

CHAPTER 155

EDUCATION - PUBLIC SCHOOLS

SENATE BILL 06-042

BY SENATOR(S) Windels, Bacon, Evans, Groff, Hanna, and Williams;
also REPRESENTATIVE(S) King, Benefield, Penry, Carroll T., and Todd.

AN ACT

CONCERNING TECHNICAL REVISIONS TO PROVISIONS AFFECTING FUNDING FOR CERTAIN CHARTER SCHOOLS.

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

SECTION 1. 22-30.5-513 (1), Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

22-30.5-513. Institute 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) "ACCOUNTING DISTRICT'S ADJUSTED PER PUPIL REVENUES" MEANS THE ACCOUNTING DISTRICT'S PER PUPIL FUNDING PLUS THE ACCOUNTING DISTRICT'S AT-RISK PER PUPIL FUNDING.

(c) "ACCOUNTING DISTRICT'S AT-RISK FUNDING" MEANS THE AMOUNT OF FUNDING FOR AT-RISK PUPILS IN THE ACCOUNTING DISTRICT DETERMINED IN ACCORDANCE WITH THE FORMULAS DESCRIBED IN SECTION 22-54-104 (4).

(d) "ACCOUNTING DISTRICT'S 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 INSTITUTE CHARTER SCHOOL'S PERCENTAGE OF AT-RISK PUPILS DIVIDED BY THE ACCOUNTING DISTRICT'S PERCENTAGE OF AT-RISK PUPILS)

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

(e) "ACCOUNTING DISTRICT'S FUNDED PUPIL COUNT" SHALL HAVE THE SAME MEANING AS THE TERM "DISTRICT FUNDED PUPIL COUNT" DEFINED IN SECTION 22-54-103 (7).

(f) "ACCOUNTING DISTRICT'S PER PUPIL FUNDING" MEANS THE PER PUPIL FUNDING CALCULATED FOR THE ACCOUNTING DISTRICT PURSUANT TO THE FORMULA DESCRIBED IN SECTION 22-54-104 (3).

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

(h) "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.

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

(j) "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).

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

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

SECTION 2. 22-30.5-502 (10), Colorado Revised Statutes, is amended to read:

22-30.5-502. Definitions. As used in this part 5, unless the context otherwise requires:

(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).~~

SECTION 3. 22-30.5-513 (2) (b) and (4) (a), Colorado Revised Statutes, are amended to read:

22-30.5-513. Institute charter schools - funding. (2) (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 ADJUSTED 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.

(4) (a) (I) 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 ACCOUNTING DISTRICT'S 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~~ ACCOUNTING DISTRICT'S 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 ACCOUNTING DISTRICT'S 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).

(II) (A) NOTWITHSTANDING ANY PROVISION OF THIS PARAGRAPH (a) TO THE CONTRARY, IF THE FUNDING FOR AN INSTITUTE CHARTER SCHOOL WAS BASED ON THE ACCOUNTING DISTRICT'S PER PUPIL REVENUES, AS DEFINED IN SECTION 22-54-103 (9.3), WITHOUT THE ADJUSTMENT FOR AT-RISK PER PUPIL FUNDING, FOR THE 2004-05 OR 2005-06 BUDGET YEAR, THE INSTITUTE CHARTER SCHOOL'S FUNDING SHALL BE BASED ON THE ACCOUNTING DISTRICT'S PER PUPIL REVENUES, WITHOUT THE ADJUSTMENT FOR AT-RISK PER PUPIL FUNDING, FOR THE 2006-07 BUDGET YEAR. THE INSTITUTE CHARTER SCHOOL'S FUNDING SHALL BE CALCULATED AS PROVIDED IN THIS PARAGRAPH (a) BEGINNING WITH THE 2007-08 BUDGET YEAR AND FOR BUDGET YEARS THEREAFTER.

(B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1, 2008.

SECTION 4. Repeal. 22-30.5-513 (7) and (8), Colorado Revised Statutes, are repealed.

SECTION 5. Part 1 of article 30.5 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

22-30.5-112.1. Charter schools - exclusive jurisdiction districts - authorized on or after July 1, 2004 - financing. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ADJUSTED DISTRICT PER PUPIL REVENUES" MEANS THE QUALIFYING SCHOOL DISTRICT'S PER PUPIL FUNDING PLUS THE QUALIFYING SCHOOL DISTRICT'S AT-RISK PER PUPIL FUNDING.

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

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

(THE QUALIFYING SCHOOL DISTRICT'S AT-RISK FUNDING DIVIDED BY THE QUALIFYING SCHOOL DISTRICT'S FUNDED PUPIL COUNT) X (THE DISTRICT CHARTER SCHOOL'S PERCENTAGE OF AT-RISK PUPILS DIVIDED BY THE QUALIFYING SCHOOL DISTRICT'S PERCENTAGE OF AT-RISK PUPILS)

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

(e) "CENTRAL ADMINISTRATIVE OVERHEAD COSTS" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 22-30.5-112 (2) (a.5) (I).

(f) "DISTRICT CHARTER SCHOOL" MEANS A CHARTER SCHOOL FOR WHICH THE CHARTER APPLICATION IS APPROVED ON OR AFTER JULY 1, 2004, BY A QUALIFYING SCHOOL DISTRICT.

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

(h) "DISTRICT PER PUPIL FUNDING" MEANS A QUALIFYING SCHOOL DISTRICT'S PER PUPIL FUNDING AS DETERMINED IN ACCORDANCE WITH THE FORMULA DESCRIBED IN SECTION 22-54-104 (3).

(i) "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.

(j) "DISTRICT PER PUPIL REVENUES" MEANS THE QUALIFYING SCHOOL DISTRICT'S TOTAL PROGRAM, AS DEFINED IN SECTION 22-54-103 (6), FOR ANY BUDGET YEAR DIVIDED BY THE QUALIFYING SCHOOL DISTRICT'S FUNDED PUPIL COUNT FOR SAID 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 DISTRICT 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) "QUALIFYING SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT:

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

(II) IN WHICH MORE THAN FORTY PERCENT OF THE PUPIL ENROLLMENT CONSISTS OF AT-RISK PUPILS.

(2) NOTWITHSTANDING THE PROVISIONS OF SECTION 22-30.5-112 (2) (a) TO (2) (a.5), (2) (b), (2) (b.5), AND (2) (c), THE AMOUNT OF FUNDING TO BE RECEIVED BY A DISTRICT CHARTER SCHOOL, THE ACCOUNTING OF CENTRAL ADMINISTRATIVE OVERHEAD COSTS BETWEEN A DISTRICT CHARTER SCHOOL AND A QUALIFYING SCHOOL DISTRICT, AND THE DIRECT PURCHASE OF DISTRICT SERVICES BY A DISTRICT CHARTER SCHOOL FROM A QUALIFYING SCHOOL DISTRICT SHALL BE DETERMINED PURSUANT TO THE PROVISIONS OF THIS SECTION.

(3) (a) FOR BUDGET YEAR 2004-05 AND BUDGET YEARS THEREAFTER, EACH DISTRICT CHARTER SCHOOL AND THE QUALIFYING SCHOOL DISTRICT THAT APPROVED THE CHARTER SHALL NEGOTIATE FUNDING UNDER THE CHARTER CONTRACT. THE DISTRICT CHARTER SCHOOL SHALL RECEIVE ONE HUNDRED PERCENT OF THE ADJUSTED DISTRICT PER PUPIL REVENUES FOR EACH PUPIL ENROLLED IN THE DISTRICT CHARTER SCHOOL WHO IS NOT AN ON-LINE PUPIL AND ONE HUNDRED PERCENT OF THE DISTRICT PER PUPIL ON-LINE FUNDING FOR EACH ON-LINE PUPIL ENROLLED IN THE DISTRICT CHARTER SCHOOL; EXCEPT THAT THE QUALIFYING 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 FOR SERVICES ACTUALLY PROVIDED TO THE DISTRICT CHARTER SCHOOL, UP TO FIVE PERCENT OF THE ADJUSTED DISTRICT PER PUPIL REVENUES FOR EACH PUPIL WHO IS NOT AN ON-LINE PUPIL ENROLLED IN THE DISTRICT CHARTER SCHOOL AND UP TO FIVE PERCENT OF THE DISTRICT PER PUPIL ON-LINE FUNDING FOR EACH ON-LINE PUPIL ENROLLED IN THE DISTRICT CHARTER SCHOOL.

(b) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (3) TO THE CONTRARY, IF A QUALIFYING 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 QUALIFYING 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.

(4) WITHIN NINETY DAYS AFTER THE END OF EACH FISCAL YEAR, EACH

QUALIFYING SCHOOL DISTRICT SHALL PROVIDE TO EACH DISTRICT CHARTER SCHOOL AUTHORIZED BY THE QUALIFYING 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 SPECIFIED IN SUBSECTION (3) OF THIS SECTION, BETWEEN THE AMOUNT INITIALLY CHARGED TO THE DISTRICT CHARTER SCHOOL AND THE ACTUAL COST SHALL BE RECONCILED AND PAID TO THE OWED PARTY.

(5) THE DISTRICT CHARTER SCHOOL, AT ITS DISCRETION, MAY CONTRACT WITH THE QUALIFYING 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 SUBSECTION (5) SHALL BE DETERMINED THROUGH AN AGREEMENT BETWEEN THE DISTRICT CHARTER SCHOOL AND THE QUALIFYING SCHOOL DISTRICT USING ONE OF THE FOLLOWING METHODS:

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

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

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

(6) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE CONTRARY AND FOR THE PURPOSES OF THIS SECTION ONLY, A SCHOOL DISTRICT IN WHICH MORE THAN FORTY PERCENT OF THE PUPIL ENROLLMENT CONSISTS OF AT-RISK PUPILS AT THE TIME A CHARTER SCHOOL'S APPLICATION IS FIRST APPROVED 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 DETERMINING WHETHER THE SCHOOL DISTRICT IS A QUALIFYING SCHOOL DISTRICT AND SUBJECT TO THE PROVISIONS OF THIS SECTION.

SECTION 6. 22-30.5-112 (2) (a.8), Colorado Revised Statutes, is amended to read:

22-30.5-112. Charter schools - financing - guidelines. (2) (a.8) (I) For the 2000-01 budget year and budget years thereafter, the school district shall provide federally required educational services to students enrolled in charter schools on the same basis as such services are provided to students enrolled in other public schools of the school district. Each charter school shall pay an amount equal to the per pupil

cost incurred by the school district in providing federally required educational services, multiplied by the number of students enrolled in the charter school. At either party's request, however, the charter school and the school district may negotiate and include in the charter contract alternate arrangements for the provision of and payment for federally required educational services.

(II) NOTWITHSTANDING ANY PROVISION OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a.8) TO THE CONTRARY, THE SCHOOL DISTRICT SHALL CALCULATE THE PER PUPIL COST OF PROVIDING FEDERALLY REQUIRED EDUCATIONAL SERVICES AFTER SUBTRACTING THE AMOUNT RECEIVED IN FEDERAL AND STATE MONEYS FOR PROVIDING SAID SERVICES.

SECTION 7. 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: April 24, 2006