

CHAPTER 141

EDUCATION - PUBLIC SCHOOLS

SENATE BILL 00-181

BY SENATORS Wham, Arnold, Blickensderfer, Dennis, Hernandez, Martinez, Phillips, Reeves, Rupert, Thiebaut, Anderson, Dyer, Epps, Nichol, and Perlmutter;
also REPRESENTATIVES George, Alexander, Allen, Bacon, Chavez, Clarke, Coleman, Dean, Gagliardi, Gordon, Gotlieb, Hagedorn, Hoppe, Kaufman, Keller, King, Larson, Lawrence, Lee, Mace, McKay, McPherson, Morrison, Plant, Saliman, Scott, Spence, Spradley, Stengel, Tapia, Tool, Vigil, S. Williams, and Windels.

AN ACT

CONCERNING THE FUNDING OF PUBLIC SCHOOL CAPITAL CONSTRUCTION PROJECTS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. Legislative findings. (1) The general assembly hereby finds that:

(a) School districts have funded school capital construction through the issuance of bonds paid back through property tax revenues and through the use of other revenues available to the districts with only limited assistance from the state;

(b) At the 1996 general election, the electors of the state approved an amendment to section 3 of article IX of the state constitution to authorize the general assembly to adopt laws to assist public schools in providing necessary buildings, land, and equipment including the use of the permanent school fund to guarantee bonds issued by school districts or to make loans to school districts;

(c) In the summer of 1996, the K-12 capital construction finance committee found that school districts in the state were faced with the need for the construction of new schools and major renovations to existing school facilities;

(d) The final recommendations of the interim committee included the creation of a matching grant program to provide state assistance to certain school districts with capital construction needs;

(e) In the 1997 legislative session, the general assembly enacted House Bill 97-1007 that created such a program but the bill was vetoed because the program had

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

no defined stream of funding;

(f) In the 1998 legislative session, the general assembly passed House Bill 98-1231 that created the matching grant program with funding to be provided from excess state revenues for a specified number of years; and

(g) The electors of the state did not approve the expenditure of excess state revenues for the school capital construction program when the question was presented at the 1998 general election again leaving the program without a defined stream of funding.

(2) The general assembly hereby finds and declares that the provisions of this act are enacted to provide financial assistance to school districts in meeting the districts' needs for school capital construction by:

(a) Providing a stream of state funding for the matching grant program for school construction and renovation and for the school capital construction expenditures reserve; and

(b) Implementing the constitutional provision allowing the permanent school fund to be used to make loans to school districts for school construction and renovation.

(3) The general assembly further finds and declares that the enactment of this act shall not be construed as:

(a) An admission that the current system for funding school capital construction is in any manner constitutionally or legally deficient;

(b) An admission that the state is in any manner liable for any acts or omissions relating to the funding of school capital construction; or

(c) An assumption of permanent or long-term legal or constitutional responsibility for school capital construction.

SECTION 2. 24-75-201.1, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-75-201.1. Restriction on state appropriations - legislative declaration.

(4) (a) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT MONEYS FROM THE GENERAL FUND SHALL BE APPROPRIATED ANNUALLY IN THE GENERAL APPROPRIATION BILL TO THE SCHOOL CONSTRUCTION AND RENOVATION FUND ESTABLISHED IN SECTION 22-43.7-103, C.R.S., AND TO THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE ESTABLISHED IN SECTION 22-54-117 (1.5), C.R.S., AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (4).

(b) (I) FOR THE FISCAL YEAR 2000-01, THE GENERAL ASSEMBLY SHALL APPROPRIATE FIVE MILLION DOLLARS FROM THE GENERAL FUND TO THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE ESTABLISHED IN SECTION 22-54-117 (1.5), C.R.S. SAID AMOUNT SHALL BE A GENERAL FUND APPROPRIATION THAT EXCEEDS THE LIMITATION ON STATE GENERAL FUND APPROPRIATIONS ESTABLISHED BY PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION IN THE FISCAL YEAR IN WHICH

FIRST MADE BUT WILL BE INCLUDED IN THE CALCULATION OF THE MAXIMUM LEVEL OF STATE GENERAL FUND APPROPRIATIONS PURSUANT TO SAID PARAGRAPH (a) IN THE FOLLOWING FISCAL YEAR.

(II) FOR THE FISCAL YEAR 2001-02, THE GENERAL ASSEMBLY SHALL CONTINUE TO APPROPRIATE FIVE MILLION DOLLARS TO THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE, WHICH APPROPRIATION WILL BE INCLUDED IN THE CALCULATION OF THE MAXIMUM LEVEL OF STATE GENERAL FUND APPROPRIATIONS PURSUANT TO SAID PARAGRAPH (a). THE GENERAL ASSEMBLY SHALL APPROPRIATE AN ADDITIONAL FIVE MILLION DOLLARS TO THE RESERVE WHICH SHALL BE A GENERAL FUND APPROPRIATION THAT EXCEEDS THE LIMITATION ON STATE GENERAL FUND APPROPRIATIONS ESTABLISHED BY PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION IN THE FISCAL YEAR IN WHICH FIRST MADE BUT WILL BE INCLUDED IN THE CALCULATION OF THE MAXIMUM LEVEL OF STATE GENERAL FUND APPROPRIATIONS PURSUANT TO SAID PARAGRAPH (a) IN THE FOLLOWING FISCAL YEAR.

(III) FOR THE FISCAL YEAR 2002-03, THE GENERAL ASSEMBLY SHALL CONTINUE TO APPROPRIATE TEN MILLION DOLLARS TO THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE WHICH APPROPRIATION WILL BE INCLUDED IN THE CALCULATION OF THE MAXIMUM LEVEL OF STATE GENERAL FUND APPROPRIATIONS PURSUANT TO SAID PARAGRAPH (a). THE GENERAL ASSEMBLY SHALL APPROPRIATE AN ADDITIONAL FIVE MILLION DOLLARS TO THE SCHOOL CONSTRUCTION AND RENOVATION FUND ESTABLISHED IN SECTION 22-43.7-103, C.R.S. SAID ADDITIONAL AMOUNT SHALL BE A GENERAL FUND APPROPRIATION THAT EXCEEDS THE LIMITATION ON STATE GENERAL FUND APPROPRIATIONS ESTABLISHED BY PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION IN THE FISCAL YEAR IN WHICH FIRST MADE BUT WILL BE INCLUDED IN THE CALCULATION OF THE MAXIMUM LEVEL OF STATE GENERAL FUND APPROPRIATIONS PURSUANT TO SAID PARAGRAPH (a) IN THE FOLLOWING FISCAL YEAR.

(IV) FOR THE FISCAL YEAR 2003-04, THE GENERAL ASSEMBLY SHALL CONTINUE TO APPROPRIATE TEN MILLION DOLLARS TO THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE AND FIVE MILLION DOLLARS TO THE SCHOOL CONSTRUCTION AND RENOVATION FUND, BOTH OF WHICH APPROPRIATIONS WILL BE INCLUDED IN THE CALCULATION OF THE MAXIMUM LEVEL OF STATE GENERAL FUND APPROPRIATIONS PURSUANT TO SAID PARAGRAPH (a). THE GENERAL ASSEMBLY SHALL APPROPRIATE AN ADDITIONAL FIVE MILLION DOLLARS TO THE SCHOOL CONSTRUCTION AND RENOVATION FUND. SAID ADDITIONAL AMOUNT SHALL BE A GENERAL FUND APPROPRIATION THAT EXCEEDS THE LIMITATION ON STATE GENERAL FUND APPROPRIATIONS ESTABLISHED BY PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION IN THE FISCAL YEAR IN WHICH FIRST MADE BUT WILL BE INCLUDED IN THE CALCULATION OF THE MAXIMUM LEVEL OF STATE GENERAL FUND APPROPRIATIONS PURSUANT TO SAID PARAGRAPH (a) IN THE FOLLOWING FISCAL YEAR.

(V) FOR FISCAL YEARS 2004-05 THROUGH 2010-11, THE GENERAL ASSEMBLY SHALL CONTINUE TO APPROPRIATE TEN MILLION DOLLARS TO THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE AND TEN MILLION DOLLARS TO THE SCHOOL CONSTRUCTION AND RENOVATION FUND, BOTH OF WHICH APPROPRIATIONS WILL BE INCLUDED IN THE CALCULATION OF THE MAXIMUM LEVEL OF STATE GENERAL FUND APPROPRIATIONS PURSUANT TO SAID PARAGRAPH (a).

(c) NOT WITHSTANDING THE PROVISIONS OF PARAGRAPH (b) OF THIS SUBSECTION

(4), IN ANY FISCAL YEAR 2000-01 THROUGH 2010-11, NO APPROPRIATION SHALL BE MADE IN SUCH FISCAL YEAR IF GENERAL FUND REVENUES FOR THE APPLICABLE FISCAL YEAR DO NOT EXCEED GENERAL FUND OBLIGATIONS AND THE MONEYS REQUIRED TO BE ALLOCATED TO THE HIGHWAY USERS TAX FUND PURSUANT TO SECTION 39-26-123 (2) C.R.S., FOR THE APPLICABLE FISCAL YEAR BY MORE THAN EIGHTY MILLION DOLLARS AS DETERMINED BY THE GENERAL ASSEMBLY AS OF THE TIME ANY CONFERENCE COMMITTEE REPORT IS ADOPTED ON THE GENERAL APPROPRIATION BILL ENACTED FOR THE APPLICABLE FISCAL YEAR.

(d) FOR PURPOSES OF PARAGRAPH (c) OF THIS SUBSECTION (4), "GENERAL FUND OBLIGATIONS" INCLUDE:

(I) GENERAL FUND APPROPRIATIONS REQUIRED BY PERMANENT STATUTE OR CONSTITUTIONAL PROVISION;

(II) GENERAL FUND APPROPRIATIONS UP TO THE LIMITATION ESTABLISHED BY PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION AND GENERAL FUND APPROPRIATIONS THAT ARE EXCEPTIONS TO SAID LIMITATION;

(III) THE GENERAL FUND TRANSFER TO THE CAPITAL CONSTRUCTION FUND PROVIDED IN SECTION 24-75-302 (2) INCLUDING ANY ADDITIONAL TRANSFERS NECESSARY TO FUND CAPITAL CONSTRUCTION PRIORITIES FOR THE APPLICABLE FISCAL YEAR;

(IV) ANY TRANSFER TO THE CONTROLLED MAINTENANCE TRUST FUND PURSUANT TO THE PROVISIONS OF SECTION 24-75-302.5;

(V) ANY REFUNDS REQUIRED TO BE MADE BY SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION; AND

(VI) THE RESERVE REQUIRED TO BE MAINTAINED PURSUANT TO PARAGRAPH (d) OF SUBSECTION (1) OF THIS SECTION.

SECTION 3. 22-54-117 (2), (3), and (6), Colorado Revised Statutes, are amended, and the said 22-54-117 is further amended BY THE ADDITION OF A NEW SUBSECTION, 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 FOR CAPITAL EXPENDITURES:

(I) TO ADDRESS IMMEDIATE SAFETY HAZARDS OR HEALTH CONCERNS WITHIN EXISTING SCHOOL FACILITIES;

(II) TO RELIEVE EXCESSIVE OPERATING COSTS CREATED BY INSUFFICIENT MAINTENANCE OR CONSTRUCTION SPENDING WHICH ARE CURRENTLY REQUIRED TO BE EXPENDED BY THE DISTRICT; OR

(III) TO RELIEVE BUILDING CONSTRUCTION CONDITIONS WHICH DETRACT FROM AN EFFECTIVE LEARNING ENVIRONMENT.

(b) FOR PURPOSES OF THIS SUBSECTION (1.5), "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.

(c) THE STATE BOARD SHALL PROVIDE TECHNICAL CONSULTATION AND ADMINISTRATIVE SERVICES TO DISTRICTS TO EVALUATE THE NEED FOR CAPITAL CONSTRUCTION EXPENDITURES AND THE DISTRICTS' PLANS FOR EXPENDING ANY ASSISTANCE RECEIVED PURSUANT TO THIS SUBSECTION (1.5).

(2) Application by a district for supplemental assistance PURSUANT TO EITHER SUBSECTION (1) OR (1.5) OF THIS SECTION shall set forth fully the grounds upon which it relies for assistance and shall be sworn to under oath by the president and secretary of the district board of the district.

(3) The state board shall conduct such investigation as it deems proper, and, if it finds that an application should be approved, it shall determine the amount to be paid. In determining which districts receive payments pursuant to this section and the amount of such payments, the state board shall consider the amount of the supplemental assistance requested by the district as a percentage of the district's total program. By order upon the state treasurer, said board shall direct payment from the contingency reserve OR SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE, WHICHEVER IS APPLICABLE, of such amount to the treasurer of the eligible district for credit to the general fund of the district.

(6) (a) Any unexpended balance in the contingency reserve at the end of each fiscal year shall revert to the state general fund.

(b) THE STATE TREASURER SHALL TRANSFER ANY MONEYS IN THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE THAT REMAIN UNEXPENDED OR UNENCUMBERED ON MARCH 15 OF EACH FISCAL YEAR TO THE SCHOOL CONSTRUCTION AND RENOVATION FUND ESTABLISHED IN SECTION 22-43.7-103. THE STATE TREASURER SHALL NOTIFY THE JOINT BUDGET COMMITTEE OF ANY TRANSFER MADE PURSUANT TO THIS PARAGRAPH (b) NO LATER THAN MARCH 20 OF SAID FISCAL YEAR.

SECTION 4. 22-43.7-101 (2) and (3), Colorado Revised Statutes, are amended to read:

22-43.7-101. Legislative declaration. (2) The general assembly further finds and declares that the establishment of a program to provide ~~matching grants~~ FINANCIAL ASSISTANCE to school districts for capital construction projects would

assist the districts in meeting students' fundamental educational needs.

(3) It is the intent of the general assembly in enacting this article to establish a program that will provide matching ~~funds~~ GRANTS AND MAKE LOANS to school districts that desire to undertake capital construction projects and that have a need for financial assistance in order to undertake such construction projects. THIS PROGRAM SHALL BE IN ADDITION TO THE LOAN GUARANTEE PROGRAM ESTABLISHED BY SECTION 22-41-109 THAT USES THE PUBLIC SCHOOL FUND TO GUARANTEE PAYMENT OF PRINCIPAL AND INTEREST ON BONDS ISSUED BY SCHOOL DISTRICTS FOR CAPITAL CONSTRUCTION PROJECTS.

SECTION 5. 22-43.7-102 (2), Colorado Revised Statutes, is amended, and the said 22-43.7-102 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

22-43.7-102. Definitions. As used in this article, unless the context otherwise requires:

(2) "CONSTRUCTION AND RENOVATION fund" means the school construction and renovation fund created pursuant to this article.

(2.7) "PERMANENT SCHOOL FUND" MEANS THE PUBLIC SCHOOL FUND CREATED BY SECTION 3 OF ARTICLE IX OF THE STATE CONSTITUTION.

SECTION 6. Article 43.7 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

22-43.7-103.5. Loans for qualified capital construction projects. (1) AS AUTHORIZED UNDER THE PROVISIONS OF SECTION 3 OF ARTICLE IX OF THE STATE CONSTITUTION, THE STATE TREASURER MAY MAKE LOANS TO SCHOOL DISTRICTS FOR THE PURPOSE OF FUNDING QUALIFIED CAPITAL CONSTRUCTION PROJECTS. LOANS MADE PURSUANT TO THIS SECTION SHALL NOT BE SUBJECT TO THE PROVISIONS OF SECTION 24-36-113, C.R.S., THAT REQUIRE THE STATE TREASURER TO SECURE THE MAXIMUM RATE OF INTEREST ON INVESTMENTS OF STATE MONEYS. THE PROCEDURES FOR THE MAKING OF LOANS SHALL BE DETERMINED BY THE STATE TREASURER SUBJECT TO THE FOLLOWING:

(a) NO LOAN SHALL BE AUTHORIZED FOR ANY CAPITAL CONSTRUCTION PROJECT THAT HAS NOT BEEN EVALUATED BY THE STATE BOARD AND INCLUDED ON THE PRIORITIZED LIST PREPARED BY THE BOARD PURSUANT TO THIS ARTICLE.

(b) NO LOAN SHALL BE AUTHORIZED IN AN AMOUNT OTHER THAN THE AMOUNT DETERMINED BY THE BOARD UNLESS THE BOARD APPROVES THE CHANGE IN THE LOAN AMOUNT.

(c) NO LOAN SHALL BE AUTHORIZED UNLESS THE DEBT IS APPROVED BY THE VOTERS OF THE SCHOOL DISTRICT.

(d) NO LOAN SHALL BE AUTHORIZED UNLESS THE METHOD FOR REPAYMENT OF THE LOAN IS SPECIFIED IN THE APPLICATION. IF THE LOAN IS TO BE REPAID FROM A PROPERTY TAX MILL LEVY, SUCH LEVY MUST BE APPROVED AT THE SAME ELECTION

THAT AUTHORIZED THE CREATION OF THE DEBT.

(2) THE STATE TREASURER SHALL DETERMINE THE AMOUNT OF THE PERMANENT SCHOOL FUND THAT MAY BE LOANED OUT PURSUANT TO THIS SECTION AND THE RATE OF INTEREST TO BE CHARGED ON LOANS. THE AVERAGE RATE OF INTEREST CHARGED ON LOANS MADE IN ANY CALENDAR YEAR MUST EQUAL OR EXCEED THE PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX DURING THE PREVIOUS CALENDAR YEAR AS DEFINED IN SECTION 24-75-201.1 (4) (d), C.R.S. PAYMENTS OF THE PRINCIPAL OF AND INTEREST ON ALL LOANS SHALL BE RETURNED TO THE PERMANENT SCHOOL FUND.

(3) THE GENERAL ASSEMBLY SHALL APPROPRIATE MONEY FROM THE GENERAL FUND TO RESTORE MONEYS TO THE PERMANENT SCHOOL FUND, TOGETHER WITH INTEREST, THAT ARE LOST BY REASON OF THE FAILURE OF ANY SCHOOL DISTRICT TO REPAY A LOAN MADE PURSUANT TO THIS SECTION.

(4) ADMINISTRATIVE COSTS THAT WILL BE INCURRED BY THE SCHOOL DISTRICT RELATED TO THE LOAN MAY BE INCLUDED IN THE AMOUNT OF THE LOAN.

SECTION 7. 22-43.7-104, Colorado Revised Statutes, is amended to read:

22-43.7-104. Eligible projects - criteria. (1) Matching grants may be provided from the CONSTRUCTION AND RENOVATION fund AND LOANS MAY BE MADE FROM THE PERMANENT SCHOOL FUND pursuant to this article ~~only for school district~~ capital construction projects involving instructional facilities, including classrooms, libraries, physical plants, and associated administrative areas, or involving the incorporation of technology into the educational environment.

(2) Matching grants AND LOANS shall not be provided pursuant to this article for any portion of a ~~school district~~ capital construction project involving athletic, recreational, or other noninstructional facilities within the district, even if such facilities are located on a school site.

SECTION 8. 22-43.7-103, Colorado Revised Statutes, is amended to read:

22-43.7-103. School construction and renovation fund - created - purpose - transfer of excess state revenues. (1) There is hereby established in the state treasury the school construction and renovation fund. The fund shall consist of ~~the moneys transferred to the fund pursuant to section 24-75-1102 (1) (a), C.R.S., as enacted by House Bill 98-1256, enacted at the second regular session of the sixty-first general assembly~~ ANY MONEYS APPROPRIATED FROM THE GENERAL FUND TO THE FUND IN ACCORDANCE WITH SECTION 24-75-201.1 (4) (b), C.R.S., ANY MONEYS TRANSFERRED TO THE FUND FROM THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE IN ACCORDANCE WITH SECTION 22-54-117 (6) (b), and any other moneys as may be made available by the general assembly.

(2) Subject to appropriation by the general assembly, moneys in the CONSTRUCTION AND RENOVATION fund shall be used to provide matching grants to school districts that are undertaking qualified capital construction projects and for the expenses incurred by the state board in administering this article. THE STATE BOARD SHALL DETERMINE THE PROPORTION OF THE STATE AND LOCAL FUNDS TO BE USED TO FINANCE THE QUALIFIED CAPITAL CONSTRUCTION PROJECT AND THE AMOUNT OF EACH

GRANT USING THE CRITERIA ESTABLISHED PURSUANT TO SECTION 22-43.7-106.

(3) Matching grants from the CONSTRUCTION AND RENOVATION fund shall not be authorized for any school district IF THE capital construction project that has not been evaluated by the state board and included on the prioritized list prepared by the state board pursuant to this article.

(4) All interest derived from the deposit and investment of moneys in the CONSTRUCTION AND RENOVATION fund shall be credited to the fund. Any moneys not appropriated shall remain in the CONSTRUCTION AND RENOVATION fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

SECTION 9. 22-43.7-105, Colorado Revised Statutes, is amended to read:

22-43.7-105. Financial assistance application requirements - evaluation criteria - oversight board - duties. (1) Applications for matching grants from the fund FINANCIAL ASSISTANCE FOR CAPITAL CONSTRUCTION PROJECTS shall be submitted to the state board no later than July 1 of each year for the following fiscal year. Individual schools may apply for matching grants through the school district in which the schools are located and the school district may, in turn, apply to the state board for such grants pursuant to this section.

(2) The state board or its designees shall evaluate such applications based on the factors set forth in this section and such other factors as the state board may establish by rule. Such rules shall be promulgated in accordance with article 4 of title 24, C.R.S. THE STATE BOARD MAY REQUEST ANY DEPARTMENT, AGENCY, OR INSTITUTION OF STATE GOVERNMENT WITH EXPERTISE OR EXPERIENCE IN CONSTRUCTION MANAGEMENT TO PROVIDE ASSISTANCE TO THE BOARD WITH REGARD TO THE EVALUATION OF APPLICATIONS FOR GRANTS AND LOANS PURSUANT TO SECTION 22-43.7-105 (2).

(3) It is the intent of the general assembly that school districts give consideration to the needs of both traditional public schools and charter schools established pursuant to article 30.5 of this title when submitting applications for matching grants OR LOANS pursuant to this section.

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

(a) A description of the scope and nature of the capital construction project;

(b) A description of the architectural, functional, and construction standards that are to be applied to the facility that is the subject of the capital construction project;

(b.5) THE ESTIMATED AMOUNT OF FINANCIAL ASSISTANCE NEEDED FOR THE CAPITAL CONSTRUCTION PROJECT;

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

(c.5) A DEMONSTRATION OF THE DISTRICT'S ABILITY AND WILLINGNESS TO

MAINTAIN ANY NEW CAPITAL CONSTRUCTION PROJECT FUNDED PURSUANT TO THIS ARTICLE;

~~(d) Whether an election is required before the district can proceed with the capital construction project and, if so, THE VOTERS OF THE SCHOOL DISTRICT HAVE ALREADY APPROVED THE INCURRING OF DEBT IN THE CASE OF A LOAN OR, IF THE ELECTION HAS NOT ALREADY BEEN HELD, the anticipated date of the election; and~~

(e) Such other information the state board may require for the evaluation of the capital construction project.

(5) Applications that describe capital construction projects deemed eligible by the state board for ~~matching grants~~ FINANCIAL ASSISTANCE shall be prioritized based on the following criteria, in descending order of importance:

~~(a) Capital construction projects that will address immediate safety hazards or health concerns at existing school facilities, considering the age of the facilities and any previous renovation work or controlled maintenance that has been performed at the facilities~~ IN A SCHOOL DISTRICT THAT HAS A LOWER RELATIVE WEALTH COMPARED TO OTHER SCHOOL DISTRICTS IN THE STATE BASED ON THE PER PUPIL ASSESSED VALUATION WITHIN THE DISTRICT;

(a.5) CAPITAL CONSTRUCTION PROJECTS IN A SCHOOL DISTRICT THAT HAS REACHED NINETY PERCENT OR MORE OF ITS LIMIT ON BONDED INDEBTEDNESS UNDER SECTION 22-42-104;

~~(b) Capital construction projects in a school district that has a lower relative wealth compared to other school districts in the state based on the per pupil assessed valuation within the district and the amount of state aid to which the school district is entitled relative to the district's total program, as defined in section 22-54-103 (6)~~ THAT WILL ADDRESS SAFETY HAZARDS OR HEALTH CONCERNS AT EXISTING SCHOOL FACILITIES, CONSIDERING THE AGE OF THE FACILITIES AND ANY PREVIOUS RENOVATION WORK OR CONTROLLED MAINTENANCE THAT HAS BEEN PERFORMED AT THE FACILITIES IF SUCH PROJECTS COULD NOT QUALIFY FOR FUNDING OR WERE NOT APPROVED FOR FUNDING FROM THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE PURSUANT TO SECTION 22-54-117 (1.5);

~~(c) Capital construction projects that will address enrollment growth issues within a school district, considering the amount of enrollment growth in the school district and other steps taken by the school district to address enrollment growth concerns;~~

(d) Capital construction projects in a school district that has previously demonstrated consistent efforts to allocate moneys to the district's capital reserve fund in excess of the minimum amounts required pursuant to section 22-54-105 (2);

(e) Capital construction projects that are designed to incorporate technology into the educational environment;

(f) All other capital construction projects.

(6) From the applications submitted FOR FINANCIAL ASSISTANCE for the next fiscal

year, the state board shall prepare a prioritized list of eligible capital construction projects. ~~and 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 such a list of SCHOOL DISTRICTS RECOMMENDED TO RECEIVE MATCHING GRANTS FOR CAPITAL CONSTRUCTION PROJECTS, ALONG WITH THE AMOUNT OF EACH GRANT AND THE AMOUNT OF THE SCHOOL DISTRICT MATCH, to the joint budget committee of the general assembly no later than December 1 of each year for consideration for inclusion in the general appropriations bill~~ CAPITAL DEVELOPMENT COMMITTEE OF THE GENERAL ASSEMBLY NO LATER THAN OCTOBER 1 OF EACH CALENDAR YEAR. Said list shall also be submitted to the education committees of the senate and the house of representatives, ~~no later than December 1 of that year~~ THE GOVERNOR, THE PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES. The ~~joint budget~~ 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 FOR THE PURPOSE OF MAKING THE APPROPRIATION IN THE GENERAL APPROPRIATION BILL TO THE DEPARTMENT OF EDUCATION FROM THE CONSTRUCTION AND RENOVATION FUND FOR THE NEXT 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.

(7) The state board is authorized to promulgate rules for the administration of this article. Such rules shall be promulgated in accordance with article 4 of title 24, C.R.S.

SECTION 10. 22-43.7-106, Colorado Revised Statutes, is amended to read:

22-43.7-106. Amount of matching grant or loan. (1) THE STATE BOARD SHALL DETERMINE THE PROPORTION OF THE STATE AND LOCAL FUNDS TO BE USED TO FINANCE THE QUALIFIED CAPITAL CONSTRUCTION PROJECT. The state board shall develop criteria to determine the amount of each MATCHING grant awarded AND EACH LOAN MADE pursuant to this article. Such criteria shall include but shall not be limited to:

- (a) The school district's ranking on assessed value per pupil, including whether the school district ranks below the state average;
- (b) The school district's mill levy and debt capacity;

(c) ~~The percentage of at-risk pupils in the school district;~~

(d) The effort of the school district to submit bond questions to voters in the district and to support the passage of such questions during the last ten years; AND

(e) ~~The age and condition of buildings to be remodeled or rebuilt; and~~

(f) Other criteria as deemed necessary by the state board.

SECTION 11. 2-3-1304 (1) (b), Colorado Revised Statutes, is amended, and the said 2-3-1304 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

2-3-1304. Powers and duties of capital development committee. (1) The capital development committee shall have the following powers and duties:

(a.6) FOR FISCAL YEAR 2001-02 AND EACH FISCAL YEAR THEREAFTER, TO REVIEW THE LIST SUBMITTED BY THE STATE BOARD OF EDUCATION OF SCHOOL DISTRICTS RECOMMENDED TO RECEIVE MATCHING GRANTS FOR CAPITAL CONSTRUCTION PROJECTS FROM THE SCHOOL CONSTRUCTION AND RENOVATION FUND PURSUANT TO SECTION 22-43.7-105 (6), C.R.S. THE CAPITAL DEVELOPMENT COMMITTEE SHALL DETERMINE THE NUMBER OF PROJECTS ON THE LIST THAT MAY BE FUNDED FROM MONEYS AVAILABLE IN THE SCHOOL CONSTRUCTION AND RENOVATION FUND. ONLY CAPITAL PROJECTS ON THE PRIORITIZED LIST MAY RECEIVE MATCHING GRANTS FROM THE FUND, AND THE PROJECTS MUST BE FUNDED IN THE PRIORITY DETERMINED BY THE STATE BOARD OF EDUCATION.

(b) To hold such hearings as may be necessary to consider reports from each department, institution, or agency itself with respect to any such capital construction, controlled maintenance, or acquisition of capital assets AND TO CONSIDER THE LIST SUBMITTED BY THE STATE BOARD OF EDUCATION OF SCHOOL DISTRICTS RECOMMENDED TO RECEIVE MATCHING GRANTS FOR CAPITAL CONSTRUCTION PROJECTS FROM THE SCHOOL CONSTRUCTION AND RENOVATION FUND PURSUANT TO SECTION 22-43.7-105 (6), C.R.S.

SECTION 12. Appropriation. In addition to any other appropriation, for the fiscal year beginning July 1, 2000, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the state public school fund for allocation to the school capital construction expenditures reserve created in section 22-54-117, Colorado Revised Statutes, the sum of five million dollars (\$5,000,000), and such sum, or so much thereof as may be necessary, is further appropriated to the department of education for the implementation of section 22-54-117, Colorado Revised Statutes. Said amount is exempt from the statutory limitation on state general fund appropriations pursuant to section 24-75-201.1 (1) (a) (III) (B), Colorado Revised Statutes.

SECTION 13. Effective date. This act shall take effect July 1, 2000; except that section 2 of this act enacting section 24-75-201.1 (4), Colorado Revised Statutes, to provide for the appropriation of general fund moneys to provide assistance for school capital construction needs, section 3 of this act amending section 22-54-117, Colorado Revised Statutes, to establish the school capital construction expenditures

reserve, and section 12 of this act shall only take effect if a final state court order is entered under which the state of Colorado will provide financial assistance to school districts for capital construction projects and under which *Giardino v. Colorado State Board of Education, et al.*, Civil Action No. 98 CV 246 (Denver District Court) is dismissed and under which funds could be appropriated which would exceed the limitation on general fund appropriations established by section 24-75-201 (1) (a), Colorado Revised Statutes. The attorney general of the state of Colorado shall notify the revisor of statutes, the staff director of the joint budget committee, the state controller, and the commissioner of education if and when such a final state court order is entered.

SECTION 14. 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 9, 2000