

**First Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 11-0404.02 Jane Ritter

**HOUSE BILL 11-1077**

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**HOUSE SPONSORSHIP**

**Peniston,** Massey, Hamner, Murray, Ramirez, Schafer S., Solano, Summers, Todd

**SENATE SPONSORSHIP**

**Spence,**

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**House Committees**  
Education

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE "EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT"**  
102 **AS IT REFERS TO GIFTED CHILDREN.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

The bill separates the "Exceptional Children's Educational Act", article 20 of title 22, Colorado Revised Statutes, into two parts: One concerning children with disabilities and another concerning gifted children. Language related only to gifted children is relocated to the second part.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

The bill also makes conforming amendments.

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

2           **SECTION 1. Repeal.** 22-20-102.5, Colorado Revised Statutes,  
3 is repealed.

4           **SECTION 2.** The introductory portion to 22-20-103 and  
5 22-20-103 (1), (2), (12), (13), (13.5), and (24), Colorado Revised Statutes,  
6 are amended to read:

7           **22-20-103. Definitions.** As used in this ~~article~~ PART 1, unless the  
8 context otherwise requires:

9           (1) "Administrative unit" means a school district, a board of  
10 cooperative services, or the state charter school institute that is providing  
11 educational services to exceptional children and that is responsible for the  
12 local administration of this ~~article~~ PART 1.

13           ~~(2) "Advanced learning plan" or "ALP" means a written record of~~  
14 ~~gifted and talented programming utilized with each gifted child and~~  
15 ~~considered in educational planning and decision-making.~~

16           (12) "Exceptional ~~children~~ CHILD" means:

17           (a) ~~Those children~~ A CHILD defined in subsection (5) of this  
18 section as ~~children~~ A CHILD with disabilities. An administrative unit shall  
19 serve every child with a disability from three to twenty-one years of age  
20 AND MAY SERVE children with disabilities from birth through two years  
21 of age. ~~and persons enrolled in special educational programs or receiving~~  
22 ~~special educational services deemed to be "exceptional children" for all~~  
23 ~~purposes of this article.~~

24           (b) ~~Those children~~ A CHILD defined in subsection ~~(13)~~ of this  
25 section SECTION 22-20-202 (6) as ~~gifted children~~ A GIFTED CHILD.

1 Pursuant to ~~section 22-20-104.5 (1)~~ SECTION 22-20-204 (1), an  
2 administrative unit shall adopt and submit to the department a program  
3 plan to identify and serve gifted children who are at least five years of  
4 age.

5 (13) ~~"Gifted children" means those persons from four to~~  
6 ~~twenty-one years of age whose abilities, talents, and potential for~~  
7 ~~accomplishments are so outstanding that they require special provisions~~  
8 ~~to meet their educational needs.~~

9 (13.5) ~~"Highly advanced gifted child" means a gifted child who~~  
10 ~~has been identified by an administrative unit, using criteria and a process~~  
11 ~~established by rules promulgated by the state board pursuant to section~~  
12 ~~22-20-104.5 (5), to be a highly advanced gifted child.~~

13 (24) ~~"Special educational services" or "special educational~~  
14 ~~programs" means the services or programs provided to gifted children~~  
15 ~~pursuant to this article.~~

16 **SECTION 3.** 22-20-104 (1) (a), (1) (b), (2) (a), and (7) (a),  
17 Colorado Revised Statutes, are amended to read:

18 **22-20-104. Administration - advisory committee - rules.**

19 (1) (a) This ~~article~~ PART 1 shall be administered by the department.  
20 Administration of this ~~article~~ PART 1 shall include the recommendation to  
21 the state board of reasonable rules necessary to implement this ~~article~~  
22 PART 1, including but not limited to:

23 (I) Minimum standards for administrative units, state-operated  
24 programs, eligible facilities, and personnel;

25 (II) Criteria for determining disability and eligibility for special  
26 ~~educational~~ EDUCATION services;

27 (III) Procedures regarding the identification of ~~exceptional~~

1 children WITH DISABILITIES, including but not limited to part C child find  
2 and part B child find activities described in section 22-20-118;

3 (IV) Requirements for parental consent, including but not limited  
4 to parental consent for the evaluation of children with disabilities and the  
5 initial provision of special education services;

6 (V) Required IEP content and procedures for IEP development,  
7 review, and revision;

8 (VI) Application of school discipline procedures to children with  
9 disabilities;

10 (VII) Required procedural safeguards;

11 (VIII) Procedures for special education dispute resolution;

12 (IX) Extended school year services;

13 (X) Requirements pursuant to the IDEA regarding children with  
14 disabilities who are enrolled in private schools; and

15 ~~(XI) Criteria for administrative units to satisfy in adopting~~  
16 ~~program plans to identify and serve gifted children.~~

17 (b) The state board shall adopt appropriate recommendations as  
18 rules to implement this ~~article~~ PART 1 following public comment and  
19 hearing. The rules promulgated by the state board shall be in accord with  
20 the legislative ~~declarations~~ DECLARATION set forth in ~~sections~~ SECTION  
21 22-20-102. ~~and 22-20-102.5.~~

22 (2) (a) In order to assist the state board in the performance of its  
23 responsibilities for the implementation of this ~~article~~ PART 1, the state  
24 board shall appoint a state special education advisory committee of an  
25 appropriate size. The members of the advisory committee shall be  
26 representative of the state population and shall be composed of persons  
27 involved in or concerned with the education of children with disabilities,

1 including parents of children with disabilities ages birth through  
2 twenty-six years; individuals with disabilities; teachers; representatives  
3 of institutions of higher education that prepare special education and  
4 related services personnel; state and local education officials, including  
5 officials who carry out activities under section 22-33-103.5;  
6 administrators of programs for children with disabilities; representatives  
7 of other state agencies involved in the financing or delivery of related  
8 services to children with disabilities; representatives of private schools,  
9 district charter schools, and institute charter schools; at least one  
10 representative of a vocational, community, or business organization  
11 concerned with the provision of transition services to children with  
12 disabilities; a representative from child welfare services in the department  
13 of human services established pursuant to section 26-5-102, C.R.S.; and  
14 representatives from the division of youth corrections in the department  
15 of human services and from the department of corrections. A majority of  
16 the members of the advisory committee shall be individuals with  
17 disabilities or parents of children with disabilities. Members shall be  
18 appointed for one-year or two-year terms. Any additions to the  
19 composition of the advisory committee shall be made pursuant to the  
20 procedures of the state board.

21 (7) (a) ~~In order to implement the provisions of sections~~  
22 ~~22-20-102.5 and 22-20-104.5, the state board and the department may, at~~  
23 ~~their discretion, provide for such personnel as deemed necessary for such~~  
24 ~~purposes.~~

25 **SECTION 4. Repeal.** 22-20-104.5, Colorado Revised Statutes,  
26 is repealed.

27 **SECTION 5.** 22-20-106 (1) (b), (2) (b), (3) (a), (3) (c), and (4),

1 Colorado Revised Statutes, are amended to read:

2 **22-20-106. Special education programs - early intervening**  
3 **services - rules.** (1) (b) The state charter school institute shall be an  
4 administrative unit for the purpose of delivering special education  
5 services to all institute charter schools and shall meet the criteria  
6 established by the state board governing the duties and responsibilities of  
7 the director of special education. An administrative unit shall also be a  
8 school district or board of cooperative services that meets criteria  
9 established by the state board governing the duties and responsibilities of  
10 the director of special education and is either a board of cooperative  
11 services that conducts special ~~educational~~ EDUCATION programs for all  
12 school districts that are members of the board of cooperative services or  
13 is a school district that meets criteria of geographic size, location, and  
14 number of pupils established by the state board to achieve maximum  
15 efficiency in administering programs of special education.

16 (2) (b) ~~If an administrative unit receives funding to educate gifted~~  
17 ~~children, the administrative unit shall submit an annual plan for educating~~  
18 ~~said children to the department pursuant to rules promulgated by the state~~  
19 ~~board.~~

20 (3) (a) Each administrative unit, state-operated program, and  
21 eligible facility shall make available special education services as  
22 specified by the IEP for any child with a disability for whom it is  
23 responsible, as defined by the rules adopted by the state board pursuant  
24 to this article. ~~For the purpose of implementing the program plan adopted~~  
25 ~~by each administrative unit pursuant to section 22-20-104.5, each~~  
26 ~~administrative unit shall ensure that its constituent schools and school~~  
27 ~~districts make available appropriate special provisions for gifted children~~

1 to the extent that funds are provided for such implementation PART 1.

2 (c) An administrative unit may annually use no more than fifteen  
3 percent of the funding amount that the administrative unit annually  
4 receives pursuant to this ~~article~~ PART 1 for the provision of early  
5 intervening services.

6 (4) To comply with this section, an administrative unit may  
7 contract with one or more administrative units to establish and maintain  
8 special ~~educational~~ EDUCATION programs for the education of exceptional  
9 children, sharing the costs thereof in accordance with the terms of the  
10 contract agreed upon; or an administrative unit having fewer than six  
11 children who need a particular kind of special ~~educational~~ EDUCATION  
12 program may purchase services from one or more administrative units  
13 where an appropriate special ~~educational~~ EDUCATION program exists.

14 **SECTION 6.** 22-20-108 (1), (3) (a), and (6), Colorado Revised  
15 Statutes, are amended to read:

16 **22-20-108. Determination of disability - enrollment.**

17 (1) (a) The determination that a child has a disability and is eligible for  
18 special education services shall be made by a multidisciplinary team that  
19 shall include, at a minimum, the parent of the child and professionally  
20 qualified personnel designated by the responsible administrative unit or  
21 state-operated program. The composition of the multidisciplinary team  
22 and the procedures to be used for determining a child's eligibility for  
23 special education services shall be prescribed by rules promulgated by the  
24 state board pursuant to this ~~article~~ PART 1.

25 (b) The development of an IEP for a child with disabilities and  
26 determination of placement shall be made by the child's IEP team,  
27 including but not limited to the child's parent and qualified professional

1 personnel designated by the responsible administrative unit or  
2 state-operated program. The composition of the IEP team and the  
3 procedures to be used for developing the child's IEP shall be prescribed  
4 by rules promulgated by the state board pursuant to this ~~article~~ PART 1.

5 (3) (a) In the event of an appeal of the determination of disability,  
6 the determination of eligibility for services, the IEP to be offered, the  
7 determination of placement, or the provision of a free appropriate public  
8 education for a child with disabilities pursuant to this ~~article~~ PART 1, the  
9 administrative unit or state-operated program shall utilize the procedures  
10 and timetable for impartial due process hearings established by rules  
11 promulgated by the state board pursuant to this ~~article~~ PART 1.

12 ~~(6) Requirements for the placement in special education programs~~  
13 ~~of exceptional children who are identified as gifted are not applicable as~~  
14 ~~stated in this section.~~

15 **SECTION 7.** 22-20-112 (1), Colorado Revised Statutes, is  
16 amended to read:

17 **22-20-112. Length of school year.** (1) An administrative unit  
18 may conduct special ~~educational~~ EDUCATION programs as prescribed in  
19 this ~~article~~ PART 1 for any length of time; except that the administrative  
20 unit must meet the minimum length of time as established by law for  
21 school districts.

22 **SECTION 8.** 22-20-114.5 (1) (b), (3) (a), (3) (a.5), and (3) (b) (II)  
23 (A), Colorado Revised Statutes, are amended to read:

24 **22-20-114.5. Special education fiscal advisory committee -**  
25 **special education high-cost grants - definitions - repeal.** (1) As used  
26 in this section, unless the context otherwise requires:

27 (b) "High costs" means the costs incurred by an administrative



1 unit above a threshold amount determined pursuant to paragraph (e) of  
2 subsection (3) of this section in providing special ~~educational~~ EDUCATION  
3 services, either directly or by contract, to a child with disabilities  
4 regardless of the child's district of residence.

5 (3) (a) An administrative unit that incurs high costs in providing  
6 special ~~educational~~ EDUCATION services to a child with disabilities may  
7 apply for a high cost grant to recover all or a portion of such high costs.  
8 To receive a grant, an administrative unit shall apply to the committee in  
9 a form and manner determined by the committee and provide such  
10 information as may be requested by the committee to document the  
11 administrative unit's high costs.

12 (a.5) Of the total amount appropriated in a budget year for the  
13 purpose of awarding grants pursuant to this section, the committee shall  
14 use fifty percent of the amount to award grants to administrative units that  
15 have one or more children being served in an out-of-district placement for  
16 special ~~educational~~ EDUCATION services and fifty percent of the amount  
17 to award grants to administrative units with one or more children being  
18 served in an in-district placement for special ~~educational~~ EDUCATION  
19 services.

20 (b) (II) (A) In awarding grants pursuant to this section to  
21 administrative units that have one or more children being served in an  
22 out-of-district placement for special ~~educational~~ EDUCATION services, the  
23 committee shall first prioritize those administrative units that spent the  
24 highest percentages, based on the administrative unit's annual audited  
25 operating expenses, in the preceding budget year on high costs incurred  
26 in providing special education services to children in such out-of-district  
27 placements.



1 RECORD OF GIFTED AND TALENTED PROGRAMMING UTILIZED WITH EACH  
2 GIFTED CHILD AND CONSIDERED IN EDUCATIONAL PLANNING AND  
3 DECISION-MAKING.

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

6 (4) "EXCEPTIONAL CHILD" MEANS:

7 (a) A CHILD DEFINED IN SECTION 22-20-103 (5) AS A CHILD WITH  
8 A DISABILITY. AN ADMINISTRATIVE UNIT SHALL SERVE EVERY CHILD WITH  
9 A DISABILITY FROM THREE TO TWENTY-ONE YEARS OF AGE AND MAY  
10 SERVE CHILDREN WITH DISABILITIES FROM BIRTH THROUGH TWO YEARS OF  
11 AGE.

12 (b) A CHILD DEFINED IN SUBSECTION (5) OF THIS SECTION AS A  
13 GIFTED CHILD. PURSUANT TO SECTION 22-20-204 (1), AN ADMINISTRATIVE  
14 UNIT SHALL ADOPT AND SUBMIT TO THE DEPARTMENT A PROGRAM PLAN TO  
15 IDENTIFY AND SERVE GIFTED CHILDREN WHO ARE AT LEAST FIVE YEARS OF  
16 AGE.

17 (5) "GIFTED CHILD" MEANS A PERSON FROM FOUR TO TWENTY-ONE  
18 YEARS OF AGE WHOSE ABILITIES, TALENTS, AND POTENTIAL FOR  
19 ACCOMPLISHMENTS ARE SO OUTSTANDING THAT HE OR SHE REQUIRES  
20 SPECIAL PROVISIONS TO MEET HIS OR HER EDUCATIONAL NEEDS.

21 (6) "GIFTED EDUCATION SERVICES" OR "GIFTED EDUCATION  
22 PROGRAMS" MEANS THE SERVICES OR PROGRAMS PROVIDED TO GIFTED  
23 CHILDREN PURSUANT TO THIS PART 2.

24 (7) "HIGHLY ADVANCED GIFTED CHILD" MEANS A GIFTED CHILD  
25 WHO HAS BEEN IDENTIFIED BY AN ADMINISTRATIVE UNIT, USING CRITERIA  
26 AND A PROCESS ESTABLISHED BY RULES PROMULGATED BY THE STATE  
27 BOARD PURSUANT TO SECTION 22-20-204 (6), TO BE A HIGHLY ADVANCED

1 GIFTED CHILD.

2 (8) "SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT ORGANIZED  
3 AND EXISTING PURSUANT TO LAW, BUT SHALL NOT INCLUDE A JUNIOR  
4 COLLEGE DISTRICT.

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

8 **22-20-203. Administration - rules.** (1) (a) THIS PART 2 SHALL  
9 BE ADMINISTERED BY THE DEPARTMENT. ADMINISTRATION OF THIS PART  
10 2 SHALL INCLUDE THE RECOMMENDATION TO THE STATE BOARD OF  
11 REASONABLE RULES NECESSARY TO IMPLEMENT THIS PART 2, INCLUDING  
12 BUT NOT LIMITED TO:

13 (I) PROCEDURES REGARDING THE IDENTIFICATION OF GIFTED  
14 CHILDREN; AND

15 (II) CRITERIA FOR ADMINISTRATIVE UNITS TO SATISFY IN ADOPTING  
16 PROGRAM PLANS TO IDENTIFY AND SERVE GIFTED CHILDREN.

17 (b) THE STATE BOARD SHALL ADOPT APPROPRIATE  
18 RECOMMENDATIONS AS RULES TO IMPLEMENT THIS PART 2 FOLLOWING  
19 PUBLIC COMMENT AND HEARING. THE RULES PROMULGATED BY THE  
20 STATE BOARD SHALL BE IN ACCORD WITH THE LEGISLATIVE DECLARATION  
21 SET FORTH IN SECTION 22-20-201.

22 (c) AN ADMINISTRATIVE UNIT THAT PROVIDES PLANS, PROGRAMS,  
23 OR SERVICES THAT DO NOT COMPLY WITH THE RULES ADOPTED BY THE  
24 STATE BOARD WILL BE PROVIDED BY THE DEPARTMENT WITH A DETAILED  
25 ANALYSIS OF ANY DISCREPANCIES NOTED ALONG WITH SPECIFIC  
26 RECOMMENDATIONS FOR THEIR CORRECTION. APPLICABLE FEDERAL AND  
27 STATE FUNDING WILL BE PROVIDED OR CONTINUED FOR A REASONABLE

1 PERIOD OF TIME, AS DETERMINED BY THE DEPARTMENT, TO ALLOW THE  
2 ADMINISTRATIVE UNIT, STATE-OPERATED PROGRAM, OR ELIGIBLE FACILITY  
3 AN OPPORTUNITY TO COMPLY WITH SUCH RULES. AN ADMINISTRATIVE  
4 UNIT MAY ESTABLISH A CLAIM FOR VARIANCE BASED UPON CONDITIONS  
5 INDIGENOUS TO OR UNIQUE TO THE ADMINISTRATIVE UNIT.

6 (2) IN ORDER TO IMPLEMENT THE PROVISIONS OF SECTIONS  
7 22-20-201 AND 22-20-204, THE STATE BOARD AND THE DEPARTMENT MAY  
8 PROVIDE, AT THEIR DISCRETION, FOR SUCH PERSONNEL AS DEEMED  
9 NECESSARY FOR SUCH PURPOSES.

10 **22-20-204. Plan for academic excellence - inclusion of gifted**  
11 **children - cooperation - rules.** (1) EACH ADMINISTRATIVE UNIT SHALL  
12 ADOPT AND IMPLEMENT A PROGRAM PLAN TO IDENTIFY AND SERVE GIFTED  
13 CHILDREN WHO ARE AT LEAST FIVE YEARS OF AGE. ANY PROGRAM PLAN  
14 DEVELOPED AND IMPLEMENTED PURSUANT TO THE PROVISIONS OF THIS  
15 SECTION SHALL SATISFY ANY CRITERIA ESTABLISHED BY RULES  
16 PROMULGATED BY THE STATE BOARD FOR THE IMPLEMENTATION OF THIS  
17 PART 2. A PROGRAM PLAN ADOPTED BY AN ADMINISTRATIVE UNIT  
18 PURSUANT TO THIS SECTION SHALL BE CONSISTENT WITH THE ADVANCED  
19 LEARNING PLANS OF THE GIFTED CHILDREN WHO ARE IDENTIFIED BY THE  
20 ADMINISTRATIVE UNIT, AND THE PROGRAM PLAN SHALL BE IMPLEMENTED  
21 TO THE EXTENT THAT FUNDS ARE PROVIDED FOR SUCH IMPLEMENTATION.  
22 NOTHING IN THIS PART 2 SHALL BE CONSTRUED TO REQUIRE AN  
23 ADMINISTRATIVE UNIT TO IMPLEMENT A PROGRAM PLAN IN THE EVENT  
24 THAT SUFFICIENT MONEYS ARE NOT PROVIDED FOR SUCH  
25 IMPLEMENTATION.

26 (2) (a) IN ADOPTING AND IMPLEMENTING A PROGRAM PLAN TO  
27 IDENTIFY AND SERVE GIFTED CHILDREN PURSUANT TO SUBSECTION (1) OF

1 THIS SECTION, EACH ADMINISTRATIVE UNIT MAY INCLUDE IN ITS PROGRAM  
2 PLAN PROVISIONS TO IDENTIFY AND SERVE HIGHLY ADVANCED GIFTED  
3 CHILDREN WHO ARE:

4 (I) FOUR YEARS OF AGE AND FOR WHOM EARLY ACCESS TO  
5 KINDERGARTEN IS DEEMED APPROPRIATE BY THE ADMINISTRATIVE UNIT;  
6 AND

7 (II) FIVE YEARS OF AGE AND FOR WHOM EARLY ACCESS TO FIRST  
8 GRADE IS DEEMED APPROPRIATE BY THE ADMINISTRATIVE UNIT.

9 (b) IN MAKING DETERMINATIONS PURSUANT TO PARAGRAPH (a) OF  
10 THIS SUBSECTION (2), AN ADMINISTRATIVE UNIT SHALL APPLY THE  
11 CRITERIA AND PROCESS ESTABLISHED BY RULES PROMULGATED BY THE  
12 STATE BOARD PURSUANT TO SUBSECTION (6) OF THIS SECTION.

13 (c) IF AN ADMINISTRATIVE UNIT INCLUDES IN ITS PROGRAM PLAN  
14 PROVISIONS TO IDENTIFY AND SERVE HIGHLY ADVANCED GIFTED CHILDREN  
15 AS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2), THE  
16 ADMINISTRATIVE UNIT SHALL MAKE AVAILABLE UPON REQUEST TO ANY  
17 PERSON THE ADMINISTRATIVE UNIT'S CRITERIA AND PROCESS FOR  
18 IDENTIFYING A HIGHLY ADVANCED GIFTED CHILD FOR WHOM EARLY  
19 ACCESS TO KINDERGARTEN OR FIRST GRADE IS DEEMED APPROPRIATE,  
20 INCLUDING TIME FRAMES, DEADLINES, AND ANY SPECIFIC TESTS AND  
21 THRESHOLD SCORES USED BY THE ADMINISTRATIVE UNIT IN IDENTIFYING  
22 AND MAKING A FINAL DETERMINATION CONCERNING SUCH A STUDENT.

23 (d) IF AN ADMINISTRATIVE UNIT INCLUDES IN ITS PROGRAM PLAN  
24 PROVISIONS TO IDENTIFY AND SERVE HIGHLY ADVANCED GIFTED CHILDREN  
25 AS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2), THE  
26 ADMINISTRATIVE UNIT MAY CHARGE A FEE FOR ANY ASSESSMENTS OR  
27 OTHER PROCEDURES THAT THE ADMINISTRATIVE UNIT PERFORMS FOR THE

1 PURPOSE OF IDENTIFYING A HIGHLY ADVANCED GIFTED CHILD FOR WHOM  
2 EARLY ACCESS TO KINDERGARTEN OR FIRST GRADE IS DEEMED  
3 APPROPRIATE; EXCEPT THAT AN ADMINISTRATIVE UNIT SHALL NOT CHARGE  
4 SUCH A FEE FOR ANY SUCH ASSESSMENTS OR OTHER PROCEDURES IF THE  
5 CHILD WHO IS THE SUBJECT OF SUCH ASSESSMENTS OR OTHER PROCEDURES  
6 IS ELIGIBLE FOR A REDUCED-COST MEAL OR FREE MEAL PURSUANT TO THE  
7 FEDERAL "NATIONAL SCHOOL LUNCH ACT", 42 U.S.C. SEC. 1751 ET SEQ.

8 (e) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT,  
9 FOR PURPOSES OF SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION,  
10 PROVISIONS TO IDENTIFY AND SERVE HIGHLY ADVANCED GIFTED CHILDREN  
11 WHO ARE FOUR YEARS OF AGE AND FOR WHOM EARLY ACCESS TO  
12 KINDERGARTEN IS DEEMED APPROPRIATE BY AN ADMINISTRATIVE UNIT OR  
13 WHO ARE FIVE YEARS OF AGE AND FOR WHOM EARLY ACCESS TO FIRST  
14 GRADE IS DEEMED APPROPRIATE BY AN ADMINISTRATIVE UNIT ARE  
15 IMPORTANT ELEMENTS OF ACCOUNTABLE EDUCATION REFORM AND  
16 EXPANDING THE AVAILABILITY OF PRESCHOOL AND KINDERGARTEN  
17 PROGRAMS AND MAY THEREFORE RECEIVE FUNDING FROM THE STATE  
18 EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE IX OF THE  
19 STATE CONSTITUTION.

20 (3) INSTITUTIONS OF HIGHER EDUCATION THAT ARE LOCATED  
21 WITHIN THE STATE ARE ENCOURAGED TO WORK WITH THE  
22 ADMINISTRATIVE UNITS, THE STATE BOARD, AND THE DEPARTMENT TO  
23 PROVIDE STAFF DEVELOPMENT AND IN-SERVICE OPPORTUNITIES TO  
24 SUPPORT SUCH MANAGEMENT PLANS SPECIFIED IN SUBSECTION (1) OF THIS  
25 SECTION.

26 (4) FUNDING FOR GIFTED PROGRAMS SHALL BE FOR  
27 APPROPRIATELY CERTIFIED, ENDORSED, OR LICENSED STAFF, FOR

1 ACTIVITIES RELATED TO SERVING GIFTED CHILDREN, AND FOR  
2 EDUCATIONAL EQUIPMENT AND MATERIALS. FUNDING FOR GIFTED  
3 PROGRAMS SHALL SUPPLEMENT, NOT SUPPLANT, PROGRAMS FOR STUDENTS  
4 WITH DISABILITIES.

5 (5) FOR EACH FISCAL YEAR, APPROPRIATIONS MADE BY THE  
6 GENERAL ASSEMBLY TO FUND PROGRAMS FOR GIFTED CHILDREN SHALL BE  
7 DESIGNATED BY A SEPARATE LINE ITEM IN THE ANNUAL GENERAL  
8 APPROPRIATION ACT.

9 (6) (a) ON OR BEFORE JULY 1, 2011, THE STATE BOARD SHALL  
10 PROMULGATE RULES TO ESTABLISH CRITERIA AND A PROCESS THAT AN  
11 ADMINISTRATIVE UNIT SHALL USE, PURSUANT TO PARAGRAPH (b) OF  
12 SUBSECTION (2) OF THIS SECTION, TO MAKE DETERMINATIONS REGARDING  
13 THE ADVANCED PLACEMENT OF HIGHLY ADVANCED GIFTED CHILDREN  
14 PURSUANT TO PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION.

15 (b) THE CRITERIA ESTABLISHED BY RULES PROMULGATED  
16 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (6) SHALL INCLUDE  
17 CONSIDERATION OF A CHILD'S:

- 18 (I) APTITUDE;
- 19 (II) ACHIEVEMENT;
- 20 (III) PERFORMANCE;
- 21 (IV) READINESS FOR ADVANCED PLACEMENT;
- 22 (V) OBSERVABLE SOCIAL BEHAVIOR;
- 23 (VI) MOTIVATION TO LEARN; AND
- 24 (VII) SUPPORT FROM PARENTS, TEACHERS, AND SCHOOL  
25 ADMINISTRATORS.

26 (c) THE PROCESS ESTABLISHED BY RULES PROMULGATED  
27 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (6) SHALL INCLUDE:



1 (I) A TIMELINE ACCORDING TO WHICH A CHILD'S PARENTS MAY  
2 APPLY FOR ADVANCED PLACEMENT FOR THE CHILD;

3 (II) A DESCRIPTION OF ADMINISTRATIVE UNIT PERSONNEL WHO  
4 SHALL BE INVOLVED IN THE PROCESS OF IDENTIFYING HIGHLY ADVANCED  
5 GIFTED CHILDREN FOR WHOM ADVANCED PLACEMENT IS APPROPRIATE;

6 (III) A DESCRIPTION OF HOW EACH CHILD FOR WHOM THE CHILD'S  
7 PARENTS ARE SEEKING ADVANCED PLACEMENT SHALL BE EVALUATED;

8 (IV) A DESCRIPTION OF THE ENTIRE BODY OF EVIDENCE THAT  
9 SHALL BE USED TO EVALUATE EACH CHILD FOR WHOM THE CHILD'S  
10 PARENTS ARE SEEKING ADVANCED PLACEMENT;

11 (V) A DESCRIPTION OF HOW DECISIONS CONCERNING THE  
12 ADVANCED PLACEMENT OF HIGHLY ADVANCED GIFTED CHILDREN SHALL  
13 BE MADE COLLABORATIVELY BY ADMINISTRATIVE UNIT PERSONNEL; AND

14 (VI) A DESCRIPTION OF HOW AN ADMINISTRATIVE UNIT SHALL  
15 MONITOR THE PERFORMANCE OF A CHILD WHO HAS RECEIVED AN  
16 ADVANCED PLACEMENT PURSUANT TO SUBSECTION (2) OF THIS SECTION.

17 **22-20-205. Gifted education programs.** (1) IF AN  
18 ADMINISTRATIVE UNIT RECEIVES FUNDING TO EDUCATE GIFTED CHILDREN,  
19 THE ADMINISTRATIVE UNIT SHALL SUBMIT AN ANNUAL PLAN FOR  
20 EDUCATING SAID CHILDREN TO THE DEPARTMENT PURSUANT TO RULES  
21 PROMULGATED BY THE STATE BOARD.

22 (2) FOR THE PURPOSE OF IMPLEMENTING THE PROGRAM PLAN  
23 ADOPTED BY EACH ADMINISTRATIVE UNIT PURSUANT TO SECTION  
24 22-20-204, EACH ADMINISTRATIVE UNIT SHALL ENSURE THAT ITS  
25 CONSTITUENT SCHOOLS AND SCHOOL DISTRICTS MAKE AVAILABLE  
26 APPROPRIATE SPECIAL PROVISIONS FOR GIFTED CHILDREN TO THE EXTENT  
27 THAT FUNDS ARE PROVIDED FOR SUCH IMPLEMENTATION.

1 (3) TO COMPLY WITH THIS SECTION, AN ADMINISTRATIVE UNIT MAY  
2 CONTRACT WITH ONE OR MORE ADMINISTRATIVE UNITS TO ESTABLISH AND  
3 MAINTAIN GIFTED EDUCATION PROGRAMS FOR THE EDUCATION OF  
4 EXCEPTIONAL CHILDREN, SHARING THE COSTS THEREOF IN ACCORDANCE  
5 WITH THE TERMS OF THE CONTRACT AGREED UPON; OR AN  
6 ADMINISTRATIVE UNIT HAVING FEWER THAN SIX CHILDREN WHO NEED A  
7 PARTICULAR KIND OF GIFTED EDUCATION PROGRAM MAY PURCHASE  
8 SERVICES FROM ONE OR MORE ADMINISTRATIVE UNITS WHERE AN  
9 APPROPRIATE GIFTED EDUCATION PROGRAM EXISTS.

10 **22-20-206. Length of school year.** AN ADMINISTRATIVE UNIT  
11 MAY CONDUCT GIFTED EDUCATION PROGRAMS AS PRESCRIBED IN THIS  
12 PART 2 FOR ANY LENGTH OF TIME; EXCEPT THAT THE ADMINISTRATIVE  
13 UNIT MUST MEET THE MINIMUM LENGTH OF TIME AS ESTABLISHED BY LAW  
14 FOR SCHOOL DISTRICTS.

15 **SECTION 10. Repeal.** Article 26 of title 22, Colorado Revised  
16 Statutes, is repealed.

17 **SECTION 11.** 22-7-402 (8.5), Colorado Revised Statutes, is  
18 amended to read:

19 **22-7-402. Definitions.** As used in this part 4, unless the context  
20 otherwise requires:

21 (8.5) "Exceptional students" means those students defined in  
22 section 22-20-103 (5) as children with disabilities and students defined  
23 in ~~section 22-20-103 (13)~~ SECTION 22-20-202 (5) as gifted children.

24 **SECTION 12.** 22-11-301 (3) (f), Colorado Revised Statutes, is  
25 amended to read:

26 **22-11-301. School district accountability committees - creation**  
27 **- membership.** (3) If a local school board appoints the members of the

1 school district accountability committee, the local school board, to the  
2 extent practicable, shall ensure that the parents who are appointed reflect  
3 the student populations that are significantly represented within the  
4 school district. Said student populations may include, but need not be  
5 limited to:

6 (f) Students who are identified as gifted children as defined in  
7 ~~section 22-20-103 (13)~~ SECTION 22-20-202 (5).

8 **SECTION 13.** 22-11-401 (1) (d) (VI), Colorado Revised Statutes,  
9 is amended to read:

10 **22-11-401. School accountability committee - creation -**  
11 **qualifications - elections.** (1) (d) If the local school board or the  
12 institute determines that the members of a school accountability  
13 committee should be appointed, the appointing authority shall, to the  
14 extent practicable, appoint persons to serve on the school accountability  
15 committee who reflect the student populations that are significantly  
16 represented within the school. If the local school board or the institute  
17 determines that persons shall be elected to serve on the school  
18 accountability committee, the school principal shall encourage persons  
19 who reflect the student populations that are significantly represented  
20 within the school to seek election to the committee. Said student  
21 populations may include, but need not be limited to:

22 (VI) Students who are identified as gifted children, as defined in  
23 ~~section 22-20-103 (13)~~ SECTION 22-20-202 (5).

24 **SECTION 14.** 22-54-103 (10) (a) (IV) (B) and (10) (b) (I) (B),  
25 Colorado Revised Statutes, are amended to read:

26 **22-54-103. Definitions - repeal.** As used in this article, unless  
27 the context otherwise requires:

1           (10) (a) (IV) (B) For purposes of determining pupil enrollment in  
2 first grade for the 2007-08 budget year and each budget year thereafter,  
3 in addition to the pupils counted pursuant to sub-subparagraph (A) of this  
4 subparagraph (IV), a district may count and receive funding for a pupil  
5 who is enrolled in first grade who is at least five years old on or before  
6 October 1 of the applicable budget year if the pupil attended at least one  
7 hundred twenty days of kindergarten in a state other than Colorado. A  
8 district may also receive funding for a pupil who is five years old and  
9 who has been identified by the district or an administrative unit as a  
10 highly advanced gifted child for whom early access to first grade is  
11 appropriate, as provided in section ~~22-20-104.5 (1.5)~~ 22-20-204.

12           (b) (I) A pupil enrolled in a kindergarten educational program  
13 pursuant to section 22-32-119 (1) shall be counted as not more than a  
14 half-day pupil. For the 2005-06 budget year and each budget year  
15 thereafter, a district shall count and receive funding only for pupils  
16 enrolled in a kindergarten educational program who are:

17           (B) Four years old as of October 1 of the applicable budget year  
18 and who have been identified by an administrative unit to be highly  
19 advanced gifted children for whom early access to kindergarten is  
20 appropriate, as provided in section ~~22-20-104.5 (1.5)~~ 22-20-204.

21           **SECTION 15. Act subject to petition - effective date.** This act  
22 shall take effect at 12:01 a.m. on the day following the expiration of the  
23 ninety-day period after final adjournment of the general assembly (August  
24 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a  
25 referendum petition is filed pursuant to section 1 (3) of article V of the  
26 state constitution against this act or an item, section, or part of this act  
27 within such period, then the act, item, section, or part shall not take effect

1 unless approved by the people at the general election to be held in  
2 November 2012 and shall take effect on the date of the official  
3 declaration of the vote thereon by the governor.