

CHAPTER 389

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**EDUCATION - PUBLIC SCHOOLS**

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**SENATE BILL 00-004**

BY SENATORS Matsunaka, Feeley, Hernandez, Linkhart, Martinez, Nichol, Pascoe, Perlmutter, Phillips, Reeves, Rupert, Tanner, Teck, Thiebaut, and Weddig;  
also REPRESENTATIVES Kaufman, Bacon, George, Gordon, Gotlieb, Grossman, Mace, Morrison, Plant, Tapia, Tupa, Veiga, Vigil, S. Williams, T. Williams, Windels, and Zimmerman.

**AN ACT**

CONCERNING THE RETENTION OF STATE REVENUES IN EXCESS OF THE CONSTITUTIONAL LIMITATION ON STATE FISCAL YEAR SPENDING FOR A LIMITED NUMBER OF FISCAL YEARS TO FUND GRANTS TO BE AWARDED TO SCHOOL DISTRICTS FOR THE PURPOSE OF FUNDING PROGRAMS THAT WILL IMPROVE ACADEMIC PERFORMANCE IN MATHEMATICS AND SCIENCE.

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

**SECTION 1.** Title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

**ARTICLE 85**

**Performance Grant Program**

**22-85-101. Legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, WHICH WAS APPROVED BY THE REGISTERED ELECTORS OF THIS STATE IN 1992, LIMITS THE ANNUAL GROWTH OF STATE FISCAL YEAR SPENDING;

(b) WHEN REVENUES EXCEED THE STATE FISCAL YEAR SPENDING LIMITATION FOR ANY GIVEN FISCAL YEAR, SECTION 20 (7) (d) OF ARTICLE X OF THE STATE CONSTITUTION REQUIRES THAT THE EXCESS REVENUES BE REFUNDED IN THE NEXT FISCAL YEAR UNLESS VOTERS APPROVE A REVENUE CHANGE ALLOWING THE STATE TO KEEP THE REVENUES;

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

(c) REVENUES ARE CURRENTLY ESTIMATED TO EXCEED THE STATE FISCAL YEAR SPENDING LIMITATION FOR THE 1999-2000 STATE FISCAL YEAR AND AT LEAST THE FOUR SUCCEEDING FISCAL YEARS;

(d) TO ENSURE THAT COLORADO AND ITS RESIDENTS CAN CONTINUE TO COMPETE SUCCESSFULLY IN THE GLOBAL ECONOMY, IT IS NECESSARY TO IMPROVE THE ACADEMIC PERFORMANCE OF SCHOOL DISTRICTS IN COLORADO;

(e) IT IS NECESSARY FOR A PORTION OF THE EXCESS STATE REVENUES BEING COLLECTED BY THE STATE TO BE EXPENDED TO IMPROVE THE ACADEMIC PERFORMANCE OF SCHOOL DISTRICTS IN COLORADO; AND

(f) IT IS ALSO NECESSARY TO ENACT LEGISLATION SEEKING VOTER APPROVAL TO RETAIN FOR A LIMITED NUMBER OF FISCAL YEARS A PORTION OF EXCESS STATE REVENUES TO BE EXPENDED TO IMPROVE THE ACADEMIC PERFORMANCE OF SCHOOL DISTRICTS IN COLORADO BY PROVIDING PERFORMANCE GRANTS TO SCHOOL DISTRICTS FOR THE PURPOSE OF FUNDING PROGRAMS THAT WILL IMPROVE ACADEMIC PERFORMANCE.

**22-85-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ACADEMIC PERFORMANCE" MEANS STUDENT PERFORMANCE IN THE AREAS OF MATHEMATICS AND SCIENCE WHICH MAY INCLUDE STUDENT PERFORMANCE ON THE MATHEMATICS AND SCIENCE ASSESSMENTS ADMINISTERED PURSUANT TO SECTION 22-7-409.

(2) "COMMITTEE" MEANS THE PERFORMANCE GRANT REVIEW COMMITTEE ESTABLISHED PURSUANT TO SECTION 22-85-104 (1).

(3) "SCHOOL DISTRICT" MEANS ANY SCHOOL DISTRICT ORGANIZED AND EXISTING PURSUANT TO LAW BUT DOES NOT INCLUDE A JUNIOR COLLEGE DISTRICT.

(4) "STATE BOARD" MEANS THE STATE BOARD OF EDUCATION CREATED PURSUANT TO SECTION 1 OF ARTICLE IX OF THE STATE CONSTITUTION.

**22-85-103. School performance grant fund - creation.** (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE SCHOOL PERFORMANCE GRANT FUND, WHICH SHALL CONSIST OF GENERAL FUND REVENUES TRANSFERRED TO THE FUND PURSUANT TO SUBSECTION (2) OF THIS SECTION. ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY MONEYS REMAINING IN THE FUND AT THE END OF ANY STATE FISCAL YEAR SHALL NOT REVERT OR BE TRANSFERRED TO THE GENERAL FUND OF THE STATE.

(2) NO LATER THAN FEBRUARY 1 OF EACH CALENDAR YEAR BEGINNING ON OR AFTER JANUARY 1, 2001, BUT BEFORE JANUARY 1, 2006, THE STATE TREASURER SHALL TRANSFER AN AMOUNT OF REVENUE FROM THE GENERAL FUND TO THE SCHOOL PERFORMANCE GRANT FUND CREATED IN SUBSECTION (1) OF THIS SECTION EQUAL TO THE LESSER OF:

(a) FIFTY MILLION DOLLARS; OR

(b) AS CERTIFIED AND AUDITED BASED UPON THE FINANCIAL REPORT PREPARED IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE AMOUNT OF STATE REVENUE FROM SOURCES NOT EXCLUDED FROM STATE FISCAL YEAR SPENDING THAT IS IN EXCESS OF THE FISCAL YEAR SPENDING LIMITATION IMPOSED UPON THE STATE BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION FOR THE STATE FISCAL YEAR ENDING IN THE CALENDAR YEAR IMMEDIATELY PRECEDING ANY CALENDAR YEAR IN WHICH A TRANSFER TO THE FUND IS TO BE MADE.

(3) REVENUES TRANSFERRED TO THE SCHOOL PERFORMANCE GRANT FUND PURSUANT TO SUBSECTION (2) OF THIS SECTION SHALL CONSTITUTE A VOTER-APPROVED REVENUE CHANGE AND SUCH REVENUES SHALL NOT BE INCLUDED IN EITHER STATE OR LOCAL GOVERNMENT FISCAL YEAR SPENDING FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AND SECTION 24-77-102 (17), C.R.S.

(4) ANY TRANSFER OF REVENUE FROM THE GENERAL FUND TO THE SCHOOL PERFORMANCE GRANT FUND PURSUANT TO SUBSECTION (2) OF THIS SECTION SHALL NOT BE DEEMED TO BE AN APPROPRIATION SUBJECT TO THE LIMITATION ON STATE GENERAL FUND APPROPRIATIONS SET FORTH IN SECTION 24-75-201.1, C.R.S.

**22-85-104. Performance grant review committee - membership - duties.**

(1) (a) THERE IS HEREBY ESTABLISHED THE PERFORMANCE GRANT REVIEW COMMITTEE. THE COMMITTEE SHALL CONSIST OF THE FOLLOWING MEMBERS:

(I) THE MEMBERS OF THE STATE BOARD;

(II) THREE MEMBERS APPOINTED BY THE GOVERNOR WHO NEED NOT BE CONFIRMED BY THE SENATE;

(III) THREE MEMBERS FROM THE HOUSE OF REPRESENTATIVES APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, NO MORE THAN TWO OF WHOM SHALL BE OF THE SAME POLITICAL PARTY; AND

(IV) THREE MEMBERS FROM THE SENATE, TWO APPOINTED BY THE PRESIDENT OF THE SENATE AND ONE APPOINTED BY THE MINORITY LEADER OF THE SENATE.

(b) THE TERM OF EACH MEMBER APPOINTED BY THE GOVERNOR SHALL BE FOUR YEARS; EXCEPT THAT, OF SUCH MEMBERS FIRST APPOINTED, ONE SHALL BE APPOINTED FOR A TERM OF TWO YEARS. THE TERM OF EACH MEMBER FROM THE GENERAL ASSEMBLY SHALL EXPIRE AT THE END OF THE MEMBER'S LEGISLATIVE TERM AND THE TERM OF EACH MEMBER FROM THE STATE BOARD SHALL EXPIRE AT THE END OF THE MEMBER'S STATE BOARD TERM. ALL MEMBERS OF THE COMMITTEE SHALL BE ELIGIBLE FOR REAPPOINTMENT. A MEMBER APPOINTED TO FILL THE VACANCY OF ANOTHER MEMBER ARISING OTHER THAN BY EXPIRATION OF SUCH OTHER MEMBER'S TERM SHALL BE APPOINTED FOR THE UNEXPIRED TERM OF SUCH OTHER MEMBER.

(2) MEMBERS OF THE COMMITTEE SHALL SERVE WITHOUT COMPENSATION.

(3) THE COMMITTEE SHALL HAVE THE FOLLOWING POWERS, DUTIES, AND FUNCTIONS:

(a) TO RECEIVE AND REVIEW APPLICATIONS FOR PERFORMANCE GRANTS SUBMITTED BY SCHOOL DISTRICTS PURSUANT TO THIS ARTICLE;

(b) TO EXPEND MONEYS IN THE SCHOOL PERFORMANCE GRANT FUND FOR THE PURPOSE OF ISSUING PERFORMANCE GRANTS TO SCHOOL DISTRICTS FOR THE PURPOSE OF INCREASING ACADEMIC PERFORMANCE;

(c) TO PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., THAT DEFINE OR RELATE TO THE GRANT APPLICATION PROCESS; AND

(d) TO EXERCISE ANY OTHER POWERS NECESSARY TO OVERSEE THE PERFORMANCE GRANT PROGRAM ESTABLISHED BY THIS ARTICLE.

**22-85-105. Performance grants - eligible programs - evaluation of applications.** (1) GRANTS MAY BE PROVIDED FROM THE SCHOOL PERFORMANCE GRANT FUND BY THE COMMITTEE TO SCHOOL DISTRICTS ONLY FOR NEW OR ONGOING SCHOOL DISTRICT PROGRAMS THAT HAVE THE PRIMARY PURPOSE OF INCREASING ACADEMIC PERFORMANCE. ANY SCHOOL DISTRICT, INCLUDING A CHARTER SCHOOL DISTRICT AS DEFINED IN SECTION 22-30.5-203 (1), MAY APPLY DIRECTLY TO THE COMMITTEE FOR GRANTS. AN INDIVIDUAL SCHOOL, INCLUDING A CHARTER SCHOOL SUBJECT TO THE PROVISIONS OF PART 1 OF ARTICLE 30.5 OF THIS TITLE, MAY APPLY FOR GRANTS ONLY THROUGH THE SCHOOL DISTRICT IN WHICH IT IS LOCATED AND THE SCHOOL DISTRICT MAY, IN TURN, APPLY TO THE COMMITTEE FOR SUCH GRANTS PURSUANT TO THIS SECTION. IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT SCHOOL DISTRICTS GIVE EQUAL 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 GRANTS.

(2) ALL GRANT APPLICATIONS SUBMITTED TO THE COMMITTEE PURSUANT TO THIS SECTION SHALL BE SUBMITTED IN SUCH FORM AND IN ACCORDANCE WITH SUCH PROCEDURES AS THE COMMITTEE SHALL ESTABLISH BY RULE. SUCH APPLICATIONS SHALL INCLUDE THE INFORMATION REQUIRED BY SUBSECTION (3) OF THIS SECTION AND SUCH ADDITIONAL INFORMATION AS THE COMMITTEE MAY REQUIRE BY RULE. IN EVALUATING THE GRANT APPLICATIONS, THE COMMITTEE SHALL CONSIDER THE CRITERIA SET FORTH IN SUBSECTION (4) OF THIS SECTION AND SUCH ADDITIONAL CRITERIA AS THE COMMITTEE MAY ESTABLISH BY RULE. ALL RULES PROMULGATED BY THE COMMITTEE SHALL BE PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.

(3) (a) ALL GRANT APPLICATIONS SUBMITTED BY A SCHOOL DISTRICT TO THE COMMITTEE PURSUANT TO THIS SECTION SHALL INCLUDE:

(I) A DESCRIPTION OF THE PROGRAM OR PROGRAMS FOR WHICH A GRANT IS REQUESTED;

(II) A SUMMARY OF ANY RESEARCH OR DATA THAT WOULD HELP THE COMMITTEE DETERMINE WHETHER AND TO WHAT EXTENT THE PROGRAM WILL IMPROVE ACADEMIC PERFORMANCE, INCLUDING A SUMMARY OF DATA, IF ANY, REGARDING THE IMPACT ON ACADEMIC PERFORMANCE OF SIMILAR PROGRAMS THAT HAVE BEEN IMPLEMENTED IN OTHER SCHOOL DISTRICTS;

(III) A SUMMARY OF ANY OTHER PROGRAMS CONSIDERED BY THE SCHOOL DISTRICT AND A COMPARISON OF SUCH PROGRAMS WITH THE PROGRAM FOR WHICH A GRANT IS REQUESTED;

(IV) A SUMMARY OF PERSONNEL CHANGES THAT WILL BE NECESSARY UPON IMPLEMENTATION OF THE PROGRAM;

(V) AN ITEMIZED SUMMARY OF THE ANTICIPATED COSTS OF THE PROGRAM;

(VI) A STATEMENT OF THE PERCENTAGE OF THE TOTAL ANTICIPATED COSTS OF THE PROGRAM THAT THE SCHOOL DISTRICT WILL PAY WITH MONEYS OTHER THAN GRANT MONEYS RECEIVED PURSUANT TO THIS SECTION; AND

(VII) A PROPOSAL FOR EVALUATING THE ACTUAL EFFECTIVENESS OF THE PROGRAM IN IMPROVING ACADEMIC PERFORMANCE.

(b) AN APPLICATION FOR A GRANT TO CONTINUE A PROGRAM FOR WHICH ONE OR MORE GRANTS HAVE PREVIOUSLY BEEN AWARDED PURSUANT TO THIS SECTION MAY INCORPORATE BY REFERENCE ANY RELEVANT INFORMATION INCLUDED IN ANY GRANT APPLICATION THAT RESULTED IN A PREVIOUS GRANT AWARD BUT SHALL UPDATE SUCH INFORMATION TO REFLECT ANY NEW DEVELOPMENTS AND INCLUDE ANY NEW INFORMATION AVAILABLE AS TO THE ACTUAL EFFECTIVENESS OF THE PROGRAM IN IMPROVING ACADEMIC PERFORMANCE AND THE ACTUAL COST OF IMPLEMENTING AND OPERATING THE PROGRAM.

(4) IN AWARDING GRANTS PURSUANT TO THIS SECTION, THE COMMITTEE SHALL GIVE PRIORITY TO SCHOOL DISTRICTS IN WHICH THE DISTRICT PERCENTAGE OF AT-RISK PUPILS AS DEFINED IN SECTION 22-54-103 (5.5) IS HIGHER THAN THE STATEWIDE AVERAGE PERCENTAGE OF AT-RISK PUPILS AS DEFINED IN SECTION 22-54-103 (14), SCHOOL DISTRICTS IN WHICH ACADEMIC PERFORMANCE IS BELOW AVERAGE IN COMPARISON TO OTHER SCHOOL DISTRICTS IN THE STATE, AND PROGRAMS THAT SHOW THE GREATEST POTENTIAL FOR IMPROVING ACADEMIC PERFORMANCE. IN EVALUATING A PARTICULAR GRANT APPLICATION, THE COMMITTEE SHALL CONSIDER THE FOLLOWING CRITERIA:

(a) THE PAST AND PRESENT RESULTS OF THE APPLICANT SCHOOL DISTRICT RELATIVE TO OTHER SCHOOL DISTRICTS WITH RESPECT TO ACHIEVEMENT OF THE ACCREDITATION INDICATORS ESTABLISHED PURSUANT TO SECTION 22-11-104;

(b) THE AVERAGE RATING OF ALL SCHOOLS FOR WHICH GRANT MONEY IS SOUGHT WITHIN THE APPLICANT SCHOOL DISTRICT ON THE INDEX DEVELOPED PURSUANT TO SECTION 22-11-302;

(c) THE ECONOMIC STATUS OF THE APPLICANT SCHOOL DISTRICT AS INDICATED BY THE MOST RECENT STATISTICAL DATA AVAILABLE, INCLUDING BUT NOT LIMITED TO:

(I) THE SCHOOL DISTRICT'S RANKING ON ASSESSED VALUE PER PUPIL, INCLUDING WHETHER THE SCHOOL DISTRICT'S ASSESSED VALUE PER PUPIL IS BELOW THE STATE AVERAGE; AND

(II) THE DISTRICT PERCENTAGE OF AT-RISK PUPILS AS DEFINED IN SECTION

22-54-103 (5.5);

(d) THE ANTICIPATED DEGREE OF IMPROVEMENT IN ACADEMIC PERFORMANCE THAT WOULD RESULT FROM THE IMPLEMENTATION OR CONTINUANCE OF THE PROGRAM FOR WHICH A GRANT IS SOUGHT, TAKING INTO CONSIDERATION:

(I) ANY RESEARCH OR DATA RELEVANT TO THE ANTICIPATED EFFECTIVENESS OR LACK OF EFFECTIVENESS OF THE PROGRAM IN IMPROVING ACADEMIC PERFORMANCE, INCLUDING DATA REGARDING THE IMPACT ON ACADEMIC PERFORMANCE OF SIMILAR PROGRAMS THAT HAVE BEEN IMPLEMENTED IN OTHER SCHOOL DISTRICTS; AND

(II) WITH RESPECT TO AN ONGOING PROGRAM FOR WHICH A GRANT HAS PREVIOUSLY BEEN AWARDED, ANY AVAILABLE DATA AS TO THE ACTUAL EFFECT OF THE PROGRAM ON ACADEMIC PERFORMANCE;

(e) THE COST-EFFECTIVENESS OF THE PROGRAM FOR WHICH THE GRANT IS SOUGHT; AND

(f) THE EXTENT TO WHICH THE SCHOOL DISTRICT WILL USE MONEYS OTHER THAN GRANT MONEYS AWARDED PURSUANT TO THIS SECTION TO FUND THE PROGRAM.

**SECTION 2. Refer to people under referendum.** This act shall be submitted to a vote of the registered electors of the state of Colorado at the next biennial regular general election, for their approval or rejection, under the provisions of the referendum as provided for in section 1 of article V and section 20 of article X of the state constitution, and in article 40 of title 1, Colorado Revised Statutes. Each elector voting at said election and desirous of voting for or against said act shall cast a vote as provided by law either "Yes" or "No" on the proposition: "SHALL THE STATE OF COLORADO BE PERMITTED TO ANNUALLY RETAIN UP TO FIFTY MILLION DOLLARS OF THE STATE REVENUES IN EXCESS OF THE CONSTITUTIONAL LIMITATION ON STATE FISCAL YEAR SPENDING FOR THE 1999-2000 FISCAL YEAR AND FOR FOUR SUCCEEDING FISCAL YEARS FOR THE PURPOSE OF FUNDING PERFORMANCE GRANTS FOR SCHOOL DISTRICTS TO IMPROVE ACADEMIC PERFORMANCE, NOTWITHSTANDING ANY RESTRICTION ON SPENDING, REVENUES, OR APPROPRIATIONS, INCLUDING WITHOUT LIMITATION THE RESTRICTIONS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AND THE STATUTORY LIMITATION ON STATE GENERAL FUND APPROPRIATIONS?" The votes cast for the adoption or rejection of said act shall be canvassed and the result determined in the manner provided by law for the canvassing of votes for representatives in Congress.

**Editor's Note:** This act contains a Referendum Clause. See section 2.