

CHAPTER 294

EDUCATION - PUBLIC SCHOOLS

SENATE BILL 09-256

BY SENATOR(S) Romer and Bacon, Heath, King K., Kopp, Penry, Sandoval, Scheffel, Spence, White;
also REPRESENTATIVE(S) Pommer and Scanlan, Benefield, Casso, Ferrandino, Fischer, Labuda, Massey, Peniston, Ryden,
Schafer S., Solano, Summers, Todd, Merrifield, Middleton, Priola, Stephens, Vigil, Carroll T., Curry.

AN ACT

CONCERNING THE FINANCING OF PUBLIC SCHOOLS, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 22-54-104 (5) (a), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

22-54-104. District total program. (5) (a) (XVI) FOR THE 2009-10 BUDGET YEAR, THE STATEWIDE BASE PER PUPIL FUNDING SHALL BE \$5,507.68, WHICH IS AN AMOUNT EQUAL TO \$5,250.41 SUPPLEMENTED BY \$257.27 TO ACCOUNT FOR INFLATION PLUS AN ADDITIONAL ONE PERCENTAGE POINT.

SECTION 2. 22-54-103 (15), Colorado Revised Statutes, is amended to read:

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

(15) "Supplemental kindergarten enrollment" means the number calculated by subtracting five-tenths from the full-day kindergarten factor for the applicable budget year and then multiplying said number by the number of pupils in the district who are enrolled in kindergarten for the applicable budget year. For the purposes of this subsection (15), the full-day kindergarten factor for the 2008-09 AND 2009-10 budget ~~year~~ YEARS, is fifty-eight hundredths of a full-day pupil.

SECTION 3. 22-54-105 (1) and (2), Colorado Revised Statutes, are amended to read:

22-54-105. Instructional supplies and materials - capital reserve and

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

insurance reserve - at-risk funding - preschool funding. (1) (a) PRIOR TO THE 2009-10 BUDGET YEAR, every district shall budget the amount determined pursuant to paragraph (b) of this subsection (1) to be allocated, in the discretion of the board of education, to the instructional supplies and materials account, the instructional capital outlay account, or the other instructional purposes account in the general fund created by section 22-45-103 (1) (a) (II), or among such accounts. Moneys may be transferred among the three accounts. The moneys in such accounts shall be used for the purposes set forth in section 22-45-103 (1) (a) (II) and may not be expended by the district for any other purpose. Any moneys in such accounts which 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 (1) shall be construed to require that interest on moneys in such accounts be specifically allocated to such accounts. ANY MONEYS REMAINING IN ANY SUCH ACCOUNT THAT HAVE NOT BEEN EXPENDED PRIOR TO THE 2009-10 BUDGET YEAR SHALL BE BUDGETED FOR THE PURPOSES SET FORTH IN SECTION 22-45-103 (1) (a) (II) IN THE 2009-10 BUDGET YEAR OR ANY BUDGET YEAR THEREAFTER.

(b) (I) The amount to be budgeted in any budget year PRIOR TO THE 2009-10 BUDGET YEAR shall be the amount determined by multiplying one hundred thirty-four dollars by the district's funded pupil count minus the district's on-line pupil enrollment.

(II) (A) For the 1998-99 budget year through the 2007-08 budget year, the dollar amount required to be budgeted per pupil pursuant to this paragraph (b) shall be increased each year by the same percentage that the statewide base per pupil funding is increased pursuant to section 22-54-104 (5). For the 2008-09 budget year, ~~and budget years thereafter~~, the minimum dollar amount required to be budgeted per pupil pursuant to this paragraph (b) shall be increased ~~each year~~ by the rate of inflation. The amount of any increase pursuant to this paragraph (b) shall be rounded to the nearest dollar.

(B) Repealed.

(III) Repealed.

(IV) ~~Notwithstanding the provisions of subparagraphs (I) and (II) of this paragraph (b), for the 2006-07 budget year and budget years thereafter, if a district's expenditures for instructional supplies and materials, instructional capital outlay, and other instructional purposes exceed the amount required to be budgeted in accordance with this paragraph (b) for a given budget year, the district may subtract an amount equal to the amount of the excess expenditures in that budget year from the amount required to be budgeted for instructional supplies and materials, instructional capital outlay, and other instructional purposes in accordance with this paragraph (b) for the subsequent budget year.~~

(c) For purposes of this subsection (1), instructional supplies and materials include, but are not limited to, supplies, textbooks, library books, periodicals, and other supplies and materials. Instructional capital outlay includes those expenditures which result in the acquisition of fixed assets for instructional purposes, or additions thereto, which the board of education anticipates will have

benefits for more than one year. Other instructional purposes include expenses incurred in providing transportation for pupils to and from school-sponsored instructional activities which occur outside the classroom and costs incurred for repair or maintenance services for equipment which is directly used for instructional purposes. Instructional supplies and materials, instructional capital outlay, and other instructional purposes are limited to those functions accounts and objects accounts as prescribed by the state board of education.

~~(d) Nothing shall be deemed to limit expenditures for instructional supplies and materials, instructional capital outlay, and other instructional purposes to the amount required to be budgeted in accordance with this subsection (1):~~

(2)(a) Except as otherwise provided in paragraph (c) of this subsection (2), PRIOR TO THE 2009-10 BUDGET YEAR, every district shall budget the amount determined pursuant to paragraph (b) of this subsection (2) to be allocated, in the discretion of the board of education, to the capital reserve fund created by section 22-45-103 (1) (c), to a fund or an account within the general fund established in accordance with generally accepted accounting principles 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 and accounts. Such 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 district for any other purpose. The board of education may transfer moneys among these allowable funds and accounts when such transfer is deemed necessary by the board. ANY MONEYS REMAINING IN ANY SUCH FUND OR ACCOUNT THAT HAVE NOT BEEN EXPENDED PRIOR TO THE 2009-10 BUDGET YEAR SHALL BE BUDGETED FOR THE PURPOSES SET FORTH IN SECTION 22-45-103 (1) (c) AND (1) (e) IN THE 2009-10 BUDGET YEAR OR ANY BUDGET YEAR THEREAFTER.

(b) (I) The amount to be budgeted in any budget year PRIOR TO THE 2009-10 BUDGET YEAR shall be the amount determined by multiplying two hundred sixteen dollars by the district's funded pupil count minus the district's on-line pupil enrollment. Such amount shall be the minimum required to be budgeted, and the district may elect to budget up to eight hundred dollars multiplied by the district's funded pupil count minus the district's on-line pupil enrollment.

(II) (A) For the 1998-99 budget year through the 2007-08 budget year, the minimum dollar amount required to be budgeted per pupil pursuant to this paragraph (b) shall be increased each year by the same percentage that the statewide base per pupil funding is increased pursuant to section 22-54-104 (5). For the 2008-09 budget year, ~~and budget years thereafter~~, the minimum dollar amount required to be budgeted per pupil pursuant to this paragraph (b) shall be increased ~~each year~~ by the rate of inflation. The amount of any increase pursuant to this paragraph (b) shall be rounded to the nearest dollar.

(B) Repealed.

(III) For the 2000-01 budget year ~~and budget years thereafter~~ THROUGH THE 2008-09 BUDGET YEAR, the amount required to be budgeted pursuant to this paragraph (b) shall be reduced by an amount determined by multiplying the minimum dollar amount required to be budgeted for that budget year pursuant to subparagraph (II) of this paragraph (b) by the number of pupils enrolled in charter

schools within the ~~school~~ district.

(c) For the 1999-2000 budget year and any budget year thereafter, if a district has moneys in its capital reserve fund equal to or in excess of five times the minimum dollar amount required to be budgeted per pupil pursuant to paragraph (b) of this subsection (2) multiplied by the district's funded pupil count minus the district's on-line pupil enrollment for the applicable budget year, the board of education of the district may determine whether to budget the minimum dollar amount per pupil required by this subsection (2) in that budget year, budget a lesser amount, or budget no amount at all. Such determination shall be made by the board of education on an annual basis based upon the capital outlay expenditure requirements of the district.

(d) Repealed.

~~(e) For the 2007-08 budget year and each budget year thereafter, a school district that sells lands, buildings, or both, collects payment in lieu of the reservation or dedication of sites and land areas for schools, or collects contributions as a result of a voluntary agreement with a developer, and deposits the proceeds of the sale or the collection of payments or contributions into the district's capital reserve fund pursuant to section 22-45-112 may reduce the amount it is required to allocate to the fund pursuant to paragraphs (a) and (b) of this subsection (2) for the budget year in which the sale or the collection of payments or contributions occurred by an amount equal to the amount so deposited. In no event, however, shall the total amount available in the fund for said budget year pursuant to this subsection (2) be less than the amount determined pursuant to paragraph (b) of this subsection (2).~~

SECTION 4. Article 54 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

22-54-106.5. Fiscal emergency restricted reserve - calculation of reserve amount. (1) FOR THE 2009-10 BUDGET YEAR, THE GENERAL ASSEMBLY DETERMINES THAT A STATE FINANCIAL CRISIS REQUIRES EACH DISTRICT AND THE STATE CHARTER SCHOOL INSTITUTE TO BUDGET AN AMOUNT TO A FISCAL EMERGENCY RESTRICTED RESERVE PURSUANT TO SECTION 22-44-119. USING THE TOTAL AMOUNT TO BE BUDGETED FOR THE RESERVE AS SPECIFIED IN SUBSECTION (3) OF THIS SECTION, THE DEPARTMENT OF EDUCATION SHALL CALCULATE THE AMOUNT TO BE BUDGETED TO THE FISCAL EMERGENCY RESTRICTED RESERVE BY EACH DISTRICT AND THE STATE CHARTER SCHOOL INSTITUTE. THE AMOUNT BUDGETED BY EACH DISTRICT AND THE STATE CHARTER SCHOOL INSTITUTE SHALL BE RELEASED FOR EXPENDITURE BY THE DISTRICT OR FOR DISTRIBUTION TO INSTITUTE CHARTER SCHOOLS BY THE STATE CHARTER SCHOOL INSTITUTE, AS APPLICABLE, ON JANUARY 29, 2010, IF A NEGATIVE SUPPLEMENTAL APPROPRIATION TO EFFECT A REVISION OF THE TOTAL AMOUNT OF RESTRICTED RESERVE AS SPECIFIED IN SUBSECTION (3) OF THIS SECTION, OR ANY PORTION THEREOF, HAS NOT BEEN ENACTED AND BECOME LAW BY SAID DATE.

(2) THE DEPARTMENT OF EDUCATION SHALL CALCULATE THE AMOUNT TO BE BUDGETED TO THE FISCAL EMERGENCY RESTRICTED RESERVE FOR THE 2009-10 BUDGET YEAR BY DIVIDING THE TOTAL AMOUNT TO BE BUDGETED FOR THE 2009-10 BUDGET YEAR, AS SPECIFIED IN SUBSECTION (3) OF THIS SECTION, BY THE SUM OF THE

TOTAL PROGRAM OF ALL DISTRICTS AND INSTITUTE CHARTER SCHOOL FUNDING. THE DEPARTMENT SHALL CALCULATE THE AMOUNT TO BE BUDGETED BY EACH DISTRICT AS AN AMOUNT EQUAL TO THE TOTAL RESTRICTED RESERVE MULTIPLIED BY THE DISTRICT'S TOTAL PROGRAM AS CALCULATED PURSUANT TO SECTION 22-54-104 (2) (a) (VIII) OR (2) (b), WHICHEVER IS APPLICABLE. THE DEPARTMENT SHALL CALCULATE THE AMOUNT TO BE BUDGETED BY THE STATE CHARTER SCHOOL INSTITUTE FOR EACH INSTITUTE CHARTER SCHOOL BASED ON THE TOTAL RESTRICTED RESERVE MULTIPLIED BY THE TOTAL PROGRAM OF THE ACCOUNTING DISTRICT FOR EACH INSTITUTE CHARTER SCHOOL.

(3) FOR THE 2009-10 BUDGET YEAR, THE TOTAL AMOUNT OF THE RESTRICTED RESERVE SHALL BE ONE HUNDRED TEN MILLION DOLLARS.

SECTION 5. 22-54-108 (3) (b), Colorado Revised Statutes, is amended, and the said 22-54-108 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

22-54-108. Authorization of additional local revenues. (3) (b) (I) Except as otherwise provided in ~~subparagraph (H)~~ SUBPARAGRAPHS (II) AND (III) of this paragraph (b), the total additional local property tax revenues that may be received pursuant to elections held pursuant to this section shall not exceed under any circumstances twenty percent of the district's total program, as determined pursuant to section 22-54-104 (2), or two hundred thousand dollars, whichever is greater.

(II) Effective July 1, 2002, the total additional local property tax revenues that may be received pursuant to elections held pursuant to this section shall not exceed under any circumstances twenty percent of the district's total program, as determined pursuant to section 22-54-104 (2), or two hundred thousand dollars, whichever is greater, plus an amount equal to the maximum dollar amount of property tax revenue that the district could have generated for the 2001-02 budget year if, in accordance with the provisions of section 22-54-107.5, the district submitted a question to and received approval of the eligible electors of the district at an election held in November 2001.

(III) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (III), FOR ANY DISTRICT THAT MEETS THE REQUIREMENTS OF SUBSECTION (4) OF THIS SECTION, THE TOTAL ADDITIONAL LOCAL PROPERTY TAX REVENUES THAT MAY BE RECEIVED PURSUANT TO AN ELECTION HELD PURSUANT TO THIS SECTION SHALL NOT EXCEED UNDER ANY CIRCUMSTANCES TWENTY-FIVE PERCENT OF THE DISTRICT'S TOTAL PROGRAM, AS DETERMINED PURSUANT TO SECTION 22-54-104 (2), OR TWO HUNDRED THOUSAND DOLLARS, WHICHEVER IS GREATER, PLUS AN AMOUNT EQUAL TO THE MAXIMUM DOLLAR AMOUNT OF PROPERTY TAX REVENUE THAT THE DISTRICT COULD HAVE GENERATED FOR THE 2001-02 BUDGET YEAR IF, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 22-54-107.5, THE DISTRICT SUBMITTED A QUESTION TO AND RECEIVED APPROVAL OF THE ELIGIBLE ELECTORS OF THE DISTRICT AT AN ELECTION HELD IN NOVEMBER 2001.

(4) (a) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (4), ANY DISTRICT THAT INTENDS TO SEEK VOTER APPROVAL TO RETAIN AND SPEND ADDITIONAL PROPERTY TAX REVENUES PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH (b) OF SUBSECTION (3) OF THIS SECTION SHALL NOTIFY THE STATE

BOARD, IN A MANNER TO BE DETERMINED BY THE STATE BOARD, PRIOR TO HOLDING AN ELECTION PURSUANT TO THIS SECTION.

(b) ANY DISTRICT THAT SUBMITS NOTICE TO THE STATE BOARD PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (4) SHALL ALSO SUBMIT TO THE STATE BOARD A PROPOSAL REGARDING THE DISTRICT'S PROPOSED USE OF THE ADDITIONAL PROPERTY TAX REVENUES, WHICH MAY INCLUDE CAPITAL CONSTRUCTION PROJECTS.

SECTION 6. 22-54-108 (3) (d) (II) and (3) (d) (II.5), Colorado Revised Statutes, are amended to read:

22-54-108. Authorization of additional local revenues. (3) (d) (II) ~~In addition to the additional local property tax revenues that must be counted towards such limitation pursuant to subparagraph (I) of this paragraph (d), a portion of the specific ownership tax revenue paid to the district during the prior budget year may be required to be counted towards such limitation. The portion of the specific ownership tax paid to the district, if any, that must be counted toward such limitation shall be calculated as follows:~~

~~(A) The amount of specific ownership tax revenue attributable to property tax levies made by the district which have been authorized at elections held under the provisions of former section 22-53-117 or this section, if any; and~~

~~(B) The amount of specific ownership tax revenue attributable to property tax levies made by the district for the purpose of satisfying bonded indebtedness, both principal and interest, which is not being used by the district for the purpose of satisfying the bonded indebtedness, if any.~~

(II.5) Any portion of the specific ownership tax paid to the district ~~other than that specified in sub-subparagraphs (A) and (B) of subparagraph (II) of this paragraph (d)~~ shall not apply to the limitation in this subsection (3). ~~but shall apply to the district's share of its total program pursuant to section 22-54-106 (1) (a) (I).~~

SECTION 7. 22-63-202 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22-63-202. Employment contracts - contracts to be in writing - duration - damage provision. (2) (b.5) EACH EMPLOYMENT CONTRACT EXECUTED PURSUANT TO THIS SECTION SHALL CONTAIN A PROVISION STATING THAT A TEACHER OR CHIEF ADMINISTRATIVE OFFICER SHALL ACCEPT THE TERMS OF THE EMPLOYMENT CONTRACT FOR THE SUCCEEDING ACADEMIC YEAR WITHIN THIRTY DAYS OF RECEIPT OF THE CONTRACT, UNLESS THE TEACHER OR CHIEF ADMINISTRATIVE OFFICER AND THE DISTRICT HAVE REACHED AN ALTERNATIVE AGREEMENT. IF A TEACHER OR CHIEF ADMINISTRATIVE OFFICER DOES NOT ACCEPT THE TERMS OF THE EMPLOYMENT CONTRACT WITHIN THIRTY DAYS OF RECEIPT, THE DISTRICT SHALL BE AUTHORIZED TO OPEN THE POSITION TO ADDITIONAL CANDIDATES.

SECTION 8. 22-54-115 (1.3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

22-54-115. Distribution from state public school fund. (1.3) (a.5) IN ANY

BUDGET YEAR IN WHICH THE STATE SHARE OF AN ACCOUNTING DISTRICT OF AN INSTITUTE CHARTER SCHOOL IS LESS THAN THE AMOUNT SPECIFIED IN SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (1.3), THE DEPARTMENT OF EDUCATION SHALL SUBMIT A REQUEST FOR A SUPPLEMENTAL APPROPRIATION IN AN AMOUNT THAT WILL FULLY FUND THE AMOUNT SPECIFIED IN SAID SUBPARAGRAPH (I). THE DEPARTMENT SHALL MAKE THE REQUEST TO THE GENERAL ASSEMBLY DURING THE BUDGET YEAR IN WHICH THE UNDERFUNDING OCCURS. IF THE GENERAL ASSEMBLY DOES NOT MAKE THE REQUESTED SUPPLEMENTAL APPROPRIATION, THE DEPARTMENT SHALL PAY TO THE INSTITUTE CHARTER SCHOOL THE AMOUNT SPECIFIED IN SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (1.3).

SECTION 9. 22-54-124 (4), Colorado Revised Statutes, is amended to read:

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

(a) PRIOR TO THE 2009-10 BUDGET YEAR, from the moneys appropriated for a given budget year PURSUANT TO THIS SECTION, 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.

(b) FOR THE 2009-10 BUDGET YEAR AND EACH BUDGET YEAR THEREAFTER, THE DEPARTMENT SHALL DISTRIBUTE THE TOTAL AMOUNT TO BE DISTRIBUTED PURSUANT TO THIS SECTION TO EACH ELIGIBLE SCHOOL DISTRICT AND ELIGIBLE INSTITUTE CHARTER SCHOOL IN TWELVE APPROXIMATELY EQUAL MONTHLY PAYMENTS DURING THE APPLICABLE BUDGET YEAR IN CONJUNCTION WITH THE DISTRIBUTION OF THE STATE'S SHARE OF DISTRICT TOTAL PROGRAM PURSUANT TO SECTION 22-54-115.

SECTION 10. 22-54-124, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-54-124. State aid for charter schools - use of state education fund moneys - definitions. (9) THE GENERAL ASSEMBLY RECOGNIZES CHARTER SCHOOLS' CONTINUING NEED FOR ASSISTANCE IN MEETING CAPITAL CONSTRUCTION COSTS. THE GENERAL ASSEMBLY THEREFORE STRONGLY ENCOURAGES THE GOVERNOR TO ALLOCATE A PORTION OF THE MONEYS RECEIVED BY THE STATE THROUGH THE FEDERAL "AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009", PUB.L. 111-5, TO CHARTER SCHOOLS IN THE STATE TO ASSIST THEM IN MEETING THEIR CAPITAL CONSTRUCTION AND FACILITY COSTS.

SECTION 11. 22-30.5-112 (2) (a.7), Colorado Revised Statutes, is amended to read:

22-30.5-112. Charter schools - financing - definitions - guidelines.

(2) (a.7) For the 2000-01 budget year ~~and budget years thereafter~~ THROUGH THE 2008-09 BUDGET YEAR, each 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 charter school who are not students enrolled in an on-line program, as defined in section 22-30.7-102 (9), to a fund created by the 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 charter school for any other purpose. ANY MONEYS REMAINING IN SUCH FUND THAT HAVE NOT BEEN EXPENDED PRIOR TO THE 2009-10 BUDGET YEAR SHALL BE BUDGETED FOR THE PURPOSES SET FORTH IN SECTION 22-45-103 (1) (c) AND (1) (e) IN THE 2009-10 BUDGET YEAR OR ANY BUDGET YEAR THEREAFTER.

SECTION 12. 22-30.5-105 (5), Colorado Revised Statutes, is amended to read:

22-30.5-105. Charter schools - contract contents - regulations. (5) Any term included in a charter contract that would require a charter school to waive or otherwise ~~forego~~ FORGO receipt of any amount of operational or capital construction funds provided to the charter school pursuant to the provisions of this article or pursuant to any other provision of law is hereby declared null and void as against public policy and is unenforceable. IN NO EVENT SHALL THIS SUBSECTION (5) BE CONSTRUED TO PROHIBIT ANY CHARTER SCHOOL FROM CONTRACTING WITH ITS CHARTERING LOCAL BOARD OF EDUCATION FOR THE PURCHASE OF SERVICES, INCLUDING BUT NOT LIMITED TO THE PURCHASE OF EDUCATIONAL SERVICES.

SECTION 13. 22-30.5-505 (3) (d) and (3) (e), Colorado Revised Statutes, are amended, and the said 22-30.5-505 (3) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

22-30.5-505. State charter school institute - institute board - appointment - powers and duties - rules. (3) The mission of the institute board shall be to foster high-quality public school choices offered through institute charter schools, including particularly schools that are focused on closing the achievement gap for at-risk students. In discharging its duties pursuant to this part 5, the institute shall:

(d) Measure the academic success of each institute charter school through performance-based means and not process-based means; ~~and~~

(e) Provide the opportunity for a student enrolled in an institute charter school to develop a plan for academic remediation upon the request of the student's parent or legal guardian; AND

(f) ENSURE THAT EACH STUDENT WHO ENROLLS IN THE SIXTH GRADE IN AN INSTITUTE CHARTER SCHOOL, ON THE DAY OF ENROLLMENT, IS REGISTERED WITH THE STATE-PROVIDED, FREE ON-LINE COLLEGE PLANNING AND PREPARATION RESOURCE, COMMONLY REFERRED TO AS "COLLEGEINCOLORADO.ORG". THE INSTITUTE, THE DEPARTMENT, AND THE DEPARTMENT OF HIGHER EDUCATION SHALL COLLABORATE TO MONITOR THE IMPLEMENTATION OF THIS PARAGRAPH (f) AND TO ENSURE OPTIMAL INTERACTIVITY BETWEEN THE VARIOUS DATA BASES AND STUDENT RECORD SYSTEMS

EMPLOYED BY INSTITUTE CHARTER SCHOOLS AND COLLEGE IN COLORADO. EACH INSTITUTE CHARTER SCHOOL SHALL ASSIST EACH STUDENT AND HIS OR HER PARENT OR LEGAL GUARDIAN TO DEVELOP AND MAINTAIN THE STUDENT'S INDIVIDUAL CAREER AND ACADEMIC PLAN NO LATER THAN THE BEGINNING OF NINTH GRADE BUT MAY ASSIST THE STUDENT AND HIS OR HER PARENT OR LEGAL GUARDIAN TO DEVELOP AND MAINTAIN THE STUDENT'S INDIVIDUAL CAREER AND ACADEMIC PLAN IN ANY GRADE PRIOR TO NINTH GRADE.

SECTION 14. 22-30.5-508 (5), Colorado Revised Statutes, is amended to read:

22-30.5-508. Institute charter schools - contract contents - regulations.

(5) Any term included in a charter contract that would require an institute charter school to waive or otherwise ~~forgo~~ FORGO 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. IN NO EVENT SHALL THIS SUBSECTION (5) BE CONSTRUED TO PROHIBIT ANY INSTITUTE CHARTER SCHOOL FROM CONTRACTING WITH THE INSTITUTE FOR THE PURCHASE OF SERVICES, INCLUDING BUT NOT LIMITED TO THE PURCHASE OF EDUCATIONAL SERVICES.

SECTION 15. 22-30.5-514, Colorado Revised Statutes, is amended to read:

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~~ THROUGH THE 2008-09 BUDGET YEAR, 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 students enrolled in an on-line program, as defined in section 22-30.7-102 (9), 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. ANY MONEYS REMAINING IN SUCH FUND THAT HAVE NOT BEEN EXPENDED PRIOR TO THE 2009-10 BUDGET YEAR SHALL BE BUDGETED FOR THE PURPOSES SET FORTH IN SECTION 22-45-103 (1) (c) AND (1) (e) IN THE 2009-10 BUDGET YEAR OR ANY BUDGET YEAR THEREAFTER.

(2) For the 2004-05 budget year ~~and budget years thereafter~~ THROUGH THE 2008-09 BUDGET YEAR, 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 students enrolled in an on-line program, as defined in section 22-30.7-102 (9), 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. ANY MONEYS REMAINING IN ANY SUCH ACCOUNT THAT HAVE NOT BEEN EXPENDED PRIOR TO THE 2009-10 BUDGET YEAR SHALL BE BUDGETED FOR THE PURPOSES SET FORTH IN SECTION 22-45-103 (1) (a) (II) IN THE 2009-10 BUDGET YEAR OR ANY BUDGET YEAR THEREAFTER.

SECTION 16. 22-32-109 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22-32-109. Board of education - specific duties. (1) In addition to any other duty required to be performed by law, each board of education shall have and perform the following specific duties:

(nn) TO ENSURE THAT EACH STUDENT WHO ENROLLS IN THE SIXTH GRADE IN A PUBLIC SCHOOL OF THE SCHOOL DISTRICT, INCLUDING BUT NOT LIMITED TO A DISTRICT CHARTER SCHOOL, ON THE DAY OF ENROLLMENT IS REGISTERED WITH THE STATE-PROVIDED, FREE ON-LINE COLLEGE PLANNING AND PREPARATION RESOURCE, COMMONLY REFERRED TO AS "COLLEGEINCOLORADO.ORG". THE SCHOOL DISTRICT, THE DEPARTMENT OF EDUCATION, AND THE DEPARTMENT OF HIGHER EDUCATION SHALL COLLABORATE TO MONITOR THE IMPLEMENTATION OF THIS PARAGRAPH (nn) AND TO ENSURE OPTIMAL INTERACTIVITY BETWEEN THE VARIOUS DATA BASES AND STUDENT RECORD SYSTEMS EMPLOYED BY SCHOOL DISTRICTS AND COLLEGE IN COLORADO. EACH PUBLIC SCHOOL SHALL ASSIST EACH STUDENT AND HIS OR HER PARENT OR LEGAL GUARDIAN TO DEVELOP AND MAINTAIN THE STUDENT'S INDIVIDUAL CAREER AND ACADEMIC PLAN NO LATER THAN THE BEGINNING OF NINTH GRADE BUT MAY ASSIST THE STUDENT AND HIS OR HER PARENT OR LEGAL GUARDIAN TO DEVELOP AND MAINTAIN THE STUDENT'S INDIVIDUAL CAREER AND ACADEMIC PLAN IN ANY GRADE PRIOR TO NINTH GRADE.

SECTION 17. Part 1 of article 2 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

22-2-136. Additional duty - state board - individual career and academic plans - standards - rules. (1) ON OR BEFORE FEBRUARY 1, 2010, THE STATE BOARD SHALL PROMULGATE RULES PURSUANT TO THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., TO ESTABLISH STANDARDS FOR INDIVIDUAL CAREER AND ACADEMIC PLANS FOR STUDENTS ENROLLED IN THE PUBLIC SCHOOLS IN THE STATE. AN INDIVIDUAL CAREER AND ACADEMIC PLAN SHALL BE DESIGNED TO ASSIST A STUDENT AND HIS OR HER PARENT OR LEGAL GUARDIAN IN EXPLORING THE POSTSECONDARY CAREER AND EDUCATIONAL OPPORTUNITIES AVAILABLE TO THE STUDENT, ALIGNING COURSE WORK AND CURRICULUM, APPLYING TO POSTSECONDARY EDUCATION INSTITUTIONS, SECURING FINANCIAL AID, AND ULTIMATELY ENTERING THE WORKFORCE.

(2) IN ESTABLISHING THE STANDARDS FOR INDIVIDUAL CAREER AND ACADEMIC PLANS, THE STATE BOARD SHALL ENSURE, AT A MINIMUM, THAT:

(a) EACH INDIVIDUAL CAREER AND ACADEMIC PLAN INCLUDES A CAREER PLANNING AND GUIDANCE COMPONENT AND A PORTFOLIO THAT REFLECTS, AT A MINIMUM:

(I) THE STUDENT'S EFFORTS IN EXPLORING CAREERS, INCLUDING INTEREST SURVEYS THAT THE STUDENT COMPLETES;

(II) THE STUDENT'S ACADEMIC PROGRESS, INCLUDING THE COURSES TAKEN, ANY REMEDIATION OR CREDIT RECOVERY, AND ANY CONCURRENT ENROLLMENT CREDITS EARNED;

(III) THE STUDENT'S EXPERIENCES IN CONTEXTUAL AND SERVICE LEARNING;

(IV) THE STUDENT'S COLLEGE APPLICATIONS AND RESUME, AS THEY ARE PREPARED AND SUBMITTED; AND

(V) THE STUDENT'S POSTSECONDARY STUDIES AS THE STUDENT PROGRESSES;

(b) EACH INDIVIDUAL CAREER AND ACADEMIC PLAN IS ACCESSIBLE TO EDUCATORS, STUDENTS, AND PARENTS; AND

(c) EACH PUBLIC SCHOOL, IN ASSISTING STUDENTS AND PARENTS IN CREATING AND MAINTAINING THE INDIVIDUAL CAREER AND ACADEMIC PLANS, IS IN COMPLIANCE WITH THE REQUIREMENTS OF THE FEDERAL "FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974", 20 U.S.C. SEC. 1232g.

SECTION 18. 22-33-205 (3) and (4), Colorado Revised Statutes, are amended to read:

22-33-205. Services for expelled and at-risk students - grants - criteria.

(3) The state board shall annually award at least forty-five percent of any moneys appropriated for ~~this grant~~ THE program to applicants ~~who~~ THAT provide educational services to students from more than one school district AND AT LEAST ONE-HALF OF ANY INCREASE IN THE APPROPRIATION FOR THE PROGRAM FOR THE 2009-10 FISCAL YEAR TO APPLICANTS THAT PROVIDE SERVICES AND SUPPORTS THAT ARE DESIGNED TO REDUCE THE NUMBER OF TRUANCY CASES REQUIRING COURT INVOLVEMENT AND THAT ALSO REFLECT THE BEST INTERESTS OF STUDENTS AND FAMILIES. THE SERVICES AND SUPPORTS SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, ALTERNATIVES TO GUARDIAN AD LITEM REPRESENTATION IN TRUANCY PROCEEDINGS.

(4) The department of education is authorized to retain up to one percent of any moneys appropriated for the ~~grant~~ program for the purpose of annually evaluating the ~~expelled and at-risk student services grant~~ program. THE DEPARTMENT OF EDUCATION IS AUTHORIZED AND ENCOURAGED TO RETAIN UP TO AN ADDITIONAL TWO PERCENT OF ANY MONEYS APPROPRIATED FOR THE PROGRAM FOR THE PURPOSE OF PARTNERING WITH ORGANIZATIONS OR AGENCIES THAT PROVIDE SERVICES AND SUPPORTS THAT ARE DESIGNED TO REDUCE THE NUMBER OF TRUANCY CASES REQUIRING COURT INVOLVEMENT AND THAT ALSO REFLECT THE BEST INTERESTS OF STUDENTS AND FAMILIES. THE SERVICES AND SUPPORTS SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, ALTERNATIVES TO GUARDIAN AD LITEM REPRESENTATION IN TRUANCY PROCEEDINGS. On or before January 1, 2006, and on or before January 1 each year thereafter, the department of education shall report to the education committees of the house of representatives and the senate, OR ANY SUCCESSOR COMMITTEES, the evaluation findings on the outcomes and the effectiveness of the

program related to school attendance, attachment, and achievement. THE REPORT SHALL ALSO INCLUDE SPECIFIC INFORMATION ON THE EFFICACY OF SERVICES AND SUPPORTS THAT PROVIDE ALTERNATIVES TO COURT INVOLVEMENT AND GUARDIAN AD LITEM REPRESENTATION IN TRUANCY PROCEEDINGS.

SECTION 19. 22-40-102 (1.7) (b), Colorado Revised Statutes, is amended to read:

22-40-102. Certification - tax revenues. (1.7) (b) For the purposes of this subsection (1.7), "excess transportation costs" means the ~~current~~ ANNUAL operating expenditures for pupil transportation, as defined in section 22-51-102 (1), minus the total payment actually received by the district under article 51 of this title, AND ANNUAL EXPENDITURES FOR THE PURCHASE OR LEASE OF PUPIL TRANSPORTATION VEHICLES OR OTHER CAPITAL OUTLAYS RELATED TO PUPIL TRANSPORTATION. The calculation of excess transportation costs shall be based upon amounts expended and amounts received for the twelve-month period ending on June 30 prior to the certification of the mill levy.

SECTION 20. 22-44-105 (1) (c.5), Colorado Revised Statutes, is amended, and the said 22-44-105 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

22-44-105. Budget - contents - mandatory. (1) The budget shall be presented in the standard budget report format established by the state board of education by rule pursuant to subsection (5) of this section. The standard budget report format established by the state board shall be substantially consistent from year to year and shall adhere to the following guidelines:

(c.5) The budget shall ensure that the school district holds unrestricted general fund or cash fund emergency reserves in the amount required under the provisions of section 20 (5) of article X of the state constitution; EXCEPT THAT, IF A BOARD OF EDUCATION PROVIDES FOR A DISTRICT EMERGENCY RESERVE IN THE GENERAL FUND FOR THE BUDGET YEAR, ESTABLISHED AT AN AMOUNT EQUAL TO AT LEAST THREE PERCENT OF THE AMOUNT BUDGETED TO THE GENERAL FUND, THE BOARD MAY:

(I) DESIGNATE REAL PROPERTY OWNED BY THE DISTRICT AS ALL OR A PORTION OF THE RESERVE REQUIRED BY SECTION 20 (5) OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS THE BOARD HAS FILED WITH THE STATE TREASURER AND THE DEPARTMENT OF EDUCATION A LETTER OF INTENT THAT EXPRESSES THE INTENT OF THE BOARD TO INCREASE THE LIQUIDITY OF SUCH PROPERTY UPON THE OCCURRENCE OF A DECLARED EMERGENCY WITHIN THE MEANING OF SECTION 20 (5) OF ARTICLE X OF THE STATE CONSTITUTION BY ENTERING INTO ONE OR MORE LEASE-PURCHASE AGREEMENTS WITH RESPECT TO SUCH PROPERTY OR BY OTHER MEANS ACCEPTABLE TO THE STATE TREASURER; OR

(II) SECURE A LETTER OF CREDIT FROM AN INVESTMENT-GRADE BANK AS ALL OR A PORTION OF THE RESERVE REQUIRED BY SECTION 20 (5) OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS THE BOARD HAS FILED WITH THE STATE TREASURER AND THE DEPARTMENT OF EDUCATION A LETTER OF INTENT THAT EXPRESSES THE INTENT OF THE BOARD TO SATISFY ITS OBLIGATION TO REIMBURSE THE BANK FOR MONEYS DRAWN ON THE LETTER OF CREDIT UPON THE OCCURRENCE

OF A DECLARED EMERGENCY WITHIN THE MEANING OF SECTION 20 (5) OF ARTICLE X OF THE STATE CONSTITUTION THAT ARE NOT REIMBURSED TO THE BANK WITHIN THE SAME FISCAL YEAR BY ENTERING INTO LEASE-PURCHASE AGREEMENTS WITH RESPECT TO REAL PROPERTY OWNED BY THE DISTRICT.

(c.6) IF AT ANY TIME THE BOARD OF EDUCATION EXPENDS ANY MONEYS FROM THE DISTRICT EMERGENCY RESERVE CREATED PURSUANT TO PARAGRAPH (c.5) OF THIS SUBSECTION (1), THE BOARD SHALL RESTORE THE RESERVE TO THREE PERCENT OF THE AMOUNT BUDGETED TO THE GENERAL FUND AS FOLLOWS:

(I) IF THE BOARD OF EDUCATION EXPENDS MONEYS FROM THE DISTRICT EMERGENCY RESERVE IN A SINGLE FISCAL YEAR, THE BOARD SHALL RESTORE THE RESERVE PURSUANT TO THIS PARAGRAPH (c.6) WITHIN THIRTY-SIX MONTHS OF THE FIRST DRAW OF THE MONEY FROM THE RESERVE; AND

(II) IF THE BOARD OF EDUCATION EXPENDS MONEYS FROM THE DISTRICT EMERGENCY RESERVE IN TWO CONSECUTIVE FISCAL YEARS, THE BOARD SHALL RESTORE THE RESERVE PURSUANT TO THIS PARAGRAPH (c.6) BY THE END OF THE FISCAL YEAR FOLLOWING THE SECOND FISCAL YEAR IN WHICH THE BOARD EXPENDED MONEYS FROM THE RESERVE.

SECTION 21. Part 1 of article 44 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

22-44-119. Fiscal emergency restricted reserve. FOR THE 2009-10 BUDGET YEAR, EACH SCHOOL DISTRICT AND THE STATE CHARTER SCHOOL INSTITUTE SHALL BUDGET A TOTAL DOLLAR AMOUNT DETERMINED BY THE DEPARTMENT OF EDUCATION TO A FISCAL EMERGENCY RESTRICTED RESERVE IN THE GENERAL FUND. THE AMOUNT BUDGETED BY EACH SCHOOL DISTRICT AND THE STATE CHARTER SCHOOL INSTITUTE SHALL BE RELEASED FOR EXPENDITURE BY THE DISTRICT OR FOR DISTRIBUTION TO INSTITUTE CHARTER SCHOOLS BY THE STATE CHARTER SCHOOL INSTITUTE, AS APPLICABLE, ON JANUARY 29, 2010, IF A NEGATIVE SUPPLEMENTAL APPROPRIATION TO EFFECT A RECISSION OF THE TOTAL AMOUNT OF THE RESTRICTED RESERVE AS SPECIFIED IN SECTION 22-54-106.5 (3), OR ANY PORTION THEREOF, HAS NOT BEEN ENACTED AND BECOME LAW BY SAID DATE.

SECTION 22. 22-45-103 (1) (c) (I) (D), (1) (c) (I) (E), (1) (c) (I) (G), and (1) (c) (I) (H), Colorado Revised Statutes, are amended to read:

22-45-103. Funds. (1) The following funds are created for each school district for purposes specified in this article:

(c) **Capital reserve fund.** (I) Moneys allocated pursuant to the provisions of section 22-54-105 (2) shall be transferred from the general fund and recorded in the capital reserve fund along with the revenues received pursuant to section 39-5-132, C.R.S. Such revenues may be supplemented by gifts, donations, and tuition receipts. Unencumbered moneys in the fund may be transferred to a fund or an account within the general fund established in accordance with generally accepted accounting principles 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., by resolution of the board of education when such transfer is deemed necessary by the

board. Except as provided in subparagraph (V) of this paragraph (c), expenditures from the fund shall be limited to long-range capital outlay expenditures and shall be made only for the following purposes:

(D) Alterations and improvements to existing structures; ~~where the total estimated cost of such projects for labor and materials is in excess of two thousand five hundred dollars;~~

(E) Acquisition of school buses or other equipment, except equipment specified in sub-subparagraph (H) of this subparagraph (I); ~~the estimated unit cost of which, including any necessary installation, is in excess of one thousand dollars;~~

(G) Any software licensing agreement; ~~in excess of one thousand dollars;~~

(H) Acquisition of computer equipment. ~~the estimated unit cost of which, including any necessary installation, is in excess of five hundred dollars.~~

SECTION 23. 22-45-103 (3), Colorado Revised Statutes, is amended to read:

22-45-103. Funds. (3) Each school district shall ensure that the district holds unrestricted general fund or cash fund emergency reserves in the amount required under the provisions of section 20 (5) of article X of the state constitution; EXCEPT THAT A DISTRICT MAY DESIGNATE PROPERTY OWNED BY THE DISTRICT AS ALL OR A PORTION OF THE REQUIRED RESERVE IN ACCORDANCE WITH SECTION 22-44-105 (1) (c.5).

SECTION 24. Part 1 of article 2 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

22-2-137. State schools - legislative declaration - feasibility study - authority to contract - funding. (1) THE GENERAL ASSEMBLY FINDS THAT SOME STATES HAVE CREATED STATE AND RESIDENTIAL SCHOOLS TO PROVIDE EDUCATIONAL PROGRAMS AND STUDENT SUPPORT SERVICES FOR STUDENTS WHO ARE AT RISK OF ACADEMIC FAILURE. THE GENERAL ASSEMBLY FURTHER FINDS THAT EARLY REPORTS OF RESULTS ACHIEVED BY SOME OF THESE SCHOOLS INDICATE THAT THIS MAY BE A PROMISING APPROACH TO REDUCING THE DROPOUT RATE, CLOSING THE ACHIEVEMENT GAPS, AND HELPING TO RAISE THE LEVEL OF ACADEMIC ACHIEVEMENT AMONG STUDENTS IN THE STATE. THE GENERAL ASSEMBLY THEREFORE FINDS THAT IT IS APPROPRIATE FOR THE COMMISSIONER TO STUDY THE FEASIBILITY OF CREATING ONE OR MORE STATE SCHOOLS IN COLORADO, WHICH MAY INCLUDE A RESIDENTIAL COMPONENT OR A SPECIFIC STUDENT POPULATION.

(2) BEGINNING IN JULY 2009, THE COMMISSIONER SHALL STUDY THE FEASIBILITY OF OPERATING ONE OR MORE STATE SCHOOLS TO SERVE STUDENTS WHO ARE IN NEED OF GREATER ACADEMIC SUPPORT AND WHO MAY BE AT RISK OF ACADEMIC FAILURE. AT A MINIMUM, THE FEASIBILITY STUDY SHALL ADDRESS AND MAKE RECOMMENDATIONS CONCERNING THE FOLLOWING ISSUES:

(a) THE GOALS THAT A STATE SCHOOL WOULD BE DESIGNED TO ACHIEVE AND A METHOD FOR MEASURING THE LEVEL OF ACHIEVEMENT OF THOSE GOALS. IN ADDRESSING THIS ISSUE, THE COMMISSIONER SHALL PROVIDE AN OVERVIEW OF THE

STATE AND RESIDENTIAL SCHOOLS OPERATING IN OTHER STATES, THE GOALS THAT THEY ARE DESIGNED TO ACHIEVE, AND THE DEGREE TO WHICH THEY HAVE ACHIEVED OR ARE ACHIEVING THOSE GOALS.

(b) THE APPROPRIATE STUDENT POPULATION TO BE SERVED BY A STATE SCHOOL AND THE MANNER OF SELECTING STUDENTS, THE NUMBER OF STATE SCHOOLS THAT SHOULD BE CONSIDERED, AND APPROPRIATE LOCATIONS FOR STATE SCHOOLS;

(c) THE GOVERNANCE STRUCTURE AND FUNDING FOR A STATE SCHOOL, INCLUDING THE OPTIMAL LEVEL OF PER PUPIL FUNDING, FUNDING FOR CAPITAL CONSTRUCTION NEEDS, AND POTENTIAL PUBLIC AND PRIVATE FUNDING SOURCES;

(d) THE APPROPRIATE CURRICULUM FOR A STATE SCHOOL, INCLUDING WHICH GRADE LEVELS A STATE SCHOOL WOULD SERVE, THE LENGTH OF THE SCHOOL DAY AND SCHOOL YEAR FOR WHICH A STATE SCHOOL WOULD OPERATE, AND WHETHER A STATE SCHOOL SHOULD INCLUDE A FOCUS ON SPECIFIC SUBJECT MATTER AREAS; AND

(e) THE TYPES OF STUDENT AND FAMILY SUPPORT SERVICES THAT A STATE SCHOOL WOULD PROVIDE, INCLUDING THE MANNER IN WHICH A STATE SCHOOL WOULD COLLABORATE WITH STATE AND LOCAL AGENCIES IN PROVIDING THESE SERVICES.

(3) ON OR BEFORE FEBRUARY 1, 2010, THE DEPARTMENT SHALL SUBMIT TO THE EDUCATION COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE THE FEASIBILITY STUDY DESCRIBED IN SUBSECTION (2) OF THIS SECTION FOR OPERATING ONE OR MORE STATE SCHOOLS AND ANY LEGISLATIVE RECOMMENDATIONS THE DEPARTMENT MAY HAVE PERTAINING TO THE CREATION OF ONE OR MORE STATE SCHOOLS.

(4) (a) FOLLOWING COMPLETION OF THE FEASIBILITY STUDY, IF THE COMMISSIONER CONCLUDES THAT THE CREATION AND OPERATION OF STATE RESIDENTIAL SCHOOLS WOULD BE BENEFICIAL TO THE STATE, THE COMMISSIONER MAY CONTRACT FOR THE CREATION AND OPERATION OF ONE OR MORE STATE RESIDENTIAL SCHOOLS TO PROVIDE EDUCATIONAL SERVICES TO STUDENTS WHO ARE AT RISK OF ACADEMIC FAILURE. ANY STATE RESIDENTIAL SCHOOL OPERATED PURSUANT TO THIS SECTION SHALL PROVIDE AN EDUCATIONAL PROGRAM FOCUSED ON MATHEMATICS AND SCIENCE.

(b) IF THE COMMISSIONER DOES NOT CONTRACT FOR STATE RESIDENTIAL SCHOOLS AS AUTHORIZED IN PARAGRAPH (a) OF THIS SUBSECTION (4), THE COMMISSIONER MAY PROVIDE TECHNICAL ASSISTANCE TO SCHOOL DISTRICTS AND PUBLIC SCHOOLS TO ADDRESS THE NEEDS OF STUDENTS WHO ARE AT RISK OF ACADEMIC FAILURE BY IMPROVING THE AVAILABILITY AND QUALITY OF SECONDARY-LEVEL MATHEMATICS AND SCIENCE CURRICULA.

(5) (a) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT UP TO THREE MILLION DOLLARS BE APPROPRIATED TO THE COMMISSIONER TO EXPEND FOR THE IMPLEMENTATION OF SUBSECTION (4) OF THIS SECTION. THE GENERAL ASSEMBLY FINDS THAT, FOR PURPOSES OF SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION, THE CREATION OF STATE RESIDENTIAL SCHOOLS AND THE PROVISION OF TECHNICAL ASSISTANCE TO IMPROVE SECONDARY-LEVEL MATHEMATICS AND

SCIENCE CURRICULA AS PROVIDED IN SUBSECTION (4) OF THIS SECTION ARE IMPORTANT ELEMENTS OF ACCOUNTABLE PROGRAMS TO MEET STATE ACADEMIC STANDARDS, AND THE GENERAL ASSEMBLY MAY THEREFORE APPROPRIATE MONEYS FROM THE STATE EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE IX OF THE STATE CONSTITUTION FOR THE IMPLEMENTATION OF SUBSECTION (4) OF THIS SECTION.

(b) IN ADDITION TO THE FUNDING PROVIDED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5), IF THE COMMISSIONER CONTRACTS FOR THE CREATION AND OPERATION OF ONE OR MORE STATE RESIDENTIAL SCHOOLS, THE DEPARTMENT SHALL PROVIDE FUNDING FOR SAID SCHOOLS BY WITHHOLDING MONEYS FROM THE STATE SHARE OF TOTAL PROGRAM FUNDING PAYABLE TO THE DISTRICT OF RESIDENCE OF EACH STUDENT WHO ENROLLS IN A STATE RESIDENTIAL SCHOOL. THE AMOUNT WITHHELD SHALL BE EQUAL TO THE AMOUNT OF THE SCHOOL DISTRICT'S PER PUPIL REVENUE FOR THE APPLICABLE BUDGET YEAR MULTIPLIED BY THE NUMBER OF STUDENTS WHO RESIDE IN THE SCHOOL DISTRICT AND ARE ENROLLED IN THE STATE RESIDENTIAL SCHOOL AS OF OCTOBER 1 OF THE APPLICABLE BUDGET YEAR. A STUDENT WHO ENROLLS IN A STATE RESIDENTIAL SCHOOL SHALL BE COUNTED IN THE PUPIL ENROLLMENT OF THE STUDENT'S SCHOOL DISTRICT OF RESIDENCE FOR PURPOSES OF THIS PARAGRAPH (b). THE DEPARTMENT SHALL ADOPT GUIDELINES AS NECESSARY FOR THE IMPLEMENTATION OF THIS PARAGRAPH (b).

(c) THE COMMISSIONER IS ENCOURAGED TO APPLY FEDERAL MONEYS RECEIVED PURSUANT TO THE FEDERAL "AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009", PUB.L. 111-5, TO THE EXTENT ALLOWED TO OFFSET THE COSTS INCURRED IN IMPLEMENTING THIS SECTION. THE COMMISSIONER IS AUTHORIZED TO SEEK AND ACCEPT ADDITIONAL PUBLIC OR PRIVATE GIFTS, GRANTS, OR DONATIONS FOR THE IMPLEMENTATION OF THIS SECTION.

SECTION 25. 22-2-113 (1)(g), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

22-2-113. Commissioner - powers. (1) Subject to the supervision of the state board, the commissioner has the following powers:

(g)(III) NOTWITHSTANDING ANY PROVISION OF SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH (g) TO THE CONTRARY, FOR THE 2008-09 BUDGET YEAR, THE COMMISSIONER MAY ACCEPT AS REPAYMENT FROM A SCHOOL DISTRICT THAT HAS RECEIVED AN OVERPAYMENT ITEMS FOR USE BY THE DEPARTMENT, INCLUDING BUT NOT LIMITED TO LIFETIME ONLINE CURRICULUM LICENSES, IN THE SAME VALUE AS THE AMOUNT OF THE OVERPAYMENT OWED BY THE SCHOOL DISTRICT.

SECTION 26. Part 3 of article 11 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

22-11-306. Centers of excellence awards. (1) (a) THE STATE BOARD SHALL ANNUALLY PRESENT FINANCIAL AWARDS TO PUBLIC SCHOOLS IN THE STATE THAT ENROLL A STUDENT POPULATION OF WHICH AT LEAST SEVENTY-FIVE PERCENT ARE AT-RISK PUPILS, AS DEFINED IN SECTION 22-54-103 (1.5), AND THAT DEMONSTRATE THE HIGHEST RATES OF STUDENT ACADEMIC GROWTH, AS DETERMINED BY THE DEPARTMENT BASED UPON THE STATISTICAL MODEL ADOPTED PURSUANT TO SECTION

22-7-604.3 (3) (a).

(b) AWARDS ISSUED PURSUANT TO THIS SECTION SHALL BE KNOWN AS "CENTERS OF EXCELLENCE AWARDS".

(2) A SCHOOL THAT RECEIVES AN AWARD PURSUANT TO THIS SECTION SHALL NOT QUALIFY FOR AN AWARD PURSUANT TO SECTION 22-11-305.

(3) NOTWITHSTANDING THE PROVISIONS OF SECTIONS 22-11-302 (2) (a) AND 22-11-305 (3), OF THE MONEYS AVAILABLE FOR AWARDS PURSUANT TO THIS PART 3, IN THE 2009-10 BUDGET YEAR AND BUDGET YEARS THEREAFTER, TWO HUNDRED FIFTY THOUSAND DOLLARS SHALL BE AWARDED TO SCHOOLS ANNUALLY PURSUANT TO THIS SECTION. THE DEPARTMENT SHALL APPORTION THE REMAINDER BETWEEN THE "JOHN IRWIN SCHOOLS OF EXCELLENCE AWARDS" AND THE "GOVERNOR'S DISTINGUISHED IMPROVEMENT AWARDS" AS PROVIDED IN SECTIONS 22-11-302 (2) (a) AND 22-11-305 (3), RESPECTIVELY.

SECTION 27. 22-11-304, Colorado Revised Statutes, is amended to read:

22-11-304. School awards program fund - creation - contributions.

(1) (a) The department is hereby authorized to receive grants, gifts, and donations from any source, public or private, to fund financial awards to public schools pursuant to the program established in this part 3. All public and private grants, gifts, and donations received by the department pursuant to this section shall be transmitted to the state treasurer who shall credit the same, in addition to any appropriations made by the general assembly AND THE MONEYS TRANSFERRED PURSUANT TO SUBSECTION (2) OF THIS SECTION, to the school awards program fund, which is hereby created in the state treasury.

(b) Moneys in the school awards program fund shall be subject to appropriation by the general assembly to the department of education for purposes of making financial awards pursuant to the provisions of this part 3. At the end of any fiscal year, all unexpended and unencumbered moneys in the school awards program fund shall remain therein and shall not be credited or transferred to the general fund or any other fund. However, in accordance with section 24-36-114, C.R.S., all interest derived from the deposit and investment of moneys in the fund shall be credited to the general fund. Any moneys credited to the school awards program fund shall be used exclusively for awards and shall not be used to pay for the expenses of the department in administering the program established in this part 3.

(2) ON JULY 1, 2009, THE STATE TREASURER, PURSUANT TO SECTION 22-7-908 (4) (b), SHALL TRANSFER FROM THE READ-TO-ACHIEVE CASH FUND CREATED IN SECTION 22-7-908 TO THE SCHOOL AWARDS PROGRAM FUND THE AMOUNT OF TWO HUNDRED FIFTY THOUSAND DOLLARS TO BE AWARDED PURSUANT TO SECTION 22-11-306 AS "CENTERS OF EXCELLENCE AWARDS".

SECTION 28. 22-7-611, Colorado Revised Statutes, is amended to read:

22-7-611. Closing the achievement gap program - strategies - assistance - criteria - rule-making. (1) As used in this section, unless the context otherwise requires:

(a) "ELIGIBLE DISTRICT" MEANS A SCHOOL DISTRICT THAT HAS BEEN IDENTIFIED BY RULE OF THE STATE BOARD AS HAVING A SIGNIFICANT ACHIEVEMENT GAP.

(b) "Eligible school" means a public school that HAS BEEN IDENTIFIED BY RULE OF THE STATE BOARD AS HAVING A SIGNIFICANT ACHIEVEMENT GAP.

~~(a) Has received an academic performance rating of "unsatisfactory" pursuant to section 22-7-604 (5); or~~

~~(b) Has been identified by rule of the state board as having a significant achievement gap.~~

(2) There is hereby established in the department the closing the achievement gap program, referred to in this section as the "program", to provide extensive assistance to an eligible school that is at risk of being converted into an independent charter school pursuant to the provisions of part 3 of article 30.5 of this title ELIGIBLE DISTRICTS AND ELIGIBLE SCHOOLS.

(3) The department shall prepare and distribute to each ELIGIBLE DISTRICT AND eligible school an outline of different strategies the ELIGIBLE DISTRICT OR ELIGIBLE school may implement to improve academic achievement. The department shall provide the outline by April 1 of the school year preceding the school year in which the ELIGIBLE DISTRICT OR eligible school intends to participate in the program. The outline may include, but need not be limited to, the following strategies:

(a) Using disaggregated ~~school~~ STUDENT data to set academic improvement targets in reading, writing, mathematics, and science;

(b) Using improvement targets to define professional development needs related to content, instruction, differentiation, and best practices in educating special education students, gifted and talented students, English language learners, and other student subgroups, as needed;

(c) Developing interim DISTRICT-LEVEL AND building-level assessments to monitor student progress toward proficiency on the state model content standards and developing a plan to immediately address gaps in learning;

(d) Examining and realigning, as needed, school scheduling, academic support systems, and assignments of personnel;

(e) Designing a plan for increasing parental knowledge and skill to support academic objectives; and

(f) Identifying leaders who specialize in rehabilitating failing schools and who may serve as school principals.

(4) (a) An eligible school that chooses to apply for participation in the program shall provide to its district school board a list of the strategies selected from the outline provided by the department that the eligible school intends to implement to improve academic achievement AMONG THE STUDENTS ENROLLED IN THE ELIGIBLE SCHOOL. The eligible school shall provide the list by May 1 of the school year

preceding the school year in which the eligible school intends to participate in the program. If the district school board chooses to allow the eligible school to apply for participation in the program, the district school board shall, IN ACCORDANCE WITH TIME LINES ADOPTED BY RULE OF THE STATE BOARD, provide to the department a list of the strategies that the district school board and the eligible school have chosen to implement to improve academic achievement AMONG THE STUDENTS ENROLLED IN THE ELIGIBLE SCHOOL.

(b) AN ELIGIBLE DISTRICT THAT CHOOSES TO APPLY FOR PARTICIPATION IN THE PROGRAM SHALL, IN ACCORDANCE WITH TIME LINES ADOPTED BY RULE OF THE STATE BOARD, PROVIDE TO THE DEPARTMENT A LIST OF THE STRATEGIES SELECTED FROM THE OUTLINE PROVIDED BY THE DEPARTMENT THAT THE ELIGIBLE DISTRICT HAS CHOSEN TO IMPLEMENT TO IMPROVE ACADEMIC ACHIEVEMENT WITHIN THE ELIGIBLE DISTRICT.

(5) The state board shall determine the criteria by which ELIGIBLE DISTRICTS AND eligible schools shall be selected to participate in the program and shall promulgate rules that set forth the criteria.

(6) Subject to available appropriations and upon the request of a participating ELIGIBLE DISTRICT OR eligible school, the department shall provide assistance through the program to the participating ELIGIBLE DISTRICT OR eligible school. The assistance may consist of, but is not limited to, information, personnel, and program and technical support.

(7) The state board may promulgate all reasonable and necessary rules to implement this section.

SECTION 29. 22-7-613 (1), Colorado Revised Statutes, is amended to read:

22-7-613. Closing the achievement gap cash fund - creation. (1) (a) The department is authorized to seek and accept gifts, grants, and donations from private or public sources for the purposes of implementing ~~sections 22-7-611 and 22-7-612~~ SECTION 22-7-611. All private and public funds received through gifts, grants, or donations shall be transmitted to the state treasurer, who shall credit the same to the closing the achievement gap cash fund, which fund is hereby created and referred to in this section as the "fund". The moneys in the fund shall be continuously appropriated to the department.

(b) ON JULY 1, 2009, THE STATE TREASURER, PURSUANT TO SECTION 22-7-908 (4) (a), SHALL TRANSFER FROM THE READ-TO-ACHIEVE CASH FUND CREATED IN SECTION 22-7-908 TO THE CLOSING THE ACHIEVEMENT GAP CASH FUND THE AMOUNT OF ONE MILLION SEVEN HUNDRED FIFTY THOUSAND DOLLARS FOR THE PURPOSES OF IMPLEMENTING SECTION 22-7-611.

SECTION 30. 22-7-908, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-7-908. Read-to-achieve cash fund - created. (4) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, ON JULY 1, 2009, THE STATE TREASURER SHALL TRANSFER FROM THE CASH FUND:

(a) TO THE CLOSING THE ACHIEVEMENT GAP CASH FUND CREATED IN SECTION 22-7-613 THE AMOUNT OF ONE MILLION SEVEN HUNDRED FIFTY THOUSAND DOLLARS; AND

(b) TO THE SCHOOL AWARDS PROGRAM FUND CREATED IN SECTION 22-11-304 THE AMOUNT OF TWO HUNDRED FIFTY THOUSAND DOLLARS.

SECTION 31. Part 6 of article 11 of title 22, Colorado Revised Statutes, as enacted in Senate Bill 09-163, is amended BY THE ADDITION OF A NEW SECTION to read:

22-11-603.5. Centers of excellence awards. (1) (a) THE STATE BOARD SHALL ANNUALLY PRESENT FINANCIAL AWARDS TO PUBLIC SCHOOLS IN THE STATE THAT ENROLL A STUDENT POPULATION OF WHICH AT LEAST SEVENTY-FIVE PERCENT ARE AT-RISK PUPILS, AS DEFINED IN SECTION 22-54-103 (1.5), AND THAT DEMONSTRATE THE HIGHEST RATES OF STUDENT LONGITUDINAL GROWTH, AS MEASURED BY THE COLORADO GROWTH MODEL. THE TECHNICAL ADVISORY PANEL CONVENED PURSUANT TO SECTION 22-11-202 SHALL RECOMMEND TO THE STATE BOARD, AND THE STATE BOARD SHALL ESTABLISH BY RULE, THE METHOD BY WHICH TO IDENTIFY SCHOOLS THAT QUALIFY FOR AN AWARD PURSUANT TO THIS SECTION.

(b) AWARDS ISSUED PURSUANT TO THIS SECTION SHALL BE KNOWN AS "CENTERS OF EXCELLENCE AWARDS".

(2) A SCHOOL THAT RECEIVES AN AWARD PURSUANT TO THIS SECTION SHALL NOT QUALIFY FOR AN AWARD PURSUANT TO SECTION 22-11-603.

(3) NOTWITHSTANDING THE PROVISIONS OF SECTIONS 22-11-602 (2) AND 22-11-603 (2), OF THE MONEYS AVAILABLE FOR AWARDS PURSUANT TO THIS PART 3, IN THE 2009-10 BUDGET YEAR AND BUDGET YEARS THEREAFTER, TWO HUNDRED FIFTY THOUSAND DOLLARS SHALL BE AWARDED TO SCHOOLS ANNUALLY PURSUANT TO THIS SECTION. THE DEPARTMENT SHALL APPORTION THE REMAINDER BETWEEN THE "JOHN IRWIN SCHOOLS OF EXCELLENCE AWARDS" AND THE "GOVERNOR'S DISTINGUISHED IMPROVEMENT AWARDS" AS PROVIDED IN SECTIONS 22-11-602 (2) AND 22-11-603 (2), RESPECTIVELY.

SECTION 32. 22-11-605 (1), Colorado Revised Statutes, as enacted in Senate Bill 09-163, is amended, and the said 22-11-605 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

22-11-605. School awards program fund - creation - contributions. (1) The department is hereby authorized to receive gifts, grants, and donations from any source, public or private, to fund financial awards to public schools pursuant to the program established in this part 6. The department shall transmit all public and private gifts, grants, and donations received pursuant to this section to the state treasurer who shall credit the same, in addition to any appropriations made by the general assembly AND THE AMOUNT TRANSFERRED PURSUANT TO SUBSECTION (3) OF THIS SECTION, to the school awards program fund, which is hereby created in the state treasury and referred to in this section as the "fund".

(3) ON JULY 1, 2009, THE STATE TREASURER, PURSUANT TO SECTION 22-7-908 (4)

(b), SHALL TRANSFER FROM THE READ-TO-ACHIEVE CASH FUND CREATED IN SECTION 22-7-908 TO THE SCHOOL AWARDS PROGRAM FUND THE AMOUNT OF TWO HUNDRED FIFTY THOUSAND DOLLARS TO BE AWARDED PURSUANT TO SECTION 22-11-603.5 AS "CENTERS OF EXCELLENCE AWARDS".

SECTION 33. 22-7-908, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-7-908. Read-to-achieve cash fund - created. (4) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, ON JULY 1, 2009, THE STATE TREASURER SHALL TRANSFER FROM THE CASH FUND:

(a) TO THE CLOSING THE ACHIEVEMENT GAP CASH FUND CREATED IN SECTION 22-7-613 THE AMOUNT OF ONE MILLION SEVEN HUNDRED FIFTY THOUSAND DOLLARS; AND

(b) TO THE SCHOOL AWARDS PROGRAM FUND CREATED IN SECTION 22-11-605 THE AMOUNT OF TWO HUNDRED FIFTY THOUSAND DOLLARS.

SECTION 34. 22-44-118 (1), Colorado Revised Statutes, is amended to read:

22-44-118. Full-day kindergarten reserve - tracking of expenditures - preschool programs - rules. (1) (a) Except as otherwise provided in ~~paragraph (b)~~ PARAGRAPHS (b) AND (c) of this subsection (1), for the 2008-09 budget year and each budget year thereafter, a school district that does not report any full-day kindergarten pupils in the district's October 1 pupil enrollment count shall hold the moneys received for full-day kindergarten programs through supplemental kindergarten enrollment pursuant to section 22-54-103 (7) (d) in a full-day kindergarten reserve in the district's general fund. The district shall not use the moneys in the full-day kindergarten reserve until the district enrolls one or more pupils in full-day kindergarten in the district. Once the district enrolls pupils in full-day kindergarten in the district, the district shall not be required to maintain the full-day kindergarten reserve.

(b) For the 2008-09 budget year, a school district that does not report any full-day kindergarten pupils in the district's October 1 pupil enrollment count may use the moneys received for full-day kindergarten programs through supplemental kindergarten enrollment pursuant to section 22-54-103 (7) (d) for planning and facility preparation necessary for the district to offer a full-day kindergarten program in subsequent budget years. EACH SCHOOL DISTRICT SHALL, ON OR BEFORE JUNE 30, 2009, RETURN TO THE DEPARTMENT OF EDUCATION ANY UNEXPENDED AND UNENCUMBERED AMOUNT REMAINING OF THE MONEYS RECEIVED FOR FULL-DAY KINDERGARTEN PROGRAMS THROUGH SUPPLEMENTAL KINDERGARTEN ENROLLMENT PURSUANT TO SECTION 22-54-103 (7) (d). THE DEPARTMENT OF EDUCATION SHALL ADOPT PROCEDURES FOR THE IMPLEMENTATION OF THIS PARAGRAPH (b). THE DEPARTMENT OF EDUCATION SHALL TRANSMIT TO THE STATE TREASURER THE MONEYS RECEIVED PURSUANT TO THIS PARAGRAPH (b), AND THE STATE TREASURER SHALL CREDIT SAID MONEYS TO THE STATE EDUCATION FUND CREATED PURSUANT TO SECTION 17 (4) OF ARTICLE IX OF THE STATE CONSTITUTION.

(c) FOR THE 2009-10 BUDGET YEAR, A SCHOOL DISTRICT THAT DOES NOT REPORT

ANY FULL-DAY KINDERGARTEN PUPILS IN THE DISTRICT'S OCTOBER 1 PUPIL ENROLLMENT COUNT MAY USE THE MONEYS RECEIVED FOR FULL-DAY KINDERGARTEN PROGRAMS THROUGH SUPPLEMENTAL KINDERGARTEN ENROLLMENT PURSUANT TO SECTION 22-54-103 (7) (d) FOR PLANNING AND FACILITY PREPARATION NECESSARY FOR THE DISTRICT TO OFFER A FULL-DAY KINDERGARTEN PROGRAM IN SUBSEQUENT BUDGET YEARS.

SECTION 35. 22-7-908 (1), Colorado Revised Statutes, as amended in Senate Bill 09-269, is amended to read:

22-7-908. Read-to-achieve cash fund - created. (1) There is hereby established in the state treasury the read-to-achieve cash fund, referred to in this section as the "cash fund". The cash fund shall consist of moneys transferred thereto pursuant to subsection (3) of this section and any other moneys that may be made available by the general assembly. Subject to appropriation by the general assembly, moneys in the cash fund shall be used to provide grants pursuant to this part 9 and to the reading assistance grant program created pursuant to section 22-88-102. ~~except that, for the 2009-10 fiscal year, the general assembly may also appropriate moneys from the cash fund to the department of education to be used to award grants for summer school programs pursuant to part 8 of this article.~~ Any moneys not provided as grants may be invested by the state treasurer as provided in section 24-36-113, C.R.S. All interest derived from the deposit and investment of moneys in the cash fund shall be credited to the cash fund. Any amount remaining in the cash fund at the end of any fiscal year shall remain in the cash fund and shall not be credited or transferred to the general fund or to any other fund.

SECTION 36. 24-75-601.1 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-75-601.1. Legal investments of public funds. (1) It is lawful to invest public funds in any of the following securities:

(h.5) ANY CERTIFICATE OF PARTICIPATION OR OTHER SECURITY EVIDENCING RIGHTS IN PAYMENTS TO BE MADE BY A SCHOOL DISTRICT UNDER A LEASE, LEASE-PURCHASE AGREEMENT, OR SIMILAR ARRANGEMENT IF THE SECURITY, AT THE TIME OF PURCHASE, CARRIES AT LEAST TWO CREDIT RATINGS FROM ANY OF THE NATIONALLY RECOGNIZED CREDIT RATING AGENCIES AND IS RATED AT OR ABOVE "A" BY ALL SUCH CREDIT AGENCIES THAT HAVE PROVIDED A RATING.

SECTION 37. Repeal. 22-43.7-109 (9) (c) (II), Colorado Revised Statutes, is repealed as follows:

22-43.7-109. Financial assistance for public school capital construction - application requirements - evaluation criteria - local match requirements. (9) Except as otherwise provided in subsection (10) of this section, the board shall recommend and the state board shall approve financial assistance for a public school facility capital construction project only if the applicant provides matching moneys in an amount equal to a percentage of the total financing for the project determined by the board after consideration of the applicant's financial capacity, as determined by the following factors:

(c) With respect to a charter school's application for financial assistance:

(II) ~~The per pupil revenue received by the charter school from the state that is required by law to be credited to a capital construction reserve;~~

SECTION 38. 22-43.7-202 (4) (b), Colorado Revised Statutes, is amended to read:

22-43.7-202. Applications for grants and matching grants - rules. (4) The board shall prioritize each application for a grant or a matching grant that describes a capital construction project deemed eligible by the board for a grant or matching grant pursuant to this part 2. The board shall prioritize the applications based on the following criteria, in descending order of importance:

(b) Capital construction projects in school districts or for institute charter schools that have previously demonstrated consistent efforts to allocate moneys to the school districts' or institute charter schools' capital reserve fund. ~~in excess of the minimum amounts required pursuant to section 22-54-105 (2) or 22-30.5-514 (1).~~

SECTION 39. 22-44-112 (2) (a), Colorado Revised Statutes, is amended to read:

22-44-112. Transfer of moneys. (2) (a) A board of education may transfer by resolution any unencumbered moneys from one fund to another, except ~~the capital reserve fund, any fund or account in the general fund established solely for the management of risk-related activities, the transportation fund, the special building and technology fund, OR the bond redemption fund. or the instructional supplies and materials account or the instructional capital outlay account in the general fund;~~ except that unencumbered moneys may be transferred by resolution of the board ~~between the capital reserve fund and any fund or account in the general fund established solely for the management of risk-related activities and between the instructional supplies and materials account and the instructional capital outlay account in the general fund.~~

SECTION 40. 22-11-601 (2), Colorado Revised Statutes, as enacted in Senate Bill 09-163, is amended to read:

22-11-601. Colorado school awards program - created - rules. (2) In addition to the monetary awards made and distributed pursuant to ~~sections 22-11-602, 22-11-603~~ SECTIONS 22-11-602, 22-11-603, 22-11-603.5, and 22-11-605, the state board may annually apply any amount remaining from the amount annually appropriated for implementation of section 22-11-202 to provide tangible items of recognition, such as banners or trophies, to schools that receive the John Irwin schools of excellence awards and the governor's distinguished improvement awards.

SECTION 41. Section 11 (1) (a) and (1) (b) of Senate Bill 09-269 are amended to read:

Section 11. **Adjustments to the 2009 long bill.** (1) For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2009, are adjusted as follows:

(a) The appropriation to the department of education, assistance to public schools, grant programs, distributions, and other assistance, reading and literacy, read-to-achieve grant program, from the read-to-achieve cash fund created in section 22-7-908 (1), Colorado Revised Statutes, is decreased by ~~one million~~ one hundred sixty-five thousand two hundred ninety-six dollars (~~\$1,165,296~~) (\$165,296) cash funds.

~~(b) (I) The cash funds appropriation to the department of education, assistance to public schools, grant programs, distributions, and other assistance, summer and after-school programs, summer school grant program, from the read-to-achieve cash fund created in section 22-7-908 (1), Colorado Revised Statutes, is increased by one million dollars (\$1,000,000).~~

~~(II) The cash funds appropriation to the department of education, assistance to public schools, grant programs, distributions, and other assistance, summer and after-school programs, summer school grant program, from the state education fund created in section 17 (4) of article IX of the state constitution, is decreased by one million dollars (\$1,000,000).~~

SECTION 42. Appropriation - adjustments to the 2009 long bill. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of education, for the fiscal year beginning July 1, 2009, the sum of fifty-five thousand seven hundred six dollars (\$55,706), or so much thereof as may be necessary, for the preparation of a feasibility study as required by section 22-2-136, Colorado Revised Statutes.

(2) For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2009, shall be adjusted as follows:

(a) The appropriation to the department of education, assistance to public schools, grant programs, distributions, and other assistance, for the read-to-achieve grant program, is decreased by two million dollars (\$2,000,000). Said sum shall be cash funds from the read-to-achieve cash fund created in section 22-7-908 (1), Colorado Revised Statutes.

SECTION 43. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the school awards program fund created in section 22-11-304, Colorado Revised Statutes, not otherwise appropriated, to the department of education, for the fiscal year beginning July 1, 2009, the sum of two hundred fifty thousand dollars (\$250,000), or so much thereof as may be necessary, for the implementation of section 22-11-306, Colorado Revised Statutes.

SECTION 44. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the school awards program fund created in section 22-11-605, Colorado Revised Statutes, not otherwise appropriated, to the department of education, for the fiscal year beginning July 1, 2009, the sum of two hundred fifty thousand dollars (\$250,000), or so much thereof as may be necessary, for the implementation of section 22-11-603.5, Colorado Revised Statutes.

SECTION 45. Effective date. (1) This act shall take effect upon passage;

except that:

(a) Sections 26 through 28, 30, and 43 of this act shall not take effect if Senate Bill 09-163 is enacted and becomes law;

(b) Sections 31 through 33, 40, and 44 of this act shall take effect only if Senate Bill 09-163 is enacted and becomes law;

(c) Section 35 of this act shall take effect only if Senate Bill 09-269 is enacted and becomes law with the amendments to section 22-7-908 (1), Colorado Revised Statutes, as they appear in the rerevised version of Senate Bill 09-269; and

(d) Section 41 of this act shall take effect only if Senate Bill 09-269 is enacted and becomes law with the provisions of section 11 (1) (a) and (1) (b) of said act as they appear in the rerevised version of Senate Bill 09-269.

SECTION 46. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 21, 2009

Editor's note: The reference to section "22-2-136" in section 42 (1) of this chapter is an incorrect citation to the section requiring the feasibility study. The correct citation is section 22-2-137. The numbering of the section was changed by correction schedule during the enrolling of the act, but the reference to the section in section 42 (1) was not updated to reflect the change.