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SENATE BILL 10-054

BY SENATOR(S) Hudak, Steadman, Bacon, Boyd, Carroll M., Foster, Heath, Morse, Newell, Sandoval, Schwartz, Tochtrop, Williams;  
also REPRESENTATIVE(S) Levy, Apuan, Court, Hulinghorst, Kagan, Kefalas, Labuda, May, McCann, Merrifield, Nikkel, Pace, Pommer, Schafer S., Stephens, Todd, Carroll T.

CONCERNING THE PROVISION OF EDUCATIONAL SERVICES FOR JUVENILES  
AGAINST WHOM CHARGES HAVE BEEN FILED IN DISTRICT COURT, AND  
MAKING AN APPROPRIATION THEREFOR.

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

**SECTION 1.** Article 32 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**22-32-141. Student awaiting trial as adult - educational services.**

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

(a) "FEDERAL IDEA ACT" MEANS THE FEDERAL "INDIVIDUALS WITH DISABILITIES EDUCATION ACT", 20 U.S.C. 1400 ET SEQ., AND THE FEDERAL REGULATIONS FOR IMPLEMENTING SAID ACT REGARDING THE PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES TO STUDENTS WITH DISABILITIES.

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

(b) "JUVENILE" MEANS A PERSON:

(I) AGAINST WHOM CRIMINAL CHARGES ARE DIRECTLY FILED IN DISTRICT COURT PURSUANT TO SECTION 19-2-517, C.R.S., OR FOR WHOM CRIMINAL CHARGES ARE TRANSFERRED TO DISTRICT COURT PURSUANT TO SECTION 19-2-518, C.R.S.;

(II) WHO IS UNDER EIGHTEEN YEARS OF AGE AT THE TIME THE OFFENSE IS COMMITTED; AND

(III) WHO IS LESS THAN TWENTY-ONE YEARS OF AGE.

(2) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPHS (c) TO (g) OF THIS SUBSECTION (2), IF A JUVENILE IS HELD IN A JAIL OR OTHER FACILITY FOR THE DETENTION OF ADULT OFFENDERS PENDING CRIMINAL PROCEEDINGS AS AN ADULT, THE SCHOOL DISTRICT IN WHICH THE JAIL OR FACILITY IS LOCATED SHALL PROVIDE EDUCATIONAL SERVICES FOR THE JUVENILE UPON REQUEST OF THE OFFICIAL IN CHARGE OF THE JAIL OR FACILITY, OR HIS OR HER DESIGNEE, PURSUANT TO SECTION 19-2-508 (4) (b.5), C.R.S. A SCHOOL DISTRICT MAY PROVIDE EDUCATIONAL SERVICES DIRECTLY USING ONE OR MORE OF ITS EMPLOYEES OR MAY ENSURE THAT EDUCATIONAL SERVICES ARE PROVIDED THROUGH A BOARD OF COOPERATIVE SERVICES, AN ADMINISTRATIVE UNIT, OR OTHERWISE THROUGH CONTRACT WITH A PERSON OR ENTITY.

(b) IN ADDITION TO MEETING THE REQUIREMENTS SPECIFIED IN THIS SECTION, FOR EACH JUVENILE IN A JAIL OR FACILITY WHO IS A STUDENT WITH DISABILITIES, THE SCHOOL DISTRICT SHALL COMPLY WITH ANY APPLICABLE PROVISIONS OF THE FEDERAL IDEA ACT.

(c) A SCHOOL DISTRICT IS NOT REQUIRED TO PROVIDE EDUCATIONAL SERVICES PURSUANT TO THIS SECTION TO A JUVENILE IF THE JUVENILE HAS ALREADY GRADUATED FROM HIGH SCHOOL OR IF THE JUVENILE RECEIVED A GENERAL EDUCATION DEVELOPMENT CERTIFICATE, UNLESS OTHERWISE REQUIRED BY THE FEDERAL IDEA ACT.

(d) A SCHOOL DISTRICT IS NOT REQUIRED TO PROVIDE EDUCATIONAL SERVICES PURSUANT TO THIS SECTION TO A JUVENILE FOR MORE THAN FOUR HOURS PER WEEK OR DURING PERIODS OF THE SCHOOL YEAR WHEN STUDENTS

ENROLLED IN THE SCHOOL DISTRICT ARE NOT REQUIRED TO ATTEND SCHOOL, EXCEPT AS MAY OTHERWISE BE REQUIRED BY THE FEDERAL IDEA ACT.

(e) IF A SCHOOL DISTRICT OR THE OFFICIAL IN CHARGE OF THE JAIL OR FACILITY DETERMINES AS PROVIDED IN SECTION 19-2-508 (4) (b.5) (II), C.R.S., THAT AN APPROPRIATE AND SAFE ENVIRONMENT FOR SCHOOL DISTRICT EMPLOYEES OR CONTRACTORS IS NOT AVAILABLE IN WHICH TO PROVIDE EDUCATIONAL SERVICES TO A SPECIFIC JUVENILE, THE SCHOOL DISTRICT IS EXEMPT FROM THE REQUIREMENT OF PROVIDING EDUCATIONAL SERVICES TO THE JUVENILE UNTIL SUCH TIME AS BOTH THE SCHOOL DISTRICT AND THE OFFICIAL IN CHARGE OF THE JAIL OR FACILITY DETERMINE THAT AN APPROPRIATE AND SAFE ENVIRONMENT FOR SCHOOL DISTRICT EMPLOYEES OR CONTRACTORS IS AVAILABLE. IF THE SCHOOL DISTRICT WILL NOT BE PROVIDING EDUCATIONAL SERVICES TO A JUVENILE BECAUSE OF THE LACK OF AN APPROPRIATE AND SAFE ENVIRONMENT FOR SCHOOL DISTRICT EMPLOYEES OR CONTRACTORS, THE OFFICIAL IN CHARGE OF THE JAIL OR FACILITY SHALL NOTIFY THE JUVENILE, HIS OR HER PARENT OR LEGAL GUARDIAN, THE JUVENILE'S DEFENSE ATTORNEY, AND THE COURT HAVING JURISDICTION OVER THE JUVENILE'S CASE.

(f) IF A JUVENILE IS VIOLENT TOWARD OR PHYSICALLY INJURES THE SCHOOL DISTRICT EMPLOYEE OR CONTRACTOR WHO IS PROVIDING EDUCATIONAL SERVICES TO THE JUVENILE PURSUANT TO THIS SECTION, THE SCHOOL DISTRICT SHALL NOT REQUIRE THE EMPLOYEE OR CONTRACTOR TO CONTINUE PROVIDING EDUCATIONAL SERVICES TO THE JUVENILE, AND THE SCHOOL DISTRICT MAY CHOOSE TO CEASE PROVIDING EDUCATIONAL SERVICES TO THE JUVENILE, UNLESS OTHERWISE REQUIRED BY THE FEDERAL IDEA ACT. IF A SCHOOL DISTRICT CEASES TO PROVIDE EDUCATIONAL SERVICES TO A JUVENILE PURSUANT TO THIS PARAGRAPH (f), THE SCHOOL DISTRICT SHALL NOTIFY THE OFFICIAL IN CHARGE OF THE JAIL OR FACILITY, AND THE OFFICIAL SHALL NOTIFY THE JUVENILE, THE JUVENILE'S PARENT OR LEGAL GUARDIAN, THE JUVENILE'S DEFENSE ATTORNEY, AND THE COURT HAVING JURISDICTION OVER THE JUVENILE'S CASE.

(g) IF A JUVENILE REFUSES TO ACCEPT OR PARTICIPATE IN EDUCATIONAL SERVICES, INCLUDING SPECIAL EDUCATION SERVICES, A SCHOOL DISTRICT SHALL NOT BE REQUIRED TO PROVIDE EDUCATIONAL SERVICES PURSUANT TO THIS SECTION. THE OFFICIAL IN CHARGE OF THE JAIL OR FACILITY IN WHICH THE JUVENILE IS HELD SHALL OFFER, AT LEAST WEEKLY, TO ARRANGE EDUCATIONAL SERVICES FOR A JUVENILE WHO

PREVIOUSLY REFUSED EDUCATIONAL SERVICES. THE SCHOOL DISTRICT SHALL BE REQUIRED TO PROVIDE EDUCATIONAL SERVICES PURSUANT TO THIS SECTION UPON ACCEPTANCE BY THE JUVENILE.

(3) (a) EACH SCHOOL DISTRICT IN WHICH A JAIL OR OTHER FACILITY FOR THE DETENTION OF ADULT OFFENDERS IS LOCATED SHALL DESIGNATE A SCHOOL DISTRICT EMPLOYEE TO ACT AS THE CONTACT PERSON FOR THE JAIL OR FACILITY, WHICH EMPLOYEE MAY BE THE CHILD WELFARE EDUCATION LIAISON DESIGNATED PURSUANT TO SECTION 22-32-138 (2). THE SCHOOL DISTRICT SHALL PROVIDE TO THE JAIL OR FACILITY THE EMPLOYEE'S NAME AND CONTACT INFORMATION.

(b) FOLLOWING A REQUEST FOR EDUCATIONAL SERVICES PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE DESIGNATED EMPLOYEE SHALL DETERMINE WHETHER THE JUVENILE WAS HELD IN A JUVENILE DETENTION FACILITY PRIOR TO TRANSFER TO THE JAIL OR FACILITY AND, IF SO, SHALL CONTACT THE JUVENILE DETENTION FACILITY TO REQUEST THE TRANSFER OF ANY EDUCATIONAL OR OTHER INFORMATION THE JUVENILE FACILITY MAY HAVE CONCERNING THE JUVENILE. THE DESIGNATED EMPLOYEE SHALL ENSURE THAT THE JUVENILE RECEIVES EDUCATIONAL SERVICES PURSUANT TO THIS SECTION SO LONG AS THE JUVENILE IS HELD IN THE JAIL OR FACILITY, UNLESS THE DESIGNATED EMPLOYEE DETERMINES THAT THE JUVENILE MEETS THE CONDITIONS SPECIFIED IN PARAGRAPH (c) OF SUBSECTION (2) OF THIS SECTION, OR THE SCHOOL DISTRICT IS EXEMPT AS PROVIDED IN PARAGRAPH (e) OR (f) OF SUBSECTION (2) OF THIS SECTION, OR THE JUVENILE REFUSES SERVICES AS PROVIDED IN PARAGRAPH (g) OF SUBSECTION (2) OF THIS SECTION.

(4) (a) IN ANY BUDGET YEAR IN WHICH A SCHOOL DISTRICT IS PROVIDING EDUCATIONAL SERVICES TO A JUVENILE PURSUANT TO THIS SECTION ON OCTOBER 1 OF SAID BUDGET YEAR, THE SCHOOL DISTRICT MAY INCLUDE THE JUVENILE IN ITS PUPIL ENROLLMENT, AS DEFINED IN SECTION 22-54-103 (10), FOR PURPOSES OF DETERMINING THE SCHOOL DISTRICT'S TOTAL PROGRAM FUNDING UNDER THE "PUBLIC SCHOOL FINANCE ACT OF 1994", ARTICLE 54 OF THIS TITLE.

(b) IF THE SCHOOL DISTRICT BEGINS PROVIDING EDUCATIONAL SERVICES PURSUANT TO THIS SECTION AFTER OCTOBER 1, THE SCHOOL DISTRICT MAY SEEK REIMBURSEMENT FOR THE COSTS INCURRED PURSUANT TO THIS SECTION FROM THE SCHOOL DISTRICT OR CHARTER SCHOOL THAT

INCLUDED SAID JUVENILE IN ITS PUPIL ENROLLMENT FOR THE APPLICABLE BUDGET YEAR. ANY AMOUNT RECEIVED AS REIMBURSEMENT MAY NOT EXCEED THE REIMBURSING SCHOOL DISTRICT'S OR CHARTER SCHOOL'S PER PUPIL REVENUE FOR THE APPLICABLE BUDGET YEAR, PRORATED FOR THE PERIOD OF TIME THAT THE RECEIVING SCHOOL DISTRICT PROVIDES EDUCATIONAL SERVICES PURSUANT TO THIS SECTION.

(c) IF A JUVENILE WHO RECEIVES EDUCATIONAL SERVICES PURSUANT TO THIS SECTION WAS NOT INCLUDED IN THE PUPIL ENROLLMENT FOR THE STATE FOR A BUDGET YEAR IN WHICH A SCHOOL DISTRICT PROVIDES EDUCATIONAL SERVICES FOR THE JUVENILE, THE SCHOOL DISTRICT MAY SEEK REIMBURSEMENT FROM THE DEPARTMENT OF EDUCATION FOR THE COSTS INCURRED PURSUANT TO THIS SECTION. ANY AMOUNT RECEIVED AS REIMBURSEMENT MAY NOT EXCEED THE STATE AVERAGE PER PUPIL REVENUE FOR THE APPLICABLE BUDGET YEAR, PRORATED FOR THE PERIOD THAT THE RECEIVING SCHOOL DISTRICT PROVIDES EDUCATIONAL SERVICES PURSUANT TO THIS SECTION. THE DEPARTMENT OF EDUCATION SHALL PAY REIMBURSEMENT PURSUANT TO THIS PARAGRAPH (c) FROM MONEYS APPROPRIATED TO THE DEPARTMENT FOR SAID PURPOSE.

(d) (I) IN ADDITION TO ANY MONEYS RECEIVED PURSUANT TO PARAGRAPH (a), (b), OR (c) OF THIS SUBSECTION (4), A SCHOOL DISTRICT THAT PROVIDES EDUCATIONAL SERVICES PURSUANT TO THIS SECTION SHALL RECEIVE FROM THE DEPARTMENT OF EDUCATION AN AMOUNT EQUAL TO THE DAILY RATE ESTABLISHED PURSUANT TO SECTION 22-54-129 FOR EDUCATIONAL SERVICES PROVIDED BY APPROVED FACILITY SCHOOLS, MULTIPLIED BY THE NUMBER OF DAYS, EXCLUDING SATURDAYS AND SUNDAYS, THAT THE JUVENILE IS HELD IN A JAIL OR FACILITY, SO LONG AS THE JUVENILE IS RECEIVING AT LEAST FOUR HOURS OF EDUCATIONAL SERVICES PER WEEK.

(II) ON OR BEFORE THE FIFTEENTH DAY OF EACH MONTH IN WHICH A JUVENILE IS HELD IN A JAIL OR FACILITY, THE OFFICIAL IN CHARGE OF THE JAIL OR FACILITY IN WHICH A JUVENILE IS HELD, OR HIS OR HER DESIGNEE, SHALL REPORT TO THE DEPARTMENT OF EDUCATION IN A MANNER TO BE DETERMINED BY THE DEPARTMENT, THE ACTUAL NUMBER OF JUVENILES WHO RECEIVED EDUCATIONAL SERVICES AT THE JAIL OR FACILITY DURING THE PRIOR CALENDAR MONTH TO WHOM THE SCHOOL DISTRICT PROVIDED EDUCATIONAL SERVICES AT THE JAIL OR FACILITY. THE DEPARTMENT OF EDUCATION MAY ACCEPT AMENDED MONTHLY REPORTS FROM THE JAIL OR

FACILITY PRIOR TO MAKING THE DISTRIBUTION OF FUNDING FOR THE APPLICABLE MONTH PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH (d).

(III) ON OR BEFORE THE FIFTEENTH DAY OF THE MONTH FOLLOWING THE MONTH IN WHICH A JAIL OR FACILITY REPORTED THE NUMBER OF JUVENILES WHO RECEIVED EDUCATIONAL SERVICES AT THE JAIL OR FACILITY, THE DEPARTMENT OF EDUCATION SHALL PAY THE SCHOOL DISTRICT THAT PROVIDED THE EDUCATIONAL SERVICES THE APPROPRIATE AMOUNT BASED ON THE DAILY RATE ESTABLISHED FOR APPROVED FACILITY SCHOOLS PURSUANT TO SECTION 22-54-129 AND THE NUMBER OF JUVENILES WHO RECEIVED EDUCATIONAL SERVICES.

(IV) IN EACH APPLICABLE BUDGET YEAR, THE GENERAL ASSEMBLY SHALL APPROPRIATE TO THE DEPARTMENT OF EDUCATION THE AMOUNT REQUIRED TO REIMBURSE SCHOOL DISTRICTS PURSUANT TO THIS PARAGRAPH (d) FOR EDUCATIONAL SERVICES PROVIDED PURSUANT TO THIS SECTION. IN ANY YEAR IN WHICH THE AMOUNT APPROPRIATED IS INSUFFICIENT TO FULLY REIMBURSE SCHOOL DISTRICTS PURSUANT TO THIS SECTION, THE DEPARTMENT OF EDUCATION MAY PRORATE THE PAYMENTS MADE PURSUANT TO THIS PARAGRAPH (d).

(V) NOTWITHSTANDING ANY PROVISION OF THIS PARAGRAPH (d) TO THE CONTRARY, A SCHOOL DISTRICT SHALL NOT RECEIVE REIMBURSEMENT PURSUANT TO THIS PARAGRAPH (d) FOR ANY PERIOD DURING WHICH THE SCHOOL DISTRICT WAS NOT PROVIDING EDUCATIONAL SERVICES DUE TO THE CIRCUMSTANCES DESCRIBED IN ANY OF PARAGRAPHS (c) TO (g) OF SUBSECTION (2) OF THIS SECTION. THE OFFICIAL IN CHARGE OF THE JAIL OR FACILITY, OR HIS OR HER DESIGNEE, SHALL NOTE ANY SUCH PERIOD IN THE REPORT SUBMITTED TO THE DEPARTMENT OF EDUCATION PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (d), AND THE DEPARTMENT SHALL REDUCE THE AMOUNT OF REIMBURSEMENT TO THE SCHOOL DISTRICT ACCORDINGLY.

(e) IN ADDITION TO ANY MONEYS RECEIVED PURSUANT TO PARAGRAPH (a), (b), (c), OR (d) OF THIS SUBSECTION (4), A SCHOOL DISTRICT OR ADMINISTRATIVE UNIT THAT PROVIDES SPECIAL EDUCATION SERVICES PURSUANT TO THIS SECTION TO A JUVENILE WHO HAS AN INDIVIDUALIZED EDUCATION PROGRAM PURSUANT TO SECTION 22-20-108 MAY SEEK EXCESS COSTS TUITION FROM THE JUVENILE'S ADMINISTRATIVE UNIT OF RESIDENCE

AS PROVIDED IN SECTION 22-20-109.

**SECTION 2.** 22-54-103 (10) (a), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

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

(10) (a) (III.5) FOR THE 2009-10 BUDGET YEAR AND BUDGET YEARS THEREAFTER, "PUPIL ENROLLMENT" SHALL INCLUDE ANY JUVENILE TO WHOM THE SCHOOL DISTRICT IS PROVIDING EDUCATIONAL SERVICES PURSUANT TO SECTION 22-32-141 AS OF OCTOBER 1 OF THE APPLICABLE BUDGET YEAR.

**SECTION 3.** 22-54-114 (4), Colorado Revised Statutes, is amended to read:

**22-54-114. State public school fund.** (4) (a) For the 1997-98 fiscal year and fiscal years thereafter, the net amount recovered by the department OF EDUCATION during the applicable fiscal year, pursuant to school district and institute charter school audits, as overpayments made to school districts and institute charter schools that would otherwise be transmitted to the state treasurer for deposit in the general fund shall instead be transmitted to the state treasurer for deposit in the state public school fund. ~~Such~~ THE amount shall be available for appropriation to the department OF EDUCATION in subsequent fiscal years.

(b) FOR THE 2010-11 FISCAL YEAR AND FISCAL YEARS THEREAFTER, THE DEPARTMENT OF EDUCATION SHALL REIMBURSE SCHOOL DISTRICTS FOR EDUCATIONAL SERVICES PROVIDED TO JUVENILES PURSUANT TO SECTION 22-32-141 FROM MONEYS APPROPRIATED FOR SAID PURPOSE.

**SECTION 4.** 19-2-508 (4), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**19-2-508. Detention and shelter - hearing - time limits - findings - review - confinement with adult offenders - restrictions - repeal.**  
(4) (b.5) (I) WHEN A JUVENILE WHO IS TO BE HELD FOR CRIMINAL PROCEEDINGS AS AN ADULT PURSUANT TO A DIRECT FILING OR TRANSFER OF CHARGES, AS PROVIDED IN SECTIONS 19-2-517 AND 19-2-518, RESPECTIVELY, IS RECEIVED AT A JAIL OR OTHER FACILITY FOR THE

DETENTION OF ADULT OFFENDERS, THE OFFICIAL IN CHARGE OF THE JAIL OR FACILITY, OR HIS OR HER DESIGNEE, SHALL, AS SOON AS PRACTICABLE, CONTACT THE PERSON DESIGNATED PURSUANT TO SECTION 22-32-141, C.R.S., BY THE SCHOOL DISTRICT IN WHICH THE JAIL OR FACILITY IS LOCATED TO REQUEST THAT THE SCHOOL DISTRICT PROVIDE EDUCATIONAL SERVICES FOR THE JUVENILE FOR THE PERIOD DURING WHICH THE JUVENILE IS HELD AT THE JAIL OR FACILITY. THE SCHOOL DISTRICT SHALL PROVIDE THE EDUCATIONAL SERVICES IN ACCORDANCE WITH THE PROVISIONS OF SECTION 22-32-141, C.R.S. THE OFFICIAL, IN COOPERATION WITH THE SCHOOL DISTRICT, SHALL PROVIDE AN APPROPRIATE AND SAFE ENVIRONMENT TO THE EXTENT PRACTICABLE IN WHICH THE JUVENILE MAY RECEIVE EDUCATIONAL SERVICES.

(II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b.5), IF EITHER THE OFFICIAL IN CHARGE OF THE JAIL OR FACILITY OR THE SCHOOL DISTRICT DETERMINES THAT AN APPROPRIATE AND SAFE ENVIRONMENT CANNOT BE PROVIDED FOR A SPECIFIC JUVENILE, THE OFFICIAL AND THE SCHOOL DISTRICT SHALL BE EXEMPT FROM THE REQUIREMENT TO PROVIDE EDUCATIONAL SERVICES TO THE JUVENILE UNTIL SUCH TIME AS AN ENVIRONMENT THAT IS DETERMINED TO BE APPROPRIATE AND SAFE BY BOTH THE OFFICIAL AND THE SCHOOL DISTRICT CAN BE PROVIDED. IF THE SCHOOL DISTRICT WILL NOT BE PROVIDING EDUCATIONAL SERVICES TO A JUVENILE BECAUSE OF THE LACK OF AN APPROPRIATE AND SAFE ENVIRONMENT, THE OFFICIAL IN CHARGE OF THE JAIL OR FACILITY SHALL NOTIFY THE JUVENILE, HIS OR HER PARENT OR LEGAL GUARDIAN, THE JUVENILE'S DEFENSE ATTORNEY, AND THE COURT HAVING JURISDICTION OVER THE JUVENILE'S CASE.

(III) THE OFFICIAL IN CHARGE OF THE JAIL OR FACILITY FOR THE DETENTION OF ADULT OFFENDERS, OR HIS OR HER DESIGNEE, IN CONJUNCTION WITH EACH SCHOOL DISTRICT THAT PROVIDES EDUCATIONAL SERVICES AT THE JAIL OR FACILITY, SHALL ANNUALLY COLLECT NONIDENTIFYING DATA CONCERNING:

(A) THE NUMBER OF JUVENILES HELD AT THE JAIL OR FACILITY WHO ARE AWAITING CRIMINAL PROCEEDINGS AS AN ADULT PURSUANT TO A DIRECT FILING OR TRANSFER OF CHARGES, AS PROVIDED IN SECTIONS 19-2-517 AND 19-2-518, RESPECTIVELY, FOR THE YEAR;

(B) THE LENGTH OF STAY OF EACH OF THE JUVENILES IN THE JAIL OR



FACILITY;

(C) THE NUMBER OF THE JUVENILES IN THE JAIL OR FACILITY WHO RECEIVED EDUCATIONAL SERVICES PURSUANT TO THIS PARAGRAPH (b.5);

(D) THE NUMBER OF DAYS ON WHICH SCHOOL DISTRICTS PROVIDED EDUCATIONAL SERVICES TO THE JUVENILES IN THE JAIL OR FACILITY AND THE NUMBER OF HOURS FOR WHICH SCHOOL DISTRICTS PROVIDED THE EDUCATIONAL SERVICES EACH DAY;

(E) THE NUMBER OF JUVENILES IN THE JAIL OR FACILITY WHO WERE EXEMPT FROM RECEIVING EDUCATIONAL SERVICES PURSUANT TO SECTION 22-32-141 (2) (c), (2) (e), (2) (f), AND (2) (g), C.R.S.;

(F) THE NUMBER OF JUVENILES IN THE JAIL OR FACILITY WHO HAD PREVIOUSLY BEEN DETERMINED PURSUANT TO SECTION 22-20-108, C.R.S., TO BE ELIGIBLE FOR SPECIAL EDUCATION SERVICES AND HAD AN INDIVIDUALIZED EDUCATION PROGRAM; AND

(G) THE NUMBER OF JUVENILES IN THE JAIL OR FACILITY WHO, WHILE RECEIVING EDUCATIONAL SERVICES AT THE JAIL OR FACILITY, WERE DETERMINED PURSUANT TO SECTION 22-20-108, C.R.S., TO BE ELIGIBLE FOR SPECIAL EDUCATION SERVICES AND HAD SUBSEQUENTLY RECEIVED AN INDIVIDUALIZED EDUCATION PROGRAM.

(IV) THE OFFICIAL IN CHARGE OF THE JAIL OR FACILITY SHALL SUBMIT THE INFORMATION COLLECTED PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH (b.5) TO THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY. THE DIVISION OF CRIMINAL JUSTICE SHALL MAKE THE INFORMATION AVAILABLE TO A MEMBER OF THE PUBLIC UPON REQUEST.

**SECTION 5.** 22-7-908 (1), Colorado Revised Statutes, 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, AND FOR REIMBURSEMENTS TO SCHOOL DISTRICTS FOR EDUCATIONAL SERVICES PROVIDED PURSUANT TO SECTION 22-32-141 TO JUVENILES HELD IN JAILS OR OTHER FACILITIES FOR THE DETENTION OF ADULT OFFENDERS. 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 6.** 19-2-212 (1) (a), Colorado Revised Statutes, is amended to read:

**19-2-212. Working group for criteria for placement of juvenile offenders - establishment of formula - review of criteria.** (1) The executive director of the department of human services and the state court administrator of the judicial department, or any designees of such persons, in consultation with the division of criminal justice of the department of public safety, the office of state planning and budgeting, the Colorado district attorneys council, law enforcement representatives, and representatives of local and county governments, shall form a working group that shall carry out the following duties:

(a) To establish a set of criteria for both detention and commitment for the purposes of determining which juvenile offenders are appropriate for placement in the physical or legal custody of the department of human services. Such criteria shall conform with section 19-2-508. This set of criteria, when adopted by the department of human services and the judicial department, shall be used to promote a more uniform system of determining which juveniles should be placed in the physical custody of the department of human services or in the legal custody of the department of human services so that decisions for such placement of a juvenile are made based upon a uniform set of criteria throughout the state. In developing such set of criteria, the working group shall utilize any existing risk scale devised by the department of human services or any other measures to determine when it is appropriate to place a juvenile in the physical custody of the department of human services or in the legal custody of the department of human

services. IN ADDITION, THE CRITERIA SHALL SPECIFICALLY TAKE INTO ACCOUNT THE EDUCATIONAL NEEDS OF THE JUVENILE AND ENSURE THE JUVENILE'S ACCESS TO APPROPRIATE EDUCATIONAL SERVICES. The working group established pursuant to this subsection (1) shall hold a meeting once each year to review and propose revision to the criteria established pursuant to this paragraph (a) and the formula created pursuant to paragraph (b) of this subsection (1).

**SECTION 7.** 19-2-508 (3) (c) (II) (F), Colorado Revised Statutes, is amended to read:

**19-2-508. Detention and shelter - hearing - time limits - findings - review - confinement with adult offenders - restrictions - repeal.**

(3) (c) (II) Following a detention hearing held in accordance with subparagraph (I) of this paragraph (c), a juvenile who is to be tried as an adult for criminal proceedings pursuant to a direct filing or transfer shall not be held at any facility intended to be utilized by juvenile offenders, unless the district attorney and the defense counsel agree otherwise. In determining whether jail is the appropriate place of confinement, the district attorney and defense counsel shall consider the following factors:

(F) The relative ability of the available adult and juvenile detention facilities to meet the needs of the juvenile, INCLUDING THE JUVENILE'S NEED FOR EDUCATIONAL SERVICES, and protect the public;

**SECTION 8. Appropriation - adjustments to the 2010 long bill.**

(1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the read-to-achieve cash fund established in section 22-7-908 (1), Colorado Revised Statutes, not otherwise appropriated, to the department of education, assistance to public schools, grant programs, distributions, and other assistance, for the fiscal year beginning July 1, 2010, the sum of two hundred nine thousand two hundred eighty-seven dollars (\$209,287) and 0.2 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2010, shall be adjusted as follows: the cash funds appropriation to the department of education, assistance to public schools, grant programs, distributions, and other assistance, reading and literacy, for the read-to-achieve grant program,

is decreased by two hundred nine thousand two hundred eighty-seven dollars (\$209,287). Said sum shall be from the read-to-achieve cash fund established in section 22-7-908 (1), Colorado Revised Statutes.

**SECTION 9. 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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Brandon C. Shaffer  
PRESIDENT OF  
THE SENATE

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Terrance D. Carroll  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Karen Goldman  
SECRETARY OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_

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Bill Ritter, Jr.  
GOVERNOR OF THE STATE OF COLORADO