

CHAPTER 357

EDUCATION - PUBLIC SCHOOLS

HOUSE BILL 04-1141

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also SENATOR(S) Andrews, Arnold, Chlouber, Dyer, Evans, Groff, Hagedorn, Hillman, Johnson S., Jones, Kester, Lamborn, May R., McElhany, Owen, and Teck.

AN ACT

CONCERNING CHARTER SCHOOLS.

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

SECTION 1. 22-30.5-102 (2) (c), (2) (d), (2) (e), (2) (g.5), (2) (h), and (3), Colorado Revised Statutes, are amended, and the said 22-30.5-102 (2) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

22-30.5-102. Legislative declaration. (2) The general assembly further finds and declares that this part 1 is enacted for the following purposes:

(c) To encourage diverse approaches to learning and education and the use of different, INNOVATIVE, RESEARCH-BASED, OR proven ~~or innovative~~ teaching methods;

(d) To ~~allow~~ PROMOTE the development of ~~different and innovative forms of measuring~~ LONGITUDINAL ANALYSIS OF STUDENT PROGRESS, IN ADDITION TO PARTICIPATION IN THE COLORADO STUDENT ASSESSMENT PROGRAM, TO MEASURE pupil learning and achievement;

(e) To create new EMPLOYMENT OPTIONS AND professional opportunities for teachers AND PRINCIPALS, including the opportunity to be responsible for the ~~learning program~~ ACHIEVEMENT RESULTS OF STUDENTS at the school site;

(g.5) To address the formation of RESEARCH-BASED charter schools THAT USE PROGRAMS THAT ARE PROVEN TO BE EFFECTIVE;

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

(h) To hold charter schools accountable for meeting state ~~board and school district content standards and to provide such schools with a method to change accountability systems~~ CONTENT STANDARDS, AS MEASURED IN PART BY THE COLORADO STUDENT ASSESSMENT PROGRAM AND BY LONGITUDINAL ANALYSIS OF STUDENT PROGRESS, THROUGH STATE ACCREDITATION, AND BY ADEQUATE YEARLY PROGRESS AS DEFINED BY FEDERAL LAW;

(i) TO PROVIDE AN AVENUE FOR CITIZENS TO PARTICIPATE IN THE EDUCATIONAL PROCESS AND ENVIRONMENT;

(j) TO PROVIDE CITIZENS WITH MULTIPLE AVENUES BY WHICH THEY CAN OBTAIN AUTHORIZATION FOR A CHARTER SCHOOL.

(3) In authorizing charter schools, it is the intent of the general assembly to create a legitimate avenue for parents, teachers, and community members TO IMPLEMENT NEW AND INNOVATIVE METHODS OF EDUCATING CHILDREN THAT ARE PROVEN TO BE EFFECTIVE AND to take responsible risks and create new AND innovative, ~~and more flexible~~ RESEARCH-BASED ways of educating all children within the public ~~school~~ EDUCATION system. The general assembly seeks to create an atmosphere in Colorado's public ~~school~~ EDUCATION system where research and development in developing different learning opportunities is actively pursued. As such, the provisions of this part 1 should be interpreted liberally to support the findings and goals of this section and to advance a renewed commitment by the state of Colorado to the mission, goals, and diversity of public education.

SECTION 2. 22-30.5-103, Colorado Revised Statutes, is amended to read:

22-30.5-103. Definitions. ~~(1) For purposes of this part 1~~ AS USED IN THIS PART 1, UNLESS THE CONTEXT OTHERWISE REQUIRES:

~~(a)~~ (1) "At-risk pupil" means a pupil who, because of physical, emotional, socioeconomic, or cultural factors, is less likely to succeed in a conventional educational environment.

(2) "CHARTER SCHOOL" MEANS A PUBLIC SCHOOL THAT ENTERS INTO A CHARTER CONTRACT PURSUANT TO THE PROVISIONS OF THIS PART 1.

(3) "DEPARTMENT" MEANS THE DEPARTMENT OF EDUCATION CREATED PURSUANT TO SECTION 24-1-115, C.R.S.

~~(b)~~ (4) "Local board of education" means the school district board of education.

(5) "MORATORIUM" MEANS A SCHOOL DISTRICT'S OFFICIAL POLICY OF REFUSING TO AUTHORIZE CHARTER SCHOOLS AND AN ONGOING PATTERN OR PRACTICE OF REFUSING TO ACCEPT OR REVIEW CHARTER SCHOOL APPLICATIONS.

~~(b.5)~~ (6) "On-line pupil" means a child who receives educational services predominantly through an on-line program created pursuant to section 22-33-104.6.

~~(c)~~ (7) "State board" means the state board of education.

SECTION 3. 22-30.5-104, Colorado Revised Statutes, is amended to read:

22-30.5-104. Charter school - requirements - authority. (1) A charter school shall be a public, nonsectarian, nonreligious, non-home-based school which operates within a public school district.

(2) (a) A CHARTER SCHOOL APPLICANT CANNOT APPLY TO, OR ENTER INTO A CHARTER CONTRACT WITH, A SCHOOL DISTRICT UNLESS A MAJORITY OF THE CHARTER SCHOOL'S PUPILS, OTHER THAN ON-LINE PUPILS, WILL RESIDE IN THE CHARTERING SCHOOL DISTRICT OR IN SCHOOL DISTRICTS CONTIGUOUS THERETO.

(b) A charter school shall be a public school ~~within~~ OF the school district that ~~grants~~ APPROVES its charter ~~and~~ APPLICATION AND ENTERS INTO A CHARTER CONTRACT WITH THE CHARTER SCHOOL. THE CHARTER SCHOOL shall be accountable to the school district's local board of education for purposes of ensuring compliance with applicable laws and charter provisions and the requirement of section 15 of article IX of the state constitution. ~~A charter school cannot apply to, or be granted a charter by, a school district unless a majority of the charter school's pupils, other than on-line pupils, will reside in the chartering school district or in school districts contiguous thereto.~~

(3) A charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services. A charter school shall be subject to any court-ordered desegregation plan in effect for the CHARTERING school district. Enrollment IN A CHARTER SCHOOL must be open to any child who resides within the school district; except that no charter school shall be required to make alterations in the structure of the facility used by the charter school or to make alterations to the arrangement or function of rooms within the facility, except as may be required by state or federal law. Enrollment decisions shall be made in a nondiscriminatory manner specified by the charter school applicant in the charter school application.

(4) A charter school shall be administered and governed by a governing body in a manner agreed to by the charter school applicant and the CHARTERING local board of education. A charter school may organize as a nonprofit corporation pursuant to the "Colorado Nonprofit Corporation Act", articles 121 to 137 of title 7, C.R.S., which shall not affect its status as a public school for any purposes under Colorado law. NOTWITHSTANDING ORGANIZATION AS A NONPROFIT CORPORATION, A CHARTER SCHOOL SHALL ANNUALLY COMPLETE A GOVERNMENTAL AUDIT THAT COMPLIES WITH THE REQUIREMENTS OF THE DEPARTMENT OF EDUCATION.

(4.5) (a) In order to clarify the status of charter schools for purposes of tax-exempt financing, a charter school, as a public school, is a governmental entity. Direct leases and financial obligations of a charter school shall not constitute debt or financial obligations of the school district unless the school district specifically assumes such obligations.

(b) ~~Notwithstanding the provisions of section 22-30.5-110 (1) to the contrary, a charter school and the local board of education may agree to extend the length of the charter beyond five years for the purpose of enhancing the terms of any lease or~~

~~financial obligation:~~

(5) Except as otherwise provided in sections 22-20-109, 22-32-115, and 22-54-109, a charter school shall not charge tuition.

(6) (a) Pursuant to contract, a charter school may operate free from specified school district policies and ~~state regulations; except that a charter school shall not, by contract or otherwise, operate free of the requirements contained in the "Children's Internet Protection Act", article 87 of this title~~ FREE FROM STATE RULES, AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (6). Pursuant to contract, a local board of education may waive locally imposed school district requirements, without seeking approval of the state board; ~~The state board may waive state statutory requirements or rules promulgated by the state board;~~ except that A CHARTER SCHOOL SHALL NOT, BY CONTRACT OR OTHERWISE, OPERATE FREE OF THE REQUIREMENTS CONTAINED IN THE "PUBLIC SCHOOL FINANCE ACT OF 1994", ARTICLE 54 OF THIS TITLE OR THE REQUIREMENTS CONTAINED IN THE "CHILDREN'S INTERNET PROTECTION ACT", ARTICLE 87 OF THIS TITLE.

(b) THE STATE BOARD SHALL PROMULGATE RULES IDENTIFYING STATE STATUTES AND STATE RULES THAT ARE AUTOMATICALLY WAIVED FOR ALL CHARTER SCHOOLS. A SCHOOL DISTRICT, ON BEHALF OF A CHARTER SCHOOL, MAY APPLY TO THE STATE BOARD FOR A WAIVER OF A STATE STATUTE OR STATE RULE THAT IS NOT AUTOMATICALLY WAIVED FOR CHARTER SCHOOLS BY RULE. NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (6) TO THE CONTRARY, the state board may not waive any statute or rule relating to the assessments required to be administered pursuant to section 22-7-409, any statute or rule necessary to prepare the school accountability reports pursuant to part 6 of article 7 of this title, ANY STATUTE OR RULE NECESSARY TO IMPLEMENT THE PROVISIONS OF THE "PUBLIC SCHOOL FINANCE ACT OF 1994", ARTICLE 54 OF THIS TITLE, or any statute or rule relating to the "Children's Internet Protection Act", article 87 of this title.

(c) Upon request of ~~the~~ A charter applicant, the state board and the local board of education OF THE SCHOOL DISTRICT TO WHICH THE CHARTER APPLICANT APPLIES shall provide summaries of ~~such regulations~~ THE STATE AND DISTRICT RULES and policies to use in preparing a charter school application. The department of education shall prepare the summary of state ~~regulations~~ RULES within existing appropriations. Any waiver of state RULES or local school district regulations made pursuant to this subsection (6) shall be for the term of the charter for which the waiver is made; except that a waiver of state statutes or ~~regulations~~ STATE BOARD RULES by the state board shall be subject to PERIODIC review ~~every two years~~ AS PROVIDED BY STATE BOARD RULE and may be revoked if the waiver is deemed no longer necessary by the state board.

(7) (a) A charter school shall be responsible for its own operation including, but not limited to, preparation of a budget, contracting for services, FACILITIES, and personnel matters.

(b) A charter school may negotiate and contract with a school district, the governing body of a state college or university, THE STATE OF COLORADO, or any third party for the use of a school building and grounds, the operation and maintenance thereof, and the provision of any service, activity, or undertaking that

the charter school is required OR CHOOSES to perform in order to carry out the educational program described in its charter CONTRACT. Any services for which a charter school contracts with a school district shall be provided by the district at cost. The charter school shall have standing to sue and be sued in its own name for the enforcement of any contract created pursuant to this paragraph (b).

(c) In no event shall a charter school be required to pay rent for space which is deemed available, as negotiated by contract, in school district facilities. All other costs for the operation and maintenance of the facilities used by the charter school shall be subject to negotiation between the charter school and the school district.

(8) A charter school shall be authorized to offer any educational program, including but not limited to an on-line program pursuant to section 22-33-104.6, that may be offered by a school district AND THAT IS RESEARCH BASED AND HAS BEEN PROVEN TO BE EFFECTIVE, unless expressly prohibited ~~by its charter or~~ by state law.

(9) All decisions regarding the planning, siting, and inspection of charter school facilities shall be made in accordance with section 22-32-124 and as specified by contract with the ~~district~~ CHARTER SCHOOL'S CHARTERING SCHOOL DISTRICT.

SECTION 4. 22-30.5-105, Colorado Revised Statutes, is amended to read:

22-30.5-105. Charter schools - contract contents - regulations - repeal.

(1) An approved charter application shall serve as the basis for a contract between ~~the~~ A charter school and the CHARTERING local board of education.

(2) (a) The contract between ~~the~~ A charter school and the CHARTERING local board of education shall reflect all agreements regarding the release of the charter school from school district policies. EACH CHARTER SCHOOL'S CONTRACT SHALL INCLUDE A STATEMENT SPECIFYING THE MANNER IN WHICH THE CHARTER SCHOOL SHALL COMPLY WITH THE INTENT OF THE STATE STATUTES, STATE BOARD RULES, AND DISTRICT RULES THAT ARE WAIVED FOR THE CHARTER SCHOOL EITHER AUTOMATICALLY OR BY APPLICATION.

(b) (I) Any contract between ~~the~~ A charter school and the CHARTERING local board of education approved on or after July 1, 2001, but prior to July 1, 2010, shall include a statement specifying how the charter school intends to use the one-percent increase in the statewide base per pupil funding for state fiscal years 2001-02 through 2010-11 required by section 17 of article IX of the state constitution to raise student achievement.

(II) This paragraph (b) is repealed, effective July 1, 2011.

(c) ~~Any~~ A contract between a charter school and ~~a~~ THE CHARTERING local board of education approved on or after July 1, 2002, shall specify:

(I) If the contract is not a renewal of an expiring contract, the manner in which the school district governed by the local board of education will support any start-up facility needs of the charter school;

(II) The manner in which the school district governed by the local board of

education will support any long-term facility needs of the charter school; ~~and~~

(III) The actions that the charter school must take in order to:

(A) Have its capital construction needs included as part of the next ballot question for approval of bonded indebtedness to be submitted by the local board of education of its chartering school district to the voters of the district; or

(B) Have the local board of education submit a ballot question for approval of a special mill levy to finance the capital construction needs of the charter school to the voters of the district pursuant to section 22-30.5-405; AND

(IV) THE FINANCIAL INFORMATION, INCLUDING BUT NOT LIMITED TO AN ANNUAL GOVERNMENTAL AUDIT, THE CHARTER SCHOOL MUST REPORT TO THE CHARTERING SCHOOL DISTRICT, THE DEADLINE FOR REPORTING SUCH INFORMATION TO THE CHARTERING SCHOOL DISTRICT IN ORDER TO ENABLE THE CHARTERING SCHOOL DISTRICT TO COMPLY WITH THE REQUIREMENTS SPECIFIED IN THIS TITLE AND IN RULES PROMULGATED BY THE STATE BOARD PERTAINING TO REPORTING FINANCIAL INFORMATION TO THE DEPARTMENT OF EDUCATION, AND THE CIRCUMSTANCES UNDER WHICH THE CHARTERING SCHOOL DISTRICT MAY WITHHOLD A PORTION OF THE CHARTER SCHOOL'S MONTHLY PAYMENT AS PROVIDED IN SECTION 22-30.5-112 (8) FOR FAILURE TO COMPLY WITH FINANCIAL REPORTING REQUIREMENTS SPECIFIED IN THE CONTRACT.

(3) ~~The A contract between the A~~ charter school and the CHARTERING local board of education shall reflect all requests for release of the charter school from state statutes and ~~regulations~~ STATE BOARD RULES. Within ten days after the contract is approved by the CHARTERING local board of education, any request for release from state statutes and ~~regulations~~ STATE BOARD RULES shall be delivered by the CHARTERING local board of education to the state board. THE CHARTERING LOCAL BOARD OF EDUCATION SHALL REQUEST THE RELEASE ON A FORM PROVIDED BY THE DEPARTMENT. Within forty-five days after a request for release is received by the state board, the state board shall either grant or deny the request. If the state board grants the request, it may orally notify the CHARTERING local board of education and the charter school of its decision. If the state board denies the request, it shall notify the CHARTERING local board of education and the charter school in writing that the request is denied and specify the reasons for denial. If the CHARTERING local board of education and the charter school do not receive notice of the state board's decision within forty-five days after submittal of the request for release, the request shall be deemed granted. If the state board denies a request for release that includes multiple state statutes or ~~regulations~~ STATE BOARD RULES, the denial shall specify the state statutes and ~~regulations~~ STATE BOARD RULES for which the release is denied, and the denial shall apply only to those state statutes and ~~regulations~~ STATE BOARD RULES so specified.

(4) A material revision of the terms of ~~the A~~ CHARTER contract may be made only with the approval of the CHARTERING local board of education and the governing body of the charter school.

(5) Any term included in a charter contract that would require a charter school to waive or otherwise forego receipt of any amount of operational or capital construction

funds provided to the charter school pursuant to the provisions of this article or pursuant to any other provision of law is hereby declared null and void as against public policy and is unenforceable.

SECTION 5. 22-30.5-106, Colorado Revised Statutes, is amended to read:

22-30.5-106. Charter application - contents. (1) The charter school application shall be a proposed agreement UPON WHICH THE CHARTER APPLICANT AND THE CHARTERING LOCAL BOARD OF EDUCATION NEGOTIATE A CHARTER CONTRACT, and, AT A MINIMUM, shall include:

(a) The mission statement of the charter school, which must be consistent with the principles of the general assembly's declared purposes as set forth in section 22-30.5-102 (2) and (3);

(b) The goals, objectives, and pupil performance standards to be achieved by the charter school, INCLUDING BUT NOT NECESSARILY LIMITED TO ACCREDITATION STANDARDS AND GOALS AND APPLICABLE STANDARDS AND GOALS SPECIFIED IN FEDERAL LAW;

(c) Evidence that an adequate number of parents, teachers, pupils, or any combination thereof support the formation of a charter school;

(d) Repealed.

(e) A description of the charter school's RESEARCH-BASED educational program THAT HAS BEEN PROVEN TO BE EFFECTIVE, pupil performance standards, MEASURABLE ANNUAL ACHIEVEMENT GOALS THAT ARE BASED ON THE STATE ACCREDITATION INDICATORS SPECIFIED IN ARTICLE 11 OF THIS TITLE, and curriculum; ~~which must meet or exceed any content standards adopted by the school district in which the charter school has applied for a charter and must be designed to enable each pupil to achieve such standards;~~

(e.5) A DESCRIPTION OF THE MANNER IN WHICH THE CHARTER SCHOOL WILL COLLECT AND USE LONGITUDINAL ASSESSMENT DATA IN DETERMINING AND IMPROVING THE ACADEMIC PROGRESS ACHIEVED BY THE STUDENTS ENROLLED IN THE CHARTER SCHOOL;

(f) A description of the charter school's ~~plan for evaluating pupil performance, the types of assessments that will be used to measure pupil progress towards achievement of the school's pupil performance standards, the timeline for achievement of such standards, and the procedures for taking corrective action in the event that pupil performance at the charter school falls below such standards~~ THE ACHIEVEMENT GOALS APPROVED BY THE CHARTERING LOCAL BOARD OF EDUCATION IN THE CHARTER CONTRACT;

(g) Evidence that the plan for the charter school is economically sound, ~~for both the charter school and the school district;~~ a proposed budget for the term of the charter, a description of the manner in which an annual audit of the financial and administrative operations of the charter school, including any services provided by the STATE, A school district, OR A THIRD PARTY, is to be conducted; ~~and a plan for the~~

~~displacement of pupils, teachers, and other employees who will not attend or be employed in the charter school;~~

(h) A description of the governance and operation of the charter school, including the nature and extent of parental, professional educator, and community involvement in the governance and operation of the charter school;

(i) An explanation of the relationship that will exist between the proposed charter school and its employees; ~~including evidence that the terms and conditions of employment have been addressed with affected employees and their recognized representative, if any;~~

(i.5) The employment policies of the proposed charter school;

(j) ~~An agreement between the parties regarding their~~ A PROPOSAL REGARDING THE PARTIES' respective legal ~~liability~~ LIABILITIES and applicable insurance coverage;

(k) A description of how the charter school plans to meet the transportation needs of its pupils and, if the charter school plans to provide transportation for pupils, a plan for addressing the transportation needs of low-income and academically low-achieving pupils;

(l) A description of the charter school's enrollment policy, consistent with the requirements of section 22-30.5-104 (3), and the criteria for enrollment decisions;

(m) A dispute resolution process, as provided in section 22-30.5-107.5.

(2) No person, group, or organization may submit an application to convert a private school or a nonpublic home-based educational program into a charter school or to create a charter school which is a nonpublic home-based educational program as defined in section 22-33-104.5.

(3) A charter applicant is not required to provide personal identifying information concerning any parent, teacher, or prospective pupil prior to the time that the charter ~~is approved~~ CONTRACT IS APPROVED BY BOTH PARTIES and either the charter school actually employs the teacher or the pupil actually enrolls in the charter school, whichever is applicable. A charter school applicant shall provide, upon request of the CHARTERING school district, aggregate information concerning the grade levels and schools in which prospective pupils are enrolled.

SECTION 6. 22-30.5-107, Colorado Revised Statutes, is amended to read:

22-30.5-107. Charter application - process. (1) A charter applicant cannot apply to, or ~~be granted a charter by~~ ENTER INTO A CHARTER CONTRACT WITH, a school district unless a majority of the PROPOSED charter school's pupils, other than on-line pupils, will reside in the chartering school district or in school districts contiguous thereto. The local board of education shall receive and review all applications for charter schools. IF THE LOCAL BOARD OF EDUCATION DOES NOT REVIEW A CHARTER APPLICATION, IT SHALL BE DEEMED TO HAVE DENIED THE CHARTER APPLICATION. Applications must be filed with the local board of education by a date determined by the local board of education to be eligible for consideration for the following school

year. The date determined by the local board of education for filing of applications shall not be any earlier than August 15, or any later than October 1. Prior to any change in the application deadline, the local board of education shall notify each charter school applicant in the district of the proposed change by certified letter. The local board of education shall not charge any application fees. If such board finds the charter school application is incomplete, the board shall request the necessary information from the charter applicant AND GIVE THE CHARTER APPLICANT REASONABLE OPPORTUNITY TO PROVIDE ADDITIONAL INFORMATION TO THE LOCAL BOARD OF EDUCATION FOR REVIEW. The charter school application shall be reviewed by the district accountability committee prior to consideration by the local board of education.

(1.5) For purposes of reviewing a charter school application, a district accountability committee shall include at least:

(a) One person with a demonstrated knowledge of charter schools, regardless of whether that person resides within the school district; and

(b) One parent or legal guardian of a child enrolled in a charter school in the school district; except that, if there are no charter schools in the school district, the local board of education shall appoint a parent or legal guardian of a child enrolled in the school district.

(2) After giving reasonable public notice, the local board of education shall hold community meetings in the affected areas or the entire school district to obtain information to assist the local board of education in its decision to ~~grant~~ APPROVE a charter school application. The local board of education shall rule by resolution on the application for a charter school in a public hearing, upon reasonable public notice, within seventy-five days after receiving the application filed pursuant to subsection (1) of this section. All negotiations between the charter school and the local board of education on the contract shall be concluded by, and all terms of the contract agreed upon, no later than ninety days after the local board of education rules by resolution on the application for a charter school.

(2.5) The charter applicant and the local board of education may jointly waive the deadlines set forth in this section.

(3) If a local board of education denies a charter school application, DOES NOT REVIEW A CHARTER SCHOOL APPLICATION, or unilaterally imposes conditions that are unacceptable to the charter applicant, the charter applicant may appeal the decision to the state board pursuant to section 22-30.5-108.

(3.5) NOTHING IN THIS PART 1 SHALL PROHIBIT A SCHOOL DISTRICT FROM ADOPTING ONE OR MORE POLICIES THAT ENCOURAGE CHARTER APPLICANTS TO ADDRESS SPECIFIED SCHOOL DISTRICT NEEDS.

(4) If a local board of education denies OR DOES NOT REVIEW a charter school application, it shall state its reasons for the denial OR REFUSAL TO REVIEW. WITHIN FIFTEEN DAYS AFTER DENYING OR REFUSING TO REVIEW A CHARTER SCHOOL APPLICATION, THE LOCAL BOARD OF EDUCATION SHALL NOTIFY THE DEPARTMENT OF THE DENIAL OR REFUSAL AND THE REASONS THEREFOR. If a local board of education

~~grants~~ APPROVES a charter APPLICATION, it shall send a copy of the approved charter APPLICATION to the department of ~~education~~ within fifteen days after ~~granting~~ APPROVING the charter APPLICATION.

(5) A SCHOOL DISTRICT MAY UNILATERALLY IMPOSE CONDITIONS ON A CHARTER APPLICANT OR ON A CHARTER SCHOOL ONLY THROUGH ADOPTION OF A RESOLUTION OF THE LOCAL BOARD OF EDUCATION OF THE SCHOOL DISTRICT. IF A LOCAL BOARD ADOPTS A RESOLUTION UNILATERALLY IMPOSING CONDITIONS ON A CHARTER APPLICANT OR ON A CHARTER SCHOOL, THE RESOLUTION SHALL, AT A MINIMUM, STATE THE SCHOOL DISTRICT'S REASONS FOR IMPOSING THE CONDITIONS UNILATERALLY, DESPITE THE OBJECTIONS OF THE CHARTER APPLICANT OR THE CHARTER SCHOOL. THE CHARTER APPLICANT OR CHARTER SCHOOL MAY APPEAL THE DECISION OF THE LOCAL BOARD OF EDUCATION TO UNILATERALLY IMPOSE THE CONDITIONS BY FILING THE NOTICE OF APPEAL WITH THE STATE BOARD WITHIN THIRTY DAYS AFTER ADOPTION OF THE RESOLUTION, AS PROVIDED IN SECTION 22-30.5-108 (2) (a).

SECTION 7. 22-30.5-108, Colorado Revised Statutes, is amended to read:

22-30.5-108. Appeal - standard of review - procedures. (1) Acting pursuant to its supervisory power as provided in section 1 of article IX of the state constitution, the state board, upon receipt of a notice of appeal or upon its own motion, may review decisions of any local board of education concerning the denial of a charter school application, the nonrenewal or revocation of a charter school's charter, or the unilateral imposition of conditions on a charter applicant OR A CHARTER SCHOOL, in accordance with the provisions of this section. Any disputes arising with regard to governing policy provisions of a charter school's charter contract shall be resolved as provided in section 22-30.5-107.5. A LOCAL BOARD OF EDUCATION'S REFUSAL TO REVIEW A CHARTER APPLICATION CONSTITUTES A DENIAL OF THE CHARTER APPLICATION AND IS APPEALABLE AS A DENIAL PURSUANT TO THE PROVISIONS OF THIS SECTION.

(2) A charter applicant or any other person who wishes to appeal a decision of a local board of education concerning THE DENIAL OF a charter application or the nonrenewal or revocation of a charter or the unilateral imposition of conditions on a charter applicant OR A CHARTER SCHOOL, shall provide the state board and the local board of education with a notice of appeal or of facilitation within thirty days after the local board's decision. The person bringing the appeal shall limit the grounds of the appeal to the grounds for the denial of A CHARTER APPLICATION or the nonrenewal or revocation of a charter, or the unilateral imposition of conditions on a charter applicant OR CHARTER SCHOOL, whichever is being appealed, specified by the local board of education. The notice shall include a brief statement of the reasons the ~~charter school applicant~~ APPEALING PERSON contends the local board of education's denial of A CHARTER APPLICATION or nonrenewal or revocation of a charter, or imposition of conditions on a charter applicant OR CHARTER SCHOOL was in error.

(2.5) If a district court dismisses a case for lack of jurisdiction and the case involves a charter application, or the nonrenewal or revocation of a charter, or the unilateral imposition of conditions on a charter applicant OR CHARTER SCHOOL, the thirty-day period for filing a notice of appeal or of facilitation described in subsection (2) of this section shall be tolled until the date of dismissal by the court.

(3) If the notice of appeal, or the motion to review by the state board, relates to a local board's decision to deny A CHARTER APPLICATION OR TO refuse to renew or TO revoke a charter or to a local board's unilateral imposition of conditions that are unacceptable to the charter applicant OR THE CHARTER SCHOOL, the appeal and review process shall be as follows:

(a) Within sixty days after receipt of the notice of appeal or the making of a motion to review by the state board and after reasonable public notice, the state board ~~at a public hearing which may be held in the school district in which the proposed charter school has applied for a charter,~~ shall review the decision of the local board of education and make its findings. If the state board finds that the local board's decision was contrary to the best interests of the pupils, school district, or community, the state board shall remand such decision to the local board of education with written instructions for reconsideration thereof. Said instructions shall include specific recommendations concerning the matters requiring reconsideration.

(b) Within thirty days following the remand of a decision to the local board of education and after reasonable public notice, the local board of education, at a public hearing, shall reconsider its decision and make a final decision. IF THE LOCAL BOARD OF EDUCATION DECIDES TO APPROVE THE CHARTER APPLICATION OR DECIDES NOT TO UNILATERALLY IMPOSE THE CONDITION, THE LOCAL BOARD OF EDUCATION AND THE CHARTER APPLICANT SHALL COMPLETE THE CHARTER CONTRACT WITHIN NINETY DAYS FOLLOWING THE REMAND OF THE STATE BOARD'S DECISION TO THE LOCAL BOARD OF EDUCATION.

(c) FOLLOWING THE REMAND, if the local board of education's final decision is still to deny A CHARTER APPLICATION OR TO UNILATERALLY IMPOSE THE CONDITION ON A CHARTER APPLICANT OR IF THE LOCAL BOARD OF EDUCATION'S FINAL DECISION IS STILL TO refuse to renew or TO revoke a charter or to unilaterally impose conditions unacceptable to the charter applicant SCHOOL, a second notice of appeal may be filed with the state board within thirty days following such final decision.

(d) Within thirty days following receipt of the second notice of appeal or the making of a motion for a second review by the state board and after reasonable public notice, the state board, at a public hearing, shall determine whether the final decision of the local board of education was contrary to the best interests of the pupils, school district, or community. If such a finding is made, the state board shall remand such final decision to the local board with instructions to approve the charter application, or to renew or reinstate the charter or to approve or disapprove the conditions imposed on the charter applicant OR THE CHARTER SCHOOL. The decision of the state board shall be final and not subject to appeal.

(3.5) In lieu of a first appeal to the state board pursuant to paragraph (a) of subsection (3) of this section, the parties may agree to facilitation. Within thirty days after denial OF A CHARTER APPLICATION OR nonrenewal or revocation of a charter OR UNILATERAL IMPOSITION OF CONDITIONS ON A CHARTER APPLICANT OR A CHARTER SCHOOL by the local board of education, the parties may file a notice of facilitation with the state board. The parties may continue in facilitation as long as both parties agree to its continued use. If one party subsequently rejects facilitation, and such rejection is not reconsidered within seven days, the local board of education shall reconsider its denial OF A CHARTER APPLICATION OR nonrenewal or revocation of a

charter and make a final decision as provided in paragraph (b) of subsection (3) of this section. The charter applicant may file a notice of appeal with the state board as provided in paragraph (c) of subsection (3) of this section within thirty days after a local board of education's final decision to deny ~~not~~ A CHARTER APPLICATION, TO REFUSE TO renew or TO revoke a charter, OR TO UNILATERALLY IMPOSE CONDITIONS ON A CHARTER APPLICANT OR A CHARTER SCHOOL.

~~(4) If the notice of appeal, or the motion to review by the state board, relates to a local board's decision to grant a charter, the appeal and review process shall be as follows:~~

~~(a) (i) Within sixty days after receipt of the notice of appeal or the making of a motion to review by the state board and after reasonable public notice, the state board, at a public hearing which may be held in the district in which the proposed charter school has applied for a charter, shall review the decision of the local board of education and determine whether such decision was arbitrary and capricious or whether the establishment or operation of the proposed charter school would:~~

~~(A) Violate any federal or state laws concerning civil rights;~~

~~(B) Violate any court order;~~

~~(C) Threaten the health and safety of pupils in the school district;~~

~~(D) Violate the provisions of section 22-30.5-109 (2), prescribing the permissible number of charter schools; or~~

~~(E) Be inconsistent with the equitable distribution of charter schools among school districts;~~

~~(H) If such a determination is made, the state board shall remand such decision to the local board with instructions to deny the charter application. The decision of the state board shall be final and not subject to appeal.~~

(5) Nothing in this section shall be construed to alter the requirement that a charter school be a part of the school district that ~~grants~~ APPROVES its charter APPLICATION AND CHARTER CONTRACT and BE accountable to the local board of education pursuant to section 22-30.5-104 (2).

SECTION 8. 22-30.5-109, Colorado Revised Statutes, is amended to read:

22-30.5-109. Charter schools - reporting - publicizing - limits on enrollment - moratorium prohibited. (1) ~~A local board of education may reasonably limit the number of charter schools in the school district.~~ EACH LOCAL BOARD OF EDUCATION THAT APPROVES A CHARTER APPLICATION AND ENTERS INTO A CHARTER CONTRACT WITH A CHARTER SCHOOL SHALL ANNUALLY REPORT TO THE DEPARTMENT INFORMATION THAT THE DEPARTMENT REQUESTS TO EVALUATE THE EFFECTIVENESS OF CHARTER SCHOOLS. THE LOCAL BOARDS OF EDUCATION SHALL PROVIDE THE INFORMATION ON FORMS PROVIDED BY THE DEPARTMENT. THE STATE BOARD SHALL ADOPT RULES ESTABLISHING THE TIME LINES AND PROCEDURES FOR REPORTING THE INFORMATION REQUIRED IN THIS SUBSECTION (1).

~~(2) (a) No more than sixty charters shall be granted prior to July 1, 1997, and at least sixteen of said sixty charters shall be reserved for charter school applications which are designed to increase the educational opportunities of at-risk pupils, as defined in section 22-30.5-103.~~

~~(b) Local boards of education which grant charter school applications shall report such action to the state board and shall specify whether or not such school is designed to increase the educational opportunities of at-risk pupils. The state board shall promptly notify the board of education of each school district when the limits specified in paragraph (a) of this subsection (2) have been reached.~~

(3) It is the intent of the general assembly that ~~priority of~~ GREATER consideration be given to charter school applications designed to increase the educational opportunities of at-risk pupils, as defined in section 22-30.5-103.

(4) If otherwise qualified, nothing in this part 1 shall be construed to prohibit any institution certified as an educational clinic pursuant to article 27 of this title, on or before April 1, 1993, from applying to become a charter school pursuant to this part 1.

(5) Nothing in this part 1 shall be construed to prevent a school in a school district which is comprised of only one school from applying to become a charter school pursuant to this part 1.

(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 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.

~~(7) On-line pupils enrolled in a charter school shall not be included in the charter school's pupil enrollment for purposes of determining whether the charter school is in compliance with any restrictions the chartering school district may impose on the number of pupils that may enroll in the charter school. A chartering school district AUTHORITY may not restrict the number of on-line pupils a charter school may enroll; EXCEPT THAT A CHARTER SCHOOL AND ITS CHARTERING AUTHORITY MAY NEGOTIATE AND AGREE TO LIMITATIONS ON THE NUMBER OF STUDENTS THE CHARTER SCHOOL MAY ENROLL AS NECESSARY TO:~~

(a) FACILITATE THE ACADEMIC SUCCESS OF STUDENTS ENROLLED IN THE CHARTER SCHOOL;

(b) FACILITATE THE CHARTER SCHOOL'S ABILITY TO ACHIEVE THE OTHER OBJECTIVES SPECIFIED IN THE CHARTER CONTRACT; OR

(c) ENSURE THAT THE CHARTER SCHOOL'S STUDENT ENROLLMENT DOES NOT EXCEED THE CAPACITY OF THE CHARTER SCHOOL FACILITY OR SITE.

(8) THE LOCAL BOARD OF EDUCATION OF A SCHOOL DISTRICT SHALL NOT IMPOSE A MORATORIUM ON THE APPROVAL OF CHARTER APPLICATIONS FOR CHARTER SCHOOLS

WITHIN THE SCHOOL DISTRICT.

SECTION 9. 22-30.5-110, Colorado Revised Statutes, is amended to read:

22-30.5-110. Charter schools - term - renewal of charter - grounds for nonrenewal or revocation - repeal. (1) A new charter ~~may~~ APPLICATION SHALL be approved BY A LOCAL BOARD OF EDUCATION for a period of at least three years. ~~but not more than five academic years.~~ A charter may be renewed for a ~~period not to exceed five years~~ SUCCESSIVE PERIODS.

(1.5) No later than December 1 of the year prior to the year in which the charter expires, the governing body of a charter school shall submit a renewal application to the CHARTERING local board of education. The CHARTERING local board of education shall rule by resolution on the renewal application no later than February 1 of the year in which the charter expires, or BY a mutually agreed upon date.

(2) A charter school renewal application submitted to the CHARTERING local board of education shall contain:

(a) A report on the progress of the charter school in achieving the goals, objectives, pupil performance standards, content standards, and other terms of the ~~initial approved charter application~~ CHARTER CONTRACT AND THE RESULTS ACHIEVED BY THE CHARTER SCHOOL'S STUDENTS ON THE ASSESSMENTS ADMINISTERED THROUGH THE COLORADO STUDENT ASSESSMENT PROGRAM;

(b) A financial statement that discloses the costs of administration, instruction, and other spending categories for the charter school that is understandable to the general public and that will allow comparison of such costs to other schools or other comparable organizations, in a format required by the state board of education; and

(c) (I) For renewal applications submitted on or after July 1, 2001, but prior to July 1, 2010, a statement specifying how the charter school intends to use the one-percent increase in the statewide base per pupil funding for state fiscal years 2001-02 through 2010-11 required by section 17 of article IX of the state constitution to raise student achievement.

(II) This paragraph (c) is repealed, effective July 1, 2011.

(3) A charter may be revoked or not renewed by the CHARTERING local board of education if ~~such board~~ IT determines that the charter school did any of the following:

(a) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter ~~application~~ CONTRACT;

(b) Failed to meet or make reasonable progress toward achievement of the GOALS, OBJECTIVES, content standards, ~~or~~ pupil performance standards, APPLICABLE FEDERAL REQUIREMENTS, OR OTHER TERMS identified in the charter ~~application~~ CONTRACT;

(c) Failed to meet generally accepted standards of fiscal management; or

(d) Violated any provision of law from which the charter school was not

specifically exempted.

~~(4) In addition, a charter may be not renewed upon a determination by the local board of education that it is not in the interest of the pupils residing within the school district to continue the operation of the charter school.~~

(4.5) If a local board of education revokes or does not renew a charter, the board shall state its reasons for the revocation or nonrenewal.

(5) A decision to revoke or not to renew a charter may be appealed or facilitation may be sought pursuant to the provisions of section 22-30.5-108.

SECTION 10. 22-30.5-112 (2) (a) (III) (A), (2) (a.4) (III), (2) (c) (II), (2) (d), (5), and (6), Colorado Revised Statutes, are amended, and the said 22-30.5-112 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

22-30.5-112. Charter schools - financing - guidelines - repeal.
 (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~~ CHARTERING school district shall negotiate funding under the contract. ~~at a minimum of ninety-five percent~~ THE CHARTER SCHOOL SHALL RECEIVE ONE HUNDRED PERCENT of the district per pupil revenues for each pupil enrolled in the charter school who is not an on-line pupil and ~~ninety-five percent~~ ONE HUNDRED PERCENT of the district per pupil on-line funding for each on-line pupil enrolled in the charter school; EXCEPT THAT the CHARTERING 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~~ UP TO five percent of the district per pupil revenues for each pupil who is not an on-line pupil enrolled in the charter school and UP TO five percent of the district per pupil on-line funding for each on-line pupil enrolled in the charter school.

(a.4) (III) If either party disputes an itemized accounting provided pursuant to subparagraphs (I) and (II) of this paragraph (a.4), any charges included in an accounting, or charges to either party, that party is entitled to request a third-party review at the requesting party's expense. The review shall be conducted by the department, ~~of education~~, and the department's determination shall be final.

(c) (II) For budget year 2000-01 and budget years thereafter, the amount of funding received by a charter school pursuant to this subsection (2) shall not be less than ~~ninety-five percent~~ ONE HUNDRED PERCENT of the CHARTERING SCHOOL DISTRICT'S district per pupil revenues, MINUS UP TO FIVE PERCENT AS PROVIDED IN SUBPARAGRAPH (III) OF PARAGRAPH (a) OF THIS SUBSECTION (2), multiplied by the number of pupils enrolled in the charter school or as otherwise provided in paragraph (a.3) of this subsection (2) for any charter school ~~authorized~~ CHARTERED by a school district that enrolls five hundred or fewer students.

~~(d) It is the intent of the general assembly that funding and service agreements pursuant to this subsection (2) shall be neither a financial incentive nor a financial disincentive to the establishment of a charter school.~~

~~(5) The department of education will prepare an annual report and evaluation for the governor and the house and senate committees on education on the success or failure of charter schools, their relationship to other school reform efforts, and suggested changes in state law necessary to strengthen or change the charter school program.~~

~~(6) The department of education will provide technical assistance to persons and groups preparing or revising charter applications.~~

(7) A CHARTER SCHOOL SHALL COMPLY WITH ALL OF THE STATE FINANCIAL AND BUDGET RULES, REGULATIONS, AND FINANCIAL REPORTING REQUIREMENTS WITH WHICH THE CHARTERING SCHOOL DISTRICT IS REQUIRED TO COMPLY, INCLUDING BUT NOT LIMITED TO ANNUAL COMPLETION OF A GOVERNMENTAL AUDIT THAT COMPLIES WITH THE REQUIREMENTS OF THE DEPARTMENT.

(8) (a) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, A CHARTERING SCHOOL DISTRICT, UNDER THE CIRCUMSTANCES SPECIFIED IN THE CONTRACT BETWEEN THE SCHOOL DISTRICT AND THE CHARTER SCHOOL PURSUANT TO SECTION 22-30.5-105 (2) (c) (IV), MAY WITHHOLD A PORTION OF A CHARTER SCHOOL'S MONTHLY PAYMENT DUE PURSUANT TO THIS SECTION.

(b) THE CHARTERING SCHOOL DISTRICT MAY WITHHOLD A PORTION OF THE PAYMENT DUE TO THE CHARTER SCHOOL ONLY UNTIL SUCH TIME AS THE CHARTER SCHOOL COMPLIES WITH THE FINANCIAL REPORTING REQUIREMENTS.

(9) (a) IF A CHARTER SCHOOL DETERMINES THAT ITS CHARTERING SCHOOL DISTRICT HAS NOT FORWARDED TO THE CHARTER SCHOOL THE AMOUNT DUE TO THE CHARTER SCHOOL IN ACCORDANCE WITH THE TERMS OF THE CHARTER CONTRACT AND THE PROVISIONS OF THIS SECTION, THE CHARTER SCHOOL MAY SEEK A DETERMINATION FROM THE STATE BOARD REGARDING WHETHER THE CHARTERING SCHOOL DISTRICT IMPROPERLY WITHHELD ANY PORTION OF THE AMOUNT DUE TO THE CHARTER SCHOOL. A CHARTER SCHOOL THAT CHOOSES TO REQUEST A DETERMINATION PURSUANT TO THIS SUBSECTION (9) OF ISSUES ARISING ON OR AFTER JULY 1, 2004, SHALL SUBMIT THE REQUEST WITHIN THE NEXT FISCAL YEAR FOLLOWING THE FISCAL YEAR IN WHICH THE CHARTERING SCHOOL DISTRICT MAY HAVE IMPROPERLY WITHHELD FUNDING; EXCEPT THAT, IF THE CHARTER CONTRACT REQUIRES THE CHARTER SCHOOL TO COMPLETE ANY REQUIREMENTS PRIOR TO SEEKING A DETERMINATION FROM THE DEPARTMENT PURSUANT TO THIS SUBSECTION (9), THE CHARTER SCHOOL SHALL SUBMIT THE REQUEST NO LATER THAN THE END OF THE NEXT FISCAL YEAR FOLLOWING THE FISCAL YEAR IN WHICH THE CHARTER SCHOOL COMPLETES SAID REQUIREMENTS.

(b) UPON RECEIPT FROM A CHARTER SCHOOL OF A REQUEST FOR A DETERMINATION OF WHETHER THE CHARTERING SCHOOL DISTRICT HAS IMPROPERLY WITHHELD ANY PORTION OF THE AMOUNT DUE TO THE CHARTER SCHOOL, THE STATE BOARD SHALL DIRECT THE DEPARTMENT TO REVIEW THE TERMS OF THE CHARTER CONTRACT AND THE FINANCIAL INFORMATION OF THE CHARTER SCHOOL AND THE CHARTERING SCHOOL DISTRICT AND MAKE A RECOMMENDATION TO THE STATE BOARD REGARDING WHETHER THE CHARTERING SCHOOL DISTRICT IMPROPERLY WITHHELD ANY PORTION OF THE AMOUNT DUE TO THE CHARTER SCHOOL. THE DEPARTMENT SHALL REQUEST FROM THE CHARTERING SCHOOL DISTRICT AND THE CHARTER SCHOOL ALL INFORMATION NECESSARY TO MAKE THE RECOMMENDATION, INCLUDING BUT NOT

LIMITED TO AUDITED FINANCIAL DATA. THE CHARTERING SCHOOL DISTRICT AND THE CHARTER SCHOOL SHALL PROVIDE THE REQUESTED INFORMATION AS SOON AS POSSIBLE FOLLOWING THE REQUEST, BUT IN NO EVENT LATER THAN THIRTY DAYS AFTER COMPLETION OF THE ANNUAL FINANCIAL AUDIT. THE DEPARTMENT SHALL FORWARD ITS RECOMMENDATION TO THE STATE BOARD WITHIN SIXTY DAYS AFTER RECEIVING ALL OF THE REQUESTED INFORMATION FROM THE CHARTERING SCHOOL DISTRICT AND THE CHARTER SCHOOL.

(c) AT THE NEXT STATE BOARD MEETING FOLLOWING RECEIPT OF THE RECOMMENDATION OF THE DEPARTMENT PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (9), THE STATE BOARD SHALL ISSUE ITS DECISION REGARDING WHETHER THE CHARTERING SCHOOL DISTRICT IMPROPERLY WITHHELD ANY PORTION OF THE AMOUNT DUE TO THE CHARTER SCHOOL. IF THE STATE BOARD FINDS THAT THE CHARTERING SCHOOL DISTRICT IMPROPERLY WITHHELD ANY PORTION OF THE AMOUNT DUE TO THE CHARTER SCHOOL, THE CHARTERING SCHOOL DISTRICT SHALL PAY TO THE CHARTER SCHOOL, WITHIN THIRTY DAYS AFTER ISSUANCE OF THE DECISION, THE AMOUNT IMPROPERLY WITHHELD. IN ADDITION, THE CHARTERING SCHOOL DISTRICT SHALL PAY THE COSTS INCURRED BY THE DEPARTMENT IN REVIEWING THE NECESSARY INFORMATION TO MAKE ITS RECOMMENDATION. IF THE STATE BOARD FINDS THAT THE CHARTERING SCHOOL DISTRICT DID NOT IMPROPERLY WITHHOLD ANY PORTION OF THE AMOUNT DUE TO THE CHARTER SCHOOL, THE CHARTER SCHOOL SHALL PAY THE COSTS INCURRED BY THE DEPARTMENT IN REVIEWING THE NECESSARY INFORMATION TO MAKE ITS RECOMMENDATION.

(d) IF THE CHARTERING SCHOOL DISTRICT FAILS WITHIN THE THIRTY-DAY PERIOD TO PAY THE FULL AMOUNT THAT WAS IMPROPERLY WITHHELD, THE CHARTER SCHOOL MAY NOTIFY THE DEPARTMENT, AND THE DEPARTMENT SHALL WITHHOLD FROM THE CHARTERING SCHOOL DISTRICT'S STATE EQUALIZATION PAYMENT THE UNPAID PORTION OF THE AMOUNT IMPROPERLY WITHHELD BY THE CHARTERING SCHOOL DISTRICT FROM THE CHARTER SCHOOL AND PAY THE UNPAID PORTION DIRECTLY TO THE CHARTER SCHOOL.

(10) (a) IF A CHARTER SCHOOL DETERMINES THAT A SCHOOL DISTRICT HAS NOT PAID THE TUITION CHARGE FOR THE EXCESS COSTS INCURRED IN EDUCATING A CHILD WITH A DISABILITY AS REQUIRED IN SECTION 22-20-109 (5), THE CHARTER SCHOOL MAY SEEK A DETERMINATION FROM THE STATE BOARD IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION (9) OF THIS SECTION.

(b) IF THE STATE BOARD DETERMINES THAT THE SCHOOL DISTRICT HAS IMPROPERLY WITHHELD MONEYS DUE TO THE CHARTER SCHOOL, THE SCHOOL DISTRICT, WITHIN THIRTY DAYS AFTER THE STATE BOARD'S DETERMINATION, SHALL PAY TO THE CHARTER SCHOOL THE AMOUNT IMPROPERLY WITHHELD. IN ADDITION, THE SCHOOL DISTRICT SHALL PAY THE COSTS INCURRED BY THE DEPARTMENT IN REVIEWING THE NECESSARY INFORMATION TO MAKE ITS RECOMMENDATION. IF THE SCHOOL DISTRICT FAILS, WITHIN THE THIRTY-DAY PERIOD, TO PAY THE FULL AMOUNT THAT WAS IMPROPERLY WITHHELD, THE CHARTER SCHOOL SHALL NOTIFY THE DEPARTMENT, AND THE DEPARTMENT SHALL WITHHOLD FROM THE SCHOOL DISTRICT'S STATE EQUALIZATION PAYMENT THE UNPAID PORTION OF THE AMOUNT IMPROPERLY WITHHELD BY THE DISTRICT AND PAY THE UNPAID PORTION DIRECTLY TO THE CHARTER SCHOOL.

(c) IF THE STATE BOARD FINDS THAT THE SCHOOL DISTRICT DID NOT IMPROPERLY WITHHOLD ANY PORTION OF THE AMOUNT DUE TO THE CHARTER SCHOOL, THE CHARTER SCHOOL SHALL PAY THE COSTS INCURRED BY THE DEPARTMENT IN REVIEWING THE NECESSARY INFORMATION TO MAKE ITS RECOMMENDATION.

SECTION 11. 22-30.5-113, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

22-30.5-113. State board - department of education - duties - charter schools - evaluation - report. (1) BEGINNING IN THE 2004-05 BUDGET YEAR, AND AT LEAST EVERY THREE YEARS THEREAFTER, THE DEPARTMENT SHALL PREPARE A REPORT AND EVALUATION FOR THE GOVERNOR AND THE HOUSE AND SENATE COMMITTEES ON EDUCATION ON THE SUCCESS OR FAILURE OF CHARTER SCHOOLS, THEIR RELATIONSHIP TO OTHER SCHOOL REFORM EFFORTS, AND SUGGESTED CHANGES IN STATE LAW NECESSARY TO STRENGTHEN OR CHANGE THE CHARTER SCHOOL PROGRAM.

(2) THE STATE BOARD SHALL COMPILE EVALUATIONS OF CHARTER SCHOOLS RECEIVED FROM LOCAL BOARDS OF EDUCATION. THE STATE BOARD SHALL REVIEW INFORMATION REGARDING THE STATUTES, REGULATIONS, AND POLICIES FROM WHICH CHARTER SCHOOLS WERE RELEASED PURSUANT TO SECTION 22-30.5-105 TO DETERMINE IF THE RELEASES ASSISTED OR IMPEDED THE CHARTER SCHOOLS IN MEETING THEIR STATED GOALS AND OBJECTIVES.

(3) IN PREPARING THE REPORT REQUIRED BY THIS SECTION, THE STATE BOARD SHALL COMPARE THE PERFORMANCE OF CHARTER SCHOOL PUPILS WITH THE PERFORMANCE OF ETHNICALLY AND ECONOMICALLY COMPARABLE GROUPS OF PUPILS IN OTHER PUBLIC SCHOOLS WHO ARE ENROLLED IN ACADEMICALLY COMPARABLE COURSES.

SECTION 12. 22-1-101, Colorado Revised Statutes, is amended to read:

22-1-101. Schools defined. (1) A public school is a school that derives its support, in whole or in part, from moneys raised by a general state, county, or district tax.

(2) A CHARTER SCHOOL IS A PUBLIC SCHOOL THAT OPERATES PURSUANT TO A CHARTER CONTRACT ENTERED INTO PURSUANT TO THE PROVISIONS OF ARTICLE 30.5 OF THIS TITLE. AS USED IN THIS TITLE, UNLESS THE CONTEXT OTHERWISE REQUIRES, "CHARTER SCHOOL" INCLUDES ANY TYPE OF CHARTER SCHOOL CREATED PURSUANT TO THE PROVISIONS OF ARTICLE 30.5 OF THIS TITLE.

SECTION 13. 22-2-107 (1)(g.5), Colorado Revised Statutes, is amended to read:

22-2-107. State board - powers. (1) The state board has the power:

(g.5) To revoke or withhold accreditation of any school district under section 22-2-106 (1) (c) if it determines that the school district has not complied with the provisions of the "Public School Finance Act of 1994", as set forth in article 54 of this title, ~~but such~~ OR THAT THE SCHOOL DISTRICT HAS NOT COMPLIED WITH A SPECIFIC WRITTEN DIRECTIVE OR ORDER OF THE STATE BOARD TO THE SCHOOL DISTRICT. Action AGAINST A SCHOOL DISTRICT'S ACCREDITATION may be taken only after at least

sixty days' notice to the district and an opportunity for the district to be heard at a hearing held in accordance with rules promulgated by the state board.

SECTION 14. 22-11-104 (2) (k), Colorado Revised Statutes, is amended 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 AND COMPLIANCE WITH ANY SPECIFIC WRITTEN DIRECTIVE OR ORDER OF THE STATE BOARD TO THE SCHOOL DISTRICT.

SECTION 15. 22-37-104 (2) (e), Colorado Revised Statutes, is amended to read:

22-37-104. Qualification. (2) A program shall:

(e) Include provisions for the dissemination of the results of the program to the state board, school board OR GOVERNING BOARD of the participating public school, parents, guardians, or legal custodians with students attending the participating public school, and any other interested persons.

SECTION 16. 22-51-101, Colorado Revised Statutes, is amended to read:

22-51-101. Legislative declaration. It is declared to be the policy of this state to furnish financial aid to school districts AND THE STATE CHARTER SCHOOL INSTITUTE of the state for the transportation of pupils to and from their places of residence and the public schools which they attend, including transportation for purposes of special education and vocational education, and for board in lieu of transportation.

SECTION 17. 22-51-102 (1) (b), (3), and (4), Colorado Revised Statutes, are amended, and the said 22-51-102 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

22-51-102. Definitions. As used in this article, unless the context otherwise requires:

(1) (b) "Current operating expenditures for pupil transportation" shall not be reduced by revenues received by a school district OR THE STATE CHARTER SCHOOL INSTITUTE from fees imposed and collected for pupil transportation pursuant to a resolution adopted by the board of education of such district in accordance with the provisions of section 22-32-113 (5) OR BY THE STATE CHARTER SCHOOL INSTITUTE BOARD.

(3) "Pupil transportation" means the transportation of pupils regularly enrolled in the public schools through grade twelve to and from their places of residence and the public schools in which enrolled, including any site attended for special education or vocational education, and to and from one school of attendance and another in vehicles owned or rented and operated by a school district OR STATE CHARTER SCHOOL or under contract with a school district OR STATE CHARTER SCHOOL.

(4) "Reimbursement entitlement" means the amount of reimbursement to which a

school district OR A STATE CHARTER SCHOOL is entitled under the provisions of section 22-51-104.

(5) "STATE CHARTER SCHOOL INSTITUTE" OR "INSTITUTE" MEANS THE STATE CHARTER SCHOOL INSTITUTE CREATED PURSUANT TO PART 5 OF ARTICLE 30.5 OF THIS TITLE.

SECTION 18. 22-51-104, Colorado Revised Statutes, is amended to read:

22-51-104. Methods of determining reimbursement entitlement. (1) Except as otherwise provided in subsection (1.5) of this section, for financial aid in providing pupil transportation, for entitlement periods ending on June 30, 1988, and thereafter, each school district AND THE STATE CHARTER SCHOOL INSTITUTE shall have a reimbursement entitlement in an amount determined as follows:

(a) Thirty-seven and eighty-seven one-hundredths cents for each mile traveled by vehicles operated by or for the school district OR THE INSTITUTE in providing pupil transportation during the entitlement period. The number of miles traveled shall be determined by the state board of education based upon information submitted pursuant to section 22-51-105.

(b) Thirty-three and eighty-seven one-hundredths percent of any amount by which the school district's OR THE INSTITUTE'S current operating expenditures for pupil transportation during the entitlement period exceeded the school district's OR INSTITUTE'S reimbursement entitlement under the provisions of paragraph (a) of this subsection (1); and

(c) Not more than sixty percent of the costs of contracts entered into BY A SCHOOL DISTRICT pursuant to section 22-32-110 (1) (w) OR ENTERED INTO BY THE STATE CHARTER SCHOOL INSTITUTE, for the purpose of conserving fuel or reducing operating or capital expenditures, or both, for pupil transportation under public transportation programs which comply with the code of federal regulations, Title 49, parts 390 to 397, or successor regulations thereto. Reimbursement entitlements under this paragraph (c) shall not be greater than those the school district OR THE INSTITUTE would otherwise receive if it operated its own vehicles or contracted for the exclusive transportation of pupils.

(1.5) (a) Repealed.

(b) Notwithstanding the provisions of subsection (1) of this section, for entitlement periods ending on June 30, 1989, and thereafter, ~~no school district~~ NEITHER A SCHOOL DISTRICT NOR THE STATE CHARTER SCHOOL INSTITUTE shall receive a reimbursement entitlement in an amount which is less than its reimbursement entitlement for the preceding entitlement period. For purposes of this paragraph (b), the reimbursement entitlement for the preceding entitlement period shall be the amount to which the school district OR THE INSTITUTE would have been entitled under the formula in subsection (1) of this section, and not the amount it actually received for the preceding entitlement period, if different from the amount under said formula.

(2) In no event shall the reimbursement entitlement of any school district OR THE INSTITUTE under the provisions of subsection (1) of this section for any entitlement

period exceed ninety percent of the total amount expended by the school district OR THE INSTITUTE during said entitlement period for current operating expenditures for pupil transportation.

(3) For financial aid in providing board allowances in lieu of transportation, each school district AND THE INSTITUTE shall have a reimbursement entitlement for an entitlement period for each pupil who is temporarily residing during said entitlement period for the purpose of attending school at a place nearer the school of attendance than ~~his~~ THE STUDENT'S permanent residence, and for whom the district OR THE INSTITUTE has paid a board allowance in lieu of furnishing transportation, in the amount of one dollar for each day such board was paid by the district OR THE INSTITUTE.

SECTION 19. 22-51-105, Colorado Revised Statutes, is amended to read:

22-51-105. Certifications by school boards and governing boards. (1) On or before August 15 of each year, the school board of each school district entitled to and desiring reimbursement under this article, AND THE STATE CHARTER SCHOOL INSTITUTE BOARD, shall certify to the state board of education, on forms to be provided by the commissioner of education, such information as the board shall deem necessary to determine the reimbursement entitlement of the district OR THE INSTITUTE, including, but not limited to, the total amount of the school district's OR THE INSTITUTE'S current operating expenditures for pupil transportation during the preceding entitlement period, the total number of miles traveled and the total number of pupils transported on October 1, or the school day nearest said date, during the preceding entitlement period by vehicles operated by or for the school district OR THE INSTITUTE in providing pupil transportation, and the transportation route descriptions in effect on said date.

(2) The department of education shall promulgate rules and regulations to allow for verification of the accuracy and appropriateness of the route mileages submitted by school districts AND THE INSTITUTE pursuant to subsection (1) of this section. If the department determines that an overpayment has been made due to the submission of inaccurate or inappropriate route mileages, the department shall recover from the school district OR THE INSTITUTE an amount equal to the overpayment plus a penalty of not more than twenty percent of the overpayment.

SECTION 20. 22-51-106, Colorado Revised Statutes, is amended to read:

22-51-106. Certification to and payment by state treasurer - deficiency in fund. (1) (a) On or before October 15 of each year, the commissioner of education shall certify to the state treasurer the amount of the advance reimbursement entitlement of each school district AND THE STATE CHARTER SCHOOL INSTITUTE for the current entitlement period and the amount of the final reimbursement entitlement of each school district AND THE INSTITUTE for the preceding entitlement period. The state treasurer shall thereupon pay from the public school transportation fund directly to the treasurer of each school district which has elected under the law to withdraw its funds from the custody of the county treasurer AND DIRECTLY TO THE TREASURER OF THE STATE CHARTER SCHOOL INSTITUTE the amount certified as the total reimbursement entitlement of the school district OR THE INSTITUTE; and, for all other school districts, ~~he~~ THE STATE TREASURER shall pay to the county treasurer of the

county in which each school district has its headquarters the amount certified as the total reimbursement entitlement of each district, and the county treasurer shall forthwith credit to the general fund of each district in ~~his~~ THE county the amount certified therefor.

(b) For purposes of this section:

(I) "Advance reimbursement entitlement" means an amount which a school district OR THE STATE CHARTER SCHOOL INSTITUTE is entitled to receive in the current entitlement period as an advance payment of its reimbursement entitlement for such period and which is equal to twenty percent of the reimbursement entitlement of the school district OR THE INSTITUTE for the preceding entitlement period.

(II) "Final reimbursement entitlement" means the reimbursement entitlement of a school district OR THE STATE CHARTER SCHOOL INSTITUTE for the preceding entitlement period less any advance reimbursement entitlement received by said district OR THE INSTITUTE for said period.

(III) "Total reimbursement entitlement" means the advance reimbursement entitlement and the final reimbursement entitlement of a school district OR THE STATE CHARTER SCHOOL INSTITUTE.

(2) (a) In the event the amount of money appropriated by the general assembly to the public school transportation fund is less than the amount of the total reimbursement entitlements of all of the school districts AND OF THE STATE CHARTER SCHOOL INSTITUTE authorized by this section, the amount to be distributed to each school district AND THE INSTITUTE shall be in the same proportion as the amount which the appropriation made bears to the total amount of the reimbursement entitlements of all school districts AND OF THE STATE CHARTER SCHOOL INSTITUTE.

(b) For the entitlement period beginning on or after July 1, 1993, the calculation in paragraph (a) of this subsection (2) shall be based on the amount of money appropriated by the general assembly to the public school transportation fund. For the entitlement period beginning on or after July 1, 1993, any district subject to a court-ordered desegregation order shall be entitled to reimbursement of one million five hundred thousand dollars, subject to separate appropriation by the general assembly, for pupil transportation in addition to any amount received pursuant to paragraph (a) of this subsection (2).

SECTION 21. 22-51-107, Colorado Revised Statutes, is amended to read:

22-51-107. Requirements for participation. Unless otherwise authorized by the commissioner of education, ~~any~~ A school district ~~which~~ OR THE STATE CHARTER SCHOOL INSTITUTE SHALL NOT BE ENTITLED TO ANY REIMBURSEMENT UNDER THIS ARTICLE IF THE SCHOOL DISTRICT OR THE INSTITUTE has not filed the certifications required by section 22-51-105 on or before the date provided in said section or has not complied with the rules and regulations promulgated by the state board of education pursuant to section 22-51-108. ~~shall not be entitled to any reimbursement under this article.~~

SECTION 22. 22-51-108, Colorado Revised Statutes, is amended to read:

22-51-108. Rules and regulations. The state board of education shall promulgate rules and regulations for the administration of this article. Such rules and regulations shall include reasonable and adequate standards of safety in the maintenance and operation of buses, the maintenance of records by school districts AND BY THE STATE CHARTER SCHOOLS INSTITUTE, the length of bus routes, the number of children to be transported in the various types of buses, and such other rules and regulations pertaining to pupil transportation as will promote the welfare of the students and afford reasonable protection to the public.

SECTION 23. 29-1-304.5 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

29-1-304.5. State mandates - prohibition - exception. (2) The provisions of subsection (1) of this section shall not apply to:

(f) ANY ORDER FROM THE STATE BOARD OF EDUCATION PERTAINING TO THE ESTABLISHMENT, OPERATION, OR FUNDING OF A CHARTER SCHOOL OR ANY MODIFICATION OF THE STATUTORY OR REGULATORY RESPONSIBILITIES OF SCHOOL DISTRICTS PERTAINING TO CHARTER SCHOOLS.

SECTION 24. The introductory portion to 22-30.5-503 (1) (b), Colorado Revised Statutes, as enacted by House Bill 04-1362, enacted at the Second Regular Session of the Sixty-fourth General Assembly, is amended to read:

22-30.5-503. State charter school institute - establishment. (1) (b) IN ADDITION TO ANY OTHER POWERS OR DUTIES GRANTED BY LAW TO THE INSTITUTE, the institute shall:

SECTION 25. Repeal. 22-30.5-112 (5), Colorado Revised Statutes, as amended by House Bill 04-1362, enacted at the Second Regular Session of the Sixty-fourth General Assembly, is repealed as follows:

~~**22-30.5-112. Charter schools - financing - guidelines - repeal.** (5) The department of education will prepare an annual report and evaluation for the governor and the house and senate committees on education on the success or failure of charter schools and institute charter schools, their relationship to other school reform efforts, and suggested changes in state law necessary to strengthen or change the charter school program and institute charter school programs.~~

SECTION 26. 22-30.5-113, Colorado Revised Statutes, as amended by House Bill 04-1362, enacted at the Second Regular Session of the Sixty-fourth General Assembly, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

22-30.5-113. State board - department of education - duties - charter schools - evaluation - report. (1) BEGINNING IN THE 2004-05 BUDGET YEAR, AND AT LEAST EVERY THREE YEARS THEREAFTER, THE DEPARTMENT SHALL PREPARE A REPORT AND EVALUATION FOR THE GOVERNOR AND THE HOUSE AND SENATE COMMITTEES ON EDUCATION ON THE SUCCESS OR FAILURE OF CHARTER SCHOOLS AND OF INSTITUTE CHARTER SCHOOLS AUTHORIZED PURSUANT TO PART 5 OF THIS ARTICLE, THEIR RELATIONSHIP TO OTHER SCHOOL REFORM EFFORTS, AND SUGGESTED CHANGES IN STATE LAW NECESSARY TO STRENGTHEN OR CHANGE THE CHARTER SCHOOL PROGRAM

DESCRIBED IN THIS ARTICLE.

(2) THE STATE BOARD SHALL COMPILER EVALUATIONS OF CHARTER SCHOOLS RECEIVED FROM LOCAL BOARDS OF EDUCATION AND EVALUATIONS OF INSTITUTE CHARTER SCHOOLS PREPARED BY THE STATE CHARTER SCHOOL INSTITUTE CREATED IN SECTION 22-30.5-503. THE STATE BOARD SHALL REVIEW INFORMATION REGARDING THE STATUTES, REGULATIONS, AND POLICIES FROM WHICH CHARTER SCHOOLS WERE RELEASED PURSUANT TO SECTION 22-30.5-105 AND FROM WHICH INSTITUTE CHARTER SCHOOLS WERE RELEASED PURSUANT TO SECTION 22-30.5-508 TO DETERMINE IF THE RELEASES ASSISTED OR IMPEDED THE CHARTER SCHOOLS OR THE INSTITUTE CHARTER SCHOOLS IN MEETING THEIR STATED GOALS AND OBJECTIVES.

(3) IN PREPARING THE REPORT REQUIRED BY THIS SECTION, THE STATE BOARD SHALL COMPARE THE PERFORMANCE OF CHARTER SCHOOL PUPILS AND INSTITUTE CHARTER SCHOOL PUPILS WITH THE PERFORMANCE OF ETHNICALLY AND ECONOMICALLY COMPARABLE GROUPS OF PUPILS IN OTHER PUBLIC SCHOOLS WHO ARE ENROLLED IN ACADEMICALLY COMPARABLE COURSES.

SECTION 27. 22-30.5-507 (7), Colorado Revised Statutes, as enacted by House Bill 04-1362, enacted at the Second Regular Session of the Sixty-fourth General Assembly, is amended to read:

22-30.5-507. Institute charter school - requirements - authority. (7) Pursuant to the charter contract, an institute charter school may operate free from specified statutes and state board rules. The state board may waive state statutory requirements or rules promulgated by the state board; except that the state board may not waive any state statute or rule relating to the assessments required to be administered pursuant to section 22-7-409, any state statute or rule necessary to prepare the school accountability reports pursuant to part 6 of article 7 of this title, or ANY STATUTE OR RULE NECESSARY TO IMPLEMENT THE PROVISIONS OF THE "PUBLIC SCHOOL FINANCE ACT OF 1994", ARTICLE 54 OF THIS TITLE, OR any state statute or rule relating to the "Children's Internet Protection Act", article 87 of this title. Any waiver of state statute or state board rule made pursuant to this subsection (7) shall be for the term of the contract for which the waiver is made. A request for a waiver may be submitted to the institute as a part of the application for an institute charter school.

SECTION 28. 22-32-124 (2), Colorado Revised Statutes, is amended to read:

22-32-124. Building codes - zoning - planning. (2) (a) Notwithstanding the provisions of section 8-20-101 (4), C.R.S., upon request of the division of oil and public safety after consulting with the affected board of education, the appropriate building department of a county, town, city, or city and county wherein a building or structure has been erected pursuant to subsection (1) OR SUBSECTION (1.5) of this section may make the necessary inspections to determine that such building or structure has been erected in conformity with the standards of the division of oil and public safety and, if such building or structure is in conformity, shall issue the necessary certificate of occupancy prior to use of the building or structure by the school district OR BY THE INSTITUTE CHARTER SCHOOL. A fee may be charged for such inspections upon approval of the board of education, if the amount of the fee is determined on the basis of the direct cost of providing such service. If the division

of oil and public safety, after consulting with the affected board of education OR THE STATE CHARTER SCHOOL INSTITUTE CREATED PURSUANT TO SECTION 22-30.5-503, requests inspections by the building department, such inspections shall be in lieu of any inspections made by the division of oil and public safety; except that this subsection (2) shall not be construed to relieve the division of oil and public safety of the responsibility to conduct such inspections if the appropriate county, town, city, or city and county agency does not conduct the inspections. Any county, town, city, or city and county conducting such inspections shall also be authorized to annually reinspect the building or structure to assure that it is maintained and operated in accordance with the fire code adopted by the director of the division of oil and public safety. The inspecting entity shall cooperate with the affected school district OR THE STATE CHARTER SCHOOL INSTITUTE in carrying out the duties of this section.

(b) If the division of oil and public safety conducts the necessary inspection to determine that a building or structure erected pursuant to subsection (1) OR SUBSECTION (1.5) of this section has been erected in conformity with the standards of the division of oil and public safety, it shall charge a fee of two hundred dollars for such inspection; except that the director of the division of oil and public safety by rule or as otherwise provided by law may reduce the amount of the fee if necessary pursuant to section 24-75-402 (3), C.R.S., to reduce the uncommitted reserves of the fund to which all or any portion of the fee is credited. After the uncommitted reserves of the fund are sufficiently reduced, the director of the division of oil and public safety by rule or as otherwise provided by law may increase the amount of the fee as provided in section 24-75-402 (4), C.R.S. Any fees collected by the division of oil and public safety pursuant to this paragraph (b) shall be transmitted to the state treasurer, who shall credit the same to the public safety inspection fund created pursuant to section 8-1-151, C.R.S.

SECTION 29. Effective date. This act shall take effect upon passage; except that sections 15 through 22 and 24 through 28 of this act shall take effect only if House Bill 04-1362 is enacted and becomes law; and except that section 11 of this act shall not take effect if House Bill 04-1362 is enacted and becomes law.

SECTION 30. 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: June 3, 2004