

**Proposed Initiative Measure 2003-2004 # \_\_\_\_\_, concerning amending Amendment 23**

**Text of Proposed Constitutional Amendment:**

Be it Enacted by the People of the State of Colorado:

Section 7 of article IX of the constitution of the state of Colorado is repealed as follows:

**Section 17. Education - Funding.** (1) Purpose. (A)(I) EXCEPT AS PROVIDED IN PARAGRAPH (B) OF THIS SUBSECTION (1), ~~IN~~ state fiscal year 2001-2002 through state fiscal year 2010-2011, the statewide base per pupil funding, as defined by the Public School Finance Act of 1994, article 54 of title 22, Colorado Revised Statutes on the effective date of this section, for public education from preschool through the twelfth grade ~~and total state funding for all categorical programs~~ shall grow annually at least by the rate of inflation plus an additional one percentage point.

(II) EXCEPT AS PROVIDED IN PARAGRAPH (B) OF THIS SUBSECTION (1), ~~IN~~ state fiscal year 2011-2012, and each fiscal year thereafter, the statewide base per pupil funding for public education from preschool through the twelfth grade ~~and total state funding for all categorical programs~~ shall grow annually at a rate set by the general assembly that is at least equal to the rate of inflation.

(B) IN ANY STATE FISCAL YEAR IN WHICH STATE FISCAL YEAR SPENDING, AS SHOWN IN THE MOST RECENT REVENUE ESTIMATE PREPARED IN ACCORDANCE WITH SECTION 24-75-201.3(2), COLORADO REVISED STATUTES, OR ANY SUCCESSOR STATUTE, IS NOT ANTICIPATED TO INCREASE BY THE MAXIMUM AMOUNT PERMITTED BY ARTICLE X, SECTION 20, SUBSECTION (7), PARAGRAPH (A) OF THE COLORADO CONSTITUTION, THE REQUIREMENT THAT THE STATEWIDE BASE PER PUPIL FUNDING FOR PUBLIC EDUCATION FROM PRESCHOOL THROUGH THE TWELFTH GRADE GROW AS REQUIRED BY SUBPARAGRAPHS (I) OR (II) OF PARAGRAPH (A) OF THIS SUBSECTION (1) SHALL BE SUSPENDED FOR THE CURRENT STATE FISCAL YEAR.

(2) Definitions. For purposes of this section: (a) ~~"Categorical programs" include transportation programs, English language proficiency programs, expelled and at-risk student programs, special education programs (including gifted and talented programs), suspended student programs, vocational education programs, small attendance centers, comprehensive health education programs, and other current and future accountable programs specifically identified in statute as a categorical program.~~

~~(b)~~ "Inflation" has the same meaning as defined in article X, section 20, subsection (2), paragraph (f) of the Colorado constitution.

(3) Implementation. In state fiscal year 2001-2002 and each fiscal year thereafter, the general assembly may annually appropriate, and school districts may annually expend, monies from the state education fund created in subsection (4) of this section. EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OR PARAGRAPH (A) OF SUBSECTION (4) OF THIS SECTION, ~~Such~~ appropriations and expenditures shall not be subject to the statutory limitation on general fund appropriations growth, the limitation on fiscal year spending set forth in article X, section 20 of the Colorado constitution, or any other spending limitation existing in law.

**(4) State Education Fund Created. (a)(I) There is hereby created in the department of the treasury the state education fund. Beginning on the effective date of this measure, all state 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, shall be deposited in the state education fund. EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (A), Revenues generated 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, shall not be subject to the limitation on fiscal year spending set forth in article X, section 20 of the Colorado constitution. All interest earned on monies in the state education fund shall be deposited in the state education fund and shall be used before any principal is depleted. Monies remaining in the state education fund at the end of any fiscal year shall remain in the fund and not revert to the general fund.**

**(II) IN ANY STATE FISCAL YEAR IN WHICH STATE FISCAL YEAR SPENDING DOES NOT INCREASE BY THE MAXIMUM AMOUNT PERMITTED BY ARTICLE X, SECTION 20, SUBSECTION (7), PARAGRAPH (A) OF THE COLORADO CONSTITUTION, REVENUES DEPOSITED INTO THE STATE EDUCATION FUND PURSUANT TO THIS SUBSECTION (4) SHALL BE SUBJECT TO THE LIMITATION ON FISCAL YEAR SPENDING SET FORTH IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION UP TO SUCH LIMITATION. IN NO EVENT SHALL THE REVENUES DEPOSITED IN THE STATE EDUCATION FUND CAUSE STATE FISCAL YEAR SPENDING TO EXCEED THE LIMITS DETERMINED BY ARTICLE X, SECTION 20, SUBSECTION (7), PARAGRAPH (A) OF THE COLORADO CONSTITUTION.**

**(b) In state fiscal year 2001-2002, and each fiscal year thereafter, the general assembly may annually appropriate monies from the state education fund. EXCEPT AS PROVIDED IN PARAGRAPH (C) OF THIS SUBSECTION (4), Monies in the state education fund may only be used to comply with subsection (1) of this section and for accountable education reform, for accountable programs to meet state academic standards, for class size reduction, for expanding technology education, for improving student safety, for expanding the availability of preschool and kindergarten programs, for performance incentives for teachers, for accountability reporting, or for public school building capital construction.**

**(c)(I) IN ANY STATE FISCAL YEAR IN WHICH STATE FISCAL YEAR SPENDING, AS SHOWN IN THE MOST RECENT REVENUE ESTIMATE PREPARED IN ACCORDANCE WITH SECTION 24-75-201.3(2), COLORADO REVISED STATUTES, OR ANY SUCCESSOR STATUTE, IS NOT ANTICIPATED TO INCREASE BY THE MAXIMUM AMOUNT PERMITTED BY ARTICLE X, SECTION 20, SUBSECTION (7), PARAGRAPH (A) OF THE COLORADO CONSTITUTION, THE GENERAL ASSEMBLY MAY, BY A VOTE OF TWO-THIRDS OF THE MEMBERS OF BOTH HOUSES, TRANSFER MONIES FROM THE STATE EDUCATION FUND TO THE GENERAL FUND. MONIES TRANSFERRED FROM THE STATE EDUCATION FUND TO THE GENERAL FUND, PURSUANT TO THIS PARAGRAPH (B), SHALL BE SUBJECT TO THE LIMITATION ON FISCAL YEAR SPENDING SET FORTH IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION. IN NO EVENT SHALL THE TRANSFER OF MONIES FROM THE STATE EDUCATION FUND CAUSE STATE FISCAL YEAR SPENDING TO EXCEED THE LIMITS DETERMINED BY ARTICLE X, SECTION 20, SUBSECTION (7), PARAGRAPH (A) OF THE COLORADO CONSTITUTION.**

**(II) UPON DECLARING A DISASTER EMERGENCY IN THE MANNER PROVIDED BY LAW, THE GOVERNOR MAY EXPEND MONIES IN THE STATE EDUCATION FUND IN AN AMOUNT NOT TO EXCEED THREE PERCENT OF STATE FISCAL YEAR SPENDING FOR THE CURRENT STATE FISCAL**

YEAR. ANY MONIES EXPENDED PURSUANT TO THIS PARAGRAPH (B) IN ANY FISCAL YEAR SHALL BE REPAYED TO THE STATE EDUCATION FUND WITHIN TWO FISCAL YEARS.

~~(5) Maintenance of Effort. Monies appropriated from the state education fund shall not be used to supplant the level of general fund appropriations existing on the effective date of this section for total program education funding under the Public School Finance Act of 1994, article 54 of title 22, Colorado Revised Statutes, and for categorical programs as defined in subsection (2) of this section. In state fiscal year 2001-2002 through state fiscal year 2010-2011, the general assembly shall, at a minimum, annually increase the general fund appropriation for total program under the "Public School Finance Act of 1994," or any successor act, by an amount not below five percent of the prior year general fund appropriation for total program under the "Public School Finance Act of 1994," or any successor act. This general fund growth requirement shall not apply in any fiscal year in which Colorado personal income grows less than four and one half percent between the two previous calendar years.~~

