

## CHAPTER 358

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**EDUCATION - PUBLIC SCHOOLS**


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**HOUSE BILL 04-1362**

BY REPRESENTATIVE(S) Carroll, Hefley, King, Lee, Rose, Spence, Williams T., Clapp, Fairbank, Harvey, Lundberg, May M., Mitchell, Rhodes, Schultheis, Stafford, Welker, and Wiens;  
also SENATOR(S) Groff, Grossman, Hagedorn, Jones, Andrews, Arnold, Cairns, Chlouber, Evans, Hillman, Lamborn, May R., Owen, and Teck.

**AN ACT**

**CONCERNING THE AUTHORIZATION OF INSTITUTE CHARTER SCHOOLS BY THE STATE CHARTER SCHOOL INSTITUTE, AND MAKING AN APPROPRIATION THEREFOR.**

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

**SECTION 1.** Article 30.5 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

**PART 5  
INSTITUTE CHARTER SCHOOLS**

**22-30.5-501. Legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

- (a) THERE IS A GROWING DEMAND FOR MORE CHARTER SCHOOLS IN THE STATE.
  - (b) THERE IS AN UNDERSERVED POPULATION OF AT-RISK STUDENTS IN THE STATE, FOR WHOM INNOVATIVE EDUCATIONAL MODELS ARE NEEDED.
- (2) THE INTENT OF THE GENERAL ASSEMBLY IN ESTABLISHING THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO THIS PART 5 IS TO:
- (a) PROVIDE AN ALTERNATIVE MODE OF AUTHORIZING CHARTER SCHOOLS AS A MEANS TO ASSIST SCHOOL DISTRICTS IN UTILIZING BEST PRACTICES FOR CHARTERING SCHOOLS AND TO APPROVE AND OVERSEE CHARTER SCHOOLS IN SCHOOL DISTRICTS NOT DESIRING TO DO SO THEMSELVES; AND

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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.*

(b) PRESERVE THE AUTHORITY OF A SCHOOL DISTRICT TO AUTHORIZE CHARTER SCHOOLS, AT THE SCHOOL DISTRICT'S OPTION.

**22-30.5-502. Definitions.** AS USED IN THIS PART 5, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AT-RISK STUDENT" MEANS A STUDENT:

(a) WHO IS ELIGIBLE TO RECEIVE FREE OR REDUCED-COST LUNCH PURSUANT TO THE PROVISIONS OF THE FEDERAL "NATIONAL SCHOOL LUNCH ACT", 42 U.S.C. SEC. 1751 ET SEQ.; OR

(b) WHO HAS PERFORMED AT THE PROFICIENCY LEVEL OF "LOW" OR "UNSATISFACTORY" ON A STATEWIDE ASSESSMENT.

(2) "BOARD OF COOPERATIVE SERVICES" MEANS A BOARD OF COOPERATIVE SERVICES AS DEFINED IN SECTION 22-5-103 (2).

(3) "COMMISSIONER" MEANS THE OFFICE OF THE COMMISSIONER OF EDUCATION CREATED AND EXISTING PURSUANT TO SECTION 1 OF ARTICLE IX OF THE STATE CONSTITUTION.

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

(5) "INSTITUTE BOARD" MEANS THE GOVERNING BOARD OF THE STATE CHARTER SCHOOL INSTITUTE THAT IS APPOINTED PURSUANT TO SECTION 22-30.5-505 (2).

(6) "INSTITUTE CHARTER SCHOOL" MEANS A CHARTER SCHOOL AUTHORIZED PURSUANT TO THIS PART 5.

(7) "LOCAL BOARD OF EDUCATION" OR "LOCAL BOARD" MEANS A SCHOOL DISTRICT BOARD OF EDUCATION.

(8) "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.

(9) "ON-LINE PUPIL" MEANS A CHILD WHO RECEIVES EDUCATIONAL SERVICES PREDOMINANTLY THROUGH AN ON-LINE PROGRAM CREATED PURSUANT TO SECTION 22-33-104.6.

(10) "SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT ORGANIZED AND EXISTING UNDER THE LAWS OF COLORADO, EXCEPT A JUNIOR COLLEGE DISTRICT; EXCEPT THAT, FOR PURPOSES OF SECTION 22-30.5-513, "SCHOOL DISTRICT" SHALL HAVE THE MEANING SET FORTH IN SECTION 22-30.5-513 (1) (o).

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

(12) "STATE CHARTER SCHOOL INSTITUTE" OR "INSTITUTE" MEANS THE ENTITY

CREATED PURSUANT TO SECTION 22-30.5-503.

**22-30.5-503. State charter school institute - establishment.** (1) (a) THERE IS ESTABLISHED, AS AN INDEPENDENT AGENCY IN THE DEPARTMENT OF EDUCATION, THE STATE CHARTER SCHOOL INSTITUTE. THE INSTITUTE SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS AS IF IT WERE TRANSFERRED TO THE DEPARTMENT BY A **TYPE I** TRANSFER UNDER THE PROVISIONS OF THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF TITLE 24, C.R.S.

(b) THE INSTITUTE SHALL:

(I) REVIEW INSTITUTE CHARTER SCHOOL APPLICATIONS AND ASSIST IN THE ESTABLISHMENT OF INSTITUTE CHARTER SCHOOLS THROUGHOUT THE STATE;

(II) ASSIST IN THE CONVERSION OF A SCHOOL DISTRICT CHARTER SCHOOL TO AN INSTITUTE CHARTER SCHOOL PURSUANT TO SECTION 22-30.5-510 (1) (a);

(III) APPROVE OR DENY INSTITUTE CHARTER SCHOOL APPLICATIONS AND REVOKE, RENEW, OR REFUSE TO RENEW INSTITUTE CHARTER SCHOOL CONTRACTS; AND

(IV) MONITOR THE OPERATIONS OF INSTITUTE CHARTER SCHOOLS AND THE ACADEMIC ACHIEVEMENT OF STUDENTS ATTENDING INSTITUTE CHARTER SCHOOLS, INCLUDING COMPLIANCE WITH APPLICABLE STATE AND FEDERAL ACCOUNTABILITY REQUIREMENTS.

(c) THE INSTITUTE IS AUTHORIZED TO ENTER INTO CONTRACTS OR SERVICE AGREEMENTS WITH ANY PUBLIC OR PRIVATE CONTRACTOR TO PROVIDE ADMINISTRATIVE SERVICES OR TECHNICAL ASSISTANCE TO INSTITUTE CHARTER SCHOOLS PURSUANT TO THIS PART 5. ANY SUCH CONTRACT OR SERVICE AGREEMENT SHALL ALSO INCLUDE PROVISIONS ESTABLISHING LIQUIDATED DAMAGES AND PENALTIES FOR FAILURE TO COMPLY WITH THE TERMS AND CONDITIONS OF THE CONTRACT AND SHALL BE IN ACCORDANCE WITH RULES PROMULGATED BY THE INSTITUTE BOARD.

(2) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE INSTITUTE SHALL EXIST TO MODEL BEST PRACTICES IN AUTHORIZING CHARTER SCHOOLS AND MAKE THOSE PRACTICES AVAILABLE TO SCHOOL DISTRICTS.

(3) FOR PURPOSES OF FEDERAL LAW, THE STATE CHARTER SCHOOL INSTITUTE SHALL BE A LOCAL EDUCATIONAL AGENCY, DEEMED TO BE A PUBLIC AUTHORITY LEGALLY CONSTITUTED WITHIN THE STATE FOR THE ADMINISTRATIVE CONTROL AND DIRECTION OF, AND TO PERFORM A SERVICE FUNCTION FOR, PUBLIC ELEMENTARY SCHOOLS AND SECONDARY SCHOOLS IN THE STATE.

(4) FOR PURPOSES OF THE "EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT", ARTICLE 20 OF THIS TITLE, THE STATE CHARTER SCHOOL INSTITUTE SHALL BE CONSIDERED AN ADMINISTRATIVE UNIT, RESPONSIBLE FOR ASSISTING IN THE DELIVERY OF FEDERALLY REQUIRED SERVICES TO STUDENTS ENROLLED IN INSTITUTE CHARTER SCHOOLS. THE INSTITUTE MAY PROVIDE OR CONTRACT FOR THE PROVISION OF SERVICES TO A STUDENT ENROLLED IN AN INSTITUTE CHARTER SCHOOL.

(5) THE STATE CHARTER SCHOOL INSTITUTE SHALL BE RESPONSIBLE FOR MONITORING THE FISCAL MANAGEMENT OF EACH INSTITUTE CHARTER SCHOOL. EACH INSTITUTE CHARTER SCHOOL SHALL ANNUALLY PROVIDE TO THE INSTITUTE THE RESULTS OF AN INDEPENDENT FINANCIAL AUDIT OF THE INSTITUTE CHARTER SCHOOL. THE INSTITUTE SHALL REPORT TO THE STATE BOARD THE SAME FINANCIAL INFORMATION IN THE SAME FORMAT THAT SCHOOL DISTRICTS ARE REQUIRED TO REPORT TO THE STATE BOARD PURSUANT TO THIS TITLE. INSTITUTE CHARTER SCHOOLS SHALL COMPILE AND REPORT TO THE INSTITUTE THE SAME FINANCIAL INFORMATION IN THE SAME FORMAT THAT CHARTER SCHOOLS ARE REQUIRED TO REPORT TO SCHOOL DISTRICTS PURSUANT TO PART 1 OF THIS ARTICLE.

(6) THE INSTITUTE AND INSTITUTE CHARTER SCHOOLS SHALL BE DEEMED PART OF THE THOROUGH AND UNIFORM SYSTEM OF FREE PUBLIC SCHOOLS TO BE ESTABLISHED AND MAINTAINED BY THE GENERAL ASSEMBLY, AS REQUIRED IN SECTION 2 OF ARTICLE IX OF THE STATE CONSTITUTION. THE STATE BOARD SHALL HAVE GENERAL SUPERVISION OF INSTITUTE CHARTER SCHOOLS, AS REQUIRED IN SECTION 1 OF ARTICLE IX OF THE STATE CONSTITUTION.

(7) THE INSTITUTE, BY VIRTUE OF ITS FUNCTIONS AND DUTIES, SHALL NOT BE DEEMED TO BE A SCHOOL DISTRICT FOR ANY PURPOSE.

**22-30.5-504. Institute chartering authority - institute charter schools.**

(1) THE INSTITUTE SHALL BE AUTHORIZED TO APPROVE OR DENY AN APPLICATION SUBMITTED FOR THE ESTABLISHMENT OF AN INSTITUTE CHARTER SCHOOL PURSUANT TO THIS PART 5.

(2) AN INSTITUTE CHARTER SCHOOL APPLICANT MAY SUBMIT AN APPLICATION TO THE INSTITUTE ONLY IF THE SCHOOL DISTRICT IN WHICH THE INSTITUTE CHARTER SCHOOL IS TO BE LOCATED HAS NOT RETAINED EXCLUSIVE AUTHORITY TO AUTHORIZE CHARTER SCHOOLS AS PROVIDED IN SUBSECTION (5) OF THIS SECTION. IF A SCHOOL DISTRICT HAS NOT RETAINED EXCLUSIVE AUTHORITY TO AUTHORIZE CHARTER SCHOOLS AS PROVIDED IN SUBSECTION (5) OF THIS SECTION, THE SCHOOL DISTRICT AND THE INSTITUTE SHALL HAVE CONCURRENT AUTHORITY TO AUTHORIZE CHARTER SCHOOLS AND INSTITUTE CHARTER SCHOOLS, RESPECTIVELY, TO BE LOCATED WITHIN THE GEOGRAPHIC BOUNDARIES OF THE SCHOOL DISTRICT. THE SCHOOL DISTRICT SHALL MONITOR AND OVERSEE ALL CHARTER SCHOOLS AUTHORIZED BY THE SCHOOL DISTRICT AS PROVIDED IN PART 1 OF THIS ARTICLE. THE INSTITUTE SHALL MONITOR AND OVERSEE ALL INSTITUTE CHARTER SCHOOLS AUTHORIZED BY THE INSTITUTE AS PROVIDED IN THIS PART 5.

(3) NOTHING IN THIS PART 5 SHALL BE CONSTRUED TO ELIMINATE THE ABILITY OF A SCHOOL DISTRICT TO AUTHORIZE CHARTER SCHOOLS PURSUANT TO PART 1 OF THIS ARTICLE. A SCHOOL DISTRICT SHALL RETAIN THE AUTHORITY TO RE-AUTHORIZE AND TO OVERSEE ANY CHARTER SCHOOL WHICH IT HAS AUTHORIZED, EXCEPT WITH RESPECT TO ANY CHARTER SCHOOL THAT IS CONVERTED TO AN INSTITUTE CHARTER SCHOOL PURSUANT TO SECTION 22-30.5-510.

(4) (a) FOR FISCAL YEAR 2005-06, AND FOR EACH FISCAL YEAR THEREAFTER, A LOCAL BOARD OF EDUCATION MAY SEEK TO RETAIN EXCLUSIVE AUTHORITY TO AUTHORIZE CHARTER SCHOOLS WITHIN THE GEOGRAPHIC BOUNDARIES OF THE SCHOOL DISTRICT BY PRESENTING TO THE STATE BOARD, ON OR BEFORE MARCH 1 OF THE

FISCAL YEAR PRIOR TO THAT FOR WHICH THE EXCLUSIVE AUTHORITY IS TO APPLY, A WRITTEN RESOLUTION ADOPTED BY THE LOCAL BOARD OF EDUCATION INDICATING THE INTENT TO RETAIN EXCLUSIVE AUTHORITY TO AUTHORIZE CHARTER SCHOOLS. FOR FISCAL YEAR 2004-05, A LOCAL BOARD OF EDUCATION MAY SEEK TO RETAIN THE EXCLUSIVE AUTHORITY TO AUTHORIZE CHARTERS BY PRESENTING TO THE STATE BOARD THE WRITTEN RESOLUTION ON OR BEFORE A DATE SIXTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION. THE WRITTEN RESOLUTION SHALL BE ACCOMPANIED BY A WRITTEN DESCRIPTION OF THOSE PORTIONS OF SUBSECTION (5) OF THIS SECTION THAT THE SCHOOL DISTRICT INTENDS TO DEMONSTRATE. THE LOCAL BOARD OF EDUCATION SHALL PROVIDE A COMPLETE COPY OF THE RESOLUTION, INCLUDING THE DESCRIPTION, TO EACH CHARTER SCHOOL AUTHORIZED BY THE LOCAL BOARD ON OR BEFORE THE DATE THE LOCAL BOARD SUBMITS THE RESOLUTION TO THE STATE BOARD.

(b) A PARTY MAY CHALLENGE THE GRANT OF EXCLUSIVE AUTHORITY MADE BY THE STATE BOARD PURSUANT TO SUBSECTION (5) OF THIS SECTION BY FILING WITH THE STATE BOARD A NOTICE OF CHALLENGE WITHIN THIRTY DAYS AFTER THE STATE BOARD GRANTS EXCLUSIVE AUTHORITY. THE NOTICE SHALL BE ACCOMPANIED BY A SPECIFIC WRITTEN DESCRIPTION OF THE BASIS FOR THE CHALLENGE. THE CHALLENGING PARTY, AT THE TIME OF FILING NOTICE WITH THE STATE BOARD, SHALL PROVIDE A COPY OF THE NOTICE OF CHALLENGE TO THE SCHOOL DISTRICT THAT HAS BEEN GRANTED EXCLUSIVE AUTHORITY. THE STATE BOARD SHALL PERMIT THE SCHOOL DISTRICT THE OPPORTUNITY TO APPEAR AND RESPOND IN WRITING TO THE CHALLENGE. THE STATE BOARD SHALL MAKE A DETERMINATION UPON THE CHALLENGE WITHIN SIXTY DAYS AFTER RECEIPT OF THE NOTICE OF CHALLENGE.

(5) (a) THE STATE BOARD SHALL GRANT TO A LOCAL BOARD OF EDUCATION EXCLUSIVE AUTHORITY TO AUTHORIZE CHARTER SCHOOLS WITHIN THE GEOGRAPHIC BOUNDARIES OF THE SCHOOL DISTRICT IF THE STATE BOARD DETERMINES, AFTER ADEQUATE NOTICE AND IN A PUBLIC HEARING AND AFTER RECEIVING INPUT FROM ANY CHARTER SCHOOLS AUTHORIZED BY THE LOCAL BOARD OF EDUCATION, THAT THE LOCAL BOARD HAS PROVIDED FAIR AND EQUITABLE TREATMENT TO ITS CHARTER SCHOOLS DURING THE FOUR YEARS PRIOR TO THE LOCAL BOARD'S SUBMISSION OF THE RESOLUTION DESCRIBED IN SUBSECTION (4) OF THIS SECTION, THROUGH THE LOCAL BOARD'S DEMONSTRATION OF:

(I) FULL COMPLIANCE WITH THE PROVISIONS OF THE "CHARTER SCHOOLS ACT", PART 1 OF THIS ARTICLE, WHICH INCLUDES, AT A MINIMUM:

(A) COMPLIANCE WITH FULL AND ACCURATE ACCOUNTING PRACTICES AND CHARGES FOR CENTRAL ADMINISTRATIVE OVERHEAD COSTS;

(B) COMPLIANCE WITH SECTION 22-30.5-112, WHICH PERMITS A CHARTER SCHOOL TO PURCHASE, AT ITS DISCRETION, CERTAIN SERVICES OR A COMBINATION OF SERVICES;

(C) THE ABSENCE OF A SCHOOL DISTRICT MORATORIUM REGARDING CHARTER SCHOOLS OR THE ABSENCE OF ANY DISTRICT-WIDE CHARTER SCHOOL ENROLLMENT LIMITS; AND

(D) COMPLIANCE WITH VALID ORDERS OF THE STATE BOARD; AND

(II) ANY COMBINATION OF THE FOLLOWING:

(A) THE DISTRIBUTION TO CHARTER SCHOOLS AUTHORIZED BY THE LOCAL BOARD OF A PRO RATA SHARE OF MILL LEVY OVERRIDES, EXCEPT FOR ANY MILL LEVIED FOR A PARTICULAR PURPOSE THAT BY ITS EXPRESS TERMS IS INTENDED TO BENEFIT A GRADE, A PROGRAM, OR A SCHOOL AND, AS A RESULT, IS NOT AVAILABLE TO BE OFFERED TO ANY CHARTER SCHOOL THAT DID NOT PARTICIPATE IN THE MILL LEVY PROCEEDS;

(B) THE PROVISION OF ASSISTANCE TO CHARTER SCHOOLS TO MEET THEIR FACILITIES NEEDS, BY INCLUDING THOSE NEEDS IN LOCAL BOND ISSUES OR OTHERWISE PROVIDING AVAILABLE LAND AND FACILITIES THAT ARE COMPARABLE TO THOSE PROVIDED TO OTHER PUBLIC SCHOOL STUDENTS IN THE SAME GRADE LEVELS WITHIN THE SCHOOL DISTRICT;

(C) THE DISTRIBUTION TO CHARTER SCHOOLS AUTHORIZED BY THE LOCAL BOARD OF A PRO RATA SHARE OF FEDERAL AND STATE GRANTS RECEIVED BY THE SCHOOL DISTRICT, EXCEPT FOR ANY GRANT RECEIVED FOR A PARTICULAR PURPOSE THAT BY ITS EXPRESS TERMS IS INTENDED TO BENEFIT A STUDENT POPULATION NOT ABLE TO BE SERVED BY, OR A PROGRAM NOT ABLE TO BE OFFERED AT, A CHARTER SCHOOL WHICH DID NOT RECEIVE A PROPORTIONATE SHARE OF SUCH GRANT PROCEEDS;

(D) THE PROVISION OF ADEQUATE STAFF AND OTHER RESOURCES TO SERVE CHARTER SCHOOLS AUTHORIZED BY THE LOCAL BOARD, WHICH SERVICES ARE PROVIDED BY THE SCHOOL DISTRICT AT A COST TO THE CHARTER SCHOOLS THAT DOES NOT EXCEED THEIR ACTUAL COST TO THE SCHOOL DISTRICT, OR, IN THE CASE OF FEDERALLY REQUIRED EDUCATIONAL SERVICES, THE AMOUNT SPECIFIED IN SECTION 22-30.5-112 (2) (a.8);

(E) THE LACK OF A POLICY OR PRACTICE OF IMPOSING INDIVIDUAL CHARTER SCHOOL ENROLLMENT LIMITS, EXCEPT AS OTHERWISE PROVIDED IN ARTICLE 36 OF THIS TITLE; OR

(F) THE PROVISION OF AN ADEQUATE NUMBER OF EDUCATIONAL CHOICE PROGRAMS TO SERVE STUDENTS EXERCISING THEIR RIGHTS TO TRANSFER PURSUANT TO THE "NO CHILD LEFT BEHIND ACT OF 2001", PUBLIC LAW 107-110, AND A HISTORY OF CHARTER SCHOOL APPROVAL THAT ENCOURAGES PROGRAMS THAT SERVE AT-RISK STUDENT POPULATIONS.

(b) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION (5) TO THE CONTRARY, THE STATE BOARD SHALL GRANT TO A LOCAL BOARD OF EDUCATION EXCLUSIVE AUTHORITY TO AUTHORIZE CHARTER SCHOOLS WITHIN THE GEOGRAPHIC BOUNDARIES OF THE SCHOOL DISTRICT IF THE SCHOOL DISTRICT CERTIFIES THAT:

(I) THE TOTAL PUPIL ENROLLMENT OF THE SCHOOL DISTRICT IS LESS THAN THREE THOUSAND PUPILS; OR

(II) THE PERCENTAGE OF PUPILS WHO ARE ELIGIBLE FOR FREE OR REDUCED-COST LUNCH PURSUANT TO THE PROVISIONS OF THE FEDERAL "NATIONAL SCHOOL LUNCH ACT", 42 U.S.C. SEC. 1751, ET SEQ., AND WHO ENROLLED IN CHARTER SCHOOLS AUTHORIZED BY THE SCHOOL DISTRICT IS GREATER THAN THE PERCENTAGE THAT IS

ONE PERCENTAGE POINT BELOW THE OVERALL PERCENTAGE OF PUPILS ELIGIBLE FOR FREE OR REDUCED-COST LUNCH WHO ARE ENROLLED IN THE SCHOOL DISTRICT.

(6) FOR SCHOOL DISTRICTS THAT HAVE NO DISCERNABLE HISTORY OF AUTHORIZING CHARTER SCHOOLS, THE STATE BOARD MAY MAKE A RENEWABLE ONE-YEAR GRANT OF EXCLUSIVE AUTHORITY IF THE SCHOOL DISTRICT DEMONSTRATES ITS COMPLIANCE WITH THE PROVISIONS OF SUB-SUBPARAGRAPHS (C) AND (D) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (5) OF THIS SECTION AND PRESENTS TO THE STATE BOARD A PLAN TO IMPLEMENT A COMBINATION OF THE AUTHORIZING PRACTICES DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (5).

(7) A GRANT OF EXCLUSIVE AUTHORITY BY THE STATE BOARD SHALL CONTINUE SO LONG AS A SCHOOL DISTRICT CONTINUES TO COMPLY WITH THE PROVISIONS OF SUBSECTION (5) OF THIS SECTION AND HAS PRESENTED A WRITTEN RESOLUTION TO THE STATE BOARD AS SET FORTH IN SUBSECTION (4) OF THIS SECTION.

(8) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE CONTRARY, A LOCAL BOARD OF EDUCATION MAY PERMIT THE ESTABLISHMENT OF ONE OR MORE INSTITUTE CHARTER SCHOOLS WITHIN THE GEOGRAPHIC BOUNDARIES OF THE SCHOOL DISTRICT BY ADOPTING A FAVORABLE RESOLUTION AND SUBMITTING THE RESOLUTION TO THE STATE BOARD. THE RESOLUTION SHALL BE EFFECTIVE UNTIL IT IS RESCINDED BY RESOLUTION OF THE LOCAL BOARD OF EDUCATION.

(9) (a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE CONTRARY, THE STATE BOARD SHALL GRANT TO A LOCAL BOARD OF EDUCATION EXCLUSIVE AUTHORITY TO AUTHORIZE CHARTER SCHOOLS WITHIN THE GEOGRAPHIC BOUNDARIES OF THE SCHOOL DISTRICT IF THE SCHOOL DISTRICT ANNUALLY CERTIFIES TO THE STATE BOARD THAT THE TOTAL NUMBER OF STUDENTS ENROLLED IN CHARTER SCHOOLS AUTHORIZED BY THE SCHOOL DISTRICT, OR THE MAXIMUM NUMBER OF STUDENTS ALLOWED TO BE ENROLLED PURSUANT TO CHARTER SCHOOL CONTRACTS ENTERED INTO BY THE SCHOOL DISTRICT, WHICHEVER IS GREATER, DIVIDED BY THE DISTRICT PUPIL ENROLLMENT, AS DEFINED IN SECTION 22-54-103, FOR THAT BUDGET YEAR, REFLECTED AS A PERCENTAGE, EXCEEDS BY MORE THAN THREE PERCENTAGE POINTS THE PERCENTAGE OF STUDENTS ENROLLED IN CHARTER SCHOOLS STATEWIDE.

(b) A SCHOOL DISTRICT THAT RETAINS EXCLUSIVE AUTHORITY TO AUTHORIZE CHARTER SCHOOLS PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (9) SHALL SATISFY THE REQUIREMENTS OF PARAGRAPH (a) OF SUBSECTION (5) OF THIS SECTION.

**22-30.5-505. State charter school institute - institute board - appointment - powers and duties.** (1) THE INSTITUTE SHALL CONSIST OF THE INSTITUTE BOARD, APPOINTED PURSUANT TO SUBSECTION (2) OF THIS SECTION, AND ANY STAFF OR CONTRACT EMPLOYEES HIRED BY THE INSTITUTE BOARD AS AUTHORIZED BY LAW. ANY STAFF HIRED BY THE INSTITUTE BOARD SHALL BE DEEMED EMPLOYEES SUBJECT TO THE STATE PERSONNEL SYSTEM OF THIS STATE AS DEFINED IN SECTION 13 OF ARTICLE XII OF THE STATE CONSTITUTION AND ARTICLE 50 OF TITLE 24, C.R.S.; EXCEPT THAT, AS A MATTER OF LEGISLATIVE DETERMINATION, ALL POSITIONS CLASSIFIED BY THE INSTITUTE BOARD AS PROFESSIONAL OFFICERS AND PROFESSIONAL STAFF OF THE INSTITUTE ARE DECLARED TO BE EDUCATIONAL IN NATURE AND EXEMPT FROM THE STATE PERSONNEL SYSTEM.

(2) (a) THE INSTITUTE BOARD SHALL CONSIST OF NINE MEMBERS, NO MORE THAN FIVE OF WHOM ARE MEMBERS OF THE SAME POLITICAL PARTY. SEVEN OF THE MEMBERS SHALL BE APPOINTED BY THE GOVERNOR, WITH THE CONSENT OF THE SENATE, AND TWO OF THE MEMBERS SHALL BE APPOINTED BY THE COMMISSIONER. IN MAKING THE APPOINTMENTS, THE GOVERNOR AND THE COMMISSIONER SHALL ENSURE THE INSTITUTE BOARD REFLECTS THE GEOGRAPHIC DIVERSITY OF THE STATE. MEMBERS APPOINTED TO THE INSTITUTE BOARD SHALL HAVE EXPERIENCE IN AT LEAST ONE OF THE FOLLOWING AREAS:

(I) EXPERIENCE AS A CHARTER SCHOOL BOARD MEMBER OR FOUNDER OF A CHARTER SCHOOL;

(II) EXPERIENCE AS A PUBLIC SCHOOL ADMINISTRATOR WITH EXPERIENCE WORKING WITH CHARTER SCHOOLS;

(III) FINANCIAL MANAGEMENT EXPERTISE;

(IV) DETAILED KNOWLEDGE OF CHARTER SCHOOL LAW;

(V) OTHER BOARD OR PUBLIC SERVICE EXPERIENCE;

(VI) EXPERIENCE AS A PUBLIC SCHOOL TEACHER;

(VII) ON-LINE EDUCATION AND ON-LINE CURRICULUM DEVELOPMENT EXPERTISE;

(VIII) SCHOOL DISTRICT SPECIAL EDUCATION EXPERTISE; AND

(IX) CURRICULUM AND ASSESSMENT EXPERTISE.

(b) THE MEMBERS OF THE INSTITUTE BOARD SHALL SERVE TERMS OF THREE YEARS; EXCEPT THAT, OF THE MEMBERS FIRST APPOINTED BY THE GOVERNOR, TWO MEMBERS SHALL SERVE A TERM OF THREE YEARS, THREE MEMBERS SHALL SERVE A TERM OF TWO YEARS, AND TWO MEMBERS SHALL SERVE A TERM OF ONE YEAR; AND OF THE MEMBERS FIRST APPOINTED BY THE COMMISSIONER, ONE MEMBER SHALL SERVE A TERM OF THREE YEARS AND ONE MEMBER SHALL SERVE A TERM OF ONE YEAR. NO MEMBER SHALL SERVE MORE THAN SIX CONSECUTIVE YEARS. THE GOVERNOR AND THE COMMISSIONER SHALL MAKE THE INITIAL APPOINTMENTS NO LATER THAN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.

(c) AN INSTITUTE BOARD MEMBER MAY BE REMOVED FOR ANY CAUSE THAT RENDERS THE MEMBER INCAPABLE OR UNFIT TO DISCHARGE THE DUTIES OF THE OFFICE. WHENEVER A VACANCY ON THE INSTITUTE BOARD EXISTS, THE PERSON MAKING THE ORIGINAL APPOINTMENT SHALL APPOINT A MEMBER FOR THE REMAINING PORTION OF THE UNEXPIRED TERM CREATED BY THE VACANCY.

(3) THE MISSION OF THE INSTITUTE BOARD SHALL BE TO FOSTER HIGH-QUALITY PUBLIC SCHOOL CHOICES OFFERED THROUGH INSTITUTE CHARTER SCHOOLS, INCLUDING PARTICULARLY SCHOOLS FOR AT-RISK STUDENTS. IN DISCHARGING ITS DUTIES PURSUANT TO THIS PART 5, THE INSTITUTE SHALL:

(a) ACT AS A MODEL OF BEST PRACTICES IN AUTHORIZING CHARTER SCHOOLS;



(b) USE STATE AND FEDERAL SYSTEMS FOR ENSURING THE ACCOUNTABILITY OF EACH INSTITUTE CHARTER SCHOOL IN MEETING THE OBLIGATIONS AND GOALS SET FORTH IN ITS CONTRACT;

(c) MEASURE THE ACADEMIC SUCCESS OF EACH INSTITUTE CHARTER SCHOOL STUDENT THROUGH LONGITUDINAL INDICES; AND

(d) MEASURE THE ACADEMIC SUCCESS OF EACH INSTITUTE CHARTER SCHOOL THROUGH PERFORMANCE-BASED MEANS AND NOT PROCESS-BASED MEANS.

(4) IN ADDITION TO ANY OTHER POWERS GRANTED BY LAW TO THE INSTITUTE BOARD, THE INSTITUTE BOARD SHALL HAVE THE FOLLOWING POWERS:

(a) TO HAVE AND USE A CORPORATE SEAL;

(b) TO SUE AND BE SUED IN ITS OWN NAME;

(c) TO INCUR DEBTS, LIABILITIES, AND OBLIGATIONS, SUBJECT TO ANY LIMITATIONS IMPOSED THEREON PURSUANT TO LAW;

(d) TO COOPERATE AND CONTRACT WITH THE STATE OR FEDERAL GOVERNMENT OR AN AGENCY OR INSTRUMENTALITY THEREOF AND TO APPLY FOR AND RECEIVE GRANTS OR FINANCIAL ASSISTANCE FROM ANY SUCH ENTITIES;

(e) TO ACQUIRE, HOLD, LEASE, SELL, OR OTHERWISE DISPOSE OF REAL OR PERSONAL PROPERTY OR A COMMODITY OR SERVICE;

(f) TO DO OR PERFORM AN ACT AUTHORIZED BY THIS PART 5 BY MEANS OF AN AGENT OR BY CONTRACT WITH A PERSON, FIRM, OR CORPORATION;

(g) TO PROVIDE FOR THE NECESSARY EXPENSES OF THE INSTITUTE BOARD IN THE EXERCISE OF ITS POWERS AND THE PERFORMANCE OF ITS DUTIES AND TO REIMBURSE A BOARD MEMBER FOR NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THE BOARD MEMBER'S DUTIES;

(h) TO PROVIDE FOR THE PROPER KEEPING OF ACCOUNTS AND RECORDS AND FOR BUDGETING OF FUNDS;

(i) TO ACT AS A PUBLIC ENTITY FOR PURPOSES OF THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24, C.R.S.;

(j) TO EXERCISE THE SAME POWERS RETAINED BY BOARDS OF COOPERATIVE SERVICES THAT ARE DESCRIBED IN SECTION 22-5-108; AND

(k) TO PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., FOR THE ADMINISTRATION OF THIS PART 5.

(5) NO LATER THAN NINETY DAYS AFTER THE DATE THE INSTITUTE COMMENCES OPERATIONS, AS DESCRIBED IN SECTION 22-30.5-506 (2) (a), THE INSTITUTE BOARD SHALL PROMULGATE RULES THAT SET FORTH THE PROCEDURES FOR THE ACCEPTANCE OF INSTITUTE CHARTER SCHOOL APPLICATIONS AND THE CRITERIA FOR AUTHORIZING

INSTITUTE CHARTER SCHOOLS PURSUANT TO THIS PART 5.

(6) (a) THE INSTITUTE MAY CONTRACT WITH BOARDS OF COOPERATIVE SERVICES CREATED PURSUANT TO ARTICLE 5 OF THIS TITLE, OR WITH ANY OTHER QUALIFIED INDIVIDUAL OR PUBLIC OR PRIVATE ENTITY OR ORGANIZATION, INCLUDING A SCHOOL DISTRICT, FOR THE PROVISION OF ADMINISTRATIVE OR OTHER SUPPORT SERVICES DIRECTLY TO THE INSTITUTE OR FOR THE BENEFIT OF INSTITUTE CHARTER SCHOOLS.

(b) THIS PART 5 SHALL NOT BE CONSTRUED TO REQUIRE THE INSTITUTE TO PROVIDE SERVICES TO AN INSTITUTE CHARTER SCHOOL, TO REQUIRE AN INSTITUTE CHARTER SCHOOL TO PURCHASE SERVICES FROM THE INSTITUTE, NOR TO PROHIBIT AN INSTITUTE CHARTER SCHOOL FROM PURCHASING EDUCATION-RELATED SERVICES FROM ANY SOURCES AVAILABLE, INCLUDING A SCHOOL DISTRICT.

(7) THE INSTITUTE SHALL ENSURE THAT EACH INSTITUTE CHARTER SCHOOL COMPLIES WITH THE PROVISIONS OF ARTICLE 7 OF THIS TITLE. EACH INSTITUTE CHARTER SCHOOL SHALL BE RESPONSIBLE FOR GATHERING AND SUBMITTING TO THE INSTITUTE THE DATA NECESSARY TO PREPARE A SCHOOL ACCOUNTABILITY REPORT REQUIRED BY SECTION 22-7-605 FOR THE INSTITUTE CHARTER SCHOOL.

(8) THE INSTITUTE SHALL ENSURE THAT EACH INSTITUTE CHARTER SCHOOL ADOPTS CONTENT STANDARDS IN A MANNER CONSISTENT WITH THAT REQUIRED OF SCHOOL DISTRICTS PURSUANT TO SECTION 22-7-407.

(9) THE INSTITUTE SHALL ENSURE THAT EACH INSTITUTE CHARTER SCHOOL ADDRESSES THE EXPULSION, SUSPENSION, AND EDUCATION OF EXPELLED OR SUSPENDED STUDENTS IN A MANNER CONSISTENT WITH THE INTENTS AND PURPOSES OF SECTIONS 22-33-106 AND 22-33-203.

(10) THE INSTITUTE MAY ISSUE REQUESTS FOR PROPOSALS TO SOLICIT APPLICATIONS FOR AN INSTITUTE CHARTER SCHOOL TO SERVE AT-RISK STUDENTS.

(11) THE INSTITUTE SHALL ANNUALLY REVIEW EACH INSTITUTE CHARTER SCHOOL'S ACCOMPLISHMENT OF THE GOALS DESCRIBED IN SECTION 22-30.5-509.

**22-30.5-506. State charter school institute fund - created.** (1) THE STATE CHARTER SCHOOL INSTITUTE IS AUTHORIZED TO RECEIVE AND EXPEND GIFTS, GRANTS, AND DONATIONS OF ANY KIND FROM ANY PUBLIC OR PRIVATE ENTITY TO CARRY OUT THE PURPOSES OF THIS PART 5, SUBJECT TO THE TERMS AND CONDITIONS UNDER WHICH GIVEN; EXCEPT THAT NO GIFT, GRANT, OR DONATION SHALL BE ACCEPTED IF THE CONDITIONS ATTACHED THERETO REQUIRE THE USE OR EXPENDITURE THEREOF IN A MANNER CONTRARY TO LAW. ANY GIFTS, GRANTS, OR DONATIONS RECEIVED PURSUANT TO THIS SUBSECTION (1) SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL CREDIT THE SAME TO THE STATE CHARTER SCHOOL INSTITUTE FUND, HEREINAFTER REFERRED TO AS THE "FUND", WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY. MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE INSTITUTE, TO OFFSET THE ACTUAL AND REASONABLE COSTS INCURRED BY THE INSTITUTE IN IMPLEMENTING THIS PART 5. ALL INVESTMENT EARNINGS DERIVED FROM THE DEPOSIT AND INVESTMENT OF THE MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF ANY FISCAL

YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

(2) (a) THE INSTITUTE SHALL NOT BE OBLIGATED TO COMMENCE OPERATIONS NECESSARY TO RECEIVE APPLICATIONS, UNTIL SUCH TIME AS THERE IS AT LEAST FIFTY THOUSAND DOLLARS IN THE FUND, WHETHER RECEIVED FROM GIFTS, GRANTS, DONATIONS, OR OTHER SOURCES.

(b) THE INSTITUTE SHALL NOT BE OBLIGATED TO COMMENCE REVIEW OF APPLICATIONS ACTUALLY RECEIVED, UNTIL SUCH TIME AS THE BALANCE IN THE FUND REACHES AT LEAST ONE HUNDRED FIFTY THOUSAND DOLLARS, WHETHER RECEIVED FROM GIFTS, GRANTS, DONATIONS OR OTHER SOURCES.

**22-30.5-507. Institute charter school - requirements - authority.** (1) (a) AN INSTITUTE CHARTER SCHOOL SHALL BE A PUBLIC, NONSECTARIAN, NONRELIGIOUS, NON-HOME-BASED SCHOOL THAT OPERATES PURSUANT TO A CHARTER CONTRACT AUTHORIZED BY THE STATE CHARTER SCHOOL INSTITUTE.

(b) AN INSTITUTE CHARTER SCHOOL SHALL EXIST AS A PUBLIC SCHOOL WITHIN THE STATE, UNAFFILIATED WITH A SCHOOL DISTRICT. NOTHING IN THIS PART 5 SHALL BE CONSTRUED TO PERMIT A SCHOOL DISTRICT TO DETERMINE CURRICULUM, POLICIES, PROCEDURES, OR OPERATIONS OF AN INSTITUTE CHARTER SCHOOL, INCLUDING BUT NOT LIMITED TO COMPLIANCE WITH THE ACCOUNTABILITY PROVISIONS SPECIFIED IN THIS TITLE, ACCREDITATION CONTRACTS, AND STATEWIDE ASSESSMENT REQUIREMENTS.

(2) AN INSTITUTE CHARTER SCHOOL SHALL BE:

(a) SUBJECT TO THE TERMS OF THE CHARTER CONTRACT ENTERED INTO WITH THE INSTITUTE;

(b) ACCOUNTABLE TO THE INSTITUTE FOR PURPOSES OF ENSURING COMPLIANCE WITH APPLICABLE LAWS AND CHARTER CONTRACT PROVISIONS; AND

(c) SUBJECT TO ACCREDITATION BY THE STATE BOARD PURSUANT TO ARTICLE 11 OF THIS TITLE.

(3) AN INSTITUTE 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. ENROLLMENT IN AN INSTITUTE CHARTER SCHOOL SHALL BE OPEN TO ANY CHILD WHO RESIDES WITHIN THE STATE; EXCEPT THAT AN INSTITUTE CHARTER SCHOOL SHALL NOT BE REQUIRED TO MAKE ALTERATIONS IN THE STRUCTURE OF THE FACILITY USED BY THE INSTITUTE 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 APPLICANT IN THE INSTITUTE CHARTER SCHOOL APPLICATION.

(4) AN INSTITUTE CHARTER SCHOOL SHALL BE ADMINISTERED AND GOVERNED BY A GOVERNING BODY IN A MANNER AGREED TO AND SET FORTH IN THE CHARTER

CONTRACT. AN INSTITUTE CHARTER SCHOOL MAY ORGANIZE AS A NONPROFIT CORPORATION PURSUANT TO THE "COLORADO REVISED 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.

(5) IN ORDER TO CLARIFY THE STATUS OF INSTITUTE CHARTER SCHOOLS FOR PURPOSES OF TAX-EXEMPT FINANCING, AN INSTITUTE CHARTER SCHOOL, AS A PUBLIC SCHOOL, IS A GOVERNMENTAL ENTITY. DIRECT LEASES AND FINANCIAL OBLIGATIONS OF AN INSTITUTE CHARTER SCHOOL SHALL NOT CONSTITUTE DEBT OR FINANCIAL OBLIGATIONS OF THE STATE OR ANY SCHOOL DISTRICT.

(6) EXCEPT AS OTHERWISE PROVIDED IN SECTIONS 22-20-109 (5), 22-32-115 (1) AND (2), AND 22-54-109, AN INSTITUTE CHARTER SCHOOL SHALL NOT CHARGE TUITION.

(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 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.

(8) (a) AN INSTITUTE CHARTER SCHOOL SHALL BE RESPONSIBLE FOR ITS OWN OPERATION INCLUDING, BUT NOT LIMITED TO, PREPARATION OF A BUDGET, CONTRACTING FOR SERVICES, AND PERSONNEL MATTERS.

(b) AN INSTITUTE CHARTER SCHOOL MAY NEGOTIATE AND CONTRACT WITH A SCHOOL DISTRICT, THE GOVERNING BODY OF A STATE COLLEGE OR UNIVERSITY, 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 INSTITUTE CHARTER SCHOOL IS REQUIRED TO PERFORM IN ORDER TO CARRY OUT THE EDUCATIONAL PROGRAM DESCRIBED IN ITS CHARTER CONTRACT. THE INSTITUTE 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).

(9) AN INSTITUTE CHARTER SCHOOL IS 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, UNLESS EXPRESSLY PROHIBITED BY ITS CHARTER CONTRACT OR BY STATE LAW.

(10) ALL DECISIONS REGARDING THE PLANNING, SITING, AND INSPECTION OF INSTITUTE CHARTER SCHOOL FACILITIES SHALL BE MADE IN ACCORDANCE WITH SECTION 22-32-124 AND AS SPECIFIED BY CONTRACT WITH THE INSTITUTE.

**22-30.5-508. Institute charter schools - contract contents - regulations - repeal.** (1) AN APPROVED INSTITUTE CHARTER SCHOOL APPLICATION SHALL SERVE AS THE BASIS FOR A CHARTER CONTRACT BETWEEN THE INSTITUTE CHARTER SCHOOL AND THE INSTITUTE.

(2) (a) A CHARTER CONTRACT BETWEEN AN INSTITUTE CHARTER SCHOOL AND THE INSTITUTE COMPLETED ON OR AFTER JULY 1, 2004, BUT PRIOR TO JULY 1, 2010, SHALL INCLUDE A STATEMENT SPECIFYING HOW THE INSTITUTE 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.

(b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE JULY 1, 2011.

(3) THE CHARTER CONTRACT BETWEEN THE INSTITUTE CHARTER SCHOOL AND THE INSTITUTE SHALL REFLECT ALL REQUESTS FOR RELEASE FROM STATE STATUTES AND RULES MADE BY THE INSTITUTE CHARTER SCHOOL APPLICANT. 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 INSTITUTE CHARTER SCHOOL OF ITS DECISION. IF THE STATE BOARD DENIES THE REQUEST, IT SHALL NOTIFY THE INSTITUTE CHARTER SCHOOL IN WRITING THAT THE REQUEST IS DENIED AND SPECIFY THE REASONS FOR DENIAL. IF THE INSTITUTE CHARTER SCHOOL DOES 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 RULES, THE DENIAL SHALL SPECIFY THE STATE STATUTES AND RULES FOR WHICH THE RELEASE IS DENIED, AND THE DENIAL SHALL APPLY ONLY TO THOSE STATE STATUTES AND RULES SO SPECIFIED.

(4) A MATERIAL REVISION OF THE TERMS OF THE CHARTER CONTRACT MAY BE MADE ONLY WITH THE APPROVAL OF THE INSTITUTE AND THE GOVERNING BODY OF THE INSTITUTE CHARTER SCHOOL.

(5) ANY TERM INCLUDED IN A CHARTER CONTRACT THAT WOULD REQUIRE AN INSTITUTE CHARTER SCHOOL TO WAIVE OR OTHERWISE FOREGO RECEIPT OF ANY AMOUNT OF OPERATIONAL OR CAPITAL CONSTRUCTION FUNDS PROVIDED TO THE INSTITUTE CHARTER SCHOOL PURSUANT TO THE PROVISIONS OF THIS PART 5 OR PURSUANT TO ANY OTHER PROVISION OF LAW IS HEREBY DECLARED NULL AND VOID AS AGAINST PUBLIC POLICY AND IS UNENFORCEABLE.

**22-30.5-509. Institute charter school application - contents.** (1) THE INSTITUTE CHARTER SCHOOL APPLICATION SHALL BE A PROPOSED AGREEMENT AND SHALL INCLUDE:

(a) THE MISSION STATEMENT OF THE INSTITUTE CHARTER SCHOOL, WHICH SHALL BE CONSISTENT WITH THE PRINCIPLES OF THE GENERAL ASSEMBLY'S DECLARED PURPOSES AS SET FORTH IN SECTION 22-30.5-501;

(b) THE GOALS, OBJECTIVES, AND PUPIL PERFORMANCE STANDARDS, IN COMPLIANCE WITH STATE AND FEDERAL LAW, TO BE ACHIEVED BY THE INSTITUTE

CHARTER SCHOOL FOR ALL STUDENTS WHO ENROLL;

(c) EVIDENCE THAT AN ADEQUATE NUMBER OF PARENTS, TEACHERS, PUPILS, OR ANY COMBINATION THEREOF, SUPPORT THE FORMATION OF AN INSTITUTE CHARTER SCHOOL;

(d) A DESCRIPTION OF THE INSTITUTE CHARTER SCHOOL'S EDUCATIONAL PROGRAM AND THE PLAN FOR ADMINISTRATION OF THE STATEWIDE ASSESSMENTS DESCRIBED IN ARTICLE 7 OF THIS TITLE;

(e) A DESCRIPTION OF THE INSTITUTE CHARTER SCHOOL'S PLAN FOR EVALUATING PUPIL PERFORMANCE, THE TYPES OF ASSESSMENTS THAT WILL BE USED TO MEASURE PUPIL PROGRESS TOWARDS ACHIEVEMENT OF THE INSTITUTE CHARTER SCHOOL'S PUPIL PERFORMANCE GOALS FOR ALL STUDENTS ENROLLED, THE TIMELINE FOR ACHIEVEMENT OF THE GOALS, AND THE PROCEDURES FOR TAKING CORRECTIVE ACTION IN THE EVENT THAT PUPIL PERFORMANCE AT THE INSTITUTE CHARTER SCHOOL FALLS BELOW SUCH GOALS;

(f) EVIDENCE THAT THE PLAN FOR THE INSTITUTE CHARTER SCHOOL IS ECONOMICALLY SOUND, A PROPOSED BUDGET FOR THE TERM OF THE CONTRACT, AND A DESCRIPTION OF THE MANNER IN WHICH AN ANNUAL AUDIT OF THE FINANCIAL AND ADMINISTRATIVE OPERATIONS OF THE INSTITUTE CHARTER SCHOOL WILL BE CONDUCTED;

(g) A DESCRIPTION OF THE GOVERNANCE AND OPERATION OF THE INSTITUTE CHARTER SCHOOL, INCLUDING THE NATURE AND EXTENT OF PARENTAL, PROFESSIONAL EDUCATOR, AND COMMUNITY INVOLVEMENT IN THE GOVERNANCE AND OPERATION OF THE INSTITUTE CHARTER SCHOOL;

(h) AN EXPLANATION OF THE RELATIONSHIP THAT WILL EXIST BETWEEN THE INSTITUTE CHARTER SCHOOL AND ITS EMPLOYEES, AND THE EMPLOYMENT POLICIES OF THE INSTITUTE CHARTER SCHOOL;

(i) A PLAN FOR THE INSTITUTE CHARTER SCHOOL TO MEET APPLICABLE INSURANCE COVERAGE REQUIREMENTS;

(j) A PLAN FOR THE INSTITUTE CHARTER SCHOOL TO CONDUCT COMMUNITY OUTREACH TO RECRUIT AND RETAIN AT-RISK STUDENTS; AND

(k) A DESCRIPTION OF THE INSTITUTE CHARTER SCHOOL'S ENROLLMENT POLICY, CONSISTENT WITH THE REQUIREMENTS OF SECTION 22-30.5-507 (3), AND THE CRITERIA FOR ENROLLMENT DECISIONS.

**22-30.5-510. Institute charter school application - process - rule-making.**

(1) (a) EXCEPT AS OTHERWISE PROVIDED IN SECTION 22-30.5-506 (2), THE INSTITUTE SHALL RECEIVE AND REVIEW ALL APPLICATIONS FOR INSTITUTE CHARTER SCHOOLS. AN APPLICATION FOR AN INSTITUTE CHARTER SCHOOL MAY BE SUBMITTED BY ONE OR MORE INDIVIDUALS, BY A NON-PROFIT, GOVERNMENTAL, OR OTHER ENTITY OR ORGANIZATION, OR BY AN EXISTING CHARTER SCHOOL AUTHORIZED BY A DISTRICT. THE INSTITUTE'S APPROVAL OF AN APPLICATION FROM AN EXISTING CHARTER SCHOOL SHALL NOT RELIEVE THE CHARTER SCHOOL OF ANY PRE-EXISTING CONTRACTUAL

OBLIGATIONS OR RELATIONSHIPS, INCLUDING OBLIGATIONS OF THE CHARTER SCHOOL DUE TO THE SCHOOL DISTRICT THAT AUTHORIZED THE CHARTER SCHOOL. THE TRANSFER OF OVERSIGHT OF A CHARTER SCHOOL FROM A SCHOOL DISTRICT TO THE INSTITUTE SHALL NOT BE DEEMED A DISSOLUTION OR OTHER EVENT THAT EMPOWERS OR OBLIGATES THE SCHOOL DISTRICT TO WIND DOWN THE CHARTER SCHOOL'S AFFAIRS OR TO DISPOSE OF THE CHARTER SCHOOL'S ASSETS. AN ENTITY APPLYING FOR AN INSTITUTE CHARTER SCHOOL SHALL FILE AN APPLICATION WITH THE INSTITUTE BY A DATE DETERMINED BY RULE OF THE INSTITUTE BOARD TO BE ELIGIBLE FOR CONSIDERATION FOR THE FOLLOWING SCHOOL YEAR. PRIOR TO ANY CHANGE IN THE APPLICATION DEADLINE, THE INSTITUTE SHALL NOTIFY EACH KNOWN INSTITUTE CHARTER SCHOOL APPLICANT OF THE PROPOSED CHANGE BY CERTIFIED LETTER. IF THE INSTITUTE FINDS THE INSTITUTE CHARTER SCHOOL APPLICATION IS INCOMPLETE, THE INSTITUTE SHALL REQUEST THE NECESSARY INFORMATION FROM THE APPLICANT.

(b) THE INSTITUTE BOARD SHALL SET FORTH BY RULE ALL NECESSARY PROCEDURES FOR THE APPLICATION PROCESS AND FOR APPLICATION REVIEW BY THE INSTITUTE AND THE INSTITUTE BOARD. THE RULES SHALL DESCRIBE A RIGOROUS REVIEW OF THE APPLICATION THAT INCLUDES, BUT IS NOT NECESSARILY LIMITED TO, THE FOLLOWING KEY EVALUATIVE AREAS INVOLVING THE INSTITUTE CHARTER SCHOOL:

(I) CURRICULUM AND INSTRUCTIONAL PROGRAM;

(II) NON-ACADEMIC PROGRAM CHARACTERISTICS;

(III) FINANCIAL VIABILITY;

(IV) APPROPRIATE GOVERNANCE MODEL AND PROPOSED PRACTICES;

(V) APPROPRIATE, CONSISTENT, CLEAR, AND MEASURABLE ACCOUNTABILITY SYSTEMS; AND

(VI) THE EXTENT TO WHICH THE INSTRUCTIONAL PROGRAM FITS THE MISSION STATEMENT OF THE INSTITUTE CHARTER SCHOOL.

(c) THE RULES DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (1) SHALL REQUIRE THE APPLICANT TO PROVIDE WRITTEN NOTIFICATION OF THE APPLICATION TO THE SCHOOL DISTRICT BOARD OF EDUCATION AND THE SCHOOL DISTRICT ACCOUNTABILITY COMMITTEE OF THE SCHOOL DISTRICT IN WHICH THE PROPOSED INSTITUTE CHARTER SCHOOL IS TO BE LOCATED. THE RULES SHALL PERMIT THE BOARD OF EDUCATION AND THE ACCOUNTABILITY COMMITTEE TO SUBMIT TO THE INSTITUTE WRITTEN COMMENTS CONCERNING THE INSTITUTE CHARTER SCHOOL APPLICATION.

(2) THE INSTITUTE BOARD SHALL RULE BY RESOLUTION ON THE APPLICATION FOR AN INSTITUTE CHARTER SCHOOL IN A PUBLIC HEARING, FOLLOWING REASONABLE PUBLIC NOTICE, WITHIN SIXTY DAYS AFTER RECEIVING THE APPLICATION FILED PURSUANT TO SUBSECTION (1) OF THIS SECTION. ALL NEGOTIATIONS BETWEEN THE INSTITUTE CHARTER SCHOOL AND THE INSTITUTE ON THE CHARTER CONTRACT SHALL BE CONCLUDED, AND ALL TERMS OF THE CHARTER CONTRACT AGREED UPON, NO LATER THAN FORTY-FIVE DAYS AFTER THE INSTITUTE BOARD APPROVES THE APPLICATION FOR AN INSTITUTE CHARTER SCHOOL.

(3) THE INSTITUTE CHARTER SCHOOL APPLICANT AND THE INSTITUTE MAY JOINTLY WAIVE THE DEADLINES SET FORTH IN THIS SECTION.

(4) IF THE INSTITUTE DENIES AN INSTITUTE CHARTER SCHOOL APPLICATION, IT SHALL STATE ITS REASONS FOR THE DENIAL. WITHIN THIRTY DAYS AFTER THE DENIAL, THE ENTITY THAT SUBMITTED THE INSTITUTE CHARTER SCHOOL APPLICATION MAY SUBMIT TO THE STATE BOARD A NOTICE OF APPEAL, STATING THE GROUNDS FOR THE APPEAL.

(5) WITHIN SIXTY DAYS AFTER RECEIPT OF A NOTICE OF APPEAL BY THE STATE BOARD AND AFTER REASONABLE PUBLIC NOTICE, THE STATE BOARD SHALL REVIEW THE DECISION OF THE INSTITUTE AND DETERMINE WHETHER THE DECISION WAS ARBITRARY AND CAPRICIOUS. THE STATE BOARD SHALL REMAND THE MATTER TO THE INSTITUTE WITH INSTRUCTIONS TO APPROVE OR DENY THE INSTITUTE CHARTER SCHOOL APPLICATION. THE DECISION OF THE STATE BOARD SHALL BE FINAL AND NOT SUBJECT TO APPEAL.

**22-30.5-511. Institute charter schools - term - renewal of contract - grounds for non-renewal or revocation - appeal.** (1) (a) A NEW CHARTER CONTRACT FOR AN INSTITUTE CHARTER SCHOOL MAY BE APPROVED FOR SUCCEEDING PERIODS OF AT LEAST THREE ACADEMIC YEARS BUT NOT MORE THAN FIVE ACADEMIC YEARS, AND THE CHARTER CONTRACT MAY BE RENEWED FOR A PERIOD NOT TO EXCEED FIVE ACADEMIC YEARS.

(b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (1) TO THE CONTRARY, AN INSTITUTE CHARTER SCHOOL AND THE INSTITUTE MAY AGREE TO EXTEND THE LENGTH OF THE CHARTER CONTRACT BEYOND FIVE ACADEMIC YEARS FOR THE PURPOSE OF ENHANCING THE TERMS OF ANY LEASE OR FINANCIAL OBLIGATION.

(2) AN INSTITUTE CHARTER SCHOOL SHALL SUBMIT AN ANNUAL REPORT TO THE INSTITUTE ON THE INSTITUTE CHARTER SCHOOL'S PROGRESS IN ACHIEVING THE GOALS, OBJECTIVES, PUPIL PERFORMANCE STANDARDS, CONTENT STANDARDS, AND OTHER TERMS OF THE PENDING CHARTER CONTRACT. THE INSTITUTE SHALL CONSIDER, DURING THE REVIEW OF A RENEWAL APPLICATION, THE ANNUAL REPORTS SUBMITTED BY THE INSTITUTE CHARTER SCHOOL DURING THE TERM OF THE PENDING CHARTER CONTRACT.

(3) THE INSTITUTE BOARD MAY REVOKE OR DENY RENEWAL OF A CHARTER CONTRACT IF THE INSTITUTE BOARD DETERMINES THAT THE INSTITUTE 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 CONTRACT OF THE INSTITUTE CHARTER SCHOOL;

(b) FAILED TO MEET OR MAKE REASONABLE PROGRESS TOWARD ACHIEVEMENT OF THE CONTENT STANDARDS OR PUPIL PERFORMANCE STANDARDS IDENTIFIED IN THE CHARTER CONTRACT OF THE INSTITUTE CHARTER SCHOOL;

(c) RECEIVED AN OVERALL ACADEMIC PERFORMANCE RATING OF



"UNSATISFACTORY" PURSUANT TO SECTION 22-7-604 (5), UPON THE COMPLETION OF THE THIRD SCHOOL YEAR OF OPERATION UNDER A SCHOOL IMPROVEMENT PLAN PURSUANT TO SECTION 22-7-609, AND THE STATE BOARD RECOMMENDED THAT THE INSTITUTE CHARTER SCHOOL BE CONVERTED TO AN INDEPENDENT CHARTER SCHOOL PURSUANT TO SECTION 22-7-609 (5) (b);

(d) FAILED TO MEET GENERALLY ACCEPTED STANDARDS OF FISCAL MANAGEMENT;  
OR

(e) VIOLATED ANY PROVISION OF LAW FROM WHICH THE INSTITUTE CHARTER SCHOOL WAS NOT SPECIFICALLY EXEMPTED.

(4) IN ADDITION, THE INSTITUTE BOARD MAY DENY RENEWAL OF A CHARTER CONTRACT UPON A DETERMINATION BY THE INSTITUTE BOARD THAT IT IS NOT IN THE BEST INTERESTS OF THE PUPILS ATTENDING THE INSTITUTE CHARTER SCHOOL TO CONTINUE THE OPERATION OF THE INSTITUTE CHARTER SCHOOL.

(5) (a) IF THE INSTITUTE REVOKES OR DENIES RENEWAL OF A CHARTER CONTRACT OF AN INSTITUTE CHARTER SCHOOL, THE INSTITUTE BOARD SHALL STATE ITS REASONS FOR THE REVOCATION OR DENIAL.

(b) (I) THE STATE BOARD, UPON RECEIPT OF A NOTICE OF APPEAL OR UPON ITS OWN MOTION, MAY REVIEW DECISIONS OF THE INSTITUTE BOARD CONCERNING THE REVOCATION OR NONRENEWAL OF AN INSTITUTE CHARTER SCHOOL'S CHARTER CONTRACT. AN INSTITUTE CHARTER SCHOOL OR ANY OTHER PERSON WHO WISHES TO APPEAL A DECISION OF THE INSTITUTE BOARD CONCERNING THE REVOCATION OR NONRENEWAL OF A CHARTER CONTRACT SHALL PROVIDE THE STATE BOARD AND THE INSTITUTE BOARD WITH A NOTICE OF APPEAL WITHIN THIRTY DAYS AFTER THE INSTITUTE BOARD'S DECISION. THE PERSON BRINGING THE APPEAL SHALL LIMIT THE GROUNDS OF THE APPEAL TO THE GROUNDS FOR THE REVOCATION OR THE NONRENEWAL OF THE CHARTER CONTRACT SPECIFIED BY THE INSTITUTE BOARD. THE NOTICE SHALL INCLUDE A BRIEF STATEMENT OF THE REASONS THE PERSON CONTENDS THE INSTITUTE BOARD'S REVOCATION OR NONRENEWAL OF THE CHARTER CONTRACT WAS IN ERROR.

(II) 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 INSTITUTE CHARTER SCHOOL IS LOCATED, SHALL REVIEW THE DECISION OF THE INSTITUTE BOARD AND MAKE ITS FINDINGS. IF THE STATE BOARD FINDS THAT THE INSTITUTE BOARD'S DECISION WAS CONTRARY TO THE BEST INTERESTS OF THE PUPILS ATTENDING THE INSTITUTE CHARTER SCHOOL, THE STATE BOARD SHALL REMAND SUCH FINAL DECISION TO THE INSTITUTE BOARD WITH INSTRUCTIONS TO RENEW OR REINSTATE THE CHARTER CONTRACT OF THE INSTITUTE CHARTER SCHOOL. THE DECISION OF THE STATE BOARD SHALL BE FINAL AND NOT SUBJECT TO APPEAL.

**22-30.5-512. Institute charter schools - employee retirement funds.** A LOCAL BOARD OF EDUCATION SHALL DETERMINE BY POLICY OR BY NEGOTIATED AGREEMENT, IF ONE EXISTS, THE EMPLOYMENT STATUS OF SCHOOL DISTRICT EMPLOYEES EMPLOYED BY AN INSTITUTE CHARTER SCHOOL WHO SEEK TO RETURN TO EMPLOYMENT WITH

PUBLIC SCHOOLS IN THE SCHOOL DISTRICT. EMPLOYEES OF AN INSTITUTE CHARTER SCHOOL SHALL BE MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION. THE INSTITUTE CHARTER SCHOOL AND THE EMPLOYEE SHALL CONTRIBUTE THE APPROPRIATE RESPECTIVE AMOUNTS AS REQUIRED BY THE FUNDS OF SUCH ASSOCIATION.

**22-30.5-513. Institute charter schools - district charter schools - funding.**

(1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ACCOUNTING DISTRICT" MEANS THE SCHOOL DISTRICT WITHIN WHOSE GEOGRAPHIC BOUNDARIES AN INSTITUTE CHARTER SCHOOL IS PHYSICALLY LOCATED.

(b) "ADJUSTED DISTRICT PER PUPIL REVENUES" MEANS THE ACCOUNTING DISTRICT'S PER PUPIL FUNDING PLUS THE ACCOUNTING DISTRICT'S AT-RISK PER PUPIL FUNDING.

(c) "ADMINISTRATIVE OVERHEAD COSTS" MEANS ALL ACTUAL AND REASONABLE COSTS INCURRED BY THE INSTITUTE AS A RESULT OF ITS PERFORMANCE OF ITS OBLIGATIONS PURSUANT TO THIS PART 5. "ADMINISTRATIVE OVERHEAD COSTS" SHALL NOT INCLUDE ANY COSTS INCURRED IN ORDER TO DELIVER SERVICES THAT AN INSTITUTE CHARTER SCHOOL MAY PURCHASE AT ITS DISCRETION.

(d) "AT-RISK PUPILS" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 22-54-103 (1.5).

(e) "DISTRICT AT-RISK FUNDING" MEANS THE AMOUNT OF FUNDING DETERMINED IN ACCORDANCE WITH THE FORMULAS DESCRIBED IN SECTION 22-54-104 (4).

(f) "DISTRICT AT-RISK PER PUPIL FUNDING" MEANS THE AMOUNT OF FUNDING DETERMINED IN ACCORDANCE WITH THE FOLLOWING FORMULA:

(THE ACCOUNTING DISTRICT'S AT-RISK FUNDING DIVIDED BY THE ACCOUNTING DISTRICT'S FUNDED PUPIL COUNT) X (THE DISTRICT CHARTER SCHOOL'S PERCENTAGE OF PUPILS ELIGIBLE FOR FREE LUNCH DIVIDED BY THE ACCOUNTING DISTRICT'S PERCENTAGE OF PUPILS ELIGIBLE FOR FREE LUNCH)

(g) "DISTRICT CHARTER SCHOOL" MEANS A CHARTER SCHOOL AUTHORIZED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION BY A SCHOOL DISTRICT THAT HAS RETAINED EXCLUSIVE AUTHORITY TO AUTHORIZE CHARTER SCHOOLS PURSUANT TO THE PROVISIONS OF SECTION 22-30.5-504.

(h) "DISTRICT FUNDED PUPIL COUNT" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 22-54-103 (7).

(i) "DISTRICT PER PUPIL FUNDING" MEANS AN ACCOUNTING DISTRICT'S PER PUPIL FUNDING AS DETERMINED IN ACCORDANCE WITH THE FORMULA DESCRIBED IN SECTION 22-54-104 (3).

(j) "DISTRICT PER PUPIL ON-LINE FUNDING" MEANS THE MINIMUM PER PUPIL FUNDING, AS DEFINED IN SECTION 22-54-104 (3.5), FOR ANY BUDGET YEAR.

(k) "ON-LINE PUPIL ENROLLMENT" MEANS THE NUMBER OF PUPILS, ON OCTOBER

1 WITHIN THE APPLICABLE BUDGET YEAR OR THE SCHOOL DAY NEAREST SAID DATE, ENROLLED IN, ATTENDING, AND ACTIVELY PARTICIPATING IN, AN ON-LINE PROGRAM CREATED PURSUANT TO SECTION 22-33-104.6 BY THE INSTITUTE CHARTER SCHOOL, WHICH PUPILS MEET THE REQUIREMENTS SPECIFIED IN SECTION 22-33-104.6 (4) (a) OR ARE EXEMPT PURSUANT TO RULES ADOPTED BY THE STATE BOARD PURSUANT TO SECTION 22-33-104.6 (7).

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

(m) "QUALIFIED CHARTER SCHOOL" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 22-54-124 (1) (f.6).

(n) "SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT THAT:

(I) HAS RETAINED EXCLUSIVE AUTHORITY PURSUANT TO THE PROVISIONS OF SECTION 22-30.5-504; AND

(II) HAS MORE THAN FORTY PERCENT OF ITS PUPIL ENROLLMENT CONSISTING OF AT-RISK PUPILS.

(2) (a) AS PART OF THE CHARTER CONTRACT, THE INSTITUTE CHARTER SCHOOL AND THE INSTITUTE SHALL AGREE ON FUNDING AND ANY SERVICES TO BE PROVIDED BY THE INSTITUTE OR BY OTHER PARTIES TO THE INSTITUTE CHARTER SCHOOL.

(b) FOR BUDGET YEAR 2004-05 AND BUDGET YEARS THEREAFTER, EACH INSTITUTE CHARTER SCHOOL AND THE INSTITUTE SHALL NEGOTIATE FUNDING UNDER THE CHARTER CONTRACT AT A MINIMUM OF NINETY-FIVE PERCENT OF THE INSTITUTE CHARTER SCHOOL'S ACCOUNTING DISTRICT'S ADJUSTED PER PUPIL REVENUES FOR EACH PUPIL ENROLLED IN THE INSTITUTE CHARTER SCHOOL WHO IS NOT AN ON-LINE PUPIL AND NINETY-FIVE PERCENT OF THE INSTITUTE CHARTER SCHOOL'S ACCOUNTING DISTRICT'S PER PUPIL ON-LINE FUNDING FOR EACH ON-LINE PUPIL ENROLLED IN THE INSTITUTE CHARTER SCHOOL. THE INSTITUTE MAY RETAIN THE ACTUAL AMOUNT OF THE INSTITUTE CHARTER SCHOOL'S PER PUPIL SHARE OF THE ADMINISTRATIVE OVERHEAD COSTS FOR SERVICES ACTUALLY PROVIDED TO THE INSTITUTE CHARTER SCHOOL; EXCEPT THAT THE INSTITUTE MAY RETAIN NO MORE THAN THE ACTUAL COST OF THE ADMINISTRATIVE OVERHEAD COSTS NOT TO EXCEED THREE PERCENT OF THE ACCOUNTING DISTRICT'S PER PUPIL REVENUES FOR EACH PUPIL, WHO IS NOT AN ON-LINE PUPIL, ENROLLED IN THE INSTITUTE CHARTER SCHOOL, AND THREE PERCENT OF THE ACCOUNTING DISTRICT'S PER PUPIL ON-LINE FUNDING FOR EACH ON-LINE PUPIL ENROLLED IN THE INSTITUTE CHARTER SCHOOL.

(c) EACH INSTITUTE CHARTER SCHOOL SHALL PAY AN AMOUNT EQUAL TO THE PER PUPIL COST INCURRED BY THE INSTITUTE IN PROVIDING FEDERALLY REQUIRED EDUCATIONAL SERVICES, MULTIPLIED BY THE NUMBER OF STUDENTS ENROLLED IN THE INSTITUTE CHARTER SCHOOL. AT EITHER PARTY'S REQUEST, THE INSTITUTE CHARTER SCHOOL AND THE INSTITUTE MAY NEGOTIATE AND INCLUDE IN THE CHARTER CONTRACT ALTERNATE ARRANGEMENTS FOR THE PROVISION OF AND PAYMENT FOR FEDERALLY REQUIRED EDUCATIONAL SERVICES, INCLUDING, BUT NOT NECESSARY LIMITED TO, A REASONABLE RESERVE NOT TO EXCEED FIVE PERCENT OF THE INSTITUTE'S TOTAL BUDGET FOR PROVIDING FEDERALLY REQUIRED EDUCATIONAL

SERVICES. THE RESERVE SHALL ONLY BE USED BY THE INSTITUTE TO OFFSET EXCESS COSTS OF PROVIDING SERVICES TO STUDENTS WITH DISABILITIES ENROLLED IN ANY INSTITUTE CHARTER SCHOOL.

(d) (I) WITHIN NINETY DAYS AFTER THE END OF EACH FISCAL YEAR, THE INSTITUTE SHALL PROVIDE TO EACH INSTITUTE CHARTER SCHOOL AN ITEMIZED ACCOUNTING OF ALL THE INSTITUTE'S ADMINISTRATIVE OVERHEAD COSTS. THE ACTUAL ADMINISTRATIVE OVERHEAD COSTS SHALL BE THE AMOUNT CHARGED TO THE INSTITUTE CHARTER SCHOOL. ANY DIFFERENCE, WITHIN THE LIMITATIONS OF THIS SUBSECTION (2), BETWEEN THE AMOUNT INITIALLY CHARGED TO THE INSTITUTE CHARTER SCHOOL AND THE ACTUAL COST SHALL BE RECONCILED AND PAID TO THE OWED PARTY.

(II) WITHIN NINETY DAYS AFTER THE END OF EACH FISCAL YEAR, THE INSTITUTE SHALL PROVIDE TO EACH INSTITUTE CHARTER SCHOOL AN ITEMIZED ACCOUNTING OF ALL THE ACTUAL COSTS OF ANY ADDITIONAL SERVICES THE INSTITUTE CHARTER SCHOOL CHOSE AT ITS DISCRETION TO PURCHASE AS PROVIDED IN PARAGRAPH (b) OF SUBSECTION (4) OF THIS SECTION. ANY DIFFERENCE BETWEEN THE AMOUNT INITIALLY CHARGED TO THE INSTITUTE CHARTER SCHOOL AND THE ACTUAL COST SHALL BE RECONCILED AND PAID TO THE OWED PARTY.

(3) (a) ON OR BEFORE NOVEMBER 10 OF EACH YEAR, THE INSTITUTE SHALL CERTIFY TO THE STATE BOARD EACH INSTITUTE CHARTER SCHOOL'S PUPIL ENROLLMENT AND ON-LINE PUPIL ENROLLMENT FOR THAT YEAR. IN CERTIFYING THE PUPIL ENROLLMENT OF EACH INSTITUTE CHARTER SCHOOL TO THE STATE BOARD, THE INSTITUTE SHALL SPECIFY THE NUMBER OF PUPILS ENROLLED IN HALF-DAY KINDERGARTEN; THE NUMBER OF PUPILS ENROLLED IN FULL-DAY KINDERGARTEN; THE NUMBER OF PUPILS ENROLLED IN FIRST GRADE THROUGH TWELFTH GRADE, SPECIFYING THOSE WHO ARE ENROLLED AS FULL-TIME STUDENTS AND THOSE WHO ARE ENROLLED AS LESS THAN FULL-TIME STUDENTS; THE NUMBER OF EXPELLED PUPILS RECEIVING EDUCATIONAL SERVICES PURSUANT TO SECTION 22-33-203; THE NUMBER OF PUPILS RECEIVING EDUCATIONAL PROGRAMS UNDER THE "EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT", ARTICLE 20 OF THIS TITLE; AND THE NUMBER OF AT-RISK PUPILS. THE INSTITUTE SHALL ALSO NOTIFY THE DEPARTMENT AS TO WHETHER EACH INSTITUTE CHARTER SCHOOL IS A QUALIFIED CHARTER SCHOOL.

(b) FOR PURPOSES OF THE "PUBLIC SCHOOL FINANCE ACT OF 1994", ARTICLE 54 OF THIS TITLE, THE DEPARTMENT SHALL ADD THE PUPILS ENROLLED IN AN INSTITUTE CHARTER SCHOOL TO THE FUNDED PUPIL COUNT AND THE ON-LINE PUPIL ENROLLMENT OF THE INSTITUTE CHARTER SCHOOL'S ACCOUNTING DISTRICT.

(4) (a) FOR EACH INSTITUTE CHARTER SCHOOL, THE DEPARTMENT SHALL WITHHOLD FROM THE STATE EQUALIZATION PAYMENTS OF THE INSTITUTE CHARTER SCHOOL'S ACCOUNTING DISTRICT AN AMOUNT EQUAL TO ONE HUNDRED PERCENT OF THE ADJUSTED PER PUPIL REVENUES MULTIPLIED BY THE NUMBER OF PUPILS ENROLLED IN THE INSTITUTE CHARTER SCHOOL WHO ARE NOT ON-LINE PUPILS PLUS AN AMOUNT EQUAL TO ONE HUNDRED PERCENT OF THE DISTRICT PER PUPIL ON-LINE FUNDING MULTIPLIED BY THE NUMBER OF ON-LINE PUPILS ENROLLED IN THE INSTITUTE CHARTER SCHOOL. THE DEPARTMENT SHALL FORWARD TO THE INSTITUTE THE AMOUNT WITHHELD MINUS AN AMOUNT NOT TO EXCEED TWO PERCENT OF THE AMOUNT WITHHELD THAT MAY BE RETAINED BY THE DEPARTMENT AS

REIMBURSEMENT FOR THE REASONABLE AND NECESSARY COSTS TO THE DEPARTMENT TO IMPLEMENT THE PROVISIONS OF THIS PART 5. THE INSTITUTE SHALL FORWARD TO EACH INSTITUTE CHARTER SCHOOL AN AMOUNT EQUAL TO THE INSTITUTE CHARTER SCHOOL'S PUPIL ENROLLMENT MULTIPLIED BY THE ADJUSTED PER PUPIL REVENUES OF THE INSTITUTE CHARTER SCHOOL'S ACCOUNTING DISTRICT, MINUS THE AMOUNT OF THE ACTUAL COSTS INCURRED BY THE INSTITUTE IN PROVIDING NECESSARY ADMINISTRATION, OVERSIGHT, AND MANAGEMENT SERVICES TO THE INSTITUTE CHARTER SCHOOL, NOT TO EXCEED THREE PERCENT OF THE AMOUNT WITHHELD, AND MINUS THE AMOUNT AGREED TO IN THE INSTITUTE CHARTER CONTRACT FOR ANY ADDITIONAL SERVICES, AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (4).

(b) AS PART OF THE INSTITUTE CHARTER SCHOOL CONTRACT, THE INSTITUTE CHARTER SCHOOL AND THE INSTITUTE BOARD SHALL AGREE ON THE SERVICES, OTHER THAN NECESSARY ADMINISTRATION, OVERSIGHT, AND MANAGEMENT SERVICES, TO BE PROVIDED TO THE INSTITUTE CHARTER SCHOOL BY ANY THIRD PARTY WITH WHICH THE INSTITUTE OR INSTITUTE CHARTER SCHOOL CONTRACTS AND THE COSTS OF THE SERVICES.

(c) FOR BUDGET YEARS 2004-05 THROUGH 2010-11, THE AMOUNT OF FUNDING SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (4) SHALL REFLECT THE ONE-PERCENT INCREASE IN THE STATEWIDE BASE PER PUPIL FUNDING FOR STATE FISCAL YEARS 2001-02 THROUGH 2010-11 RECEIVED BY SCHOOL DISTRICTS AS REQUIRED BY SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION.

(5) FOR THE 2004-05 BUDGET YEAR AND BUDGET YEARS THEREAFTER, AND IN ACCORDANCE WITH SECTION 22-30.5-406, THE FUNDING PROVIDED BY THE INSTITUTE TO AN INSTITUTE CHARTER SCHOOL PURSUANT TO THIS SECTION SHALL BE REDUCED BY THE AMOUNT OF ANY DIRECT PAYMENTS OF PRINCIPAL AND INTEREST DUE ON BONDS ISSUED ON BEHALF OF AN INSTITUTE CHARTER SCHOOL BY A GOVERNMENTAL ENTITY FOR THE PURPOSE OF FINANCING INSTITUTE CHARTER SCHOOL CAPITAL CONSTRUCTION THAT WERE MADE BY THE STATE TREASURER ON BEHALF OF THE INSTITUTE CHARTER SCHOOL.

(6) (a) THE GOVERNING BODY OF AN INSTITUTE CHARTER SCHOOL IS AUTHORIZED TO ACCEPT GIFTS, DONATIONS, OR GRANTS OF ANY KIND MADE TO THE INSTITUTE CHARTER SCHOOL AND TO EXPEND OR USE SAID GIFTS, DONATIONS, OR GRANTS IN ACCORDANCE WITH THE CONDITIONS PRESCRIBED BY THE DONOR; HOWEVER, NO GIFT, DONATION, OR GRANT SHALL BE ACCEPTED BY THE GOVERNING BODY IF SUBJECT TO ANY CONDITION CONTRARY TO LAW OR CONTRARY TO THE TERMS OF THE CHARTER CONTRACT BETWEEN THE INSTITUTE CHARTER SCHOOL AND THE INSTITUTE.

(b) MONEYS RECEIVED BY AN INSTITUTE CHARTER SCHOOL FROM ANY SOURCE AND REMAINING IN THE INSTITUTE CHARTER SCHOOL'S ACCOUNTS AT THE END OF A BUDGET YEAR SHALL REMAIN IN THE INSTITUTE CHARTER SCHOOL'S ACCOUNTS FOR USE BY THE INSTITUTE CHARTER SCHOOL DURING SUBSEQUENT BUDGET YEARS AND SHALL NOT REVERT TO THE STATE. MONEYS REMAINING IN THE INSTITUTE CHARTER SCHOOL'S ACCOUNTS UPON REVOCATION OR NONRENEWAL OF THE CHARTER CONTRACT SHALL REVERT TO THE INSTITUTE; EXCEPT THAT ANY GIFTS SHALL BE DISPOSED OF IN ACCORDANCE WITH ANY CONDITIONS PRESCRIBED BY THE DONOR THAT ARE NOT CONTRARY TO LAW.

(7) (a) FOR BUDGET YEAR 2004-05 AND BUDGET YEARS THEREAFTER, EACH DISTRICT CHARTER SCHOOL AND THE AUTHORIZING SCHOOL DISTRICT SHALL NEGOTIATE FUNDING UNDER THE CONTRACT AT A MINIMUM OF NINETY-FIVE PERCENT OF THE ADJUSTED PER PUPIL REVENUES FOR EACH PUPIL ENROLLED IN THE DISTRICT CHARTER SCHOOL WHO IS NOT AN ON-LINE PUPIL AND NINETY-FIVE PERCENT OF THE DISTRICT PER PUPIL ON-LINE FUNDING FOR EACH ON-LINE PUPIL ENROLLED IN THE DISTRICT CHARTER SCHOOL. THE SCHOOL DISTRICT MAY CHOOSE TO RETAIN THE SUM OF THE ACTUAL AMOUNT OF THE DISTRICT CHARTER SCHOOL'S PER PUPIL SHARE OF THE CENTRAL ADMINISTRATIVE OVERHEAD COSTS; EXCEPT THAT SUCH AMOUNT SHALL NOT EXCEED FIVE PERCENT OF THE ADJUSTED PER PUPIL REVENUES FOR EACH PUPIL WHO IS NOT AN ON-LINE PUPIL ENROLLED IN THE DISTRICT CHARTER SCHOOL AND FIVE PERCENT OF THE DISTRICT PER PUPIL ON-LINE FUNDING FOR EACH ON-LINE PUPIL ENROLLED IN THE DISTRICT CHARTER SCHOOL.

(b) WITHIN NINETY DAYS AFTER THE END OF EACH FISCAL YEAR, EACH SCHOOL DISTRICT SHALL PROVIDE TO EACH DISTRICT CHARTER SCHOOL AUTHORIZED BY THE SCHOOL DISTRICT AN ITEMIZED ACCOUNTING OF ALL ITS CENTRAL ADMINISTRATIVE OVERHEAD COSTS. THE ACTUAL CENTRAL ADMINISTRATIVE OVERHEAD COSTS SHALL BE THE AMOUNT CHARGED TO THE DISTRICT CHARTER SCHOOL. ANY DIFFERENCE, WITHIN THE LIMITATIONS OF THIS SUBSECTION (7), BETWEEN THE AMOUNT INITIALLY CHARGED TO THE DISTRICT CHARTER SCHOOL AND THE ACTUAL COST SHALL BE RECONCILED AND PAID TO THE OWED PARTY.

(c) THE DISTRICT CHARTER SCHOOL, AT ITS DISCRETION, MAY CONTRACT WITH THE SCHOOL DISTRICT FOR THE DIRECT PURCHASE OF DISTRICT SERVICES IN ADDITION TO THOSE INCLUDED IN CENTRAL ADMINISTRATIVE OVERHEAD COSTS, INCLUDING BUT NOT LIMITED TO FOOD SERVICES, CUSTODIAL SERVICES, MAINTENANCE, CURRICULUM, MEDIA SERVICES, AND LIBRARIES. THE AMOUNT TO BE PAID BY A DISTRICT CHARTER SCHOOL IN PURCHASING ANY DISTRICT SERVICE PURSUANT TO THIS PARAGRAPH (c) SHALL BE DETERMINED THROUGH AN AGREEMENT BETWEEN THE DISTRICT CHARTER SCHOOL AND THE SCHOOL DISTRICT USING ONE OF THE FOLLOWING METHODS:

(I) BY DIVIDING THE COST OF PROVIDING THE SERVICE FOR THE ENTIRE SCHOOL DISTRICT, AS SPECIFIED IN THE SCHOOL DISTRICT'S BUDGET, BY THE NUMBER OF STUDENTS ENROLLED IN THE SCHOOL DISTRICT AND MULTIPLYING SAID AMOUNT BY THE NUMBER OF STUDENTS ENROLLED IN THE DISTRICT CHARTER SCHOOL;

(II) BY DETERMINING THE ACTUAL COSTS INCURRED BY THE SCHOOL DISTRICT IN PROVIDING SUPPORT SERVICES; OR

(III) BY NEGOTIATING A SERVICES AGREEMENT BETWEEN THE DISTRICT CHARTER SCHOOL AND THE SCHOOL DISTRICT PURSUANT TO WHICH MULTIPLE SERVICES ARE PROVIDED FOR A FIXED COST.

(d) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION (7) TO THE CONTRARY, IF THE AUTHORIZING SCHOOL DISTRICT ENROLLS FIVE HUNDRED OR FEWER STUDENTS, THE DISTRICT CHARTER SCHOOL SHALL RECEIVE FUNDING IN THE AMOUNT OF THE GREATER OF ONE HUNDRED PERCENT OF THE DISTRICT PER PUPIL ON-LINE FUNDING FOR EACH ON-LINE PUPIL ENROLLED IN THE DISTRICT CHARTER SCHOOL PLUS ONE HUNDRED PERCENT OF THE DISTRICT PER PUPIL REVENUES FOR EACH PUPIL WHO IS NOT AN ON-LINE PUPIL ENROLLED IN THE DISTRICT CHARTER SCHOOL, MINUS THE

ACTUAL AMOUNT OF THE DISTRICT CHARTER SCHOOL'S PER PUPIL SHARE OF THE CENTRAL ADMINISTRATIVE OVERHEAD COSTS INCURRED BY THE SCHOOL DISTRICT, BASED ON AUDITED FIGURES, OR EIGHTY-FIVE PERCENT OF THE DISTRICT PER PUPIL REVENUES FOR EACH PUPIL ENROLLED IN THE DISTRICT CHARTER SCHOOL WHO IS NOT AN ON-LINE PUPIL PLUS EIGHTY-FIVE PERCENT OF THE DISTRICT PER PUPIL ON-LINE FUNDING FOR EACH ON-LINE PUPIL ENROLLED IN THE DISTRICT CHARTER SCHOOL.

(8) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE CONTRARY AND FOR THE PURPOSES OF THIS SECTION ONLY, ANY SCHOOL DISTRICT THAT HAS MORE THAN FORTY PERCENT OF ITS PUPIL ENROLLMENT CONSISTING OF AT-RISK PUPILS AT THE TIME THE CHARTER SCHOOL IS FIRST AUTHORIZED SHALL BE DEEMED TO HAVE THE SAME PERCENTAGE OF AT-RISK PUPIL ENROLLMENT FOR THE TERM OF THE CHARTER CONTRACT. FOR PURPOSES OF RENEWAL OF THE CHARTER CONTRACT, THE PERCENTAGE OF AT-RISK PUPILS IN THE SCHOOL DISTRICT AT THE TIME THE RENEWAL APPLICATION IS SUBMITTED SHALL BE THE PERCENTAGE USED FOR PURPOSES OF THIS SECTION.

(9) (a) FOR THE 2004-05 BUDGET YEAR, AND FOR EACH BUDGET YEAR THEREAFTER, THE PROPORTIONATE SHARE OF MONEYS GENERATED UNDER FEDERAL OR STATE CATEGORICAL AID PROGRAMS SHALL BE DIRECTED TO INSTITUTE CHARTER SCHOOLS SERVING STUDENTS ELIGIBLE FOR SUCH AID.

(b) EACH INSTITUTE CHARTER SCHOOL THAT RECEIVES FEDERAL OR STATE CATEGORICAL AID SHALL COMPLY WITH ALL APPLICABLE FEDERAL AND STATE REPORTING REQUIREMENTS TO RECEIVE SUCH AID.

**22-30.5-514. Institute charter school- capital reserve, risk management, and instructional purposes.** (1) FOR THE 2004-05 BUDGET YEAR AND BUDGET YEARS THEREAFTER, EACH INSTITUTE CHARTER SCHOOL SHALL ANNUALLY ALLOCATE THE MINIMUM PER PUPIL DOLLAR AMOUNT SPECIFIED IN SECTION 22-54-105 (2) (b), MULTIPLIED BY THE NUMBER OF STUDENTS ENROLLED IN THE INSTITUTE CHARTER SCHOOL WHO ARE NOT ON-LINE PUPILS, TO A FUND CREATED BY THE INSTITUTE CHARTER SCHOOL FOR CAPITAL RESERVE PURPOSES, AS SET FORTH IN SECTION 22-45-103 (1) (c) AND (1) (e), OR SOLELY FOR THE MANAGEMENT OF RISK-RELATED ACTIVITIES, AS IDENTIFIED IN SECTION 24-10-115, C.R.S., AND ARTICLE 13 OF TITLE 29, C.R.S., OR AMONG SUCH ALLOWABLE FUNDS. SAID MONEYS SHALL BE USED FOR THE PURPOSES SET FORTH IN SECTION 22-45-103 (1) (c) AND (1) (e) AND MAY NOT BE EXPENDED BY THE INSTITUTE CHARTER SCHOOL FOR ANY OTHER PURPOSE.

(2) FOR THE 2004-05 BUDGET YEAR AND BUDGET YEARS THEREAFTER, EACH INSTITUTE CHARTER SCHOOL SHALL ANNUALLY ALLOCATE THE MINIMUM PER PUPIL DOLLAR AMOUNT SPECIFIED IN SECTION 22-54-105 (1) (b), MULTIPLIED BY THE NUMBER OF STUDENTS ENROLLED IN THE INSTITUTE CHARTER SCHOOL WHO ARE NOT ON-LINE PUPILS, TO ACCOUNTS CREATED BY THE INSTITUTE CHARTER SCHOOL FOR INSTRUCTIONAL SUPPLIES AND MATERIALS, INSTRUCTIONAL CAPITAL OUTLAYS, OR OTHER INSTRUCTIONAL PURPOSES, AS SET FORTH IN SECTION 22-45-103 (1) (a) (II), OR AMONG SUCH ACCOUNTS. MONEYS MAY BE TRANSFERRED AMONG THE THREE ACCOUNTS. THE MONEYS IN THE ACCOUNTS SHALL BE USED FOR THE PURPOSES SET FORTH IN SECTION 22-45-103 (1) (a) (II) AND MAY NOT BE EXPENDED BY THE INSTITUTE CHARTER SCHOOL FOR ANY OTHER PURPOSE. ANY MONEYS IN THE ACCOUNTS THAT ARE NOT PROJECTED TO BE EXPENDED DURING A BUDGET YEAR

SHALL BE BUDGETED FOR THE PURPOSES SET FORTH IN SECTION 22-45-103 (1) (a) (II) IN THE NEXT BUDGET YEAR. NOTHING IN THIS SUBSECTION (2) SHALL BE CONSTRUED TO REQUIRE THAT INTEREST ON MONEYS IN THE ACCOUNTS BE SPECIFICALLY ALLOCATED TO THE ACCOUNTS.

**22-30.5-515. Institute charter school - additional aid.** (1) (a) FOR THE 2004-05 BUDGET YEAR AND EACH BUDGET YEAR THEREAFTER, A QUALIFIED CHARTER SCHOOL, AS THAT TERM IS DEFINED IN SECTION 22-54-124, THAT IS AN INSTITUTE CHARTER SCHOOL SHALL RECEIVE STATE EDUCATION FUND MONEYS FROM THE DEPARTMENT IN AN AMOUNT EQUAL TO THE PERCENTAGE OF THE TOTAL QUALIFIED CHARTER SCHOOL PUPIL ENROLLMENT THAT IS ATTRIBUTABLE TO PUPILS EXPECTED TO BE ENROLLED IN THE INSTITUTE CHARTER SCHOOL MULTIPLIED BY THE TOTAL AMOUNT OF STATE EDUCATION FUND MONEYS DISTRIBUTED FOR THE SAME BUDGET YEAR PURSUANT TO SECTION 22-54-124 (3).

(b) AS USED IN THIS SUBSECTION (1), "PUPILS" MEANS PUPILS OTHER THAN ON-LINE PUPILS ENROLLED IN A QUALIFIED CHARTER SCHOOL.

(2) FUNDING RECEIVED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BE IN ADDITION TO ANY FUNDING PROVIDED PURSUANT TO SECTION 22-30.5-513.

(3) THE DEPARTMENT SHALL PROVIDE FUNDING TO EACH QUALIFIED CHARTER SCHOOL THAT IS AN INSTITUTE CHARTER SCHOOL BY MAKING A SINGLE LUMP-SUM PAYMENT TO THE INSTITUTE AS SOON AS POSSIBLE AFTER THE DEPARTMENT RECEIVES A LUMP-SUM PAYMENT OF STATE EDUCATION FUND MONEYS PURSUANT TO SECTION 22-54-124. THE INSTITUTE SHALL PROMPTLY REMIT THE APPROPRIATE AMOUNT TO EACH ELIGIBLE INSTITUTE CHARTER SCHOOL AND SHALL NOT WITHHOLD ANY PORTION OF THE AMOUNT.

(4) AN INSTITUTE CHARTER SCHOOL SHALL USE MONEYS IT RECEIVES PURSUANT TO SUBSECTION (1) OF THIS SECTION SOLELY FOR CAPITAL CONSTRUCTION, AS DEFINED IN SECTION 22-54-124 (1) (a).

**SECTION 2.** 22-2-107 (1) (s), Colorado Revised Statutes, is amended, and the said 22-2-107 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

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

(s) To approve programs by nonpublic, nonparochial schools to provide educational services to students pursuant to section 22-33-203, ~~C.R.S.~~, and to approve services to be provided to at-risk students pursuant to agreements entered into pursuant to section 22-33-204; AND

(t) TO RENDER A DECISION ON THE APPEAL OF THE STATE CHARTER SCHOOL INSTITUTE'S APPROVAL OR DENIAL OF AN INSTITUTE CHARTER SCHOOL APPLICATION OR THE REVOCATION OR NONRENEWAL OF AN INSTITUTE CHARTER SCHOOL CONTRACT PURSUANT TO PART 5 OF ARTICLE 30.5 OF THIS TITLE.

**SECTION 3.** 22-2-117, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:



**22-2-117. Additional power - state board - waiver of requirements - rules.**

(6) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, A SCHOOL DISTRICT THAT HAS BEEN GRANTED BY THE STATE BOARD EXCLUSIVE AUTHORITY TO CHARTER SCHOOLS WITHIN ITS GEOGRAPHIC BOUNDARIES PURSUANT TO SECTION 22-30.5-504 SHALL NOT BE REQUIRED TO DEMONSTRATE THAT IT HAS OBTAINED THE CONSENT OF A MAJORITY OF THE APPROPRIATE ACCOUNTABILITY COMMITTEE, A MAJORITY OF THE AFFECTED LICENSED ADMINISTRATORS, AND A MAJORITY OF THE TEACHERS OF THE AFFECTED SCHOOL OR DISTRICT IN ORDER TO APPLY FOR A WAIVER OF ANY OF THE REQUIREMENTS IMPOSED BY THIS TITLE OR BY RULE PROMULGATED BY THE STATE BOARD; EXCEPT THAT SUCH CONSENT SHALL BE REQUIRED FOR AN APPLICATION FOR A WAIVER FROM ANY PROVISIONS OF ARTICLE 9 OR ARTICLES 60.5 TO 64 OF THIS TITLE.

**SECTION 4.** The introductory portion to 22-7-106 (1) (a), Colorado Revised Statutes, is amended, and the said 22-7-106 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**22-7-106. School advisory councils - creation - qualifications - elections.**

(1) (a) Except as provided in subsection (4) of this section, there shall be a school advisory council at each public school in each school district AND AT EACH INSTITUTE CHARTER SCHOOL CREATED PURSUANT TO PART 5 OF ARTICLE 30.5 OF THIS TITLE. A school advisory council shall consist of seven members designated, appointed, or elected as follows:

(b.5) IN THE CASE OF AN INSTITUTE CHARTER SCHOOL, NO MORE THAN THREE MEMBERS OF A SCHOOL ADVISORY COUNCIL SHALL BE EMPLOYED BY OR RELATIVES OF AN EMPLOYEE OF THE INSTITUTE CHARTER SCHOOL. IF AN ELECTION WOULD RESULT IN MORE THAN THREE SCHOOL EMPLOYEES OR PERSONS RELATED TO SCHOOL EMPLOYEES SERVING ON THE COUNCIL, ONLY THE NUMBER OF CANDIDATES WHO RECEIVE THE HIGHEST NUMBER OF VOTES THAT WILL RESULT IN THREE SCHOOL EMPLOYEES OR PERSONS RELATED TO SCHOOL EMPLOYEES SERVING ON THE COUNCIL SHALL BECOME MEMBERS OF THE COUNCIL AND OTHER EMPLOYEES OR PERSONS RELATED TO EMPLOYEES SHALL BE DISQUALIFIED.

**SECTION 5.** 22-7-205, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**22-7-205. Local goals and objectives and plans to improve educational achievement and graduation rates.** (6) AFTER CONSULTING WITH THE SCHOOL ACCOUNTABILITY COMMITTEE OF EACH INSTITUTE CHARTER SCHOOL AND REVIEWING THEIR RECOMMENDATIONS, THE STATE CHARTER SCHOOL INSTITUTE CREATED IN PART 5 OF ARTICLE 30.5 OF THIS TITLE SHALL COMPILE SCHOOL BUILDING GOALS AND OBJECTIVES AND PLANS AND SHALL REPORT EACH INSTITUTE CHARTER SCHOOL'S HIGH, BUT ACHIEVABLE, GOALS AND OBJECTIVES FOR THE IMPROVEMENT OF EDUCATION IN EACH SCHOOL. THE STATE CHARTER SCHOOL INSTITUTE SHALL ALSO REPORT EACH INSTITUTE CHARTER SCHOOL'S PLAN TO IMPROVE EDUCATIONAL ACHIEVEMENT, TO MAXIMIZE HIGH SCHOOL GRADUATION RATES, AND TO INCREASE THE RATINGS FOR THE INSTITUTE CHARTER SCHOOL'S ACCREDITATION CATEGORY ESTABLISHED PURSUANT TO SECTION 22-11-202. THE STATE CHARTER SCHOOL INSTITUTE SHALL MAKE THE REPORT AVAILABLE TO THE PUBLIC NO LATER THAN OCTOBER 1 OF EACH YEAR.

**SECTION 6.** 22-7-409 (1.1) (a), (1.2) (a) (II), and (1.2) (a) (V), Colorado Revised Statutes, are amended to read:

**22-7-409. Assessments - repeal.** (1.1) (a) Upon request by a school district OR INSTITUTE CHARTER SCHOOL, the entity responsible for developing a statewide assessment shall return to the school district OR INSTITUTE CHARTER SCHOOL the student responses to the essay and appropriate paragraphs from the writing portion of the statewide assessment, along with the results of all requested assessments. The school district OR INSTITUTE CHARTER SCHOOL making the request shall pay the entity for the actual cost of photocopying and mailing the writing portion of the statewide assessment for the exclusive and confidential use of improving an individual student's writing skills.

(1.2) (a) (II) The department shall make available to school districts AND INSTITUTE CHARTER SCHOOLS the assessment data of individual students required to measure academic progress over time. The state board shall ensure that the assessments administered pursuant to subsection (1) of this section shall be a combination of constructed response and selected response tasks that require the student to produce information or perform tasks in a way that the student's skills and competencies can be measured.

(V) Each district board AND THE STATE CHARTER SCHOOL INSTITUTE shall adopt policies to ensure that appropriate personnel within the district AND EACH INSTITUTE CHARTER SCHOOL, RESPECTIVELY, share with and explain to the parent or legal guardian of each student enrolled in the school district OR THE INSTITUTE CHARTER SCHOOL the student's assessment results and diagnostic reporting returned to the student's public school pursuant to subparagraph (I.5) of this paragraph (a).

**SECTION 7.** 22-7-506 (1), Colorado Revised Statutes, is amended to read:

**22-7-506. Read-to-achieve grant program - board created - fund - repeal.** (1) There is hereby created in the department of education the read-to-achieve grant program, referred to in this section as the "program". Under this program, any public school, including a charter school ~~as defined in section 22-30.5-104~~ OR AN INSTITUTE CHARTER SCHOOL, AS THOSE SCHOOLS ARE DESCRIBED IN ARTICLE 30.5 OF THIS TITLE, may apply for grants to fund intensive reading programs for second-, and third-grade pupils and pupils between the third and fourth grades whose literacy and reading comprehension skills are below the level established by the state board of education for pupils at each grade level.

**SECTION 8.** 22-7-605 (2) (b), Colorado Revised Statutes, is amended to read:

**22-7-605. School accountability reports - format.** (2) (b) Each public school and school district, AND THE STATE CHARTER SCHOOL INSTITUTE shall report accurately any data required to produce a school accountability report for each public school, using whenever possible the state data reporting system described in section 22-7-603. The state board shall seek to minimize and eliminate the duplication of data reporting required under this section and that required by other state or federal statutes or rules so that school districts, INSTITUTE CHARTER SCHOOLS, AND THE STATE CHARTER SCHOOL INSTITUTE may satisfy multiple reporting requirements within a single reporting framework. The state board in particular shall note the data

collection and reporting already required and conducted by the department, public schools, and school districts in sections 22-2-112, 22-7-105, 22-11-104, 22-11-201, 22-30.5-110, 22-32-109, 22-32-110, 22-33-105, 22-44-105, 22-44-111, and 22-54-112.

**SECTION 9.** 22-7-609 (2), Colorado Revised Statutes, is amended to read:

**22-7-609. School improvement plans.** (2) (a) The state board shall notify a local board of education ~~what~~ AS TO WHICH school, if any, in its district will receive an academic performance rating of "unsatisfactory", pursuant to section 22-7-604 (5), on the school accountability report being prepared for that academic year. The state board shall notify the local board of education that it must submit a school improvement plan pursuant to this section.

(b) IN THE CASE OF AN INSTITUTE CHARTER SCHOOL CREATED PURSUANT TO PART 5 OF ARTICLE 30.5 OF THIS TITLE, THE STATE BOARD SHALL NOTIFY THE STATE CHARTER SCHOOL INSTITUTE AS TO WHICH INSTITUTE CHARTER SCHOOL, IF ANY, WILL RECEIVE AN ACADEMIC PERFORMANCE RATING OF "UNSATISFACTORY", PURSUANT TO SECTION 22-7-604 (5), ON THE SCHOOL ACCOUNTABILITY REPORT BEING PREPARED FOR THAT ACADEMIC YEAR. THE STATE BOARD SHALL NOTIFY THE STATE CHARTER SCHOOL INSTITUTE THAT IT MUST SUBMIT A SCHOOL IMPROVEMENT PLAN PURSUANT TO THIS SECTION.

**SECTION 10.** 22-7-609 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

**22-7-609. School improvement plans.** (3) (a.5) WITHIN NINETY DAYS AFTER RECEIVING THE NOTIFICATION FROM THE STATE BOARD AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, THE STATE CHARTER SCHOOL INSTITUTE SHALL SUBMIT TO THE STATE BOARD A SCHOOL IMPROVEMENT PLAN. THE PLAN SHALL BE ADOPTED BY THE STATE CHARTER SCHOOL INSTITUTE AFTER A PUBLIC HEARING ON THE PROPOSED PLAN.

(c.5) THE DEPARTMENT SHALL RETURN TO THE STATE CHARTER SCHOOL INSTITUTE COMMENTS AND SUGGESTIONS ON ANY PLAN SUBMITTED WITH RESPECT TO AN INSTITUTE CHARTER SCHOOL. THE COMMENTS AND SUGGESTIONS OF THE DEPARTMENT SHALL BE ADVISORY. IF THE STATE CHARTER SCHOOL INSTITUTE ADOPTS ANY OF THE SUGGESTIONS AND COMMENTS, THE STATE CHARTER SCHOOL INSTITUTE SHALL SUBMIT TO THE STATE BOARD AN AMENDED SCHOOL IMPROVEMENT PLAN ADOPTED BY THE STATE CHARTER SCHOOL INSTITUTE AFTER A PUBLIC HEARING ON THE PROPOSED AMENDED PLAN.

**SECTION 11.** 22-7-609.6, Colorado Revised Statutes, is amended to read:

**22-7-609.6. School improvement - appropriations.** On and after July 1, 2003, the general assembly may appropriate such moneys as are available to assist school districts AND THE STATE CHARTER SCHOOL INSTITUTE in improving the academic improvement of schools that received an academic improvement rating of "unsatisfactory". In addition, the department of education may allocate any moneys received pursuant to the federal "No Child Left Behind Act of 2001", Public Law 107-110, for such purpose.

**SECTION 12.** 22-7-705, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**22-7-705. Teacher development grant program - application.** (4) AN INSTITUTE CHARTER SCHOOL THAT SUBMITS AN APPLICATION PURSUANT TO THIS PART 7 SHALL NOT BE REQUIRED TO SUBMIT THE APPLICATION TO ANY SCHOOL DISTRICT OR TO INCLUDE IN THE APPLICATION A STATEMENT OF SUPPORT FOR OR OPPOSITION TO THE APPLICATION BY A LOCAL BOARD OF EDUCATION.

**SECTION 13.** 22-11-102 (3), Colorado Revised Statutes, is amended to read:

**22-11-102. Legislative declaration.** (3) The general assembly recognizes that under the state constitution the state board of education is vested with the power to provide general supervision over the public schools of the state, and the local boards of education have the power to control instruction in the public schools of ~~the state~~ THEIR RESPECTIVE SCHOOL DISTRICTS. Consistent with these powers, the general assembly recommends that the state board of education encourage and promote the adoption of teaching methods and environments in the public schools of the state that will enhance the reading skills of the children in such schools. To that end, the general assembly finds and declares that the use of recognized instructional strategies, including phonics, and emphasis on reading, writing, and mathematics will enhance the basic skills of the children in the public schools of the state.

**SECTION 14.** 22-11-103 (2) and (5), Colorado Revised Statutes, are amended, and the said 22-11-103 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

**22-11-103. Definitions.** As used in this article, unless the context otherwise requires:

(2) "Accreditation contract" means the agreement between the state board of education and a school district that binds the school district to manage the accreditation of public schools within ~~such~~ THE school district, consistent with the standards and goals to be met according to the accreditation indicators. "ACCREDITATION CONTRACT" ALSO MEANS THE AGREEMENT BETWEEN THE STATE BOARD OF EDUCATION AND THE STATE CHARTER SCHOOL INSTITUTE THAT BINDS THE INSTITUTE TO MEET THE STANDARDS AND GOALS ESTABLISHED IN THE ACCREDITATION CONTRACT ACCORDING TO THE ACCREDITATION INDICATORS.

(5) "Corrective action cycle" means the corrective actions described in section 22-11-204 to which a school district OR THE STATE CHARTER SCHOOL INSTITUTE shall be subject in the event that it fails to comply with provisions of the accreditation contract.

(6.3) "INSTITUTE CHARTER SCHOOL" MEANS A CHARTER SCHOOL THAT ENTERS INTO A CONTRACT WITH THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO THE PROVISIONS OF PART 5 OF ARTICLE 30.5 OF THIS TITLE.

(6.7) "PUBLIC SCHOOL" INCLUDES A PUBLIC SCHOOL AS DEFINED IN SECTION 22-1-101, A CHARTER SCHOOL, AND AN INSTITUTE CHARTER SCHOOL.

**SECTION 15.** 22-11-104 (3) (a), Colorado Revised Statutes, is amended to read:

**22-11-104. Accreditation indicators. (3) Rules.** (a) The state board shall promulgate rules concerning how the school districts AND THE STATE CHARTER SCHOOL INSTITUTE shall measure data relating to the accreditation indicators and the form in which the school districts AND THE STATE CHARTER SCHOOL INSTITUTE shall provide such data to the state board.

**SECTION 16.** 22-11-201 (2), (3), and (4) (a) (V), the introductory portion to 22-11-201 (4) (b), 22-11-201 (4) (c), and the introductory portion to 22-11-201 (5), Colorado Revised Statutes, are amended to read:

**22-11-201. Accreditation contract. (2) Parties.** (a) Each school board AND THE STATE CHARTER SCHOOL INSTITUTE shall enter into an accreditation contract with the state board of education.

(b) The accreditation contract may include a subcontract with a board of cooperative services for the administration of the school district's OR STATE CHARTER SCHOOL INSTITUTE'S accreditation process.

(3) **Goals.** The accreditation contract shall define the standards, goals, and requirements to be met by the school district OR STATE CHARTER SCHOOL INSTITUTE over the term of the contract. Failure to achieve the standards, goals, and requirements set forth in the accreditation contract may result in the sanctions and corrective actions set forth in this article.

(4) **Contract requirements - management.** (a) The accreditation contract shall contain, at a minimum, the following terms:

(V) Provisions for allowing annual comparisons between the school board OR STATE CHARTER SCHOOL INSTITUTE assessment results and the statewide assessment results.

(b) The SCHOOL DISTRICT accreditation contract, at a minimum, shall bind a school district to administer the following school district policy and management functions:

(c) The accreditation contract shall also contain a plan for the use of revenues distributed to the school district OR STATE CHARTER SCHOOL INSTITUTE pursuant to sections 22-55-106 and 22-55-107 for the term of the contract. If the contract is renegotiated pursuant to paragraph (b) of subsection (6) of this section, the plan shall be updated to reflect any changes in the use of the revenues distributed to the school district OR STATE CHARTER SCHOOL INSTITUTE pursuant to sections 22-55-106 and 22-55-107.

(5) **Student performance.** The accreditation contract shall bind the school board to improve each public school's performance, AND SHALL BIND THE STATE CHARTER SCHOOL INSTITUTE TO IMPROVE EACH INSTITUTE CHARTER SCHOOL'S PERFORMANCE, relating to the following:

**SECTION 17.** 22-11-202 (2) (b), Colorado Revised Statutes, is amended to read:

**22-11-202. Accreditation levels. (2) Ratings.** (b) The ratings shall be based upon student achievement on school district standards OR STATE CHARTER SCHOOL INSTITUTE STANDARDS, WHICHEVER IS APPLICABLE, shall be consistent with the ratings for student achievement on the state assessments, and shall indicate the public schools', ~~and school districts', AND STATE CHARTER SCHOOL INSTITUTE'S~~ performance on the accreditation indicators.

**SECTION 18.** 22-11-203 (2), Colorado Revised Statutes, is amended to read:

**22-11-203. Monitoring of accreditation contracts.** (2) The department shall provide technical assistance to THE STATE CHARTER SCHOOL INSTITUTE OR TO any school district of the state that requests such assistance in order to improve its performance on the accreditation indicators.

**SECTION 19.** 22-11-204, Colorado Revised Statutes, is amended to read:

**22-11-204. Corrective action cycle. (1) Level one: Notice.** (a) At any time during the term of the accreditation contract, if a school district OR THE STATE CHARTER SCHOOL INSTITUTE fails to comply with any of the provisions of the accreditation contract, the department shall notify the school district OR THE STATE CHARTER SCHOOL INSTITUTE of the nature of the ~~school district's~~ lack of compliance. This notice shall constitute level one in the corrective action cycle.

(b) After receipt of the notice pursuant to paragraph (a) of this subsection (1), a school district OR THE STATE CHARTER SCHOOL INSTITUTE shall submit a plan to remedy its lack of compliance to the department. The plan shall be submitted within a specific time period commencing immediately after ~~the school district's~~ receipt of the notice which shall be established in state board rules. The department shall approve or deny the school district's OR THE STATE CHARTER SCHOOL INSTITUTE'S plan to remedy its lack of compliance within a time period from the date of the plan's submission that shall be established in rules promulgated by the state board.

(c) Upon ~~a school district's~~ THE request OF A SCHOOL DISTRICT OR THE STATE CHARTER SCHOOL INSTITUTE, the department shall provide technical assistance to the school district OR THE STATE CHARTER SCHOOL INSTITUTE in connection with the areas in which the school district OR THE STATE CHARTER SCHOOL INSTITUTE is out of compliance.

**(2) Level two: Probation.** (a) Pursuant to rules established by the state board, the state board shall place a school district OR THE STATE CHARTER SCHOOL INSTITUTE on probationary status if the school district OR INSTITUTE fails to implement the plan submitted pursuant to paragraph (b) of subsection (1) of this section. Probation shall constitute level two in the corrective action cycle. The rules of the state board shall include a process for THE STATE CHARTER SCHOOL INSTITUTE'S OR a school district's right to a hearing before the board in order to determine whether the school district OR THE STATE CHARTER SCHOOL INSTITUTE had implemented the plan pursuant to paragraph (b) of subsection (1) of this section.

(b) The department shall provide technical assistance to THE STATE CHARTER SCHOOL INSTITUTE OR a school district that is on probationary status upon the request of the INSTITUTE OR school district.

(3) **Level three: Nonaccreditation status.** Pursuant to rules established by the state board, the state board may remove a school district's OR THE STATE CHARTER SCHOOL INSTITUTE'S accreditation if the school district OR THE INSTITUTE fails to remedy its lack of compliance. The rules of the state board shall include a process for a school district's OR THE STATE CHARTER SCHOOL INSTITUTE'S right to a hearing before the board in order to determine whether the school district OR THE STATE CHARTER SCHOOL INSTITUTE had remedied its lack of compliance. Removal of accreditation may result in reorganization of the school district as provided in section 22-30-105. THE STATE BOARD SHALL PROMULGATE RULES THAT DESCRIBE THE OVERSIGHT OF INSTITUTE CHARTER SCHOOLS IF THE INSTITUTE'S ACCREDITATION IS REMOVED.

**SECTION 20.** 22-11-301 (2), Colorado Revised Statutes, is amended to read:

**22-11-301. Colorado school awards program - created - rules.** (2) For purposes of this part 3, "public school" means a public school of a school district in this state OR AN INSTITUTE CHARTER SCHOOL.

**SECTION 21.** 22-11-303 (2), Colorado Revised Statutes, is amended to read:

**22-11-303. Colorado school awards program - distribution of award.** (2) Any moneys made available to a public school OF A SCHOOL DISTRICT in the form of an award pursuant to the provisions of this part 3 shall not supplant moneys made available to such public school from funding received by the school district pursuant to article 54 of this title or pursuant to the taxing authority of the school district. ANY MONEYS MADE AVAILABLE TO AN INSTITUTE CHARTER SCHOOL IN THE FORM OF AN AWARD PURSUANT TO THE PROVISIONS OF THIS PART 3 SHALL NOT SUPPLANT MONEYS PAYABLE TO THE INSTITUTE CHARTER SCHOOL PURSUANT TO PART 5 OF ARTICLE 30.5 OF THIS TITLE.

**SECTION 22.** 22-20-103 (1) and (5.5), Colorado Revised Statutes, are amended, and the said 22-20-103 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

**22-20-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Administrative unit" means a school district, ~~or~~ a board of cooperative services, OR THE STATE CHARTER SCHOOL INSTITUTE, that is providing educational services to exceptional children and that is responsible for the local administration of this article.

(2.5) "DISTRICT CHARTER SCHOOL" MEANS A CHARTER SCHOOL AUTHORIZED BY A SCHOOL DISTRICT PURSUANT TO PART 1 OF ARTICLE 30.5 OF THIS TITLE.

(5.5) "Least restrictive environment" means programs used to educate a child with a disability using the delivery system most appropriately meeting the needs of the child, and, to the extent possible, as determined by the local board of education OR THE STATE CHARTER SCHOOL INSTITUTE, subject to the appeals procedures outlined in section 22-20-108 (3), the term means an environment in which a child with a disability is educated with children without disabilities, unless the nature or severity

of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily, or, when provided with supplementary aids and services, the nature or severity of the disability is so disruptive that the education of other children in such classes would be significantly impaired.

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

**SECTION 23.** 22-20-104 (1) and (4), Colorado Revised Statutes, are amended to read:

**22-20-104. Administration.** (1) This article shall be administered by the department. Administration of this article shall include the recommendation to the state board of reasonable criteria, rules, and regulations; recommended minimum standards for facilities, materials, equipment, and personnel; and recommended assessment criteria for identifying exceptional children, their level of disability or exception, and the special services needed. The state board shall adopt appropriate recommendations following public hearings in several locations throughout the state with respect to the suggested criteria, rules, regulations, and standards. Recommendations adopted by the state board shall be in accord with the legislative declaration set forth in section 22-20-102. Any school district ~~which~~ OR THE STATE CHARTER SCHOOL INSTITUTE THAT provides plans, programs, or services which do not reasonably satisfy the criteria, rules, regulations, and standards recommended by the state board will be provided by the department of education with a detailed analysis of any discrepancies noted along with specific recommendations for their correction. Funding will be provided or continued for a reasonable period of time, as determined by the department, to allow the ~~local~~ SCHOOL district OR THE STATE CHARTER SCHOOL INSTITUTE opportunity to satisfy the recommended criteria, rules, regulations, and standards, or to establish a claim for variance based upon conditions indigenous to a ~~local~~ SCHOOL district OR UNIQUE TO THE STATE CHARTER SCHOOL INSTITUTE.

(4) To comply with this section, the department shall maintain a data and information system on children, personnel, costs, and revenues, and such data and information shall be used to ensure that state moneys provided to districts AND THE STATE CHARTER SCHOOL INSTITUTE under the provisions of section 22-20-106 (1) are being spent only on special education services and programs.

**SECTION 24.** 22-20-106 (1), (2), and (3), Colorado Revised Statutes, are amended to read:

**22-20-106. Special educational programs.** (1) By September 1, 1973, every school district in the state shall be either an administrative unit in itself or in a board of cooperative services which shall be designated as an administrative unit. THE STATE CHARTER SCHOOL INSTITUTE SHALL BE AN ADMINISTRATIVE UNIT FOR THE PURPOSE OF DELIVERING SPECIAL EDUCATION SERVICES TO ALL INSTITUTE CHARTER SCHOOLS AND SHALL MEET THE CRITERIA ESTABLISHED BY THE STATE BOARD GOVERNING THE DUTIES AND RESPONSIBILITIES OF THE DIRECTOR OF SPECIAL EDUCATION. An administrative unit shall ALSO be a school district or board of cooperative services ~~which~~ THAT meets criteria established by the state board governing the duties and responsibilities of the director of special education and is



either a board of cooperative services ~~which~~ THAT conducts special educational programs for all school districts ~~which~~ THAT are members of the board of cooperative services or is a school district ~~which~~ THAT meets criteria of geographic size, location, and number of pupils established by the state board to achieve maximum efficiency in administering programs of special education. Although the state board shall define the qualifications and the general duties and responsibilities of directors of special education, such directors shall be regarded for all purposes as employees of their local administrative units and subject to the administrative direction of such units.

(2) Each administrative unit shall submit a plan to the department indicating how the school district OR THE STATE CHARTER SCHOOL INSTITUTE will provide for education of all children with disabilities between the ages of five and twenty-one and, on and after January 1, 1992, between the ages of three and twenty-one. Each unit plan shall include the type and number of children with disabilities in the unit based upon the department's criteria of incidence, the services to be provided, and the estimated resources necessary. An addendum to the administrative unit's plan to cover gifted children may be submitted by January 1, 1980.

(3) Administrative units shall make available special educational services for the education of any child with a disability between the ages of five and twenty-one and, on and after January 1, 1992, between the ages of three and twenty-one under jurisdiction of the administrative unit and may serve gifted students. In providing these services, an administrative unit shall pay for salaries and employee benefits of certified special education teachers and special education staff; equipment; in-service training of the staff of an administrative unit who have pupil contact; mileage expenses incurred by staff; the costs of educational services for a child in an eligible facility; or any other expenses related to special education. Special education services may be provided by community centered boards in cooperation with administrative units, ~~and~~ school districts, AND THE STATE CHARTER SCHOOL INSTITUTE. SPECIAL EDUCATION SERVICES MAY BE PROVIDED BY THE STATE CHARTER SCHOOL INSTITUTE THROUGH CONTRACTS WITH SCHOOL DISTRICTS OR BOARDS OF COOPERATIVE SERVICES.

**SECTION 25.** 22-20-108 (1), (3), (4), (4.5) (e), (4.5) (f), (4.7) (b), (4.7) (g), (5) (d), (7) (a), (9), and (10), Colorado Revised Statutes, are amended to read:

**22-20-108. Determination of disability - enrollment.** (1) The determination that a child has a disability and the recommendation for placement of that child in an individual educational program shall be made by a committee of professionally qualified personnel designated by the board of education of the school district, BY THE STATE CHARTER SCHOOL INSTITUTE BOARD, or by the governing board of the board of cooperative services if the administrative unit encompasses more than a single school district. The composition of the committee shall be prescribed by the state board and may be composed of but not limited to the following: The director of special education for the administrative unit, a psychologist, a social worker, a physician, a school administrator, and a teacher of children with disabilities. The committee shall utilize guidelines recommended by the department to determine the least restrictive environment in which to educate the child. In the event that placement in a community center for the retarded and for persons with serious disabilities is considered appropriate for the needs of a child with a disability, a joint placement committee composed of professional personnel, as described in this

section, representing the administrative unit and the community center for the retarded and for persons with serious disabilities, may recommend placement in such center. The committee shall give parents of a child with an alleged disability an opportunity to consult with the committee or a representative thereof prior to determination that their child has a disability.

(3) (a) In the event of an appeal of the determination of the disability or of the placement of a child in an individual educational program pursuant to subsection (1) of this section, or an appeal of the program to be offered, the ~~local~~ school district OR THE STATE CHARTER SCHOOL INSTITUTE shall first appoint an administrative law judge to make findings of fact and a recommendation concerning the matter at issue. The findings of fact and recommendation shall be delivered to the ~~local~~ SCHOOL DISTRICT board of education OR THE STATE CHARTER SCHOOL INSTITUTE BOARD.

(b) If EITHER the ~~local~~ SCHOOL DISTRICT board of education or THE STATE CHARTER SCHOOL INSTITUTE BOARD AND the parent or guardian ~~disagrees~~ DISAGREE with the findings of the administrative law judge, either party may appeal to the commissioner of education for review. This review shall be conducted in accordance with procedures and timetables established by the state board of education, and a decision concerning the review shall be returned to the school district OR THE STATE CHARTER SCHOOL INSTITUTE and the parent or guardian.

(4) Each child determined to have a disability by the committee pursuant to subsection (1) of this section shall be provided with an individual educational program which shall be developed in accordance with requirements established by the state board of education and shall be reviewed annually. Such individual educational program shall specify whether such student shall achieve the content standards adopted by the district in which such student is enrolled OR BY THE STATE CHARTER SCHOOL INSTITUTE or whether such student shall achieve individualized standards which would indicate the student has met the requirements of such student's individual educational program. When a child with a disability is to be placed outside of the district of residence, the receiving agency, institution, INSTITUTE CHARTER SCHOOL, or school district providing the services shall cooperate in the development of the individual educational program. The individual educational program shall be coordinated with all individual plans required by other federal or state programs in order to provide for maximum coordination of service to the child with a disability, which may include the provision of appropriate services for the child with a disability, by agreement or contract with public agencies or nonprofit organizations or residential child care facilities. For children placed without the prior written approval of the school district of residence, the individual educational program shall be the responsibility of the facility providing the individual educational program.

(4.5) (e) Nothing in this subsection (4.5) shall require a school district OR THE STATE CHARTER SCHOOL INSTITUTE to expend additional resources or hire additional personnel to implement the provisions of this section.

(f) On or before June 1, 1995, the department of education shall develop guidelines for caseload management for instructors of blind children in the school districts AND INSTITUTE CHARTER SCHOOLS of the state. Such guidelines will evaluate how much instructional time should be allotted for blind children, will reflect the varying levels

of severity of such children's needs, and will be renewed and updated on a periodic basis to incorporate current research and practice.

(4.7) (b) To enable a parent to make informed decisions concerning which educational options are best suited to the parent's child, all of the educational options provided by the school district OR THE STATE CHARTER SCHOOL INSTITUTE and available to the child at the time the child's individual educational program is prepared shall be explained to the parent.

(g) Nothing in this subsection (4.7) shall require a school district OR THE STATE CHARTER SCHOOL INSTITUTE to expend additional resources or hire additional personnel to implement the provisions of this subsection (4.7).

(5) In formulating recommendations for placement of a child with a disability, the committee shall:

(d) Consider the cost to the school district OR THE STATE CHARTER SCHOOL INSTITUTE when choosing between two or more appropriate placements.

(7) (a) When it is recommended by a school district OR THE STATE CHARTER SCHOOL INSTITUTE that a child be placed in a residential setting operated by a state agency outside of ~~his~~ THE CHILD'S current district of residence, it is the duty of the current district of residence to notify the agency to which it is recommended that the child be sent, and the school district in which the agency is located, of the child's potential placement in such agency in the school district. The receiving agency and the receiving school district shall provide staff input into the final decision regarding placement. In the event that a disagreement exists between the recommending school district OR THE STATE CHARTER SCHOOL INSTITUTE and the agency and school district receiving the child regarding the placement, the commissioner of education and the director of the state agency under which the facility or program in which the child is being placed is operated shall make the final determination of the placement.

(9) If a teacher of a child with a disability determines that the child's presence in a general education classroom is so disruptive that other children's learning in the class is significantly impaired, the teacher may utilize the district's OR THE STATE CHARTER SCHOOL INSTITUTE'S regular in-school disciplinary procedure unless it would be inconsistent with the child's individual educational program, or may request a review of the individual educational program or behavior plan or both to consider changes in services or placement. In making any such determination for placement or plan of discipline for the child, the teacher, the principal, and the staffing committee, if applicable, shall use the guidelines recommended by the department.

(10) ~~No~~ A school, school district, ~~or~~ THE STATE CHARTER SCHOOL INSTITUTE, OR AN administrative unit that receives funds under article 54 of this title shall NOT implement or enforce any rule or policy of the state department of education that requires or permits an administrative unit to appoint a person to act as an educational surrogate parent for the purpose of making educational decisions regarding a child's placement in special education services or for the purpose of consenting or refusing to consent to assessments prior to placement when the child's parent is unknown, unavailable, or fails to respond after reasonable efforts.

**SECTION 26.** 22-20-109 (5), Colorado Revised Statutes, is amended to read:

**22-20-109. Tuition.** (5) When a child with a disability enrolls in and attends a DISTRICT charter school pursuant to the provisions of part 1 of article 30.5 of this title, the district of residence shall be responsible for paying to the DISTRICT charter school the tuition charge for the excess costs incurred in educating the child. The amount of the tuition charge shall be determined pursuant to guidelines developed by the department. Under the circumstances described in this subsection (5), the provisions of section 22-20-108 (8) shall not apply.

**SECTION 27.** 22-20-114 (1) (b.7) (II) and (2), Colorado Revised Statutes, are amended to read:

**22-20-114. Funding of programs.** (1) (b.7) (II) For the 1997-98 budget year and budget years thereafter, any increase in the appropriation made to the department over the amount distributed in accordance with subparagraph (I) of this paragraph (b.7) shall be distributed to a school district OR THE STATE CHARTER SCHOOL INSTITUTE in proportion to the number of children with disabilities residing in ~~such~~ THE district OR THE NUMBER OF CHILDREN WITH DISABILITIES ENROLLED IN INSTITUTE CHARTER SCHOOLS, divided by the total number of children with disabilities in the state. The increase in the appropriation to be distributed to school districts AND THE STATE CHARTER SCHOOL INSTITUTE pursuant to this paragraph (b.7) shall be distributed as soon as practicable after the beginning of the fiscal year. For purposes of this paragraph (b.7), the number of children with disabilities shall be based upon the count taken in December of the immediately preceding budget year.

(2) Payments made under the provisions of this article shall in no way affect the amount of other state aid for which a school district OR AN INSTITUTE CHARTER SCHOOL may qualify.

**SECTION 28.** 22-20-116 (6) and (7), Colorado Revised Statutes, are amended to read:

**22-20-116. Minimum standards for educational interpreters for the deaf in the public schools - committee to recommend standards - rules.** (6) After review and study of the recommendations of the interpreter standards committee, the state board, on or before July 1, 1998, shall promulgate rules setting minimum standards for educational interpreters for the deaf employed by or in the public schools in this state. The state board may revise and amend such minimum standards as it deems necessary. The state board shall promulgate rules that set forth the documentation that a person seeking employment as an educational interpreter for the deaf in a public school must submit to the EMPLOYING school district OR TO THE STATE CHARTER SCHOOL INSTITUTE.

(7) On or after July 1, 2000, in addition to any other requirements that a school district OR THE STATE CHARTER SCHOOL INSTITUTE establishes, any person employed as an educational interpreter for deaf students on a full-time or part-time basis by or in a school district OR AN INSTITUTE CHARTER SCHOOL shall meet the minimum standards for educational interpreters for the deaf as established by rules of the state board.

**SECTION 29.** 22-24-102, Colorado Revised Statutes, is amended to read:

**22-24-102. Legislative declaration.** The general assembly hereby finds, determines, and declares that there are substantial numbers of students in this state whose educational potential is severely restricted because a language other than English is their primary means of communication. The general assembly recognizes the need to provide for transitional programs to improve the English language skills of these students. The general assembly declares that, in order to improve educational and career opportunities for every student in this state, it is the purpose of this article to provide for the establishment of an English language proficiency program in the public schools and to provide for the distribution of moneys to the several school districts AND THE STATE CHARTER SCHOOL INSTITUTE to help defray the costs of such program.

**SECTION 30.** 22-24-103 (3) and the introductory portion to 22-24-103 (4), Colorado Revised Statutes, are amended, and the said 22-24-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**22-24-103. Definitions.** As used in this article, unless the context otherwise requires:

(3) "Program" means the English language proficiency program created by this article. Design and implementation of programs shall be the function of the districts AND THE STATE CHARTER SCHOOL INSTITUTE.

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

(4) "Student whose dominant language is not English" means a public school student whose academic achievement and English language proficiency are determined by ~~his local~~ THE STUDENT'S school district OR THE STATE CHARTER SCHOOL INSTITUTE, using instruments and tests approved by the department, to be impaired because of ~~his~~ THE STUDENT'S inability to comprehend or speak English adequately due to the influence of a language other than English and who is one or more of the following:

**SECTION 31.** 22-24-104, Colorado Revised Statutes, is amended to read:

**22-24-104. English language proficiency program established - funding.**

(1) There is hereby established an English language proficiency program for students in kindergarten and grades one through twelve whose dominant language is not English.

(2) The purpose of the program is to provide assistance to districts AND INSTITUTE CHARTER SCHOOLS having students whose dominant language is not English.

(3) No district OR INSTITUTE CHARTER SCHOOL shall be eligible for more than two fiscal years of state entitlement moneys on behalf of a student identified for inclusion in this state-assisted program.

(4)(a) The general assembly shall make an annual appropriation to the department

for the implementation of this article. Funding for the program shall be from the department to the districts AND TO THE STATE CHARTER SCHOOL INSTITUTE on a per-student basis. That portion of the annual appropriation scheduled for distribution to the districts AND THE STATE CHARTER SCHOOL INSTITUTE shall be paid to the districts AND THE STATE CHARTER SCHOOL INSTITUTE upon the determination, pursuant to section 22-24-106 (1) (d), of the number of students in each district OR INSTITUTE CHARTER SCHOOL to be included in the program.

(b) The general assembly shall annually make a separate appropriation to the department of education to cover the state's share of the estimated cost pursuant to the provisions of this section. If the amount of the appropriation made is less than the total amount determined to be the state's actual share of support to be provided all eligible students pursuant to the provisions of this section, then the amount to be distributed to any district OR TO THE STATE CHARTER SCHOOL INSTITUTE shall be in the same proportion as the amount of the appropriation made bears to such total amount determined to be the state's actual share.

(c) (I) An amount equal to seventy-five percent of the appropriation made to the department for the 1998-99 fiscal year plus any increase in the annual appropriation made to the department over the appropriation made for the 1998-99 fiscal year or the amount needed to fully fund the program pursuant to this subparagraph (I), whichever is less, shall be used by the districts AND THE STATE CHARTER SCHOOL INSTITUTE for students certified to be within section 22-24-103 (4) (a) or (4) (b). No such student shall be funded for more than an amount equal to four hundred dollars per year or an amount equal to twenty percent of the state average per pupil operating revenues, as defined in section 22-54-103 (12) for the preceding year as annually determined by the department, whichever is greater.

(II) The remainder of the annual appropriation shall be used by the districts AND THE STATE CHARTER SCHOOL INSTITUTE for students certified to be within section 22-24-103 (4) (c). No such student shall be funded for an amount greater than two hundred dollars per year or an amount equal to ten percent of the state average per pupil operating revenues, as defined in section 22-54-103 (12), for the preceding year as annually determined by the department, whichever is greater.

(III) Any appropriated moneys not distributed by the department pursuant to subparagraph (I) of this paragraph (c) may be distributed by the department pursuant to subparagraph (II) of this paragraph (c). Any appropriated moneys not distributed by the department pursuant to subparagraph (II) of this paragraph (c) may be distributed pursuant to subparagraph (I) of this paragraph (c).

(5) Each district AND THE STATE CHARTER SCHOOL INSTITUTE shall provide the programs for district AND INSTITUTE CHARTER SCHOOL students whose dominant language is not English; except that districts AND THE STATE CHARTER SCHOOL INSTITUTE may cooperate in carrying out the provisions of this article.

(6) Nothing in this article shall be construed to prohibit use of moneys made available under this article by a district OR THE STATE CHARTER SCHOOL INSTITUTE for bilingual programs, English-as-a-second-language programs, or any other method of achieving the purposes of this article. Districts AND THE STATE CHARTER SCHOOL INSTITUTE conducting such programs shall receive moneys made available under this

article only on the basis of the number of students whose dominant language is not English enrolled in such programs.

**SECTION 32.** The introductory portion to 22-24-105 (1) and 22-24-105 (1) (b) (II), (1) (c), and (2), Colorado Revised Statutes, are amended to read:

**22-24-105. District - powers and duties - repeal.** (1) It is the duty of each district AND THE STATE CHARTER SCHOOL INSTITUTE to:

(b) (II) Notwithstanding the provisions of subparagraph (I) of this paragraph (b), for the school years 2002-03, 2003-04, and 2004-05, a district OR THE STATE CHARTER SCHOOL INSTITUTE may assess students whose dominant language may not be English using any of the instruments or techniques approved by the department prior to January 1, 2002. This subparagraph (II) is repealed, effective July 1, 2005.

(c) Certify each year to the department those students in the district OR IN INSTITUTE CHARTER SCHOOLS whose dominant language is not English, including specification of the number of non-English languages identified as dominant languages and of the number of students who speak each non-English language as their dominant language;

(2) The assessment described in paragraph (b) of subsection (1) of this section and the certification described in paragraph (c) of subsection (1) of this section shall be conducted on at least an annual basis and each district AND THE STATE CHARTER SCHOOL INSTITUTE shall present the results therefrom to the department for inclusion in the relevant annual report of achievement of accreditation indicators required by section 22-11-105.

**SECTION 33.** 22-24-106 (1) (a), (1) (b), (1) (c), and (1) (d), Colorado Revised Statutes, are amended to read:

**22-24-106. Department - powers and duties - advisory commission - repeal.** (1) It is the duty of the department to:

(a) Develop and approve a single instrument or technique to be used by districts AND THE STATE CHARTER SCHOOL INSTITUTE in identifying eligible students;

(b) Provide assistance, on request, to districts AND THE STATE CHARTER SCHOOL INSTITUTE in the identification and assessment of students;

(c) Audit the identification and testing procedures used by the districts AND THE STATE CHARTER SCHOOL INSTITUTE and evaluate the effectiveness of the programs conducted by districts AND THE STATE CHARTER SCHOOL INSTITUTE;

(d) Determine which students are to be counted as eligible for purposes of calculating the district's OR THE STATE CHARTER SCHOOL INSTITUTE'S entitlement;

**SECTION 34.** 22-30.5-112 (2) (a) (III) (A), (2) (b.5), and (5), Colorado Revised Statutes, are amended 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) AND EXCEPT AS OTHERWISE PROVIDED IN SECTION 22-30.5-513 (7), each charter school and the authorizing school district shall negotiate funding under the contract at a minimum of ninety-five percent of the district per pupil revenues for each pupil enrolled in the charter school who is not an on-line pupil and ninety-five percent of the district per pupil on-line funding for each on-line pupil enrolled in the charter school. The school district may choose to retain the actual amount of the charter school's per pupil share of the central administrative overhead costs for services actually provided to the charter school; except that such amount shall not exceed five percent of the district per pupil revenues for each pupil who is not an on-line pupil enrolled in the charter school and five percent of the district per pupil on-line funding for each on-line pupil enrolled in the charter school.

(2) (b.5) (I) The charter school ~~may agree with~~ AND the school district ~~to pay~~ SHALL NEGOTIATE PRIOR TO THE BEGINNING OF EACH FISCAL YEAR FOR THE PAYMENT TO THE SCHOOL DISTRICT OF any ~~actual~~ DIRECT costs incurred by the school district. ~~in providing unique support services used only by the charter school.~~ IF THE CHARTER SCHOOL AND THE SCHOOL DISTRICT DO NOT REACH AGREEMENT REGARDING THE PAYMENT OF DIRECT COSTS, THE SCHOOL DISTRICT SHALL BE BARRED FROM WITHHOLDING FROM THE CHARTER SCHOOL ANY MONEYS AS REIMBURSEMENT FOR DIRECT COSTS. THE SCHOOL DISTRICT SHALL PROVIDE AN ITEMIZED ACCOUNTING TO EACH CHARTER SCHOOL FOR THE DIRECT COSTS INCURRED BY THE SCHOOL DISTRICT WITH THE ITEMIZED ACCOUNTING PROVIDED PURSUANT TO PARAGRAPH (a.4) OF THIS SUBSECTION (2).

(II) FOR PURPOSES OF THIS PARAGRAPH (b.5), "DIRECT COSTS" MEANS THE DIRECT COSTS INCURRED BY A SCHOOL DISTRICT SOLELY FOR THE PURPOSE OF REVIEWING CHARTER APPLICATIONS, NEGOTIATING THE CHARTER CONTRACT, AND PROVIDING DIRECT OVERSIGHT TO CHARTER SCHOOLS. "DIRECT COSTS" SHALL NOT INCLUDE THE SCHOOL DISTRICT'S LEGAL OR OTHER COSTS ATTRIBUTABLE TO LITIGATION OR THE RESOLUTION OF A DISPUTE WITH 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 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 35.** 22-30.5-113 (1) and (3), Colorado Revised Statutes, are amended to read:

**22-30.5-113. Charter schools - evaluation - report.** (1) The state board shall compile evaluations of charter schools received from local boards of education. THE STATE BOARD SHALL ALSO COMPILE RELEVANT INFORMATION RECEIVED FROM THE STATE CHARTER SCHOOL INSTITUTE INVOLVING INSTITUTE CHARTER SCHOOLS AUTHORIZED PURSUANT TO PART 5 OF THIS ARTICLE. The state board shall review information regarding the regulations and policies from which charter schools AND INSTITUTE CHARTER SCHOOLS were released pursuant to section 22-30.5-105 AND SECTION 22-30.5-508, RESPECTIVELY, to determine if the releases assisted or impeded



the charter schools AND 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 36.** 22-30.5-406 (1) (c), Colorado Revised Statutes, is amended to read:

**22-30.5-406. Direct payment of charter school bonds by the state treasurer and school districts.** (1) (c) (I) IN THE CASE OF A CHARTER SCHOOL AUTHORIZED BY A SCHOOL DISTRICT BOARD OF EDUCATION, the state treasurer shall withhold the amount of any direct payments made on behalf of a charter school plus administrative costs associated with the making of direct payments in an amount agreed upon by the state treasurer and the charter school from the payments to the chartering district of the state share of the district's total program made pursuant to article 54 of this title. The state treasurer shall notify the chief financial officers of the chartering district and the charter school of any amount of moneys withheld and the chartering district shall reduce the amount of funding it provides to the charter school by said amount. Any administrative costs withheld by the state treasurer pursuant to this ~~paragraph~~ ~~(c)~~ SUBPARAGRAPH (I) shall be credited to the charter school financing administrative cash fund, which fund is hereby created. Moneys in the fund shall be continuously appropriated to the state treasurer for the direct and indirect costs of the administration of this section. Moneys in the charter school financing administrative cash fund shall remain in the fund and shall not revert to the general fund at the end of any fiscal year.

(II) IN THE CASE OF AN INSTITUTE CHARTER SCHOOL, THE STATE TREASURER SHALL WITHHOLD THE AMOUNT OF ANY DIRECT PAYMENTS MADE ON BEHALF OF AN INSTITUTE CHARTER SCHOOL PLUS ADMINISTRATIVE COSTS ASSOCIATED WITH THE MAKING OF DIRECT PAYMENTS IN AN AMOUNT AGREED UPON BY THE STATE TREASURER AND THE INSTITUTE CHARTER SCHOOL FROM THE PAYMENTS TO THE STATE CHARTER SCHOOL INSTITUTE MADE BY THE DEPARTMENT OF EDUCATION PURSUANT TO ARTICLE 54 OF THIS TITLE. THE STATE TREASURER SHALL NOTIFY THE DEPARTMENT OF EDUCATION, THE STATE CHARTER SCHOOL INSTITUTE, AND THE CHIEF FINANCIAL OFFICER OF THE INSTITUTE CHARTER SCHOOL OF ANY AMOUNT OF MONEYS WITHHELD. ANY ADMINISTRATIVE COSTS WITHHELD BY THE STATE TREASURER PURSUANT TO THIS SUBPARAGRAPH (II) SHALL BE CREDITED TO THE CHARTER SCHOOL FINANCING ADMINISTRATIVE CASH FUND CREATED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (c).

**SECTION 37.** 22-30.5-407 (7), Colorado Revised Statutes, is amended to read:

**22-30.5-407. Charter school debt state reserve fund - creation - use of fund moneys - legislative declaration.** (7) A qualified charter school that chooses to finance capital construction with revenues from bonds issued on behalf of the qualified charter school by the Colorado educational and cultural facilities authority created in section 23-15-104 (1) (a), C.R.S., shall request that the state treasurer make direct payments of principal and interest on the bonds on behalf of the qualified

charter school in accordance with section 22-30.5-406 (1). If the state treasurer does not agree to make direct payments AND THE QUALIFIED CHARTER SCHOOL IS A DISTRICT CHARTER SCHOOL, the qualified charter school shall request that its chartering district make direct payments in accordance with section 22-30.5-406 (2). IF THE STATE TREASURER DOES NOT AGREE TO MAKE DIRECT PAYMENTS AND THE QUALIFIED CHARTER SCHOOL IS AN INSTITUTE CHARTER SCHOOL, THE QUALIFIED CHARTER SCHOOL SHALL REQUEST THAT THE STATE CHARTER SCHOOL INSTITUTE MAKE DIRECT PAYMENTS OF PRINCIPAL AND INTEREST ON THE BONDS ON BEHALF OF THE INSTITUTE CHARTER SCHOOL.

**SECTION 38.** 22-30.5-408 (1) (b), Colorado Revised Statutes, is amended to read:

**22-30.5-408. Replenishment of qualified charter school debt service reserve funds.** (1) As used in this section:

(b) "Qualified charter school" means a charter school THAT IS DESCRIBED IN SECTION 22-30.5-104 OR AN INSTITUTE CHARTER SCHOOL AS THAT TERM IS DEFINED IN SECTION 22-30.5-502 that has a stand-alone credit assessment or rating of at least investment grade by a nationally recognized rating agency at the time of issuance of any qualified charter school bonds on behalf of the charter school by the Colorado educational and cultural facilities authority pursuant to the "Colorado Educational and Cultural Facilities Authority Act", article 15 of title 23, C.R.S., and that has been certified as a qualified charter school by the state treasurer.

**SECTION 39.** 22-32-124 (1.5), Colorado Revised Statutes, is amended to read:

**22-32-124. Building codes - zoning - planning.** (1.5) (a) Prior to contracting for a facility, a charter school shall advise in writing the planning commission, or governing body if no planning commission exists, which has jurisdiction over the territory in which the site is proposed to be located. The relevant planning commission or governing body may request the charter school to submit a site development plan for the proposed facility, but must issue such request, if any, within ten days after receiving the written advisement. If requested by the relevant planning commission or governing body, the charter school, acting on behalf of its sponsoring school board, shall submit such a site development plan. The relevant planning commission or governing body may review and comment on such plan to the governing body of the charter school, but must do so, if at all, within thirty days after receiving such plan. The relevant planning commission or governing body, if not satisfied with the response to such comments, may request a hearing before the board of education regarding such plan. Such hearing shall be held, if at all, within thirty days after the request of the relevant planning commission or governing body. The charter school then may proceed with its site development plan unless prohibited from doing so by school board resolution.

(b) AN INSTITUTE CHARTER SCHOOL AUTHORIZED PURSUANT TO PART 5 OF ARTICLE 30.5 OF THIS TITLE SHALL PROCEED PURSUANT TO THE PROVISIONS OF THIS SUBSECTION (1.5). NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (1.5) TO THE CONTRARY, THE RELEVANT PLANNING COMMISSION OR GOVERNING BODY MAY REQUEST A HEARING BEFORE THE STATE BOARD OF EDUCATION. THE INSTITUTE CHARTER SCHOOL THEN MAY PROCEED WITH ITS SITE

DEVELOPMENT PLAN UNLESS PROHIBITED FROM DOING SO BY THE STATE BOARD OF EDUCATION.

**SECTION 40.** 22-33-105, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**22-33-105. Suspension, expulsion, and denial of admission.**

(7) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART I TO THE CONTRARY:

(a) AN INSTITUTE CHARTER SCHOOL AUTHORIZED PURSUANT TO PART 5 OF ARTICLE 30.5 OF THIS TITLE MAY CARRY OUT THE FUNCTIONS OF A SUSPENDING AUTHORITY PURSUANT TO THIS SECTION; AND

(b) THE STATE CHARTER SCHOOL INSTITUTE CREATED IN PART 5 OF ARTICLE 30.5 OF THIS TITLE MAY CARRY OUT THE FUNCTIONS OF A SCHOOL DISTRICT AND ITS BOARD OF EDUCATION WITH RESPECT TO THE SUSPENSION, EXPULSION, OR DENIAL OF ADMISSION OF A STUDENT TO AN INSTITUTE CHARTER SCHOOL.

**SECTION 41.** 22-54-102 (1), Colorado Revised Statutes, is amended to read:

**22-54-102. Legislative declaration - statewide applicability - intergovernmental agreements.** (1) The general assembly hereby finds and declares that this article is enacted in furtherance of the general assembly's duty under section 2 of article IX of the state constitution to provide for a thorough and uniform system of public schools throughout the state; that a thorough and uniform system requires that all school districts AND INSTITUTE CHARTER SCHOOLS operate under the same finance formula; and that equity considerations dictate that all districts AND INSTITUTE CHARTER SCHOOLS be subject to the expenditure and maximum levy provisions of this article. Accordingly, the provisions of this article concerning the financing of public schools for budget years beginning on and after July 1, 1994, shall apply to all school districts AND INSTITUTE CHARTER SCHOOLS organized under the laws of this state.

**SECTION 42.** 22-54-103 (7) (c) and (8.5), Colorado Revised Statutes, are amended, and the said 22-54-103 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

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

(1.3) "ACCOUNTING DISTRICT" MEANS THE SCHOOL DISTRICT WITHIN WHOSE GEOGRAPHIC BOUNDARIES AN INSTITUTE CHARTER SCHOOL IS PHYSICALLY LOCATED.

(7) "Funded pupil count" means:

(c) (I) For budget years commencing on and after July 1, 2003, the district's on-line pupil enrollment for the applicable budget year plus the district's preschool enrollment for the applicable budget year plus the greater of:

(A) The district's pupil enrollment for the applicable budget year; or

(B) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the immediately preceding budget year; or

(C) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the two immediately preceding budget years; or

(D) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the three immediately preceding budget years.

(II) (A) Notwithstanding any provision of law to the contrary, for purposes of subparagraph (I) of this paragraph (c), for any budget year commencing prior to July 1, 2002, the district's pupil enrollment for that budget year shall be the district's pupil enrollment, as defined by paragraph (a) of subsection (10) of this section, as it existed prior to June 7, 2002.

(B) This subparagraph (II) is repealed, effective July 1, 2005.

(III) (A) Notwithstanding any provision of law to the contrary, for purposes of subparagraph (I) of this paragraph (c), for the 2000-01, 2001-02, and 2002-03 budget years, a district's pupil enrollment shall not include any pupils enrolled in a district preschool program pursuant to article 28 of this title.

(B) This subparagraph (III) is repealed, effective July 1, 2006.

(IV) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, FOR PURPOSES OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) FOR BUDGET YEARS BEGINNING ON OR AFTER JULY 1, 2004, A DISTRICT'S FUNDED PUPIL COUNT SHALL INCLUDE THE CERTIFIED PUPIL ENROLLMENT AND ON-LINE PUPIL ENROLLMENT OF EACH OPERATING INSTITUTE CHARTER SCHOOL FOR WHICH THE DISTRICT IS THE ACCOUNTING DISTRICT. THE DEPARTMENT OF EDUCATION SHALL ADD THE INSTITUTE CHARTER SCHOOL'S CERTIFIED PUPIL ENROLLMENT AND ON-LINE PUPIL ENROLLMENT TO THE FUNDED PUPIL COUNT OF THE DISTRICT PRIOR TO CALCULATING THE DISTRICT'S TOTAL PROGRAM PURSUANT TO SECTION 22-54-104.

(7.5) "INSTITUTE CHARTER SCHOOL" MEANS A CHARTER SCHOOL THAT ENTERS INTO A CHARTER CONTRACT WITH THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO THE PROVISIONS OF PART 5 OF ARTICLE 30.5 OF THIS TITLE.

(8.5) "On-line pupil enrollment" means the number of pupils, on October 1 within the applicable budget year or the school day nearest said date, enrolled in, attending, and actively participating in, an on-line program created pursuant to section 22-33-104.6 by the district or by a charter school chartered by the district, minus any such pupils who were enrolled in any such on-line programs for the 2001-02 school year. In addition, "on-line pupil enrollment" means the number of pupils who meet the requirements specified in section 22-33-104.6 (4) (a) and transfer to an on-line program after October 1 of a school year. FOR BUDGET YEARS BEGINNING ON OR AFTER JULY 1, 2004, A DISTRICT'S ON-LINE PUPIL ENROLLMENT SHALL INCLUDE THE CERTIFIED ON-LINE PUPIL ENROLLMENT OF EACH OPERATING INSTITUTE CHARTER SCHOOL FOR WHICH THE DISTRICT IS THE ACCOUNTING DISTRICT. THE DEPARTMENT OF EDUCATION SHALL ADD THE INSTITUTE CHARTER SCHOOL'S CERTIFIED ON-LINE PUPIL ENROLLMENT TO THE ON-LINE PUPIL ENROLLMENT OF THE DISTRICT PRIOR TO

CALCULATING THE DISTRICT'S TOTAL PROGRAM PURSUANT TO SECTION 22-54-104.

(9.3) "PER PUPIL REVENUES" MEANS THE DISTRICT'S TOTAL PROGRAM FOR ANY BUDGET YEAR DIVIDED BY THE DISTRICT'S FUNDED PUPIL COUNT FOR SAID BUDGET YEAR.

**SECTION 43.** 22-54-104 (1), Colorado Revised Statutes, is amended to read:

**22-54-104. District total program.** (1) (a) For every budget year, the provisions of this section shall be used to calculate for each district an amount that represents the financial base of support for public education in that district. Such amount shall be known as the district's total program. The district's total program shall be available to the district to fund the costs of providing public education, and, except as otherwise provided in section 22-54-105, the amounts and purposes for which such moneys are budgeted and expended shall be in the discretion of the district.

(b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (1), IF A DISTRICT IS THE ACCOUNTING DISTRICT OF AN INSTITUTE CHARTER SCHOOL, THEN THE CALCULATION OF TOTAL PROGRAM PURSUANT TO THE PROVISIONS OF THIS SECTION SHALL ALSO REPRESENT THE FINANCIAL BASE OF SUPPORT FOR THE INSTITUTE CHARTER SCHOOL, EVEN THOUGH THE INSTITUTE CHARTER SCHOOL IS NOT A SCHOOL OF THE DISTRICT. THE AMOUNT OF THE DISTRICT'S STATE SHARE OF TOTAL PROGRAM THAT IS WITHHELD FROM THE DISTRICT AND PAID TO THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO THE PROVISIONS OF SECTION 22-54-115 (1.3), SHALL NOT BE AVAILABLE TO NOR UNDER THE CONTROL OF THE DISTRICT, BUT SHALL BE UNDER THE CONTROL OF THE GOVERNING BOARD OF THE INSTITUTE CHARTER SCHOOL TO FUND THE COSTS OF PROVIDING PUBLIC EDUCATION TO PUPILS ENROLLED IN THE INSTITUTE CHARTER SCHOOL, AND THE AMOUNTS AND PURPOSES FOR WHICH SUCH MONEYS ARE BUDGETED AND EXPENDED SHALL BE IN THE DISCRETION OF THE INSTITUTE CHARTER SCHOOL.

**SECTION 44.** 22-54-106 (1) (b) and (4), Colorado Revised Statutes, are amended, and the said 22-54-106 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**22-54-106. Local and state shares of district total program.** (1) (b) Except as provided in ~~subsection (8)~~ SUBSECTIONS (8) AND (11) of this section, the state's share of a district's total program shall be the difference between the district's total program and the district's share of its total program; except that no district shall receive less in state aid than an amount established by the general assembly in the annual general appropriation act based upon the amount of school lands and mineral lease moneys received pursuant to the provisions of article 41 of this title and section 34-63-102 (2), C.R.S., multiplied by the district's funded pupil count.

(4) (a) The general assembly shall make annual appropriations to fund the state's share of the total program of all districts AND TO FUND ALL INSTITUTE CHARTER SCHOOLS.

(b) In the event that the appropriation for the state's share of the total program of all districts, INCLUDING FUNDING FOR INSTITUTE CHARTER SCHOOLS, under this article for any budget year, as established in the general appropriation act, is not sufficient

to fully fund the state's share INCLUDING FUNDING FOR INSTITUTE CHARTER SCHOOLS, the department of education shall submit a request for a supplemental appropriation in an amount which will fully fund the state's share INCLUDING FUNDING FOR INSTITUTE CHARTER SCHOOLS. Such request shall be made to the general assembly during the fiscal year in which such underfunding occurs.

(c) If a supplemental appropriation is not made by the general assembly to fully fund the state's share of the total program of all districts INCLUDING FUNDING FOR INSTITUTE CHARTER SCHOOLS or a supplemental appropriation is made to reduce the state's share of the total program of all districts INCLUDING FUNDING FOR INSTITUTE CHARTER SCHOOLS, the state aid of each district AND THE FUNDING FOR EACH INSTITUTE CHARTER SCHOOL shall be reduced in accordance with the provisions of this paragraph (c). The total program of each district that receives state aid shall be reduced by a percentage determined by dividing the deficit in the appropriation or the reduction in the appropriation, whichever is applicable, by the total program of all districts which receive state aid. The state aid of each district shall be reduced by the amount of the reduction in the district's total program or the amount of state aid, whichever is less. THE FUNDING FOR EACH INSTITUTE CHARTER SCHOOL SHALL BE REDUCED IN PROPORTION TO THE REDUCTION IN THE TOTAL PROGRAM OF THE DISTRICT FROM WHICH THE INSTITUTE CHARTER SCHOOL'S FUNDING IS WITHHELD. The department of education shall see that the reduction in state aid required by this paragraph (c) is accomplished prior to the end of the budget year.

(11) PURSUANT TO THE PROVISIONS OF SECTION 22-54-115, FOR EACH INSTITUTE CHARTER SCHOOL, THE DEPARTMENT OF EDUCATION SHALL WITHHOLD FROM THE STATE SHARE OF THE INSTITUTE CHARTER SCHOOL'S ACCOUNTING DISTRICT THE LESSER OF:

(a) AN AMOUNT EQUAL TO ONE HUNDRED PERCENT OF THE ADJUSTED DISTRICT PER PUPIL REVENUES, AS DEFINED IN SECTION 22-30.5-513 (1) (b), MULTIPLIED BY THE NUMBER OF PUPILS ENROLLED IN THE INSTITUTE CHARTER SCHOOL WHO ARE NOT ON-LINE PUPILS PLUS ONE HUNDRED PERCENT OF THE DISTRICT PER PUPIL ON-LINE FUNDING MULTIPLIED BY THE NUMBER OF ON-LINE PUPILS ENROLLED IN THE INSTITUTE CHARTER SCHOOL; OR

(b) THE TOTAL AMOUNT OF THE STATE SHARE PAYABLE TO THE DISTRICT.

**SECTION 45.** 22-54-112 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**22-54-112. Reports to the state board.** (2) (c) ON OR BEFORE NOVEMBER 10 OF EACH YEAR, THE SECRETARY OF THE STATE CHARTER SCHOOL INSTITUTE BOARD SHALL CERTIFY TO THE STATE BOARD THE PUPIL ENROLLMENT AND THE ON-LINE PUPIL ENROLLMENT OF EACH INSTITUTE CHARTER SCHOOL TAKEN IN THE PRECEDING OCTOBER.

**SECTION 46.** 22-54-114 (1), (2), (2.5), and (4), Colorado Revised Statutes, are amended to read:

**22-54-114. State public school fund.** (1) There is hereby created in the office of the state treasurer a fund, separate from the general fund, to be known as the state

public school fund. There shall be credited to said fund the net balance of the public school income fund existing as of December 31, 1973, and all distributions from the state public school income fund thereafter made, the state's share of all moneys received from the federal government pursuant to the provisions of section 34-63-102, C.R.S., and such additional moneys as shall be appropriated by the general assembly which are necessary to meet the state's share of the total program of all districts, FUNDING FOR INSTITUTE CHARTER SCHOOLS, and the contingency reserve during the budget year. Moneys annually appropriated by the general assembly shall be transferred from the state general fund and credited to the state public school fund in four quarterly installments on July 1, September 30, December 31, and March 31 to assure the availability of funds for the required distribution of state moneys to school districts AND INSTITUTE CHARTER SCHOOLS. Such quarterly installments shall be determined in accordance with estimates prepared by the department of education with respect to the required distribution of state moneys to school districts AND INSTITUTE CHARTER SCHOOLS.

(2) No later than thirty days prior to the beginning of the budget year, the department of education shall determine the estimated requirements in order to provide each district AND EACH INSTITUTE CHARTER SCHOOL the amount it is eligible to receive from the state during the next ensuing fiscal year of the state. The appropriation by the general assembly shall be based on the requirements necessary to provide all districts AND INSTITUTE CHARTER SCHOOLS with the amounts they are each eligible to receive from the state, pursuant to the provisions of this part 1, during the next ensuing fiscal year of the state.

(2.5) The general assembly finds that implementation of section 22-7-603.5, including implementation of rules to uniquely identify individual students, has resulted in more accurate determinations of pupil enrollment and a savings in the amount required to fund the state's share of total program funding for school districts AND INSTITUTE CHARTER SCHOOLS. For the 2003-04 budget year and budget years thereafter, the department of education shall allocate a portion of the amount of the in-year cost recovery occurring as a result of the use of unique student identifiers to fund implementation of the academic growth pilot program and the academic growth program pursuant to section 22-7-603.7. The amount allocated to the academic growth pilot program and the academic growth program pursuant to this subsection (2.5) shall not exceed two hundred thousand dollars in any budget year.

(4) For the 1997-98 fiscal year and fiscal years thereafter, the net amount recovered by the department during the applicable fiscal year, pursuant to school district AND INSTITUTE CHARTER SCHOOL audits, as overpayments made to school districts AND INSTITUTE CHARTER SCHOOLS that would otherwise be transmitted to the state treasurer for deposit in the general fund shall instead be transmitted to the state treasurer for deposit in the state public school fund. Such amount shall be available for appropriation to the department in subsequent fiscal years.

**SECTION 47.** 22-54-115, Colorado Revised Statutes, is amended to read:

**22-54-115. Distribution from state public school fund.** (1) No later than June 30 of each year, the state board shall determine the amount of the state's share of the district's total program for the budget year beginning on July 1, and the total thereof for all districts, which amount shall be payable in twelve approximately equal

monthly payments during such budget year; except that:

(a) Such payments shall be adjusted following the certification of pupil enrollments, the certification of valuations for assessment to the state board pursuant to section 22-54-112 (1) and (2), and the certification of the amount of any impact assistance grants on behalf of school districts pursuant to section 30-25-302, C.R.S.; ~~and~~

(b) Such payments shall be adjusted in accordance with any district's instructions given pursuant to subsection (1.5) of this section; AND

(c) SUCH PAYMENTS SHALL BE ADJUSTED IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION (1.3) OF THIS SECTION.

(1.3) (a) IN DETERMINING THE STATE'S SHARE OF EACH DISTRICT'S TOTAL PROGRAM, THE STATE BOARD SHALL DETERMINE WHETHER THE DISTRICT IS AN ACCOUNTING DISTRICT OF AN INSTITUTE CHARTER SCHOOL. IF A DISTRICT IS AN ACCOUNTING DISTRICT OF AN INSTITUTE CHARTER SCHOOL, THE STATE BOARD SHALL INSTRUCT THE DEPARTMENT OF EDUCATION TO WITHHOLD FROM THE AMOUNT OF THE STATE SHARE OTHERWISE PAYABLE TO THE DISTRICT AN AMOUNT EQUAL TO THE LESSER OF:

(I) ONE HUNDRED PERCENT OF THE ADJUSTED DISTRICT PER PUPIL REVENUES, AS DEFINED IN SECTION 22-30.5-513 (1) (b), MULTIPLIED BY THE NUMBER OF PUPILS ENROLLED IN THE INSTITUTE CHARTER SCHOOL WHO ARE NOT ON-LINE PUPILS PLUS ONE HUNDRED PERCENT OF THE DISTRICT PER PUPIL ON-LINE FUNDING MULTIPLIED BY THE NUMBER OF ON-LINE PUPILS ENROLLED IN THE INSTITUTE CHARTER SCHOOL; OR

(II) THE TOTAL AMOUNT OF THE STATE SHARE PAYABLE TO THE DISTRICT.

(b) THE AMOUNT WITHHELD SHALL BE PAYABLE TO THE STATE CHARTER SCHOOL INSTITUTE, IN TWELVE APPROXIMATELY EQUAL MONTHLY PAYMENTS DURING THE BUDGET YEAR FOR PAYMENT TO THE INSTITUTE CHARTER SCHOOL PURSUANT TO SECTION 22-30.5-513 (4).

(1.5) Any school district may give written instructions to the state board directing that a specified portion of a monthly payment or monthly payments that the district is otherwise entitled to receive pursuant to this section shall be transferred to the division of vocational rehabilitation in the department of human services for the district's cost of participating in school to work alliance programs. Such written instructions shall specify the amount to be transferred to the division of vocational rehabilitation from the district's payment for a specified month or months. Such written instructions shall be given to the state board no later than the fifth day of the first month in which such amount is to be transferred to the division of vocational rehabilitation.

(2) No later than the fifteenth day of each month, the state board shall certify to the state treasurer the amount payable to each district AND TO THE STATE CHARTER SCHOOL INSTITUTE IN ACCORDANCE WITH SUBSECTION (1.3) OF THIS SECTION during said month and the amount, if any, to be transferred to the division of vocational rehabilitation during said month in accordance with subsection (1.5) of this section.



(3) No later than the twenty-fifth day of each month, the state treasurer shall:

(a) Pay the amount certified AS PAYABLE TO EACH DISTRICT, less the total amount of any direct payments made by the state treasurer on behalf of charter schools chartered by each school district of any principal and interest due on bonds pursuant to section 22-30.5-406 directly to the treasurer of each district or, in accordance with written instructions from the district, directly to an account designated by the district that allows the district to retain title to the funds; ~~and~~

(b) Transfer the amount certified, if any, to the division of vocational rehabilitation; AND

(c) PAY THE AMOUNT CERTIFIED AS PAYABLE TO THE STATE CHARTER SCHOOL INSTITUTE DIRECTLY OR, IN ACCORDANCE WITH WRITTEN INSTRUCTIONS FROM THE STATE CHARTER SCHOOL INSTITUTE, DIRECTLY TO AN ACCOUNT DESIGNATED BY THE STATE CHARTER SCHOOL INSTITUTE THAT ALLOWS THE STATE CHARTER SCHOOL INSTITUTE TO RETAIN TITLE TO THE FUNDS.

(4) The state board shall take care to avoid overpayment of state moneys. If it is determined that any district OR THE STATE CHARTER SCHOOL INSTITUTE has been overpaid in any month, the state board shall adjust the following monthly payment or payments to such district OR THE STATE CHARTER SCHOOL INSTITUTE so as to recover the amount overpaid. In the event that an overpayment cannot be recovered, the amount thereof shall be refunded to the state public school fund by the district OR THE STATE CHARTER SCHOOL INSTITUTE receiving the same.

(5) (Deleted by amendment, L. 94, p. 800, § 2, effective April 27, 1994.)

**SECTION 48.** 22-54-120 (2), Colorado Revised Statutes, is amended to read:

**22-54-120. Rules and regulations.** (2) All reports and certifications required from secretaries of boards of education AND FROM INSTITUTE CHARTER SCHOOLS pursuant to the provisions of this article shall be made in such manner and form as may be prescribed by the state board.

**SECTION 49.** 22-54-122 (2), (3), and (4), Colorado Revised Statutes, are amended, and the said 22-54-122 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**22-54-122. Small attendance center aid.** (1.5) FOR THE 2004-05 BUDGET YEAR AND BUDGET YEARS THEREAFTER, AN INSTITUTE CHARTER SCHOOL SHALL BE ELIGIBLE FOR AID PURSUANT TO THIS SECTION IF THE INSTITUTE CHARTER SCHOOL HAS A PUPIL ENROLLMENT OF FEWER THAN TWO HUNDRED AND IS LOCATED TWENTY OR MORE MILES FROM ANY SIMILAR SCHOOL ATTENDANCE CENTER.

(2) (a) A district meeting the eligibility requirements of subsection (1) of this section shall be eligible to receive aid for each small attendance center as calculated by: Multiplying the pupil enrollment of the small attendance center by an amount equal to thirty-five percent of the difference between the district per pupil funding, as calculated pursuant to section 22-54-104, and the district per pupil funding, as calculated pursuant to section 22-54-104 except using the size factor calculated using

the funded pupil count of the small attendance center; and then multiplying such amount by the percentage determined by dividing the difference between two hundred and the funded pupil count of the small attendance center by two hundred.

(b) AN INSTITUTE CHARTER SCHOOL MEETING THE ELIGIBILITY REQUIREMENTS OF SUBSECTION (1.5) OF THIS SECTION SHALL BE ELIGIBLE TO RECEIVE AID AS A SMALL ATTENDANCE CENTER AS CALCULATED BY: MULTIPLYING THE PUPIL ENROLLMENT OF THE INSTITUTE CHARTER SCHOOL BY AN AMOUNT EQUAL TO THIRTY-FIVE PERCENT OF THE DIFFERENCE BETWEEN THE DISTRICT PER PUPIL FUNDING OF THE INSTITUTE CHARTER SCHOOL'S ACCOUNTING DISTRICT, AS CALCULATED PURSUANT TO SECTION 22-54-104, AND SUCH DISTRICT PER PUPIL FUNDING, AS CALCULATED PURSUANT TO SECTION 22-54-104 EXCEPT USING THE SIZE FACTOR CALCULATED USING THE PUPIL ENROLLMENT OF THE INSTITUTE CHARTER SCHOOL, AND THEN MULTIPLYING SUCH AMOUNT BY THE PERCENTAGE DETERMINED BY DIVIDING THE DIFFERENCE BETWEEN TWO HUNDRED AND THE PUPIL ENROLLMENT OF THE INSTITUTE CHARTER SCHOOL BY TWO HUNDRED.

(3) The general assembly shall appropriate annually an amount for small attendance center aid to be distributed pursuant to the ~~formula~~ FORMULAS in subsection (2) of this section. In the event the amount of money appropriated by the general assembly is less than the amount of aid authorized by this section to all ELIGIBLE districts AND ELIGIBLE INSTITUTE CHARTER SCHOOLS, the amount to be distributed to each ELIGIBLE school district AND ELIGIBLE INSTITUTE CHARTER SCHOOL shall be in the same proportion as the amount that the appropriation bears to the total amount of aid for all ELIGIBLE districts AND ELIGIBLE INSTITUTE CHARTER SCHOOLS.

(4) If a school district receives small attendance center aid pursuant to this section for a small attendance center that is a DISTRICT charter school, the school district shall forward the entire amount of such aid to the DISTRICT charter school for which it was received. IF AN INSTITUTE CHARTER SCHOOL IS ELIGIBLE FOR SMALL ATTENDANCE CENTER AID PURSUANT TO THIS SECTION, THE STATE CHARTER SCHOOL INSTITUTE SHALL FORWARD THE ENTIRE AMOUNT OF SUCH AID TO THE INSTITUTE CHARTER SCHOOL FOR WHICH IT WAS RECEIVED.

**SECTION 50.** 22-54-123, Colorado Revised Statutes, is amended to read:

**22-54-123. National school lunch act - appropriation of state matching funds.**

For the 2001-02 budget year and budget years thereafter, the general assembly shall appropriate by separate line item an amount to comply with the requirements for state matching funds under the "National School Lunch Act", 42 U.S.C. sec. 1751 et seq. The department of education shall develop procedures to allocate and disburse the funds among participating school districts AND INSTITUTE CHARTER SCHOOLS each year in an equitable manner as to comply with the requirements of said act. In any participating school district that, prior to the enactment of this section, subsidized school lunch service with moneys from the school district's general fund, moneys received by such school district pursuant to this section shall be applied in addition to, and not in lieu of, the amount of the school district's subsidy. Any moneys received pursuant to this section shall be used only for the provision of the SCHOOL district's OR INSTITUTE CHARTER SCHOOL'S school lunch program.

**SECTION 51.** 22-54-123.5 (1), Colorado Revised Statutes, is amended to read:

**22-54-123.5. School breakfast program - appropriation - low-performing schools.** (1) (a) For the 2002-03 budget year and each budget year thereafter, the general assembly may appropriate by separate line item an amount to assist school districts AND INSTITUTE CHARTER SCHOOLS that are providing a school breakfast program through participation in programs authorized under the "National School Lunch Act", 42 U.S.C. sec. 1751 et seq., or the "Child Nutrition Act of 1966", 42 U.S.C. sec. 1771 et seq. The department shall develop procedures to appropriately allocate and disburse the funds among participating school districts AND INSTITUTE CHARTER SCHOOLS.

(b) Each school district that receives moneys pursuant to this section shall use such moneys to create, expand, or enhance the school breakfast program in each low-performing school of the receiving district with the goal of improving the academic performance of the students attending such schools.

(c) AN INSTITUTE CHARTER SCHOOL SHALL ONLY BE ELIGIBLE TO RECEIVE MONEYS PURSUANT TO THIS SECTION IF IT IS A LOW-PERFORMING SCHOOL. AN INSTITUTE CHARTER SCHOOL THAT RECEIVES MONEYS PURSUANT TO THIS SECTION SHALL USE SUCH MONEYS TO CREATE, EXPAND, OR ENHANCE ITS SCHOOL BREAKFAST PROGRAM WITH THE GOAL OF IMPROVING THE ACADEMIC PERFORMANCE OF THE STUDENTS ATTENDING THE INSTITUTE CHARTER SCHOOL.

**SECTION 52.** 22-54-124 (1) (b), (1) (e), (2), (3) (a) (III), (3) (b), and (4) and the introductory portion to 22-54-124 (6), Colorado Revised Statutes, are amended, and the said 22-54-124 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

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

(1) As used in this section:

(b) "Charter school" means a DISTRICT charter school as described in section 22-30.5-104 OR AN INSTITUTE CHARTER SCHOOL AS DEFINED IN SECTION 22-30.5-502.

(c.5) "INSTITUTE CHARTER SCHOOL'S CERTIFIED PUPIL ENROLLMENT" MEANS THE TOTAL NUMBER OF PUPILS WHO ARE NOT ON-LINE PUPILS, AS DEFINED IN SECTION 22-30.5-502 (7), EXPECTED TO BE ENROLLED IN A QUALIFIED INSTITUTE CHARTER SCHOOL THAT WILL RECEIVE FUNDING PURSUANT TO SECTION 22-30.5-513 FOR THE BUDGET YEAR FOR WHICH STATE EDUCATION FUND MONEYS ARE TO BE APPROPRIATED AND DISTRIBUTED PURSUANT TO SUBSECTION (4) OF THIS SECTION, AS CERTIFIED BY THE DEPARTMENT OF EDUCATION PURSUANT TO PARAGRAPH (b) OF SUBSECTION (3) OF THIS SECTION DURING THE BUDGET YEAR THAT IMMEDIATELY PRECEDES SAID BUDGET YEAR.

(e) "Operating revenues" means the total amount of funding that a DISTRICT charter school receives from a district for a budget year pursuant to section 22-30.5-112 minus the amounts required by section 22-30.5-112 (2) (a.7) to be allocated for capital reserve purposes or the management of risk-related activities. FOR PURPOSES OF AN INSTITUTE CHARTER SCHOOL, "OPERATING REVENUES" MEANS THE TOTAL AMOUNT OF FUNDING THAT THE INSTITUTE CHARTER SCHOOL RECEIVES FROM THE STATE CHARTER SCHOOL INSTITUTE FOR A BUDGET YEAR PURSUANT TO SECTION 22-30.5-513, MINUS THE AMOUNTS REQUIRED BY SECTION 22-30.5-514 (1), TO BE

ALLOCATED FOR CAPITAL RESERVE PURPOSES OR THE MANAGEMENT OF RISK-RELATED ACTIVITIES.

(2) (a) For the 2001-02 budget year and budget years thereafter, a district shall be eligible to receive state education fund moneys for DISTRICT charter school capital construction pursuant to this section if at least one qualified DISTRICT charter school will be receiving funding from the district pursuant to section 22-30.5-112 during the budget year for which state education fund moneys are to be distributed.

(b) FOR THE 2004-05 BUDGET YEAR AND BUDGET YEARS THEREAFTER, AN INSTITUTE CHARTER SCHOOL SHALL BE ELIGIBLE TO RECEIVE STATE EDUCATION FUND MONEYS FOR INSTITUTE CHARTER SCHOOL CAPITAL CONSTRUCTION IF THE INSTITUTE CHARTER SCHOOL WILL BE RECEIVING FUNDING FROM THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO SECTION 22-30.5-513 DURING THE BUDGET YEAR FOR WHICH STATE EDUCATION FUND MONEYS ARE TO BE DISTRIBUTED.

(3) (a) (III) (A) The total amount of state education fund moneys to be appropriated for all eligible districts AND FOR ALL ELIGIBLE INSTITUTE CHARTER SCHOOLS for the 2003-04 budget year and each budget year thereafter shall be an amount equal to five million dollars.

(B) For the 2003-04 budget year, ~~and each budget year thereafter~~, the amount of state education fund moneys to be distributed to any eligible district shall be an amount equal to the percentage of the sum of the district's certified charter school pupil enrollment for all eligible districts in the state that is attributable to the eligible district multiplied by the total amount of state education fund moneys distributed to all eligible districts for the same budget year pursuant to sub-subparagraph (A) of this subparagraph (III).

(C) FOR THE 2004-05 BUDGET YEAR, AND EACH BUDGET YEAR THEREAFTER, THE AMOUNT OF STATE EDUCATION FUND MONEYS TO BE DISTRIBUTED TO ANY ELIGIBLE DISTRICT AND ANY ELIGIBLE INSTITUTE CHARTER SCHOOL SHALL BE AN AMOUNT EQUAL TO THE PERCENTAGE OF THE SUM OF THE DISTRICT'S CERTIFIED CHARTER SCHOOL PUPIL ENROLLMENT AND THE INSTITUTE CHARTER SCHOOL'S CERTIFIED PUPIL ENROLLMENT FOR ALL ELIGIBLE DISTRICTS AND ELIGIBLE INSTITUTE CHARTER SCHOOLS IN THE STATE THAT IS ATTRIBUTABLE TO THE ELIGIBLE DISTRICT OR ELIGIBLE INSTITUTE CHARTER SCHOOL MULTIPLIED BY THE TOTAL AMOUNT OF STATE EDUCATION FUND MONEYS DISTRIBUTED TO ALL ELIGIBLE DISTRICTS AND ELIGIBLE INSTITUTE CHARTER SCHOOLS FOR THE SAME BUDGET YEAR PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (III).

(b) No later than February 1 of each budget year, the department of education shall certify to the education committees of the senate and the house of representatives and the joint budget committee of the general assembly the total number of pupils expected to be enrolled in all qualified charter schools in the state during the next budget year, as derived from reports provided to the department by districts pursuant to section 22-30.5-112 (1) AND BY INSTITUTE CHARTER SCHOOLS PURSUANT TO SECTION 22-30.5-513 (3) (a). For the purposes of any certification made during the 2003-04 budget year and budget years thereafter, a pupil expected to be enrolled in a qualified charter school as defined in sub-subparagraph (B) of subparagraph (I) of paragraph (f.6) of subsection (1) of this section shall be counted as one-half of one

pupil.

(4) For the 2001-02 budget year, the 2003-04 budget year, and each budget year thereafter, the general assembly shall annually appropriate from the state education fund created in section 17 (4) of article IX of the state constitution, to the department of education for distribution to eligible school districts AND ELIGIBLE INSTITUTE CHARTER SCHOOLS in accordance with the formula set forth in paragraph (a) of subsection (3) of this section, an amount equal to the total amount of moneys to be distributed to all districts AND INSTITUTE CHARTER SCHOOLS as determined pursuant to said formula. From the moneys appropriated for a given budget year, the department shall make lump sum payments of all moneys to be distributed to each eligible school district AND ELIGIBLE INSTITUTE CHARTER SCHOOL during the budget year as soon as possible.

(6) Pursuant to section 17 (3) of article IX of the state constitution, any moneys appropriated by the general assembly out of the state education fund, received by any eligible district OR ELIGIBLE INSTITUTE CHARTER SCHOOL pursuant to this section, and distributed to a qualified charter school by any district pursuant to this section and section 22-30.5-112.3 shall be exempt from:

**SECTION 53.** 22-55-106 (2), Colorado Revised Statutes, is amended to read:

**22-55-106. Statewide base per pupil funding - increases.** (2) The general assembly may annually appropriate moneys in the state education fund, the general fund, any other state fund, or some combination thereof, as necessary in the sole discretion of the general assembly, to satisfy the requirements of subsection (1) of this section, and such moneys shall be distributed to public school districts AND THE STATE CHARTER SCHOOL INSTITUTE in accordance with the provisions of the "Public School Finance Act of 1994", article 54 of this title.

**SECTION 54.** Article 8 of title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**23-8-101.5. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "INSTITUTE CHARTER SCHOOL" MEANS A CHARTER SCHOOL THAT ENTERS INTO A CHARTER CONTRACT WITH THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO PART 5 OF ARTICLE 30.5 OF TITLE 22, C.R.S.

(2) "INSTITUTE CHARTER SCHOOL'S PER PUPIL OPERATING REVENUES" MEANS THE AMOUNT RECEIVED BY AN INSTITUTE CHARTER SCHOOL PURSUANT TO THE PROVISIONS OF SECTION 22-54-115 (1.3), C.R.S., FOR ANY BUDGET YEAR, DIVIDED BY THE NUMBER OF PUPILS ENROLLED IN THE INSTITUTE CHARTER SCHOOL FOR THAT BUDGET YEAR, MINUS THE MINIMUM AMOUNT PER PUPIL REQUIRED BY SECTION 22-30.5-513, C.R.S., TO BE ALLOCATED FOR CAPITAL RESERVE OR RISK MANAGEMENT PURPOSES.

**SECTION 55.** 23-8-102 (1), (2), (3), (4), and (5), Colorado Revised Statutes, are amended to read:

**23-8-102. School districts and institute charter schools conducting vocational**

**education courses - eligibility for state funds.** (1) Any school district OR INSTITUTE CHARTER SCHOOL of the state conducting any course of vocational education, approved pursuant to section 23-8-103 by the state board for community colleges and occupational education, referred to in this article as the "board", is entitled to vocational education program support from funds appropriated for the purpose by the general assembly. The amount of vocational education program support which a district OR INSTITUTE CHARTER SCHOOL is entitled to receive pursuant to provisions of this article shall be computed as follows:

(a) The cost of providing the approved vocational education programs of the district OR INSTITUTE CHARTER SCHOOL shall be computed in accordance with paragraph (c) of this subsection (1). The cost so computed shall be divided by the number of full-time equivalent students to be served by the programs, and the result shall be designated, for purposes of this article, as the district's OR INSTITUTE CHARTER SCHOOL'S vocational education program cost per full-time equivalent student.

(b) As vocational education program support, the state shall provide, to each school district AND EACH INSTITUTE CHARTER SCHOOL conducting an approved vocational education program for each twelve-month period beginning July 1, eighty percent of the first one thousand two hundred fifty dollars, or part thereof, by which the district's OR INSTITUTE CHARTER SCHOOL'S approved vocational education program cost per full-time equivalent student exceeds seventy percent of the district's per pupil operating revenues, as defined in section 22-54-103 (9), C.R.S., OR SEVENTY PERCENT OF THE INSTITUTE CHARTER SCHOOL'S PER PUPIL OPERATING REVENUES, for the school budget year during which such twelve-month period begins. In addition, if the district's OR INSTITUTE CHARTER SCHOOL'S approved vocational education cost per full-time equivalent student exceeds seventy percent of its per pupil operating revenues by an additional amount in excess of one thousand two hundred fifty dollars, the state shall provide fifty percent of such additional amount.

(c) For the purpose of computing approved vocational education program costs, the following shall be included:

(I) The cost of providing the services of instructional personnel for the time involved;

(II) The cost of services to be provided by another education agency or institution;

(III) The cost of necessary books and supplies; and

(IV) The cost of equipment approved for purchase by the board.

(V) Repealed.

(2) To be eligible to receive such funds, the district OR INSTITUTE CHARTER SCHOOL must assume the obligation of paying the balance of the program costs.

(3) The provisions of this section shall not be construed to prevent any school district OR INSTITUTE CHARTER SCHOOL from conducting any course in vocational education with costs in excess of those for which state vocational education program

support funds are approved by the board.

(4) Funds made available under this article shall be distributed quarterly on the basis of expenditure estimates furnished to the board by participating school districts AND INSTITUTE CHARTER SCHOOLS. As soon as practicable after July 1 of each year, beginning in 1971, each participating school district AND EACH PARTICIPATING INSTITUTE CHARTER SCHOOL shall file with the board a report comparing estimated and actual expenditures for all vocational education programs financed pursuant to the provisions of this article during the preceding twelve-month period. The board shall determine if such expenditures coincide with the estimates of such school district OR INSTITUTE CHARTER SCHOOL and shall adjust the next quarterly payment as may be necessary to accommodate any underpayment or overpayment of state funds to the school district OR INSTITUTE CHARTER SCHOOL.

(5) If the appropriations to implement subsections (1) to (4) of this section are less than the total amount required to pay the vocational education program support for approved vocational education courses, the board shall prorate the amount to be paid each school district AND EACH INSTITUTE CHARTER SCHOOL in the same proportion that the appropriation bears to such total amount so required for distribution. Any unexpended balance of any such appropriation shall revert to the general fund at the end of the fiscal year for which the appropriation is made.

**SECTION 56.** 23-8-103 (1), (2) (c), (2) (d), and (3), Colorado Revised Statutes, are amended to read:

**23-8-103. Standards for eligibility for grants.** (1) The board shall not approve vocational education program support to be provided under section 23-8-102 unless the courses of vocational education conducted by a school district OR INSTITUTE CHARTER SCHOOL meet the standards prescribed in subsection (2) of this section.

(2) Any such course shall:

(c) Have a technical advisory committee which functions at the state, regional, or local level to assist school districts AND INSTITUTE CHARTER SCHOOLS in planning and conducting their vocational education curricula;

(d) Be conducted in facilities that are sufficiently equipped to permit adequate training and education; such facilities may be located within or outside the school district, and they may be housed in buildings which are not owned or operated by a school district OR AN INSTITUTE CHARTER SCHOOL;

(3) In approving programs and vocational education program support funds under this article, the board shall attempt to avoid unnecessary duplication in either facilities or staffing for vocational education in any school district, INSTITUTE CHARTER SCHOOL, or area of this state; and, where feasible, sharing of facilities shall be required by the board.

**SECTION 57.** 23-15-103 (8) (a) (VIII), Colorado Revised Statutes, is amended, and the said 23-15-103 (8) (a) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

**23-15-103. Definitions.** As used in this article, unless the context otherwise requires:

(8) (a) "Educational institution" means any governmental, quasi-governmental, or nonprofit educational institution operating in this state that:

(VIII) Is any public school district that qualifies as a growth district, as defined in section 22-2-125 (1) (b), C.R.S.; OR

(IX) PROVIDES AN EDUCATIONAL PROGRAM PURSUANT TO A CONTRACT WITH THE STATE CHARTER SCHOOL INSTITUTE IN ACCORDANCE WITH APPLICABLE LAWS.

**SECTION 58.** 24-1-115, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**24-1-115. Department of education - creation.** (9) THE DEPARTMENT OF EDUCATION SHALL INCLUDE THE STATE CHARTER SCHOOL INSTITUTE ESTABLISHED IN SECTION 22-30.5-503, C.R.S., AND ITS POWERS, DUTIES, AND FUNCTIONS, AS IF THE INSTITUTE WERE TRANSFERRED BY A **TYPE 1** TRANSFER TO THE DEPARTMENT OF EDUCATION.

**SECTION 59.** 24-50-135 (1) (g), Colorado Revised Statutes, is amended to read:

**24-50-135. Exemptions from personnel system.** (1) Administrators employed in educational institutions and departments not charitable or reformatory in character shall include the following, who shall be exempt from the state personnel system:

(g) Professional officers and professional staff of the department of education AND OF THE STATE CHARTER SCHOOL INSTITUTE ESTABLISHED IN SECTION 22-30.5-503, C.R.S.

**SECTION 60. Appropriation.** (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the state charter school institute fund created pursuant to section 22-30.5-506 (1), Colorado Revised Statutes, not otherwise appropriated, to the department of education, for allocation to the state charter school institute, for the fiscal year beginning July 1, 2004, the sum of one hundred fifty thousand dollars (\$150,000), or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2004, the sum of five thousand dollars (\$5,000), or so much thereof as may be necessary, for the provision of legal services to the state board of education related to the implementation of this act. Said sum shall be from cash funds exempt received from the department of education out of general fund moneys withheld by the department of education pursuant to section 22-30.5-513 (4) (a), Colorado Revised Statutes.

**SECTION 61. Effective date.** This act shall take effect July 1, 2004.



**SECTION 62. 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