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SENATE BILL 19-066

BY SENATOR(S) Todd, Bridges, Court, Crowder, Danielson, Gardner, Ginal, Gonzales, Hisey, Holbert, Lee, Moreno, Pettersen, Rankin, Scott, Sonnenberg, Story, Tate, Williams A., Winter, Zenzinger, Garcia;
also REPRESENTATIVE(S) Buentello, Arndt, Cutter, Duran, Esgar, Exum, Galindo, Gray, Hooton, Lontine, Michaelson Jenet, Valdez D., Wilson, Becker.

CONCERNING HIGH-COST SPECIAL EDUCATION GRANTS AWARDED FROM A TRUST FUND ESTABLISHED FOR THAT PURPOSE.

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

SECTION 1. In Colorado Revised Statutes, **add** 22-20-114.7 as follows:

22-20-114.7. High-cost special education trust fund - creation - grants - eligibility - legislative declaration - definition - annual report - repeal. (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(I) PROVIDING EQUAL ACCESS TO HIGH-QUALITY PUBLIC EDUCATION FOR ALL STUDENTS, INCLUDING CHILDREN WITH DISABILITIES, IS A TOP PRIORITY FOR THE STATE;

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.

(II) EACH ADMINISTRATIVE UNIT IN THE STATE IS RESPONSIBLE FOR MAKING AVAILABLE SPECIAL EDUCATION SERVICES REQUIRED BY THE IEP FOR ANY CHILD WITH A DISABILITY FOR WHOM IT IS RESPONSIBLE;

(III) EACH YEAR, A SMALL NUMBER OF CASES, RANDOMLY AFFECTING ADMINISTRATIVE UNITS ACROSS THE STATE, BECOME EXTRAORDINARILY EXPENSIVE, THREATENING TO JEOPARDIZE THE ADMINISTRATIVE UNIT'S ABILITY TO PROVIDE EQUAL ACCESS TO EACH CHILD AND TO MAINTAIN FINANCIAL STABILITY;

(IV) ENSURING THAT FINANCIAL SUPPORT IS AVAILABLE TO HELP ADMINISTRATIVE UNITS DEFRAY THE COSTS ASSOCIATED WITH PROVIDING HIGH-COST SPECIAL EDUCATION SERVICES IS A STATEWIDE CONCERN; AND

(V) BUILDING A RESERVE THAT MAY PROVIDE NECESSARY FUNDING FOR ADMINISTRATIVE UNITS EXPERIENCING HIGH COSTS WILL HELP BRING EQUITY AND STABILITY TO THE STATE'S SPECIAL EDUCATION PROGRAMS.

(b) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT IT IS NECESSARY AND APPROPRIATE TO CREATE A HIGH-COST SPECIAL EDUCATION TRUST FUND TO BUILD A RESERVE FOR HIGH-COST SPECIAL EDUCATION SERVICES.

(2)(a) THE HIGH-COST SPECIAL EDUCATION TRUST FUND, REFERRED TO IN THIS SECTION AS THE "TRUST FUND", IS CREATED IN THE STATE TREASURY. THE TRUST FUND IS ADMINISTERED BY THE COLORADO SPECIAL EDUCATION FISCAL ADVISORY COMMITTEE, CREATED IN THE DEPARTMENT OF EDUCATION PURSUANT TO SECTION 22-20-114.5 (2), AND REFERRED TO IN THIS SECTION AS THE "COMMITTEE".

(b) (I) ON JULY 1, 2019, THE STATE TREASURER SHALL TRANSFER TWO MILLION FIVE HUNDRED THOUSAND DOLLARS FROM THE MARIJUANA TAX CASH FUND, CREATED IN SECTION 39-28.8-501, TO THE TRUST FUND.

(II) THE GENERAL ASSEMBLY IS ENCOURAGED TO PRIORITIZE THE TRANSFER OR APPROPRIATION OF MONEY TO THE TRUST FUND IN FUTURE FISCAL YEARS.

(c) THE TRUST FUND CONSISTS OF MONEY TRANSFERRED TO THE

TRUST FUND PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE TO THE TRUST FUND AND THE INTEREST AND INCOME EARNED ON THE PRINCIPAL OF THE TRUST FUND.

(d) TRANSFERS TO THE TRUST FUND PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION AND ANY MONEY APPROPRIATED TO THE TRUST FUND PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION CONSTITUTE THE PRINCIPAL OF THE TRUST FUND. THE PRINCIPAL OF THE TRUST FUND REMAINS IN THE TRUST FUND AND SHALL NOT BE APPROPRIATED, TRANSFERRED, OR EXPENDED.

(e) THE STATE TREASURER IS AUTHORIZED AND DIRECTED TO MANAGE THE TRUST FUND THROUGH PRUDENT INVESTMENTS AND SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE TRUST FUND TO THE TRUST FUND.

(f) TRUST FUND INTEREST AND INCOME IS CONTINUOUSLY APPROPRIATED TO THE DEPARTMENT FOR HIGH-COST SPECIAL EDUCATION TRUST FUND GRANTS AWARDED BY THE COMMITTEE PURSUANT TO SUBSECTION (3) OF THIS SECTION. INTEREST AND INCOME NOT EXPENDED DURING THE FISCAL YEAR FOR HIGH-COST SPECIAL EDUCATION TRUST FUND GRANTS MAY BE EXPENDED IN SUBSEQUENT FISCAL YEARS FOR THAT PURPOSE.

(3)(a) THE COMMITTEE MAY AWARD HIGH-COST SPECIAL EDUCATION TRUST FUND GRANTS FROM INTEREST AND INCOME IN THE TRUST FUND.

(b) AN ADMINISTRATIVE UNIT MAY APPLY TO THE COMMITTEE FOR A HIGH-COST SPECIAL EDUCATION TRUST FUND GRANT IF THE ADMINISTRATIVE UNIT:

(I) HAS EXPENDITURES, AS DEFINED IN SUBSECTION (3)(c) OF THIS SECTION, IN THE PRECEDING BUDGET YEAR TO MEET THE NEEDS OF A SINGLE STUDENT WITH AN IEP; AND

(II) THE EXPENDITURES EXCEED THE LESSER OF:

(A) ONE HUNDRED THOUSAND DOLLARS; OR

(B) TWO AND ONE-HALF PERCENT OF THE ADMINISTRATIVE UNIT'S ANNUAL AUDITED OPERATING EXPENSES FOR THE PRECEDING BUDGET YEAR.

(c) FOR THE PURPOSES OF SUBSECTION (3)(b) OF THIS SECTION, "EXPENDITURES" INCLUDES ITEMS THAT ARE ALLOWABLE SPECIAL EDUCATION EXPENDITURES PURSUANT TO STATE AND FEDERAL LAW. AN ADMINISTRATIVE UNIT APPLYING FOR A HIGH-COST SPECIAL EDUCATION TRUST FUND GRANT SHALL PROVIDE DOCUMENTATION OR OTHER CERTIFICATION OF EXPENDITURES, AS REQUIRED BY THE COMMITTEE.

(d) IF THE COMMITTEE DETERMINES THAT AN ADMINISTRATIVE UNIT IS ELIGIBLE FOR A HIGH-COST SPECIAL EDUCATION TRUST FUND GRANT, THE COMMITTEE SHALL CONSIDER THE FOLLOWING CRITERIA IN DETERMINING WHETHER TO AWARD A TRUST FUND GRANT AND IN WHAT AMOUNT:

(I) NUMBER OF APPLICATIONS RECEIVED IN A GIVEN YEAR;

(II) THE AMOUNT OF HIGH-COST SPECIAL EDUCATION TRUST FUND GRANT MONEY AVAILABLE FOR DISTRIBUTION IN A GIVEN YEAR; AND

(III) ANY SPECIAL CIRCUMSTANCES ASSOCIATED WITH THE INDIVIDUAL HIGH-COST SPECIAL EDUCATION TRUST FUND GRANT REQUEST.

(e) THE COMMITTEE SHALL MAKE THE FINAL DETERMINATION AS TO THE HIGH-COST SPECIAL EDUCATION TRUST FUND GRANT AWARD AND AMOUNT; HOWEVER, THE COMMITTEE SHALL ATTEMPT TO AWARD TRUST FUND GRANTS IN PROPORTION TO THE NEED PRESENTED BY INDIVIDUAL CASES AND THE NUMBER OF APPLICATIONS PRESENTED BY ADMINISTRATIVE UNITS IN A GIVEN YEAR.

(f) THE COMMITTEE MAY REQUEST ADDITIONAL INFORMATION FROM ADMINISTRATIVE UNITS PRIOR TO THE DISTRIBUTION OF HIGH-COST SPECIAL EDUCATION TRUST FUND GRANTS.

(g) THE COMMITTEE IS ENCOURAGED TO WORK DIRECTLY WITH AN ADMINISTRATIVE UNIT TO HELP TAILOR HIGH-COST SPECIAL EDUCATION TRUST FUND GRANTS TO THE SPECIFIC NEEDS OF THE INDIVIDUAL ADMINISTRATIVE UNIT FOR THE MOST EFFICIENT USE OF TRUST FUND GRANT MONEY.

(4) (a) FOR EACH FISCAL YEAR IN WHICH THE COMMITTEE AWARDS A HIGH-COST SPECIAL EDUCATION TRUST FUND GRANT, THE COMMITTEE SHALL INCORPORATE THE FOLLOWING INFORMATION REGARDING THE SPECIAL EDUCATION TRUST FUND GRANT INTO THE ANNUAL SPECIAL EDUCATION FISCAL ADVISORY COMMITTEE REPORT TO THE STATE BOARD OF EDUCATION AND THE EDUCATION COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND OF THE SENATE, OR ANY SUCCESSOR COMMITTEES:

(I) THE NUMBER OF APPLICATIONS RECEIVED FOR A HIGH-COST SPECIAL EDUCATION TRUST FUND GRANT;

(II) THE NUMBER OF HIGH-COST SPECIAL EDUCATION TRUST FUND GRANTS AWARDED DURING THE FISCAL YEAR;

(III) THE NAME OF THE ADMINISTRATIVE UNIT RECEIVING A HIGH-COST SPECIAL EDUCATION TRUST FUND GRANT AND THE AMOUNT OF MONEY AWARDED FOR EACH TRUST FUND GRANT; AND

(IV) THE BALANCE IN THE TRUST FUND, INCLUDING PRINCIPAL AND AVAILABLE INTEREST AND INCOME IN THE TRUST FUND.

(b) NOTWITHSTANDING THE PROVISIONS OF SECTION 24-1-136 (11)(a)(I) TO THE CONTRARY, THE REPORT REQUIRED PURSUANT TO THIS SUBSECTION (4) CONTINUES INDEFINITELY.

(5) (a) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2027.

(b) PRIOR TO SUCH REPEAL, THE STATE TREASURER SHALL:

(I) TRANSFER ANY UNEXPENDED AND UNENCUMBERED TRUST FUND INTEREST AND INCOME TO THE GENERAL FUND; AND

(II) TRANSFER ANY REMAINING MARIJUANA TAX CASH FUND MONEY TRANSFERRED TO THE TRUST FUND PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION TO THE MARIJUANA TAX CASH FUND, CREATED IN SECTION 39-28.8-501.

SECTION 2. In Colorado Revised Statutes, 22-20-114.5, **add** (6) as follows:

22-20-114.5. Special education fiscal advisory committee - special education high-cost grants - definitions - repeal. (6) (a) IN ADDITION TO AWARDING GRANTS PURSUANT TO SUBSECTION (3) OF THIS SECTION, THE COMMITTEE SHALL AWARD HIGH-COST SPECIAL EDUCATION TRUST FUND GRANTS AND REPORT ON THOSE GRANTS PURSUANT TO SECTION 22-20-114.7.

(b) THIS SUBSECTION (6) IS REPEALED, EFFECTIVE JULY 1, 2027.

SECTION 3. In Colorado Revised Statutes, 39-28.8-501, **amend** (2)(c); and **add** (4.5) as follows:

39-28.8-501. Marijuana tax cash fund - creation - distribution - legislative declaration - repeal. (2) (c) Subject to the limitations in subsection (5) of this section and in addition to the purposes for which the general assembly may appropriate ~~moneys~~ MONEY in the fund specified in ~~paragraphs (a) and (b) of this subsection (2)~~ SUBSECTIONS (2)(a) AND (2)(b) OF THIS SECTION, the general assembly may also direct the state treasurer to transfer ~~moneys~~ MONEY in the fund to the general fund as specified in subsection (4) of this section AND TO THE HIGH-COST SPECIAL EDUCATION TRUST FUND. The general assembly may direct the state treasurer to make such transfers only for a fiscal year following the fiscal year in which the ~~moneys~~ MONEY in the fund ~~were~~ WAS received by the state.

(4.5) (a) ON JULY 1, 2019, THE STATE TREASURER SHALL TRANSFER FROM THE FUND TO THE HIGH-COST SPECIAL EDUCATION TRUST FUND, CREATED IN SECTION 22-20-114.7, THE AMOUNT SPECIFIED IN SECTION 22-20-114.7 (2)(b)(I).

(b) THIS SUBSECTION (4.5) IS REPEALED, EFFECTIVE JULY 1, 2027.

SECTION 4. 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.

Leroy M. Garcia
PRESIDENT OF
THE SENATE

KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO