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AN ACT relating to education; revising certain sources of revenue for the State Education Fund; authorizing a temporary advance from the Education Stabilization Account or the State General Fund to the State Education Fund under certain circumstances; revising provisions relating to inflation for determining the statewide base per pupil funding amount; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the State Education Fund as a special revenue fund for the purpose of supporting the operation of the public schools in this State and identifies the sources of revenue for the Fund. (NRS 387.1212) Existing law requires the Superintendent of Public Instruction, on or before the first day of every month, to apportion the State Education Fund among the several county school districts, charter schools and university schools for profoundly gifted pupils in amounts approximating one-twelfth of their respective yearly apportionments. (NRS 387.124) Existing law requires the State Treasurer, on or before the first day of every month, to pay all money due each school district, charter school and university school for profoundly gifted pupils according to the monthly apportionment made by the Superintendent. (NRS 387.185) Existing law also: (1) creates the Education Stabilization Account as a reserve account within the State Education Fund; (2) authorizes the transfer of money between the Account and the Fund for certain purposes, including if the collection of revenue in any fiscal year will result in the Fund receiving 97 percent or less of the money authorized for expenditure from the Fund; and (3) provides that the balance in the Account must not exceed 15 percent of the total of all appropriations and authorizations from the Fund, excluding the Account, for the immediately preceding fiscal year. (NRS 387.1213) **Section 5** of this bill authorizes the Superintendent to request, and the Interim Finance Committee to approve, a temporary advance from the Education Stabilization Account to the State Education Fund for the payment of all or part of the money due each month to each school district, charter school and university school for profoundly gifted pupils if the Superintendent determines the amount due exceeds the amount of money which is available in the Fund because of a delay in expected receipts. **Section 3** of this bill similarly authorizes the Superintendent to request, and the Interim Finance Committee to approve, a temporary advance from the State General Fund to the State Education Fund for the same purposes as described in **section 5**, if an advance requested pursuant to **section 5** will not provide adequate funding to address the shortfall. **Sections 3 and 5** require any such money which is temporarily advanced to be paid back by August 31 following the end of the fiscal year in which the temporary advance is made. **Section 5** also: (1) removes the 97 percent threshold for transferring money between the Education Stabilization Account and the State Education Fund, thus authorizing transfers for any decrease in revenue in the Fund; and (2) increases the authorized balance in the Account from 15 percent to 20 percent of the total of all appropriations and authorizations from the Fund, excluding the Account, for the immediately preceding fiscal year. **Sections 1 and 4** of this bill include the proceeds of certain additional sources of revenue in the State Education Fund. **Sections 2 and 6** of this bill change the rate of inflation for purposes of determining the statewide base per pupil funding amount to be the average percentage of increase or decrease in the



Consumer Price Index during the immediately preceding 3 calendar years, instead of during the immediately preceding calendar year. (NRS 387.1214, 387.12455)

Sections 2.3 and 2.5 of Senate Bill No. 124 of this session made certain changes relating to the Education Stabilization Account and to certain money appropriated from the State Education Fund. Senate Bill No. 124 of this session became law on February 27, 2023, and sections 2.3 and 2.5 of Senate Bill No. 124 of this session apply retroactively from and after June 30, 2020. (Section 6 of Senate Bill No. 124) For technical reasons and to show the changes made by Senate Bill No. 124 of this session which are currently existing law, **sections 5 and 6** of this bill further amend NRS 387.1213 and NRS 387.1214, respectively, by amending sections 2.3 and 2.5 of Senate Bill No. 124 of this session.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 387.1212 is hereby amended to read as follows:

387.1212 1. The State Education Fund is hereby created as a special revenue fund to be administered by the Superintendent of Public Instruction for the purpose of supporting the operation of the public schools in this State. The interest and income earned on the money in the Fund, excluding the direct legislative appropriation from the State General Fund required by subsection 3, must, after deducting any applicable charges, be credited to the Fund.

2. Money which must be deposited for credit to the State Education Fund includes, without limitation:

(a) All money derived from interest on the State Permanent School Fund, as provided in NRS 387.030;

(b) The proceeds of the tax imposed pursuant to NRS 244.33561 and any applicable penalty or interest, less any amount retained by the county treasurer for the actual cost of collecting and administering the tax;

(c) The proceeds of the tax imposed pursuant to subsection 1 of NRS 387.195;

(d) The money identified in subsection 8 of NRS 120A.610;

(e) The portion of the money in each special account created pursuant to subsection 1 of NRS 179.1187 which is identified in paragraph (d) of subsection 2 of NRS 179.1187;

(f) The money identified in paragraph (d) of subsection 6 of NRS 278C.250;

(g) The money identified in subsection 1 of NRS 328.450;

(h) The money identified in subsection 1 of NRS 328.460;



(i) The money identified in paragraph (a) of subsection 2 of NRS 360.850;

(j) The money identified in paragraph (a) of subsection 2 of NRS 360.855;

(k) The money required to be transferred to the State Education Fund pursuant to NRS 362.100;

(l) The money required to be deposited to the credit of the State Education Fund pursuant to subsection 4 of NRS 362.170;

(m) The portion of the proceeds of the tax imposed pursuant to subsection 1 of NRS 372A.290 identified in paragraph (b) of subsection 4 of NRS 372A.290;

(n) The proceeds of the tax imposed pursuant to subsection 3 of NRS 372A.290;

(o) The proceeds of the fees, taxes, interest and penalties imposed pursuant to chapter 374 of NRS, as transferred pursuant to subsection 3 of NRS 374.785;

(p) The money identified in subsection 5 of NRS 445B.640;

(q) The money identified in paragraph (b) of subsection 4 of NRS 678B.390;

(r) The portion of the proceeds of the excise tax imposed pursuant to subsection 1 of NRS 463.385 identified in paragraph (c) of subsection 5 of NRS 463.385;

(s) The money required to be distributed to the State Education Fund pursuant to subsection 3 of NRS 482.181;

(t) The portion of the proceeds of the fee imposed pursuant to NRS 488.075 identified in subsection 2 of NRS 488.075;

(u) The portion of the net profits of the grantee of a franchise, right or privilege identified in NRS 709.110;

(v) The portion of the net profits of the grantee of a franchise identified in NRS 709.230;

(w) The portion of the net profits of the grantee of a franchise identified in NRS 709.270;

(x) The money required to be distributed to the State Education Fund pursuant to NRS 363D.290; ~~and~~

(y) *The amount of any fines required to be remitted to the State Treasurer for deposit to the credit of the State Education Fund pursuant to subsection 1 of NRS 555.470;*

(z) *The amount of any claim, together with any dividend, interest or other increment required to be transferred to the State Education Fund pursuant to subsection 2 of NRS 120A.645;*

(aa) *The portion of the proceeds of the tax imposed pursuant to subsection 2 of NRS 372A.290 identified in paragraph (b) of subsection 5 of NRS 372A.290; and*



(bb) The direct legislative appropriation from the State General Fund required by subsection 3.

3. In addition to money from any other source provided by law, support for the State Education Fund must be provided by direct legislative appropriation from the State General Fund in an amount determined by the Legislature to be sufficient to fund the operation of the public schools in this State for kindergarten through grade 12 for the next ensuing biennium for the population reasonably estimated for that biennium. Money in the State Education Fund does not revert to the State General Fund at the end of a fiscal year, and the balance in the State Education Fund must be carried forward to the next fiscal year.

4. Money in the Fund must be paid out on claims as other claims against the State are paid.

Sec. 2. NRS 387.12455 is hereby amended to read as follows:

387.12455 1. Except as otherwise provided in subsection 5, for the purpose of establishing budgetary estimates for expenditures and revenues for the State Education Fund as prescribed by the State Budget Act, the Governor shall, to the extent practicable, ensure that an amount of money in the State General Fund is reserved in the proposed executive budget for transfer to the State Education Fund which is sufficient to fully fund:

(a) If the Economic Forum projects that the revenue collected by the State for general, unrestricted uses will increase by a rate that is greater than the combined rate of inflation and the growth of enrollment in the public schools in this State in the immediately preceding biennium, an amount of money in the State General Fund for transfer to the State Education Fund for the subsequent biennium which is not less than the amount of money transferred to the State Education Fund from the State General Fund for the immediately preceding biennium increased by an amount not less than the rate of increase for the revenue collected by the State as projected by the Economic Forum.

(b) If the Economic Forum projects that the revenue collected by the State for general, unrestricted uses will increase by a rate that is not greater than the combined rate of inflation and the growth of enrollment in the public schools in this State in the immediately preceding biennium, an amount of money in the State General Fund for transfer to the State Education Fund for the subsequent biennium which is not less than the amount of money transferred to the State Education Fund from the State General Fund for the immediately preceding biennium increased by an amount not less than the



combined rate of inflation and the growth of enrollment in the public schools in this State.

(c) If the Economic Forum projects that the revenue collected by the State for general, unrestricted uses will decrease, an amount of money in the State General Fund for transfer to the State Education Fund for the subsequent biennium which is not less than the amount of money transferred to the State Education Fund from the State General Fund for the immediately preceding biennium decreased by an amount not greater than the rate of decrease for the revenue collected by the State as projected by the Economic Forum.

2. Except as otherwise provided in subsection 5, as part of the proposed executive budget, the Governor shall, to the extent practicable, include recommendations for:

(a) The statewide base per pupil funding amount, which must be equal to the statewide base per pupil funding amount for the immediately preceding biennium increased by an amount not less than the combined rate of inflation and the growth of enrollment in the public schools in this State unless the amount of money contained in the State Education Fund, excluding the Education Stabilization Account, decreases from the immediately preceding biennium, in which event the Governor must recommend a proportional reduction to both the statewide base per pupil funding amount and the multiplier for each category of pupils pursuant to paragraph (b); and

(b) The multiplier for each category of pupils, which must not be less than the multiplier for the immediately preceding biennium unless:

(1) The amount of money contained in the State Education Fund, excluding the Education Stabilization Account, decreases from the immediately preceding biennium, in which event the Governor must recommend a proportional reduction to both the statewide base per pupil funding amount pursuant to paragraph (a) and the multiplier for each category of pupils; or

(2) The amount of money contained in the State Education Fund, excluding the Education Stabilization Account, increases from the preceding fiscal year but in an amount which, after recommending the statewide base per pupil funding amount pursuant to paragraph (a), is insufficient to fund the multiplier for each category of pupils, in which event the Governor must recommend the remaining money in the State Education Fund, excluding the Education Stabilization Account, be used to provide a multiplier for each category of pupils which is as close as practicable to the multiplier for the preceding fiscal year.



3. When determining the amount of money to reserve for transfer from the State General Fund to the State Education Fund pursuant to subsection 1, the Governor shall consider the recommendations of the Commission, as revised by the Joint Interim Standing Committee on Education, if applicable, for an optimal level of funding for education and may reserve an additional amount of money for transfer to the State Education Fund that the Governor determines to be sufficient to fund any recommendation or any portion of a recommendation that the Governor includes in the proposed executive budget.

4. As part of the proposed executive budget, the Governor may recommend to the Legislature a revision to any appropriation made by law pursuant to NRS 387.1214, including, without limitation, the statewide base per pupil funding amount, the adjusted base per pupil funding for any school district, the multiplier for weighted funding for any category of pupils or the creation or elimination of a category of pupils to receive additional weighted funding. The Governor may recommend additional funding for any recommendation made pursuant to this subsection.

5. If the Governor determines that it would be impracticable to prepare the proposed executive budget as described in subsection 1 or 2, the Governor may instead include in the proposed executive budget a recommendation for such funding for the public schools in this State as he or she determines to be appropriate. If the Governor includes in the proposed executive budget recommendations pursuant to this subsection, the recommendations must be accompanied by such recommendations for legislation as the Governor determines to be appropriate to improve the method by which funding for the public schools in this State is determined.

6. As used in this section, “rate of inflation” means the *average* percentage of increase or decrease in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the United States Department of Labor for the immediately preceding **3** calendar ~~year~~ *years* or, if that index ceases to be published by the United States Department of Labor, the published index that most closely resembles that index, as determined by the Governor.

Sec. 3. Chapter 353 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the Superintendent of Public Instruction determines that the money due from the State Education Fund to a county school district, charter school or university school for profoundly gifted pupils pursuant to NRS 387.185 exceeds the amount of money available in the State Education Fund because of a delay in



expected receipts, and a temporary advance requested pursuant to NRS 387.1213 will not provide adequate funding to address the shortfall, he or she may request from the Director of the Office of Finance a temporary advance from the State General Fund for the payment of such money due.

2. Upon receipt of a request made pursuant to subsection 1, the Director of the Office of Finance shall make a recommendation to the Interim Finance Committee to approve the temporary advance in whole or in part or to deny the request. If the Interim Finance Committee approves the request in whole or in part, the Director of the Office of Finance shall notify the State Controller and the Fiscal Analysis Division of the Legislative Counsel Bureau of the amount approved by the Interim Finance Committee, and the State Controller shall draw his or her warrant upon receipt of such a notice of approval. Any money which is temporarily advanced from the State General Fund pursuant to this section must be repaid by August 31 following the end of the fiscal year in which the temporary advance is made.

Sec. 4. NRS 555.470 is hereby amended to read as follows:

555.470 1. The Director shall adopt regulations specifying a schedule of fines which may be imposed, upon notice and a hearing, for each violation of the provisions of NRS 555.2605 to 555.460, inclusive. The maximum fine that may be imposed by the Director for each violation must not exceed \$5,000 per day. All fines collected by the Director pursuant to this subsection must be remitted to the ~~[county treasurer of the county in which the violation occurred]~~ *State Treasurer* for *deposit to the* credit ~~[to the county school district fund.]~~ *of the State Education Fund.*

2. The Director may:

(a) In addition to imposing a fine pursuant to subsection 1, issue an order requiring a violator to take appropriate action to correct the violation; or

(b) Request the district attorney of the appropriate county to investigate or file a criminal complaint against any person that the State Board of Agriculture suspects may have violated any provision of NRS 555.2605 to 555.460, inclusive.

Sec. 5. Section 2.3 of Senate Bill No. 124 of this session is hereby amended to read as follows:

Sec. 2.3. NRS 387.1213 is hereby amended to read as follows:

387.1213 1. The Education Stabilization Account is hereby created in the State Education Fund. Except as otherwise provided in subsections 3, 4 and 5, each year after



the close of the previous fiscal year and before the issuance of the State Controller's annual report, each county school district shall transfer from the county school district fund to the Education Stabilization Account any amount by which the actual ending fund balance of the county school district fund exceeds 16.6 percent of the total actual expenditures for the fund. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account.

2. Money transferred pursuant to subsection 1 to the Education Stabilization Account is a continuing appropriation solely for the purpose of authorizing the expenditure of the transferred money for the purposes set forth in this section.

3. The balance in the Education Stabilization Account must not exceed ~~15~~ 20 percent of the total of all appropriations and authorizations from the State Education Fund, excluding the Education Stabilization Account, for the immediately preceding fiscal year. Any money transferred to the Education Stabilization Account which exceeds this amount must instead be transferred to the State Education Fund.

4. If the Interim Finance Committee finds that:

(a) Upon submission of a request from the Department, the actual enrollment growth for a fiscal year exceeds the projected enrollment growth by an amount that the Interim Finance Committee determines would make a transfer of money to the State Education Fund necessary to fund the excess enrollment; or

(b) The collection of revenue in any fiscal year will result in the State Education Fund receiving ~~97 percent or~~ less ~~of the~~ money *than* authorized for expenditure from the State Education Fund,

↳ the Committee shall by resolution establish an amount of money to transfer from the Education Stabilization Account to the State Education Fund and direct the State Controller to transfer that amount to the State Education Fund. The State Controller shall thereupon make the transfer.

5. When determining the actual ending fund balance for the purposes of subsection 1, each county school district shall exclude:

(a) Any money deposited in the county school district fund on or before June 30, 2020;



(b) Any money apportioned to the county school district for capital projects or debt service pursuant to subsection 2 of NRS 362.170 and deposited in the county school district fund when authorized by law; and

(c) Any money transferred to the county school district and authorized for expenditure as a continuing appropriation pursuant to paragraph (b) of subsection 6 of NRS 387.1214.

6. *If the Superintendent of Public Instruction determines that the money due from the State Education Fund to a county school district, charter school or university school for profoundly gifted pupils pursuant to NRS 387.185 exceeds the amount of money available in the State Education Fund because of a delay in expected receipts, he or she may request from the Director of the Office of Finance a temporary advance from the Education Stabilization Account for the payment of such money due. Upon receipt of such a request, the Director of the Office of Finance shall make a recommendation to the Interim Finance Committee to approve the temporary advance in whole or in part or to deny the request. If the Interim Finance Committee approves the request in whole or in part, the Director of the Office of Finance shall notify the State Controller and the Fiscal Analysis Division of the Legislative Counsel Bureau of the amount approved by the Interim Finance Committee, and the State Controller shall draw his or her warrant upon receipt of such a notice of approval. Any money which is temporarily advanced from the Education Stabilization Account pursuant to this subsection must be repaid by August 31 following the end of the fiscal year in which the temporary advance is made.*

7. The balance remaining in the State Education Fund, excluding the balance remaining in the Education Stabilization Account, that has not been committed for expenditure on or before June 30 of an odd-numbered fiscal year must be transferred to the Education Stabilization Account to the extent that such a transfer would not cause the balance in the Education Stabilization Account to exceed the limit established in subsection 3.



Sec. 6. Section 2.5 of Senate Bill No. 124 of this session is hereby amended to read as follows:

Sec. 2.5. NRS 387.1214 is hereby amended to read as follows:

387.1214 1. After a direct legislative appropriation is made to the State Education Fund from the State General Fund pursuant to NRS 387.1212, the Legislature shall determine the statewide base per pupil funding amount for each fiscal year of the biennium, which is the amount of money expressed on a per pupil basis for the projected enrollment of the public schools in this State, determined to be sufficient by the Legislature to fund the costs of all public schools in this State to operate and provide general education to all pupils for any purpose for which specific funding is not appropriated pursuant to paragraph (a), (b) or (e) of subsection 2 or NRS 387.122. It is the intent of the Legislature that the statewide base per pupil funding amount for any fiscal year, to the extent practicable, be not less than the statewide base per pupil funding amount for the immediately preceding fiscal year, adjusted by *the rate of* inflation, unless the amount of money contained in the State Education Fund, excluding the Education Stabilization Account, decreases from the preceding fiscal year. If the amount of money contained in the State Education Fund, excluding the Education Stabilization Account, decreases from the preceding fiscal year, it is the intent of the Legislature that a proportional reduction be made in both the statewide base per pupil funding amount and the weighted funding appropriated pursuant to paragraph (e) of subsection 2.

2. After a direct legislative appropriation is made to the State Education Fund from the State General Fund pursuant to NRS 387.1212, the money in the State Education Fund, excluding any amount of money in the Education Stabilization Account, must be appropriated as established by law for each fiscal year of the biennium for the following purposes:

(a) To each school district, an amount of money determined to be sufficient by the Legislature, when combined with any other resources available for this purpose, to provide food services and transportation for pupils and any other similar service that the Legislature deems appropriate.



(b) To each school district, charter school or university school for profoundly gifted pupils, an amount of money determined to be sufficient by the Legislature, when combined with any other resources available for this purpose, to provide local funding to support pupils with disabilities.

(c) To each school district, an amount of money determined to be sufficient by the Legislature, when combined with any other resources available for this purpose, to provide adjusted base per pupil funding for each pupil estimated to be enrolled in the school district.

(d) To each charter school or university school for profoundly gifted pupils, an amount of money determined to be sufficient by the Legislature, when combined with any other resources available for this purpose, to provide:

(1) The statewide base per pupil funding amount for each pupil estimated to be enrolled full-time in a program of distance education provided by the charter school or university school for profoundly gifted pupils; and

(2) Adjusted base per pupil funding for each pupil estimated to be enrolled in the charter school or university school for profoundly gifted pupils other than a pupil identified in subparagraph (1).

(e) To each school district, charter school or university school for profoundly gifted pupils, an amount of money determined to be sufficient by the Legislature, when combined with any other resources available for this purpose, to provide additional weighted funding for each pupil estimated to be enrolled in the school district, charter school or university school for profoundly gifted pupils who is:

(1) An English learner;

(2) An at-risk pupil; or

(3) A gifted and talented pupil.

3. The adjusted base per pupil funding appropriated pursuant to paragraph (c) of subsection 2 for each school district must be determined by applying the cost adjustment factor established pursuant to NRS 387.1215 which applies to the school district and the attendance area adjustment established pursuant to NRS 387.1218 which applies to each applicable area of the school district to the statewide base per pupil funding amount.

4. The adjusted base per pupil funding appropriated pursuant to subparagraph (2) of paragraph (d) of subsection 2 for each charter school or university school for profoundly



gifted pupils must be determined by applying the cost adjustment factor established pursuant to NRS 387.1215 which applies to the charter school or university school and, if applicable, the attendance area adjustment established pursuant to NRS 387.1218 to the statewide base per pupil funding amount.

5. The weighted funding appropriated pursuant to paragraph (e) of subsection 2 must be established separately for each category of pupils identified in that paragraph and expressed as a multiplier to be applied to the statewide base per pupil funding amount determined pursuant to subsection 1. A pupil who belongs to more than one category of pupils or for whom a school district, charter school or university school for profoundly gifted pupils is eligible to receive the statewide multiplier pursuant to NRS 387.122 must receive only the weighted funding for the single category to which the pupil belongs which has the largest multiplier or the statewide multiplier, whichever is larger. It is the intent of the Legislature that, to the extent practicable:

(a) The multiplier for each category of pupils for any fiscal year be not less than the multiplier for the immediately preceding fiscal year unless:

(1) The amount of money contained in the State Education Fund, excluding the Education Stabilization Account, decreases from the preceding fiscal year, in which event it is the intent of the Legislature that a proportional reduction be made in both the statewide base per pupil funding amount and the weighted funding appropriated pursuant to paragraph (e) of subsection 2; or

(2) The amount of money contained in the State Education Fund, excluding the Education Stabilization Account, increases from the preceding fiscal year but in an amount which, after funding the appropriations required by paragraphs (a) to (d), inclusive, of subsection 2, is insufficient to fund the multiplier for each category of pupils, in which event it is the intent of the Legislature that the remaining money in the State Education Fund be used to provide a multiplier for each category of pupils which is as close as practicable to the multiplier for the preceding fiscal year;

(b) The recommendations of the Commission for the multiplier for each category of pupils be considered and the multiplier for one category of pupils may be changed by an amount that is not proportional to the change in the multiplier



for one or more other categories of pupils if the Legislature determines that a disproportionate need to serve the pupils in the affected category exists; and

(c) If the multipliers for all categories of pupils in a fiscal year are increased from the multipliers in the immediately preceding fiscal year, a proportional increase is considered for the statewide base per pupil funding amount.

6. For any money identified in subsection 4 of NRS 362.170 which is deposited to the credit of the State Education Fund:

(a) The amount of such money for the county from which the money was collected that does not exceed the total amount of money appropriated pursuant to subsection 2 to the county school district is deemed to be the first money appropriated pursuant to subsection 2 for that county school district and the first money spent by that county school district from the county school district fund during the applicable fiscal year.

(b) The amount of such money for the county from which the money was collected which exceeds the total amount of money appropriated pursuant to subsection 2 to the county school district must be transferred to the county school district and is hereby authorized for expenditure as a continuing appropriation for the purpose of mitigating the adverse effects of the cyclical nature of the industry of extracting and processing minerals on the ability of the county school district to offer its pupils a reasonably equal educational opportunity.

7. The weighted funding appropriated pursuant to paragraph (e) of subsection 2:

(a) May not be used to settle or arbitrate disputes between a recognized organization representing employees of a school district or the governing body of a charter school and the school district or governing body or to settle any negotiations; and

(b) May not be used to adjust the district-wide schedules of salaries and benefits of the employees of a school district.

8. As used in this section, “rate of inflation” has the meaning ascribed to it in NRS 387.12455.

Sec. 7. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 4, inclusive, and 6 of this act become effective on July 1, 2023.



3. Section 5 of this act becomes effective on October 1, 2023.

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