

SB256_L.002

SENATE COMMITTEE OF REFERENCE REPORT

 Chairman of Committee

 Date
Committee on Education.

After consideration on the merits, the Committee recommends the following:

SB09-256 be amended as follows:

1 Amend printed bill, page 16, after line 19, insert the following:

2 "SECTION 10. Article 54 of title 22, Colorado Revised Statutes,
3 is amended BY THE ADDITION OF A NEW SECTION to read:

4 **22-54-110.5. Replenishment of certificates of participation**
5 **reserve funds. (1) AS USED IN THIS SECTION:**

6 (a) "CERTIFICATES OF PARTICIPATION RESERVE FUND" MEANS A
7 RESERVE FUND OR ACCOUNT THAT HAS BEEN ESTABLISHED TO SECURE THE
8 PAYMENT OF PRINCIPAL AND INTEREST ON QUALIFYING CERTIFICATES OF
9 PARTICIPATION AND THAT HAS BEEN FUNDED WITH PROCEEDS DERIVED
10 FROM THE ISSUANCE OF QUALIFYING CERTIFICATES OF PARTICIPATION,
11 OTHER LEGALLY AVAILABLE MONEYS, OR SECURITIES OR A SURETY BOND
12 OR INSURANCE POLICY PURCHASED WITH SUCH PROCEEDS OR MONEYS.

13 (b) "LEASE-PURCHASE AGREEMENT" MEANS AN AGREEMENT
14 PURSUANT TO WHICH A DISTRICT LEASES PROPERTY FROM A CORPORATION,
15 OTHER LEGAL ENTITY, OR TRUSTEE AND IN CONNECTION WITH WHICH
16 CERTIFICATES OF PARTICIPATION EVIDENCING INTERESTS IN THE RIGHT TO
17 RECEIVE PAYMENTS BY THE DISTRICT UNDER THE AGREEMENT ARE ISSUED.

18 (c) "QUALIFYING CERTIFICATES OF PARTICIPATION" MEANS
19 CERTIFICATES OF PARTICIPATION EVIDENCING INTERESTS IN THE RIGHT TO
20 RECEIVE PAYMENTS BY A DISTRICT UNDER A LEASE-PURCHASE
21 AGREEMENT THAT, AT THE TIME THEY ARE ISSUED, CARRY AT LEAST TWO
22 CREDIT RATINGS FROM ANY OF THE NATIONALLY RECOGNIZED CREDIT
23 RATING AGENCIES AND ARE RATED AT OR ABOVE "A" BY ALL SUCH CREDIT



1 RATING AGENCIES THAT HAVE PROVIDED A RATING.

2 (d) "RESERVE FUND REQUIREMENT" MEANS THE LEVEL OF FUNDING
3 REQUIRED FOR A CERTIFICATES OF PARTICIPATION RESERVE FUND AS
4 SPECIFIED IN THE TRUST INDENTURE OR OTHER AGREEMENT PURSUANT TO
5 WHICH QUALIFYING CERTIFICATES OF PARTICIPATION HAVE BEEN ISSUED.

6 (2) (a) A DISTRICT THAT HAS ENTERED INTO OR THAT INTENDS TO
7 ENTER INTO A LEASE-PURCHASE AGREEMENT IN CONNECTION WITH WHICH
8 QUALIFYING CERTIFICATES OF PARTICIPATION HAVE BEEN ISSUED OR WILL
9 BE ISSUED BEFORE JULY 1, 2012, MAY APPLY TO THE STATE TREASURER
10 FOR PERMISSION TO INCLUDE IN ANY LEASE-PURCHASE AGREEMENT
11 EXECUTED IN CONNECTION WITH THE ISSUANCE OF, OR IN ANY TRUST
12 INDENTURE OR OTHER AGREEMENT AUTHORIZING THE ISSUANCE OF,
13 QUALIFYING CERTIFICATES OF PARTICIPATION AN AGREEMENT SPECIFYING
14 THAT IF THE BALANCE OF THE CERTIFICATES OF PARTICIPATION RESERVE
15 FUND FALLS BELOW THE RESERVE FUND REQUIREMENT:

16 (I) THE DISTRICT SHALL MAKE AND DELIVER TO THE STATE
17 TREASURER A CERTIFICATE STATING THE SUM, IF ANY, REQUIRED TO
18 RESTORE THE CERTIFICATES OF PARTICIPATION RESERVE FUND TO THE
19 RESERVE FUND REQUIREMENT;

20 (II) THE STATE TREASURER SHALL SUBMIT A REQUEST FOR
21 APPROPRIATIONS IN AN AMOUNT SUFFICIENT TO RESTORE THE
22 CERTIFICATES OF PARTICIPATION RESERVE FUND TO THE RESERVE FUND
23 REQUIREMENT;

24 (III) THE GENERAL ASSEMBLY MAY, BUT SHALL NOT BE REQUIRED
25 TO, APPROPRIATE MONEYS FOR THE PURPOSE OF RESTORING THE
26 CERTIFICATES OF PARTICIPATION RESERVE FUND TO THE RESERVE FUND
27 REQUIREMENT; AND

28 (IV) IF THE GENERAL ASSEMBLY APPROPRIATES MONEYS FOR THE
29 PURPOSE OF RESTORING THE CERTIFICATES OF PARTICIPATION RESERVE
30 FUND TO THE RESERVE FUND REQUIREMENT BUT THE DISTRICT
31 NONETHELESS TERMINATES THE RELATED LEASE-PURCHASE AGREEMENT
32 OR FAILS TO MAKE LEASE PAYMENTS UNDER THE RELATED
33 LEASE-PURCHASE AGREEMENT IN AN AMOUNT SUFFICIENT TO MAKE
34 SCHEDULED PAYMENTS OF PRINCIPAL AND INTEREST TO HOLDERS OF
35 QUALIFYING CERTIFICATES OF PARTICIPATION, THE STATE SHALL HAVE A
36 FIRST RIGHT OF REFUSAL TO PURCHASE THE PROPERTY UNDERLYING THE
37 QUALIFYING CERTIFICATES OF PARTICIPATION FOR AN AMOUNT EQUAL TO

1 THE REMAINING AMOUNT OF PRINCIPAL PAYABLE TO HOLDERS OF THE
2 QUALIFYING CERTIFICATES OF PARTICIPATION UNTIL THE STATE HAS BEEN
3 REIMBURSED FOR THE AMOUNT THAT HAS BEEN DEPOSITED IN THE
4 CERTIFICATES OF PARTICIPATION RESERVE FUND FROM MONEYS
5 APPROPRIATED BY THE GENERAL ASSEMBLY.

6 (b) IF, IN THE STATE TREASURER'S SOLE DISCRETION, THE STATE
7 TREASURER DETERMINES THAT THE INCLUSION IN ANY LEASE-PURCHASE
8 AGREEMENT EXECUTED IN CONNECTION WITH QUALIFYING CERTIFICATES
9 OF PARTICIPATION OR ANY TRUST INDENTURE OR OTHER AGREEMENT
10 AUTHORIZING THE REFINANCING OF EXISTING QUALIFYING CERTIFICATES
11 OF PARTICIPATION OR THE ISSUANCE OF NEW QUALIFYING CERTIFICATES OF
12 PARTICIPATION OF THE AGREEMENT DESCRIBED IN PARAGRAPH (a) OF THIS
13 SUBSECTION (2) WILL SIGNIFICANTLY REDUCE THE RATE OF INTEREST
14 REQUIRED TO BE PAID TO THE HOLDERS OF THE QUALIFYING CERTIFICATES
15 OF PARTICIPATION AND IS IN THE BEST INTEREST OF THE STATE, THE STATE
16 TREASURER MAY GRANT PERMISSION TO THE ISSUER TO INCLUDE THE
17 AGREEMENT IN THE LEASE-PURCHASE AGREEMENT, TRUST INDENTURE, OR
18 OTHER AGREEMENT.

19 (3) THIS SECTION SHALL NOT BE CONSTRUED TO CREATE ANY DEBT,
20 MULTIPLE-FISCAL YEAR OBLIGATION, OR OTHER LIABILITY OF THE STATE."

21 Renumber succeeding sections accordingly.

22 Page 40, after line 11, insert the following:

23 "SECTION 23. 22-44-105 (1) (c.5), Colorado Revised Statutes,
24 is amended to read:

25 **22-44-105. Budget - contents - mandatory.** (1) The budget
26 shall be presented in the standard budget report format established by the
27 state board of education by rule pursuant to subsection (5) of this section.
28 The standard budget report format established by the state board shall be
29 substantially consistent from year to year and shall adhere to the
30 following guidelines:

31 (c.5) The budget shall ensure that the school district holds
32 unrestricted general fund or cash fund emergency reserves in the amount
33 required under the provisions of section 20 (5) of article X of the state
34 constitution; EXCEPT THAT, IF, PURSUANT TO SECTION 22-44-106, A BOARD
35 OF EDUCATION PROVIDES FOR AN OPERATING RESERVE IN THE GENERAL
36 FUND FOR THE BUDGET YEAR OF AT LEAST THREE PERCENT OF THE



1 AMOUNT BUDGETED TO THE GENERAL FUND, THE BOARD MAY DESIGNATE
2 REAL PROPERTY OWNED BY THE DISTRICT AS ALL OR A PORTION OF THE
3 RESERVE REQUIRED BY SECTION 20 (5) OF ARTICLE X OF THE STATE
4 CONSTITUTION SO LONG AS THE BOARD HAS FILED WITH THE STATE
5 TREASURER A LETTER OF INTENT THAT EXPRESSES THE INTENT OF THE
6 BOARD TO INCREASE THE LIQUIDITY OF SUCH PROPERTY UPON THE
7 OCCURRENCE OF A DECLARED EMERGENCY WITHIN THE MEANING OF
8 SECTION 20 (5) OF ARTICLE X OF THE STATE CONSTITUTION BY ENTERING
9 INTO ONE OR MORE LEASE-PURCHASE AGREEMENTS WITH RESPECT TO
10 SUCH PROPERTY OR BY OTHER MEANS ACCEPTABLE TO THE STATE
11 TREASURER.

12 **SECTION 24.** 22-45-103 (3), Colorado Revised Statutes, is
13 amended to read:

14 **22-45-103. Funds.** (3) Each school district shall ensure that the
15 district holds unrestricted general fund or cash fund emergency reserves
16 in the amount required under the provisions of section 20 (5) of article X
17 of the state constitution; EXCEPT THAT A DISTRICT MAY DESIGNATE
18 PROPERTY OWNED BY THE DISTRICT AS ALL OR A PORTION OF THE
19 REQUIRED RESERVE IN ACCORDANCE WITH SECTION 22-44-105 (1)(c.5).".

20 Renumber succeeding sections accordingly.

21 Page 40, after line 26, insert the following:

22 **"SECTION 26.** 24-75-601.1 (1), Colorado Revised Statutes, is
23 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24 **24-75-601.1. Legal investments of public funds.** (1) It is lawful
25 to invest public funds in any of the following securities:

26 (h.5) ANY CERTIFICATE OF PARTICIPATION OR OTHER SECURITY
27 EVIDENCING RIGHTS IN PAYMENTS TO BE MADE BY A SCHOOL DISTRICT
28 UNDER A LEASE, LEASE-PURCHASE AGREEMENT, OR SIMILAR
29 ARRANGEMENT IF THE SECURITY, AT THE TIME OF PURCHASE, CARRIES AT
30 LEAST TWO CREDIT RATINGS FROM ANY OF THE NATIONALLY RECOGNIZED
31 CREDIT RATING AGENCIES AND IS RATED AT OR ABOVE "A" BY ALL SUCH
32 CREDIT AGENCIES THAT HAVE PROVIDED A RATING."

33 Renumber succeeding section accordingly.

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