

CHAPTER 256

EDUCATION - PUBLIC SCHOOLS

HOUSE BILL 98-1234

BY REPRESENTATIVES Allen, Anderson, Dean, Entz, Epps, Gotlieb, Reeser, Tool, Udall, and S. Williams;
also SENATORS Wells, B. Alexander, Bishop, Matsunaka, Norton, Phillips, Reeves, and Rizzuto.

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. 22-54-104 (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) (V) FOR THE 1998-99 BUDGET YEAR, THE STATEWIDE BASE PER PUPIL FUNDING SHALL BE \$3,667 SUPPLEMENTED BY \$116 TO ACCOUNT FOR INFLATION.

SECTION 2. The introductory portion to 22-42-104 (1.3) and 22-42-104 (1.3) (a), Colorado Revised Statutes, are amended to read:

22-42-104. Limit of bonded indebtedness. (1.3) Notwithstanding the provisions of paragraph (a) of subsection (1) of this section, the limit on bonded indebtedness of a school district shall be the greater of the limit determined pursuant to paragraph (b) of subsection (1) of this section or twenty-five percent of the latest valuation for assessment of the taxable property in such district, as certified by the county assessor to the board of county commissioners, for any bonded indebtedness approved at any election held between July 1, 1994, and ~~July 1, 2000~~ JULY 1, 2005, if the commissioner of education or the commissioner's designee certifies that for each of the preceding three fiscal years the pupil enrollment or the funded pupil count of the district as of October 1, whichever is applicable, has increased:

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

(a) By ~~three~~ TWO AND ONE-HALF percent or more over each preceding year, if the district has a pupil enrollment or funded pupil count, whichever is applicable, of at least one thousand pupils;

SECTION 3. 22-20-108, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-20-108. Determination of disability - enrollment. (10) NO SCHOOL, SCHOOL DISTRICT, OR ADMINISTRATIVE UNIT THAT RECEIVES FUNDS UNDER ARTICLE 54 OF THIS TITLE SHALL IMPLEMENT OR ENFORCE ANY RULE OR POLICY OF THE STATE DEPARTMENT OF EDUCATION THAT REQUIRES OR PERMITS AN ADMINISTRATIVE UNIT TO APPOINT A PERSON TO ACT AS AN EDUCATIONAL SURROGATE PARENT FOR THE PURPOSE OF MAKING EDUCATIONAL DECISIONS REGARDING A CHILD'S PLACEMENT IN SPECIAL EDUCATION SERVICES OR FOR THE PURPOSE OF CONSENTING OR REFUSING TO CONSENT TO ASSESSMENTS PRIOR TO PLACEMENT WHEN THE CHILD'S PARENT IS UNKNOWN, UNAVAILABLE, OR FAILS TO RESPOND AFTER REASONABLE EFFORTS.

SECTION 4. 22-54-104 (5) (c) (II), Colorado Revised Statutes, is amended to read:

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

(c) (II) (A) Except as provided in subparagraph (IV) of this paragraph (c), for the 1996-97 AND 1997-98 ~~budget year and budget years thereafter~~ YEARS, a district's cost of living factor shall be determined by dividing the percentage change in the district's cost of living amount from the previous cost of living study to the current cost of living study by the lowest percentage change in cost of living amount of all districts in the state, dividing said amount by one thousand and rounding to the nearest one-thousandth of one percent, and adding the result obtained to the district's cost of living factor for the current budget year.

(B) EXCEPT AS PROVIDED IN SUBPARAGRAPH (IV) OF THIS PARAGRAPH (c), FOR THE 1998-99 BUDGET YEAR AND BUDGET YEARS THEREAFTER, A DISTRICT'S COST OF LIVING FACTOR SHALL BE THE GREATER OF: THE DISTRICT'S COST OF LIVING FACTOR FOR THE PRIOR BUDGET YEAR OR THE COST OF LIVING FACTOR DETERMINED BY DIVIDING THE PERCENTAGE CHANGE IN THE DISTRICT'S COST OF LIVING AMOUNT FROM THE PREVIOUS COST OF LIVING STUDY TO THE CURRENT COST OF LIVING STUDY BY THE LOWEST POSITIVE PERCENTAGE CHANGE IN THE COST OF LIVING AMOUNT OF ALL DISTRICTS IN THE STATE, DIVIDING SAID AMOUNT BY ONE THOUSAND AND ROUNDING TO THE NEAREST ONE-THOUSANDTH OF ONE PERCENT, AND ADDING THE RESULT OBTAINED TO THE DISTRICT'S COST OF LIVING FACTOR FOR THE PRIOR BUDGET YEAR.

(C) For purposes of this subparagraph (II), a district's cost of living amount refers to the values as adjusted for district labor pool areas.

SECTION 5. 22-54-104.3 (2.7), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22-54-104.3. Total program for 1994-95 and 1995-96 budget years and budget years thereafter - special provisions. (2.7) (d) (I) FOR THE 1998-99

BUDGET YEAR AND BUDGET YEARS THEREAFTER, IF A DISTRICT'S TOTAL PROGRAM IS CALCULATED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2.7) AND THE DISTRICT IS CAPABLE OF RECEIVING AN INCREASE IN ITS TOTAL PROGRAM WITHIN THE LIMITATIONS ON ITS FISCAL YEAR SPENDING FOR THE APPLICABLE BUDGET YEAR UNDER SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, THE DISTRICT MAY CERTIFY TO THE DEPARTMENT THAT IT MAY RECEIVE AN ADDITIONAL INCREASE IN ITS TOTAL PROGRAM FOR THE APPLICABLE BUDGET YEAR IN AN AMOUNT EQUAL TO THE LESSER OF:

(A) THE DIFFERENCE BETWEEN THE DISTRICT'S TOTAL PROGRAM FOR THE APPLICABLE BUDGET YEAR CALCULATED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2.7) AND THE DISTRICT'S TOTAL PROGRAM FOR THE APPLICABLE BUDGET YEAR CALCULATED PURSUANT TO SECTION 22-54-104 (2) OR (6); OR

(B) THE DIFFERENCE BETWEEN THE DISTRICT'S TOTAL PROGRAM FOR THE APPLICABLE BUDGET YEAR CALCULATED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2.7) AND THE DISTRICT'S ALLOWABLE FISCAL YEAR SPENDING FOR THE APPLICABLE BUDGET YEAR UNDER SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

(II) EACH DISTRICT ELIGIBLE FOR AN INCREASE PURSUANT TO THIS PARAGRAPH (d) SHALL CERTIFY TO THE DEPARTMENT THE EXACT DOLLAR AMOUNT OF INCREASE THAT THE DISTRICT CAN ACCEPT. SUCH CERTIFICATION SHALL BE SUBMITTED NO LATER THAN DECEMBER 1 OF THE APPLICABLE BUDGET YEAR AND MUST BE REVIEWED AND APPROVED BY AN AUDITOR FOR THE DISTRICT.

SECTION 6. Repeal. 22-54-121, Colorado Revised Statutes, is repealed as follows:

22-54-121. Funding for statewide assessment program. ~~For fiscal year 1998-99, and for fiscal years thereafter, the department of education may expend a portion of the total amount annually appropriated by the general assembly for public school finance, total program, in the annual general appropriations bill as necessary to implement the Colorado student assessment program pursuant to section 22-7-409; except that the amount spent by the department in implementing said assessment program shall not exceed the limitation annually specified in a footnote to the annual general appropriations bill. If the remainder of the amount appropriated for public school finance, total program, is not sufficient to fund the state's share of total program funding for any fiscal year, the department of education shall withhold amounts from school districts in the manner provided in section 22-54-106 (4) (c).~~

SECTION 7. 22-7-409 (3), Colorado Revised Statutes, is amended to read:

22-7-409. Assessments. (3) ~~Beginning~~ FOR THE fiscal year 1998-99 and for fiscal years thereafter, ~~as provided in section 22-54-121, the department may fund the Colorado student assessment program using a portion of the moneys annually appropriated to public school finance, total program, pursuant to article 54 of this title, subject to the limitation specified in a footnote to the annual general appropriations bill~~ THE GENERAL ASSEMBLY SHALL APPROPRIATE MONEYS IN THE ANNUAL GENERAL APPROPRIATION ACT TO THE DEPARTMENT TO FUND THE COLORADO STUDENT ASSESSMENT PROGRAM.

SECTION 8. 22-54-103 (7), Colorado Revised Statutes, is amended to read:

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

(7) "Funded pupil count" means 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

~~(b)~~ (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.

SECTION 9. 22-54-104 (2) (a) (IV) (D), Colorado Revised Statutes, is amended to read:

22-54-104. District total program. (2) (a) (IV) (D) For purposes of this subparagraph (IV), a district's "per pupil funding" shall be the district's total program for the applicable budget year, as calculated pursuant to sub-subparagraph (A) of subparagraph (III) of this paragraph (a), divided by the district's funded pupil count for such budget year; EXCEPT THAT, FOR THE 1998-99 BUDGET YEAR, A DISTRICT'S "PER PUPIL FUNDING" SHALL BE CALCULATED UNDER THIS PROVISION WITHOUT REGARD TO THE CHANGE IN THE SIZE FACTORS MADE IN SUBPARAGRAPH (I.2) OF PARAGRAPH (b) OF SUBSECTION (5) OF THIS SECTION AND, FOR THE 1999-2000 BUDGET YEAR AND BUDGET YEARS THEREAFTER, SHALL BE CALCULATED USING THE COST OF LIVING FACTOR AND SIZE FACTOR USED IN THE CALCULATION FOR THE 1998-99 BUDGET YEAR UNDER THIS SUB-SUBPARAGRAPH (D) AND THE AT-RISK FACTOR CALCULATED UNDER THIS SECTION AS IT EXISTED FOR THE 1997-98 BUDGET YEAR OR USING THE COST OF LIVING, SIZE FACTOR, AND AT-RISK FACTOR APPLICABLE FOR THE BUDGET YEAR, WHICHEVER PRODUCES THE LESSER "PER PUPIL FUNDING" AMOUNT.

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

22-54-104. District total program. (5) (b) (I) A district's size factor for the 1994-95, ~~budget year and budget years thereafter~~ 1995-96, 1996-97, AND 1997-98 BUDGET YEARS 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 2761.5502 + (0.00376159 x

the difference between
the funded pupil count
and 276)

276 or more but less than 459 $1.2430 + (0.00167869 \times$
the difference between
the funded pupil count
and 459)

459 or more but less than 1,027 $1.1260 + (0.00020599 \times$
the difference between
the funded pupil count
and 1,027)

1,027 or more but less than 2,293 $1.0578 + (0.00005387 \times$
the difference between
the funded pupil count
and 2,293)

2,293 or more but less than 5,814 $1.0000 + (0.00001642 \times$
the difference between
the funded pupil count
and 5,814)

5,814 or more but less than 21,940 1.0000

21,940 or more but less than 32,193 $1.0000 + (0.00000334 \times$
the difference between
the funded pupil count
and 21,940)

32,193 or more 1.0342

(1.2) (A) A DISTRICT'S SIZE FACTOR FOR THE 1998-99 BUDGET YEAR 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 $1.5502 + (0.00376159 \times$
THE DIFFERENCE BETWEEN THE FUNDED PUPIL COUNT AND 276)

276 OR MORE BUT LESS THAN 459 $1.2430 + (0.00167869 \times$
THE DIFFERENCE BETWEEN THE FUNDED PUPIL COUNT AND 459)

459 OR MORE BUT LESS THAN 1,027 $1.1260 + (0.00020599 \times$
THE DIFFERENCE
BETWEEN THE FUNDED PUPIL COUNT AND 1,027)

1,027 OR MORE BUT LESS THAN 2,293 $1.0578 + (0.00005387 \times$ T H E
DIFFERENCE

BETWEEN THE FUNDED
PUPIL COUNT AND 2,293)

2,293 OR MORE BUT LESS THAN 5,650 1.0042 + (0.00001597 x
THE DIFFERENCE
BETWEEN THE FUNDED PUPIL COUNT AND 5,650)

5,650 OR MORE BUT LESS THAN 23,211 1.0042

23,211 OR MORE BUT LESS THAN 32,193 1.0042 + (0.00000334 x
THE DIFFERENCE
BETWEEN THE FUNDED PUPIL COUNT AND
23,211)

32,193 OR MORE 1.0342

(B) FOR THE 1998-99 BUDGET YEAR ONLY, FOR THE PURPOSE OF DISTRIBUTING ADDITIONAL FUNDS, NO DISTRICT SHALL HAVE A SIZE FACTOR UNDER SUB-SUBPARAGRAPH (A) OF THIS PARAGRAPH (I.2) OF LESS THAN 1.0081; EXCEPT THAT THE DEPARTMENT SHALL REDUCE THE MINIMUM SIZE FACTOR DOWNWARD BY THE AMOUNT OF MONEY EQUAL TO ONE MILLION DOLLARS MINUS THE AMOUNT OF MONEY TRANSFERRED FROM THE SECRETARY OF STATE CASH FUND TO THE STATE PUBLIC SCHOOL FUND IN S.B. 98-194 ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIRST GENERAL ASSEMBLY.

(I.3) (A) A DISTRICT'S SIZE FACTOR FOR THE 1999-2000 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 x
THE DIFFERENCE BETWEEN THE FUNDED PUPIL COUNT AND 276)

276 OR MORE BUT LESS THAN 459 1.2430 + (0.00167869 x
THE DIFFERENCE BETWEEN THE FUNDED PUPIL COUNT AND 459)

459 OR MORE BUT LESS THAN 1,027 1.1260 + (0.00020599 x
THE DIFFERENCE
BETWEEN THE FUNDED PUPIL COUNT AND 1,027)

1,027 OR MORE BUT LESS THAN 2,293 1.0578 + (0.00005387 x T H E
DIFFERENCE
BETWEEN THE FUNDED
PUPIL COUNT AND 2,293)

2,293 OR MORE BUT LESS THAN 5,650 1.0120 + (0.00001364 x
THE DIFFERENCE
BETWEEN THE FUNDED PUPIL COUNT AND 5,650)

5,650 OR MORE BUT LESS THAN 25,546 1.0120

25,546 OR MORE BUT LESS THAN 32,193 1.0120 + (0.00000334 x
THE DIFFERENCE
BETWEEN THE FUNDED 25,546)

32,193 OR MORE 1.0342

(B) DURING THE 1998 INTERIM, THE LEGISLATIVE COUNCIL STAFF SHALL CONDUCT A STUDY OF THE SIZE FACTORS ESTABLISHED BY THIS SUBSECTION (I.3) AND SHALL MAKE A REPORT OF ITS FINDINGS TO THE GENERAL ASSEMBLY NO LATER THAN JANUARY 15, 1999.

SECTION 11. 22-54-104 (5) (b), 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:

(b) (IV) FOR THE 1998-99 BUDGET YEAR AND BUDGET YEARS THEREAFTER, THE FUNDED PUPIL COUNT USED TO CALCULATE A DISTRICT'S SIZE FACTOR PURSUANT TO THIS PARAGRAPH (b) SHALL BE THE FUNDED PUPIL COUNT, AS CALCULATED PURSUANT TO SECTION 22-54-103 (7), REDUCED BY SIXTY-FIVE PERCENT OF THE NUMBER OF PUPILS INCLUDED IN THE FUNDED PUPIL COUNT THAT ARE ENROLLED IN CHARTER SCHOOLS IN THE DISTRICT; EXCEPT THAT THE PROVISIONS OF THIS SUBPARAGRAPH (IV) SHALL ONLY APPLY TO THOSE DISTRICTS WITH A FUNDED PUPIL COUNT, AS CALCULATED PURSUANT TO SECTION 22-54-103 (7), OF FIVE HUNDRED OR LESS.

SECTION 12. 22-54-105 (1) (c), Colorado Revised Statutes, is amended to read:

22-54-105. Instructional supplies and materials - capital reserve and insurance reserve. (1) (c) For purposes of this subsection (1), instructional supplies and materials include, but are not limited to, supplies, textbooks, library books, periodicals, and other supplies and materials. Instructional capital outlay includes those expenditures which result in the acquisition of fixed assets for instructional purposes, or additions thereto, which the board of education anticipates will have benefits for more than one year. Other instructional purposes include expenses incurred in providing transportation for pupils to and from school-sponsored instructional activities which occur outside the classroom AND costs incurred for repair or maintenance services for equipment which is directly used for instructional purposes. ~~and costs incurred in providing staff development directly related to instruction. Moneys expended for staff development costs shall not exceed ten percent of the amount budgeted pursuant to this subsection (1). Costs incurred in providing staff development shall include moneys expended pursuant to contractual arrangements with educators and other staff development providers but shall not include moneys for out-of-state travel or moneys for in-district teacher salary increases.~~ Instructional supplies and materials, instructional capital outlay, and other instructional purposes are limited to those functions accounts and objects accounts as prescribed by the state board of education.

SECTION 13. Article 54 of title 22, Colorado Revised Statutes, is amended BY

THE ADDITION OF A NEW SECTION to read:

22-54-122. Small attendance center aid. (1) FOR THE 1998-99 BUDGET YEAR AND BUDGET YEARS THEREAFTER, A DISTRICT SHALL BE ELIGIBLE FOR AID PURSUANT TO THIS SECTION IF:

(a) THE DISTRICT HAS MORE THAN ONE ELEMENTARY OR SECONDARY SCHOOL ATTENDANCE CENTER; AND

(b) THE DISTRICT OPERATES ONE OR MORE ELEMENTARY OR SECONDARY ATTENDANCE CENTERS WITH A PUPIL ENROLLMENT OF LESS THAN TWO HUNDRED AND THAT ARE LOCATED TWENTY OR MORE MILES FROM ANY SIMILAR SCHOOL ATTENDANCE CENTER IN THE SAME DISTRICT.

(2) A DISTRICT MEETING THE ELIGIBILITY REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION SHALL BE ELIGIBLE TO RECEIVE AID FOR EACH SMALL ATTENDANCE CENTER AS CALCULATED BY: MULTIPLYING THE PUPIL ENROLLMENT OF THE SMALL ATTENDANCE CENTER BY AN AMOUNT EQUAL TO THIRTY-FIVE PERCENT OF THE DIFFERENCE BETWEEN THE DISTRICT PER PUPIL FUNDING, AS CALCULATED PURSUANT TO SECTION 22-54-104, AND THE DISTRICT PER PUPIL FUNDING, AS CALCULATED PURSUANT TO SECTION 22-54-104 EXCEPT USING THE SIZE FACTOR CALCULATED USING THE FUNDED PUPIL COUNT OF THE SMALL ATTENDANCE CENTER; AND THEN MULTIPLYING SUCH AMOUNT BY THE PERCENTAGE DETERMINED BY DIVIDING THE DIFFERENCE BETWEEN TWO HUNDRED AND THE FUNDED PUPIL COUNT OF THE SMALL ATTENDANCE CENTER BY TWO HUNDRED.

(3) THE GENERAL ASSEMBLY SHALL APPROPRIATE ANNUALLY AN AMOUNT FOR SMALL ATTENDANCE CENTER AID TO BE DISTRIBUTED PURSUANT TO THE FORMULA IN SUBSECTION (2) OF THIS SECTION. IN THE EVENT THE AMOUNT OF MONEY APPROPRIATED BY THE GENERAL ASSEMBLY IS LESS THAN THE AMOUNT OF AID AUTHORIZED BY THIS SECTION TO ALL DISTRICTS, THE AMOUNT TO BE DISTRIBUTED TO EACH SCHOOL DISTRICT SHALL BE IN THE SAME PROPORTION AS THE AMOUNT THAT THE APPROPRIATION BEARS TO THE TOTAL AMOUNT OF AID FOR ALL DISTRICTS.

SECTION 14. 22-54-107 (2) and (3), Colorado Revised Statutes, are amended to read:

22-54-107. Buy-out of categorical programs. (2) When a district receives property tax revenue from the additional levy made pursuant to subsection (1) of this section or when a district has elected to keep excess property tax revenue collected during the 1992 calendar year pursuant to the provisions of section 22-44-103.5 (2) (b) (III) (C) or (2) (c) (III), such property tax revenue shall be used to replace, on a pro rata basis, any categorical program support funds ~~which~~ THAT such district would otherwise be eligible to receive from the state. The amount of categorical program support funds replaced by property tax revenue pursuant to the provisions of this subsection (2) shall be used to make payments of categorical program support funds to eligible districts, and, in the event that the appropriations for categorical programs are less than the total categorical program support funds to which districts are entitled under applicable provisions of law, such funds shall be applied to categorical programs in the following order:

(a) First, transportation aid pursuant to article 51 of this title;

(b) Second, funds pursuant to the "English Language Proficiency Act", article 24 of this title; ~~and~~

(c) THIRD, SMALL ATTENDANCE CENTER AID PURSUANT TO SECTION 22-54-122; AND

~~(c)~~ (d) ~~Third~~ FOURTH, funds pursuant to the "Exceptional Children's Educational Act", article 20 of this title.

(3) For purposes of this section, "categorical program support funds ~~which~~ THAT the district would otherwise be eligible to receive from the state" means amounts ~~which~~ THAT the district would have received from the state but ~~which~~ THAT will be received instead from property tax revenues by reason of this section and includes funds pursuant to the "Exceptional Children's Educational Act", article 20 of this title, funds pursuant to the "English Language Proficiency Act", article 24 of this title, transportation aid pursuant to article 51 of this title, SMALL ATTENDANCE CENTER AID PURSUANT TO SECTION 22-54-122, and vocational education aid pursuant to article 8 of title 23, C.R.S. Funds received by an administrative unit under the "Exceptional Children's Educational Act", article 20 of this title, as reimbursement for services provided to children counted in the pupil enrollment of a district shall be considered as funds ~~which~~ THAT a district would otherwise be eligible to receive for purposes of this subsection (3).

SECTION 15. 22-28-104 (2) (b) (II) and (2) (c), Colorado Revised Statutes, are amended, and the said 22-28-104 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, 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:

(b) (II) For the 1995-96 budget year through the ~~2000-01~~ 1997-98 budget year, the department, in its discretion, may establish a program under which a school district could apply to the department for authorization to implement a full-day kindergarten component of the district's preschool program. Of the total number of children that may participate in the state preschool program, no more than five hundred would be allowed to participate in the full day kindergarten program. If a program is established, the department shall establish criteria to use in selecting school districts for participation in the program.

(c) To not more than 8,500 in the 1996-97 ~~budget year and budget years thereafter~~ AND 1997-98 BUDGET YEARS;

(d) (I) TO NOT MORE THAN 8,850 IN THE 1998-99 BUDGET YEAR AND BUDGET YEARS THEREAFTER.

(II) 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.

SECTION 16. 22-36-105, Colorado Revised Statutes, is amended to read:

22-36-105. Schools of choice fund - creation - purpose - repeal. (1) ~~There is hereby created in the state treasury the schools of choice fund, which fund shall be made up of moneys transferred thereto from the state public school fund pursuant to section 22-54-114, if any, as well as any moneys received by the department pursuant to subsection (2) of this section.~~ THE SCHOOLS OF CHOICE FUND IS HEREBY ABOLISHED, EFFECTIVE JULY 31, 1998. ANY MONEYS REMAINING IN THE FUND ON JULY 31, 1998, THAT HAVE NOT BEEN OTHERWISE APPROPRIATED OR TRANSFERRED PURSUANT TO OTHER PROVISIONS OF LAW SHALL BE TRANSFERRED TO THE STATE PUBLIC SCHOOL FUND.

(2) ~~Any bequests, gifts, and grants received by the department to be used for the purposes of section 22-36-104 shall be credited to the schools of choice fund.~~

(3) ~~The moneys in said fund are subject to annual appropriation by the general assembly to the department for the direct and indirect costs of implementing and administering the interdistrict schools of choice pilot program and for the purposes set forth in sections 22-36-104 and 22-36-106.~~

(4) THIS SECTION IS REPEALED, EFFECTIVE AUGUST 1, 1998.

SECTION 17. 22-54-114 (3), Colorado Revised Statutes, is amended, and the said 22-54-114 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

22-54-114. State public school fund. (3) Fifty percent of any unexpended balance of moneys appropriated by the general assembly in the state public school fund at the end of each fiscal year ~~shall be transferred to the schools of choice fund created in section 22-36-105 and the remaining fifty percent~~ shall be transferred to the Colorado comprehensive health education fund created in section 22-25-109. ~~but~~ THE REMAINING FIFTY PERCENT AND any balances derived from other sources shall remain in said state public school fund and become available for distribution during the following fiscal year.

(4) FOR THE 1997-98 FISCAL YEAR AND FISCAL YEARS THEREAFTER, THE NET AMOUNT RECOVERED BY THE DEPARTMENT DURING THE APPLICABLE FISCAL YEAR, PURSUANT TO SCHOOL DISTRICT AUDITS, AS OVERPAYMENTS MADE TO SCHOOL DISTRICTS THAT WOULD OTHERWISE BE TRANSMITTED TO THE STATE TREASURER FOR DEPOSIT IN THE GENERAL FUND SHALL INSTEAD BE TRANSMITTED TO THE STATE TREASURER FOR DEPOSIT IN THE STATE PUBLIC SCHOOL FUND. SUCH AMOUNT SHALL BE AVAILABLE FOR APPROPRIATION TO THE DEPARTMENT IN SUBSEQUENT FISCAL YEARS.

SECTION 18. 22-45-103 (1) (a) (VI), Colorado Revised Statutes, is amended to read:

22-45-103. Funds - repeal. (1) The following funds are created for each school district for purposes specified in this article:

(a) **General fund.** (VI) (A) ~~For the 1997-98 budget year and budget years thereafter, an amount determined pursuant to sub-subparagraph (B) of this subparagraph (VI) shall be credited to the capital construction account. Moneys in said account may be used for any of the purposes set forth in sub-subparagraphs (A), (B), (C), and (D) of subparagraph (I) of paragraph (c) of this subsection (1) but shall not be expended by the district for any other purpose. All interest earned on the investment of moneys in the account shall be credited to the account. Moneys remaining in the account at the end of any fiscal year shall remain in the account and be available for expenditure in the next fiscal year. ON THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (VI), AS AMENDED, THE CAPITAL CONSTRUCTION ACCOUNT SHALL BE ABOLISHED, AND ANY MONEYS REMAINING IN THE ACCOUNT SHALL BE TRANSFERRED TO THE GENERAL FUND OF THE SCHOOL DISTRICT.~~

(B) ~~The amount to be credited to the capital construction account in each budget year shall be the difference between the district's total employer contribution for the budget year as calculated pursuant to section 24-51-401 (1.7), C.R.S., using a contribution rate of 11.6% and as calculated pursuant to said section using a contribution rate of 11.5%. THIS SUBPARAGRAPH (VI) IS REPEALED, EFFECTIVE JULY 1, 1998.~~

SECTION 19. 22-45-103 (1) (c) (I) (E), Colorado Revised Statutes, is amended to read:

22-45-103. Funds. (1) The following funds are created for each school district for purposes specified in this article:

(c) **Capital reserve fund.** (I) Moneys allocated pursuant to the provisions of section 22-54-105 (2) shall be transferred from the general fund and recorded in the capital reserve fund along with the revenues received pursuant to section 39-5-132, C.R.S. Such revenues may be supplemented by gifts, donations, and tuition receipts. Unencumbered moneys in the fund may be transferred to a fund or an account within the general fund established in accordance with generally accepted accounting principles solely for the management of risk-related activities as identified in section 24-10-115, C.R.S., and article 13 of title 29, C.R.S., by resolution of the board of education when such transfer is deemed necessary by the board. Expenditures from the fund shall be limited to long-range capital outlay expenditures and shall be made only for the following purposes:

(E) Acquisition of school buses or other equipment, the estimated unit cost of which, including any necessary installation, is in excess of ~~seven hundred fifty~~ ONE THOUSAND dollars;

SECTION 20. Repeal. 22-45-112.5, Colorado Revised Statutes, is repealed as follows:

22-45-112.5. Sale of certificates of participation - use of proceeds. Notwithstanding the provisions of section 22-45-112, all or any portion of the proceeds received by a school district from the issuance and sale of certificates of participation may, in the discretion of the board of education, be deposited into the district's pension or retirement fund.

SECTION 21. 24-72-204 (3) (d), Colorado Revised Statutes, is amended to read:

24-72-204. Allowance or denial of inspection - grounds - procedure - appeal.

(3) (d) THE PROVISIONS OF THIS PARAGRAPH (d) SHALL APPLY TO ALL PUBLIC SCHOOLS AND SCHOOL DISTRICTS THAT RECEIVE FUNDS UNDER ARTICLE 54 OF TITLE 22, C.R.S. Notwithstanding the provisions of subparagraph (VI) of paragraph (a) of this subsection (3), under policies adopted by the local board of education, the names, addresses, and home telephone numbers of students in any secondary school shall be released to a recruiting officer for any branch of the United States armed forces who requests such information, subject to the following:

(I) Each local board of education shall adopt ~~one of the following policies~~ A POLICY to govern the release of the names, addresses, and home telephone numbers of secondary school students to military recruiting officers THAT PROVIDES THAT SUCH INFORMATION SHALL BE RELEASED TO RECRUITING OFFICERS UNLESS A STUDENT SUBMITS A REQUEST, IN WRITING, THAT SUCH INFORMATION NOT BE RELEASED.

~~(A) A policy that such information shall be released to recruiting officers unless a student submits a request, in writing, that such information not be released; or~~

~~(B) A policy that such information shall be released to recruiting officers, but only if a student notifies the local board of education that such information may be released. Under this policy, the local board shall inform secondary students of their obligation to notify the board should they desire that such information be released.~~

~~(II) In the event that the local board of education fails to adopt either of the policies in subparagraph (I) of this paragraph (d), the policy set forth in sub-subparagraph (A) of subparagraph (I) of this paragraph (d) shall be applicable. THE DIRECTORY INFORMATION REQUESTED BY A RECRUITING OFFICER SHALL BE RELEASED BY THE LOCAL BOARD OF EDUCATION WITHIN NINETY DAYS OF THE DATE OF THE REQUEST.~~

(III) The local board of education shall comply with any applicable provisions of the federal "Family Education Rights and Privacy Act of 1974" (FERPA), 20 U.S.C. section 1232g, and the federal regulations cited thereunder relating to the release of student information by educational institutions that receive federal funds.

(IV) Actual DIRECT expenses incurred in furnishing this information shall be paid for by the requesting service AND SHALL BE REASONABLE AND CUSTOMARY.

(V) The recruiting officer shall use the data released for the purpose of providing information to students regarding military service and shall not use it for any other purpose or release such data to any person or organization other than individuals within the recruiting services of the armed forces.

SECTION 22. 24-21-104 (3) (d), Colorado Revised Statutes, is amended BY

THE ADDITION OF A NEW SUBPARAGRAPH to read:

24-21-104. Fees of secretary of state. (3) (d) (VI) NOTWITHSTANDING ANY PROVISION OF PARAGRAPH (b) OF THIS SUBSECTION (3) TO THE CONTRARY, ON JULY 1, 1998, THE STATE TREASURER SHALL DEDUCT THREE MILLION DOLLARS FROM THE DEPARTMENT OF STATE CASH FUND AND TRANSFER SUCH SUM TO THE STATE PUBLIC SCHOOL FUND CREATED IN SECTION 22-54-114, C.R.S.

SECTION 23. 22-54-117 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22-54-117. Contingency reserve. (1) An amount to be determined by the general assembly shall be appropriated annually to the state public school fund as a contingency reserve. In deciding the amount to be appropriated to the contingency reserve, the general assembly may take into consideration any recommendations made by the department of education, but nothing in this section shall be construed to obligate the general assembly to provide supplemental assistance to all districts determined to be in need or fully fund the total amount of such need. The state board is authorized to approve and order payments from such contingency reserve for supplemental assistance to districts determined to be in need as the result of any or all of the following circumstances:

(e) UNUSUAL FINANCIAL BURDEN CAUSED BY INSTRUCTION OF CHILDREN WHO MOVED INTO THE DISTRICT FOLLOWING THE PUPIL ENROLLMENT COUNT DATE. SUCH SUPPLEMENTAL ASSISTANCE SHALL NOT EXCEED THE ADDITIONAL COST INCURRED BY THE DISTRICT DUE TO THE INCREASE IN PUPIL ENROLLMENT. THE PROVISIONS OF THIS PARAGRAPH (e) SHALL ONLY BE AVAILABLE TO DISTRICTS WITH A FUNDED PUPIL COUNT OF TWO THOUSAND OR LESS.

SECTION 24. 22-33-205 (1), Colorado Revised Statutes, as amended by Senate Bill 98-1, enacted at the Second Regular Session of the Sixty-first General Assembly, is amended to read:

22-33-205. Services for expelled students - grants - criteria. (1) (a) There is hereby established in the department of education the expelled student services grant program, referred to in this section as the "program". The program shall provide grants to school districts and to pilot schools established pursuant to article 38 of this title to assist them in providing educational services to expelled students pursuant to section 22-33-203 (2) and to students at risk of expulsion. Any school district that provides educational services within the school district pursuant to section 22-33-203 (2) and any pilot school that provides educational services pursuant to an agreement entered into pursuant to section 22-33-203 (2) is eligible to participate in the grant program.

(b) IN ADDITION TO SCHOOL DISTRICTS AND PILOT SCHOOLS, THE DEPARTMENT OF MILITARY AFFAIRS MAY APPLY FOR A GRANT PURSUANT TO THE PROVISIONS OF THIS SECTION TO ASSIST THE DEPARTMENT WITH A PROGRAM TO PROVIDE EDUCATIONAL SERVICES TO EXPELLED STUDENTS. THE DEPARTMENT SHALL FOLLOW APPLICATION PROCEDURES ESTABLISHED BY THE DEPARTMENT OF EDUCATION PURSUANT TO SUBSECTION (2) OF THIS SECTION. THE DEPARTMENT OF EDUCATION SHALL DETERMINE WHETHER TO AWARD A GRANT TO THE DEPARTMENT OF MILITARY AFFAIRS

AND THE AMOUNT OF THE GRANT.

(c) Grants awarded pursuant to this section shall be paid for out of any ~~general fund~~ moneys appropriated to the department of education for implementation of the program.

SECTION 25. Appropriation - adjustment in 1997 long bill. (1) For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 1997, to the department of education shall be adjusted as follows:

(a) The general fund appropriation for public school finance, total program, is decreased by three million three hundred ninety-one thousand one hundred twenty dollars (\$3,391,120).

(b) The general fund appropriation for distributions, special contingency reserve, is decreased by five hundred thousand dollars (\$500,000).

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the state public school fund created in section 22-54-114, Colorado Revised Statutes, for the fiscal year beginning July 1, 1997, the sum of three million eight hundred ninety-one thousand one hundred twenty dollars (\$3,891,120).

SECTION 26. Appropriations - adjustments in 1998 long bill.

(1) For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 1998, shall be adjusted as follows:

(a) The appropriation made to the department of education, public school finance, total program, is increased by three million seven thousand two hundred six dollars (\$3,007,206). Said sum shall be cash funds exempt from the state public school fund created in section 22-54-114, Colorado Revised Statutes.

(b) The appropriation made to the department of education, public school finance, special education - gifted and talented children, is increased by five hundred thousand dollars (\$500,000). Said sum shall be cash funds exempt from the state public school fund created in section 22-54-114, Colorado Revised Statutes.

(c) The appropriation made to the department of education, expelled student services, is increased by five hundred thousand dollars (\$500,000). Said sum shall be cash funds exempt from the state public school fund created in section 22-54-114, Colorado Revised Statutes.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the state public school fund created in section 22-54-114, Colorado Revised Statutes, not otherwise appropriated, to the department of education, for the fiscal year beginning July 1, 1998, the sum of three million nine hundred sixty-seven thousand two hundred six dollars (\$3,967,206), or so much thereof as may be necessary, for funding the Colorado student assessment program pursuant to article 7 of title 22, Colorado Revised Statutes; except that this amount shall be decreased

by one million five hundred seventeen thousand two hundred six dollars (\$1,517,206) if H.B. 98-1267, enacted at the Second Regular Session of the Sixty-first General Assembly, does not become law. Said sum shall be cash funds exempt.

(3) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the state public school fund created in section 22-54-114, Colorado Revised Statutes, not otherwise appropriated, to the department of education, for the fiscal year beginning July 1, 1998, the sum of eight hundred thousand dollars (\$800,000), or so much thereof as may be necessary, for the implementation of section 22-54-122, Colorado Revised Statutes. Said sum shall be cash funds exempt.

SECTION 27. Department of military affairs - educational services for expelled students - request for supplemental appropriation - federal funds.

(1) If the department of military affairs receives a grant from the department of education pursuant to section 22-33-205, Colorado Revised Statutes, from moneys appropriated to the department of education for expelled student services or receives payments from school districts under agreements entered into between school districts and the department pursuant to section 22-33-204, Colorado Revised Statutes, for the provision of educational services to expelled students, the department shall seek a supplemental appropriation for the 1998-99 fiscal year to authorize the department to expend any moneys received. Until a supplemental appropriation request can be made, the department may seek approval for the overexpenditure of its appropriation for the 1998-99 fiscal year in accordance with the provisions of section 24-75-111, Colorado Revised Statutes.

(2) Any moneys received by the department of military affairs may be used by the department to provide educational services to expelled students through the establishment of the national guard challenge program in the state of Colorado and to apply for federal funds that are available to the state of Colorado to establish such a program. If federal funds are applied for and received by the state of Colorado to establish such a program during the fiscal year beginning July 1, 1998, the department of military affairs shall have the authority to spend the total amount of federal funds received for the implementation of the program. The amount of federal funds anticipated to be received by the state of Colorado is two million one hundred thousand dollars (\$2,100,000).

SECTION 28. Effective date. This act shall take effect upon passage; except that section 18 of this act shall only take effect if House Bill 98-1242, enacted at the Second Regular Session of the Sixty-first General Assembly, becomes law.

SECTION 29. 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: May 27, 1998