

CHAPTER 273

EDUCATION - PUBLIC SCHOOLS

HOUSE BILL 01-1262

BY REPRESENTATIVE(S) Spence, Boyd, Groff, Jahn, Lawrence, Lee, Miller, Paschall, Romanoff, Weddig, White, and Williams S.;
also SENATOR(S) Anderson and Reeves.

AN ACT

CONCERNING THE IMPLEMENTATION OF SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION.

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

SECTION 1. Title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 55
State Policies Relating to Section 17
of Article IX of the State Constitution

22-55-101. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION, WHICH WAS APPROVED BY THE REGISTERED ELECTORS OF THIS STATE AT THE 2000 GENERAL ELECTION, REQUIRES THE GENERAL ASSEMBLY TO INCREASE FUNDING FOR PRESCHOOL THROUGH TWELFTH GRADE PUBLIC EDUCATION AND FOR CATEGORICAL PROGRAMS.

(b) SPECIFICALLY, SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION REQUIRES:

(I) A SPECIFIED PERCENTAGE OF STATE INCOME TAX REVENUES COLLECTED ON INCOME EARNED ON OR AFTER DECEMBER 28, 2000, TO BE DIVERTED TO A NEWLY CREATED STATE EDUCATION FUND FROM WHICH MONEYS MAY BE APPROPRIATED ONLY FOR SPECIFIED EDUCATION-RELATED PURPOSES;

(II) THE GENERAL ASSEMBLY TO ANNUALLY INCREASE THE STATEWIDE BASE PER

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

PUPIL FUNDING FOR PUBLIC EDUCATION FROM PRESCHOOL THROUGH THE TWELFTH GRADE AND TOTAL STATE FUNDING FOR ALL CATEGORICAL PROGRAMS BY AT LEAST THE RATE OF INFLATION PLUS ONE PERCENTAGE POINT FOR STATE FISCAL YEARS 2001-02 THROUGH 2010-11, AND BY AT LEAST THE RATE OF INFLATION FOR STATE FISCAL YEAR 2011-2012 AND EACH SUCCEEDING STATE FISCAL YEAR; AND

(III) THE GENERAL ASSEMBLY TO ANNUALLY INCREASE THE GENERAL FUND APPROPRIATION FOR TOTAL PROGRAM EDUCATION FUNDING UNDER THE "PUBLIC SCHOOL FINANCE ACT OF 1994", ARTICLE 54 OF THIS TITLE, OR ANY SUCCESSOR ACT, FOR EACH STATE FISCAL YEAR FROM 2001-02 THROUGH 2010-11 BY AT LEAST FIVE PERCENT OVER THE AMOUNT OF THE PRIOR YEAR'S GENERAL FUND APPROPRIATION FOR TOTAL PROGRAM EDUCATION FUNDING, UNLESS COLORADO PERSONAL INCOME GROWS LESS THAN FOUR AND ONE-HALF PERCENT BETWEEN THE TWO CALENDAR YEARS PRECEDING THE STATE FISCAL YEAR IN WHICH AN APPROPRIATION IS MADE.

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

(a) IT IS THE DUTY AND INTENT OF THE GENERAL ASSEMBLY TO COMPLY WITH THE REQUIREMENTS OF SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION.

(b) IT IS WITHIN THE LEGISLATIVE PREROGATIVE OF THE GENERAL ASSEMBLY TO ENACT LEGISLATION TO IMPLEMENT SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION THAT WILL ENSURE COMPLIANCE WITH THE REQUIREMENTS OF SAID SECTION 17 OF ARTICLE IX AND FACILITATE ITS OPERATION.

(c) IN ENACTING LEGISLATION TO IMPLEMENT SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION:

(I) THE GENERAL ASSEMBLY HAS ATTEMPTED TO INTERPRET THE PROVISIONS OF SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION IN A MANNER THAT GIVES ITS WORDS THEIR NATURAL AND OBVIOUS SIGNIFICANCE.

(II) THE GENERAL ASSEMBLY HAS ATTEMPTED TO ASCERTAIN THE INTENT OF THE PROPONENTS WHO INITIATED SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION AND THE VOTERS WHO ADOPTED IT AND TO APPLY OTHER GENERALLY ACCEPTED RULES OF CONSTITUTIONAL CONSTRUCTION WHERE THE MEANING OF SAID SECTION 17 OF ARTICLE IX IS UNCERTAIN.

(3) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

(a) BECAUSE THE AMOUNT OF FUNDING PROVIDED FOR THE PRIOR STATE FISCAL YEAR PLAYS A SIGNIFICANT ROLE IN THE CALCULATION OF THE MINIMUM AMOUNT OF THE INCREASE IN STATE APPROPRIATIONS FOR EDUCATION REQUIRED FOR EACH STATE FISCAL YEAR BY SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION, THE AMOUNT OF MONEY THAT THE STATE WILL BE REQUIRED TO SPEND FOR EDUCATION FUNDING FOR EACH STATE FISCAL YEAR WILL INCREASE DRAMATICALLY OVER TIME DUE TO A COMPOUNDING EFFECT.

(b) SINCE SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION DOES NOT CREATE ANY NEW TAX, INCREASE THE RATE OF ANY EXISTING TAX, OR OTHERWISE INCREASE THE AMOUNT OF REVENUES THAT WILL BE COLLECTED BY THE STATE, SOME

OF THE INCREASES IN STATE EDUCATION FUNDING THAT SAID SECTION 17 OF ARTICLE IX REQUIRES WILL AFFECT THE AMOUNT OF MONEY AVAILABLE TO FUND OTHER STATE PROGRAMS AND SERVICES.

(c) IN ENACTING LEGISLATION TO IMPLEMENT SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION, IT IS THE DUTY, INTENT, AND LEGISLATIVE PREROGATIVE OF THE GENERAL ASSEMBLY TO MITIGATE ANY ADVERSE IMPACT THAT THE STATE EDUCATION FUNDING REQUIREMENTS OF SAID SECTION 17 OF ARTICLE IX MAY HAVE ON THE FINANCIAL CONDITION OF THE STATE AND OTHER STATE PROGRAMS AND SERVICES BY ENSURING THAT MONEYS ARE CREDITED TO THE STATE EDUCATION FUND, INVESTED WHILE IN THE FUND, AND EXPENDED FROM THE FUND IN A MANNER THAT WILL ENSURE THAT THE FUND REMAINS VIABLE AND THAT FUND MONEYS WILL ALWAYS BE AVAILABLE TO MEET A SIGNIFICANT PORTION OF THE LONG-TERM STATE EDUCATION FUNDING REQUIREMENTS OF SAID SECTION 17 OF ARTICLE IX.

(d) THIS ARTICLE REFLECTS THE CONSIDERED JUDGMENT OF THE GENERAL ASSEMBLY REGARDING THE MEANING AND IMPLEMENTATION OF THE PROVISIONS OF SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION.

22-55-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CATEGORICAL PROGRAMS" INCLUDE ONLY THE FOLLOWING PROGRAMS:

(a) PUBLIC SCHOOL TRANSPORTATION AS DESCRIBED IN ARTICLE 51 OF THIS TITLE;

(b) THE ENGLISH LANGUAGE PROFICIENCY PROGRAM CREATED IN SECTION 22-24-104;

(c) THE EXPELLED AND AT-RISK STUDENT SERVICES GRANT PROGRAM CREATED IN SECTION 22-33-205;

(d) SPECIAL EDUCATION PROGRAMS FOR CHILDREN WITH DISABILITIES AS DESCRIBED IN ARTICLE 20 OF THIS TITLE;

(e) SPECIAL EDUCATION PROGRAMS FOR GIFTED CHILDREN AS DESCRIBED IN ARTICLE 20 OF THIS TITLE;

(f) THE GRANT PROGRAM FOR IN-SCHOOL OR IN-HOME SUSPENSION DESCRIBED IN ARTICLE 37 OF THIS TITLE;

(g) VOCATIONAL EDUCATION AS DESCRIBED IN ARTICLE 8 OF TITLE 23, C.R.S.;

(h) SMALL ATTENDANCE CENTERS FOR WHICH STATE AID IS AVAILABLE PURSUANT TO SECTION 22-54-122;

(i) THE COMPREHENSIVE HEALTH EDUCATION PROGRAM CREATED IN SECTION 22-25-104; AND

(j) OTHER CURRENT AND FUTURE ACCOUNTABLE PROGRAMS SPECIFICALLY IDENTIFIED IN STATUTE AS A CATEGORICAL PROGRAM.

(2) "FEDERAL TAXABLE INCOME, AS MODIFIED BY LAW" MEANS FEDERAL TAXABLE INCOME AS MODIFIED BY SECTIONS 39-22-104, 39-22-304, 39-22-509, AND 39-22-518, C.R.S., AND AS APPORTIONED UNDER SECTION 39-22-303 OR 39-22-303.1, C.R.S., TO THE EXTENT FEDERAL TAXABLE INCOME IS NOT BEING MODIFIED TO EFFECTUATE A REFUND OF EXCESS STATE REVENUES REQUIRED PURSUANT TO SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, EARNED ON OR AFTER DECEMBER 28, 2000.

(3) "INFLATION" MEANS THE PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX FOR THE DENVER-BOULDER CONSOLIDATED METROPOLITAN STATISTICAL AREA FOR ALL URBAN CONSUMERS, ALL GOODS, AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, OR ITS SUCCESSOR INDEX.

(4) "STATE EDUCATION FUND" MEANS THE STATE EDUCATION FUND CREATED PURSUANT TO SECTION 17 (4) OF ARTICLE IX OF THE STATE CONSTITUTION AND SECTION 22-55-103.

(5) "STATE EDUCATION FUND REVENUES" MEANS REVENUES COLLECTED FROM A TAX OF ONE-THIRD OF ONE PERCENT ON FEDERAL TAXABLE INCOME, AS MODIFIED BY LAW, OF EVERY INDIVIDUAL, ESTATE, TRUST, AND CORPORATION, AS DEFINED IN LAW, THAT ARE REQUIRED TO BE TRANSFERRED TO THE STATE EDUCATION FUND PURSUANT TO SECTION 17 (4) (a) OF ARTICLE IX OF THE STATE CONSTITUTION.

(6) "STATEWIDE BASE PER PUPIL FUNDING" MEANS THE AMOUNT SPECIFIED FOR EACH BUDGET YEAR IN SECTION 22-54-104 (5) (a).

(7) "STATUTORY LIMITATION ON GENERAL FUND APPROPRIATIONS GROWTH" MEANS THE LIMITATION ON ANNUAL GENERAL FUND APPROPRIATIONS SET FORTH IN SECTION 24-75-201.1, C.R.S.

(8) "TOTAL PROGRAM" OR "TOTAL PROGRAM EDUCATION FUNDING" MEANS A DISTRICT'S TOTAL PROGRAM AS DETERMINED PURSUANT TO SECTION 22-54-104 (1).

(9) "TOTAL STATE FUNDING FOR ALL CATEGORICAL PROGRAMS" MEANS THE AGGREGATE AMOUNT OF STATE FUNDING FOR ALL CATEGORICAL PROGRAMS IN ANY GIVEN FISCAL YEAR, INCLUDING ANY ADJUSTMENTS MADE TO SAID FUNDING THROUGH THE ENACTMENT OF A SUPPLEMENTAL APPROPRIATION BILL OR BILLS FOR THAT FISCAL YEAR.

22-55-103. State education fund - creation - transfers to fund - use of moneys in fund - permitted investments - exempt from spending limitations. (1) IN ACCORDANCE WITH SECTION 17 (4) OF ARTICLE IX OF THE STATE CONSTITUTION, THERE IS HEREBY CREATED IN THE STATE TREASURY THE STATE EDUCATION FUND. THE FUND SHALL CONSIST OF STATE EDUCATION FUND REVENUES, ALL INTEREST AND INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND, AND ANY GIFTS OR OTHER MONEYS THAT ARE EXEMPT FROM THE LIMITATION ON STATE FISCAL YEAR SPENDING SET FORTH IN SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION AND SECTION 24-77-103, C.R.S., THAT MAY BE CREDITED TO THE FUND. ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. AT THE END OF ANY STATE FISCAL YEAR, ALL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND SHALL

REMAIN IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND.

(2) (a) THE LEGISLATIVE COUNCIL, IN CONSULTATION WITH THE OFFICE OF STATE PLANNING AND BUDGETING, SHALL CALCULATE THE AMOUNT OF STATE EDUCATION FUND REVENUES FOR THE PERIOD COMMENCING DECEMBER 28, 2000, AND ENDING JUNE 30, 2001, AND THE AMOUNT OF STATE EDUCATION FUND REVENUES FOR EACH STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2001. THE LEGISLATIVE COUNCIL AND THE OFFICE OF STATE PLANNING AND BUDGETING SHALL RELY UPON THE QUARTERLY STATE REVENUE ESTIMATES ISSUED BY THE LEGISLATIVE COUNCIL IN CALCULATING SUCH AMOUNTS AND SHALL UPDATE ITS CALCULATIONS NO LATER THAN FIVE DAYS FOLLOWING THE ISSUANCE OF EACH QUARTERLY STATE REVENUE ESTIMATE.

(b) TO ENSURE THAT ALL STATE EDUCATION FUND REVENUES ARE TRANSFERRED TO THE STATE EDUCATION FUND AND THAT OTHER STATE REVENUES ARE NOT ERRONEOUSLY TRANSFERRED TO THE FUND:

(I) NO LATER THAN TWO DAYS AFTER CALCULATING OR RECALCULATING THE AMOUNT OF STATE EDUCATION FUND REVENUES FOR THE PERIOD COMMENCING DECEMBER 28, 2000, AND ENDING JUNE 30, 2001, OR FOR ANY STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2001, THE LEGISLATIVE COUNCIL, IN CONSULTATION WITH THE OFFICE OF STATE PLANNING AND BUDGETING, SHALL CERTIFY TO THE DEPARTMENT OF REVENUE THE AMOUNT OF STATE EDUCATION FUND REVENUES THAT THE DEPARTMENT SHALL TRANSFER TO THE STATE TREASURER FOR DEPOSIT INTO THE STATE EDUCATION FUND ON THE FIRST DAY OF EACH OF THE THREE SUCCEEDING CALENDAR MONTHS AS REQUIRED BY PARAGRAPH (c) OF THIS SUBSECTION (2);

(II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), NO LATER THAN MAY 25 OF ANY STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2000, THE LEGISLATIVE COUNCIL, IN CONSULTATION WITH THE OFFICE OF STATE PLANNING AND BUDGETING, MAY CERTIFY TO THE DEPARTMENT OF REVENUE AN ADJUSTED AMOUNT FOR ANY TRANSFER TO BE MADE ON THE FIRST BUSINESS DAY OF THE IMMEDIATELY SUCCEEDING JUNE; AND

(III) SUBJECT TO REVIEW BY THE STATE AUDITOR, THE LEGISLATIVE COUNCIL, IN CONSULTATION WITH THE OFFICE OF STATE PLANNING AND BUDGETING, MAY CORRECT ANY ERROR IN THE TOTAL AMOUNT OF STATE EDUCATION FUND REVENUES TRANSFERRED DURING ANY STATE FISCAL YEAR BY ADJUSTING THE AMOUNT OF ANY TRANSFER TO BE MADE DURING THE NEXT STATE FISCAL YEAR.

(c) ON THE FIRST BUSINESS DAY OF EACH CALENDAR MONTH THAT COMMENCES AFTER THE EFFECTIVE DATE OF THIS ACT, THE DEPARTMENT OF REVENUE SHALL TRANSFER TO THE STATE TREASURER FOR DEPOSIT INTO THE STATE EDUCATION FUND STATE EDUCATION FUND REVENUES IN AN AMOUNT CERTIFIED TO THE DEPARTMENT BY THE LEGISLATIVE COUNCIL, IN CONSULTATION WITH THE OFFICE OF STATE PLANNING AND BUDGETING, PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2).

(3) (a) EXCEPT AS PROVIDED BY LAW, ALL MONEYS IN THE STATE EDUCATION FUND ARE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE

DEPARTMENT OF EDUCATION FOR THE PURPOSES SET FORTH IN THIS SUBSECTION (3). THE DEPARTMENT SHALL EXPEND ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND PRIOR TO EXPENDING ANY OF THE PRINCIPAL IN THE FUND. THE MONEYS IN THE FUND SHALL ONLY BE USED TO COMPLY WITH THE REQUIREMENTS OF SECTION 17 (1) OF ARTICLE (IX) OF THE STATE CONSTITUTION AND FOR SUCH PURPOSES AS MAY BE AUTHORIZED BY LAW AND THAT ARE CONSISTENT WITH SECTION 17 (4) (b) OF ARTICLE IX OF THE STATE CONSTITUTION.

(b) NOTHING IN THIS SUBSECTION (3) SHALL BE CONSTRUED TO REQUIRE ADDITIONAL OR FUTURE APPROPRIATIONS FROM THE STATE EDUCATION FUND FOR ANY PROGRAM FOR WHICH AN APPROPRIATION FROM THE FUND HAS PREVIOUSLY BEEN AUTHORIZED FOR ANY GIVEN FISCAL YEAR IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (3).

(4) MONEYS IN THE STATE EDUCATION FUND MAY BE INVESTED IN THE TYPES OF INVESTMENTS AUTHORIZED IN SECTIONS 24-36-109, 24-36-112, AND 24-36-113, C.R.S.

(5) PURSUANT TO SECTION 17 (3) OF ARTICLE IX OF THE STATE CONSTITUTION, ALL MONEYS CREDITED TO THE FUND, APPROPRIATED BY THE GENERAL ASSEMBLY OUT OF THE FUND, OR DISTRIBUTED FROM THE FUND AND EXPENDED BY ANY SCHOOL DISTRICT SHALL BE EXEMPT FROM:

(a) THE LIMITATION ON STATE FISCAL YEAR SPENDING SET FORTH IN SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION AND SECTION 24-77-103, C.R.S.;

(b) THE LIMITATION ON LOCAL GOVERNMENT FISCAL YEAR SPENDING SET FORTH IN SECTION 20 (7) (b) OF ARTICLE X OF THE STATE CONSTITUTION; AND

(c) THE STATUTORY LIMITATION ON GENERAL FUND APPROPRIATIONS GROWTH.

SECTION 2. 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.

Approved: June 5, 2001