

CHAPTER 337

EDUCATION - PUBLIC SCHOOLS

SENATE BILL 03-248

BY SENATOR(S) Anderson, Arnold, Chlouber, Entz, Sandoval, and Windels;
also REPRESENTATIVE(S) King, Stafford, Frangas, Jahn, Marshall, Merrifield, Paccione, Spence, and Williams S.

AN ACT

CONCERNING THE FINANCING OF PUBLIC SCHOOLS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. 22-54-103 (1) and the introductory portion to 22-54-103 (1.5) (a) (III), Colorado Revised Statutes, are amended, and the said 22-54-103 (1.5) (a) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

22-54-103. Definitions - repeal. As used in this article, unless the context otherwise requires:

(1) ~~"At-risk funded pupil count" means the greater of:~~

~~(a) The number of the district's at-risk pupils for the applicable budget year; or~~

~~(b) The average of the number of the district's at-risk pupils for the applicable budget year and the number of the district's at-risk pupils for the immediately preceding budget year; or~~

~~(c) The average of the number of the district's at-risk pupils for the applicable budget year and the number of the district's at-risk pupils for the two immediately preceding budget years.~~

~~(d) Repealed.~~

(1.5) (a) "At-risk pupils" means:

(III) For the 2001-02 ~~budget year and budget years thereafter~~ AND 2002-03

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

BUDGET YEARS, the greater of:

(IV) FOR THE 2003-04 BUDGET YEAR AND BUDGET YEARS THEREAFTER, THE GREATER OF:

(A) THE NUMBER OF DISTRICT PUPILS ELIGIBLE FOR FREE LUNCH; OR

(B) THE NUMBER OF PUPILS CALCULATED IN ACCORDANCE WITH THE FOLLOWING FORMULA:

DISTRICT PERCENTAGE OF PUPILS ELIGIBLE FOR FREE LUNCH X DISTRICT PUPIL ENROLLMENT

SECTION 2. The introductory portion to 22-54-103 (7) (b) (I), Colorado Revised Statutes, is amended, and the said 22-54-103 (7) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

22-54-103. Definitions - repeal. As used in this article, unless the context otherwise requires:

(7) "Funded pupil count" means:

(b) (I) For ~~budget years~~ THE BUDGET YEAR commencing on ~~and after~~ July 1, 2002, the district's on-line pupil enrollment for the applicable budget year plus the greater of:

(c) (I) FOR BUDGET YEARS COMMENCING ON AND AFTER JULY 1, 2003, THE DISTRICT'S ON-LINE PUPIL ENROLLMENT FOR THE APPLICABLE BUDGET YEAR PLUS THE DISTRICT'S PRESCHOOL ENROLLMENT FOR THE APPLICABLE BUDGET YEAR PLUS THE GREATER OF:

(A) THE DISTRICT'S PUPIL ENROLLMENT FOR THE APPLICABLE BUDGET YEAR; OR

(B) THE AVERAGE OF THE DISTRICT'S PUPIL ENROLLMENT FOR THE APPLICABLE BUDGET YEAR AND THE DISTRICT'S PUPIL ENROLLMENT FOR THE IMMEDIATELY PRECEDING BUDGET YEAR; OR

(C) THE AVERAGE OF THE DISTRICT'S PUPIL ENROLLMENT FOR THE APPLICABLE BUDGET YEAR AND THE DISTRICT'S PUPIL ENROLLMENT FOR THE TWO IMMEDIATELY PRECEDING BUDGET YEARS; OR

(D) THE AVERAGE OF THE DISTRICT'S PUPIL ENROLLMENT FOR THE APPLICABLE BUDGET YEAR AND THE DISTRICT'S PUPIL ENROLLMENT FOR THE THREE IMMEDIATELY PRECEDING BUDGET YEARS.

(II) (A) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, FOR PURPOSES OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (c), FOR ANY BUDGET YEAR COMMENCING PRIOR TO JULY 1, 2002, THE DISTRICT'S PUPIL ENROLLMENT FOR THAT BUDGET YEAR SHALL BE THE DISTRICT'S PUPIL ENROLLMENT, AS DEFINED BY PARAGRAPH (a) OF SUBSECTION (10) OF THIS SECTION, AS IT EXISTED PRIOR TO JUNE 7, 2002.

(B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1, 2005.

(III) (A) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, FOR PURPOSES OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (c), FOR THE 2000-01, 2001-02, AND 2002-03 BUDGET YEARS, A DISTRICT'S PUPIL ENROLLMENT SHALL NOT INCLUDE ANY PUPILS ENROLLED IN A DISTRICT PRESCHOOL PROGRAM PURSUANT TO ARTICLE 28 OF THIS TITLE.

(B) THIS SUBPARAGRAPH (III) IS REPEALED, EFFECTIVE JULY 1, 2006.

SECTION 3. 22-54-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-54-103. Definitions - repeal. As used in this article, unless the context otherwise requires:

(9.5) "PRESCHOOL ENROLLMENT" MEANS THE NUMBER OF PUPILS ENROLLED IN A DISTRICT PRESCHOOL PROGRAM PURSUANT TO ARTICLE 28 OF THIS TITLE ON OCTOBER 1 WITHIN THE APPLICABLE BUDGET YEAR OR THE SCHOOL DATE NEAREST SAID DATE; EXCEPT THAT A PUPIL ENROLLED IN A DISTRICT PRESCHOOL PROGRAM PURSUANT TO ARTICLE 28 OF THIS TITLE SHALL BE COUNTED AS A HALF-DAY PUPIL.

SECTION 4. 22-54-103 (10) (b) (I) and (10) (c), Colorado Revised Statutes, are amended, and the said 22-54-103 (10) (b) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

22-54-103. Definitions - repeal. As used in this article, unless the context otherwise requires:

(10) (b) (I) A pupil enrolled in a half-day kindergarten educational program shall be counted as a half-day pupil. ~~and a pupil enrolled in a full-day kindergarten program shall be counted as a full-day pupil.~~

(I.5) (A) A PUPIL ENROLLED IN A FULL-DAY KINDERGARTEN PROGRAM PURSUANT TO SECTION 22-32-119 (2) SHALL BE COUNTED AS A FULL-DAY PUPIL.

(B) THIS SUBPARAGRAPH (I.5) IS REPEALED, EFFECTIVE JULY 1, 2003.

(c) ~~A pupil enrolled in a district preschool program pursuant to article 28 of this title shall be counted as a half-day pupil.~~

SECTION 5. 22-54-103 (10) (f), Colorado Revised Statutes, is amended, and the said 22-54-103 (10) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

22-54-103. Definitions - repeal. As used in this article, unless the context otherwise requires:

(10) (e.5) A PUPIL WHO IS ENROLLED AS LESS THAN A FULL-TIME STUDENT, OTHER THAN A STUDENT DESCRIBED IN PARAGRAPH (b), (c), OR (d) OF THIS SUBSECTION (10), SHALL BE COUNTED IN ACCORDANCE WITH RULES PROMULGATED BY THE STATE

BOARD FOR STUDENTS WHO ARE ENROLLED AS LESS THAN FULL-TIME STUDENTS.

(f) In certifying the district's pupil enrollment to the state board pursuant to the provisions of section 22-54-112, the district shall specify the number of pupils enrolled in half-day kindergarten; the number of pupils enrolled in full-day kindergarten; the number of pupils enrolled in first grade through twelfth grade, SPECIFYING THOSE WHO ARE ENROLLED AS FULL-TIME STUDENTS AND THOSE WHO ARE ENROLLED AS LESS THAN FULL-TIME STUDENTS; the number of expelled pupils receiving educational services pursuant to section 22-33-203; the number of pupils enrolled in the district's preschool program; the number of pupils receiving educational programs under the "Exceptional Children's Educational Act"; and the number of at-risk pupils.

SECTION 6. Repeal. 22-54-104 (2) (a) (VI), Colorado Revised Statutes, is repealed as follows:

22-54-104. District total program. (2) (a) (VI) ~~For the 2003-04 budget year and budget years thereafter, the dollar amount set forth in sub-subparagraph (B) of subparagraph (V) of this paragraph (a) shall be increased by the percentage by which the statewide base per pupil funding for the budget year is increased over the statewide base per pupil funding set forth for the 2002-03 budget year. Such amount shall be rounded to the nearest dollar.~~

SECTION 7. The introductory portion to 22-54-104 (2) (b) and 22-54-104 (2) (b) (II) (A), Colorado Revised Statutes, are amended to read:

22-54-104. District total program. (2) (b) If the district percentage of at-risk pupils is greater than the statewide average percentage of at-risk pupils and the district's funded pupil count is greater than four hundred fifty-nine, and the district's size factor is calculated pursuant to ~~subparagraph (f)~~ SUBPARAGRAPH (I.4) of paragraph (b) of subsection (5) of this section, the district's total program shall be the lesser of:

(II) (A) The district's total program as calculated by: Adding the amount determined by multiplying the district's per pupil funding by four hundred fifty-nine to the amount determined by multiplying 11.5% of the district's per pupil funding by the district's at-risk pupils; then dividing the sum of those two amounts by four hundred fifty-nine; and then multiplying the resulting amount by the district's funded pupil count MINUS THE DISTRICT'S ON-LINE PUPIL ENROLLMENT.

SECTION 8. 22-54-104 (4) and (4.5) (b), Colorado Revised Statutes, are amended, and the said 22-54-104 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

22-54-104. District total program. (3.5) MINIMUM PER PUPIL FUNDING SHALL BE:

(a) FOR THE 2003-04 BUDGET YEAR, \$5,511;

(b) FOR THE 2004-05 BUDGET YEAR AND BUDGET YEARS THEREAFTER, THE DOLLAR AMOUNT SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (3.5) INCREASED BY THE

PERCENTAGE BY WHICH THE STATEWIDE BASE PER PUPIL FUNDING FOR THAT BUDGET YEAR, AS SPECIFIED IN PARAGRAPH (a) OF SUBSECTION (5) OF THIS SECTION, IS INCREASED OVER THE STATEWIDE BASE PER PUPIL FUNDING FOR THE 2003-04 BUDGET YEAR, AS SPECIFIED IN SUBPARAGRAPH (X) OF PARAGRAPH (a) OF SUBSECTION (5) OF THIS SECTION. SUCH AMOUNT SHALL BE ROUNDED TO THE NEAREST DOLLAR.

(4) A district's at-risk funding shall be determined in accordance with one of the following formulas:

(a) If the district percentage of at-risk pupils is equal to or less than the statewide average percentage of at-risk pupils or the district's funded pupil count is equal to or less than four hundred fifty-nine, the formula shall be:

(District per pupil funding x 11.5%) x District at-risk ~~funded pupil count~~ PUPILS

(b) If the district percentage of at-risk pupils is greater than the statewide average percentage of at-risk pupils and the district's funded pupil count is greater than four hundred fifty-nine, the formula shall be:

((District per pupil funding x 11.5%) x (Statewide average percentage of at-risk pupils x District pupil enrollment)) + ((District per pupil funding x District at-risk factor) x (District at-risk ~~funded pupil count~~ PUPILS - (Statewide average percentage of at-risk pupils x District pupil enrollment)))

(4.5) A district's on-line funding shall be determined in accordance with the following formulas:

(b) For the 2003-04 budget year and budget years thereafter, the formula shall be:

~~(\$5,435 as adjusted pursuant to subparagraph (VI) of paragraph (a) of subsection (2) of this section~~ MINIMUM PER PUPIL FUNDING x District on-line pupil enrollment)

SECTION 9. 22-54-104 (5) (a), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

22-54-104. District total program. (5) For purposes of the formulas used in this section:

(a) (X) FOR THE 2003-04 BUDGET YEAR, THE STATEWIDE BASE PER PUPIL FUNDING SHALL BE \$4,570.31, WHICH IS AN AMOUNT EQUAL TO \$4,441.51 SUPPLEMENTED BY \$128.80 TO ACCOUNT FOR INFLATION PLUS AN ADDITIONAL ONE PERCENTAGE POINT.

SECTION 10. 22-54-104 (5) (b) (I.4), Colorado Revised Statutes, is amended, and the said 22-54-104 (5) (b) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

22-54-104. District total program. (5) For purposes of the formulas used in this section:

(b) (I.4) A district's size factor for the 2002-03 budget year ~~and budget years~~

thereafter shall be determined in accordance with the following formula:

If the district's funded pupil count is:	The district's size factor shall be:
Less than 276	$1.5502 + (0.00376159 \times \text{the difference between the funded pupil count and 276})$
276 or more but less than 459	$1.2430 + (0.00167869 \times \text{the difference between the funded pupil count and 459})$
459 or more but less than 1,027	$1.1260 + (0.00020599 \times \text{the difference between the funded pupil count and 1,027})$
1,027 or more but less than 2,293	$1.0578 + (0.00005387 \times \text{the difference between the funded pupil count and 2,293})$
2,293 or more but less than 4,023	$1.0342 + (0.00001364 \times \text{the difference between the funded pupil count and 4,023})$
4,023 or more	1.0342

(1.5) A DISTRICT'S SIZE FACTOR FOR THE 2003-04 BUDGET YEAR AND BUDGET YEARS THEREAFTER SHALL BE DETERMINED IN ACCORDANCE WITH THE FOLLOWING FORMULA:

IF THE DISTRICT'S FUNDED PUPIL COUNT IS:	THE DISTRICT'S SIZE FACTOR SHALL BE:
LESS THAN 276	$1.5457 + (0.00376159 \times \text{THE DIFFERENCE BETWEEN THE FUNDED PUPIL COUNT AND 276})$
276 OR MORE BUT LESS THAN 459	$1.2385 + (0.00167869 \times \text{THE DIFFERENCE BETWEEN THE FUNDED PUPIL COUNT AND 459})$
459 OR MORE BUT LESS THAN 1,027	$1.1215 + (0.00020599 \times \text{THE DIFFERENCE BETWEEN THE FUNDED PUPIL COUNT AND 1,027})$
1,027 OR MORE BUT LESS THAN 2,293	$1.0533 + (0.00005387 \times \text{THE DIFFERENCE BETWEEN THE FUNDED PUPIL COUNT AND 2,293})$
2,293 OR MORE BUT LESS THAN 4,023	$1.0297 + (0.00001364 \times \text{THE DIFFERENCE BETWEEN THE FUNDED PUPIL COUNT AND 4,023})$
4,023 OR MORE	1.0297

SECTION 11. 22-54-104 (5) (c) (III), Colorado Revised Statutes, is amended to read:

22-54-104. District total program. (5) For purposes of the formulas used in this section:

(c) (III) (A) Based upon the cost of living analysis conducted pursuant to the SB 93-87 setting category study, the staff of the legislative council shall certify the cost of living factor for each district to the department OF EDUCATION no later than ten days following April 27, 1994. Such cost of living factors shall be effective for the 1994-95 budget year and the budget year thereafter. The cost of living factor for each district shall be certified to the department by the staff of the legislative council for each two-year period thereafter based upon a new cost of living analysis. The certification shall be made no later than April 15 of the applicable year and shall be effective for the budget year beginning on July 1 of such year and the budget year thereafter.

(B) FOR THE 2003-04 BUDGET YEAR AND EACH BUDGET YEAR THEREAFTER IN WHICH A NEW COST OF LIVING ANALYSIS IS REQUIRED PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (III), THE DEPARTMENT OF EDUCATION SHALL TRANSFER A PORTION OF THE TOTAL AMOUNT APPROPRIATED BY THE GENERAL ASSEMBLY IN THE ANNUAL GENERAL APPROPRIATIONS BILL FOR THAT BUDGET YEAR FOR ASSISTANCE TO PUBLIC SCHOOLS, PUBLIC SCHOOL FINANCE, STATE SHARE OF DISTRICTS' TOTAL PROGRAM FUNDING TO THE LEGISLATIVE COUNCIL TO FUND THE COST OF LIVING ANALYSIS REQUIRED BY SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (III). THE AMOUNT TRANSFERRED BY THE DEPARTMENT SHALL NOT EXCEED THE MAXIMUM AMOUNT SPECIFIED IN A FOOTNOTE RELATED TO THIS APPROPRIATION IN THE ANNUAL GENERAL APPROPRIATIONS BILL FOR THAT BUDGET YEAR. THE REMAINDER OF THE AMOUNT APPROPRIATED FOR ASSISTANCE TO PUBLIC SCHOOLS, PUBLIC SCHOOL FINANCE, STATE SHARE OF DISTRICTS' TOTAL PROGRAM FUNDING SHALL BE DISTRIBUTED TO SCHOOL DISTRICTS IN THE MANNER PROVIDED IN SECTION 22-54-106 (4) (c).

SECTION 12. 22-54-105 (1) (b) (II), (2) (b) (II), (3) (c), and (4), Colorado Revised Statutes, are amended to read:

22-54-105. Instructional supplies and materials - capital reserve and insurance reserve - at-risk funding - preschool funding - repeal. (1) (b) (II) (A) EXCEPT AS PROVIDED IN SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (II), for the 1998-99 budget year and budget years thereafter, the dollar amount required to be budgeted per pupil pursuant to this paragraph (b) shall be increased each year by the same percentage that the statewide base per pupil funding is increased pursuant to section 22-54-104 (5). Such amount shall be rounded to the nearest dollar.

(B) FOR THE 2003-04 BUDGET YEAR, THE MINIMUM DOLLAR AMOUNT REQUIRED TO BE BUDGETED PER PUPIL PURSUANT TO THIS PARAGRAPH (b) SHALL BE AN AMOUNT EQUAL TO THE AMOUNT REQUIRED TO BE BUDGETED PER PUPIL PURSUANT TO SUB-SUBPARAGRAPH(A) OF THIS SUBPARAGRAPH (II) FOR THE 2002-03 BUDGET YEAR.

(2) (b) (II) (A) EXCEPT AS PROVIDED IN SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (II), for the 1998-99 budget year and budget years thereafter, the minimum dollar amount required to be budgeted per pupil pursuant to this paragraph (b) shall be increased each year by the same percentage that the statewide base per pupil funding is increased pursuant to section 22-54-104 (5). Such amount shall be rounded to the nearest dollar.

(B) FOR THE 2003-04 BUDGET YEAR, THE MINIMUM DOLLAR AMOUNT REQUIRED TO BE BUDGETED PER PUPIL PURSUANT TO THIS PARAGRAPH (b) SHALL BE AN AMOUNT EQUAL TO THE AMOUNT REQUIRED TO BE BUDGETED PER PUPIL PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II) FOR THE 2002-03 BUDGET YEAR.

(3) (c) Notwithstanding the provisions of paragraph (a) of this subsection (3) and in addition to any amounts required to be expended pursuant to paragraph (b) of this subsection (3), for the 2001-02 ~~budget year and budget years thereafter~~ AND 2002-03 BUDGET YEARS, every district that receives at-risk funding pursuant to the provisions of section 22-54-104 shall expend all of the at-risk funding received by the district for district pupils whose dominant language is not English on implementation of the district's English language proficiency program as provided in article 24 of this title. It is the intent of the general assembly that each school district expend said at-risk funding on English language proficiency programs that are either taught in English or that are designed to move students as quickly as possible into programs taught in English. The district shall expend at least seventy-five percent of the remaining amount of at-risk funding received on direct instruction or staff development, or both, for the educational program of at-risk pupils in the district.

(4) For the 2001-02 budget year and any budget year thereafter, every district participating in the state preschool program pursuant to article 28 of this title shall budget an amount equal to the district's per-pupil operating revenues multiplied by the district's preschool enrollment as defined in ~~section 22-54-103 (10) (c)~~ SECTION 22-54-103 (9.5). Such budgeted amount shall be allocated to the preschool program fund created in section 22-45-103 (1) (g) and expended in accordance with said paragraph (g). Any moneys in the fund that are not projected to be expended during a budget year shall be budgeted for the district's preschool program in the next budget year.

SECTION 13. 22-54-112 (2) (a), Colorado Revised Statutes, is amended to read:

22-54-112. Reports to the state board. (2) (a) On or before November 10 of each year, the secretary of the board of education of each district shall certify to the state board the pupil enrollment, ~~and~~ the on-line pupil enrollment, AND THE PRESCHOOL ENROLLMENT of the district taken in the preceding October.

SECTION 14. 22-5-114 (1) (a), Colorado Revised Statutes, is amended to read:

22-5-114. Eligibility for funds. (1) (a) Any board of cooperative services organized under the provisions of this article shall be ~~entitled~~ ELIGIBLE to RECEIVE such state moneys as may be available upon receiving approval by the state board. ~~except that the state board shall approve not more than twenty-two such boards of cooperative services.~~

SECTION 15. 22-5-115 (1), (3), and (4), Colorado Revised Statutes, are amended to read:

22-5-115. Financing boards of cooperative services. (1) No later than July 1, 1973, and July 1 of each year thereafter, the state board shall determine the number of eligible boards of cooperative services and, SUBJECT TO AVAILABLE APPROPRIATIONS, AWARD A TEN THOUSAND DOLLAR GRANT TO each such eligible

board. ~~shall be entitled to receive a basic grant of ten thousand dollars.~~ IF AVAILABLE MONIES ARE INSUFFICIENT TO AWARD EACH ELIGIBLE BOARD TEN THOUSAND DOLLARS, THE STATE BOARD SHALL REDUCE PROPORTIONATELY ALL AWARDS FOR ELIGIBLE BOARDS FOR THAT YEAR.

(3) ~~The general assembly shall annually make a separate appropriation to the state board to cover the estimated cost of the basic grants to eligible boards of cooperative services as set forth in subsection (1) of this section.~~

(4) For budget years commencing on or after July 1, 1996, ~~the~~ ANY amount received by ~~any~~ A board of cooperative services pursuant to this section shall be used to fund professional educator development in standards-based education pursuant to the plan adopted by each school district pursuant to section 22-7-407 (2) in each school district ~~which~~ THAT is a member of such board and in any nonmember school district ~~which~~ THAT chooses to participate in a professional educator development program with any board of cooperative services.

SECTION 16. 22-11-104 (1) (a), Colorado Revised Statutes, is amended to read:

22-11-104. Accreditation indicators. (1) **Accreditation indicators.** (a) No later than December 31, 1998, the state board shall establish by rule accreditation indicators for assessing the quality of education and learning in the public schools and school districts of the state, AND BY JULY 1, 2003, ACCREDITATION INDICATORS CONCERNING THE ADMINISTRATION OF SCHOOL DISTRICTS AS DESCRIBED IN PARAGRAPH (k) OF SUBSECTION (2) OF THIS SECTION.

SECTION 17. 22-11-104 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22-11-104. Accreditation indicators. (2) **Contents.** The accreditation indicators shall include but shall not be limited to the following:

(k) COMPLIANCE WITH THE BUDGETING, ACCOUNTING, AND REPORTING REQUIREMENTS SET FORTH IN ARTICLES 44 AND 45 OF THIS TITLE.

SECTION 18. 22-28-104 (2) (d) and (3), Colorado Revised Statutes, are amended to read:

22-28-104. Establishment of public preschool programs. (2) In recognition of the fact that there are thousands of children in Colorado not presently being served who would benefit from the state preschool program, the number of children that may participate in the state preschool program shall be increased:

(d) (I) (A) To not more than 8,850 in the 1998-99 budget year, to not more than 9,050 in the 1999-2000 and 2000-01 budget years, to not more than 10,050 in the 2001-02 budget year, and to not more than 11,050 in the 2002-03 budget year and budget years thereafter; EXCEPT THAT FOR THE 2003-04 AND 2004-05 BUDGET YEARS, THE NUMBER OF CHILDREN THAT MAY PARTICIPATE IN THE STATE PRESCHOOL PROGRAM SHALL NOT EXCEED 9,050.

~~(B)~~ (B) For the 1998-99 budget year through the 2000-01 budget year, the

department shall allow school districts to apply to the department for authorization to serve no more than five hundred eligible children through a full-day kindergarten component of the district's preschool program. The department, using established criteria, shall select school districts to participate in such full-day kindergarten programs until the total number of full-day kindergarten positions applied for has been filled or the limitation of five hundred children has been reached, whichever event occurs first.

~~(H)~~ (C) For the 2001-02 budget year, the department shall allow school districts to apply to the department for authorization to serve no more than one thousand eligible children through a full-day kindergarten component of the district's preschool program. The department, using established criteria, shall select school districts to participate in such full-day kindergarten programs until the total number of full-day kindergarten positions applied for has been filled or the limitation of one thousand children has been reached, whichever event occurs first. Notwithstanding any other provision of law, no waivers shall be granted by the department that would allow more than one thousand full-day kindergarten children.

~~(H.1)~~ (D) For the 2002-03 budget year, ~~and budget years thereafter~~, the department shall allow school districts to apply to the department for authorization to serve no more than one thousand five hundred eligible children through a full-day kindergarten component of the district's preschool program. The department, using established criteria, shall select school districts to participate in such full-day kindergarten programs until the total number of full-day kindergarten positions applied for has been filled or the limitation of one thousand five hundred children has been reached, whichever event occurs first. Notwithstanding any other provision of law, no waivers shall be granted by the department that would allow more than one thousand five hundred full-day kindergarten children.

(E) FOR THE 2003-04 BUDGET YEAR AND BUDGET YEARS THEREAFTER, THE DEPARTMENT SHALL ALLOW SCHOOL DISTRICTS TO APPLY TO THE DEPARTMENT FOR AUTHORIZATION TO SERVE NO MORE THAN ONE THOUSAND ELIGIBLE CHILDREN THROUGH A FULL-DAY KINDERGARTEN COMPONENT OF THE DISTRICT'S PRESCHOOL PROGRAM. THE DEPARTMENT, USING ESTABLISHED CRITERIA, SHALL SELECT SCHOOL DISTRICTS TO PARTICIPATE IN SUCH FULL-DAY KINDERGARTEN PROGRAMS UNTIL THE TOTAL NUMBER OF FULL-DAY KINDERGARTEN POSITIONS APPLIED FOR HAS BEEN FILLED OR THE LIMITATION OF ONE THOUSAND CHILDREN HAS BEEN REACHED, WHICHEVER EVENT OCCURS FIRST. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO WAIVERS SHALL BE GRANTED BY THE DEPARTMENT THAT WOULD ALLOW MORE THAN ONE THOUSAND FULL-DAY KINDERGARTEN CHILDREN.

~~(H.2)~~ (II) Notwithstanding any other law to the contrary, school districts that did not have any children participate in the state preschool program during the 2001-02 budget year shall be given the first opportunity to have up to one thousand children participate in the state preschool program during the 2002-03 budget year, with the department giving priority to school districts that have been waiting to participate in the state preschool program for the longest period. If such school districts do not use all one thousand positions, any remaining unused positions shall be allowed to any other school districts that are participating in the state preschool program during the 2002-03 budget year.

~~(H.3)~~ (III) If a school district that participates in the state preschool program does not enroll the maximum number of pupils allowed to participate in that school district's preschool program as established by the department in accordance with section 22-28-107 (3), the school district shall immediately notify the department of the number of unused positions. Any school district participating in the state preschool program that has such unused positions in any given budget year is prohibited from transferring to another school district any or all of such unused positions, regardless of whether such unused positions are transferred in exchange for monetary or any other form of consideration.

(IV) The general assembly hereby finds and declares that, for purposes of section 17 of article IX of the state constitution, increasing the number of children that may participate in the state preschool program is an important element of expanding the availability of preschool and kindergarten programs and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(3) Any school district ~~which~~ THAT participates in the state preschool program shall be entitled to count children enrolled in the district preschool program in accordance with the provisions of ~~section 22-54-103 (10)~~ SECTION 22-54-103 (9.5) for purposes of determining preschool enrollment under the "Public School Finance Act of 1994", article 54 of this title.

SECTION 19. 22-30.5-112 (1), (2) (a) (III) (A), (2) (a.3), (2) (a.5) (I), and (2) (a.5) (II.5), Colorado Revised Statutes, are amended to read:

22-30.5-112. Charter schools - financing - guidelines - repeal. (1) (a) For purposes of the "Public School Finance Act of 1994", article 54 of this title, pupils enrolled in a charter school shall be included in the pupil enrollment, ~~or~~ the on-line pupil enrollment, OR THE PRESCHOOL ENROLLMENT, whichever is applicable, of the school district that granted its charter. The school district that granted its charter shall report to the department of education the number of pupils included in the school district's pupil enrollment, ~~and~~ the school district's on-line pupil enrollment, AND THE SCHOOL DISTRICT'S PRESCHOOL ENROLLMENT that are actually enrolled in each charter school.

(b) The school district shall also identify each charter school that is a qualified charter school as defined in section 22-54-124 (1) (f), ~~or~~ (1) (f.5), OR (1) (f.6), whichever is applicable, identify each qualified charter school that will be operating in a school district facility and that does not have ongoing financial obligations incurred to repay the outstanding costs of new construction undertaken for the charter school's benefit, and provide an estimate of the number of pupils expected to be enrolled in each qualified charter school during the budget year following the budget year in which the district makes a report.

(2) (a) (III) (A) For budget year 2000-01 and budget years thereafter, except as otherwise provided in paragraph (a.3) of this subsection (2), each charter school and the authorizing school district shall negotiate funding under the contract at a minimum of ninety-five percent of the district per pupil revenues for each pupil enrolled in the charter school who is not an on-line pupil and ~~one hundred~~ NINETY-FIVE percent of the district per pupil on-line funding for each on-line pupil enrolled in the charter

school. The school district may choose to retain the actual amount of the charter school's per pupil share of the central administrative overhead costs for services actually provided to the charter school; except that such amount shall not exceed five percent of the district per pupil revenues for each pupil who is not an on-line pupil enrolled in the charter school AND FIVE PERCENT OF THE DISTRICT PER PUPIL ON-LINE FUNDING FOR EACH ON-LINE PUPIL ENROLLED IN THE CHARTER SCHOOL.

(a.3) If the authorizing school district enrolls five hundred or fewer students, the charter school shall receive funding in the amount of the greater of one hundred percent of the district per pupil on-line funding for each on-line pupil enrolled in the charter school plus one hundred percent of the district per pupil revenues for each pupil who is not an on-line pupil enrolled in the charter school, minus the actual amount of the charter school's per pupil share of the central administrative overhead costs incurred by the school district, ~~for pupils who are not on-line pupils~~ based on audited figures, or eighty-five percent of the district per pupil revenues for each pupil enrolled in the charter school who is not an on-line pupil plus ~~one hundred~~ EIGHTY-FIVE percent of the district per pupil on-line funding for each on-line pupil enrolled in the charter school.

(a.5) As used in this subsection (2):

(I) "Central administrative overhead costs" means indirect costs incurred in providing: ~~items or~~

(A) Services listed under the heading of support services - general administration in the school district chart of accounts as specified by rule of the state board; AND

(B) SALARIES AND BENEFITS FOR ADMINISTRATIVE JOB CLASSIFICATIONS LISTED UNDER THE HEADINGS OF SUPPORT SERVICES - BUSINESS AND SUPPORT SERVICES - CENTRAL IN THE SCHOOL DISTRICT CHART OF ACCOUNTS AS SPECIFIED BY RULE OF THE STATE BOARD.

(II.5) "District per pupil on-line funding" means the ~~district's on-line funding, as determined pursuant to section 22-54-104 (4.5), for any budget year divided by the district's on-line pupil enrollment, as defined in section 22-54-103 (8.5), for said budget year~~ MINIMUM PER PUPIL FUNDING, AS DEFINED IN SECTION 22-54-104 (3.5), FOR ANY BUDGET YEAR.

SECTION 20. 22-32-119 (2) (e), Colorado Revised Statutes, is amended to read:

22-32-119. Kindergartens - repeal. (2) (e) This subsection (2) is repealed, effective ~~July 1, 2006~~ JULY 1, 2003.

SECTION 21. 22-33-104.6 (3) (a), (4) (a), and (5) (b), Colorado Revised Statutes, are amended, and the said 22-33-104.6 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

22-33-104.6. On-line program - legislative declaration - authorized - definitions. (3) **Program criteria.** A school district, any group of two or more school districts, a charter school, a group of charter schools, or any board of cooperative services is hereby authorized to create an on-line program. The

following guidelines shall apply to any on-line program that is created and administered pursuant to the provisions of this section:

(a) A child who is participating in an on-line program shall ~~not~~ be subject to compulsory school attendance as provided in this article AND SHALL BE DEEMED TO COMPLY WITH THE COMPULSORY ATTENDANCE REQUIREMENTS THROUGH PARTICIPATION IN THE ON-LINE PROGRAM;

(4) Funding. ~~(a) If a child is participating in an on-line program created by a school district or by a charter school, the school district providing the on-line program or the chartering school district for the charter school providing the on-line program shall be entitled to count such child in accordance with the provisions of section 22-54-103 (8.5) for purposes of determining on-line pupil enrollment under the "Public School Finance Act of 1994", article 54 of this title, if, in the preceding academic year, such child either~~ FOR THE 2003-04 BUDGET YEAR AND FOR EACH BUDGET YEAR THEREAFTER, EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5) OF THIS SECTION, A SCHOOL DISTRICT, FOR PURPOSES OF DETERMINING TOTAL PROGRAM FUNDING UNDER THE "PUBLIC SCHOOL FINANCE ACT OF 1994", ARTICLE 54 OF THIS TITLE, MAY NOT COUNT A STUDENT IN THE SCHOOL DISTRICT'S ON-LINE PUPIL ENROLLMENT WHO ENROLLS IN OR TRANSFERS TO AN ON-LINE PROGRAM WITHIN THE SCHOOL DISTRICT, UNLESS:

(I) ~~(A) Was enrolled in a public school or charter school of a school district in this state, or~~ THE STUDENT WAS INCLUDED IN A SCHOOL DISTRICT'S PUPIL ENROLLMENT OR ON-LINE PUPIL ENROLLMENT FOR THE PRECEDING SCHOOL YEAR; AND

(B) THE STUDENT SUBSTANTIALLY COMPLETED THE ASSIGNED COURSE WORK FOR THE CLASSES IN WHICH HE OR SHE WAS ENROLLED FOR AT LEAST ONE SEMESTER OF THE PRECEDING SCHOOL YEAR AND RECEIVED A SEMESTER GRADE FOR THE CLASSES; OR

(II) THE STUDENT, IN THE PRECEDING SCHOOL YEAR, was not enrolled in any private school, ~~had~~ DID not ~~participated~~ PARTICIPATE in a nonpublic home-based education program, ~~or had~~ AND DID not ~~participated~~ PARTICIPATE in home instruction by a licensed or certified teacher.

(4.5) TO VERIFY THAT A STUDENT MEETS THE REQUIREMENTS SPECIFIED IN SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (4) OF THIS SECTION, AN ON-LINE PROGRAM SHALL REQUEST FROM THE SCHOOL DISTRICT IN WHICH THE STUDENT WAS ENROLLED CONFIRMATION OF THE STUDENT'S ENROLLMENT AND THE SEMESTER GRADES RECEIVED BY THE STUDENT FOR THE CLASSES IN WHICH THE STUDENT WAS ENROLLED. THE SCHOOL DISTRICT IN WHICH THE STUDENT WAS ENROLLED SHALL RESPOND TO THE ON-LINE PROGRAM'S VERIFICATION REQUEST WITHIN SIXTY DAYS AFTER RECEIPT OF THE REQUEST.

(5) (b) For the 2002-03 budget year, ~~and for each budget year thereafter,~~ for purposes of determining school districts' on-line pupil enrollment under the "Public School Finance Act of 1994", article 54 of this title, in addition to the children counted pursuant to subsection (4) of this section, school districts may count up to a statewide total of one hundred thirty-five children who, AS OF OCTOBER 1, are enrolled in, ATTENDING, AND ACTIVELY PARTICIPATING IN on-line programs created

pursuant to this section and who, for the preceding school year, were enrolled after October 1 in public schools or charter schools of school districts in this state or were enrolled in private schools or participating in nonpublic home-based education programs or participating in home instruction by licensed teachers.

(6) (a) FOR THE 2003-04 BUDGET YEAR AND FOR EACH BUDGET YEAR THEREAFTER, IF A STUDENT WHO MEETS THE REQUIREMENTS OF PARAGRAPH (a) OF SUBSECTION (4) OF THIS SECTION OR IS EXEMPT UNDER RULES ADOPTED BY THE STATE BOARD TRANSFERS AFTER OCTOBER 1 TO AN ON-LINE PROGRAM WITHIN THE SCHOOL DISTRICT IN WHICH THE STUDENT WAS INCLUDED IN PUPIL ENROLLMENT FOR THE APPLICABLE BUDGET YEAR, THE STUDENT SHALL BE INCLUDED IN THE SCHOOL DISTRICT'S ON-LINE PUPIL ENROLLMENT, AND THE DEPARTMENT OF EDUCATION SHALL ACCORDINGLY REDUCE THE PER PUPIL FUNDING RECEIVED BY THE SCHOOL DISTRICT FOR THE TRANSFERRING STUDENT TO THE AMOUNT OF MINIMUM PER PUPIL FUNDING, AS SPECIFIED IN SECTION 22-54-104 (3.5), FOR THE ENTIRE SCHOOL YEAR IN WHICH THE STUDENT TRANSFERRED.

(b) FOR THE 2003-04 BUDGET YEAR AND FOR EACH BUDGET YEAR THEREAFTER, IF A STUDENT WHO IS INCLUDED IN THE PUPIL ENROLLMENT OF A SCHOOL DISTRICT TRANSFERS TO AN ON-LINE PROGRAM WITHIN THE SAME SCHOOL DISTRICT WITHIN THE SAME SCHOOL YEAR, BUT DOES NOT MEET THE REQUIREMENTS SPECIFIED IN PARAGRAPH (a) OF SUBSECTION (4) OF THIS SECTION AND IS NOT EXEMPT UNDER RULES ADOPTED BY THE STATE BOARD, THE DEPARTMENT OF EDUCATION SHALL REMOVE THE STUDENT FROM THE SCHOOL DISTRICT'S PUPIL ENROLLMENT AND SHALL ACCORDINGLY REDUCE THE TOTAL PROGRAM FUNDING RECEIVED BY THE SCHOOL DISTRICT FOR THE ENTIRE SCHOOL YEAR IN WHICH THE STUDENT TRANSFERRED.

(c) A STUDENT WHO IS ENROLLED IN ON-LINE PROGRAM COURSES FOR A MAJORITY OF THE STUDENT'S SCHOOL DAY AND WHO SEEKS TO ENROLL IN A TRADITIONAL PUBLIC SCHOOL FOR ONE OR MORE COURSES SHALL OBTAIN PERMISSION FROM THE ON-LINE PROGRAM IN WHICH THE STUDENT IS ENROLLED PRIOR TO ENROLLING IN ONE OR MORE COURSES AT A TRADITIONAL PUBLIC SCHOOL. THE ON-LINE PROGRAM MAY NEGOTIATE WITH THE SCHOOL DISTRICT IN WHICH THE PUBLIC SCHOOL IS LOCATED FOR PAYMENT OF THE COSTS INCURRED AS A RESULT OF THE STUDENT'S PARTICIPATION IN ONE OR MORE COURSES AT THE TRADITIONAL PUBLIC SCHOOL.

(7) THE STATE BOARD MAY PROMULGATE RULES ALLOWING EXEMPTIONS FROM THE REQUIREMENTS OF PARAGRAPH (a) OF SUBSECTION (4) OF THIS SECTION FOR STUDENTS WHOSE PARENTS OR LEGAL GUARDIANS REMOVE THEM FROM SCHOOL FOR EXTRAORDINARY REASONS AND FOR STUDENTS WHO ARE HABITUALLY DISRUPTIVE OR ARE OTHERWISE AT RISK AND FOR STUDENTS WHO DID NOT RESIDE IN AND ATTEND A SCHOOL IN THE STATE DURING THE PRIOR SCHOOL YEAR. IN ADDITION, THE STATE BOARD MAY PROMULGATE SUCH OTHER RULES AS MAY BE NECESSARY FOR THE IMPLEMENTATION OF THIS SECTION.

SECTION 22. 22-33-104.6 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

22-33-104.6. On-line program - legislative declaration - authorized - definitions. (2) **Definitions.** As used in this section:

(b.5) "ON-LINE PUPIL ENROLLMENT" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 22-54-103 (8.5).

(c.5) "PUPIL ENROLLMENT" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 22-54-103 (10).

SECTION 23. 22-54-103 (8.5), Colorado Revised Statutes, is amended to read:

22-54-103. Definitions - repeal. As used in this article, unless the context otherwise requires:

(8.5) "On-line pupil enrollment" means the number of pupils, ~~enrolled~~ on October 1 within the applicable budget year or the school day nearest said date, ENROLLED IN, ATTENDING, AND ACTIVELY PARTICIPATING in, an on-line program created pursuant to section 22-33-104.6 by the district or by a charter school chartered by the district, minus any such pupils who were enrolled in any such on-line programs for the 2001-02 school year. IN ADDITION, "ON-LINE PUPIL ENROLLMENT" MEANS THE NUMBER OF PUPILS WHO MEET THE REQUIREMENTS SPECIFIED IN SECTION 22-33-104.6 (4) (a) AND TRANSFER TO AN ON-LINE PROGRAM AFTER OCTOBER 1 OF A SCHOOL YEAR.

SECTION 24. 22-33-104 (1) and (2) (i) (III), Colorado Revised Statutes, are amended to read:

22-33-104. Compulsory school attendance. (1) Except as otherwise provided in subsection (2) of this section, every child who has attained the age of seven years and is under the age of sixteen years, except as provided by this section, shall attend public school for at least one thousand fifty-six hours if a secondary school pupil or nine hundred sixty-eight hours if an elementary school pupil during each school year; except that in no case shall a school or schools be in session for fewer than one hundred sixty days without the specific prior approval of the commissioner of education. A STUDENT WHO PARTICIPATES IN AN ON-LINE PROGRAM PURSUANT TO THE PROVISIONS OF SECTION 22-33-104.6 SHALL BE DEEMED TO ATTEND SCHOOL IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SUBSECTION (1).

(2) The provisions of subsection (1) of this section shall not apply to a child:

(i) Who is being instructed at home:

(III) ~~In an alternative program authorized pursuant to section 22-33-104.6; or~~

SECTION 25. 22-41-102 (2), Colorado Revised Statutes, is amended, and the said 22-41-102 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

22-41-102. Fund inviolate. (2) ~~For the purpose of this article, "interest" means interest and the net of all realized gains over realized losses, except those losses restored by appropriation, associated with investment transactions during the fiscal year.~~

(3) FOR THE 2003-04 FISCAL YEAR AND EACH FISCAL YEAR THEREAFTER, THE

AMOUNT OF INTEREST EXPENDED FROM THE PUBLIC SCHOOL FUND SHALL NOT EXCEED NINETEEN MILLION DOLLARS. ANY INTEREST EARNED ON THE INVESTMENT OF THE MONEYS IN THE PUBLIC SCHOOL FUND THAT EXCEEDS THE AMOUNT SPECIFIED IN THIS SUBSECTION (3) SHALL REMAIN IN THE FUND AND SHALL BECOME PART OF THE PRINCIPAL OF THE FUND.

SECTION 26. 22-54-117 (1.7) (a), Colorado Revised Statutes, is amended to read:

22-54-117. Contingency reserve - capital construction expenditures reserve.

(1.7) (a) In addition to any amount annually appropriated by the general assembly to the state public school fund as a contingency reserve and any amount appropriated from the general fund to the state public school fund as a school capital construction expenditures reserve in accordance with section 24-75-201.1 (4) (b), C.R.S., and subsection (1.5) of this section, for the 2001-02 budget year, and for the ~~2003-04 budget year~~ 2004-05 BUDGET YEAR and budget years thereafter, an amount equal to the amount appropriated for the budget year from the state education fund CREATED IN SECTION 17 (4) OF ARTICLE IX OF THE STATE CONSTITUTION to the department of education pursuant to section 22-54-124 (4) shall be appropriated from the state education fund ~~created in section 17 (4) of article IX of the state constitution~~ to the school capital construction expenditures reserve created in said subsection (1.5) to be used only as provided in said subsection (1.5).

SECTION 27. 22-54-124 (1) (f.5) and (3) (b), Colorado Revised Statutes, are amended, and the said 24-54-124 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

22-54-124. State aid for charter schools - use of state education fund moneys.

(1) As used in this section:

(f.5) For THE budget years YEAR commencing on ~~or after~~ July 1, 2002, "qualified charter school" means a charter school; except that the term does not include a charter school that operates, or that will operate in the next budget year, within a facility that is listed on the state inventory of real property and improvements and other capital assets maintained by the department of personnel pursuant to section 24-30-1303.5, C.R.S.

(f.6) (I) FOR THE BUDGET YEARS COMMENCING ON OR AFTER JULY 1, 2003, "QUALIFIED CHARTER SCHOOL" MEANS:

(A) A CHARTER SCHOOL THAT IS NOT OPERATING IN A SCHOOL DISTRICT FACILITY AND THAT HAS CAPITAL CONSTRUCTION COSTS; OR

(B) A CHARTER SCHOOL THAT IS OPERATING IN A SCHOOL DISTRICT FACILITY AND THAT HAS CAPITAL CONSTRUCTION COSTS.

(II) FOR BUDGET YEARS COMMENCING ON OR AFTER JULY 1, 2003, "QUALIFIED CHARTER SCHOOL" DOES NOT INCLUDE:

(A) A CHARTER SCHOOL THAT IS OPERATING IN A SCHOOL DISTRICT FACILITY AND THAT DOES NOT HAVE CAPITAL CONSTRUCTION COSTS;

(B) A CHARTER SCHOOL THAT DOES NOT HAVE CAPITAL CONSTRUCTION COSTS; OR

(C) A CHARTER SCHOOL THAT IS OPERATING OR WILL OPERATE IN THE NEXT BUDGET YEAR IN A FACILITY THAT IS LISTED ON THE STATE INVENTORY OF REAL PROPERTY AND IMPROVEMENTS AND OTHER CAPITAL ASSETS MAINTAINED BY THE DEPARTMENT OF PERSONNEL PURSUANT TO SECTION 24-30-1303.5, C.R.S.

(3) (b) No later than February 1 of each budget year, the department of education shall certify to the education committees of the senate and the house of representatives and the joint budget committee of the general assembly the total number of pupils expected to be enrolled in all qualified charter schools in the state during the next budget year, as derived from reports provided to the department by districts pursuant to section 22-30.5-112 (1). For the purposes of any certification made during the ~~2002-03 budget year~~ 2003-04 BUDGET YEAR and budget years thereafter, a pupil expected to be enrolled in a qualified charter school ~~that will be operating in a school district facility and that does not have ongoing financial obligations incurred to repay the outstanding costs of new construction undertaken for the charter school's benefit~~ AS DEFINED IN SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF PARAGRAPH (f.6) OF SUBSECTION (1) OF THIS SECTION shall be counted as one-half of one pupil.

SECTION 28. 22-54-124 (3) (a) (III) (A), Colorado Revised Statutes, as amended by Senate Bill 03-183, enacted at the First Regular Session of the Sixty-fourth General Assembly, is amended to read:

22-54-124. State aid for charter schools - use of state education fund moneys.

(3) (a) (III) (A) The total amount of state education fund moneys to be appropriated for all eligible districts for THE 2003-04 BUDGET YEAR AND each budget year ~~from the 2003-04 budget year through the 2011-12 budget year~~ THEREAFTER shall be an amount equal to ~~the total amount of state education fund moneys appropriated for all eligible districts for the preceding budget year pursuant to subparagraph (H) of this paragraph (a) or this sub-subparagraph (A), whichever is applicable, increased by the rate of inflation for the calendar year ending in the preceding budget year plus one percentage point.~~ The total amount of state education fund moneys to be appropriated for all eligible districts for the 2012-13 budget year and each budget year thereafter shall be an amount equal to the total amount appropriated for all eligible districts pursuant to this sub-subparagraph (A) for the preceding budget year increased by the rate of inflation for the calendar year ending in the preceding budget year FIVE MILLION DOLLARS.

SECTION 29. 22-30.5-112.3 (1) (a) (I) and (1) (c), Colorado Revised Statutes, as amended by Senate Bill 03-183, enacted at the First Regular Session of the Sixty-fourth General Assembly, are amended to read:

22-30.5-112.3. Charter schools - additional aid from district. (1) (a) (I) For the 2001-02 budget year, ~~the 2003-04 budget year, and each budget year thereafter,~~ a qualified charter school, as defined in section 22-54-124 (1) (f), ~~or (1) (f.5), whichever is applicable,~~ shall receive state education fund moneys from the school district that granted its charter in an amount equal to the percentage of the district's certified charter school pupil enrollment that is attributable to pupils expected to be enrolled in the qualified charter school multiplied by the total amount of state

education fund moneys distributed to the district for the same budget year pursuant to section 22-54-124 (3).

(c) A district shall provide funding to each qualified charter school, as defined in section 22-54-124 (1) (f), ~~or~~ (1) (f.5), OR (1) (f.6) whichever is applicable, by making a single lump sum payment to the qualified charter school as soon as possible after the district receives a lump sum payment of state education fund moneys pursuant to section 22-54-124 (4) or (4.5), whichever is applicable.

SECTION 30. 22-30.5-112.3 (1) (b), Colorado Revised Statutes, is amended, and the said 22-30.5-112.3 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

22-30.5-112.3. Charter schools - additional aid from district.

(1) (a.7) (I) FOR THE 2003-04 BUDGET YEAR AND EACH BUDGET YEAR THEREAFTER, A QUALIFIED CHARTER SCHOOL, AS DEFINED IN SECTION 22-54-124 (1) (f.6), SHALL RECEIVE STATE EDUCATION FUND MONEYS FROM THE SCHOOL DISTRICT THAT GRANTED ITS CHARTER IN AN AMOUNT EQUAL TO THE PERCENTAGE OF THE DISTRICT'S CERTIFIED CHARTER SCHOOL PUPIL ENROLLMENT THAT IS ATTRIBUTABLE TO PUPILS EXPECTED TO BE ENROLLED IN THE QUALIFIED CHARTER SCHOOL MULTIPLIED BY THE TOTAL AMOUNT OF STATE EDUCATION FUND MONEYS DISTRIBUTED TO THE DISTRICT FOR THE SAME BUDGET YEAR PURSUANT TO SECTION 22-54-124 (3).

(II) AS USED IN THIS PARAGRAPH (a.7), "PUPILS" MEANS PUPILS OTHER THAN ON-LINE PUPILS ENROLLED IN A CHARTER SCHOOL.

(b) Funding received pursuant to ~~paragraph (a)~~ PARAGRAPH (a), (a.5), OR (a.7) of this subsection (1) shall be in addition to any funding provided pursuant to section 22-30.5-112.

SECTION 31. The introductory portion to 22-54-117 (1.5) (a) and 22-54-117 (1.5) (b) and (1.5) (c), Colorado Revised Statutes, are amended, and the said 22-54-117 (1.5) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

22-54-117. Contingency reserve - capital construction expenditures reserve.

(1.5) (a) In addition to any amount annually appropriated by the general assembly to the state public school fund as a contingency reserve, for fiscal years 2000-01 through 2010-11, an amount shall be appropriated from the general fund to the state public school fund, in accordance with section 24-75-201.1 (4) (b), C.R.S., as a school capital construction expenditures reserve to be used only as provided in this subsection (1.5). The state board is authorized to approve and order payments from the school capital construction expenditures reserve only for supplemental assistance to districts OR CHARTER SCHOOLS for capital expenditures:

(b) For purposes of this subsection (1.5):

(I) "Capital construction expenditures" means expenditures which result in the acquisition of fixed assets or additions to fixed assets that will have benefits for more than one year and includes expenditures for the improvement, repair, remodeling, alteration, or renovation of existing school facilities or the purchase of new or

replacement equipment within existing school facilities.

(II) "CHARTER SCHOOL" MEANS A CHARTER SCHOOL AS DESCRIBED IN SECTION 22-54-124 (1) (f.6) (II) (A) OR (B).

(c) The state board shall provide technical consultation and administrative services to districts AND CHARTER SCHOOLS to evaluate the need for capital construction expenditures and the districts' AND CHARTER SCHOOLS' plans for expending any assistance received pursuant to this subsection (1.5).

(d) ANY SUPPLEMENTAL ASSISTANCE GRANTED TO A CHARTER SCHOOL PURSUANT TO THIS SUBSECTION (1.5) SHALL BE PROVIDED TO THE CHARTERING SCHOOL DISTRICT, AND THE SCHOOL DISTRICT SHALL DISTRIBUTE ALL SUCH MONEYS TO THE CHARTER SCHOOL AND MAY NOT RETAIN ANY PORTION OF SUCH MONEYS FOR ANY PURPOSE.

SECTION 32. 22-43.7-105 (4) (c), (4) (c.5), and (6), Colorado Revised Statutes, are amended, and the said 22-43.7-105 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

22-43.7-105. Financial assistance application requirements - evaluation criteria - oversight board - duties. (1.5) (a) A CHARTER SCHOOL MAY APPLY DIRECTLY TO THE STATE BOARD FOR FINANCIAL ASSISTANCE IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION FOR CAPITAL CONSTRUCTION PROJECTS AS DESCRIBED IN PARAGRAPH (b) OF SUBSECTION (5) OF THIS SECTION. ANY FINANCIAL ASSISTANCE AWARDED TO A CHARTER SCHOOL SHALL BE PROVIDED TO THE CHARTERING SCHOOL DISTRICT, AND THE SCHOOL DISTRICT SHALL DISTRIBUTE ALL SUCH MONEYS TO THE CHARTER SCHOOL AND MAY NOT RETAIN ANY PORTION OF SUCH MONEYS FOR ANY PURPOSE.

(b) FOR PURPOSES OF THIS SECTION, A "CHARTER SCHOOL" MEANS A CHARTER SCHOOL AS DESCRIBED IN SECTION 22-54-124 (1) (f.6) (II) (A) OR (B).

(4) All applications submitted to the state board shall be in a form prescribed by the state board and shall include:

(c) The form and amount of financial effort that will be provided by the school district OR CHARTER SCHOOL for the capital construction project;

(c.5) A demonstration of the district's OR CHARTER SCHOOL'S ability and willingness to maintain any new capital construction project funded pursuant to this article;

(6) From the applications submitted for financial assistance for the fiscal year commencing on the deadline for submitting such applications, the state board shall prepare a prioritized list of eligible capital construction projects. The state board shall then determine the type and amount of financial assistance to be provided for each eligible capital construction project based upon information provided by the school district in the application. The state board shall submit a list of school districts AND CHARTER SCHOOLS recommended to receive matching grants for capital construction projects, along with the amount of each grant and the amount of the school district OR CHARTER SCHOOL match, to the capital development committee of

the general assembly no later than October 1 of the fiscal year for which financial assistance is being sought. Said list shall also be submitted to the education committees of the senate and the house of representatives, the governor, the president of the senate, and the speaker of the house of representatives. The capital development committee shall determine the number of capital construction projects on the list that may receive matching grants from moneys available in the construction and renovation fund. Only capital construction projects on the prioritized list may receive matching grants from the construction and renovation fund, and the capital construction projects shall be funded in the priority determined by the state board. The capital development committee shall submit the list of projects to receive matching funds to the joint budget committee no later than January 1 of the fiscal year for which financial assistance is being sought for the purpose of amending the general appropriation bill to make appropriations for the capital construction projects that will receive matching grants from the construction and renovation fund for that fiscal year. The joint budget committee may increase the appropriation, and the number of projects to be funded, if additional moneys are made available from moneys transferred from the school capital construction expenditures reserve in accordance with section 22-54-117 (6) (b). A prioritized list showing school districts that will be loaned money from the permanent school fund, along with the amount of each loan, shall be provided to the governor, the president of the senate, the speaker of the house of representatives, and the joint budget committee.

SECTION 33. The introductory portion to 22-60.5-112.5 (1) (a), Colorado Revised Statutes, is amended to read:

22-60.5-112.5. National credential - fee assistance - one-time payments.

(1) (a) ~~Beginning July 1, 2002~~ FOR THE 2002-03 BUDGET YEAR, THE 2004-05 BUDGET YEAR, AND EACH BUDGET YEAR THEREAFTER, SUBJECT TO AVAILABLE APPROPRIATIONS, the department of education shall assist persons who are seeking national credentials by paying a portion of the fees charged for such national credential. Fee assistance pursuant to this section shall be available to any person who:

SECTION 34. 24-75-201.1 (4) (a.5) (I) and (4) (a.5) (II), Colorado Revised Statutes, are amended, and the said 24-75-201.1 (4) (a.5) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

24-75-201.1. Restriction on state appropriations - legislative declaration - definitions. (4) (a.5) The general assembly hereby finds, determines, and declares that:

(I) For ~~the fiscal year 2002-03~~ FISCAL YEARS 2002-03 AND 2003-04, general fund revenues will not exceed general fund obligations and the moneys required to be allocated to the highway users tax fund by more than eighty million dollars, as required in paragraph (c) of this subsection (4), and, therefore, the general assembly is not obligated to appropriate general fund moneys for ~~fiscal year 2002-03~~ FISCAL YEARS 2002-03 AND 2003-04 as would otherwise be required by subparagraph (III) of paragraph (b) of this subsection (4);

(II) Despite the fact that the state is not obligated to appropriate general fund moneys for ~~fiscal year 2002-03~~ FISCAL YEARS 2002-03 AND 2003-04 for school

district capital construction pursuant to this subsection (4), the general assembly recognizes the importance of assisting school districts in providing safe, adequate, and necessary buildings and classrooms for school children;

(IV) TO ASSIST SCHOOL DISTRICTS WITH CAPITAL CONSTRUCTION FUNDING TO THE GREATEST EXTENT POSSIBLE UNDER THE CURRENT FISCAL RESTRAINTS AND LIMITATIONS FACING THE STATE, THE GENERAL ASSEMBLY SHALL APPROPRIATE TEN MILLION DOLLARS FOR THE 2003-04 FISCAL YEAR, WHICH EQUALS FIFTY PERCENT OF THE AMOUNT OF GENERAL FUND APPROPRIATIONS THAT WOULD OTHERWISE BE REQUIRED TO BE APPROPRIATED FOR THE 2003-04 FISCAL YEAR PURSUANT TO SUBPARAGRAPH (IV) OF PARAGRAPH (b) OF THIS SUBSECTION (4), BUT FOR THE PROVISIONS OF PARAGRAPH (c) OF THIS SUBSECTION (4), FROM MONEYS THAT WOULD HAVE OTHERWISE BEEN CREDITED TO THE GENERAL FUND EXCEPT FOR INITIATED AND REFERRED MEASURES APPROVED BY THE VOTERS AT THE 2000 GENERAL ELECTION THAT DIVERTED SUCH GENERAL FUND MONEYS TO OTHER STATE FUNDS, BY APPROPRIATING:

(A) FIVE MILLION DOLLARS FROM THE STATE EDUCATION FUND TO THE SCHOOL CONSTRUCTION AND RENOVATION FUND CREATED IN SECTION 22-43.7-103 (1), C.R.S.; AND

(B) FIVE MILLION DOLLARS FROM THE STATE EDUCATION FUND TO THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE CREATED IN SECTION 22-54-117 (1.5) (a), C.R.S.

SECTION 35. 22-32-110 (1) (ff), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

22-32-110. Board of education - specific powers - repeal. (1) In addition to any other power granted to a board of education of a school district by law, each board of education of a school district shall have the following specific powers, to be exercised in its judgment:

(ff) (III) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ON OR AFTER THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (III), A SCHOOL DISTRICT SHALL NOT ENTER INTO AN AGREEMENT TO PROVIDE AN INCENTIVE PAYMENT OR CREDIT PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (ff).

SECTION 36. 22-32-110 (1) (gg), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

22-32-110. Board of education - specific powers - repeal. (1) In addition to any other power granted to a board of education of a school district by law, each board of education of a school district shall have the following specific powers, to be exercised in its judgment:

(gg) (III) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ON OR AFTER THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (III), A SCHOOL DISTRICT SHALL NOT ENTER INTO AN AGREEMENT TO PROVIDE AN INCENTIVE PAYMENT OR CREDIT PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (gg).

SECTION 37. 22-54-106 (8) (a), Colorado Revised Statutes, is amended to read:

22-54-106. Local and state shares of district total program.

(8) (a) (I) Subject to the limitations in subparagraph (II) of this paragraph (a), for any school district ~~which~~ THAT has entered into an agreement with a taxpayer pursuant to section 22-32-110 (1) (ff) or (1) (gg) BEFORE THE EFFECTIVE DATE OF THIS PARAGRAPH (a), AS AMENDED, the state's share of the district's total program shall be the amount by which the district's total program exceeds the amount of specific ownership tax revenue paid to the district and the amount of property tax revenue ~~which~~ THAT the district would have been entitled to receive if the valuation for assessment of the district did not include the portion of the valuation for assessment of the personal property of such taxpayer ~~which~~ THAT, when levied upon by the district, would result in property tax revenue equal to the amount of incentive payment or credit to such taxpayer pursuant to such agreement.

(II) For the 1995-96 budget year and budget years thereafter UNTIL THE EARLIER OF THE 2012-13 BUDGET YEAR OR TEN YEARS AFTER THE CREATION OF AN AGREEMENT ENTERED INTO PURSUANT TO SECTION 22-32-110 (1) (ff) OR (1) (gg) BEFORE THE EFFECTIVE DATE OF THIS PARAGRAPH (a), AS AMENDED, the department OF EDUCATION shall ensure that the amount of the state's share of the district's total program, as calculated pursuant to subparagraph (I) of this paragraph (a), does not exceed the amount of the state's share of the district's total program ~~which~~ THAT would otherwise have resulted if the taxpayer had not established the new business facility or expanded the existing facility. The state board shall prescribe, by rule and regulation, guidelines for the department to use in making the determination concerning the state's share pursuant to this subparagraph (II).

SECTION 38. 22-55-102 (8), Colorado Revised Statutes, is amended to read:

22-55-102. Definitions. As used in this article, unless the context otherwise requires:

(8) "Kindergarten programs" include, but are not limited to, the full-day kindergarten program described in ~~section 22-28-104 (2) (d) (II)~~ SECTION 22-28-104 (2) (d) (I).

SECTION 39. 22-55-104 (3) (h), Colorado Revised Statutes, is amended to read:

22-55-104. Procedures relating to state education fund revenue estimates - legislative declaration. (3) By February 1, 2002, and by each February 1 thereafter, the staff of the legislative council, in consultation with the state auditor, the office of state planning and budgeting, the state treasurer, the department of education, and the joint budget committee, shall cause to be conducted a review of the model used to forecast revenues in and expenditures from the fund and the spending requirements of the "Public School Finance Act of 1994", article 54 of this title. Copies of the review shall promptly be transmitted to the joint budget committee, and the office of state planning and budgeting, and the education committees of the senate and the house of representatives. The review shall include, but need not be limited to, the following:

(h) Estimates of the impact of various levels of general fund appropriations above

the minimum level identified pursuant to ~~paragraph (d)~~ PARAGRAPH (g) of this subsection (3) on the amount of moneys available in the state education fund to provide funding in the next state fiscal year for programs that may be authorized by law and that are consistent with section 17 (4) (b) of article IX of the state constitution.

SECTION 40. 2-3-115 (1) (a), Colorado Revised Statutes, is amended to read:

2-3-115. Use of state education fund moneys for school capital construction - audits - reports - repeal. (1) For the 2001-02 school district budget year and each school district budget year thereafter, for the purpose of determining the amount of state education fund moneys expended by each school district in the state for capital construction and identifying the schools and projects on which school districts expended such moneys, the state auditor shall annually examine the records of each school district in the state that received state education fund moneys for the budget year:

(a) Directly from the department of education for capital construction aid to qualified charter schools, as defined in section 22-54-124 (1) (f), ~~or~~ (1) (f.5), OR (1) (f.6), C.R.S., whichever is applicable, in accordance with section 22-54-124 (4) OR (4.5), C.R.S., WHICHEVER IS APPLICABLE; or

SECTION 41. Repeal. 22-54-104 (2) (a.5) and 24-46-104 (1) (m), Colorado Revised Statutes, are repealed.

SECTION 42. 22-30.5-109 (6), Colorado Revised Statutes, is amended to read:

22-30.5-109. Charter schools - restrictions - establishment - number. (6) A school district shall not discriminate against a charter school OR A NONPUBLIC SCHOOL PARTICIPATING IN THE COLORADO OPPORTUNITY CONTRACT PILOT PROGRAM PURSUANT TO ARTICLE 56 OF THIS TITLE in publicizing the ~~district's~~ educational options AVAILABLE TO STUDENTS RESIDING WITHIN THE DISTRICT through advertising, direct mail, availability of mailing lists, or other informational activities, provided that the charter OR NONPUBLIC school pays for its share of such publicity at cost.

SECTION 43. 22-32-119, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-32-119. Kindergartens - repeal. (1.5) SUBJECT TO THE RECEIPT OF SUFFICIENT MONEYS FROM THE FEDERAL GOVERNMENT THROUGH THE "NO CHILD LEFT BEHIND ACT OF 2001", PUBLIC LAW 107-110, ON AND AFTER JULY 1, 2003, A BOARD OF EDUCATION MAY EXPAND ITS CURRENT HALF-DAY KINDERGARTEN PROGRAMS TO FULL-DAY KINDERGARTEN EDUCATIONAL PROGRAMS. MONEYS AUTHORIZED PURSUANT TO THIS SECTION SHALL BE FIRST USED TO SERVE STUDENTS WHO ATTEND A SCHOOL THAT RECEIVED AN ACADEMIC PERFORMANCE RATING OF "UNSATISFACTORY" PURSUANT TO SECTION 22-7-604 (5) FOR THE PREVIOUS SCHOOL YEAR, UNLESS THAT SCHOOL IS OPERATING A FULL-DAY KINDERGARTEN PROGRAM, AND THEN TO SERVE STUDENTS WHO ATTEND A SCHOOL THAT RECEIVED AN ACADEMIC PERFORMANCE RATING OF "LOW" PURSUANT TO SECTION 22-7-604 (5) FOR THE PREVIOUS SCHOOL YEAR.

SECTION 44. 22-2-122 (1) (a), (2), (3) (a), and (3) (c), Colorado Revised Statutes, are amended to read:

22-2-122. Grants to schools and school districts. (1) (a) In preparing the application forms to be submitted by school districts or public schools when applying for GRANT moneys, ~~from a statutorily created education grant program~~, except as otherwise required by statute, the department shall not require information from public schools or school districts which has been previously submitted to the department; except that this prohibition shall not apply to annual updates of information sought by the department.

(2) Whenever, as part of a ~~statutorily created~~ grant program, the department or a school or school district is required to prepare an evaluation of the effectiveness of the services provided using the grant moneys, the department shall compile the evaluations and make such evaluations readily available to all schools and school districts upon request. Any costs associated with the compilation and availability of such reports shall be paid from the amount appropriated to the department for costs incurred in administering such grant programs.

(3) (a) For each budget year, the department shall allocate to the boards of cooperative services established pursuant to article 5 of this title that provide a wide range of services described in section 22-5-118 to their member school districts, or school districts with student populations of less than four thousand students, an amount equal to one percent of the amount appropriated to all ~~statutorily created~~ education grant programs for that fiscal year, or two hundred fifty thousand dollars, whichever is less. The amount allocated to the boards of cooperative services pursuant to this subsection (3) shall be taken from the amounts appropriated to all ~~statutorily created~~ education grant programs. In the event the department allocates two hundred fifty thousand dollars, such amount shall be taken from each education grant program in the same proportion that the amount appropriated for that fiscal year to the education grant program bears to the total amount appropriated for that fiscal year to all ~~statutorily created~~ education grant programs.

(c) The boards of cooperative services that receive moneys pursuant to this subsection (3) shall only use such moneys to assist member school districts and schools in applying for grants from ~~statutorily created~~ education grant programs. One or more boards of cooperative services may use the moneys allocated pursuant to this subsection (3) jointly to provide services to member school districts from more than one board of cooperative services.

SECTION 45. 22-54-114, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-54-114. State public school fund. (2.5) THE GENERAL ASSEMBLY FINDS THAT IMPLEMENTATION OF SECTION 22-7-603.5, INCLUDING IMPLEMENTATION OF RULES TO UNIQUELY IDENTIFY INDIVIDUAL STUDENTS, HAS RESULTED IN MORE ACCURATE DETERMINATIONS OF PUPIL ENROLLMENT AND A SAVINGS IN THE AMOUNT REQUIRED TO FUND THE STATE'S SHARE OF TOTAL PROGRAM FUNDING FOR SCHOOL DISTRICTS. FOR THE 2003-04 BUDGET YEAR AND BUDGET YEARS THEREAFTER, THE DEPARTMENT OF EDUCATION SHALL ALLOCATE A PORTION OF THE AMOUNT OF THE IN-YEAR COST RECOVERY OCCURRING AS A RESULT OF THE USE OF UNIQUE STUDENT IDENTIFIERS TO

FUND IMPLEMENTATION OF THE ACADEMIC GROWTH PILOT PROGRAM AND THE ACADEMIC GROWTH PROGRAM PURSUANT TO SECTION 22-7-603.7. THE AMOUNT ALLOCATED TO THE ACADEMIC GROWTH PILOT PROGRAM AND THE ACADEMIC GROWTH PROGRAM PURSUANT TO THIS SUBSECTION (2.5) SHALL NOT EXCEED TWO HUNDRED THOUSAND DOLLARS IN ANY BUDGET YEAR.

SECTION 46. 22-7-606 (1) (a), Colorado Revised Statutes, as amended by Senate Bill 03-117, enacted at the First Regular Session of the Sixty-fourth General Assembly, is amended to read:

22-7-606. School accountability reports - delivery website - repeal.

(1) (a) The department shall deliver each public school's annual accountability report to the public school by September 15, 2001, by November 15, 2002, by ~~December 15, 2003~~ and by ~~December 15~~ JANUARY 15, 2004, AND BY JANUARY 15 each year thereafter. The department shall print and provide to the public school copies of the accountability reports in the amount of: Total pupil enrollment at last annual count, plus the total number of teachers as listed on the school accountability report. ~~plus an additional twenty-five percent.~~

SECTION 47. Repeal. 22-54-105 (3) (d), Colorado Revised Statutes, is repealed as follows:

22-54-105. Instructional supplies and materials - capital reserve and insurance reserve - at-risk funding - preschool funding - repeal. (3) (d) ~~On or before October 1, 2001, and on or before October 1 each year thereafter, each district that has a pupil enrollment that exceeds six thousand pupils and receives at-risk funding pursuant to section 22-54-104 shall submit to the department of education a report specifying how the district used the at-risk funding received during the preceding fiscal year. On or before January 15, 2002, and on or before January 15 each year thereafter, the department of education shall submit to the education committees of the senate and the house of representatives and to the joint budget committee a summary of the district reports received pursuant to this paragraph (d) during the preceding October.~~

SECTION 48. Part III (2) (A) and (2) (C) and the affected totals of section 2 of chapter 399, Session Laws of Colorado 2002, as amended by section 1 of Senate Bill 03-201, as amended by sections 19 and 20 of Senate Bill 03-183, as Part III (2) (A) is amended by section 2 of Senate Bill 03-195, and as the affected totals of Part III are amended by Senate Bill 03-197, enacted at the First Regular Session of the Sixty-fourth General Assembly, are amended, and the said Part III is amended BY THE ADDITION OF THE FOLLOWING NEW FOOTNOTE, to read:

Section 2. **Appropriation.**

APPROPRIATION FROM

ITEM & SUBTOTAL	TOTAL	APPROPRIATION FROM				
		GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	CASH FUNDS EXEMPT	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$
PART III						
DEPARTMENT OF EDUCATION						
(2) ASSISTANCE TO PUBLIC SCHOOLS						
(A) Public School Finance						
State Share of Districts'						
Total Program						
Funding ^{18, 19}	2,478,397,625	2,177,576,706		10,620,642 ^a	290,200,277^b	
		2,174,576,706			293,200,277 ^b	
Additional State Aid						
Related to Locally						
Negotiated Business						
Incentive Agreements	<u>1,833,315</u>	1,833,315				
	2,480,230,940					

^a This amount shall be from rental income earned on public school lands.

^b Of this amount, ~~\$248,783,384~~ \$251,783,384 shall be from the State Education Fund created in Section 17 (4) of Article IX of the State Constitution and \$41,416,893 shall be from the State Public School Fund created in Section 22-54-114, C.R.S. Of the amount from the State Public School Fund, \$22,400,000 is estimated to be from federal mineral leasing revenues transferred to the State Public School Fund pursuant to Section 22-54-114 (1), \$17,061,698 is estimated to be from interest earned on moneys in the Public School Fund and transferred to the State Public School Fund pursuant to Section 22-41-106, C.R.S., and \$1,955,195 is estimated to be from reserves in the State Public School Fund.

(C) Grant Programs and Other Distributions

Read-to-Achieve Cash Fund	15,990,420		15,990,420 ^a	
Read-to-Achieve Grant Program	16,183,438		16,183,438 ^b	
Federal Title I Reading First Grant	9,001,635			9,001,635
School Improvement Grants	2,675,000		2,675,000 ^c	
Teacher Development Fund	1,771,625	1,771,625		

(Governor lined through this provision. See L. 2002, p. 303 7. The affected subtotals, totals, and grand totals have been adjusted to reflect the Governor's action.)

Teacher Development Grant Program	2,000,000		2,000,000 ^f	
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(Governor lined through this provision. See L. 2002, p. 303 8. The affected subtotals, totals, and grand totals have been adjusted to reflect the Governor's action.)

S.B. 97-101 Public School Health Services	8,525,325		8,525,325 (1) ^g	(1.3 FTE)
State Public School Fund, Contingency Reserve ^{22, 23, 23a}	5,900,000	1,041,774	4,858,226 ^h	
	8,900,000	4,041,774		
State Public School Fund, School Capital Construction Expenditure Reserve	16,500,060		16,500,060 ⁱ	(1.0 FTE)

	ITEM & SUBTOTAL	TOTAL	APPROPRIATION FROM				FEDERAL FUNDS
			GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	CASH FUNDS EXEMPT	
	\$	\$	\$	\$	\$	\$	\$
Charter School Capital Construction	7,813,943					7,813,943 ^e	
State Match for School Lunch Program	2,472,644					2,472,644 ^j	
Boards of Cooperative Services	210,000		170,000			40,000 ^j	
Science and Technology Center Grant Program	372,000					372,000 ^t	
	<u>85,644,465</u>						
	88,644,465						

^a This amount shall be from the Tobacco Litigation Settlement Cash Fund created in Section 24-22-115, C.R.S., pursuant to Section 24-75-1104 (1) (e), C.R.S.

^b This amount shall be from the Read-to-Achieve Cash Fund created in Section 22-7-506, C.R.S.

^c These amounts shall be from the State Education Fund created in Section 17 (4) of Article IX of the State Constitution.

^d This amount shall be from the School Awards Program Fund created in Section 22-11-304, C.R.S.

^f This amount shall be from the Teacher Development Fund created in Section 22-7-708, C.R.S.

^g This amount shall be from federal Medicaid funds appropriated to the Department of Health Care Policy and Financing. Of this amount, \$91,493 shall be for administrative costs.

^h Of this amount, \$4,100,000 is from lottery proceeds projected to be transferred to the State Public School Fund, Contingency Reserve, pursuant to Section 22-54-117 (1.6), C.R.S., and \$758,226 shall be from school district reimbursements that are credited to the State Public School Fund, Contingency Reserve, pursuant to Section 22-54-117 (5) (b), C.R.S.

¹ Of this amount, \$6,500,060 shall be from the shall be from the State Education Fund created in Section 17 (4) of Article IX of the State Constitution, and \$10,000,000 shall be from the State Public School Fund, School Capital Construction Expenditure Reserve established in Section 22-54-117 (1.5), C.R.S.

² These amounts shall be from the State Public School Fund created in Section 22-54-114, C.R.S.

³ This amount shall be from the Science and Technology Fund created in Section 22-81-206, C.R.S.

TOTALS PART III

(EDUCATION)^{5,6}	<u>\$3,127,210,316</u>	<u>\$2,352,303,661</u>	<u>\$13,517,022^a</u>	<u>\$389,408,283^a</u>	<u>\$371,981,350</u>
	<u>\$3,130,210,316</u>			<u>\$392,408,283^b</u>	

^a Of this amount, \$84,352 contains a (T) notation.

^b Of this amount, \$15,126,763 contains a (T) notation, and \$155,250 contains an (L) notation.

FOOTNOTES -- The following statements are referenced to the numbered footnotes throughout section 2.

23a DEPARTMENT OF EDUCATION, ASSISTANCE TO PUBLIC SCHOOLS, GRANT PROGRAMS AND OTHER DISTRIBUTIONS, STATE PUBLIC SCHOOL FUND, CONTINGENCY RESERVE -- IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT \$3,000,000 OF THE AMOUNT APPROPRIATED IN THIS LINE ITEM BE USED TO PROVIDE SUPPLEMENTAL ASSISTANCE TO THE DENVER PUBLIC SCHOOL DISTRICT FOR THE PURPOSE OF MITIGATING THE PROPERTY TAX REVENUE LOSS ATTRIBUTABLE TO THE UNITED AIRLINES BANKRUPTCY.

SECTION 49. Part III (2) (A) of section 2 of Senate Bill 03-258, as enacted at the First Regular Session of the Sixty-fourth General Assembly, is amended BY THE ADDITION OF A NEW FOOTNOTE to read:

Section 2. **Appropriation.**

**PART III
DEPARTMENT OF EDUCATION**

APPROPRIATION FROM

ITEM & SUBTOTAL	TOTAL	APPROPRIATION FROM				
		GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	CASH FUNDS EXEMPT	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$
(2) ASSISTANCE TO PUBLIC SCHOOLS						
(A) Public School Finance						
State Share of Districts'						
Total Program						
Funding ^{13, 14, 14a}	2,631,236,566	2,272,668,944		12,047,285 ^a	346,520,337 ^b	
Additional State Aid Related to Locally Negotiated Business						
Incentive Agreements	<u>2,379,672</u>	2,379,672				
	2,633,616,238					

^a This amount shall be from rental income earned on public school lands.

^b Of this amount, \$307,466,010 shall be from the State Education Fund created in Section 17 (4) of Article IX of the State Constitution and \$39,054,327 shall be from the State Public School Fund created in Section 22-54-114, C.R.S. Of the amount from the State Public School Fund, \$24,900,000 is estimated to be from federal mineral leasing revenues transferred to the State Public School Fund pursuant to Section 22-54-114 (1), C.R.S., and \$14,154,327 is estimated to be from interest earned on moneys in the Public School Fund and transferred to the State Public School Fund pursuant to Section 22-41-106, C.R.S.

FOOTNOTES -- The following statements are referenced to the numbered footnotes throughout section 2.

~~14a DEPARTMENT OF EDUCATION, ASSISTANCE TO PUBLIC SCHOOLS, PUBLIC SCHOOL FINANCE, STATE SHARE OF DISTRICTS' TOTAL PROGRAM FUNDING PURSUANT TO SECTION 22-54-104 (5) (c) (III) (B), C.R.S., THE DEPARTMENT IS REQUIRED TO TRANSFER A PORTION OF THE AMOUNT APPROPRIATED FOR THIS LINE ITEM TO THE LEGISLATIVE COUNCIL TO FUND THE BIENNIAL COST OF LIVING ANALYSIS. THIS AMOUNT TRANSFERRED BY THE~~

~~DEPARTMENT SHALL NOT EXCEED \$182,000.~~

(Governor lined through this provision. See the editor's note and the Governor's letter following this act.)

SECTION 50. Appropriation. In addition to any other appropriation, there is hereby appropriated, to the legislative department, for allocation to the legislative council, for the fiscal year beginning July 1, 2003, the sum of one hundred eighty-two thousand dollars (\$182,000), or so much thereof as may be necessary, for the implementation of this act. Said sum shall be from cash funds exempt transferred from the department of education.

SECTION 51. Appropriation - adjustments to the 2003 long bill. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the state education fund created in section 17 (4) of article IX of the state constitution, not otherwise appropriated, to the school construction and renovation fund created in section 22-43.7-103 (1), Colorado Revised Statutes, for the fiscal year beginning July 1, 2003, the sum of five million dollars (\$5,000,000), and such sum, or so much thereof as may be necessary, is hereby appropriated to the department of education for the purpose of providing matching grants for eligible capital construction projects in accordance with article 43.7 of title 22, Colorado Revised Statutes.

(2) For the implementation of this act, appropriations made in the annual general appropriation act, to the department of education, for the fiscal year beginning July 1, 2003, shall be adjusted as follows:

(a) The cash funds exempt appropriation for management and administration, academic growth pilot program, is decreased by three hundred eighteen thousand six hundred thirty-five dollars (\$318,635). Said sum shall be from the state education fund created in section 17 (4) of article IX of the state constitution.

~~(b) The general fund appropriation to management and administration, Colorado student assessment program, is decreased by one million dollars (\$1,000,000).~~

(Governor lined through this provision. See the editor's note and the Governor's letter following this act.)

(c) The appropriation for assistance to public schools, public school finance, state share of districts' total program funding, is decreased by twenty-eight million eight hundred eighty-five thousand twenty-three dollars (\$28,885,023). Of said sum,

twenty-seven million one hundred thirty thousand eight hundred twenty-five dollars (\$27,130,825) shall be from the general fund and one million seven hundred fifty-four thousand one hundred ninety-eight dollars (\$1,754,198) shall be cash funds exempt from the state education fund created in section 17 (4) of article IX of the state constitution.

(d) The cash funds exempt appropriation for assistance to public schools, grant programs and other distributions, national credential fund, is decreased by sixty thousand dollars (\$60,000). Said sum shall be from the state education fund created in section 17 (4) of article IX of the state constitution.

(e) The cash funds exempt appropriation for assistance to public schools, grant programs and other distributions, national credential fee assistance, is decreased by sixty thousand dollars (\$60,000). Said sum shall be from the national credential fund created in section 22-60.5-112.5 (4) (b), Colorado Revised Statutes.

(f) The cash funds exempt appropriation for assistance to public schools, grant programs and other distributions, state public school fund, school capital construction expenditures reserve, is decreased by three million forty thousand five hundred forty-seven dollars (\$3,040,547). Said sum shall be from the state education fund created in section 17 (4) of article IX of the state constitution.

(g) The cash funds exempt appropriation for assistance to public schools, grant programs and other distributions, state public school fund, school capital construction expenditures reserve, is decreased by three million forty thousand five hundred forty-seven dollars (\$3,040,547). Said sum shall be from the school capital construction expenditures reserve established in section 22-54-117 (1.5), Colorado Revised Statutes.

(h) The cash funds exempt appropriation for assistance to public schools, grant programs and other distributions, charter school capital construction, is decreased by three million forty thousand five hundred forty-seven dollars (\$3,040,547). Said sum shall be from the state education fund created in section 17 (4) of article IX of the state constitution.

(i) The general fund appropriation for assistance to public schools, grant programs and other distributions, boards of cooperative services, is decreased by two hundred ten thousand dollars (\$210,000).

SECTION 52. 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.

Approved in part and vetoed in part: May 22, 2003

Editor's note: The following is a reprinting of the Governor's message filed with Senate Bill 03-248 when he approved the bill in part and vetoed it in part on May 22, 2003. Markings were made on the bill by the Governor purporting to veto a footnote added to the 2003 long bill and a portion of the appropriation clause. For the reasons set forth in the letter to the Governor on page 131 of Volume 1 of the 1989 Session Laws of Colorado, the President of the Senate and the Speaker of the House of Representatives expressed their opinion that similar markings made to footnotes in the 1989 long bill did not constitute valid vetoes. In addition, since this bill is not an appropriations bill, questions have been raised as to the validity of such a veto. However, the Colorado Supreme Court has held that purported vetoes are entitled to a presumption of validity. In view of this holding, the purported veto is reflected in the version of the bill printed above. See *Colorado General Assembly v. Lamm*, 704 P.2d 1371 (Colo. 1985) and *Romer v. Colorado General Assembly*, 810 P.2d 215 (Colo. 1991).

May 22, 2003

The Honorable Colorado Senate
Sixty-Fourth General Assembly
First Regular Session
State Capitol Building
Denver, CO 80203

Ladies and Gentlemen:

I am filing with the Secretary of State Senate Bill 03-248, "Concerning the Financing of Public Schools, and Making an Appropriation in Connection Therewith." Approved in part and disapproved in part as of 4:42 P.M. today.

To begin with, please be advised that I am notifying the Department of Education of my legal counsel's opinion that section 43 of the bill is unconstitutional, and that I intend to take appropriate actions.

Section 43, page 32, provides:

SECTION 43. 22-32-119, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-32-119. Kindergartens - repeal. (1.5) SUBJECT TO THE RECEIPT OF SUFFICIENT MONEYS FROM THE FEDERAL GOVERNMENT THROUGH THE "NO CHILD LEFT BEHIND ACT OF 2001", PUBLIC LAW 107-110, ON AND AFTER JULY 1, 2003, A BOARD OF EDUCATION MAY EXPAND ITS CURRENT HALF-DAY KINDERGARTEN PROGRAMS TO FULL-DAY KINDERGARTEN EDUCATIONAL PROGRAMS. MONEYS AUTHORIZED PURSUANT TO THIS SECTION SHALL BE FIRST USED TO SERVE STUDENTS WHO ATTEND A SCHOOL THAT RECEIVED AN ACADEMIC PERFORMANCE RATING OF "UNSATISFACTORY" PURSUANT TO SECTION 22-7-604(5) FOR THE PREVIOUS SCHOOL YEAR, UNLESS THAT SCHOOL IS OPERATING A FULL-DAY KINDERGARTEN PROGRAM, AND THEN TO SERVE STUDENTS WHO ATTEND A SCHOOL THAT RECEIVED AN ACADEMIC PERFORMANCE RATING OF "LOW" PURSUANT TO SECTION 22-7-604(5) FOR THE PREVIOUS SCHOOL YEAR.

Section 43 attempts to control the spending and administration of federal funds. The General Assembly has no authority to direct the expenditure of federal funds in this manner; this section is an infringement upon the executive function of administration in violation of Article III of the Colorado Constitution. *MacManus v. Love*, 499 P.2d 609 (Colo. 1972); *Colorado General Assembly v. Lamm*, 738 P.2d 1156 (Colo. 1987).

With regard to my vetoes in this bill, under article IV, section 12 of the Colorado Constitution, I have the "power to disapprove of any item or items of any bill making appropriations of money, embracing distinct items." I have exercised this power with respect to a number of distinct items of appropriations in Senate Bill 03-248. Pursuant to the Colorado Constitution, I have forwarded copies of the vetoed items from this bill, with my objections, to the house of origin. I have approved the FY 2003-04 School Finance Act in part. In lining through these provisions, I have vetoed

the following items:

1. Footnote 14a in Section 49, page 41, that provides:

14a DEPARTMENT OF EDUCATION, ASSISTANCE TO PUBLIC SCHOOLS, PUBLIC SCHOOL FINANCE, STATE SHARE OF DISTRICTS' TOTAL PROGRAM - PURSUANT TO SECTION 22-54-104(5)(C)(III)(B), C.R.S., THE DEPARTMENT IS REQUIRED TO TRANSFER A PORTION OF THE AMOUNT APPROPRIATED FOR THIS LINE ITEM TO THE LEGISLATIVE COUNCIL TO FUND THE BIENNIAL COST OF LIVING ANALYSIS. THIS AMOUNT TRANSFERRED BY THE DEPARTMENT SHALL NOT EXCEED \$182,000.

This footnote amends the general appropriations bill. While the legislative branch has the authority to appropriate state funds, the executive branch has the inherent responsibility and authority to administer state funds. Therefore, the legislature may not attach conditions in the Long Bill that intrude into the administration of state government. *Anderson v. Lamm*, 579 P.2d 620 (Colo. 1978); *Colorado General Assembly v. Lamm*, 704 P.2d 1371 (Colo. 1985). Furthermore, Article V, Section 32 prohibits the legislature from including substantive legislation in the Long Bill. *Anderson*; *Colorado General Assembly*. The executive department cannot abide by legislative directives that are in violation of the Colorado Constitution.

This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill pursuant to Article V, Section 32 of the Colorado Constitution. Accordingly, I am vetoing this footnote.

2. Section 51(2)(b), page 42, that provides:

(b) The general fund appropriation to management and administration, Colorado student assessment program, is decreased by one million dollars (\$1,000,000).

This footnote amends the general appropriations bill. Article IV, Section 12 of the Colorado Constitution allows me to disapprove of any item of any bill making appropriations of money. I have exercised this power to veto this line item because it does not meet with my approval. These savings were anticipated based on a delay in delivery of the annual accountability reports permitted by section 46 of this bill. I will direct the Department of Education not to delay delivery of annual accountability reports, and this funding will permit the Department to meet its original deadlines. Delaying the accountability report delivery deadlines would

conflict with other deadlines in statute that are critical to the school accountability system, including deadlines pertaining to the request for proposals for new management in consistently unsatisfactory schools as well as deadlines for Colorado's new school choice program.

Sincerely,

Bill Owens
Governor