ADJUSTMENTS TO SCHOOL FUNDING FOR THE 2020-21 BUDGET YEAR, AND, IN CONNECTION THEREWITH, MAKING APPROPRIATIONS.

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

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

(a) The actual funded pupil count and the actual at-risk pupil count for the 2020-21 budget year are lower than anticipated when the appropriation was established in the 2020 legislative session for total program funding for the 2020-21 budget year. As a result, total program

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

funding, before application of the budget stabilization factor, is $120,850,246 lower than anticipated when appropriations were established in the 2020 legislative session.

(b) Based on actual local property tax revenue and specific ownership tax revenue available to school districts for the 2020-21 budget year, the local share of total program funding is $40,905,287 lower than anticipated when appropriations were established in the 2020 legislative session; and

(c) It is the general assembly's intent to maintain total program funding at the dollar amount of the original appropriation for the 2020-21 budget year.

(2) Therefore, the general assembly finds it necessary to increase the appropriation for the state share of districts' total program funding.

SECTION 2. In Colorado Revised Statutes, 22-54-104, **amend** (5)(g)(I)(K) as follows:

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

(g) (I) For the 2010-11 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 budget stabilization factor as provided in this subsection (5)(g)(I). For the 2010-11 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:

(K) That, for the 2020-21 budget year, the sum of the total program funding for all districts, including the funding for institute charter schools, after application of the budget stabilization factor, is not less than ~~seven billion two hundred thirty million four hundred forty-eight thousand eight hundred ninety-one dollars ($7,230,448,891)~~ SEVEN BILLION TWO HUNDRED THIRTY-TWO MILLION TWO HUNDRED SEVENTY THOUSAND FOUR HUNDRED

EIGHTY-TWO DOLLARS ($7,232,270,482); 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 applicable budget year that is consistent with this subsection (5)(g)(I)(K). For the 2021-22 budget year, the difference between calculated statewide total program funding and actual statewide total program funding must not exceed the difference between calculated statewide total program funding and actual statewide total program funding for the 2020-21 budget year.

SECTION 3. In Colorado Revised Statutes, **add** 22-54-143 as follows:

22-54-143. Additional funding - 2020-21 budget year - definitions - repeal. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ESTIMATED FUNDED PUPIL COUNT" MEANS THE FUNDED PUPIL COUNT CALCULATED FOR A DISTRICT DURING THE 2020 LEGISLATIVE SESSION FOR THE 2020-21 BUDGET YEAR.

(b) "ESTIMATED TOTAL PROGRAM FUNDING" MEANS THE TOTAL PROGRAM FUNDING CALCULATED FOR A DISTRICT DURING THE 2020 LEGISLATIVE SESSION FOR THE 2020-21 BUDGET YEAR.

(2) THE GENERAL ASSEMBLY SHALL APPROPRIATE TO THE DEPARTMENT OF EDUCATION ADDITIONAL FUNDING FOR THE 2020-21 BUDGET YEAR FOR DISTRIBUTION TO DISTRICTS AND TO THE STATE CHARTER SCHOOL INSTITUTE AS PROVIDED IN SUBSECTIONS (3) AND (6) OF THIS SECTION.

(3) AFTER ADJUSTING TOTAL PROGRAM FUNDING FOR THE 2020-21 BUDGET YEAR PURSUANT TO SECTION 22-54-104 (5)(g)(I)(K), AS AMENDED BY SENATE BILL 21-053, ENACTED IN 2021, THE DEPARTMENT OF EDUCATION SHALL ALLOCATE AND DISTRIBUTE AN AMOUNT OF MONEY AS NECESSARY TO EACH DISTRICT TO ENSURE THAT:

(a) A DISTRICT'S TOTAL PROGRAM FUNDING FOR THE 2020-21

BUDGET YEAR DOES NOT DECREASE BELOW THE DISTRICT'S ESTIMATED TOTAL PROGRAM FUNDING BY A PERCENTAGE THAT IS GREATER THAN THE PERCENTAGE DECREASE IN THE DISTRICT'S ACTUAL FUNDED PUPIL COUNT BELOW THE DISTRICT'S ESTIMATED FUNDED PUPIL COUNT; AND

(b) A DISTRICT'S TOTAL PROGRAM FUNDING FOR THE 2020-21 BUDGET YEAR DOES NOT DECREASE BELOW THE DISTRICT'S ESTIMATED TOTAL PROGRAM FUNDING BY MORE THAN TWO PERCENT.

(4) IF A DISTRICT'S STATE SHARE OF TOTAL PROGRAM FUNDING PURSUANT TO SECTION 22-54-106, BEFORE APPLICATION OF THE BUDGET STABILIZATION FACTOR PURSUANT TO SECTION 22-54-104 (5)(g), WAS ESTIMATED DURING THE 2020 LEGISLATIVE SESSION TO BE LESS THAN ONE-HALF OF ONE PERCENT OF THE DISTRICT'S TOTAL PROGRAM FUNDING FOR THE 2020-21 BUDGET YEAR, THE DEPARTMENT OF EDUCATION, IN DETERMINING THE DISTRICT'S TOTAL PROGRAM FUNDING FOR THE 2020-21 BUDGET YEAR FOR PURPOSES OF SUBSECTION (3) OF THIS SECTION, SHALL INCLUDE THE BALANCE, AS OF THE EFFECTIVE DATE OF SENATE BILL 21-053, OF THE DISTRICT'S TOTAL PROGRAM RESERVE FUND ESTABLISHED PURSUANT TO SECTION 22-45-103 (1)(k).

(5) EACH DISTRICT THAT AUTHORIZES A CHARTER SCHOOL SHALL DISTRIBUTE TO THE CHARTER SCHOOL ONE HUNDRED PERCENT OF THE DISTRICT CHARTER SCHOOL'S PER-PUPIL SHARE OF THE DISTRIBUTION RECEIVED BY THE DISTRICT PURSUANT TO THIS SECTION. A DISTRICT CHARTER SCHOOL'S DISTRIBUTION IS DETERMINED BY DIVIDING THE AMOUNT OF THE DISTRIBUTION RECEIVED BY THE DISTRICT PURSUANT TO THIS SECTION BY THE DISTRICT'S FUNDED PUPIL COUNT FOR THE 2020-21 BUDGET YEAR AND THEN MULTIPLYING THAT AMOUNT BY THE DISTRICT CHARTER SCHOOL'S PUPIL ENROLLMENT FOR THE 2020-21 BUDGET YEAR.

(6) FOR EACH INSTITUTE CHARTER SCHOOL THAT EXPERIENCED A DECREASE IN ACTUAL TOTAL PROGRAM FUNDING FOR THE 2020-21 BUDGET YEAR FROM THE AMOUNT OF TOTAL PROGRAM FUNDING ESTIMATED FOR THE INSTITUTE CHARTER SCHOOL DURING THE 2020 LEGISLATIVE SESSION AND IS LOCATED WITHIN AN ACCOUNTING DISTRICT THAT RECEIVES A DISTRIBUTION PURSUANT TO THIS SECTION, THE DEPARTMENT SHALL CALCULATE A DISTRIBUTION AMOUNT FOR THE INSTITUTE CHARTER SCHOOL. THE DEPARTMENT SHALL CALCULATE AN INSTITUTE CHARTER SCHOOL'S DISTRIBUTION BY DIVIDING THE AMOUNT OF THE DISTRIBUTION RECEIVED BY

THE ACCOUNTING DISTRICT PURSUANT TO THIS SECTION BY THE ACCOUNTING DISTRICT'S FUNDED PUPIL COUNT FOR THE 2020-21 BUDGET YEAR AND THEN MULTIPLYING THAT AMOUNT BY THE INSTITUTE CHARTER SCHOOL'S PUPIL ENROLLMENT FOR THE 2020-21 BUDGET YEAR. THE DISTRIBUTION FOR AN INSTITUTE CHARTER SCHOOL IS SEPARATE FROM AND DOES NOT AFFECT THE AMOUNT OF THE DISTRIBUTION TO THE INSTITUTE CHARTER SCHOOL'S ACCOUNTING DISTRICT. THE DEPARTMENT SHALL DISTRIBUTE THE TOTAL AMOUNT CALCULATED PURSUANT TO THIS SUBSECTION (6) TO THE STATE CHARTER SCHOOL INSTITUTE, WHICH SHALL DISTRIBUTE TO EACH INSTITUTE CHARTER SCHOOL ONE HUNDRED PERCENT OF THE AMOUNT CALCULATED FOR THE INSTITUTE CHARTER SCHOOL PURSUANT TO THIS SUBSECTION (6).

(7) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2022.

			APPROPRIATION FROM				
	ITEM & SUBTOTAL	TOTAL	GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
	$	$	$	$	$	$	$

SECTION 4. Appropriation to the department of education for the fiscal year beginning July 1, 2020. In Session Laws of Colorado 2020, section 2 of chapter 326, (HB 20-1360), **amend** Part III (2)(A), footnote 8, and the affected totals, as footnote 8 is amended by section 53 of chapter 197 (HB 20-1418), Session Laws of Colorado 2020, as follows:

Section 2. **Appropriation.**

PART III
DEPARTMENT OF EDUCATION

(2) ASSISTANCE TO PUBLIC SCHOOLS					
(A) Public School Finance					
Administration	1,904,480			87,494[a] (0.9 FTE)	1,816,986[b] (17.0 FTE)
Financial Transparency System Maintenance	462,000			462,000[c]	
State Share of Districts' Total Program Funding[8]	~~4,784,907,994~~ 4,825,813,281	~~4,349,118,689~~ 4,390,023,976	84,491,394[d]	351,297,911[e]	
District Per Pupil Reimbursements for Juveniles Held in Jail	10,000			10,000[f]	
At-risk Supplemental Aid	5,094,358			5,094,358[g]	
At-risk Per Pupil Additional Funding	5,000,000			5,000,000[g]	
	~~4,797,378,832~~ 4,838,284,119				

[a] This amount shall be from the State Education Fund created in Section 17 (4)(a) of Article IX of the State Constitution. Pursuant to Section 17 (3) of Article IX of the State Constitution, appropriations from the State Education Fund are not subject to the limitation on fiscal year spending set forth in Section 20 of Article X of the State Constitution.

[b] This amount shall be transferred from the State Share of Districts' Total Program Funding line item appropriation in the Assistance to Public Schools section of this department.

	ITEM & SUBTOTAL	TOTAL	APPROPRIATION FROM GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
	$	$	$	$	$	$	$

[c] Of this amount, an estimated $432,000 shall be from the State Education Fund created in Section 17 (4)(a) of Article IX of the State Constitution and an estimated $30,000 shall be from the Financial Reporting Fund created in Section 24-44-105 (6)(a), C.R.S. Pursuant to Section 17 (3) of Article IX of the State Constitution, appropriations from the State Education Fund are not subject to the limitation on fiscal year spending set forth in Section 20 of Article X of the State Constitution.

[d] This amount shall be from the General Fund Exempt Account created in Section 24-77-103.6 (2), C.R.S.

[e] Of this amount, $290,279,953 shall be from the State Education Fund created in Section 17 (4)(a) of Article IX of the State Constitution and $61,017,958 shall be from the State Public School Fund created in Section 22-54-114 (1), C.R.S. Pursuant to Section 17 (3) of Article IX of the State Constitution, appropriations from the State Education Fund are not subject to the limitation on fiscal year spending set forth in Section 20 of Article X of the State Constitution. Of the amount appropriated from the State Public School Fund, $32,390,907 is estimated to be from federal mineral leasing revenues transferred to the State Public School Fund pursuant to Sections 22-54-114 (1) and 34-63-102, C.R.S., $20,229,533 is estimated to be from State Public School Fund reserves, and $8,397,518 is estimated to be from interest and income earned on the investment of money in the Public School Fund that is credited to the State Public School Fund pursuant to Section 22-41-102 (3)(f), C.R.S.

[f] These amounts shall be from the State Education Fund created in Section 17 (4)(a) of Article IX of the State Constitution. Pursuant to Section 17 (3) of Article IX of the State Constitution, appropriations from the State Education Fund are not subject to the limitation on fiscal year spending set forth in Section 20 of Article X of the State Constitution.

[g] These amounts shall be from the State Public School Fund created in Section 22-54-114 (1), C.R.S., from interest and income earned on the investment of money in the Public School Fund that is credited to the State Public School Fund pursuant to Section 22-41-102 (3)(g), C.R.S.

TOTALS PART III (EDUCATION)	~~$6,328,385,349~~ $6,369,290,636	~~$4,568,167,664~~ $4,609,072,951	$84,491,394[a]	$1,015,987,081[b]	$40,151,896[c]	$619,587,314[d]

[a] This amount shall be from the General Fund Exempt Account created in Section 24-77-103.6 (2), C.R.S.

[b] Of this amount, $6,921,362 contains an (I) notation.

[c] Of this amount, $20,100,000 contains an (I) notation.

[d] This amount contains an (I) notation.

FOOTNOTES -- The following statements are referenced to the numbered footnotes throughout section 2.

8 Department of Education, Assistance to Public Schools, Public School Finance, State Share of Districts' Total Program Funding -- Pursuant to section 22-35-108 (2)(a), C.R.S., the purpose of this footnote is to specify what portion of this appropriation is intended to be available for the Accelerating Students Through Concurrent Enrollment (ASCENT) Program for FY 2020-21. It is the General Assembly's intent that the Department of Education be authorized to utilize up to ~~$3,655,000~~ $3,725,000 of this appropriation to fund qualified students designated as ASCENT Program participants. This amount is calculated based on an estimated 500 FTE participants funded at a rate of ~~$7,330~~ $7,450 per FTE pursuant to section 22-54-204 (4.7), C.R.S.

SECTION 5. Appropriation. For the 2020-21 state fiscal year, $14,710,777 is appropriated to the department of education. This appropriation is from the general fund. To implement this act, the department may use this appropriation for additional funding provided pursuant to section 22-54-143 (3)(a), C.R.S.

SECTION 6. Appropriation. For the 2020-21 state fiscal year, $4,578,464 is appropriated to the department of education. This appropriation is from the general fund. To implement this act, the department may use this appropriation for additional funding provided pursuant to section 22-54-143 (3)(b), C.R.S.

SECTION 7. Appropriation. For the 2020-21 state fiscal year, $569,849 is appropriated to the department of education. This appropriation is from the general fund. To implement this act, the department may use this appropriation for distributions to institute charter schools pursuant to section 22-54-143 (6), C.R.S.

SECTION 8. Appropriation. For the 2020-21 state fiscal year, $25,000,000 is appropriated to the department of education. This appropriation is from the rural schools cash fund created in section 22-54-142 (5), C.R.S. To implement this act, the department may use this appropriation for rural school funding authorized in section 22-54-142, C.R.S.

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

Leroy M. Garcia
PRESIDENT OF
THE SENATE

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED March 15, 2021 at 4:18pm
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO