

## CHAPTER 170

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**EDUCATION - PUBLIC SCHOOLS**

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**HOUSE BILL 07-1237**

BY REPRESENTATIVE(S) Pommer, Buescher, White, Casso, Cerbo, Merrifield, and Todd;  
also SENATOR(S) Keller, Tapia, and Johnson.

**AN ACT****CONCERNING TECHNICAL MODIFICATIONS TO THE STATE PUBLIC SCHOOL FUND.**

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

**SECTION 1.** 22-2-112 (1) (i), Colorado Revised Statutes, is amended to read:

**22-2-112. Commissioner - duties.** (1) Subject to the supervision of the state board, the commissioner has the following duties:

(i) To cause to be reprinted annually laws enacted by the general assembly concerning education, in accordance with the provisions of section 24-1-136, C.R.S., and to furnish copies thereof to interested persons. All publishing costs therefor shall be paid out of the ~~public school income fund on warrants of the controller covering vouchers approved by the commissioner~~ STATE PUBLIC SCHOOL FUND PURSUANT TO SECTION 22-54-114 (5).

**SECTION 2.** 22-54-114 (1) and (3) (b), Colorado Revised Statutes, are amended, and the said 22-54-114 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**22-54-114. State public school fund.** (1) There is hereby created in the office of the state treasurer a fund, separate from the general fund, to be known as the state public school fund. There shall be credited to said fund the net balance of the public school income fund existing as of December 31, 1973, and all distributions from the state public school income fund thereafter made, the state's share of all moneys received from the federal government pursuant to the provisions of section 34-63-102, C.R.S., and such additional moneys as shall be appropriated by the general assembly which are necessary to meet the state's share of the total program

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

of all districts, funding for institute charter schools, and, FOR FISCAL YEARS PRIOR TO THE 2007-08 FISCAL YEAR, the contingency reserve during the budget year. Moneys annually appropriated by the general assembly shall be transferred from the state general fund and credited to the state public school fund in four quarterly installments on July 1, September 30, December 31, and March 31 to assure the availability of funds for the required distribution of state moneys to school districts and institute charter schools. Such quarterly installments shall be determined in accordance with estimates prepared by the department of education with respect to the required distribution of state moneys to school districts and institute charter schools.

~~(3)(b) Notwithstanding the provisions of paragraph (a) of this subsection (3), any unexpended balance of moneys in the contingency reserve created pursuant to section 22-54-117 at the end of any fiscal year shall remain in the contingency reserve and shall not be transferred to any other fund.~~

(5) ALL PUBLISHING COSTS ASSOCIATED WITH THE ANNUAL PRINTING OF THE LAWS ENACTED BY THE GENERAL ASSEMBLY CONCERNING EDUCATION SHALL BE PAID OUT OF THE STATE PUBLIC SCHOOL FUND.

**SECTION 3.** 22-54-117 (1), (1.5) (a), (3), (4), (5), and (6), Colorado Revised Statutes, are amended, and the said 22-54-117 (1.5) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

**22-54-117. Contingency reserve - capital construction expenditures reserve - lottery proceeds contingency reserve.** (1) (a) FOR FISCAL YEARS PRIOR TO THE 2007-08 FISCAL YEAR, an amount to be determined by the general assembly shall be appropriated annually to the state public school fund as a contingency reserve. FOR THE 2007-08 FISCAL YEAR AND FISCAL YEARS THEREAFTER, AN AMOUNT TO BE DETERMINED BY THE GENERAL ASSEMBLY SHALL BE APPROPRIATED ANNUALLY TO THE CONTINGENCY RESERVE FUND, WHICH IS HEREBY CREATED IN THE STATE TREASURY. In deciding the amount to be appropriated to the contingency reserve OR THE CONTINGENCY RESERVE FUND, AS APPLICABLE, the general assembly may take into consideration any recommendations made by the department of education, but nothing in this section shall be construed to obligate the general assembly to provide supplemental assistance to all districts determined to be in need or fully fund the total amount of such need. The state board is authorized to approve and order payments from ~~such~~ THE contingency reserve OR THE CONTINGENCY RESERVE FUND, AS APPLICABLE, for supplemental assistance to districts determined to be in need as the result of any or all of the following circumstances:

~~(a)~~ (I) Financial emergencies caused by an act of God or arising from extraordinary problems in the collection of taxes;

~~(b)~~ (II) Financial emergencies arising from the nonpayment of property taxes pending the outcome of an administrative appeal or litigation or both challenging the inclusion of the value of certain property in a county's abstract of assessment which resulted from a change in the applicable state law;

~~(b.5)~~ (III) The amount of property tax levied and collected pursuant to section 39-10-114, C.R.S., is insufficient for the purpose of making abatements and refunds

of property taxes which the district is required to make pursuant to said section;

~~(e)~~ (IV) Any contingency ~~which~~ THAT could not have been reasonably foreseen at the time of the adoption of the annual budget, including, but not limited to, reductions in valuation of the district in excess of twenty percent as described in section 39-10-114 (1) (a) (I) (B.5), C.R.S.;

~~(d)~~ (V) Unusual financial burden caused by instruction of children who formerly resided outside the district but have been assigned to live within the district by courts or public welfare agencies. Such supplemental assistance shall not exceed the additional cost for current operations incurred by this circumstance.

~~(e)~~ (VI) Unusual financial burden caused by instruction of children who moved into the district following the pupil enrollment count date. Such supplemental assistance shall not exceed the additional cost incurred by the district due to the increase in pupil enrollment. The provisions of this ~~paragraph (e)~~ SUBPARAGRAPH (VI) shall only be available to districts with a funded pupil count of two thousand or less.

~~(f)~~ (VII) Unusual financial burden caused by a significant decline in pupil enrollment as a result of detachment and annexation pursuant to a reorganization plan approved pursuant to article 30 of this title.

(b) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPHS (I) TO (VII) OF PARAGRAPH (a) OF THIS SUBSECTION (1) CONCERNING CIRCUMSTANCES UNDER WHICH THE STATE BOARD MAY APPROVE AND ORDER PAYMENTS FROM THE CONTINGENCY RESERVE OR CONTINGENCY RESERVE FUND, AS APPLICABLE, THE BOARD MAY, IN CASES OF EXTREME EMERGENCY, TAKE INTO CONSIDERATION SUCH OTHER FACTORS AS IT MAY DEEM NECESSARY AND PROPER IN GRANTING SUPPLEMENTAL ASSISTANCE FROM THE CONTINGENCY RESERVE OR CONTINGENCY RESERVE FUND, AS APPLICABLE, TO THOSE DISTRICTS THAT COULD NOT MAINTAIN THEIR SCHOOLS WITHOUT SUCH ADDITIONAL FINANCIAL ASSISTANCE.

(c) (I) IF A PAYMENT FOR SUPPLEMENTAL ASSISTANCE IS MADE PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION AND THE DISPUTED PROPERTY IS FINALLY DETERMINED TO HAVE BEEN PROPERLY INCLUDED IN THE ABSTRACT OF ASSESSMENT, THE PAYMENT SHALL BE REIMBURSED BY THE SCHOOL DISTRICT AFTER COLLECTION OF THE TAXES TO THE CONTINGENCY RESERVE OR CONTINGENCY RESERVE FUND, AS APPLICABLE, IN FULL, PLUS INTEREST AT THE SAME RATE AS PROVIDED BY STATUTE FOR PENALTY INTEREST ON UNPAID PROPERTY TAXES.

(II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH (c), ANY REIMBURSEMENT BY A SCHOOL DISTRICT OF A PAYMENT FOR SUPPLEMENTAL ASSISTANCE MADE PURSUANT TO THIS SUBSECTION (1) SHALL BE CREDITED TO THE CONTINGENCY RESERVE OR CONTINGENCY RESERVE FUND, AS APPLICABLE.

(d) FOR FISCAL YEARS PRIOR TO THE 2007-08 FISCAL YEAR, ANY UNEXPENDED BALANCE IN THE CONTINGENCY RESERVE AT THE END OF EACH FISCAL YEAR SHALL REMAIN IN THE CONTINGENCY RESERVE AND SHALL NOT REVERT TO THE STATE GENERAL FUND OR ANY OTHER FUND.

(e) (I) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (d) OF THIS SUBSECTION (1), ALL UNEXPENDED MONEYS REMAINING IN THE CONTINGENCY RESERVE AS OF JUNE 30, 2007, SHALL BE TRANSFERRED TO THE CONTINGENCY RESERVE FUND AS OF JULY 1, 2007.

(II) ANY UNEXPENDED BALANCE IN THE CONTINGENCY RESERVE FUND AT THE END OF EACH FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE STATE GENERAL FUND OR ANY OTHER FUND.

(1.5) (a) (I) In addition to any amount annually appropriated by the general assembly to the state public school fund as a contingency reserve, for ~~fiscal years 2000-01 through 2010-11~~ FISCAL YEARS 2000-01 THROUGH 2006-07, an amount shall be appropriated from the general fund to the state public school fund, in accordance with section 24-75-201.1 (4) (b), C.R.S., as a school capital construction expenditures reserve to be used only as provided in this subsection (1.5). ~~The state board is authorized to approve and order payments from the school capital construction expenditures reserve only for supplemental assistance to districts or charter schools for capital expenditures:~~

~~(I) To address immediate safety hazards or health concerns within existing school facilities;~~

~~(II) To relieve excessive operating costs created by insufficient maintenance or construction spending which are currently required to be expended by the district;~~ OR THERE IS HEREBY CREATED IN THE STATE TREASURY THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE FUND. FOR FISCAL YEARS 2007-08 THROUGH 2010-11, AN AMOUNT SHALL BE APPROPRIATED FROM THE GENERAL FUND TO THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE FUND TO BE USED ONLY AS PROVIDED IN THIS SUBSECTION (1.5).

~~(III) To relieve building construction conditions which detract from an effective learning environment.~~

(a.5) THE STATE BOARD IS AUTHORIZED TO APPROVE AND ORDER PAYMENTS FROM THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE OR THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE FUND, AS APPLICABLE, ONLY FOR SUPPLEMENTAL ASSISTANCE TO DISTRICTS OR CHARTER SCHOOLS FOR CAPITAL EXPENDITURES:

(I) TO ADDRESS IMMEDIATE SAFETY HAZARDS OR HEALTH CONCERNS WITHIN EXISTING SCHOOL FACILITIES;

(II) TO RELIEVE EXCESSIVE OPERATING COSTS CREATED BY INSUFFICIENT MAINTENANCE OR CONSTRUCTION SPENDING THAT ARE CURRENTLY REQUIRED TO BE EXPENDED BY THE DISTRICT; OR

(III) TO RELIEVE BUILDING CONSTRUCTION CONDITIONS THAT DETRACT FROM AN EFFECTIVE LEARNING ENVIRONMENT.

(e) (I) ALL UNEXPENDED MONEYS REMAINING IN THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE AS OF JUNE 30, 2007, SHALL BE

TRANSFERRED TO THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE FUND AS OF JULY 1, 2007.

(II) ANY UNEXPENDED BALANCE IN THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE FUND AT THE END OF EACH FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE STATE GENERAL FUND OR ANY OTHER FUND.

(3) The state board shall conduct such investigation as it deems proper, and, if it finds that an application should be approved, it shall determine the amount to be paid. In determining which districts receive payments pursuant to this section and the amount of such payments, the state board shall consider the amount of the supplemental assistance requested by the district as a percentage of the district's total program. By order upon the state treasurer, ~~said~~ THE board shall direct payment from the contingency reserve, ~~or~~ CONTINGENCY RESERVE FUND, school capital construction expenditures reserve, SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE FUND, OR LOTTERY PROCEEDS CONTINGENCY RESERVE FUND, whichever is applicable, of such amount to the treasurer of the eligible district for credit to the general fund of the district.

(4) ~~Notwithstanding the provisions of subsection (1) of this section concerning circumstances under which the state board may approve and order payments from the contingency reserve, the state board may, in cases of extreme emergency, take into consideration such other factors as it may deem necessary and proper in granting supplemental assistance from the contingency reserve to those districts which could not maintain their schools without such additional financial assistance:~~

(5) (a) ~~If a payment for supplemental assistance is made pursuant to paragraph (b) of subsection (1) of this section and the disputed property is finally determined to have been properly included in the abstract of assessment, the payment shall be reimbursed by the school district after collection of the taxes to the contingency reserve fund in full, plus interest at the same rate as provided by statute for penalty interest on unpaid property taxes:~~

(b) ~~Notwithstanding paragraph (a) of this subsection (5), any reimbursement by a school district of a payment for supplemental assistance made pursuant to subsection (1) of this section shall be credited to the contingency reserve fund:~~

(6) (a) ~~Any unexpended balance in the contingency reserve at the end of each fiscal year shall remain in the contingency reserve and shall not revert to the state general fund or any other fund:~~

(b) ~~Repealed:~~

**SECTION 4.** 22-54-117 (1.6) (a), Colorado Revised Statutes, is amended, and the said 22-54-117 (1.6) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**22-54-117. Contingency reserve - capital construction expenditures reserve - lottery proceeds contingency reserve.** (1.6) (a) For each quarter including and after the first quarter of ~~the state's~~ fiscal year 2001-02 THROUGH THE FOURTH

QUARTER OF FISCAL YEAR 2006-07, all moneys that would otherwise be transferred to the general fund pursuant to section 3 (1) (b) (III) of article XXVII of the state constitution shall be transferred to the state public school fund as a contingency reserve AND SHALL BE exempt from any restriction on spending, revenues, or appropriations, including, without limitation, the restrictions of section 20 of article X of the state constitution. FOR EACH QUARTER INCLUDING AND AFTER THE FIRST QUARTER OF FISCAL YEAR 2007-08, ALL MONEYS THAT WOULD OTHERWISE BE TRANSFERRED TO THE GENERAL FUND PURSUANT TO SECTION 3 (1) (b) (III) OF ARTICLE XXVII OF THE STATE CONSTITUTION SHALL BE TRANSFERRED TO THE LOTTERY PROCEEDS CONTINGENCY RESERVE FUND, WHICH IS HEREBY CREATED IN THE STATE TREASURY, AND SHALL BE EXEMPT FROM ANY RESTRICTION ON SPENDING, REVENUE, OR APPROPRIATIONS, INCLUDING, WITHOUT LIMITATION, THE RESTRICTIONS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION. The state board is authorized to approve and order payments from the moneys transferred pursuant to this subsection (1.6) only for supplemental assistance to districts for capital expenditures to address immediate safety hazards or health concerns within existing school facilities either by repairing, remodeling, or refurbishing the existing school facilities or by constructing new school facilities to replace the existing school facilities.

(d) (I) ALL UNEXPENDED MONEYS REMAINING IN THE CONTINGENCY RESERVE CREATED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1.6) AS OF JUNE 30, 2007, SHALL BE TRANSFERRED TO THE LOTTERY PROCEEDS CONTINGENCY RESERVE FUND AS OF JULY 1, 2007.

(II) ANY UNEXPENDED BALANCE IN THE LOTTERY PROCEEDS CONTINGENCY RESERVE FUND AT THE END OF EACH FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE STATE GENERAL FUND OR ANY OTHER FUND.

**SECTION 5.** 2-3-115 (1) (b), (2) (c), and (2) (e), Colorado Revised Statutes, are amended to read:

**2-3-115. Use of state education fund moneys for school capital construction - audits - reports.** (1) For the 2001-02 school district budget year and each school district budget year thereafter, for the purpose of determining the amount of state education fund moneys expended by each school district in the state for capital construction and identifying the schools and projects on which school districts expended such moneys, the state auditor shall annually examine the records of each school district in the state that received state education fund moneys for the budget year:

(b) FOR BUDGET YEARS 2000-01 THROUGH 2006-07, indirectly from the school capital construction expenditures reserve created in ~~section 22-54-117(1.5)~~ SECTION 22-54-117 (1.5) (a) (I), C.R.S., AND FOR BUDGET YEARS 2007-08 THROUGH 2010-11, INDIRECTLY FROM THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE FUND CREATED IN SECTION 22-54-117 (1.5) (a) (II), C.R.S., in accordance with section 22-54-117 (1.5) and (1.7), C.R.S.

(2) No later than February 1 of each school district budget year commencing on or after July 1, 2002, the state auditor shall report to the education committees of the senate and the house of representatives, the legislative audit committee, and the joint

budget committee of the general assembly:

(c) FOR BUDGET YEARS 2000-01 THROUGH 2006-07, the total amount of state education fund moneys received indirectly from the school capital construction expenditures reserve AND FOR BUDGET YEARS 2007-08 THROUGH 2010-11, THE TOTAL AMOUNT OF STATE EDUCATION FUND MONEYS RECEIVED INDIRECTLY FROM THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE FUND, by districts throughout the state and by each district that were expended for capital construction during the prior budget year;

(e) FOR BUDGET YEARS 2000-01 THROUGH 2006-07, the balances of all moneys and all state education fund moneys in the school capital construction expenditures reserve as of the immediately preceding January 1, AND FOR BUDGET YEARS 2007-08 THROUGH 2010-11, THE BALANCES OF ALL MONEYS AND ALL STATE EDUCATION FUND MONEYS IN THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE FUND AS OF THE IMMEDIATELY PRECEDING JANUARY 1; and

**SECTION 6.** 22-43.7-105 (5) (b), Colorado Revised Statutes, is amended to read:

**22-43.7-105. Financial assistance application requirements - evaluation criteria - oversight board - duties.** (5) Applications that describe capital construction projects deemed eligible by the state board for financial assistance shall be prioritized based on the following criteria, in descending order of importance:

(b) Capital construction projects that will address safety hazards or health concerns at existing school facilities, considering the age of the facilities and any previous renovation work or controlled maintenance that has been performed at the facilities if such projects could not qualify for funding or were not approved for funding from the school capital construction expenditures reserve pursuant to section 22-54-117 (1.5) FOR BUDGET YEARS 2000-01 THROUGH 2006-07 AND FROM THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE FUND FOR BUDGET YEARS 2007-08 THROUGH 2010-11;

**SECTION 7.** 22-54-110 (1) (b), Colorado Revised Statutes, is amended to read:

**22-54-110. Loans to alleviate cash flow deficits - lease-purchase agreements.** (1) (b) A loan may not be made under this section to provide assistance for matters eligible for payment from the contingency reserve FUND pursuant to section 22-54-117 or to cover a foreseeable level of uncollectible property taxes, nor may a loan be used by a district for the simultaneous purchase and sale of the same security or an equivalent security in order to profit from price disparity.

**SECTION 8.** 24-75-201.1 (4) (a) and (4) (b) (V) (A), Colorado Revised Statutes, are amended to read:

**24-75-201.1. Restriction on state appropriations - legislative declaration - definitions.** (4) (a) The general assembly hereby finds, determines, and declares that moneys from the general fund shall be appropriated annually in the general appropriation bill to the school construction and renovation fund established in section 22-43.7-103, C.R.S., and FOR BUDGET YEARS 2000-01 THROUGH 2006-07 to

the school capital construction expenditures reserve established in ~~section 22-54-117 (1.5)~~ SECTION 22-54-117 (1.5) (a) (I), C.R.S., AND FOR BUDGET YEARS 2007-08 THROUGH 2010-11 TO THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE FUND ESTABLISHED IN SECTION 22-54-117 (1.5) (a) (II), C.R.S., as provided in paragraph (b) of this subsection (4).

(b) (V) (A) Except as otherwise provided in sub-subparagraphs (B) and (C) of this subparagraph (V), for fiscal years 2004-05 ~~through 2010-11~~ THROUGH 2006-07, the general assembly shall continue to appropriate ten million dollars to the school capital construction expenditures reserve, FOR FISCAL YEARS 2007-08 THROUGH 2010-11, THE GENERAL ASSEMBLY SHALL CONTINUE TO APPROPRIATE TEN MILLION DOLLARS TO THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE FUND, and FOR FISCAL YEARS 2004-05 THROUGH 2010-11, THE GENERAL ASSEMBLY SHALL CONTINUE TO APPROPRIATE ten million dollars to the school construction and renovation fund, ~~both~~ ALL of which appropriations will be included in the calculation of the maximum level of state general fund appropriations pursuant to paragraph (a) of subsection (1) of this section.

**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, and safety.

Approved: April 26, 2007