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# An Act

HOUSE BILL 08-1335

BY REPRESENTATIVE(S) Romanoff, Benefield, Borodkin, Carroll M., Carroll T., Casso, Curry, Ferrandino, Fischer, Frangas, Gagliardi, Gallegos, Gardner B., Gardner C., Garza-Hicks, Green, Hodge, Jahn, Kefalas, Kerr A., Kerr J., King, Labuda, Lambert, Liston, Looper, Madden, Marostica, Marshall, Massey, May M., McFadyen, McGihon, McKinley, McNulty, Merrifield, Middleton, Mitchell V., Peniston, Primavera, Rice, Riesberg, Roberts, Rose, Scanlan, Solano, Sonnenberg, Stafford, Stephens, Summers, Todd, Vaad, White, Witwer, Levy, and Swalm;  
also SENATOR(S) Groff and Schwartz, Bacon, Boyd, Gibbs, Gordon, Isgar, Keller, Mitchell S., Morse, Penry, Romer, Shaffer, Tapia, Veiga, Ward, and Windels.

CONCERNING STATE FINANCIAL ASSISTANCE TO FINANCE PUBLIC SCHOOL FACILITY CAPITAL CONSTRUCTION, AND MAKING AN APPROPRIATION THEREFOR.

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

**SECTION 1.** Article 43.7 of title 22, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

**22-43.7-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "BUILDING EXCELLENT SCHOOLS TODAY ACT".

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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.*

**22-43.7-102. Legislative findings and declarations.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) COLORADO SCHOOL DISTRICTS, BOARDS OF COOPERATIVE SERVICES, AND CHARTER SCHOOLS HAVE DIFFERING FINANCIAL ABILITIES TO MEET STUDENTS' FUNDAMENTAL EDUCATIONAL NEEDS, INCLUDING THE NEED FOR NEW PUBLIC SCHOOLS AND RENOVATIONS OR FOR CONTROLLED MAINTENANCE AT EXISTING PUBLIC SCHOOLS SO THAT UNSAFE, DETERIORATING, OR OVERCROWDED FACILITIES DO NOT IMPAIR STUDENTS' ABILITY TO LEARN.

(b) THE ESTABLISHMENT OF A PROGRAM TO PROVIDE FINANCIAL ASSISTANCE TO SCHOOL DISTRICTS, BOARDS OF COOPERATIVE SERVICES, AND CHARTER SCHOOLS THROUGHOUT THE STATE THAT HAVE DIFFICULTY FINANCING NEW CAPITAL CONSTRUCTION PROJECTS AND RENOVATING AND MAINTAINING EXISTING FACILITIES WILL HELP SUCH DISTRICTS, BOARDS OF COOPERATIVE SERVICES, AND CHARTER SCHOOLS TO MEET STUDENTS' FUNDAMENTAL EDUCATIONAL NEEDS.

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

(a) RENTAL INCOME, ROYALTIES, INTEREST, AND OTHER INCOME OTHER THAN LAND SALE PROCEEDS DERIVED FROM STATE SCHOOL LANDS MAY BE USED TO SUPPORT THE PUBLIC SCHOOLS OF THE STATE.

(b) IT IS NECESSARY AND APPROPRIATE FOR THE STATE TO BUILD EXCELLENT SCHOOLS TODAY BY ASSISTING SCHOOL DISTRICTS, BOARDS OF COOPERATIVE SERVICES, AND CHARTER SCHOOLS IN COMPLETING NEEDED PUBLIC SCHOOL FACILITY CAPITAL CONSTRUCTION PROJECTS MORE QUICKLY BY:

(I) ENTERING INTO LEASE-PURCHASE AGREEMENTS FOR THE PURPOSE OF FINANCING SUCH PROJECTS; AND

(II) SUBJECT TO THE ANNUAL APPROPRIATION OF SUCH MONEYS BY THE GENERAL ASSEMBLY, USING A PORTION OF THE RENTAL INCOME, ROYALTIES, INTEREST, AND OTHER INCOME, OTHER THAN LAND SALE PROCEEDS, DERIVED FROM STATE SCHOOL LANDS, AS WELL AS CERTAIN OTHER AVAILABLE STATE MONEYS AND MATCHING MONEYS PROVIDED BY

SCHOOL DISTRICTS, BOARDS OF COOPERATIVE SERVICES, AND CHARTER SCHOOLS, TO MAKE LEASE PAYMENTS PAYABLE UNDER THE TERMS OF THE LEASE-PURCHASE AGREEMENTS.

(c) IT IS ALSO NECESSARY AND APPROPRIATE FOR THE STATE TO USE A PORTION OF SUCH RENTAL INCOME, ROYALTIES, INTEREST, AND OTHER INCOME AND AVAILABLE MONEYS TO CONTINUE TO PROVIDE FINANCIAL ASSISTANCE TO SCHOOL DISTRICTS, BOARDS OF COOPERATIVE SERVICES, AND CHARTER SCHOOLS IN THE FORM OF CASH FUNDING FOR SCHOOL RENOVATION AND CONTROLLED MAINTENANCE PROJECTS.

(d) IN ACCORDANCE WITH THE DECISION OF THE COLORADO COURT OF APPEALS IN THE CASE DENOMINATED *COLORADO CRIMINAL JUSTICE REFORM COALITION V. ORTIZ*, CASE No. 04 CA 0879 (APRIL 7, 2005), THE LEASE-PURCHASE AGREEMENTS TO BE ENTERED INTO BY THE STATE PURSUANT TO THIS ARTICLE DO NOT CONSTITUTE A MULTIPLE-FISCAL YEAR DIRECT OR INDIRECT DISTRICT DEBT OR OTHER FINANCIAL OBLIGATION WHATSOEVER FOR PURPOSES OF SECTION 20 (4) (a) OF ARTICLE X OF THE STATE CONSTITUTION.

(e) THE PROVISION OF FINANCIAL ASSISTANCE FOR PUBLIC SCHOOL FACILITY CAPITAL CONSTRUCTION PURSUANT TO THIS ARTICLE MEETS THE REQUIREMENTS OF SECTION 3 OF ARTICLE IX OF THE STATE CONSTITUTION AND SHALL BE APPLIED FIRST TO SATISFY THE LEGAL OBLIGATIONS OF THE STATE UNDER THE SETTLEMENT REACHED IN THE CASE DENOMINATED *GIARDINO V. COLORADO STATE BOARD OF EDUCATION, ET AL.*, CASE No. 98 CV 246, IN THE DISTRICT COURT FOR THE CITY AND COUNTY OF DENVER.

**22-43.7-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "APPLICANT" MEANS ANY ENTITY THAT MAY DIRECTLY OR INDIRECTLY SUBMIT AN APPLICATION FOR FINANCIAL ASSISTANCE TO THE BOARD IF THE ENTITY SUBMITS SUCH AN APPLICATION, INCLUDING:

- (a) A SCHOOL DISTRICT;
- (b) A BOARD OF COOPERATIVE SERVICES;
- (c) A CHARTER SCHOOL; AND

(d) THE COLORADO SCHOOL FOR THE DEAF AND BLIND CREATED AND EXISTING PURSUANT TO SECTION 22-80-102 (1) (a).

(2) "ASSISTANCE FUND" MEANS THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE FUND CREATED IN SECTION 22-43.7-104 (1).

(3) "AUTHORIZER" MEANS THE SCHOOL DISTRICT THAT AUTHORIZED THE CHARTER CONTRACT OF A CHARTER SCHOOL OR, IN THE CASE OF AN INSTITUTE CHARTER SCHOOL, AS DEFINED IN SECTION 22-30.5-502 (6), THE STATE CHARTER SCHOOL INSTITUTE CREATED AND EXISTING PURSUANT TO SECTION 22-30.5-503 (1) (a).

(4) "BOARD" MEANS THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE BOARD CREATED IN SECTION 22-43.7-106 (1).

(5) "BOARD OF COOPERATIVE SERVICES" MEANS A BOARD OF COOPERATIVE SERVICES CREATED AND EXISTING PURSUANT TO SECTION 22-5-104 THAT IS ELIGIBLE TO RECEIVE STATE MONEYS PURSUANT TO SECTION 22-5-114.

(6) "CAPITAL CONSTRUCTION" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 24-75-301 (1), C.R.S.

(7) "CHARTER SCHOOL" MEANS A CHARTER SCHOOL AS DESCRIBED IN SECTION 22-54-124 (1) (f.6) (I) (A) OR (1) (f.6) (I) (B) THAT HAS BEEN CHARTERED FOR AT LEAST FIVE YEARS ON THE DATE ITS AUTHORIZER FORWARDS AN APPLICATION FOR FINANCIAL ASSISTANCE TO THE BOARD ON THE CHARTER SCHOOL'S BEHALF.

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

(9) "DIVISION" MEANS THE DIVISION OF PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE CREATED IN SECTION 22-43.7-105.

(10) "FINANCIAL ASSISTANCE" MEANS MATCHING GRANTS MADE BY THE BOARD FROM THE ASSISTANCE FUND TO APPLICANTS OR ANY OTHER EXPENDITURES MADE FROM THE ASSISTANCE FUND FOR THE PURPOSE OF FINANCING PUBLIC SCHOOL FACILITY CAPITAL CONSTRUCTION AS AUTHORIZED BY THIS ARTICLE.

(11) "MATCHING MONEYS" MEANS MONEYS REQUIRED TO BE PAID TO THE STATE OR USED DIRECTLY TO PAY A PORTION OF THE COSTS OF A PUBLIC SCHOOL FACILITY CAPITAL CONSTRUCTION PROJECT BY AN APPLICANT AS A CONDITION OF AN AWARD OF FINANCIAL ASSISTANCE TO THE APPLICANT PURSUANT TO SECTION 22-43.7-109 (9).

(12) "PUBLIC SCHOOL FACILITY" MEANS A BUILDING OR PORTION OF A BUILDING USED FOR EDUCATIONAL PURPOSES BY A SCHOOL DISTRICT, A BOARD OF COOPERATIVE SERVICES, THE COLORADO SCHOOL FOR THE DEAF AND BLIND CREATED AND EXISTING PURSUANT TO SECTION 22-80-102 (1) (a), OR A CHARTER SCHOOL, INCLUDING BUT NOT LIMITED TO SCHOOL SITES, CLASSROOMS, LIBRARIES AND MEDIA CENTERS, CAFETERIAS AND KITCHENS, AUDITORIUMS, MULTIPURPOSE ROOMS, AND OTHER MULTI-USE SPACES; EXCEPT THAT "PUBLIC SCHOOL FACILITY" DOES NOT INCLUDE A LEARNING CENTER, AS DEFINED IN SECTION 22-30.7-102 (4), THAT IS NOT USED FOR ANY OTHER PUBLIC SCHOOL PURPOSE AND IS NOT PART OF A BUILDING OTHERWISE OWNED, OR LEASED IN ITS ENTIRETY, BY A SCHOOL DISTRICT, A BOARD OF COOPERATIVE SERVICES, A CHARTER SCHOOL, OR THE COLORADO SCHOOL FOR THE DEAF AND BLIND FOR EDUCATIONAL PURPOSES.

(13) "PUBLIC SCHOOL LANDS INCOME" MEANS ALL INCOME RECEIVED BY THE STATE FROM:

(a) THE SALE OF TIMBER ON PUBLIC SCHOOL LANDS, RENTAL PAYMENTS FOR THE USE AND OCCUPATION OF PUBLIC SCHOOL LANDS, AND RENTALS OR LEASE PAYMENTS FOR SAND, GRAVEL, CLAY, STONE, COAL, OIL, GAS, GEOTHERMAL RESOURCES, GOLD, SILVER, OR OTHER MINERALS ON PUBLIC SCHOOL LANDS;

(b) ROYALTIES AND OTHER PAYMENTS FOR THE EXTRACTION OF ANY NATURAL RESOURCE ON PUBLIC SCHOOL LANDS; AND

(c) INTEREST OR INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF MONEYS IN THE PUBLIC SCHOOL FUND.

(14) "SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT, OTHER THAN A JUNIOR OR COMMUNITY COLLEGE DISTRICT, ORGANIZED AND EXISTING PURSUANT TO LAW.

(15) "STATE BOARD" MEANS THE STATE BOARD OF EDUCATION

CREATED AND EXISTING PURSUANT TO SECTION 1 OF ARTICLE IX OF THE STATE CONSTITUTION.

**22-43.7-104. Public school capital construction assistance fund - creation - crediting of moneys to fund - use of fund - emergency reserve - creation.** (1) THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE FUND IS HEREBY CREATED IN THE STATE TREASURY. THE PRINCIPAL OF THE ASSISTANCE FUND SHALL CONSIST OF ALL MONEYS TRANSFERRED OR CREDITED TO THE ASSISTANCE FUND PURSUANT TO SUBSECTION (2) OF THIS SECTION. ALL INTEREST AND INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF MONEYS IN THE ASSISTANCE FUND SHALL BE CREDITED TO THE ASSISTANCE FUND AND SHALL NOT BE TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND AT THE END OF ANY FISCAL YEAR.

(2) (a) ON JULY 1, 2008, THE FOLLOWING MONEYS SHALL BE TRANSFERRED TO THE ASSISTANCE FUND:

(I) ALL MONEYS REMAINING IN THE SCHOOL CONSTRUCTION AND RENOVATION FUND, AS SAID FUND EXISTED PRIOR TO JULY 1, 2008;

(II) ALL MONEYS REMAINING IN THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE AND THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE FUND AS SAID RESERVE AND RESERVE FUND EXISTED PRIOR TO JULY 1, 2008; AND

(III) ALL MONEYS REMAINING IN THE LOTTERY PROCEEDS CONTINGENCY RESERVE FUND AS SAID FUND EXISTED PRIOR TO JULY 1, 2008.

(b) FOR EACH FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2008, THE FOLLOWING MONEYS SHALL BE CREDITED TO THE ASSISTANCE FUND:

(I) THE GREATER OF THIRTY-FIVE PERCENT OF THE GROSS AMOUNT OF PUBLIC SCHOOL LANDS INCOME RECEIVED DURING THE FISCAL YEAR OR AN AMOUNT OF SUCH INCOME EQUAL TO THE DIFFERENCE BETWEEN THE TOTAL AMOUNT OF LEASE PAYMENTS TO BE MADE BY THE STATE UNDER THE TERMS OF LEASE-PURCHASE AGREEMENTS ENTERED INTO PURSUANT TO SECTION 22-43.7-110 (2) AND THE TOTAL AMOUNT OF MATCHING MONEYS TO BE PAID TO THE STATE AS LEASE PAYMENTS UNDER THE TERMS OF SUBLEASE-PURCHASE AGREEMENTS ENTERED INTO PURSUANT TO SECTION 22-43.7-110 (2). THE MONEYS REQUIRED TO BE CREDITED TO THE

ASSISTANCE FUND PURSUANT TO THIS SUBPARAGRAPH (I) MAY BE TAKEN FROM ANY SINGLE SOURCE OR COMBINATION OF SOURCES OF PUBLIC SCHOOL LANDS INCOME.

(II) THE NET PROCEEDS FROM THE SALE OF CERTIFICATES OF PARTICIPATION PAYABLE TO THE STATE UNDER THE TERMS OF ANY LEASE-PURCHASE AGREEMENT ENTERED INTO PURSUANT TO SECTION 22-43.7-110 (2), AS CONSIDERATION FROM THE LESSOR THAT ISSUED THE CERTIFICATES OF PARTICIPATION;

(III) ALL MONEYS THAT WOULD OTHERWISE BE TRANSFERRED TO THE GENERAL FUND PURSUANT TO SECTION 3 (1) (b) (III) OF ARTICLE XXVII OF THE STATE CONSTITUTION. THE MONEYS CREDITED TO THE ASSISTANCE FUND PURSUANT TO THIS SUBPARAGRAPH (III) AND ANY INCOME AND INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF SUCH MONEYS SHALL BE EXEMPT FROM ANY RESTRICTION ON SPENDING, REVENUE, OR APPROPRIATIONS, INCLUDING, WITHOUT LIMITATION, THE RESTRICTIONS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

(IV) MATCHING MONEYS PAID TO THE STATE FOR USE BY THE STATE IN MAKING SCHEDULED PAYMENTS PAYABLE BY THE STATE UNDER THE TERMS OF LEASE-PURCHASE AGREEMENTS ENTERED INTO PURSUANT TO SECTION 22-43.7-110 (2).

(3) SUBJECT TO ANNUAL APPROPRIATION, THE DEPARTMENT MAY EXPEND MONEYS IN THE ASSISTANCE FUND TO PAY THE DIRECT AND INDIRECT ADMINISTRATIVE COSTS, INCLUDING BUT NOT LIMITED TO THE COSTS OF CONDUCTING OR CONTRACTING FOR THE FINANCIAL ASSISTANCE PRIORITY ASSESSMENT REQUIRED BY SECTION 22-43.7-108 (1), INCURRED BY THE DIVISION AND THE BOARD IN EXERCISING THEIR POWERS AND DUTIES PURSUANT TO THIS ARTICLE. ANY MONEYS IN THE ASSISTANCE FUND NOT APPROPRIATED FOR A FISCAL YEAR TO THE DEPARTMENT FOR ADMINISTRATIVE COSTS BEFORE THE FISCAL YEAR COMMENCES ARE HEREBY CONTINUOUSLY APPROPRIATED TO THE BOARD FOR THE PURPOSE OF PROVIDING FINANCIAL ASSISTANCE, MAKING PAYMENTS REQUIRED BY SECTION 22-43.7-114, AND PAYING ANY TRANSACTION COSTS NECESSARILY INCURRED IN CONNECTION WITH THE PROVISION OF FINANCIAL ASSISTANCE AS AUTHORIZED BY THIS ARTICLE; EXCEPT THAT THE USE OF ANY ASSISTANCE FUND MONEYS TO MAKE LEASE PAYMENTS REQUIRED BY LEASE-PURCHASE AGREEMENTS ENTERED INTO PURSUANT TO SECTION

22-43.7-110 (2) SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY.

(4) FOR EACH FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2008, AN EMERGENCY RESERVE OF AT LEAST ONE MILLION DOLLARS SHALL BE MAINTAINED IN THE ASSISTANCE FUND; EXCEPT THAT AN EMERGENCY RESERVE NEED NOT BE MAINTAINED IN ANY FISCAL YEAR IN WHICH THE AMOUNT OF PUBLIC SCHOOL LANDS INCOME CREDITED TO THE ASSISTANCE FUND IS AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE TOTAL AMOUNT OF LEASE PAYMENTS TO BE MADE BY THE STATE UNDER THE TERMS OF LEASE-PURCHASE AGREEMENTS ENTERED INTO PURSUANT TO SECTION 22-43.7-110(2) AND THE TOTAL AMOUNT OF MATCHING MONEYS TO BE PAID TO THE STATE AS LEASE PAYMENTS UNDER THE TERMS OF SUBLEASE-PURCHASE AGREEMENTS ENTERED INTO PURSUANT TO SECTION 22-43.7-110(2) RATHER THAN THIRTY-FIVE PERCENT OF THE GROSS AMOUNT OF PUBLIC SCHOOL LANDS INCOME RECEIVED BY THE STATE DURING THE FISCAL YEAR. THE BOARD MAY EXPEND MONEYS FROM THE EMERGENCY RESERVE ONLY TO PROVIDE EMERGENCY FINANCIAL ASSISTANCE TO ADDRESS A PUBLIC SCHOOL FACILITY EMERGENCY IN ACCORDANCE WITH SECTION 22-43.7-109 (8).

**22-43.7-105. Division of public school capital construction assistance - creation - director - function - powers and duties.**

(1) (a) THERE IS HEREBY CREATED WITHIN THE DEPARTMENT A DIVISION OF STATE GOVERNMENT TO BE KNOWN AND DESIGNATED AS THE DIVISION OF PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE, THE HEAD OF WHICH SHALL BE THE DIRECTOR OF THE DIVISION OF PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE. PURSUANT TO SECTION 13 OF ARTICLE XII OF THE STATE CONSTITUTION, THE COMMISSIONER OF EDUCATION SHALL APPOINT THE DIRECTOR, AND THE COMMISSIONER SHALL GIVE GOOD FAITH CONSIDERATION TO THE RECOMMENDATIONS OF THE STATE BOARD AND THE BOARD PRIOR TO APPOINTING THE DIRECTOR. THE COMMISSIONER SHALL ALSO APPOINT SUCH OTHER PERSONNEL AS MAY BE NECESSARY TO FULFILL THE FUNCTIONS AND EXERCISE THE POWERS AND DUTIES OF THE DIVISION.

(b) THE DIVISION AND THE DIRECTOR OF THE DIVISION SHALL EXERCISE THEIR POWERS AND PERFORM THEIR DUTIES AND FUNCTIONS UNDER THE DEPARTMENT AS IF THE SAME WERE TRANSFERRED TO THE DEPARTMENT BY A **TYPE 2** TRANSFER, AS SUCH TRANSFER IS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF TITLE 24,



C.R.S.

(2) THE FUNCTION OF THE DIVISION IS TO PROVIDE PROFESSIONAL AND TECHNICAL SUPPORT TO THE BOARD AS THE BOARD EXERCISES ITS POWERS AND DUTIES AS SPECIFIED IN THIS ARTICLE SO THAT FINANCIAL ASSISTANCE CAN BE PROVIDED FOR PUBLIC SCHOOLS IN AN EQUITABLE, EFFICIENT, AND EFFECTIVE MANNER. IN FURTHERANCE OF ITS FUNCTION, THE DIVISION, SUBJECT TO BOARD DIRECTION, HAS THE FOLLOWING POWERS AND DUTIES:

(a) TO SUPPORT THE BOARD IN ESTABLISHING PUBLIC SCHOOL FACILITY CONSTRUCTION GUIDELINES PURSUANT TO SECTION 22-43.7-107;

(b) TO SUPPORT THE BOARD IN CONDUCTING OR CAUSING TO BE CONDUCTED THE FINANCIAL ASSISTANCE PRIORITY ASSESSMENT OF PUBLIC SCHOOLS THROUGHOUT THE STATE REQUIRED BY SECTION 22-43.7-108, AND, AS PART OF SUCH SUPPORT, TO INSPECT AND ASSESS PUBLIC SCHOOL FACILITIES OR EVALUATE THE RESULTS OF ANY SUCH INSPECTION AND ASSESSMENT CONDUCTED BY ANY CONTRACTOR RETAINED BY THE BOARD;

(c) AT THE REQUEST OF THE BOARD, TO UNDERTAKE A PRELIMINARY REVIEW OF FINANCIAL ASSISTANCE APPLICATIONS SUBMITTED BY APPLICANTS AND ASSIST THE BOARD IN THE DEVELOPMENT OF THE PRIORITIZED LIST OF PUBLIC SCHOOL FACILITY CAPITAL CONSTRUCTION PROJECTS RECOMMENDED FOR FINANCIAL ASSISTANCE THAT THE BOARD IS REQUIRED TO PREPARE PURSUANT TO SECTION 22-43.7-106 (2) (c);

(d) TO ASSIST APPLICANTS AND POTENTIAL APPLICANTS IN IDENTIFYING CRITICAL CAPITAL CONSTRUCTION NEEDS USING THE PUBLIC SCHOOL FACILITY CONSTRUCTION GUIDELINES AS SPECIFIED IN SECTION 22-43.7-107; AND

(e) TO EXERCISE SUCH OTHER POWERS AND DUTIES AS MAY BE NECESSARY TO ADEQUATELY FULFILL ITS FUNCTION.

**22-43.7-106. Public school capital construction assistance board - creation - general powers and duties - rules.** (1) (a) THERE IS HEREBY CREATED WITHIN THE DEPARTMENT THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE BOARD, WHICH SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS UNDER THE DEPARTMENT AS IF

THE SAME WERE TRANSFERRED TO THE DEPARTMENT BY A **TYPE 1** TRANSFER, AS SUCH TRANSFER IS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF TITLE 24, C.R.S. THE BOARD SHALL CONSIST OF NINE APPOINTED MEMBERS, NONE OF WHOM SHALL HOLD ANY STATE ELECTIVE OFFICE, AND THE DIRECTOR OF THE DIVISION, WHO SHALL SERVE AS A NONVOTING EX OFFICIO MEMBER OF THE BOARD. FIVE VOTING MEMBERS OF THE BOARD SHALL CONSTITUTE A QUORUM. BOARD MEMBERS SHALL BE APPOINTED AS FOLLOWS:

(I) THE STATE BOARD SHALL APPOINT THREE MEMBERS FROM DIFFERENT AREAS OF THE STATE AND FROM URBAN, SUBURBAN, AND RURAL SCHOOL DISTRICTS. THE MEMBERS APPOINTED BY THE STATE BOARD SHALL ALL HAVE DEMONSTRATED EXPERIENCE REGARDING PUBLIC SCHOOL FACILITY ISSUES AND SHALL INCLUDE:

(A) ONE MEMBER WHO IS A SCHOOL DISTRICT BOARD MEMBER AT THE TIME OF APPOINTMENT;

(B) ONE MEMBER WHO IS A PUBLIC SCHOOL SUPERINTENDENT OR ADMINISTRATOR AT THE TIME OF APPOINTMENT OR HAS RECENT EXPERIENCE AS A PUBLIC SCHOOL SUPERINTENDENT OR ADMINISTRATOR; AND

(C) ONE MEMBER WHO IS A SCHOOL FACILITIES PLANNER OR MANAGER AT THE TIME OF APPOINTMENT OR HAS RECENT EXPERIENCE AS A SCHOOL FACILITIES PLANNER OR MANAGER.

(II) THE GOVERNOR SHALL APPOINT THREE MEMBERS. THE MEMBERS APPOINTED BY THE GOVERNOR SHALL INCLUDE:

(A) ONE MEMBER WHO IS AN ARCHITECT WHOSE PROFESSIONAL PRACTICE INCLUDES THE DESIGN AND REHABILITATION OF PUBLIC SCHOOL FACILITIES AT THE TIME OF APPOINTMENT OR WHO HAS RECENT EXPERIENCE REHABILITATING EXISTING PUBLIC SCHOOL FACILITIES AND DESIGNING NEW PUBLIC SCHOOL FACILITIES;

(B) ONE MEMBER WHO IS AN ENGINEER WHOSE PROFESSIONAL PRACTICE AT THE TIME OF APPOINTMENT INCLUDES PUBLIC SCHOOL FACILITIES ENGINEERING OR WHO HAS RECENT EXPERIENCE IN PUBLIC SCHOOL FACILITIES ENGINEERING; AND

(C) ONE MEMBER WHO IS A CONSTRUCTION MANAGER WHO AT THE TIME OF APPOINTMENT MANAGES PUBLIC SCHOOL FACILITIES CONSTRUCTION PROJECTS OR WHO HAS RECENT EXPERIENCE MANAGING SUCH PROJECTS.

(III) THE GENERAL ASSEMBLY SHALL APPOINT THREE MEMBERS, ONE OF WHOM SHALL BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, ONE OF WHOM SHALL BE APPOINTED BY THE PRESIDENT OF THE SENATE, AND ONE OF WHOM SHALL BE APPOINTED JOINTLY BY THE MINORITY LEADERS OF THE HOUSE OF REPRESENTATIVES AND THE SENATE. THE MEMBERS APPOINTED BY THE GENERAL ASSEMBLY SHALL INCLUDE:

(A) ONE MEMBER WHO IS A SCHOOL FACILITIES PLANNER OR MANAGER AT THE TIME OF APPOINTMENT OR HAS RECENT EXPERIENCE AS A SCHOOL FACILITIES PLANNER OR MANAGER;

(B) ONE MEMBER WHO HAS EXPERTISE IN TECHNOLOGY, INCLUDING BUT NOT LIMITED TO TECHNOLOGY FOR INDIVIDUAL STUDENT LEARNING AND CLASSROOM INSTRUCTION; AND

(C) ONE MEMBER WHO HAS PUBLIC SCHOOL FINANCE EXPERTISE AND KNOWLEDGE REGARDING PUBLIC SCHOOL TRUST LANDS.

(b) MEMBERS OF THE BOARD SHALL SERVE FOR TERMS OF TWO YEARS AND MAY SERVE UP TO THREE CONSECUTIVE TERMS; EXCEPT THAT THE INITIAL TERMS OF ONE OF THE MEMBERS APPOINTED BY THE STATE BOARD, ONE OF THE MEMBERS APPOINTED BY THE GOVERNOR, AND THE MEMBERS APPOINTED BY THE PRESIDENT OF THE SENATE AND THE MINORITY LEADERS OF THE HOUSE OF REPRESENTATIVES AND THE SENATE SHALL BE ONE YEAR. THE APPOINTING AUTHORITY FOR A MEMBER MAY REMOVE THE MEMBER FOR ANY CAUSE THAT RENDERS THE MEMBER INCAPABLE OF DISCHARGING OR UNFIT TO DISCHARGE THE MEMBER'S DUTIES. THE APPROPRIATE APPOINTING AUTHORITY SHALL FILL ANY VACANCY IN THE MEMBERSHIP OF THE BOARD BY APPOINTMENT, AND A MEMBER APPOINTED TO FILL A VACANCY SHALL SERVE UNTIL THE EXPIRATION OF THE TERM FOR WHICH THE VACANCY WAS FILLED. MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION BUT SHALL RECEIVE REIMBURSEMENT FOR TRAVEL AND OTHER NECESSARY EXPENSES ACTUALLY INCURRED IN THE PERFORMANCE OF THEIR DUTIES. THE BOARD SHALL ELECT A CHAIR AT ITS INITIAL MEETING.

(2) THE FUNCTION OF THE BOARD IS TO PROTECT THE HEALTH AND

SAFETY OF STUDENTS, TEACHERS, AND OTHER PERSONS USING PUBLIC SCHOOL FACILITIES AND MAXIMIZE STUDENT ACHIEVEMENT BY ENSURING THAT THE CONDITION AND CAPACITY OF PUBLIC SCHOOL FACILITIES ARE SUFFICIENT TO PROVIDE A SAFE AND UNCROWDED ENVIRONMENT THAT IS CONDUCIVE TO STUDENTS' LEARNING. IN PERFORMING ITS FUNCTION, THE BOARD SHALL ENSURE THE MOST EQUITABLE, EFFICIENT, AND EFFECTIVE USE OF STATE REVENUES DEDICATED TO PROVIDE FINANCIAL ASSISTANCE FOR CAPITAL CONSTRUCTION PROJECTS PURSUANT TO THE PROVISIONS OF THIS ARTICLE BY ASSESSING PUBLIC SCHOOL CAPITAL CONSTRUCTION NEEDS THROUGHOUT THE STATE AND PROVIDING EXPERT RECOMMENDATIONS BASED ON OBJECTIVE CRITERIA TO THE STATE BOARD REGARDING THE APPROPRIATE PRIORITIZATION AND ALLOCATION OF SUCH FINANCIAL ASSISTANCE. TO FURTHER THE PERFORMANCE OF ITS FUNCTION, THE BOARD, IN ADDITION TO ANY OTHER POWERS AND DUTIES SPECIFIED IN THIS ARTICLE, HAS THE FOLLOWING POWERS AND DUTIES:

(a) TO ESTABLISH PUBLIC SCHOOL FACILITY CONSTRUCTION GUIDELINES AS SPECIFIED IN SECTION 22-43.7-107 TO USE IN REVIEWING FINANCIAL ASSISTANCE APPLICATIONS AND RECOMMENDING TO THE STATE BOARD A PRIORITIZED LIST OF PROJECTS RECOMMENDED TO RECEIVE FINANCIAL ASSISTANCE AS SPECIFIED IN PARAGRAPH (c) OF THIS SUBSECTION (2);

(b) AS SOON AS POSSIBLE FOLLOWING THE ESTABLISHMENT OF SCHOOL FACILITY CONSTRUCTION GUIDELINES PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2), TO CONDUCT OR CONTRACT FOR A FINANCIAL ASSISTANCE PRIORITY ASSESSMENT OF PUBLIC SCHOOL BUILDINGS AND FACILITIES IN THIS STATE BASED ON THE CRITERIA SET FORTH IN SECTION 22-43.7-107 (2);

(c) TO REVIEW FINANCIAL ASSISTANCE APPLICATIONS AND PREPARE AND SUBMIT TO THE STATE BOARD A PRIORITIZED LIST OF PROJECTS TO RECEIVE FINANCIAL ASSISTANCE AND THE AMOUNT AND TYPE OF FINANCIAL ASSISTANCE THAT SHOULD BE PROVIDED FOR EACH PROJECT;

(d) TO ESTABLISH GUIDELINES FOR THE DIVISION TO FOLLOW WHEN ASSISTING POTENTIAL APPLICANTS IN IDENTIFYING CRITICAL CAPITAL CONSTRUCTION NEEDS AND PREPARING FINANCIAL ASSISTANCE APPLICATIONS PURSUANT TO SECTION 22-43.7-105 (2) (d);

(e) WITH THE SUPPORT OF THE DIVISION, TO ASSIST APPLICANTS THAT CANNOT FEASIBLY MAINTAIN THEIR OWN CONSTRUCTION MANAGEMENT STAFF IN IMPLEMENTING THE PROJECTS FOR WHICH FINANCIAL ASSISTANCE IS PROVIDED, INCLUDING BUT NOT LIMITED TO PROVIDING ASSISTANCE WITH THE PREPARATION OF REQUESTS FOR BIDS OR PROPOSALS, CONTRACT NEGOTIATIONS, CONTRACT IMPLEMENTATION, AND PROJECT AND CONSTRUCTION MANAGEMENT;

(f) WITH THE SUPPORT OF THE DIVISION, TO ASSIST APPLICANTS IN IMPLEMENTING ENERGY EFFICIENT PUBLIC SCHOOL FACILITY DESIGN AND CONSTRUCTION PRACTICES;

(g) TO AUTHORIZE THE STATE TREASURER TO ENTER INTO LEASE-PURCHASE AGREEMENTS ON BEHALF OF THE STATE AS AUTHORIZED BY THIS ARTICLE IN ORDER TO FINANCE PUBLIC SCHOOL FACILITY CAPITAL CONSTRUCTION;

(h) TO ENTER INTO SUBLEASE-PURCHASE AGREEMENTS ON BEHALF OF THE STATE TO SUBLEASE PUBLIC SCHOOL FACILITIES FINANCED BY THE LEASE-PURCHASE AGREEMENTS TO APPLICANTS; AND

(i) (I) TO PROMULGATE SUCH RULES, IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AS ARE NECESSARY AND PROPER FOR THE ADMINISTRATION OF THIS ARTICLE, INCLUDING BUT NOT LIMITED TO:

(A) CONFLICT OF INTEREST RULES FOR BOARD MEMBERS;

(B) RULES ESTABLISHING EVALUATION CRITERIA FOR MATCHING MONEYS REQUIREMENT WAIVER OR REDUCTION APPLICATIONS SUBMITTED TO THE BOARD PURSUANT TO SECTION 22-43.7-109 (10); AND

(C) RULES ESTABLISHING THE MEANS BY WHICH PUBLIC SCHOOL FACILITIES AND PROJECTS FINANCED IN WHOLE OR IN PART WITH FINANCIAL ASSISTANCE PROVIDED PURSUANT THIS ARTICLE ARE TO BE PUBLICLY IDENTIFIED AS HAVING BEEN SO FINANCED.

(II) THE BOARD SHALL PROVIDE A COPY OF ANY PROPOSED BOARD RULE TO THE STATE BOARD ON OR BEFORE THE DATE ON WHICH THE BOARD ISSUES A NOTICE OF PROPOSED RULE-MAKING FOR THE RULE PURSUANT TO SECTION 24-4-103 (3), C.R.S.

**22-43.7-107. Public school facility construction guidelines - establishment by board - use.** (1) (a) THE BOARD SHALL ESTABLISH PUBLIC SCHOOL FACILITY CONSTRUCTION GUIDELINES FOR USE BY THE BOARD IN ASSESSING AND PRIORITIZING PUBLIC SCHOOL CAPITAL CONSTRUCTION NEEDS THROUGHOUT THE STATE AS REQUIRED BY SECTION 22-43.7-108, REVIEWING APPLICATIONS FOR FINANCIAL ASSISTANCE, AND MAKING RECOMMENDATIONS TO THE STATE BOARD REGARDING APPROPRIATE ALLOCATION OF AWARDS OF FINANCIAL ASSISTANCE FROM THE ASSISTANCE FUND ONLY TO APPLICANTS. THE BOARD SHALL ESTABLISH THE GUIDELINES IN RULES PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.

(b) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE PUBLIC SCHOOL FACILITY CONSTRUCTION GUIDELINES ESTABLISHED BY THE BOARD BE USED ONLY FOR THE PURPOSES SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (1).

(2) THE PUBLIC SCHOOL FACILITY CONSTRUCTION GUIDELINES SHALL IDENTIFY AND DESCRIBE THE CAPITAL CONSTRUCTION, RENOVATION, AND EQUIPMENT NEEDS IN PUBLIC SCHOOL FACILITIES AND MEANS OF ADDRESSING THOSE NEEDS THAT WILL PROVIDE EDUCATIONAL AND SAFETY BENEFITS AT A REASONABLE COST. IN PREPARING THE GUIDELINES, THE BOARD SHALL ADDRESS THE FOLLOWING CONSIDERATIONS:

(a) HEALTH AND SAFETY ISSUES, INCLUDING SECURITY NEEDS AND ALL APPLICABLE BUILDING, HEALTH, SAFETY, AND ENVIRONMENTAL CODES AND STANDARDS REQUIRED BY STATE AND FEDERAL LAW;

(b) TECHNOLOGY, INCLUDING BUT NOT LIMITED TO TELECOMMUNICATIONS AND INTERNET CONNECTIVITY TECHNOLOGY AND TECHNOLOGY FOR INDIVIDUAL STUDENT LEARNING AND CLASSROOM INSTRUCTION;

(c) BUILDING SITE REQUIREMENTS;

(d) BUILDING PERFORMANCE STANDARDS AND GUIDELINES, INCLUDING BUT NOT LIMITED TO GREEN BUILDING AND ENERGY EFFICIENCY CRITERIA AS SPECIFIED IN EXECUTIVE ORDER D0012 07, "GREENING OF STATE GOVERNMENT: DETAILED IMPLEMENTATION", ISSUED BY THE GOVERNOR ON APRIL 16, 2007, OR ANY SUBSEQUENT EXECUTIVE ORDERS OR

OTHER POLICY DIRECTIVES CONCERNING GREEN BUILDING AND ENERGY EFFICIENCY CRITERIA ISSUED BY THE GOVERNOR OR THE GOVERNOR'S ENERGY OFFICE;

(e) FUNCTIONALITY OF EXISTING AND PLANNED PUBLIC SCHOOL FACILITIES FOR CORE EDUCATIONAL PROGRAMS, PARTICULARLY THOSE EDUCATIONAL PROGRAMS FOR WHICH THE STATE BOARD HAS ADOPTED STATE MODEL CONTENT STANDARDS;

(f) CAPACITY OF EXISTING AND PLANNED PUBLIC SCHOOL FACILITIES, TAKING INTO CONSIDERATION POTENTIAL EXPANSION OF SERVICES FOR THE BENEFIT OF STUDENTS SUCH AS FULL-DAY KINDERGARTEN AND PRESCHOOL- AND SCHOOL-BASED HEALTH SERVICES;

(g) PUBLIC SCHOOL FACILITY ACCESSIBILITY; AND

(h) THE HISTORIC SIGNIFICANCE OF EXISTING PUBLIC SCHOOL FACILITIES AND THE POTENTIAL TO MEET CURRENT PROGRAMMING NEEDS BY REHABILITATING SUCH FACILITIES.

(3) THE BOARD AND THE DIVISION SHALL APPLY THE PUBLIC SCHOOL FACILITY CONSTRUCTION GUIDELINES IN CONDUCTING THE FINANCIAL ASSISTANCE PRIORITY ASSESSMENT REQUIRED BY SECTION 22-43.7-108.

**22-43.7-108. Statewide financial assistance priority assessment - public school facilities.** (1) (a) AS SOON AS POSSIBLE FOLLOWING THE ESTABLISHMENT OF THE PUBLIC SCHOOL FACILITY CONSTRUCTION GUIDELINES PURSUANT TO SECTION 22-43.7-107, THE BOARD SHALL CONDUCT WITH THE ASSISTANCE OF THE DIVISION, OR CONTRACT FOR, A FINANCIAL ASSISTANCE PRIORITY ASSESSMENT OF PUBLIC SCHOOL FACILITIES THROUGHOUT THE STATE AS PROVIDED IN THIS SECTION. THE BOARD SHALL ORDER PAYMENT OF THE COSTS INCURRED IN CONDUCTING OR CONTRACTING FOR THE FINANCIAL ASSISTANCE PRIORITY ASSESSMENT FROM THE ASSISTANCE FUND.

(b) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE FINANCIAL ASSISTANCE PRIORITY ASSESSMENT REQUIRED BY THIS SECTION BE USED ONLY FOR THE PURPOSES SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (1) AND SECTION 22-43.7-107 (1) (a).

(2) (a) THE FINANCIAL ASSISTANCE PRIORITY ASSESSMENT SHALL ASSESS PUBLIC SCHOOL FACILITY CAPITAL CONSTRUCTION PROJECTS BASED ON:

(I) THE CONDITION OF THE PUBLIC SCHOOL FACILITY;

(II) AIR AND WATER QUALITY IN THE PUBLIC SCHOOL FACILITY;

(III) PUBLIC SCHOOL FACILITY SPACE REQUIREMENTS;

(IV) THE ABILITY TO ACCOMMODATE EDUCATIONAL TECHNOLOGY, INCLUDING BUT NOT LIMITED TO TECHNOLOGY FOR INDIVIDUAL STUDENT LEARNING AND CLASSROOM INSTRUCTION;

(V) SITE REQUIREMENTS FOR THE PUBLIC SCHOOL FACILITY; AND

(VI) PUBLIC SCHOOL FACILITY DEMOGRAPHICS, INCLUDING A FIVE-YEAR PROJECTION CONCERNING ANTICIPATED SUBSTANTIAL CHANGES IN THE PUPIL COUNT OF INDIVIDUAL PUBLIC SCHOOL FACILITIES.

(b) THE FINANCIAL ASSISTANCE PRIORITY ASSESSMENT SHALL INCLUDE FIVE-YEAR PROJECTIONS REGARDING THE ISSUES DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2).

(c) THE BOARD, OR THE DIVISION UPON THE BOARD'S REQUEST, SHALL ESTABLISH A DATABASE TO STORE THE DATA COLLECTED THROUGH THE FINANCIAL ASSISTANCE PRIORITY ASSESSMENT CONDUCTED PURSUANT TO THIS SECTION. THE BOARD OR THE DIVISION SHALL MAKE THE DATA COLLECTED AVAILABLE TO THE PUBLIC IN A FORM THAT IS EASILY ACCESSIBLE AND COMPLIES WITH ANY FEDERAL OR STATE LAWS OR REGULATIONS CONCERNING PRIVACY.

(3) THE BOARD SHALL USE THE PUBLIC SCHOOL FACILITY CONSTRUCTION GUIDELINES ESTABLISHED PURSUANT TO SECTION 22-43.7-107 IN CONDUCTING THE FINANCIAL ASSISTANCE PRIORITY ASSESSMENT DESCRIBED IN THIS SECTION.

**22-43.7-109. Financial assistance for public school capital construction - application requirements - evaluation criteria - local match requirements.** (1) FOR FISCAL YEARS COMMENCING ON OR AFTER



JULY 1, 2008, THE BOARD, WITH THE SUPPORT OF THE DIVISION AND SUBJECT TO THE FINAL APPROVAL OF THE STATE BOARD REGARDING FINANCIAL ASSISTANCE AWARDS AS SPECIFIED IN THIS SECTION, SHALL PROVIDE FINANCIAL ASSISTANCE AS SPECIFIED IN THIS SECTION SUBJECT TO THE FOLLOWING LIMITATIONS:

(a) THE BOARD MAY ONLY PROVIDE FINANCIAL ASSISTANCE FOR A CAPITAL CONSTRUCTION PROJECT FOR A PUBLIC SCHOOL FACILITY THAT THE APPLICANT OWNS OR WILL HAVE THE RIGHT TO OWN IN THE FUTURE UNDER THE TERMS OF A LEASE-PURCHASE AGREEMENT WITH THE OWNER OF THE FACILITY OR A SUBLEASE-PURCHASE AGREEMENT WITH THE STATE ENTERED INTO PURSUANT TO SECTION 22-43.7-110 (2).

(b) THE BOARD MAY PROVIDE FINANCIAL ASSISTANCE TO A CHARTER SCHOOL THAT FIRST OCCUPIES A PUBLIC SCHOOL FACILITY ON OR AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (b) ONLY IF THE PUBLIC SCHOOL FACILITY OCCUPIED BY THE CHARTER SCHOOL COMPLIED WITH ALL PUBLIC SCHOOL FACILITIES CONSTRUCTION GUIDELINES ADDRESSING HEALTH AND SAFETY ISSUES ESTABLISHED BY THE BOARD PURSUANT TO SECTION 22-43.7-107 (2) (a) AT THE TIME THE CHARTER SCHOOL FIRST OCCUPIED THE FACILITY.

(2) (a) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF PARAGRAPH (b) OF THIS SUBSECTION (2), THE BOARD SHALL ESTABLISH AN ANNUAL FINANCIAL ASSISTANCE TIMELINE FOR USE BY APPLICANTS IN APPLYING FOR FINANCIAL ASSISTANCE AND OTHERWISE MEETING FINANCIAL ASSISTANCE REQUIREMENTS AND FOR USE BY THE BOARD IN REVIEWING FINANCIAL ASSISTANCE APPLICATIONS AND RECOMMENDING FINANCIAL ASSISTANCE AWARDS TO THE STATE BOARD. THE TIMELINE SHALL SPECIFY:

(I) A DEADLINE FOR APPLICANTS TO SUBMIT FINANCIAL ASSISTANCE APPLICATIONS TO THE BOARD THAT ALLOWS SUFFICIENT TIME FOR SUBMISSION OF SUCH APPLICATIONS;

(II) THE PERIOD IN WHICH THE BOARD, WITH THE SUPPORT OF THE DIVISION, WILL REVIEW FINANCIAL ASSISTANCE APPLICATIONS;

(III) A DEADLINE FOR THE BOARD TO SUBMIT TO THE STATE BOARD THE PRIORITIZED LIST OF PROJECTS FOR WHICH THE BOARD RECOMMENDS THE PROVISION OF FINANCIAL ASSISTANCE AS REQUIRED BY SUBSECTION (7)

OF THIS SECTION; AND

(IV) ANY ADDITIONAL DEADLINES OR DEADLINE EXTENSION PERIODS NEEDED TO ENSURE THAT APPLICANTS SEEKING VOTER APPROVAL TO OBTAIN MATCHING MONEYS REQUIRED PURSUANT TO SUBSECTION (9) OF THIS SECTION HAVE SUFFICIENT OPPORTUNITY TO OBTAIN SUCH VOTER APPROVAL OR OTHERWISE NEEDED TO ENSURE THE EFFICIENT AND EFFECTIVE ADMINISTRATION OF THIS ARTICLE.

(b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (2):

(I) THE BOARD:

(A) AFTER RECEIVING AN APPLICATION FOR EMERGENCY FINANCIAL ASSISTANCE MADE PURSUANT TO SUBSECTION (8) OF THIS SECTION, MAY PROVIDE EMERGENCY FINANCIAL ASSISTANCE TO AN APPLICANT AT ANY TIME; AND

(B) MAY ESTABLISH A TIMELINE FOR THE 2008-09 FISCAL YEAR ONLY THAT TAKES INTO ACCOUNT ANY INCOMPLETE STATUS OF THE PRIORITY ASSESSMENT REQUIRED BY SECTION 22-43.7-108, ALLOWS AWARDS OF FINANCIAL ASSISTANCE TO BE MADE BASED ON CONSIDERATION OF SO MUCH OF THE ASSESSMENT AS HAS BEEN COMPLETED, AND DIFFERS FROM SUBSEQUENT ANNUAL TIMELINES.

(II) IN ORDER TO ENSURE EFFICIENT SUBMISSION AND REVIEW OF FINANCIAL ASSISTANCE APPLICATIONS AND ALLOW THE BOARD TO PROVIDE FINANCIAL ASSISTANCE AS SOON AS IS FEASIBLE, ON AND AFTER THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (II), BUT BEFORE THE APPOINTMENT OF THE BOARD, THE STATE BOARD, OR SUCH PERSONNEL OF THE DEPARTMENT AS THE STATE BOARD MAY DESIGNATE, MAY ESTABLISH INTERIM FINANCIAL ASSISTANCE APPLICATION DEADLINES AND APPLICATIONS FOR USE BY APPLICANTS IN APPLYING FOR FINANCIAL ASSISTANCE FOR THE 2008-09 FISCAL YEAR ONLY. THE STATE BOARD MAY ALSO DESIGNATE DEPARTMENT PERSONNEL TO PRELIMINARILY REVIEW FINANCIAL ASSISTANCE APPLICATIONS UNTIL SUCH TIME AS THE BOARD AND THE DIRECTOR OF THE DIVISION HAVE BEEN APPOINTED.

(3) A CHARTER SCHOOL SHALL NOTIFY ITS AUTHORIZER THAT IT

INTENDS TO APPLY FOR FINANCIAL ASSISTANCE AT LEAST THREE MONTHS PRIOR TO THE APPLICATION SUBMISSION DEADLINE. THE CHARTER SCHOOL SHALL FORWARD ITS APPLICATION FOR FINANCIAL ASSISTANCE TO ITS AUTHORIZER, WHICH SHALL FORWARD THE APPLICATION TO THE BOARD TOGETHER WITH A LETTER INDICATING THE AUTHORIZER'S POSITION ON THE APPLICATION. THE COLORADO SCHOOL FOR THE DEAF AND BLIND SHALL APPLY FOR FINANCIAL ASSISTANCE DIRECTLY. FINANCIAL ASSISTANCE AWARDED TO A CHARTER SCHOOL AS A MATCHING CASH GRANT SHALL BE PROVIDED TO THE AUTHORIZER, WHICH SHALL DISTRIBUTE ALL FINANCIAL ASSISTANCE RECEIVED AS A GRANT TO THE CHARTER SCHOOL AND MAY NOT RETAIN ANY PORTION OF SUCH MONEYS FOR ANY PURPOSE. ALL OTHER FINANCIAL ASSISTANCE SHALL BE PROVIDED IN THE FORM OF LEASE PAYMENTS MADE BY THE BOARD DIRECTLY TO A LESSOR OR TRUSTEE AS REQUIRED BY THE TERMS OF THE APPLICABLE LEASE-PURCHASE AGREEMENT.

(4) APPLICATIONS FOR FINANCIAL ASSISTANCE SUBMITTED TO THE BOARD SHALL BE IN A FORM PRESCRIBED BY THE BOARD AND SHALL INCLUDE:

(a) A DESCRIPTION OF THE SCOPE AND NATURE OF THE PUBLIC SCHOOL FACILITY CAPITAL CONSTRUCTION PROJECT FOR WHICH FINANCIAL ASSISTANCE IS SOUGHT;

(b) A DESCRIPTION OF THE ARCHITECTURAL, FUNCTIONAL, AND CONSTRUCTION STANDARDS THAT ARE TO BE APPLIED TO THE CAPITAL CONSTRUCTION PROJECT THAT INDICATES WHETHER THE STANDARDS ARE CONSISTENT WITH THE PUBLIC SCHOOL FACILITY CONSTRUCTION GUIDELINES ESTABLISHED BY THE BOARD PURSUANT TO SECTION 22-43.7-107 AND PROVIDES AN EXPLANATION FOR THE USE OF ANY STANDARD THAT IS NOT CONSISTENT WITH THE GUIDELINES;

(c) THE ESTIMATED AMOUNT OF FINANCIAL ASSISTANCE NEEDED FOR THE CAPITAL CONSTRUCTION PROJECT AND THE FORM AND AMOUNT OF MATCHING MONEYS THAT THE APPLICANT WILL PROVIDE FOR THE PROJECT;

(d) (I) IF THE CAPITAL CONSTRUCTION PROJECT INVOLVES THE CONSTRUCTION OF A NEW PUBLIC SCHOOL FACILITY OR A MAJOR RENOVATION OF AN EXISTING PUBLIC SCHOOL FACILITY, A DEMONSTRATION OF THE ABILITY AND WILLINGNESS OF THE APPLICANT TO MAINTAIN THE PROJECT OVER TIME THAT INCLUDES, AT A MINIMUM, THE ESTABLISHMENT

OF A CAPITAL RENEWAL BUDGET AND A COMMITMENT TO MAKE ANNUAL CONTRIBUTIONS TO A CAPITAL RENEWAL RESERVE WITHIN A SCHOOL DISTRICT'S CAPITAL RESERVE FUND OR ANY FUNCTIONALLY SIMILAR RESERVE FUND SEPARATELY MAINTAINED BY AN APPLICANT THAT IS NOT A SCHOOL DISTRICT.

(II) AS USED IN THIS PARAGRAPH (d), "CAPITAL RENEWAL RESERVE" MEANS MONEYS SET ASIDE BY AN APPLICANT FOR THE SPECIFIC PURPOSE OF REPLACING MAJOR PUBLIC SCHOOL FACILITY SYSTEMS WITH PROJECTED LIFE CYCLES SUCH AS ROOFS, INTERIOR FINISHES, ELECTRICAL SYSTEMS AND HEATING, VENTILATING, AND AIR CONDITIONING SYSTEMS.

(e) IF THE APPLICATION IS FOR FINANCIAL ASSISTANCE FOR THE RENOVATION, RECONSTRUCTION, EXPANSION, OR REPLACEMENT OF AN EXISTING PUBLIC SCHOOL FACILITY, A DESCRIPTION OF THE CONDITION OF THE PUBLIC SCHOOL FACILITY AT THE TIME THE APPLICANT PURCHASED OR COMPLETED THE CONSTRUCTION OF THE PUBLIC SCHOOL FACILITY AND, IF THE PUBLIC SCHOOL FACILITY WAS NOT NEW OR WAS NOT ADEQUATE AT THAT TIME, THE RATIONALE OF THE APPLICANT FOR PURCHASING THE PUBLIC SCHOOL FACILITY OR CONSTRUCTING IT IN THE MANNER IN WHICH IT DID;

(f) A STATEMENT REGARDING THE MEANS BY WHICH THE APPLICANT INTENDS TO PROVIDE MATCHING MONEYS REQUIRED FOR THE PROJECTS, INCLUDING BUT NOT LIMITED TO MEANS SUCH AS VOTER-APPROVED MULTIPLE-FISCAL YEAR DEBT OR OTHER FINANCIAL OBLIGATIONS, GIFTS, GRANTS, DONATIONS, OR ANY OTHER MEANS OF FINANCING PERMITTED BY LAW, OR THE INTENT OF THE APPLICANT TO SEEK A WAIVER OF THE MATCHING MONEYS REQUIREMENT PURSUANT TO SUBSECTION (10) OF THIS SECTION. IF AN APPLICANT THAT IS A SCHOOL DISTRICT OR A BOARD OF COOPERATIVE SERVICES WITH A PARTICIPATING SCHOOL DISTRICT INTENDS TO RAISE MATCHING MONEYS BY OBTAINING VOTER APPROVAL TO ENTER INTO A SUBLEASE-PURCHASE AGREEMENT THAT CONSTITUTES AN INDEBTEDNESS OF THE DISTRICT AS AUTHORIZED BY SECTION 22-32-127, IT SHALL INDICATE WHETHER IT HAS RECEIVED THE REQUIRED VOTER APPROVAL OR, IF THE ELECTION HAS NOT ALREADY BEEN HELD, THE ANTICIPATED DATE OF THE ELECTION.

(g) A DESCRIPTION OF ANY EFFORTS BY THE APPLICANT TO COORDINATE CAPITAL CONSTRUCTION PROJECTS WITH LOCAL GOVERNMENTAL ENTITIES OR COMMUNITY-BASED OR OTHER

ORGANIZATIONS THAT PROVIDE FACILITIES OR SERVICES THAT BENEFIT THE COMMUNITY IN ORDER TO MORE EFFICIENTLY OR EFFECTIVELY PROVIDE SUCH FACILITIES OR SERVICES, INCLUDING BUT NOT LIMITED TO A DESCRIPTION OF ANY FINANCIAL COMMITMENT RECEIVED FROM ANY SUCH ENTITY OR ORGANIZATION THAT WILL ALLOW BETTER LEVERAGING OF ANY FINANCIAL ASSISTANCE AWARDED; AND

(h) ANY OTHER INFORMATION THAT THE BOARD MAY REQUIRE FOR THE EVALUATION OF THE PROJECT.

(5) THE BOARD, TAKING INTO CONSIDERATION THE FINANCIAL ASSISTANCE PRIORITY ASSESSMENT CONDUCTED PURSUANT TO SECTION 22-43.7-108, SHALL PRIORITIZE APPLICATIONS THAT DESCRIBE PUBLIC SCHOOL FACILITY CAPITAL CONSTRUCTION PROJECTS DEEMED ELIGIBLE FOR FINANCIAL ASSISTANCE BASED ON THE FOLLOWING CRITERIA, IN DESCENDING ORDER OF IMPORTANCE:

(a) (I) PROJECTS THAT WILL ADDRESS SAFETY HAZARDS OR HEALTH CONCERNS AT EXISTING PUBLIC SCHOOL FACILITIES, INCLUDING CONCERNS RELATING TO PUBLIC SCHOOL FACILITY SECURITY;

(II) IN PRIORITIZING AN APPLICATION FOR A PUBLIC SCHOOL FACILITY RENOVATION PROJECT THAT WILL ADDRESS SAFETY HAZARDS OR HEALTH CONCERNS, THE BOARD SHALL CONSIDER THE CONDITION OF THE ENTIRE PUBLIC SCHOOL FACILITY FOR WHICH THE PROJECT IS PROPOSED AND DETERMINE WHETHER IT WOULD BE MORE FISCALLY PRUDENT TO REPLACE THE ENTIRE FACILITY THAN TO PROVIDE FINANCIAL ASSISTANCE FOR THE RENOVATION PROJECT.

(b) PROJECTS THAT WILL RELIEVE OVERCROWDING IN PUBLIC SCHOOL FACILITIES, INCLUDING BUT NOT LIMITED TO PROJECTS THAT WILL ALLOW STUDENTS TO MOVE FROM TEMPORARY INSTRUCTIONAL FACILITIES INTO PERMANENT FACILITIES;

(c) PROJECTS THAT ARE DESIGNED TO INCORPORATE TECHNOLOGY INTO THE EDUCATIONAL ENVIRONMENT; AND

(d) ALL OTHER PROJECTS.

(6) THE BOARD MAY REQUEST THAT THE DIVISION UNDERTAKE A

PRELIMINARY REVIEW OF ANY OR ALL APPLICATIONS FOR FINANCIAL ASSISTANCE, AND THE BOARD MAY ALSO REQUEST THAT ANY DEPARTMENT, AGENCY, OR INSTITUTION OF STATE GOVERNMENT WITH EXPERTISE OR EXPERIENCE IN CONSTRUCTION MANAGEMENT PROVIDE ASSISTANCE TO THE BOARD WITH REGARD TO THE EVALUATION OF SUCH APPLICATIONS FOR FINANCIAL ASSISTANCE.

(7) PURSUANT TO THE TIMELINES ESTABLISHED PURSUANT TO SUBSECTION (2) OF THIS SECTION FOR ANY FISCAL YEAR FOR WHICH FINANCIAL ASSISTANCE IS TO BE AWARDED, AND AFTER PRIORITIZING PUBLIC SCHOOL FACILITY CAPITAL CONSTRUCTION PROJECTS AS SPECIFIED IN SUBSECTION (5) OF THIS SECTION, THE BOARD SHALL SUBMIT TO THE STATE BOARD A PRIORITIZED LIST OF PROJECTS FOR WHICH THE BOARD RECOMMENDS THE PROVISION OF FINANCIAL ASSISTANCE. THE PRIORITIZED LIST SHALL INCLUDE THE BOARD'S RECOMMENDATION AS TO THE AMOUNT AND TYPE OF FINANCIAL ASSISTANCE TO BE PROVIDED AND A STATEMENT OF THE SOURCE AND AMOUNT OF APPLICANT MATCHING MONEYS FOR EACH RECOMMENDED PROJECT BASED UPON INFORMATION PROVIDED BY THE APPLICANT. THE BOARD MAY RECOMMEND THAT ANY SPECIFIC PROJECT ONLY RECEIVE FINANCIAL ASSISTANCE IF ANOTHER HIGHER PRIORITY PROJECT OR GROUP OF PROJECTS BECOMES INELIGIBLE FOR FINANCIAL ASSISTANCE DUE TO THE INABILITY OF AN APPLICANT TO RAISE REQUIRED MATCHING MONEYS BY A DEADLINE PRESCRIBED BY THE BOARD AS A CONDITION OF A FINANCIAL ASSISTANCE AWARD FOR THE HIGHER PRIORITY PROJECT OR GROUP OF PROJECTS. THE STATE BOARD MAY APPROVE, DISAPPROVE, OR MODIFY THE PROVISION OF FINANCIAL ASSISTANCE FOR ANY PROJECT RECOMMENDED BY THE BOARD IF THE STATE BOARD CONCLUDES THAT THE BOARD MISINTERPRETED THE RESULTS OF THE PRIORITIZATION ASSESSMENT CONDUCTED PURSUANT TO SECTION 22-43.7-108 OR MISAPPLIED THE PRIORITIZATION CRITERIA SPECIFIED IN SUBSECTION (5) OF THIS SECTION. THE STATE BOARD SHALL SPECIFICALLY EXPLAIN IN WRITING ITS REASONS FOR FINDING THAT THE BOARD MISINTERPRETED THE RESULTS OF THE PRIORITY ASSESSMENT OR MISAPPLIED THE PRIORITIZATION CRITERIA WHEN DISAPPROVING OR MODIFYING ANY FINANCIAL ASSISTANCE AWARD RECOMMENDED BY THE BOARD.

(8) (a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, IN THE EVENT OF A PUBLIC SCHOOL FACILITY EMERGENCY, AN ENTITY THAT MAY BE AN APPLICANT AND THAT IS OPERATING IN THE AFFECTED PUBLIC SCHOOL FACILITY MAY SUBMIT AN APPLICATION TO THE BOARD FOR

EMERGENCY FINANCIAL ASSISTANCE TO ADDRESS THE EMERGENCY. THE APPLICATION SHALL DISCLOSE ANY INSURANCE PROCEEDS, CASH RESERVES, OR CAPITAL CONSTRUCTION RESERVES AVAILABLE TO PAY THE COSTS OF ADDRESSING THE EMERGENCY, AND INSURANCE PROCEEDS THAT BECOME AVAILABLE ONLY AFTER AN APPLICANT HAS RECEIVED EMERGENCY FINANCIAL ASSISTANCE SHALL BE USED FIRST TO REIMBURSE THE ASSISTANCE FUND FOR THE EMERGENCY FINANCIAL ASSISTANCE. THE BOARD SHALL MEET WITHIN FIFTEEN DAYS OF RECEIVING THE APPLICATION TO DETERMINE WHETHER TO RECOMMEND TO THE STATE BOARD THAT EMERGENCY FINANCIAL ASSISTANCE BE PROVIDED, THE AMOUNT OF ANY ASSISTANCE RECOMMENDED TO BE PROVIDED, AND ANY RECOMMENDED CONDITIONS THAT THE APPLICANT MUST MEET TO RECEIVE THE ASSISTANCE. THE STATE BOARD SHALL MEET WITHIN FIVE DAYS OF RECEIVING THE BOARD'S RECOMMENDATIONS TO DETERMINE WHETHER TO AUTHORIZE THE BOARD TO AWARD EMERGENCY FINANCIAL ASSISTANCE AS RECOMMENDED BY THE BOARD, MODIFY THE RECOMMENDED AWARD OF ASSISTANCE, OR PROHIBIT THE BOARD FROM AWARDED ASSISTANCE. THE BOARD MAY USE ANY UNENCUMBERED AND UNEXPENDED MONEYS IN THE ASSISTANCE FUND, INCLUDING THE EMERGENCY RESERVE OF THE ASSISTANCE FUND, TO PROVIDE EMERGENCY FINANCIAL ASSISTANCE.

(b) AS USED IN THIS SUBSECTION (8), "PUBLIC SCHOOL FACILITY EMERGENCY" MEANS AN UNANTICIPATED EVENT THAT MAKES ALL OR A SIGNIFICANT PORTION OF A PUBLIC SCHOOL FACILITY UNUSABLE FOR EDUCATIONAL PURPOSES OR THREATENS THE HEALTH OR SAFETY OF PERSONS USING THE PUBLIC SCHOOL FACILITY.

(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:

(a) WITH RESPECT TO A SCHOOL DISTRICT'S APPLICATION FOR FINANCIAL ASSISTANCE:

(I) THE SCHOOL DISTRICT'S ASSESSED VALUE PER PUPIL RELATIVE TO

THE STATE AVERAGE;

(II) THE SCHOOL DISTRICT'S MEDIAN HOUSEHOLD INCOME RELATIVE TO THE STATE AVERAGE;

(III) THE SCHOOL DISTRICT'S BOND REDEMPTION FUND MILL LEVY RELATIVE TO THE STATEWIDE AVERAGE;

(IV) THE PERCENTAGE OF PUPILS ENROLLED IN THE SCHOOL DISTRICT WHO ARE ELIGIBLE FOR FREE OR REDUCED-COST LUNCH; AND

(V) THE AMOUNT OF EFFORT PUT FORTH BY THE SCHOOL DISTRICT TO OBTAIN VOTER APPROVAL FOR A BALLOT QUESTION FOR BONDED INDEBTEDNESS, INCLUDING BUT NOT LIMITED TO A BALLOT QUESTION FOR ENTRY BY THE DISTRICT INTO A SUBLEASE-PURCHASE AGREEMENT OF THE TYPE THAT CONSTITUTES AN INDEBTEDNESS OF THE DISTRICT PURSUANT TO SECTION 22-32-127, DURING THE TEN YEARS PRECEDING THE YEAR IN WHICH THE DISTRICT SUBMITTED THE APPLICATION, WHICH FACTOR MAY BE USED ONLY TO REDUCE THE PERCENTAGE OF MATCHING MONEYS REQUIRED FROM A DISTRICT THAT HAS PUT FORTH SUCH EFFORT AND NOT TO INCREASE THE AMOUNT OF MATCHING MONEYS REQUIRED FROM ANY DISTRICT;

(b) WITH RESPECT TO A BOARD OF COOPERATIVE SERVICES' APPLICATION FOR FINANCIAL ASSISTANCE:

(I) THE AVERAGE ASSESSED VALUE PER PUPIL OF ALL MEMBERS OF THE BOARD OF COOPERATIVE SERVICES PARTICIPATING IN THE CAPITAL CONSTRUCTION PROJECT RELATIVE TO THE STATE AVERAGE;

(II) THE AVERAGE MEDIAN HOUSEHOLD INCOME OF ALL MEMBERS OF THE BOARD OF COOPERATIVE SERVICES PARTICIPATING IN THE CAPITAL CONSTRUCTION PROJECT RELATIVE TO THE STATE AVERAGE;

(III) THE AVERAGE BOND REDEMPTION FUND MILL LEVY OF ALL MEMBERS OF THE BOARD OF COOPERATIVE SERVICES PARTICIPATING IN THE CAPITAL CONSTRUCTION PROJECT RELATIVE TO THE STATEWIDE AVERAGE;

(IV) THE PERCENTAGE OF PUPILS ENROLLED IN THE MEMBER SCHOOLS WITHIN THE BOARD OF COOPERATIVE SERVICES THAT ARE PARTICIPATING IN THE CAPITAL CONSTRUCTION PROJECT WHO ARE ELIGIBLE



FOR FREE OR REDUCED-COST LUNCH; AND

(V) THE AMOUNT OF EFFORT PUT FORTH BY THE MEMBERS OF THE BOARD OF COOPERATIVE SERVICES TO OBTAIN VOTER APPROVAL FOR A BALLOT QUESTION FOR BONDED INDEBTEDNESS, INCLUDING BUT NOT LIMITED TO A BALLOT QUESTION FOR ENTRY BY ANY MEMBER INTO A SUBLEASE-PURCHASE AGREEMENT OF THE TYPE THAT CONSTITUTES AN INDEBTEDNESS OF THE MEMBER PURSUANT TO SECTION 22-32-127, DURING THE TEN YEARS PRECEDING THE YEAR IN WHICH THE BOARD OF COOPERATIVE SERVICES SUBMITTED THE APPLICATION, WHICH FACTOR MAY BE USED ONLY TO REDUCE THE PERCENTAGE OF MATCHING MONEYS REQUIRED FROM A BOARD OF COOPERATIVE SERVICES WHOSE MEMBERS, OR ANY OF THEM, HAVE PUT FORTH SUCH EFFORT AND NOT TO INCREASE THE AMOUNT OF MATCHING MONEYS REQUIRED FROM ANY BOARD OF COOPERATIVE SERVICES;

(c) WITH RESPECT TO A CHARTER SCHOOL'S APPLICATION FOR FINANCIAL ASSISTANCE:

(I) THE AMOUNT OF PER PUPIL OPERATING REVENUE THAT THE CHARTER SCHOOL HAS BUDGETED TO EXPEND IN ORDER TO MEET ITS FACILITIES OBLIGATIONS DURING THE FISCAL YEAR FOR WHICH AN APPLICATION IS MADE RELATIVE TO OTHER CHARTER SCHOOLS IN THE STATE, MEASURED BOTH IN TERMS OF TOTAL DOLLARS AND AS A PERCENTAGE OF THE CHARTER SCHOOL'S TOTAL PER PUPIL OPERATING REVENUE;

(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;

(III) THE PER PUPIL REVENUE RECEIVED BY THE CHARTER SCHOOL FROM THE STATE EDUCATION FUND FOR CAPITAL CONSTRUCTION PURSUANT TO SECTION 22-30.5-112.3;

(IV) THE PERCENTAGE OF CHILDREN ENROLLED IN THE CHARTER SCHOOL WHO ARE ELIGIBLE FOR THE FEDERAL FREE AND REDUCED LUNCH PROGRAM; AND

(V) THE AMOUNT OF EFFORT PUT FORTH BY THE CHARTER SCHOOL DURING THE TEN YEARS PRECEDING THE YEAR IN WHICH THE CHARTER

SCHOOL SUBMITTED THE APPLICATION TO MEET ITS FACILITIES NEEDS BY ACCESSING VACANT SCHOOL DISTRICT FACILITIES OR OBTAINING FUNDING FOR CAPITAL CONSTRUCTION BY HAVING THE COLORADO EDUCATIONAL AND CULTURAL FACILITIES AUTHORITY CREATED AND EXISTING PURSUANT TO SECTION 23-15-104 (1) (a), C.R.S, ISSUE BONDS ON ITS BEHALF, SEEKING VOTER APPROVAL OF A BALLOT QUESTION FOR BONDED INDEBTEDNESS OR FOR A SPECIAL MILL LEVY AUTHORIZED BY SECTION 22-30.5-405, OR SEEKING INCLUSION OF ITS CAPITAL CONSTRUCTION NEEDS IN A SCHOOL DISTRICT'S BALLOT QUESTION SEEKING VOTER APPROVAL FOR BONDED INDEBTEDNESS, WHICH FACTOR MAY BE USED ONLY TO REDUCE THE PERCENTAGE OF MATCHING MONEYS REQUIRED FROM A CHARTER SCHOOL THAT HAS PUT FORTH SUCH EFFORT AND NOT TO INCREASE THE AMOUNT OF MATCHING MONEYS REQUIRED FROM ANY CHARTER SCHOOL.

(10) (a) A SCHOOL DISTRICT SHALL NOT BE REQUIRED TO PROVIDE ANY AMOUNT OF MATCHING MONEYS IN EXCESS OF THE DIFFERENCE BETWEEN THE SCHOOL DISTRICT'S LIMIT OF BONDED INDEBTEDNESS, AS CALCULATED PURSUANT TO SECTION 22-42-104, AND THE TOTAL AMOUNT OF OUTSTANDING BONDED INDEBTEDNESS ALREADY INCURRED BY THE SCHOOL DISTRICT.

(b) AN APPLICANT MAY APPLY TO THE BOARD FOR A WAIVER OR REDUCTION OF THE MATCHING MONEYS REQUIREMENT SPECIFIED IN SUBSECTION (9) OF THIS SECTION. THE BOARD MAY GRANT A WAIVER OR REDUCTION IF IT DETERMINES THAT THE WAIVER OR REDUCTION WOULD SIGNIFICANTLY ENHANCE EDUCATIONAL OPPORTUNITY AND QUALITY WITHIN A SCHOOL DISTRICT, BOARD OF COOPERATIVE SERVICES, OR APPLICANT SCHOOL, THAT THE COST OF COMPLYING WITH THE MATCHING MONEYS REQUIREMENT WOULD SIGNIFICANTLY LIMIT EDUCATIONAL OPPORTUNITIES WITHIN A SCHOOL DISTRICT, BOARD OF COOPERATIVE SERVICES, OR APPLICANT SCHOOL, OR THAT EXTENUATING CIRCUMSTANCES DEEMED SIGNIFICANT BY THE BOARD MAKE A WAIVER APPROPRIATE.

(c) THE AMOUNT OF BONDED INDEBTEDNESS THAT A SCHOOL DISTRICT THAT IS A MEMBER OF A BOARD OF COOPERATIVE SERVICES INCURS IN ORDER TO PROVIDE MATCHING MONEYS FOR THE BOARD OF COOPERATIVE SERVICES SHALL NOT CONSTITUTE BONDED INDEBTEDNESS OF THE SCHOOL DISTRICT SUBJECT TO THE LIMITS ON BONDED INDEBTEDNESS SPECIFIED IN SECTION 22-42-104.

(11) IN DETERMINING THE AMOUNT OF EACH RECOMMENDED AWARD OF FINANCIAL ASSISTANCE, THE BOARD SHALL SEEK TO BE AS EQUITABLE AS PRACTICABLE BY CONSIDERING THE TOTAL FINANCIAL CAPACITY OF EACH APPLICANT.

**22-43.7-110. Financial assistance - grants - lease-purchase agreements.** (1) THE BOARD MAY PROVIDE FINANCIAL ASSISTANCE FOR THOSE PUBLIC SCHOOL FACILITY CAPITAL CONSTRUCTION PROJECTS FOR WHICH THE STATE BOARD HAS AUTHORIZED THE PROVISION OF FINANCIAL ASSISTANCE PURSUANT TO SECTION 22-43.7-109 (7) BY PROVIDING MATCHING GRANTS FROM THE ASSISTANCE FUND.

(2) SUBJECT TO THE FOLLOWING REQUIREMENTS AND LIMITATIONS, THE BOARD MAY ALSO INSTRUCT THE STATE TREASURER TO ENTER INTO LEASE-PURCHASE AGREEMENTS ON BEHALF OF THE STATE TO PROVIDE FINANCIAL ASSISTANCE TO APPLICANTS BY FINANCING PUBLIC SCHOOL FACILITY CAPITAL CONSTRUCTION PROJECTS FOR WHICH THE STATE BOARD HAS AUTHORIZED THE PROVISION OF FINANCIAL ASSISTANCE PURSUANT TO SECTION 22-43.7-109 (7):

(a) SUBJECT TO THE LIMITATION SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (2), THE MAXIMUM TOTAL AMOUNT OF ANNUAL LEASE PAYMENTS PAYABLE BY THE STATE DURING ANY FISCAL YEAR UNDER THE TERMS OF ALL OUTSTANDING LEASE-PURCHASE AGREEMENTS ENTERED INTO BY THE STATE TREASURER AS INSTRUCTED BY THE BOARD PURSUANT TO THIS SUBSECTION (2) IS:

(I) TWENTY MILLION DOLLARS FOR THE 2008-09 FISCAL YEAR;

(II) FORTY MILLION DOLLARS FOR THE 2009-10 FISCAL YEAR;

(III) SIXTY MILLION DOLLARS FOR THE 2010-11 FISCAL YEAR; AND

(IV) EIGHTY MILLION DOLLARS FOR THE 2011-12 FISCAL YEAR AND FOR EACH FISCAL YEAR THEREAFTER.

(b) THE BOARD MAY EXPEND ONLY MATCHING MONEYS CREDITED TO THE ASSISTANCE FUND PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (2) OR SECTION 22-43.7-104 (2) (b) (IV) OR INTEREST OR INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF SUCH MATCHING MONEYS TO MAKE

ANNUAL LEASE PAYMENTS OF PRINCIPAL OR INTEREST FOR ANY FISCAL YEAR IN EXCESS OF ONE-HALF OF THE MAXIMUM TOTAL AMOUNT OF ANNUAL LEASE PAYMENTS PERMITTED FOR THE FISCAL YEAR PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2).

(c) WHENEVER THE STATE TREASURER ENTERS INTO A LEASE-PURCHASE AGREEMENT ON BEHALF OF THE STATE PURSUANT TO THIS SUBSECTION (2) TO FINANCE A PUBLIC SCHOOL FACILITY, THE BOARD SHALL ENTER INTO A SUBLEASE-PURCHASE AGREEMENT FOR THE FACILITY ON BEHALF OF THE STATE WITH THE APPLICANT THAT WILL USE THE FACILITY. THE SUBLEASE-PURCHASE AGREEMENT SHALL REQUIRE THE APPLICANT TO PERFORM FOR THE STATE ALL DUTIES OF THE STATE TO MAINTAIN AND OPERATE THE PUBLIC SCHOOL FACILITY THAT ARE REQUIRED BY THE LEASE-PURCHASE AGREEMENT AND TO MAKE PERIODIC RENTAL PAYMENTS TO THE STATE, WHICH PAYMENTS SHALL BE CREDITED TO THE ASSISTANCE FUND AS MATCHING MONEYS OF THE APPLICANT. THE SUBLEASE-PURCHASE AGREEMENT SHALL ALSO PROVIDE FOR THE TRANSFER OF OWNERSHIP OF THE PUBLIC SCHOOL FACILITY FROM THE STATE TO THE APPLICANT UPON THE FULFILLMENT OF BOTH THE STATE'S OBLIGATIONS UNDER THE LEASE-PURCHASE AGREEMENT AND THE APPLICANT'S OBLIGATIONS UNDER THE SUBLEASE-PURCHASE AGREEMENT. A SUBLEASE-PURCHASE AGREEMENT MAY PROVIDE THAT THE LEGAL OBLIGATION OF AN APPLICANT TO MAKE PERIODIC RENTAL PAYMENTS IS SUBJECT TO THE ANNUAL APPROPRIATION OF MONEYS FOR THAT PURPOSE BY THE APPLICANT IF THE ABSENCE OF SUCH A PROVISION WOULD CREATE A DISTRICT MULTIPLE-YEAR FISCAL OBLIGATION WITHOUT VOTER APPROVAL IN ADVANCE IN VIOLATION OF SECTION 20 (4) (b) OF ARTICLE X OF THE STATE CONSTITUTION.

(d) A LEASE-PURCHASE AGREEMENT ENTERED INTO BY THE STATE TREASURER ON BEHALF OF THE STATE PURSUANT TO THIS SUBSECTION (2) SHALL PROVIDE THAT ALL PAYMENT OBLIGATIONS OF THE STATE UNDER THE AGREEMENT ARE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY AND THAT OBLIGATIONS SHALL NOT BE DEEMED OR CONSTRUED AS CREATING AN INDEBTEDNESS OF THE STATE WITHIN THE MEANING OF ANY PROVISION OF THE STATE CONSTITUTION OR THE LAWS OF THE STATE CONCERNING OR LIMITING THE CREATION OF INDEBTEDNESS BY THE STATE.

(e) A LEASE-PURCHASE AGREEMENT ENTERED INTO BY THE STATE TREASURER ON BEHALF OF THE STATE PURSUANT TO THIS SUBSECTION (2) MAY CONTAIN SUCH TERMS, PROVISIONS, AND CONDITIONS AS THE STATE

TREASURER MAY DEEM APPROPRIATE. THE PROVISIONS SHALL ALLOW THE STATE TO RECEIVE TITLE TO THE REAL AND PERSONAL PROPERTY THAT IS THE SUBJECT OF THE AGREEMENT ON OR PRIOR TO THE EXPIRATION OF THE ENTIRE TERM OF THE AGREEMENT, INCLUDING ALL OPTIONAL RENEWAL TERMS. SUCH A LEASE-PURCHASE AGREEMENT MAY FURTHER PROVIDE FOR THE ISSUANCE, DISTRIBUTION, AND SALE OF INSTRUMENTS EVIDENCING RIGHTS TO RECEIVE RENTALS AND OTHER PAYMENTS MADE AND TO BE MADE UNDER THE AGREEMENT. SUCH INSTRUMENTS SHALL NOT BE NOTES, BONDS, OR ANY OTHER EVIDENCE OF INDEBTEDNESS OF THE STATE WITHIN THE MEANING OF ANY PROVISION OF THE STATE CONSTITUTION OR THE LAWS OF THE STATE CONCERNING OR LIMITING THE CREATION OF INDEBTEDNESS BY THE STATE. INTEREST PAID UNDER A LEASE-PURCHASE AGREEMENT, INCLUDING INTEREST REPRESENTED BY SUCH INSTRUMENTS, SHALL BE EXEMPT FROM COLORADO INCOME TAX.

(f) THE BOARD MAY ONLY ENTER INTO A SUBLEASE-PURCHASE AGREEMENT ON BEHALF OF THE STATE PURSUANT TO THIS SUBSECTION (2) IF THE STATE TREASURER HAS REVIEWED THE AGREEMENT AND PROVIDED WRITTEN AUTHORIZATION TO THE BOARD TO ENTER INTO THE AGREEMENT.

**22-43.7-111. Reporting requirements - auditing by state auditor.**

(1) NO LATER THAN FEBRUARY 15, 2010, AND NO LATER THAN EACH FEBRUARY 15 THEREAFTER, THE BOARD SHALL PRESENT A WRITTEN REPORT TO THE EDUCATION AND FINANCE COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, REGARDING THE PROVISION OF FINANCIAL ASSISTANCE TO APPLICANTS PURSUANT TO THIS ARTICLE. THE REPORT SHALL INCLUDE, AT A MINIMUM:

(a) AN ACCOUNTING OF THE FINANCIAL ASSISTANCE PROVIDED THROUGH THE PRIOR FISCAL YEAR THAT INCLUDES:

(I) A STATEMENT OF THE AGGREGATE AMOUNT OF FINANCIAL ASSISTANCE AWARDED THROUGH THE PRIOR FISCAL YEAR, INCLUDING STATEMENTS OF THE AMOUNT OF GRANTS PROVIDED, AND THE AMOUNT OF PAYMENTS MADE AND PAYMENTS COMMITTED TO BE MADE BUT NOT YET MADE IN CONNECTION WITH LEASE-PURCHASE AGREEMENTS;

(II) A STATEMENT OF THE AGGREGATE AMOUNT OF FINANCIAL ASSISTANCE PROVIDED AS GRANTS AND THE AGGREGATE AMOUNT OF PAYMENTS MADE IN CONNECTION WITH LEASE-PURCHASE AGREEMENTS

DURING THE PRIOR FISCAL YEAR;

(III) A LIST OF THE PUBLIC SCHOOL FACILITY CAPITAL CONSTRUCTION PROJECTS FOR WHICH FINANCIAL ASSISTANCE HAS BEEN PROVIDED, INCLUDING A BRIEF DESCRIPTION OF EACH PROJECT, A STATEMENT OF THE AMOUNT AND TYPE OF FINANCIAL ASSISTANCE PROVIDED FOR EACH PROJECT AND, WHERE APPLICABLE, THE AMOUNT OF FINANCIAL ASSISTANCE COMMITTED TO BE PROVIDED FOR BUT NOT YET PROVIDED FOR EACH PROJECT, A STATEMENT OF THE AMOUNT OF MATCHING MONEYS PROVIDED BY THE APPLICANT FOR EACH PROJECT AND, WHERE APPLICABLE, THE AMOUNT OF MATCHING MONEYS COMMITTED TO BE PROVIDED BY THE APPLICANT BUT NOT YET PROVIDED FOR EACH PROJECT, AND A SUMMARY OF THE REASONS OF THE BOARD AND THE STATE BOARD FOR PROVIDING FINANCIAL ASSISTANCE FOR THE PROJECT; AND

(IV) A LIST OF THE PUBLIC SCHOOL FACILITY CAPITAL CONSTRUCTION PROJECTS FOR WHICH FINANCIAL ASSISTANCE HAS BEEN PROVIDED DURING THE PRIOR FISCAL YEAR, INCLUDING A BRIEF DESCRIPTION OF EACH PROJECT, A STATEMENT OF THE AMOUNT AND TYPE OF FINANCIAL ASSISTANCE PROVIDED FOR EACH PROJECT, AND A STATEMENT OF THE AMOUNT OF MATCHING MONEYS PROVIDED BY THE APPLICANT FOR EACH PROJECT.

(b) A SUMMARY OF THE FINDINGS AND CONCLUSIONS OF ANY PUBLIC SCHOOL FACILITY INSPECTIONS CONDUCTED DURING THE PRIOR FISCAL YEAR;

(c) A SUMMARY OF ANY DIFFERENCES BETWEEN THE COMMON PHYSICAL DESIGN ELEMENTS AND CHARACTERISTICS OF THE HIGHEST PERFORMING SCHOOLS IN THE STATE AND THE LOWEST PERFORMING SCHOOLS IN THE STATE AS MEASURED BY ACADEMIC PRODUCTIVITY MEASURES SUCH AS THE COLORADO STUDENT ASSESSMENT PROGRAM CREATED IN PART 4 OF ARTICLE 7 OF THIS TITLE OR COLORADO ACT RESULTS; AND

(d) A LIST OF THE FINANCIAL ASSISTANCE APPLICATIONS FOR PUBLIC SCHOOL FACILITY CAPITAL CONSTRUCTION THAT WERE DENIED FINANCIAL ASSISTANCE DURING THE PRIOR FISCAL YEAR THAT INCLUDES FOR EACH PROJECT:

(I) A BRIEF PROJECT DESCRIPTION;

(II) A STATEMENT OF THE AMOUNT AND TYPE OF FINANCIAL ASSISTANCE REQUESTED FOR THE PROJECT;

(III) A STATEMENT INDICATING WHETHER OR NOT THE BOARD RECOMMENDED A FINANCIAL ASSISTANCE AWARD FOR THE PROJECT; AND

(IV) A SUMMARY OF THE REASONS WHY THE BOARD OR THE STATE BOARD DENIED FINANCIAL ASSISTANCE FOR THE PROJECT.

(2) NO LATER THAN FEBRUARY 15, 2014, THE BOARD SHALL PREPARE AND MAKE AVAILABLE ELECTRONICALLY ON THE WEB SITE OF THE DEPARTMENT A REPORT TO THE TAXPAYERS OF THE STATE REGARDING THE PROVISION OF FINANCIAL ASSISTANCE TO APPLICANTS PURSUANT TO THIS ARTICLE DURING THE FIVE PRIOR FISCAL YEARS. THE REPORT SHALL INCLUDE, AT A MINIMUM, THE INFORMATION SPECIFIED IN SUBSECTION (1) OF THIS SECTION FOR EACH OF THE FIVE PRIOR FISCAL YEARS AND AN AGGREGATION OF ANY OF SUCH INFORMATION THAT CAN FEASIBLY BE AGGREGATED FOR THE FULL FIVE-YEAR PERIOD.

(3) THE STATE AUDITOR SHALL CONDUCT OR CAUSE TO BE CONDUCTED A PERFORMANCE AUDIT OF THE FINANCIAL ASSISTANCE GRANT AND LEASE-PURCHASE PROGRAMS AUTHORIZED BY THIS ARTICLE. THE STATE AUDITOR SHALL SUBMIT FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS RESULTING FROM THE PERFORMANCE AUDIT TO THE MEMBERS OF THE LEGISLATIVE AUDIT COMMITTEE OF THE GENERAL ASSEMBLY AND TO THE MEMBERS OF THE EDUCATION AND FINANCE COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, NO LATER THAN FEBRUARY 15, 2014.

**22-43.7-112. Attorney general as legal advisor.** THE ATTORNEY GENERAL SHALL ACT AS LEGAL ADVISOR FOR THE BOARD, AND WITH THE CONSENT OF THE ATTORNEY GENERAL THE BOARD MAY EMPLOY ADDITIONAL LEGAL COUNSEL.

**22-43.7-113. Colorado school for the deaf and blind - special rules.** EXCEPT TO THE EXTENT OTHERWISE PROVIDED BY THE BOARD IN RULES PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., IN ORDER TO ACCOUNT FOR ANY REVENUE RAISING LIMITATIONS OF THE COLORADO SCHOOL FOR THE DEAF AND BLIND CREATED AND EXISTING PURSUANT TO SECTION 22-80-102 (1) (a) NOT SHARED BY SCHOOL DISTRICTS,

THE SCHOOL SHALL BE SUBJECT TO THE SAME FINANCIAL ASSISTANCE APPLICATION REQUIREMENTS AND FINANCIAL ASSISTANCE PRIORITIZATION CRITERIA AS A SCHOOL DISTRICT.

**22-43.7-114. Capital construction assistance awarded for fiscal year 2007-08 - continued payment.** ANY CAPITAL CONSTRUCTION ASSISTANCE AWARDED TO SCHOOL DISTRICTS OR CHARTER SCHOOLS PRIOR TO THE END OF THE 2007-08 FISCAL YEAR PURSUANT TO THIS ARTICLE, AS IT EXISTED PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, SHALL CONTINUE TO BE PAID.

**22-43.7-115. Tax increases not required.** NOTHING IN THIS ARTICLE SHALL BE DEEMED TO REQUIRE A SCHOOL DISTRICT TO INCREASE TAXES.

**22-43.7-116. Open record and open meetings.** IN EXERCISING THEIR POWERS AND DUTIES PURSUANT TO THIS ARTICLE, THE BOARD AND THE DIVISION SHALL BE SUBJECT TO THE OPEN MEETINGS PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972", ARTICLE 6 OF TITLE 24, C.R.S., AS SET FORTH IN PART 4 OF SAID ARTICLE, AND THE OPEN RECORDS PROVISIONS SET FORTH IN ARTICLE 72 OF TITLE 24, C.R.S.

**SECTION 2.** 22-32-127 (1) (a) and (4), Colorado Revised Statutes, are amended to read:

**22-32-127. Leases or installment purchases for periods exceeding one year.** (1) (a) Whenever the term of an installment purchase agreement or a lease agreement with an option to purchase, INCLUDING BUT NOT LIMITED TO ANY SUBLEASE-PURCHASE AGREEMENT ENTERED INTO BY A SCHOOL DISTRICT PURSUANT TO SECTION 22-43.7-110(2) (c), under which a school district becomes entitled to the use of undeveloped or improved real property or equipment for a school site, building, or structure is greater than one year, the obligation to make payments under the agreement shall constitute an indebtedness of the district.

(4) The PRINCIPAL amount of any indebtedness incurred by a school district by means of installment purchase OR LEASE-PURCHASE OR SUBLEASE-PURCHASE agreements having terms of more than one year shall be subject to the limitation imposed by law on the amount of bonded indebtedness ~~which~~ THAT may be incurred by a school district.



**SECTION 3.** 22-41-102 (1) and (3), Colorado Revised Statutes, are amended to read:

**22-41-102. Fund inviolate.** (1) The public school fund shall forever remain inviolate and intact; the interest ~~thereon~~, AND INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF THE FUND only shall be expended in the maintenance of the schools of the state and shall be distributed to the several school districts of the state in such manner as may be prescribed by law. No part of said fund, principal or interest AND INCOME, shall ever be transferred to any other fund or used or appropriated, except as provided in this article AND ARTICLE 43.7 OF THIS TITLE. The state treasurer shall be custodian of the fund, and the same shall be securely and profitably invested as may be directed by law. The state, by appropriation, shall supply all losses of principal that may occur as determined pursuant to section 2-3-103 (5), C.R.S., or section 22-41-104 (2).

(3) ~~For the 2003-04 fiscal year and each fiscal year thereafter, the amount of interest expended from the public school fund shall not exceed nineteen million dollars.~~ Any interest OR INCOME earned on the investment of the moneys in the public school fund ~~that exceeds the amount specified in this subsection~~ (3) OTHER THAN INTEREST AND INCOME CREDITED TO THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE FUND CREATED IN SECTION 22-43.7-104 (1) PURSUANT TO SECTION 22-43.7-104 (2) (b) (I) shall remain in the fund and shall become part of the principal of the fund.

**SECTION 4. Repeal.** 22-41-106, Colorado Revised Statutes, is repealed as follows:

**22-41-106. Disposition of income.** ~~All interest derived from the investment and reinvestment of the public school fund shall be credited to the public school income fund and periodically transferred therefrom to the state public school fund.~~

**SECTION 5.** 24-1-115, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**24-1-115. Department of education - creation.** (11) (a) THE DEPARTMENT OF EDUCATION SHALL INCLUDE THE DIVISION OF PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE ESTABLISHED IN SECTION 22-43.7-105, C.R.S., AND ITS POWERS, DUTIES, AND FUNCTIONS, AS IF THE

DIVISION WERE TRANSFERRED BY A **TYPE 2** TRANSFER TO THE DEPARTMENT OF EDUCATION.

(b) THE DEPARTMENT OF EDUCATION SHALL INCLUDE THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE BOARD ESTABLISHED IN SECTION 22-43.7-106, C.R.S., AND ITS POWERS, DUTIES, AND FUNCTIONS, AS IF THE BOARD WERE TRANSFERRED BY A **TYPE 1** TRANSFER TO THE DEPARTMENT OF EDUCATION.

**SECTION 6.** 24-82-801 (4), Colorado Revised Statutes, is amended to read:

**24-82-801. Lease-purchase agreements for acquisition of real or personal property.** (4) Notwithstanding the provisions of this section to the contrary, the department of transportation, and institutions of higher education, AND THE STATE TREASURER may enter into lease-purchase agreements as otherwise provided by law.

**SECTION 7.** 2-3-115 (1) (b), (2) (c), and (2) (e), Colorado Revised Statutes, are amended to read:

**2-3-115. Use of state education fund moneys for school capital construction - audits - reports.** (1) For the 2001-02 school district budget year and each school district budget year thereafter, for the purpose of determining the amount of state education fund moneys expended by each school district in the state for capital construction and identifying the schools and projects on which school districts expended such moneys, the state auditor shall annually examine the records of each school district in the state that received state education fund moneys for the budget year:

(b) For budget years 2000-01 through 2006-07, indirectly from the school capital construction expenditures reserve created in section 22-54-117 (1.5) (a) (I), C.R.S., AS SAID RESERVE EXISTED PRIOR TO JULY 1, 2008, and for THE budget years ~~2007-08 through 2010-11~~ YEAR 2007-08, indirectly from the school capital construction expenditures reserve fund, ~~created in section 22-54-117 (1.5) (a) (II), C.R.S., in accordance with section 22-54-117 (1.5) and (1.7), C.R.S.~~ AS SAID FUND EXISTED PRIOR TO JULY 1, 2008.

(2) No later than February 1 of each school district budget year

commencing on or after July 1, 2002, the state auditor shall report to the education committees of the senate and the house of representatives, the legislative audit committee, and the joint budget committee of the general assembly:

(c) For budget years 2000-01 through 2006-07, the total amount of state education fund moneys received indirectly from the school capital construction expenditures reserve, AS SAID RESERVE EXISTED PRIOR TO JULY 1, 2008, and for THE budget years ~~2007-08 through 2010-11~~ YEAR 2007-08, the total amount of state education fund moneys received indirectly from the school capital construction expenditures reserve fund, AS SAID FUND EXISTED PRIOR TO JULY 1, 2008, by districts throughout the state and by each district that were expended for capital construction during the prior budget year;

(e) For budget years 2000-01 through 2006-07, the balances of all moneys and all state education fund moneys in the school capital construction expenditures reserve, AS SAID RESERVE EXISTED PRIOR TO JULY 1, 2008, as of the immediately preceding January 1, and for THE budget years ~~2007-08 through 2010-11~~ YEAR 2007-08, the balances of all moneys and all state education fund moneys in the school capital construction expenditures reserve fund, AS SAID FUND EXISTED PRIOR TO JULY 1, 2008, as of the immediately preceding January 1; and

**SECTION 8.** 2-3-1304 (1) (a.6) and (1) (b), Colorado Revised Statutes, are amended to read:

**2-3-1304. Powers and duties of capital development committee.**

(1) The capital development committee shall have the following powers and duties:

(a.6) ~~For fiscal year 2001-02 and each fiscal year thereafter, to review the list submitted by the state board of education of school districts recommended to receive matching grants for capital construction projects from the school construction and renovation fund pursuant to section 22-43.7-105 (6), C.R.S. The capital development committee shall determine the number of projects on the list that may be funded from moneys available in the school construction and renovation fund. Only capital projects on the prioritized list may receive matching grants from the fund, and the projects must be funded in the priority determined by the state~~

~~board of education.~~

~~(b) To hold such hearings as may be necessary to consider reports from each department, institution, or agency itself with respect to any such capital construction, controlled maintenance, or acquisition of capital assets; and to consider the list submitted by the state board of education of school districts recommended to receive matching grants for capital construction projects from the school construction and renovation fund pursuant to section 22-43.7-105 (6), C.R.S.;~~

**SECTION 9.** 22-5-111 (2), Colorado Revised Statutes, is amended to read:

**22-5-111. Buildings and facilities.** (2) The boards of education of the school districts participating in a cooperative service agreement may jointly, separately, or, after approval of each participating board of education, as a board of cooperative services construct, purchase, or lease sites, buildings, and equipment for the purpose of providing the facilities necessary for the operation of a cooperative service program at any appropriate location, whether within or without a school district providing the money for the facilities. School district moneys in any fund from which moneys may be legally expended for such facilities may be used for carrying out the provisions of this section. The provisions of sections 22-32-127 and 22-45-103 (1) shall apply to any installment purchase agreement or any lease or rental agreement, INCLUDING BUT NOT LIMITED TO ANY SUBLEASE-PURCHASE AGREEMENT ENTERED INTO BY A SCHOOL DISTRICT THAT IS A MEMBER OF A BOARD OF COOPERATIVE SERVICES PURSUANT TO SECTION 22-43.7-110 (2) (c), entered into by a board of cooperative services or by the boards of education of the school districts participating in a cooperative service agreement. No board of education of a school district participating in a cooperative service agreement shall make any levy for its bond redemption fund, or use any moneys in its bond redemption fund, except in accordance with the provisions of section 22-45-103 (1) (b).

**SECTION 10.** 22-54-117 (2) and (3), Colorado Revised Statutes, are amended to read:

**22-54-117. Contingency reserve - capital construction expenditures reserve - fund - lottery proceeds contingency reserve.**

(2) Application by a district for supplemental assistance pursuant to either subsection (1) or (1.5) of this section shall set forth fully the grounds upon which it relies for assistance and shall be sworn to under oath by the president and secretary of the district board of the district.

(3) The state board shall conduct such investigation as it deems proper, and, if it finds that an application should be approved, it shall determine the amount to be paid. In determining which districts receive payments pursuant to this section and the amount of such payments, the state board shall consider the amount of the supplemental assistance requested by the district as a percentage of the district's total program. By order upon the state treasurer, the board shall direct payment from the contingency reserve OR contingency reserve fund, ~~school capital construction expenditures reserve, school capital construction expenditures reserve fund, or lottery proceeds contingency reserve fund,~~ whichever is applicable, of such amount to the treasurer of the eligible district for credit to the general fund of the district.

**SECTION 11.** 23-15-103 (8) (a) (VIII), Colorado Revised Statutes, is amended 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

**SECTION 12.** 23-15-117, Colorado Revised Statutes, is amended to read:

**23-15-117. Payment of bonds - nonliability of state.** Bonds and notes issued by the authority shall not constitute or become an indebtedness, a debt, or a liability of the state, the general assembly, or any county, city, city and county, town, school district, or other political subdivision of the state or of any other political subdivision or body corporate and politic within the state, and neither the state, the general assembly, nor any county,

city, city and county, town, school district, or other political subdivision of the state shall be liable thereon; nor shall such bonds or notes constitute the giving, pledging, or loaning of the faith and credit of the state, the general assembly, or any county, city, city and county, town, school district, or other political subdivision of the state or of any other political subdivision or body corporate and politic within the state, but such bonds or notes shall be payable solely from the funds provided for in this article. UNLESS BY SPECIFIC PLEDGE IN AN ACT OF ISSUANCE AS AUTHORIZED BY LAW, the issuance of bonds or notes under the provisions of this article shall not obligate, directly, indirectly, or contingently, the state or any subdivision thereof nor empower the authority to levy or collect any form of taxes or assessments therefor or to create any indebtedness payable out of taxes or assessments therefor or make any appropriation for their payment, and such appropriation or levy is prohibited. Nothing in this section shall prevent or be construed to prevent the authority from pledging its full faith and credit or the full faith and credit of a participating educational institution or cultural institution to the payment of bonds or notes authorized pursuant to this article. Nothing in this article shall be construed to authorize the authority to create a debt of the state within the meaning of the constitution or statutes of Colorado or to authorize the authority to levy or collect taxes or assessments; and all bonds issued by the authority pursuant to the provisions of this article are payable and shall state that they are payable solely from the funds pledged for their payment in accordance with the resolution authorizing their issuance or with any trust indenture, mortgage, or deed of trust executed as security therefor and are not a debt or liability of the state of Colorado. UNLESS BY SPECIFIC PLEDGE IN AN ACT OF ISSUANCE AS AUTHORIZED BY LAW, the state shall not in any event be liable for the payment of the principal of or interest on any bonds of the authority or for the performance of any pledge, mortgage, obligation, or agreement of any kind whatsoever which may be undertaken by the authority. No breach of any such pledge, mortgage, obligation, or agreement shall OTHERWISE impose any pecuniary liability upon the state or any charge upon its general credit or against its taxing power.

**SECTION 13.** 36-1-116(1), Colorado Revised Statutes, is amended to read:

**36-1-116. Disposition of rentals, royalties, and timber sale proceeds.** (1) (a) (I) Except FOR PROCEEDS AND PAYMENTS ALLOCATED TO THE STATE LAND BOARD TRUST ADMINISTRATION FUND PURSUANT TO

SECTION 36-1-145 (3) OR CREDITED TO THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE FUND CREATED IN SECTION 22-43.7-104 (1), C.R.S., PURSUANT TO SECTION 22-43.7-104 (2) (b) (I), C.R.S., AND EXCEPT as provided in subparagraph (II) of this paragraph (a), proceeds received by the state for the sale of timber on public school lands; rental payments for the use and occupation of the surface of said lands; and rentals or lease payments for sand, gravel, clay, stone, coal, oil, gas, geothermal resources, gold, silver, or other minerals on said lands shall be credited to the public school income fund for distribution as provided by law.

(II) For the 2005-06 state fiscal year and each state fiscal year thereafter, the first ~~twelve~~ ELEVEN million dollars of proceeds received by the state for the sale of timber on public school lands, rental payments for the use and occupation of the surface of said lands, and rentals or lease payments for sand, gravel, clay, stone, coal, oil, gas, geothermal resources, gold, silver, or other minerals on said lands OTHER THAN PROCEEDS, RENTALS, AND PAYMENTS ALLOCATED TO THE STATE LAND BOARD TRUST ADMINISTRATION FUND PURSUANT TO SECTION 36-1-145 (3) OR CREDITED TO THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE FUND CREATED IN SECTION 22-43.7-104 (1), C.R.S., PURSUANT TO SECTION 22-43.7-104 (2) (b) (I), C.R.S., shall be credited to the public school income fund for distribution as provided by law. Any amount of such proceeds, RENTALS, and payments received by the state during ~~such~~ THE fiscal year in excess of ~~twelve~~ ELEVEN million dollars shall be credited to the permanent school fund and shall become part of the principal of the permanent school fund.

(b) (I) Except FOR ROYALTIES AND OTHER PAYMENTS ALLOCATED TO THE STATE LAND BOARD TRUST ADMINISTRATION FUND PURSUANT TO SECTION 36-1-145 (3) OR CREDITED TO THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE FUND CREATED IN SECTION 22-43.7-104 (1), C.R.S., PURSUANT TO SECTION 22-43.7-104 (2) (b) (I), C.R.S., AND EXCEPT as provided in subparagraph (II) of this paragraph (b), royalties and other payments for the depletion or extraction of a natural resource on said lands shall be credited to the permanent school fund.

(II) For the 2005-06 state fiscal year through the 2009-10 state fiscal year, the first one million dollars of royalties and other payments for the depletion or extraction of a natural resource on said lands OTHER THAN ROYALTIES AND OTHER PAYMENTS ALLOCATED TO THE STATE LAND BOARD TRUST ADMINISTRATION FUND PURSUANT TO SECTION 36-1-145 (3) OR

CREDITED TO THE PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE FUND CREATED IN SECTION 22-43.7-104 (1), C.R.S., PURSUANT TO SECTION 22-43.7-104 (2) (b) (I), C.R.S., shall be credited to the state board of land commissioners investment and development fund created in section 36-1-153.

**SECTION 14. Repeal.** 2-3-1203 (3) (dd) (VII), 22-54-117 (1.5), (1.6), and (1.7), and 24-75-201.1 (4), Colorado Revised Statutes, are repealed.

**SECTION 15. Appropriation - adjustments to the 2007 long bill.** In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2007, the sum of seven thousand two hundred three dollars (\$7,203), or so much thereof as may be necessary, for the provision of legal services to the department of education related to the implementation of this act. Said sum shall be from funds received from the department of education.

**SECTION 16. Appropriation - adjustments to the 2008 long bill.** (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the public school capital construction assistance fund created in section 22-43.7-104 (1), Colorado Revised Statutes, not otherwise appropriated, to the department of education, for the division of public school capital construction assistance, for the fiscal year beginning July 1, 2008, the sum of five hundred sixty-nine thousand nine hundred fifty-nine dollars (\$569,959) and 5.0 FTE, 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, out of any moneys in the public school capital construction assistance fund created in section 22-43.7-104 (1), Colorado Revised Statutes, not otherwise appropriated, to the department of education, for the division of public school capital construction assistance, for the fiscal year beginning July 1, 2008, the sum of twelve million three hundred thousand dollars (\$12,300,000), or so much thereof as may be necessary, for the financial assistance priority assessment required by section 22-43.7-108, Colorado Revised Statutes.

(3) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the public school capital construction



assistance fund created in section 22-43.7-104 (1), Colorado Revised Statutes, not otherwise appropriated, to the department of education, for allocation to the public school capital construction assistance board, for the fiscal year beginning July 1, 2008, the sum of ten million dollars (\$10,000,000) cash funds, or so much thereof as may be necessary, for making lease payments required by lease-purchase agreements entered into pursuant to section 22-43.7-110 (2), Colorado Revised Statutes.

(4) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2008, the sum of thirty-two thousand four hundred fourteen dollars (\$32,414) and 0.3 FTE, or so much thereof as may be necessary, for the provision of legal services to the department of education related to the implementation of this act. Said sum shall be from reappropriated funds received from the department of education out of the appropriation made in subsection (1) of this section.

(5) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the public safety inspection fund created in section 8-1-151, Colorado Revised Statutes, not otherwise appropriated, to the department of labor and employment, for allocation to the division of oil and public safety, for the fiscal year beginning July 1, 2008, the sum of one hundred seventy-six thousand four hundred seventeen dollars (\$176,417) and 2.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

(6) In addition to any other appropriation, there is hereby appropriated, to the department of public safety, for allocation to the office of preparedness, security, and fire safety, for the fiscal year beginning July 1, 2008, the sum of twenty-three thousand seven hundred seventy-three dollars (\$23,773) and 0.3 FTE, or so much thereof as may be necessary, for the implementation of this act. Said sum shall be from reappropriated funds received from the department of labor and employment out of the appropriation made in subsection (4) of this section.

(7) For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2008, shall be adjusted as follows:

(a) The cash funds appropriation from the state public school fund

created in section 22-54-114, Colorado Revised Statutes, to the department of education, assistance to public schools, public school finance, for the state share of districts' total program funding, is decreased by twenty million dollars (\$20,000,000). Of said sum, nineteen million dollars (\$19,000,000) shall be from interest earned on moneys in the public school fund established in article IX, section 3 of the state constitution, and one million dollars (\$1,000,000) shall be from rental income earned on public school lands.

(b) The general fund appropriation to the department of education, assistance to public schools, public school finance, for the state share of districts' total program funding, is increased by twenty million dollars (\$20,000,000).

(c) The general fund appropriation to the department of education, assistance to public schools, grant programs, distributions, and other assistance, capital construction, for the school capital construction expenditures reserve fund, is decreased by ten million dollars (\$10,000,000).

(d) The general fund appropriation to the department of education, assistance to public schools, grant programs, distributions, and other assistance, capital construction, for the school construction and renovation fund, is decreased by ten million dollars (\$10,000,000).

**SECTION 17. Effective date.** Sections 3, 4, 7, 8, 10, 13, and 14 of this act shall take effect July 1, 2008, and the remainder of this act shall take effect upon passage.

**SECTION 18. 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.

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Andrew Romanoff  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Peter C. Groff  
PRESIDENT OF  
THE SENATE

---

Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

---

Karen Goldman  
SECRETARY OF  
THE SENATE

APPROVED \_\_\_\_\_

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Bill Ritter, Jr.  
GOVERNOR OF THE STATE OF COLORADO