

Colorado Department of Education  
Public School Finance Unit

**Final Summary SB09-256**  
**Final Passage by General Assembly on May 5, 2009**  
**(Not signed by Governor)**

CONCERNING THE FINANCING OF PUBLIC SCHOOLS

(By summarizing the language in the bill, this does not alter the statutory language nor should it be considered legal advice in any way. For detailed language, please see the applicable section within the bill.)

**ISSUE—FINANCE FORMULA**

**Section 1**

“Inflation” Plus 1% to Statewide Base Per Pupil Funding in FY 2009-10

3.9% Inflation + 1% Amendment 23 ( $\$5,250.41 + \$257.27 = \$5,507.68$ ) (SB09-215 removed the additional \$19.72 added in FY 2008-09).

**Section 2.**

**Supplemental Full-Day Kindergarten**

Kindergarten pupils will continue to be funded at .58 FTE. (Same as FY 2008-09)

**Section 3.**

**Instructional Supplies and Materials – Capital Reserve and Insurance Reserve**

22-54-105, C.R.S. – For FY2009-10 and any budget year thereafter districts no longer required to budget a minimum amount to the Instructional Supplies and Materials account or the Capital Reserve and Insurance Reserve account. Any money allocated prior to FY2009-10 and remaining in these accounts must be budgeted for the purposes of those accounts in the FY2009-10 budget year and each year thereafter.

All requirements for deposits of monies related to the sale of land or buildings or collection of payments in lieu of the reservation or dedication of sites and land areas for school, or collection of contributions from a developer to reduce the minimum allocation requirements for capital reserve have been repealed.

After the remaining monies are spent according to the previous requirements, there will no longer be any minimum or maximum allocation requirements. That said, there is nothing that prohibits a school district from continuing to maintain a capital reserve or insurance reserve fund and allocating amounts deemed necessary at the local level.

All restrictions on transfers between the capital reserve and insurance reserve funds have been stricken. Transfers between general fund and capital/insurance reserve funds are at the will, by resolution, of the local board.

Elimination of the minimum allocation amounts to capital/insurance reserve funds affects other sections of the statute. There is no longer an amount previously known as PPOR or

per pupil operating revenue. Even though the definition is still in statute, it is useless. PPOR was the PPR (per pupil revenue) minus the minimum required allocation to capital/insurance reserve. Since there is no minimum requirement any longer, PPR will be used where there is any reference to PPOR.

#### **Section 4**

##### **22-54-106.5. Fiscal emergency restricted reserve – calculation of reserve amount**

For FY2009-10, the General Assembly has determined that a state financial crisis requires each district and the state charter school institute to budget an amount to a fiscal emergency restricted reserve. The department shall calculate the amount to be budgeted to the fiscal emergency restricted reserve by each district and the Charter School Institute. The total statewide amount to be held in reserve is \$110 million.

If the General Assembly has not taken action by January 29, 2010, the money may be released for expenditure.

#### **Section 5**

##### **Authorization of Additional Local Revenues**

22-54-108 (3) (b) (III) - Adds the following language: "...for any district that meets the requirements of subsection (4) of this section, the total additional local property tax revenues that may be received pursuant to elections held pursuant to this section shall not exceed under any circumstance TWENTY-FIVE percent of the districts total program or two hundred thousand dollars, whichever is greater, plus the amount of the Cost of Living Override amount.

(4) (a) A district seeking voter approval to retain and spend additional property tax revenues must notify the State Board before the election. A proposal must also be sent to the State Board regarding the District's proposed use of the additional property tax revenues, which may include capital construction projects.

#### **Section 6**

22-54-108, C.R.S., - Authorization of additional local revenues.

Changes language as follows: (II.5) Any portion of the specific ownership tax paid to the district shall not apply to this section. (Specific Ownership Taxes not included in 20% of total program funding or 25% based on changes in Section 4 above).

#### **Section 7**

##### **22-63-202 – Employment contracts – contracts to be in writing – duration – damage provision.**

(2) (b.5) Each employment contract shall contain a provision that a teacher or chief administrative officer (CAO) shall accept the terms of the employment contract for the succeeding academic year within 30 days of receipt of the contract, unless the teacher or CAO and the district have reached an alternative agreement. If the teacher or CAO does not accept the contract within 30 days, the district is authorized to open the position to additional candidates.

## **Section 8**

### **22-54-115 - Distribution from state public school fund**

22-54-115(1.3)(a)(II) Adds new paragraph (a.5) Directs the department to request a supplemental appropriation for any institute charter school in which the accounting district's state share is less than the amount the institute charter school is entitled to receive. If a supplemental appropriation is not granted, the department will withhold the total amount of state share funding payable to the district.

## **Section 9**

### **22-54-124. State aid for charter schools – use of state education fund moneys - definitions**

The general assembly shall annually appropriate an amount to be distributed to all districts and institute charter schools for capital construction for charter schools, currently appropriated at \$5 million.

The department shall distribute the total amount to each eligible school district and institute charter school in twelve approximately equal monthly payments in conjunction with the distribution of the state's share of district total program funding. (25<sup>th</sup> of each month)

## **Section 10**

### **22-54-124. State Aid for charter schools – use of state education fund moneys – definitions.**

(9) Encourages the Governor to use State Stabilization Funding to provide additional funding for Charter School Capital Construction beyond the amount included in the Long Bill of \$5 million.

## **Section 11**

### **22-30.5-112 Charter Schools – financing – definitions – guidelines**

Eliminates the requirement for charter schools to allocate a minimum amount to capital/insurance reserve funds. Same as Section 3 for school districts.

Any moneys remaining in such fund that have not been expended prior to the 2009-10 budget year shall be budgeted for the purposes set forth in section 22-45-103 (1) (c) and (1) (e) in the 2009-10 budget year or any year thereafter.

## **Section 12**

### **Charter schools – contract contents – regulations**

22-30.5-105 C.R.S. Adds language....In no event shall this subsection (5) be construed to prohibit any charter school from contracting with its chartering local board of education for the purchase of services, including but not limited to the purchase of educational services.

### **Section 13**

#### **22-30.5-505. State Charter School Institute – Institute Board – Appointment – Powers and Duties – Rules.**

(3) (f) Ensure that each student who enrolls in the 6<sup>th</sup> grade in an institute charter school, on the day of enrollment, is registered with the state provided, free on-line college planning and preparation resource “College in Colorado”.

Each institute charter school shall assist each student and his or her parent or guardian to develop and maintain the student’s individual career and education plans no later than the 9<sup>th</sup> grade, but may assist prior to the 9<sup>th</sup> grade.

### **Section 14**

#### **Institute Charter schools – contract contents – regulations**

22-30.5-508 C.R.S. Adds language....In no event shall this subsection (5) be construed to prohibit any institute charter school from contracting with the Institute for the purchase of services, including but not limited to the purchase of educational services.

### **Section 15**

#### **22-30.5-514. Institute charter school – capital reserve, risk management, and instructional purposes.**

FY2009-10 and any budget year thereafter districts no longer have to allocate a minimum amount to the Instructional Supplies and Materials account or the Capital Reserve and Insurance Reserve account. Any money allocated prior to FY2009-10 and remaining in these accounts must be budgeted for the purposes of those accounts. See Section 3 for more detail.

### **Section 16**

#### **22-32-109. Board of education – specific duties.**

(1 )(mm) Ensure that each student who enrolls in the 6<sup>th</sup> grade in a district public school, on the day of enrollment, is registered with the on-line college planning and preparation resource “College in Colorado”

Each public school shall assist each student and his or her parent or guardian to develop and maintain the student’s individual career and education plans no later than the 9<sup>th</sup> grade, but may assist prior to the 9<sup>th</sup> grade.

### **Section 17**

#### **22-2-135. Additional duty – State Board – Individual Career and Academic Plans – Standards – Rules.**

- (1) On or before February 1, 2010, the State shall promulgate rules to establish standards for individual career and academic plans for students in public schools. A plan shall be designed to assist a student in exploring the postsecondary career and educational opportunities available, aligning course work and curriculum, applying to postsecondary education institutions, securing financial aid, and ultimately entering the workforce.

- (2) In establishing standards for individual career and academic plans, shall ensure at a minimum:
- a. Includes a career planning and guidance component & portfolio that reflects, at a minimum:
    - i. Student's efforts in exploring careers, including interest surveys
    - ii. Student's academic progress, courses taken, remediation or credit recovery, concurrent enrollment credits earned
    - iii. Student's experiences in contextual and service learning
    - iv. Student's college applications and resume
    - v. Student's postsecondary studies
  - b. Plans accessible to educators, students, and parents
  - c. Compliant with FERPA

## **Section 18**

### **22-33-205. Services for expelled and at-risk students**

(3) The State Board shall annually award 45% of any moneys appropriated to the program to applicants that provide educational services to students from more than one school district and at least ½ of any increase in the appropriation for the FY2009-10 to applicants that provide services and supports that are designed to reduce the number of truancy cases requiring court involvement, that shall include alternatives to guardian ad litem representation in truancy proceedings.

The Department of Education shall include specific information on the efficacy of services and supports that provide alternatives to court involvement and guardian ad litem representation in its January 1 report to the General Assembly.

## **Section 19**

### **22-40-102. Certification – tax revenues.**

(1.7) (b) For purposes of Transportation Excess Costs Override elections, “excess transportation costs” means the annual operating expenditures for pupil transportation, minus the total payment actually received by the district, and annual expenditures for the purchase or lease of pupil transportation vehicles or other capital outlays related to pupil transportation. The calculation shall be based on the prior twelve-month period ending on June 30 prior to certification of the mill levy.

## **Section 20**

### **22-44-105. Budget Contents – mandatory.**

(1)(c.5) The budget shall ensure that the school district holds unrestricted general fund or cash fund emergency reserve required by TABOR; except that, if a Board provides for a district emergency reserve in the General Fund for the budget year of at least three percent of the amount budgeted to General Fund, the Board may designate real property owned by the District as all or a portion of the reserve required by section 20 (5) of Article X of the State Constitution so long as the Board has filed with the State Treasurer and the Department of Education a letter of intent that expresses the intent of the Board to increase the liquidity of such property upon the occurrence of a declared emergency with

the meaning of TABOR by entering into one or more lease-purchase agreements with respect to such property or by other means acceptable to the State Treasurer. Or

(II) Secure a letter of credit from an investment grade bank as all or a portion of the reserve required by section 20(5) of Article X of the State constitution so long as the board has filed with the State Treasurer and Department of Education a letter of intent of the Board to satisfy its obligation to reimburse the bank for moneys drawn on the letter of credit upon the occurrence of a declared emergency.

(c.6) If at any time the Board expends any moneys from the District Emergency Reserve, the board shall restore the reserve to 3% of the amount budgeted as follows:

- 1) In the funds are expended from the District Emergency Reserve in a single year, the Board shall have 36 months from the first draw to replenish the reserve; and
- 2) If the funds are expended from the reserve in 2 consecutive fiscal years, the reserve shall be replenished by the end of the fiscal year following the second fiscal year in which the Board expended funds.

### **Section 21**

#### **22-44-119. Fiscal emergency restricted reserve.**

For FY2009-10, each district and the State Charter School Institute shall budget a total dollar amount determined by the department to a fiscal emergency restricted reserve in the general fund. Funds may be released for expenditure if no action to require a rescission has been taken by the General Assembly by January 29, 2009.

### **Section 22**

#### **22-45-103. Funds.**

(1) (c) Capital Reserve Fund.

Removes the minimum spending levels as follows:

(D) Alterations and improvements to existing structures; ~~where the total estimated cost of such projects for labor and materials is in excess of \$2,500;~~

(E) Acquisition of school buses or other equipment; ~~the estimated unit cost of which is in excess of \$1,000.~~

(G) Any software licensing agreement; ~~in excess of \$1,000.~~

(H) Acquisition of computer equipment; ~~in excess of \$500.~~

### **Section 23**

#### **22-45-103. Funds:**

Allows a district to designate property owned by the district as all or a portion of the required TABOR reserve.

### **Section 24**

#### **22-2-136. State schools – legislative declaration – feasibility study – authority to contract.**

Replaces the creation of the Pilot Residential School with a study, beginning in July 2009, of the feasibility of operating one or more state residential schools (SRS) to serve

students who are in need of greater academic support and who may be at risk of academic failure.

The study shall address and make recommendations concerning:

- Goals that a SRS would be designed to achieve and method for measuring level of achievement.
- Overview of SRS operating in other states, their goals and degree of achievement.
- Appropriate student population to be served and manner of selecting students.
- Number and locations of SRS that should be considered.
- Governance structure and funding for per pupil funding, capital construction needs and potential funding sources.
- Appropriate curriculum, grade levels served, length of school day and year and whether a SRS should include a focus on specific subject matter areas.
- Types of student and family support services and manner for collaboration with other state and local agencies.
- Report to be submitted by February 1, 2010 to the General Assembly.
- Commissioner encouraged to apply federal moneys received from ARRA to the extent allowed for implementing this section.

Following completion of the study, if the Commissioner concludes that the creation and operation of state residential schools would be beneficial to the state, the Commissioner may contract to create and operate one or more schools with educational program focused on math and science.

If state residential schools are created, pupils will be counted in the pupil count of the district of residence for each pupil enrolled in the state residential school and moneys would be withheld from the state share of total program funding payable to the district of residence of each student who enrolls in the state residential school.

If the Commissioner does not contract for state residential schools, he may provide technical assistance to school districts and public schools to address the needs of students who are at risk of academic failure by improving availability and quality of secondary math and science curricula.

The general assembly intends to appropriate \$3 million for implementation of this section. No appropriation has been made at this time. Commissioner is authorized to accept gifts, grants and donations.

## **Section 25**

### **22-2-113. Commissioner – powers.**

For FY2008-09, the Commissioner may accept as repayment from a school district that has received an overpayment items for use by the department, including but not limited to lifetime online curriculum licenses, in the same value as the amount of overpayment owed by the district.

**Sections 26, 27, 31, 32, 33 & 35**

**22-11-306 Centers of excellence awards.**

State Board shall annually present financial awards to public schools that enroll a student population of at least 75% at-risk pupils, and that demonstrate the highest rates of academic growth as determined by the department. A school that receives an award under this section shall not qualify for an award under “John Irwin Schools of Excellence Awards” and the “Governor’s Distinguished Improvement Awards”. \$250,000 appropriated for these awards in FY2009-10. (Funding came from FY08-09 remaining monies in Read-to-Achieve).

**Sections 28, 29 & 30**

**22-7-611 Closing the achievement gap program.**

Removes old references to “academic rating of unsatisfactory” and conversion to an independent charter school, replacing it with “eligible districts and eligible schools” and provides \$1,750,000 to be transferred from the Read-to-Achieve Fund on July 1, 2009. The department shall provide an outline of different improvement strategies by April 1 of the school year preceding the year in which eligible districts or schools intend to participate.

An eligible district or school that wishes to participate shall provide a list of strategies selected from the outline and provide it to the department by May 1.

The State Board shall determine the criteria for selection of participants. Subject to available appropriations, the department shall provide assistance to eligible participants.

**Section 34**

**22-44-118. Full-day kindergarten reserve – tracking of expenditures – preschool programs – rules.**

(1)(a) Any school district that is not serving at least 1 student in a full-day kindergarten program and may or may not have opted to use the money for planning and facility preparation necessary for the district to offer a full-day kindergarten program in the subsequent budget years, shall, on or before June 30, 2009 return to the Department of Education any unexpended and unencumbered amount remaining of the moneys received for full-day kindergarten programs through supplemental kindergarten enrollment (the additional .08 full-day kindergarten funding included in the school finance formula).

**Section 36**

**24-75-601.1 Legal investments of public funds.**

(1) It is lawful to invest public funds in any of the following securities:

(h.5) Any COP or other security evidencing rights in payments to be made by a school district under a lease, lease-purchase agreement, or similar arrangement if the security, at the time of purchase, carries at least two credit ratings from any of the nationally recognized credit rating agencies and is rated at or above “A” by all such credit agencies that have provided a rating.



### **Section 37**

#### **22-43.7-109, Financial assistance for public school capital construction – application requirements – evaluation criteria – local match requirements.**

(9).....the board shall recommend and the state board shall approve financial assistance for a public school facility capital construction project only if the applicant provides matching moneys in an amount equal to a percentage of the total financing for the project determined by the board after consideration of the applicant’s financial capacity, as determined by the following factors:

- (c) With respect to a charter school’s application for financial assistance:
  - (II) ~~The per pupil revenue received by the charter school from the state that is required by law to be credited to a capital construction reserve;~~

### **Section 38**

#### **22-43.7-202. Applications for grants and matching grants – rules.**

Eliminates the requirement that school districts or the Institute charter schools have previously demonstrated consistent efforts to allocate moneys to the capital reserve fund “~~in excess of the minimum amounts required pursuant to section 22-54-105 (2) or 22-30.5-514 (1)~~”.

### **Section 39**

#### **22-44-112. Transfer of moneys.**

(2)(a) A board of education may transfer by resolution any unencumbered moneys from one fund to another, except ~~the capital reserve fund, any fund or account in the general fund established solely for the management of risk related activities, the transportation fund, the special building and technology fund, or the bond redemption fund, or the instructional supplies and materials account or the instructional capital outlay account in the general fund; except that unencumbered moneys may be transferred by resolution of the board between the capital reserve fund and any fund or account in the general fund established solely for the management of risk related activities and between the instructional supplies and materials account and the instructional capital outlay account in the general fund.~~

### **Section 40**

#### **22-11-601. Colorado school awards program – created – rules.**

In addition to the monetary awards made and distributed pursuant to 22-11-602, 22-11-603, 22-11-603.5 and 22-11-605, the state board may annually apply any amount remaining from the amount appropriated for implementation of section 22-11-202 to provide tangible items of recognition to schools that receive the John Irwin schools of excellence awards and the governor’s distinguished improvement awards.