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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

December 6, 2021

Anabel Renteria
Initiative Coordinator
Office of the Attorney General
State of California
PO Box 994255
Sacramento, CA 94244-25550

Re: Initiative 21-0036 - Amendment Number One


Dear Initiative Coordinator:

Pursuant to subdivision (b) of Section 9002 of the Elections Code, enclosed please find Amendment #1 to Initiative No. 21-0036, The Arts and Music in Schools - Funding Guarantee Accountability Act. The amendments are reasonably germane to the theme, purpose or subject of the initiative measure as originally proposed.

I am the proponent of the measure and request that the Attorney General prepare a circulating title and summary of the measure as provided by law, using the amended language.

Thank you for your time and attention processing my request.

Sincerely,



Austin Beutner

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

Section 1. Findings and Declarations

A. Studies on educational achievement prove that arts and music education improve student learning. Music education has been shown to improve cognitive development and spatial reasoning, while the dramatic arts improve reading comprehension. Arts and music education has also been shown to improve school attendance and individual student self-confidence and motivation to learn, particularly among poor and other at-risk students. An arts education also provides a viable pathway to a job in California's creative economy, while developing and expanding culture.

B. Despite the clear value of arts and music education, an independent study of arts education in California found:

(1) 90% of elementary schools fail to provide a high-quality course of study across arts disciplines;

(2) 96% of middle schools fail to provide a high-quality course of study across arts disciplines; and

(3) 72% of high schools fail to provide a high-quality course of study across arts disciplines.

C. The same study found that music education, in particular, has seen a dramatic decline in student enrollment and offered curriculum. Not surprisingly, student access to arts education is worse for high-poverty schools.

D. The cause of the steady decline in arts and music education is directly linked to inadequate and unstable funding of such programs. As one school principal simply and honestly stated: "In tough times, when you cut back to essentials, the first thing to go are the arts programs." In fact, over 70% of all school principals said that inadequate and unstable funding was a significant barrier to providing arts education to their students.

E. The solution to this problem is clear. We need to provide California public schools with a dedicated annual source of additional funding for arts and music education. This Act ensures every student in California's K-12 public schools has access to a high-quality arts education by:

(1) Increasing and stabilizing funding for arts and music education so that schools can develop and maintain a high-quality course of study in arts and music – year after year;

(2) Holding public officials accountable for using such funds for arts and music education by:

(i) Requiring that these funds be primarily spent on certificated arts teachers, classified personnel, and teaching aides;

(ii) Requiring schools to publish annual reports identifying the specific arts programs provided and the number of students participating in the programs funded;

(iii) Ensuring that every public school will receive increased funding for arts and music education, and by providing even more funding for schools that serve children in low-income communities who lack access to arts and music education;

(iv) Protecting existing Proposition 98 funding of public schools by requiring the Legislature to use money from the state's General Fund to supplement Proposition 98; and

(3) Doing all of this without raising taxes.

G. This measure will provide funds to increase by more than 50% the number of arts and music educators in classrooms.

H. Therefore, the people declare that arts education is an educational priority worthy of the State's commitment to a minimum funding guarantee of an additional 1% of the amount funded for public education, and hereby enact "The Arts and Music in Schools - Funding Guarantee and Accountability Act."

Section 2. The Arts and Music in Schools - Funding Guarantee and Accountability Act.

Chapter 5.1 (commencing with Section 8820) of Part 6 of Division 1 of the Education Code is added to read:

Chapter 5.1

The Arts and Music in Schools – Funding Guarantee and Accountability Act

Sec. 8820(a) The Arts and Music in Schools - Funding Guarantee and Accountability Act is hereby established for the purpose of providing a minimum source of annual funding to K-12 public schools, including public charter schools, to supplement arts education programs for pupils attending such schools.

(b) Commencing with the first fiscal year following enactment of this Act, and for each fiscal year thereafter, there shall be continuously appropriated without regard to fiscal years from the General Fund to the State Department of Education for the purposes of this chapter, an amount which is equal to one percent (1%) of the total state and local revenues received by local education agencies in the preceding fiscal year that are included in the calculation of the minimum funding guarantee established by Sections 8 and 8.5 of Article XVI of the Constitution, excluding the appropriation made pursuant to this Act.

(1) The Director of Finance shall calculate and publish an estimate of the amount necessary to fund the amount required to be appropriated by this chapter as part of the annual May Revision to the Governor's Budget, and shall finalize the calculation and publish the required appropriation amount by January 10 each fiscal year as part of the Director's duties pursuant to subdivision (d) of section 41206.01.

(2) Notwithstanding any other law, for purposes of making the computations required by subdivision (b) of Section 8 of Article XVI of the Constitution:

(A) For the first fiscal year following enactment of this Act, the appropriations made in this subdivision shall be deemed supplementary payments in excess of the minimum amount required for that fiscal year pursuant to Section 8 of Article XVI of the California Constitution and shall not be considered towards fulfilling the requirements of Section 8 of Article XVI of the California Constitution for that fiscal year.

(B) For subsequent fiscal years, the appropriations made pursuant this subdivision shall be considered moneys that were allocated to school districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B of the California Constitution.

(C) Commencing with the second fiscal year following the enactment of this act, and each fiscal year thereafter, "the percentage of General Fund revenues appropriated for school districts and community college districts, respectively, in fiscal year 1986-87," for purposes of paragraph (1) of subdivision (b) of Section 8 of Article XVI of the California Constitution, shall be deemed to be the percentage of General Fund revenues that would have been appropriated for those entities if the share of the General Fund of the supplementary payments calculated pursuant to this subdivision in the prior fiscal year had been included in the percentage of General Fund revenues appropriated for school districts and community college districts, respectively, in fiscal year 1986-87.

(c) Funds appropriated pursuant to this chapter shall be allocated by the Department to each local education agency as the sum of the amount calculated pursuant to paragraph (1) and the amount calculated pursuant to paragraph (2) for each school site in that local education agency, as follows:

(1) an amount equal to the product of 70 percent of the funding appropriated in subdivision (b) times the school's enrollment in the prior fiscal year, divided by the total statewide enrollment in the prior fiscal year of local education agencies, and

(2) an amount equal to the product of 30 percent of the funds appropriated in subdivision (b) times the school's enrollment of economically disadvantaged pupils in the prior fiscal year, divided by the total statewide enrollment of economically disadvantaged students in the prior fiscal year of local education agencies. For schools serving preschool pupils, the school's enrollment of economically disadvantaged pupils shall be deemed to equal the preschool's enrollment times the same percentage of pupils that are economically disadvantaged at the closest elementary school site within the preschool's local education agency, if applicable.

(d) Local education agencies shall allocate to each school site an amount equal to the sum of the amount calculated pursuant to paragraph (1) of subdivision (c) and the amount calculated pursuant to paragraph (2) of subdivision (c).

(e) For each school site or preschool, the principal or program director shall develop an expenditure plan for the funds allocated pursuant to subdivision (d).

(f) Funds allocated pursuant to subdivision (d) shall be available for use for up to three fiscal years after which time the funds shall be reverted to the Department, which shall reallocate those funds to all local education agencies in the following fiscal year pursuant to subdivision (c).

(g) As a condition of receipt of funds pursuant to this chapter, a local education agency shall annually:

(1) certify that all funds are used to provide arts education, and that funds expended in the prior fiscal year were, in fact, used for those purposes, except as provided in paragraph (3). For local education agencies with an enrollment of five hundred (500) or more pupils, the certification shall also ensure that at least 80% of funds to be expended will be used to employ certificated or classified employees to provide arts education instruction and that the remaining funds will be used for training, supplies and materials, and arts educational partnership programs;

(2) certify that such funds received will be used to supplement funding for arts education programs and that funds received in the prior fiscal year were, in fact, used to supplement arts education programs;

(3) certify that no more than 1% of funds received will be used for local education agency's administrative expenses to implement this chapter and that funds received in the prior fiscal year were, in fact, used within that limit; and

(4) submit an annual board-approved report in a manner determined by the State Superintendent of Public Instruction, which shall be posted on the school district's and Department of Education's websites, that details the type of arts education programs funded by the program, the number of full-time equivalent teachers, classified personnel, and teaching aides, the number of pupils served, and the number of school sites providing arts education programs with such funds.

(5) The Department of Education may, for good cause shown, provide a waiver from the requirement of paragraph (1) upon written request from the principal of a school site.

(6) Annual audits conducted in accordance with Section 41020 shall include all funds received and distributed by the local education agency pursuant to this section, and shall include a determination of whether the funds were expended pursuant to the certifications submitted and the requirements of this section.

(h) The Legislature may reduce the annual appropriation required by this chapter if the Legislature suspends the operation of Proposition 98 by the enactment of an urgency statute pursuant to subdivision (h) of Section 8 of Article XVI of the Constitution. The percent of the reduction in the annual appropriation required by this chapter shall not exceed the percent of reduction in funding provided to K-12 schools and community colleges for the fiscal year below the funding level of minimum guarantee that would have been provided pursuant to Section 8 of Article XVI of the Constitution if the suspension of the operation of Proposition 98 had not occurred.

(i) Nothing in this section prohibits the Legislature from appropriating funds for the program in excess of this minimum annual appropriation.

Sec. 8821. For purposes of this chapter:

(a) "Arts education program" includes, but is not limited to, instruction and training, supplies, materials and arts educational partnership programs, for instruction in: dance, media arts, music, theatre, and visual arts, including folk art, painting, sculpture, photography, and craft arts, creative expression including graphic arts and design, computer coding, animation, music composition and ensembles, and script writing, costume design, film, and video.

(b) "Economically disadvantaged pupil" means a pupil who is eligible for the National School Lunch Program (42 U.S.C. Ch. 13 (commencing with Section 1751)) or any successor program.

(c) "Enrollment" means every preschool, transitional kindergarten, and K-12 pupil enrolled in a local education agency and school site. A preschool pupil means a pupil enrolled in the California state preschool program or a preschool for students with exceptional needs in a local education agency.

(d) "Local Education Agencies" includes K-12 school districts, county offices of education, charter schools, and the California school for the blind and the California school for the deaf.

(e) "Supplement" means that the funds appropriated by this chapter shall be used by school districts to increase funding of arts education programs and not to supplant existing funding for such programs.

Sec. 8822. (a) If any provision of this Act or application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications or the Act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

(b) This act is intended to be comprehensive. It is the intent of the people that in the event this act or acts relating to the same subject shall appear on the same statewide election ballot, the provisions of the other act or acts shall be deemed to be in conflict with this Act. In the event that this Act receives a greater number of affirmative votes, the provisions of this Act shall prevail in their entirety, and all provisions of the other act or acts shall be null and void.

(c) Except as provided in subdivision (h) of Section 8820, the Legislature may amend this chapter to further its purposes by a bill passed in each house by rollcall vote entered into the journal, two-thirds of the membership of each house concurring.