

Report to the Colorado General Assembly:

**PROPOSED REVISION  
OF COLORADO  
SCHOOL LAWS**

**PART II**



**COLORADO LEGISLATIVE COUNCIL**

**RESEARCH PUBLICATION NO. 96**

**DECEMBER 1964**

LEGISLATIVE COUNCIL

OF THE

COLORADO GENERAL ASSEMBLY

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\* \* \* \* \*

The Legislative Council, which is composed of five Senators, six Representatives, and the presiding officers of the two houses, serves as a continuing research agency for the legislature through the maintenance of a trained staff. Between sessions, research activities are concentrated on the study of relatively broad problems formally proposed by legislators, and the publication and distribution of factual reports to aid in their solution.

During the sessions, the emphasis is on supplying legislators, on individual request, with personal memoranda, providing them with information needed to handle their own legislative problems. Reports and memoranda both give pertinent data in the form of facts, figures, arguments, and alternatives.

**PROPOSED REVISION  
OF  
COLORADO SCHOOL LAWS  
PART II**

**Legislative Council  
Report To The  
Colorado General Assembly**

**Research Publication No. 96  
December, 1964**

**OFFICERS**

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Research Assistant

**COLORADO GENERAL ASSEMBLY**



**LEGISLATIVE COUNCIL**

ROOM 341, STATE CAPITOL  
DENVER 2, COLORADO  
222-9911—EXTENSION 2285

**MEMBERS**

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Rep. John W. Nichols  
Rep. Clarence H. Quinlan

November 24, 1964

To Members of the Forty-fifth Colorado General Assembly:

In accordance with the directives of House Joint Resolution No. 1030, 1964 regular session, the Legislative Council submits the accompanying report prepared by its committee appointed to complete the proposed revision of the Colorado school laws.

This report was reviewed by the Legislative Council at its meeting on November 23. At that time the report was accepted for transmission to the Forty-fifth General Assembly. However, the Council did not endorse Bill I on libraries.

Respectfully submitted,

/s/ Representative C. P. (Doc) Lamb  
Chairman

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Rep. John W. Nichols  
Rep. Clarence H. Quinlan

November 18, 1964

Representative C. P. (Doc) Lamb  
Chairman  
Colorado Legislative Council  
Room 341, State Capitol  
Denver, Colorado

Dear Mr. Chairman:

Your Committee on Education submits herewith its report on the proposed revision of school laws. It includes drafts of ten proposed bills affecting various areas of education.

This completes the school law recodification project which was begun by the 1963 Interim Committee on School Law Revision. That committee recommended a number of major school bills, nearly all of which were adopted by the General Assembly in 1964. Most of the remaining areas of Colorado school law are covered by the bills recommended in this report.

Respectfully submitted,

/s/ Representative Ruth B. Clark  
Chairman, Committee on Education

RBC/mp

## FOREWORD

House Joint Resolution No. 1030, 1964 regular session, directed the Legislative Council to appoint a committee from the membership of the two standing education committees to complete the revision of Colorado school laws begun in 1963.

The members of the committee making this study were: Representative Ruth B. Clark, chairman; Senator Fay DeBerard, vice chairman; Senators Richard F. Hobbs, Roy H. McVicker, and L. T. Skiffington; and Representatives Palmer L. Burch, Forrest G. Burns, John Kane, Kathleen P. Littler, John G. Mackie, John P. Orcutt, Clarence H. Quinlan, William F. Stevens, and C. P. (Doc) Lamb, chairman of the Legislative Council.

Although the committee had three assignments in addition to school law revision, nine of the twelve days of meetings held during the year were devoted primarily to the school law study.

Dr. Elbie L. Gann and other members of the staff of the State Department of Education had primary responsibility for preparing the materials and drafts considered by the committee. Miss Clair Sippel of the Legislative Reference Office prepared the bills for introduction. Miss Janet Wilson of the Legislative Council staff assisted in the preparation of the final report.

The committee wishes to thank the many persons who attended meetings of the committee and offered written comments and suggestions. The entire recodification project has been a cooperative effort involving many individuals and groups interested in education, as well as the committee itself.

November 24, 1964

Lyle C. Kyle  
Director

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# PROPOSED REVISION OF COLORADO SCHOOL LAWS

November, 1964

## Committee Recommendations

The Committee on Education has completed the school law revision begun by the Interim Committee on School Law Revision in 1963. Nine bills are recommended for consideration during the 1965 session of the General Assembly. One of these -- Teacher Employment, Dismissal, and Tenure -- was recommended (in slightly different form) in December of 1963, but was not included in the Governor's list of items for consideration in the 1964 session. The other bills cover subjects which were postponed in 1963 because of lack of time.

Each of the proposed bills is accompanied by comments which explain the sources and effects of the various provisions. The major changes from present law are summarized below.

### Employment and Dismissal of Teachers and Teacher Tenure -- Bill A

The committee recommends the enactment of Bill A, which would repeal and re-enact article 18 of chapter 123 (the teacher tenure act). Proposed changes include the following:

1. Provisions on employment and dismissal of teachers (including non-tenure teachers) would be combined with provisions on tenure in a single article.
2. Written contracts would be required for the employment of all except substitute and part-time teachers.
3. Every contract would contain a provision whereby the local board of education could assess financial damages against a teacher in an amount equivalent to one-twelfth of the annual salary if such teacher abandons the contract without having given sixty days' written notice to the board of education.
4. The contract date would be changed from April 15 to April 22.
5. Each board of education would be required to adopt a salary schedule.
6. Dismissal procedures would be the same for both non-tenure and tenure teachers. No teacher could be dismissed without a hearing being offered and without an opportunity for the teacher to hear specific charges which led to the dismissal. This should not be confused with non-renewal of contract for a non-tenure teacher for the following year, for which it is not necessary to make formal charges or provide opportunity for hearing. Notice of non-renewal on or before April 22 would be sufficient.
7. It would be written into law that a teacher whose employment is on a nine-month basis, but paid on a twelve-month basis, shall be



entitled to receive a pro rata share of the three months' summer salary in the event his services are terminated during the regular school year.

8. The term one must serve before he can acquire tenure is clarified. Basically, tenure would be acquired after continuous, uninterrupted 36 months of service, counting the months school is not in session, and being employed to continue to serve in the same district. (This would take care of the instances in which a teacher is employed to begin in the middle of a school year.)

9. Probationary times served would not be lost for temporary illness or military leave of absence, but time on military leave would not be counted as part of the probationary period. Other absences and leaves may or may not be countable toward the attainment of tenure, as determined by the local board of education.

10. If a teacher has acquired tenure in a school district and all or part of that school district becomes part of another district (through consolidation, annexation, or reorganization), the teacher's tenure status would continue in the successor school district.

11. The proposal would make it possible for a board of education to transfer a tenure teacher to a lower paying, less responsible position without similarly reducing the salary of half the teachers in the district.

12. The grounds for dismissal of a teacher would be physical or mental disability, incompetency, neglect of duty, immorality, conviction of a felony, insubordination, or other good and just cause.

13. A taxpaying elector would be able to file a complaint against a teacher if such complaint is written and signed under oath.

14. The tenure panel procedure would be deleted from the law. A teacher could have a hearing before the local board, and could appeal the decision to district court.

#### Teachers' Emeritus Retirement Fund -- Bill B

The committee recommends two changes in the teachers' emeritus retirement law:

1. The proposal would permit teachers who claim they were misinformed regarding the implication of their choosing not to join PERA to become eligible by signing an affidavit that they were misinformed. Assuming a maximum of 20 new participants, the annual cost of this provision would be \$18,540.

2. The requirement that the applicant be a Colorado resident at the time of application would be removed. The applicant would still have to be a Colorado resident as of the date of retirement. The Department of Education is unable to estimate the number of new participants who would be brought into the program by removing the residence requirement. Therefore the cost of this change is not known.

Repeal of "General Provisions" Chapter -- Incorporation of Certain Provisions Thereof in 1964 Act Concerning Powers and Duties of Boards of Education -- Bill C

The committee recommends Bill C, which repeals article 21 of chapter 123, entitled "General Provisions." A few of the provisions are retained as amendments to the 1964 act concerning powers and duties of boards of education. The bill:

1. Repeals several statutory requirements regarding curriculum -- the requirement that instruction be in the English language, the requirement for instruction in Colorado history and government, and the requirement for instruction on the effects of alcohol and narcotics. The requirements for instruction on the American flag and the United States Constitution would be retained as duties of the local school board.

2. Retains the provision for a local school board to collect enrollment information from private schools located in the district.

3. Leaves the determination of residency up to the local board of education. Detailed residence requirements would be deleted from the statutes.

4. Repeals the definitions of "public school" and "national holidays".

5. Repeals the definition of "school age" and the proviso that a school board may admit any child who will attain school age during the school year, subject to the cut-off date set by the board.

6. Repeals requirement for physical examinations.

7. Repeals prohibition against secret fraternities.

Handicapped Children -- Bill D

The committee recommends the enactment of Bill D, which repeals and re-enacts article 22 of chapter 123, concerning the education of handicapped children. The major changes from present law include:

1. "Educationally handicapped" children would be included as a new category for which state aid will be available. "Educationally handicapped" includes emotionally handicapped and perceptually handicapped. The Department of Education estimates the cost of this addition to the program for the first year of operation at less than \$100,000.

2. Reimbursement for all programs (physically handicapped, educable mentally handicapped, educationally handicapped, speech handicapped, and programs for hospitalized or homebound pupils) would be at 80% of the salaries of approved personnel rather than on the basis of excess cost. Accounting and reporting would be much simpler under the proposed change. Fewer reports would be required from local districts. Entitlements for existing programs under the proposal would be approximately the same as entitlements under the present method of reimbursement.

3. The proposal would change the age bracket from "6 to 21" to "5 to 21" except for physically handicapped, where the age remains at "3 to 21."

4. Handicapped children would be placed on a normal tuition basis. The wording would be changed to eliminate the contention that a school district can be required to pay tuition for attendance in another district.

5. The amount the state board may pay for maintenance would be increased from \$500 to \$800. The amount for transportation would be changed from \$150 to 50% of the cost. The proposal would eliminate the requirement that the Department of Education must ascertain that the district of residence cannot maintain a program before paying for maintenance and transportation.

6. Parental consent would be required prior to examination by a psychologist to determine whether a mental handicap exists and also prior to examination by the members of a committee appointed to determine whether an educational handicap exists.

#### Migrant Education -- Bill E

The committee recommends Bill E, which repeals and re-enacts article 29 of chapter 123, on education of migrant children. The only major change from present law would be to permit summer school programs for "home-based" migrants. The estimated cost of this new inclusion would be \$15,000 per year.

#### "Diploma Mills" -- Bill F

The committee recommends the enactment of Bill F, which is designed to prevent the operation of so-called "diploma mills" by regulating the awarding of degrees. The major provisions of the bill are:

1. No person or institution would be permitted to award an "associate," "bachelor's," "baccalaureate," "master's," or "doctor's" degree in this state except: a state college or university; a private college or university; a seminary or bible college which is a bona fide religious institution and is exempt from property taxation; and a school, college, or university which offers approved courses of instruction or study in chiropractic, medicine, osteopathy, chiropody, physical therapy, or optometry.

2. Any non-exempt person or institution awarding such a degree would be guilty of a misdemeanor.

3. The State Department of Education would administer the act and would have authority to proceed by injunction against any violation. The estimated cost for the first year of operation would be \$17,500.

## Proprietary Schools -- Bill G

The committee recommends Bill G, which provides for the regulation of vocational and technical proprietary schools not otherwise regulated. The bill contains the following major provisions:

1. Vocational and technical proprietary schools would be regulated under the supervision of the State Board of Education. The estimated cost of administering the act during the first year of operation would be \$17,500.
2. Types of schools exempted would include tax-supported institutions; parochial, denominational, or eleemosynary institutions; schools conducted primarily for recreational purposes; schools or courses sponsored by business firms for their employees, or by recognized business or professional organizations for their members; apprenticeship training programs; state colleges, junior colleges, and universities; private colleges and universities comparable to the state colleges and universities; private schools comparable to the public schools; nursery schools; and schools regulated and licensed under an occupational licensing act.
3. Each non-exempt proprietary school would have to meet minimum standards, pay a \$25 fee, and post a \$5,000 surety bond in order to obtain the required annual certificate of approval.
4. Each agent who recruits students for a non-exempt proprietary school would have to be of good moral character, pay a \$5 fee, and post a \$5,000 surety bond in order to obtain the required annual agent's permit.
5. Certificates of approval and agents' permits could be revoked for violation of the act.
6. Any approved school could be evaluated upon its request to determine if it meets accreditation standards. If the school qualifies, it would be issued a certificate of accreditation. Accreditation would not be one of the requirements for operation of a proprietary school; it would be an added endorsement.
7. The State Board of Education would be assisted by a seven-member advisory committee. Four members would represent proprietary schools; one would represent industry; one would represent labor; and one would represent the public.

## School District Organization -- Bill H

The committee recommends the enactment of Bill H, which repeals and re-enacts article 25 of chapter 123, concerning school district organization. The major changes from present law include:

1. No new district could be formed under the organization act if it would have fewer than 50 pupils in grades nine through twelve (unless approved by the State Board of Education).

2. Several changes would be made in organization election procedures to conform to the new school election law adopted in 1964. Precincts would be established and registration would be required.

3. An organization plan could provide for either four-year terms or six-year terms for board members. The optional length of term follows the precedent established in the school election law.

4. Technical changes and additions would be made to clarify procedures with regard to bonded indebtedness, assets and liabilities under various types of organization plans.

5. The question of assuming existing bonded indebtedness would be submitted at the organization election. It could not be submitted after the formation of the new district.

6. Dissolution and annexation would be mandatory for non-operating districts.

### Libraries -- Bill I

The committee recommends Bill I, which repeals and re-enacts the article on libraries (article 1 of chapter 84). This bill contains the following major changes from present law:

1. Methods of financing municipal, county, and regional libraries would be revised. Regional libraries could be financed by either appropriation from the general fund of the governmental unit or units sponsoring the library or the levy of a special library tax of not more than  $1\frac{1}{2}$  mills. Municipal and county libraries could be financed by either or both of these methods. At present, municipal libraries are financed by the  $1\frac{1}{2}$  mill library levy (this does not necessarily apply to home rule municipalities); county and regional libraries are financed from the county general fund (with authorization for a tax on the area served by a regional library if only part of a county).

2. The proposal contains a section enabling the state library or any other public library in the state to enter into interstate library compacts.

3. Willful mutilation (as well as retention) of library property would be made a misdemeanor.

4. The present "taxpaying elector" requirement for signing a petition for establishment of a library would be replaced by a "qualified elector" requirement.

5. Positions of the commissioner of education (ex-officio state librarian) and the deputy state librarian (to be designated director of the state library) would be clarified.

6. Size of library board would be changed from "five" to "not less than five nor more than nine". County superintendent would not be an ex-officio member of the county library board.

## Amendments to 1964 Law on Accounting and Reporting -- Bill J

The committee recommends three changes in the 1964 law on accounting and reporting of financial transactions of school districts (chapter 76, Session Laws of 1964, commonly referred to as House Bill 1015). Bill J would make these changes:

1. "Capital outlay expenditures" would be defined. At the present time the school laws contain no definition of capital outlay.

2. The purpose for which the general fund may be used would be clarified. The general fund could be used for any lawful expenditure, including any expenditure which could be made from any other fund. This would correct the situation existing under the present law, which has been interpreted by some as prohibiting the use of general fund moneys for transactions which could be financed from another fund.

3. The capital reserve fund could be used for the acquisition of school busses or other equipment if the unit cost exceeds \$2,500. The present law permits such acquisitions from the capital reserve fund only if the unit cost exceeds \$5,000.

TEXT

COMMENTS

BILL A -- EMPLOYMENT AND DISMISSAL OF TEACHERS  
AND TEACHER TENURE

A BILL FOR AN ACT

CONCERNING TEACHERS AND EMPLOYEES IN THE PUBLIC SCHOOLS OF THE  
STATE; PROVIDING FOR THE EMPLOYMENT OF TEACHERS AND  
PRESCRIBING PROCEDURES FOR DISMISSAL; AND PROVIDING FOR  
TEACHER TENURE.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 18 of chapter 123, Colorado Revised  
Statutes 1963, is hereby REPEALED AND RE-ENACTED, WITH AMENDMENTS,  
TO READ:

123-18-1. Short title. This article may be cited as "The  
Teacher Employment, Dismissal, and Tenure Act of 1965".

123-18-2. Definitions. Unless otherwise indicated by the  
context, the following words and phrases when used in this article  
shall have the meanings ascribed to them respectively in this  
section.

(1) "School district" means a school district organized and  
existing pursuant to law, but shall not include a junior college  
district.

(2) "Board" means the board of education of a school district.

(3) "Teacher" means any person as defined in section 123-17-  
11 (6).

Replaces present section 123-18-1.  
Provisions on employment and  
dismissal of teachers are combined  
with provisions on tenure in a  
single article.

Junior college districts would  
not be covered by this article.  
This means that junior college  
teachers holding certificates  
could not acquire tenure as they  
have been able to do under  
present 123-18-3.

Covers part of present 123-18-2.  
Definition cited is: "any person

TEXT

(4) "Teacher's certificate" means a certificate as defined in section 123-17-11 (9).

(5) "Part-time teacher" means a teacher who normally performs services as an employee of a school in an amount of time less than four hours during each regular school day.

(6) "Substitute teacher" means a teacher who normally performs services as an employee of a school district in an amount of time of four hours or more during each regular school day, but not employed under a written contract.

(7) "Tenure teacher" means any teacher who has heretofore acquired, or who may hereafter acquire, tenure status in a school district pursuant to law.

(8) "Salary schedule" means the general schedule of salaries for all teachers as required to be adopted by a board pursuant to section 123-18-5.

(9) "Dismissal" means the termination of employment of a teacher by a board during the contractual period of time for any reason other than mandatory retirement.

(10) "School year" means the first day of July through the thirtieth day of June next following.

(11) "Academic year" means that portion of the school year during which the public schools of a school district are in regular

COMMENTS

employed to instruct, or to administer, direct, or supervise the instructional program in a school in the state".

Definition cited is: "the license to teach in the instructional program of a school district, or to administer, supervise or direct such program".

New definition.

New definition.

New definition.

New definition.

New definition. "Dismissal" during the contract period should be distinguished from "refusal to re-employ" for a succeeding contract period.

Based on part of 123-21-12, which is repealed by Bill C.

New definition based on general practice.



TEXT

session, beginning approximately the first week in September and ending approximately the first week in June next following.

(12) "Tenure year" means a period of twelve consecutive months including summer months when school is not in regular session.

123-18-3. Employment -- certificate required. A board of a school district shall not employ any person as a teacher, except in an adult education program, unless such person shall possess a teacher's certificate issued in the manner prescribed by law.

123-18-4. Services -- disbursements. No order or warrant for the disbursement of school district moneys shall be drawn in favor of any person for services as a teacher, except for services performed in an adult education program, unless such person shall hold or be entitled to hold a valid teacher's certificate. Such certificate shall be duly registered in the administrative office of the school district wherein the services are to be rendered. A teacher shall hold a valid certificate during all periods of his employment by a school district. Any person who shall perform services as a teacher without possessing, or being entitled to possess, a valid teacher's certificate shall forfeit all claim to compensation out of school district moneys for the time during which such services are performed without such certificate.

123-18-5. Salary schedule -- adoption -- changes. (1) The board of a school district shall adopt a salary schedule for all teachers employed by the district, and such schedule shall remain in effect until changed or modified by the board.

(2) The adopted schedule shall not be changed or modified during the contract year in a manner so as to reduce the salary of a teacher for such year; provided, that the reassignment of a teacher with a reduction in salary pursuant to subsections (2) or (3) of section 123-18-13 shall not be included within the limitations of this subsection.

COMMENTS

New definition.

Based on part of 123-17-1, repealed herein.

Based on 123-17-3 repealed herein. Omits specific reference to "principal, supervisor, or superintendent". Certificates are to be filed in the administrative office of the school district rather than in the office of the county superintendent. Adds "entitled to" hold a certificate, to cover situations where certified teachers for some reason do not possess their certificates (at the beginning of the academic year, for example).

Based in part on present 123-18-6. Applies to non-tenure teachers as well as to tenure teachers.

Based in part on present 123-18-6 but makes exceptions to provide greater flexibility in reassignments of administrators and coaches. Omits present provision allowing salary reduction for a teacher if there

TEXT

COMMENTS

123-18-6. Payment of salaries. (1) The annual salary of a teacher shall be paid in twelve equal monthly installments, but by mutual agreement between a board and a teacher, a salary may be paid in a lesser number of monthly installments.

is a general reduction in the salaries of 50 per cent or more of all teachers in the district.

New provision.

(2) If by mutual agreement between a board and a teacher the salary of such teacher is payable in equal installments over a period of time exceeding the period of time during which his services are to be performed, upon termination of the employment of said teacher prior to the end of the academic year and prior to receiving all of said salary installments, said teacher shall be entitled to a pro rata share of the salary installments due and payable pursuant to said agreement for the period during which no services are required to be performed, except as provided in section 123-18-7 (4) and except if said teacher is dismissed for cause.

New provision based on Attorney General's opinion to the effect that a teacher is legally entitled to receive a pro rata share of his summer salary (even though services are to be performed only on a nine-month or ten-month basis) in the event his employment is terminated during the regular school year.

(3) Section 123-18-14 (2) shall be applicable to a teacher who has not acquired tenure.

123-18-14 (2) herein provides for suspension and for regular compensation during temporary suspension.

123-18-7. Employment contracts -- written. (1) Every employment contract hereafter entered into by any teacher for the performance of services for a school district shall be voidable unless said contract shall have been reduced to writing, except as provided in subsection (2) and (3) of this section.

New provision requiring written contracts for the employment of full-time teachers not classified as substitutes.

(2) Subsection (1) of this section shall not be applicable to a part-time teacher or substitute teacher.

See 123-18-2 (5) and (6) of this bill for definitions of part-time and substitute teachers.

(3) The failure, neglect, or refusal to reduce an employment contract to writing as required by subsection (1) of this section

TEXT

shall not affect the acquisition of tenure as prescribed by sections 123-18-11 through 123-18-17.

(4) Every employment contract hereafter executed pursuant to subsection (1) of this section shall contain a liquidated damages provision. Pursuant to said provision a teacher shall agree to pay liquidated damages to the school district, and the board thereof shall be authorized to collect or withhold liquidated damages from compensation due or payable to said teacher in an amount equivalent to one-twelfth of the annual salary specified in said employment contract. Said liquidated damages shall be paid by the teacher or withheld from his salary if the teacher abandons, breaches, or otherwise refuses to perform services for said school district pursuant to the contract, unless the teacher has given written notice to the board of education thereof on or before the first day of July that he will not fulfill the obligations of his contract for the succeeding academic year or, after the beginning of the academic year, unless the teacher has given at least sixty days written notice to the board thereof during the academic year to the effect that he wishes to be relieved of his contract for the remainder of said year as of a certain date.

123-18-8. Interest prohibited. (1) It shall be unlawful for any employee of a school district to take or receive any part or portion of moneys from the sale, proceeds, profit, or items in lieu thereof, of any book, musical instrument, school supplies, school apparatus, or other materials, including custodial, office, and athletic supplies, sold to a minor, or the parent or guardian of any such minor enrolled in the school wherein said employee is performing services or which may be sold to said school district;

COMMENTS

New provision. Requires that every contract shall contain a provision whereby the teacher agrees to pay liquidated damages to the school district if he abandons or breaches his contract without sixty days notice. The board of education may collect or withhold compensation in an amount equivalent to one-twelfth of the annual salary of the teacher in such cases. This provision does not apply to teachers' resignations duly accepted by the board.

For consistency, section 123-17-21 (2) should be changed from 30 days to 60 days notice.

This subsection is meant to apply to tenure teachers as well as non-tenure teachers, under interpretation that the tenure act creates a contract by operation of law.

New provision. Prohibits school district employees from participating in businesses which sell school supplies, without the written consent of the school board.

## TEXT

provided, that it shall not be unlawful for an employee to receive a part or portion of moneys from the sale, proceeds, profit, or items in lieu thereof if such employee shall first obtain the written consent of the employing board of education.

(2) Any employee who shall violate the provisions of subsection (1) of this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for not more than ninety days, or both such fine and imprisonment.

123-18-9. Automatic re-employment. A teacher employed by a school district on a full-time basis who has not acquired tenure shall be deemed to be re-employed for the succeeding academic year at the salary which he would be entitled to receive under the general salary schedule unless the board thereof shall cause written notice to the contrary to be given to said teacher on or before the twenty-second day of April of the academic year during which said teacher is employed. Said teacher shall be presumed to have accepted such employment for the succeeding academic year unless he shall cause written notice to the contrary to be given to said board on or before said twenty-second day of April.

123-18-10. Dismissal -- reasons -- procedure. (1) No teacher shall be dismissed during the term of his contract without written notice from the board of education stating the reasons therefor.

(2) The procedure outlined in section 123-18-16 shall be applicable to the dismissal of a teacher who has not acquired tenure.

123-18-11. Tenure-required service. (1) Except as otherwise provided in subsection (2) of this section, any teacher employed as a teacher in the same school district, including the time prior to and after July 1, 1965, continuously and without interruption for three full tenure years and who was or shall thereafter be re-employed for the fourth tenure year immediately succeeding in

## COMMENTS

Based on present 123-18-8. Changes the contract date from April 15 to April 22. Refers to the "general salary schedule" rather than the "same salary".

Based on part of present 123-17-1, which is repealed herein.

New provision. At present the procedures for non-tenure teachers differ from those prescribed for tenure teachers.

Based on part of present 123-18-3. Clarifies the time at which tenure becomes effective. Changes the word "year" to "tenure year". Changes the words "tenure in

## TEXT

such school district shall have tenure as a teacher in such school district, without further action on the part of the board or the teacher. Such tenure shall be effective upon the first day of performance of services to said teacher of the fourth tenure year. Sections 123-18-11 to 123-18-17 shall not apply to a person who holds only a letter of authorization; a type E certificate (unless the board of the employing school district shall have elected by the adoption of a resolution to consider the type E certificates held by all teachers employed by said district as regular certifies for the purpose of tenure); a chief executive officer of a school district; a part-time teacher; a substitute teacher; or any teacher who shall have attained the age of sixty-five years.

(2) Services performed by a teacher in a school district which was classified by law as either a second or third class school district prior to July 1, 1963, shall not be included in computing the required period of service as a condition of acquiring tenure unless prior thereto the board shall have extended tenure to the teachers of said school district in the manner prescribed by law.

(3)(a) The three full tenure years of continuous service required for the probationary period shall not be deemed to be interrupted by temporary illness. A military leave of absence pursuant to article 1 of chapter 94, C.R.S. 1963, as amended, shall not be considered to be an interruption of service nor shall it be included in computing said probationary period.

(b) The three full tenure years of continuous service required for the probationary period shall not be deemed to be interrupted by the acceptance by a teacher of the position of chief executive officer in said school district, but the period of time during which such teacher serves in such capacity shall not be included in computing said probationary period.

## COMMENTS

school" to "tenure in such school district". Eliminates reference to classes and kinds of school districts, and to "efficiency and good behavior". Tenure could no longer be acquired in a junior college district.

Exceptions are based in part on present 123-18-2, 123-18-3, and 123-17-14 (4). The new exception for teachers of 65 or more will prohibit such persons from acquiring tenure. (See also 123-18-17 of this bill.)

New provision to clarify application of tenure in former second and third class districts. All school districts are now subject to the tenure act.

Based on part of present 123-18-3. See also Attorney General's opinion relative to provisions of the present tenure act and the military code. Reference to "leaves of absence approved by the employing board" is not included.

New provision.

## TEXT

(c) In all cases where a teacher has acquired tenure in a school district, and all or a portion of said school district becomes a part of another school district through consolidation, annexation, or reorganization, the tenure status acquired by such teacher shall continue in the successor school district.

123-18-12. Prior tenure unaffected -- termination. Nothing contained in this article shall be construed as affecting the right of tenure acquired prior to July 1, 1965, by any teacher pursuant to law; provided, that after such date, such tenure teacher shall be subject to transfer or dismissal as provided in this article.

123-18-13. Transfer -- compensation. (1) A tenure teacher may be transferred upon the recommendation of the chief executive officer of a school district from one school, position, or grade level to another within the school district; provided, that such transfer does not result in the assignment of the teacher to a position of employment for which he is not qualified by virtue of academic preparation and certification; and provided further, that during the then current school year, the amount of salary of such teacher shall not be reduced except as otherwise provided in subsections (2) or (3) of this section.

(2) Notwithstanding the provisions of subsection (1) of this section, a tenure teacher who has been occupying an executive or administrative position for at least one full academic year may be returned to regular classroom instruction with a reduction in salary if a vacancy exists in a teaching position; provided, that said teacher shall be entitled to a salary as otherwise set forth under the salary schedule for a tenure teacher with comparable academic preparation and experience; and provided further, that said teacher may be transferred during said academic year from the executive or administrative position he holds to another school position or grade level within the school district without a reduction in salary during said academic year. If a tenure teacher who has been transferred to the position of chief executive officer of a school district shall be returned to regular classroom instruction under the provisions of this subsection, he shall regain his tenure status acquired before such transfer.

## COMMENTS

New provision.

Based on present 123-18-4.

Based in part on present 123-18-5. Eliminates specific prohibition against discrimination because of race, creed, or color. Limits the prohibition against reduction in salary to the "current school year".

Based in part on present 123-18-5, with details added for clarification. Authorizes the transfer of a teacher from an executive or administrative position to regular classroom instruction even though the teacher is not shown to be "unsatisfactory" in the executive or administrative position. Reduction in salary due to such transfer could not take place during the academic year. Note that this subsection is exempted from the provisions of 123-18-5 (2) of this bill.

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(3) Notwithstanding the provisions of subsection (1) of this section, the salary of a tenure teacher who has received additional compensation for the performance of additional duties may be reduced if said teacher has been relieved of such additional duties.

123-18-14. Annual appointment eliminated -- temporary suspension. (1) A tenure teacher shall not be subject to an annual appointment or employment contract during continuous service, but he shall be entitled to a position of employment as a teacher in the school district where tenure was acquired while possessing a valid Colorado teacher's certificate, until he shall have attained the age of sixty-five years or until he shall have been dismissed pursuant to this article; provided, that this subsection shall not be applicable to a tenure teacher while he is occupying the position of chief executive officer of said school district.

(2) Notwithstanding the provisions of subsection (1) of this section, a tenure teacher may be suspended temporarily with regular compensation until the date of dismissal as ordered by a board pursuant to section 123-18-16.

123-18-15. Dismissal -- reasons. (1) The grounds for dismissal of a tenure teacher shall be for physical or mental disability as determined by a competent medical authority, incompetency, neglect of duty, immorality, conviction of a felony, insubordination, or other good and just cause. No tenure teacher shall be dismissed for temporary illness, leave of absence previously approved by the board, or military leave of absence pursuant to article 1 of chapter 94, C.R.S. 1963, as amended.

(2) Mandatory retirement of a tenure teacher who has

## COMMENTS

New provision designed to provide flexibility in employing coaches and sponsors. Note that this subsection is exempted from the provisions of 123-18-5 (2) of this bill.

New provision based on Marzec v. School District, 142 Colo. 83. Also based on section 342.245 of the Oregon Revised Statutes.

This subsection provides for temporary suspension with regular compensation.

Based on part of 123-17-1, repealed herein. "Dismissal" should be distinguished from "refusal to re-employ". Also based on first part of present 123-18-7. Adds "physical or mental disability" and "conviction of a felony". Deletes "justifiable decrease in the number of teaching positions". Adds prohibition against dismissal for temporary illness, approved leave, or military leave.

New provision to eliminate

## TEXT

attained the age of sixty-five years shall not be considered to be a dismissal under the provisions of this article.

123-18-16. Dismissal -- procedure -- judicial review. (1) A tenure teacher shall be dismissed only in the manner prescribed by this section.

(2) Upon written recommendation by the chief executive officer of the district or any member of the board, charges against any teacher may be brought by the board of the school district employing the teacher. In addition, a written complaint, signed under oath, against any teacher may be filed by any qualified taxpayer elector as defined in section 123-11-1 (3), with the secretary of the board of the school district employing the teacher. At its next regular meeting, the board shall accept or reject the charges or complaint.

(3) If the board accepts the charges or complaint, the secretary shall forthwith give written notice to the teacher that a complaint has been filed, including therewith a copy of said charges or complaint, and stating that a hearing on the complaint may be held by the board. The notice and a copy of the complaint shall be sent by registered mail to the teacher at his last known address by the secretary. The notice shall advise the teacher of his rights and the procedures under this section. The teacher shall be entitled to a hearing if he mails to or files with the secretary of the board a written request therefor within seven days after the date of mailing the notice. Failure of the teacher to mail or file a written request within such time shall be deemed a waiver of his right to a hearing.

(4) If the teacher shall fail or neglect to request a hearing within the time specified, the board, at any time prior to the entry of its order, may permit the holding of a hearing, if the failure or neglect to request a hearing by the teacher was due to excusable oversight or the inability of the teacher to mail or file the request within the specified time.

## COMMENTS

requirement for dismissal procedures for mandatory retirement.

This section is based in part on present 123-18-7.

The superintendent or a board member may recommend proceedings against a teacher. Also, any qualified taxpayer elector may file a written complaint for the board's consideration at its next regular meeting.

Notice of the complaint is sent to the teacher. The teacher is entitled to a hearing before the board, if he requests it within seven days.

Based on part of present 123-18-7 (2). Under certain circumstances the board may permit the hearing even though the teacher failed to make the request within seven days.



## TEXT

- (5) The hearing shall be conducted by the board, and shall be open to the public unless either the teacher or the board requests a private hearing; provided, that no findings of fact or order shall be adopted by the board in any private hearing. The board shall select one of its members as chairman who shall forthwith give the teacher ample written notice of the hearing which shall include the time and place therefor.
- (6) The chairman may receive or reject evidence and testimony, administer oaths and, if necessary, subpoena witnesses. All testimony shall be given under oath. The chairman may order a continuance from time to time, subject to the final time limitation in subsection (8) of this section, and may do all other acts normally performed by an administrative hearing officer.
- (7) A complete record of all the evidence and testimony shall be made and the costs of making such record shall be borne by the board. The board shall review the evidence and testimony and, in open session, shall make written findings of fact thereon and decide whether the teacher shall be retained or dismissed from his position of employment. The chairman shall forthwith forward to the teacher a copy of the findings of fact and decision of the board.
- (8) The board shall enter its written order not later than sixty days after the filing of the complaint. If the board orders the dismissal of the teacher, the teacher's compensation shall be suspended as of the date of dismissal as ordered.
- (9) At the hearing, the teacher shall have the right to appear in person with or without counsel, to be heard and to present testimony of witnesses and other evidence bearing upon the reasons for his proposed dismissal, and to cross-examine witnesses, including the person who filed the complaint against him.
- (10) Within sixty days after the date of the order of the board, the teacher may file an action for review in the district court of the judicial district in which the administrative office

## COMMENTS

Provision for a separate hearing panel has been deleted. Official findings of fact and orders must be adopted in public meetings; the teacher may, however, request a private hearing preliminary to the official findings.

Findings and decisions must be written and forwarded to the teacher.

The over-all time limit for entry of the order is 60 days from the filing of the complaint.

The teacher may take his case to district court for review. Appeal to state commissioner

TEXT

of the employing school district is located, in which action the board shall be made a party defendant. The costs of transcribing and lodging the record of the hearing before the board shall be paid by the teacher.

123-18-17. Cessation of tenure. (1) A teacher who has attained the age of sixty-five years shall not thereafter acquire tenure in a school district. If a teacher shall have acquired tenure prior to having attained the age of sixty-five years, such tenure shall terminate when said teacher attains the age of sixty-five years.

(2) A board shall give at least ninety days written notice to a teacher whose tenure shall terminate upon attaining the age of sixty-five years if the services of said teacher are to be terminated at that time. If a board fails or neglects to give such notice, it shall be presumed that an implied contract exists for the remaining portion, if any, of the academic year, at a salary equivalent to that which said teacher would have been entitled to receive under the salary schedule for tenure teachers. Thereafter said teacher shall be subject to re-employment or dismissal in the manner prescribed for a teacher who has not acquired tenure.

SECTION 2. Repeal. 123-10-21, and 123-17-1 to 123-17-3, Colorado Revised Statutes 1963, are hereby repealed.

SECTION 3. Effective date. This act shall take effect on July 1, 1965.

COMMENTS

of education is deleted.

Based on present 123-18-9. Notice is reduced from one year to ninety days. Modifies provision that tenure shall continue beyond age 65 if notice is not given; provides instead for continued employment until the end of the academic year and authorizes re-employment on a non-tenure basis for succeeding years.

Note that 123-10-21, on exchange of teachers, is not replaced. Statutory authorization is not needed for exchange programs. Also, 123-17-2 is not replaced; it requires teachers to keep daily registers.

IXI

COMMENTS

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SECTION 4. 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.

TEXT

BILL B -- TEACHERS' EMERITUS RETIREMENT FUND

A BILL FOR AN ACT  
CONCERNING ELIGIBILITY OF TEACHERS FOR BENEFITS TO BE PAID FROM  
THE STATE TEACHERS' EMERITUS RETIREMENT FUND.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 123-19-15 (4) and (7), Colorado Revised Statutes  
1963, are hereby amended to read:

123-19-15. Teachers eligible. (4) Shall have retired from  
teaching in the public schools of Colorado prior to July 1, 1967,  
AND SHALL HAVE BEEN A RESIDENT OF COLORADO AS OF THE DATE OF SUCH  
RETIREMENT;

(7) ~~If retiring from school service after January 1, 1952,  
and prior to January 1, 1957, having first had the opportunity  
to join the public employees' retirement system as of January 1,  
1952; and having failed to elect such option because the respective  
school authorities had not indicated to the respective teachers  
that they would lose their entitlements to receive benefits from  
the state teachers' emeritus retirement fund, shall apply to the  
commissioner of education as otherwise specified in section  
123-19-16 on or before July 1, 1957, and shall execute respective  
affidavits that the conditions specified in this subsection are  
true and correct; IF ANY TEACHER HAS MET ALL OTHER REQUIREMENTS AS  
BEFORE STATED AND HAS TAUGHT IN ONE AND THE SAME SCHOOL DISTRICT  
SINCE JANUARY 1, 1952, AND FAILED TO ELECT THE OPTION TO JOIN THE  
PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION BECAUSE OF FAILURE OF  
SCHOOL AUTHORITIES TO PROPERLY INFORM HIM OF SUCH MEMBERSHIP AS A  
CONDITION TO ELIGIBILITY FOR BENEFITS UNDER THE TEACHERS' EMERITUS  
RETIREMENT FUND, SUCH TEACHER SHALL MAKE APPLICATION TO THE COM-  
MISSIONER OF EDUCATION AS OTHERWISE SPECIFIED IN SECTION 123-19-16  
AND SHALL EXECUTE AN AFFIDAVIT ON FORMS PROVIDED BY THE OFFICE OF  
THE COMMISSIONER, SETTING FORTH THAT THE CONDITIONS SPECIFIED ARE  
TRUE AND CORRECT;~~

COMMENTS

Section 123-19-15 specifies  
the requirements for eligibility  
for teachers' emeritus retire-  
ment benefits.

This addition to subsection (4)  
is for clarification in view  
of the removal of the require-  
ment for residence as of the  
date of application.

The present subsection (7)  
provides for applications from  
persons who presented affi-  
davits stating that they failed  
to join PERA because they had  
not been properly informed that  
this would result in a loss of  
teachers' emeritus benefits.  
Such applications can no  
longer be received, however,  
because of the 1957 deadline.

The proposed revision of sub-  
section (7) would again permit  
applications under these  
conditions -- until July 1,  
1967, the deadline set in  
123-19-16. About 15 to 25  
new applications are antici-  
pated under this provision.

TEXT

SECTION 2. Repeal. 123-19-15(5), Colorado Revised Statutes 1963, is hereby repealed.

SECTION 3. Effective date. This act shall take effect July 1, 1965.

SECTION 4. 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.

COMMENTS

Only persons who have taught in the same school district since 1952 would be involved.

123-19-15(5) reads: "Be a resident of Colorado as of the date of application". The number of new participants who would be brought into the program by removing this requirement is not known.

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**BILL C -- REPEAL OF "GENERAL PROVISIONS" CHAPTER --  
INCORPORATION OF CERTAIN PROVISIONS THEREOF IN 1964 ACT  
CONCERNING POWERS AND DUTIES OF BOARDS OF EDUCATION**

**A BILL FOR AN ACT  
CONCERNING SCHOOLS, AND THE POWERS AND DUTIES OF BOARDS OF EDUCA-  
TION OF SCHOOL DISTRICTS.**

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Section 9 of chapter 73, Session Laws of Colorado 1964, is hereby amended BY THE ADDITION OF THE FOLLOWING NEW SUB-SECTIONS:

SECTION 9. Board of education -- specific duties. (23) To cause to be included in the educational program of the district instruction in the proper respect of the flag of the United States, the proper manner of saluting such flag when passing in parade, and the proper use thereof in decorating and display.

(24) To cause to be included in the educational program of the district instruction in the constitution of the United States.

(25) To require in any school district wherein a private school is located, but not more than twice each calendar year, the person in charge and control of such private school to certify in writing, upon forms furnished by said school district, a statement containing the names, ages, places of residence, and number of days of attendance at school during the period or since the last preceding report of all children of school age who are then or since the last preceding report have been attending such private school.

SECTION 2. Section 17 of chapter 73, Session Laws of

**COMMENTS**

This replaces present 123-21-6 and 123-21-7 (repealed herein). Deletes requirement that commissioner of education shall provide the necessary instruction and information.

This replaces present 123-21-8 and 123-21-9 (repealed herein). Deletes detail on the levels at which it should be taught.

This section replaces present 123-21-14 (repealed herein). Reports could not be required more often than twice a year; present law says once per month.

## TEXT

Colorado 1964, is hereby amended to read:

SECTION 17. Determination of residency -- exclusion of non-residents -- exception. A board of education of a school district DETERMINATION OF THE RESIDENCE OF ANY PERSON OF SCHOOL AGE FOR ATTENDANCE IN THE SCHOOLS OF A DISTRICT SHALL BE MADE BY THE BOARD OF EDUCATION OF SUCH DISTRICT, AND THE BOARD may exclude from the schools of its district a ANY pupil who ~~is~~ HAS BEEN DETERMINED not TO BE a resident of IN the district or who becomes a non-resident of the district subsequent to the time of enrollment. A board may waive tuition for a non-resident school-age child and MAY provide free textbooks for said SUCH child if the board determines that the child is required to reside temporarily in the district in order to have a home and the necessities of life.

SECTION 3. Repeal. Article 21 of chapter 123, Colorado Revised Statutes 1963, is hereby repealed.

## COMMENTS

The new language is intended to replace present 123-21-2 (repealed herein), which spells out residence requirements in detail.

The following provisions would be REPEALED by this bill:

### Section

1. Definition of "public school".
2. Detailed provisions for determining residence of child. (See Section 2 of this bill for replacement.)
3. Requirement that instruction be in English language.
- 4 and 5. Requirement for teaching of the history and civil government of the state of Colorado and requirement that the commissioner include same in the state course of study.
- 6 and 7. Requirement for information and instruction regarding the honor and use of the flag of the United States. (See Section 1 of this bill for replacement.)

- 8 and 9. Requirement for instruction regarding the constitution of the United States and the levels at which it must be taught. (See Section 1 of this bill for replacement.)
- 10 and 11. Requirement for instruction on the effects of alcohol and narcotics and provision for removal from office for failure to comply with such requirement.
- 12.(a) Definition of "school year" as July 1 to June 30. See 123-18-2 (10) of Bill A for replacement of this definition.
- (b) Definition of "national holidays", naming nine specific days.
13. Detailed provisions on the taking of the school census. See Chapter 73, Session Laws of 1964, for replacement.
14. Provision requiring information from private schools. (See Section 1 of this bill for replacement.)
- 15.(a) Definition of "school census". See Chapter 73, Session Laws of 1964, for replacement.
- (b) Definition of "school age" as any age over six and under 21.
- (c) Proviso that a school board may admit any child who will attain school age during the school year, subject to the cut-off date set by the board.



16. Requirement that all pupils be tested (without drugs, instruments, or contact) for sight, hearing, and breathing.
17. REPEALED BY CHAPTER 73, Session Laws of 1964. See Section 10 (29) of that chapter for replacement.
- 18 and 19. Prohibition against secret fraternities which are not sanctioned by the school board, and provision for the enforcement of such prohibition.
20. REPEALED BY CHAPTER 73, Session Laws of 1964. See Section 21 of that chapter for replacement.
21. REPEALED BY CHAPTER 68, Session Laws of 1964. See 123-1-8 in Section 1 of that chapter for replacement.

SECTION 4. Effective date. This act shall take effect on July 1, 1965.

SECTION 5. 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.

COMMENTS

TEXT

BILL D -- HANDICAPPED CHILDREN

A BILL FOR AN ACT  
CONCERNING SCHOOLS AND PROVIDING FOR THE EDUCATION OF HANDICAPPED CHILDREN.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 22 of chapter 123, Colorado Revised Statutes 1963, is hereby REPEALED AND RE-ENACTED, WITH AMENDMENTS, to read:

123-22-1. Short title. This article shall be known and may be cited as the "Handicapped Children Educational Act".

123-22-2. Legislative declaration. The general assembly hereby declares that the purpose of this article is to provide means for educating those children in the state of Colorado who are physically, mentally, educationally, or speech handicapped.

123-22-3. Definitions. (1) Unless otherwise indicated by the context, the following words and phrases when used in this article shall have meanings respectively ascribed to them in this section.

(2) "Physically handicapped children" means those persons between the ages of three and twenty-one years who are crippled or orthopedically, aurally, or visually handicapped to the extent that it becomes impracticable or impossible for them to participate in or benefit from the classroom programs regularly provided in the public schools, and whose education requires modification of such normal educational programs.

(3) "Educable mentally handicapped children" means those persons between the ages of five and twenty-one years whose intellectual development renders them incapable of being practically and efficiently educated by ordinary classroom instruction in the public schools, but who nonetheless possess the ability to learn

New provision.

Based on present 123-22-1, but adds "educationally handicapped". No longer enumerates types of physical handicaps.

Based on part of present 123-22-2 but specifically lists types of handicaps rather than referring to "any physical disability".

Based on part of present 123-22-2. Age is changed from "6 to 21" to "5 to 21".

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and may reasonably be expected to benefit from special programs designed to aid them in becoming socially adjusted and economically useful.

(4) "Educationally handicapped children" means those persons between the ages of five and twenty-one who are emotionally handicapped or perceptually handicapped, or both, and who require special educational programs.

(5) "State board" means the state board of education.

(6) "School district" means a school district organized and existing pursuant to law, but shall not include a junior college district.

(7) "Psychologist" means any person who meets any one of the following requirements:

(a) Properly certificated as a school psychologist by the state board.

(b) Properly certified as a psychologist by the Colorado board of psychologist examiners.

(c) Has a minimum of two years of graduate training in psychology, is supervised by a psychologist as defined in paragraphs (a) or (b) of this subsection, and is employed as a psychologist by an institution of higher education, hospital, or mental health clinic or agency, that is supported at least in part by government funds.

(8) "Physician" means a doctor of medicine or osteopathy duly licensed to practice medicine.

123-22-4. Services provided -- limitation on expenditures.  
Services provided for educating handicapped children under this

COMMENTS

New definition, needed because the educationally handicapped would be added to the program under this bill.

New definition.

New definition.

New definition intended to replace the term "accredited personnel" (found in present 123-22-2) with respect to determination of mental handicaps.

New definition intended to replace the term "accredited personnel" (found in present 123-22-2) with respect to determination of physical handicaps.

Based on present 123-22-3, but substitutes "special class

article may include special class teachers, itinerant teachers, speech correctionists, supervisors of special programs as provided by this article, directors of special education, the costs of psychological consultation and assessment, individual instruction in hospitals and homes, maintenance in foster homes, and transportation to and from schools; but no state moneys distributed pursuant to this article for such services shall be expended for the erection or repair of school buildings in any school district, or for medical care.

123-22-5. Administration. This article shall be administered by the state board, which shall maintain sufficient qualified personnel to supervise the provisions hereof, utilizing the existing facilities of the state departments of health, welfare, rehabilitation, and institutions, when possible and needed. The state board shall have authority to adopt reasonable rules and regulations for the administration of this article.

123-22-6. Grouping and facilities. The state board shall prescribe the minimum physical facilities required for special educational programs authorized by this article. It shall determine the diagnostic criteria for enrollment in programs, prescribe minimum and maximum enrollments, and require that all special program personnel hold a valid certificate or a letter of authorization issued pursuant to law with an appropriate endorsement thereon.

123-22-7. Enrollment -- trial period. (1) The determination of the physical handicap of a child shall be made by individual examination conducted by a physician.

(2) The determination of the mental handicap of a child shall be made by individual examination conducted by a psychologist with the consent of the parent or guardian of the child.

teachers, itinerant teachers, speech correctionists, supervisors of special programs..., directors of special education, the costs of psychological consultation and assessment" for "supplementary teaching services" and "special classroom programs". Changes the wording from "maintenance" to "maintenance in foster homes".

Based on Present 123-22-4. Adds the state departments of rehabilitation and institutions.

Present 123-22-16 would be eliminated. It concerns utilization of public health and welfare services.

Based on present 123-22-11.

Subsections (1) and (2) are based on parts of present 123-22-2 and 123-22-6. Proposal specifies "physician" and "psychologist" in lieu of "accredited personnel".

COMMENTS

"Capability of receiving benefits" from the special program would no longer be a statutory criterion for eligibility in district of residence.

Subsection (2) specifically requires consent of parent or guardian prior to psychological examination for mental handicaps.

This proposal eliminates most of present 123-22-6, which contains procedures for application by parent or guardian to local or county superintendent prior to examination and enrollment in a special program in district of residence. It also eliminates present 123-22-17, which provides that no child shall be required to be enrolled in a special program if the parent or guardian certifies to the local school board's satisfaction that the child is receiving adequate educational advantages.

(3) The determination of existence of an educational handicap and the proper placement of an educationally handicapped child in a program of a school district shall be made, with the consent of the parent or guardian of the child, by a special committee appointed by the board of education of such school district and the composition of which shall be prescribed by the state board.

Subsection (3) is new. Consent of the parent or guardian would be required. The state board would set up guidelines to be followed in establishing the local committee.

## IXI

(4) If no special program shall exist in the school district of residence of any handicapped child, the parent or guardian, or the board of education of such school district, may make application for enrollment of such child in a special educational program existing in another school district. Upon determination of eligibility and capability of receiving benefits from enrollment in such a program, and upon approval of both boards of education of such school districts, said child may be enrolled in such program.

(5) The final approval of the enrollment of any eligible handicapped child in a special educational program shall be made by the board of education of the school district providing such program and such child may be enrolled for a trial period not exceeding nine months.

123-22-8. Establishment of special education programs. Any school district may establish a special program for the education of handicapped children, or any classification thereof, and two or more school districts may contract with each other to establish and maintain a special educational program pursuant to law for the education of handicapped children, sharing the costs thereof in accordance with the terms of the contract agreed upon.

123-22-9. Maintenance. For each child enrolled in a special program for handicapped children in a school district other than the school district of residence, the state board may pay to the school district of residence for the maintenance in a foster home of each such child an amount not exceeding eight hundred dollars per school year, or in lieu of maintenance, one-half the cost of transportation of such child as provided in section 123-22-11. Payment for maintenance in a foster home shall be made only in case the parent or guardian of the child does not maintain a residence within the school district wherein the child is enrolled, and where a financial need shall have been determined through a public welfare agency.

## COMMENTS

Based on present 123-22-12, but eliminates specific reference to payment of tuition. Present law provides that "the district of residence shall pay to the district of attendance an amount equal to the yearly cost of educating a normal child of like age in such district of attendance".

Based on present 123-22-7.

Based on present 123-22-5 but does not use the term "special education districts". Reference to contracts between districts replaces provision for state regulation of cost-sharing between districts in a joint program.

Based on present 123-22-13. Eliminates provision for payment of tuition by the state; present maximum is \$300. Raises the maximum amount for maintenance in foster homes from \$500 to \$800. Changes the amount for transportation to "one-half the cost"; present maximum is \$150. Payment would be made to district of residence rather than to district of attendance. Eliminates

123-22-10. Instruction of hospitalized or homebound children. Special instructional services for handicapped children who are hospitalized or homebound may be provided by any school district in which such children are residents. School districts providing such approved services may be reimbursed by the state board up to eighty per cent of the salaries paid teachers for such services. Total length of time of instruction shall not exceed thirty-eight weeks in any school year.

123-22-11. School district report -- reimbursement -- proportion of funds. (1) The board of education of each school district which is eligible for reimbursement under any provisions of this article shall file with the state board on or before August 15 of each year, a report which contains a statement of the costs of approved personnel who have participated in approved special educational programs, the costs of maintenance in foster homes, and the costs of transportation.

(2) A school district which maintains and operates special educational programs approved by the state board for the education of physically handicapped, educable mentally handicapped, educationally handicapped, and speech handicapped children as defined by section 123-22-3 shall be entitled to reimbursement for:

(a) Eighty per cent of the salaries of approved personnel except that in any district which provides six or more classes for the educable mentally handicapped and in which the average daily attendance is less than the average of the average daily attendance of all classes in the state for the educable mentally handicapped, a ratio shall be established using these two figures, the average daily attendance of the district being the numerator, and the resulting factor to be applied against the claimed salaries of the teachers of the educable mentally handicapped;

COMMENTS

requirement that the department of education shall first ascertain that the school district of residence cannot maintain a special education program.

Based on present 123-22-14 and 123-22-15. Eliminates detail concerning application, investigation, and approval. Method of computing reimbursement would be changed. Maximum would be 80% of teacher's salary, whereas present maximum is based on excess hourly cost for up to five hours per week.

Based on part of present 123-22-9. Report would contain only the costs of approved personnel, costs of maintenance, and costs of transportation. State would be changed from June 30 to August 15.

Replaces present 123-22-8 and 123-22-10. Changes method of reimbursement. Excess cost would not be used. All programs would be reimbursed on the basis of 80% of the salaries of approved personnel. Transportation reimbursement would be changed from a maximum of \$150 to 50% of the cost after other state funds are deducted. Maximum reimbursement for maintenance would be increased from \$500 to \$800.

TEXT

(b) Fifty per cent of the cost of any approved special transportation provided for handicapped children, after other funds provided by the state are deducted;

(c) The full amount of the cost of maintenance of a child in a foster home, not to exceed eight hundred dollars per school year.

(3) In the event appropriations shall be insufficient to cover reimbursements provided for in subsection (2) of this section, all approved reimbursements, except those for maintenance in a foster home, which shall always be fully reimbursed, shall be prorated on the basis of total costs submitted in proportion to funds available for reimbursement.

(4) Payments of state aid under the provisions of this article shall in no way affect the amount of state aid for which a school district may otherwise qualify.

SECTION 2. Effective date. This act shall take effect July 1, 1965.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the public peace, health, and safety.

COMMENTS

Based on part of 123-22-9.

New provision.



TEXT

BILL E -- MIGRANT CHILDREN

A BILL FOR AN ACT  
CONCERNING SCHOOLS AND PROVIDING FOR THE EDUCATION OF MIGRANT  
CHILDREN.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 29 of chapter 123, Colorado Revised Statutes 1963, is hereby REPEALED AND RE-ENACTED, WITH AMENDMENTS, to read:

123-29-1. Short title. This article shall be known and may be cited as the "Migrant Children Educational Act".

Based on present 123-29-1.

123-29-2. General purpose. In order to facilitate the education of migrant children who are unable to receive continuous education during the regular school term, and in order to develop fully the capacities and potentialities of migrant children for the benefit of themselves and society, a program for the education of migrant children is hereby established.

Based on present 123-29-3.

123-29-3. Definitions. (1) Unless otherwise indicated by the context, the following words and phrases when used in this article shall have meanings respectively ascribed to them in this section.

Based on present 123-29-2.

(2) "State board" means the state board of education.

(3) "Migrant children" or "migrant child" means and includes any child of school age who is in the custody of migrant agricultural workers, whether or not they are his parents.

(4) "Migrant agricultural worker" means any person engaged in agricultural labor in this state who is residing in a school district which is not his regular domicile during the performance of such agricultural labor.

## TEXT

123-29-4. Administration. (1) The state board may employ necessary personnel, pay necessary travel expenses of such personnel, and purchase supplies and equipment as may be needed to carry out the administration of the program for the education of migrant children as provided in this article, and may make such rules and regulations as it may deem necessary for the proper and efficient administration of said program.

(2) Any school district which maintains a school or schools in its district, and wherein there are migrant children, may make application to the state board to participate in the program established by this article. Any school district participating in said program shall administer the program in its district in accordance with rules and regulations of the state board.

123-29-5. Regular school session requirements. (1)(a) The following standards shall apply during the regular terms of school and shall be applicable equally in every school district:

(b) The residence of a migrant child, for purposes of education, shall be the school district where the migrant child is receiving shelter and the necessities of life, and the provisions of section 17 of chapter 73, Session Laws of 1964, shall not apply to this section.

(c) A migrant child shall attend school while residing in any school district in the state when the regular terms of school are in session, unless excused in compliance with the provisions of "The School Attendance Law of 1963" as amended; and the board of education of a school district shall enforce the attendance in a school of the district of any such migrant child residing in said district.

(d) The payment of additional necessary costs in administering and maintaining the program authorized by this section shall be paid jointly by the state and the participating school district. The per capita additional cost of educating a migrant child in a school district participating in said program may include the following expenses, under rules and regulations prescribed by the state board:

## COMMENTS

Based on present 123-29-4.

Based on present 123-29-5.

The section cited concerns exclusion of non-residents.

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(i) Salaries of personnel, assistance to teachers, clerical, health, and custodial employees; and specialized instructional services as needed.

(ii) Necessary additional textbooks, educational supplies, and equipment.

(iii) School lunch operation.

(iv) School bus transportation.

(v) Provision of and physical plant operation, including rent, heat, light, water, repairs, adjustments, and maintenance, if regular school facilities are not used; provided, that provision of and operation of the school plant shall be a contribution of the school district if regular school facilities are used.

(2) Upon submission and approval by the state board of itemized statements from the boards of education of the participating school districts for additional moneys to cover expenses incurred by them in conducting said programs, such school districts shall be reimbursed for such additional expenses as specified in subsection (1) (d) of this section. Applications by participating school districts for reimbursement shall be made on forms prescribed by the state board, at such time or times during the year as determined by the state board.

123-29-6. Summer schools. (1) The program established by this section shall be under the general supervision of the state board. An educational program for migrant children may be operated within the period from the termination of the regular school term in the spring until the regular school term convenes in the fall.

(2) Any school district wherein there are migrant children

COMMENTS

Changes wording to clarify that the use of regularly used school buildings is a contribution of the district, while expenses incurred in the use of ordinarily unused facilities may be reimbursed, whether or not the facilities are owned by the district. No change in cost is anticipated.

Based on part of present 123-29-6.

COMMENTS

TEXT

in the summer period, may make application to the state board to participate in the summer school program authorized by this section. From such applications the state board shall select school districts to operate summer schools for migrant children in accordance with the amount of funds available, the number of migrant children in the school districts, and other criteria specified by the state board.

(3) Resident requirements for migrant children under the summer school program shall be the same as set forth in section 123-29-5.

(4) For the purpose of the summer school program, in addition to the "migrant child" defined in 123-29-3, a child of school age shall be considered a migrant child if he was not able to attend the full number of days prescribed by law during the previous school year as a direct result of being in the custody of a migrant agricultural worker.

(5) The board of education of a school district shall have the authority to determine whether attendance at summer school shall be voluntary or compulsory. If attendance is compulsory, migrant children shall attend unless excused in compliance with "The School Attendance Act of 1963", as amended.

(6) Each school district participating in the summer school program shall be reimbursed from state funds for actual costs incurred in the operation of such program, including allotments for classroom units and supervisory units based upon the formulas set forth in section 123-29-7. Such school district shall also receive reimbursement, under rules and regulations of the state board, for the net cost of its school lunch operation and for school bus

Subsection (4) would be new legislation in response to an opinion of the Attorney General that children who are migrant during the school year but not in the summer do not qualify for the summer schools under the existing law. Estimated costs: no change from the policy followed before the Attorney General's opinion: \$15,000 per year increase over current policy.

## TEXT

operations at rates fixed by the state board. School districts shall report all such costs on forms prescribed by the state board.

123-29-7. Computation for reimbursement. (1) Classroom unit (CU) formula. A classroom unit (CU) shall consist of fifteen children in average daily attendance. The number of classroom units and fractions thereof shall be multiplied by the number of school days in the term plus one day in order to determine the number of daily classroom units allowable. The number of daily classroom units shall be multiplied by the value of state aid for a daily classroom unit in order to determine the total amount of classroom unit state aid. The value of the daily classroom unit state aid shall be determined annually by the state board.

(2) Supervisory unit (SU) formula. The number of supervisory units in a school of one to ten or more teachers shall be 1.00 plus .05 for each classroom unit allowable through ten, to a maximum of 1.50 for ten teachers, plus .02 for each teacher beyond ten teachers. The number of supervisory units shall be multiplied by the number of days in the term plus two days in order to determine the number of daily supervisory units allowable. The number of daily supervisory units shall be multiplied by the value of state aid for a daily classroom unit in order to determine the total amount of supervisory unit state aid.

SECTION 2. Effective date. This act shall take effect July 1, 1965.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the public peace, health, and safety.

## COMMENTS

Based on present 123-29-6(5)  
(b) and (c).

TEXT

BILL F -- "DIPLOMA MILLS"

A BILL FOR AN ACT  
REGULATING THE AWARDING OF DEGREES, INCLUDING DEGREES FOR ACADEMIC  
ACHIEVEMENT OR HONORARY DEGREES; PROVIDING PENALTIES; AND  
MAKING AN APPROPRIATION FOR THE ADMINISTRATION OF THIS ACT.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. The general assembly hereby declares that this act is enacted for the general improvement of the educational programs available to the residents of the state of Colorado; to establish high standards for the education of such residents; to prevent misrepresentation, fraud, and collusion in offering such educational programs to the public; to eliminate those practices relative to such programs which are incompatible with the public interest; and to protect, preserve, foster, and encourage the educational programs offered by private educational institutions which are of comparable standards to educational programs offered by state universities and colleges. To these ends, these sections shall be liberally construed.

SECTION 2. Definitions. (1) Unless otherwise indicated by the context, the following words and phrases when used in this act shall have the meanings respectively ascribed to them in this section.

(2) "Degree" means any statement, diploma, certificate, or other writing in any language which indicates or represents, or which is intended to indicate or represent, that the person named thereon is learned in or has satisfactorily completed a prescribed course of study in a particular field of endeavor, or that the person named thereon has demonstrated proficiency in any field of endeavor, as a result of formal preparation or training.

(3) "Honorary degree" means any statement, diploma, certificate, or other writing in any language which indicates or represents, or which is intended to indicate or represent, that the person named thereon is learned in any field of public service or has performed

COMMENTS

This would be completely new legislation to prevent the operation of so-called "diploma mills" by regulating the awarding of degrees. "Diploma mills" are not regulated under present law.

outstanding public service, or that the person named thereon has demonstrated proficiency in any field of endeavor without having completed formal courses of instruction or study or formal preparation or training.

(4) "State college or university" means an institution of higher learning, including a junior college, established and existing pursuant to law as an agency of the state of Colorado, and supported wholly or in part by tax revenues.

(5) "Private college or university" means an institution of higher learning doing business or maintaining a place of business in the state of Colorado, which requires as a prerequisite for admission to a degree program that a person shall have successfully completed high school or the equivalent thereof, and offers courses of instruction or study wherein credits may be earned toward a degree in a field of endeavor, the majority of which are generally accepted or transferable to at least one college or university accredited by the New England Association of Colleges and Secondary Schools, or the Middle States Association of Colleges and Secondary Schools, or the Southern Association of Colleges and Secondary Schools, or the North Central Association of Colleges and Secondary Schools, or the Northwest Association of Secondary and High Schools, or the Western College Association.

(6) "Seminary" or "bible college" means a bona fide religious institution of higher learning doing business or maintaining a place of business in the state of Colorado, and which institution is exempt from property taxation under the laws of this state.

SECTION 3. Awarding degrees. Notwithstanding the provisions of section 31-20-5, C.R.S. 1963, or any other law to the contrary, no person, partnership, corporation, company, society, or association doing business in the state of Colorado, shall award, bestow, confer, give, grant, convey, or sell to any other person a degree or honorary degree upon which may be inscribed, in any language, the word "associate", "bachelor", "baccalaureate", "master", or "doctor", or any abbreviation thereof, except a state college or university, private college or university, or a seminary or bible college as defined in section 2 of this act, and except a school, college, or

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university which offers courses of instruction or study in compliance with standards prescribed by chapters 23, 91, or 102, C.R.S. 1963.

SECTION 4. Administration of act -- injunctive proceedings. The state department of education is hereby charged with the administration of this act. The department, acting through the attorney general, may proceed by injunction against any violation of this act, but no such proceeding and no order issued therein or as a result thereof shall bar the imposition of any other penalty imposed for violation of this act.

SECTION 5. Violation. Any person, partnership, corporation, company, society, association, or agent thereof, doing business or maintaining a place of business in the state of Colorado, who shall violate the provisions of section 3 of this act shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment.

SECTION 6. Appropriation. There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, to the state department of education, for the fiscal year beginning July 1, 1965, the sum of seventeen thousand five hundred dollars (\$17,500), or so much thereof as may be necessary, for the purpose of administering the provisions of this act.

SECTION 7. Severability clause. If any provisions of this act or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are declared to be severable.

SECTION 8. 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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BILL G -- PROPRIETARY SCHOOLS

A BILL FOR AN ACT  
CONCERNING PROPRIETARY SCHOOLS; PROVIDING FOR THE REGULATION AND  
ACCREDITATION OF SUCH SCHOOLS; AND MAKING AN APPROPRIATION FOR  
THE ADMINISTRATION OF THIS ACT.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Act cited. This act may be cited as "The Proprietary School Act of 1965".

SECTION 2. Legislative declaration. The general assembly hereby declares that this act is passed for the general improvement of educational programs made available to the residents of the state of Colorado; to prevent misrepresentation, fraud, and collusion in offering such educational programs which are incompatible with the public interest; to establish higher standards for, and to protect, preserve, foster, improve, and encourage the educational programs offered to the public; and to encourage the residents of Colorado to attain a high degree of excellence in the pursuit of education. To these ends, this act shall be liberally construed.

SECTION 3. Definitions. (1) Unless otherwise indicated by the context, the following words and phrases when used in this act shall have meanings ascribed respectively to them in this section.

(2) "Proprietary school" means any business enterprise operated for a profit or on a non-profit basis which maintains a place of business either within or without this state, and which offers or maintains a course or courses of instruction or study, or at which place of business such a course or courses of instruction or study is available through classroom instruction or by

COMMENTS

This would be completely new legislation. At the present time the state has no control over the vocational and technical proprietary schools covered by this proposal.

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correspondence, or both, to a person or persons for the purpose of training or preparing such person for a field of endeavor in a business, trade, technical, or industrial occupation, except as excluded pursuant to subsection (3) of this section.

(3)(a) The definition of a proprietary school shall not include the following:

(b) A school or educational institution supported entirely or partly by revenues derived from taxation from either a local or state source.

(c) A parochial, denominational, or eleemosynary school or institution.

(d) A school or training program which offers instruction primarily in the field of an avocation, recreation, health, or entertainment, as determined by the state board.

(e) A course or courses of instruction or study sponsored by an employer for the training and preparation of its own employees.

(f) A course or courses of study or instruction sponsored by a recognized trade, business, or professional organization for the instruction of the members of such organization.

(g) Apprenticeship training in a program recognized by the industrial commission of Colorado under an agreement registered with said commission pursuant to section 9-1-6, C.R.S. 1963.

(h) State colleges, junior colleges, and universities organized and existing pursuant to law.

(i) Private colleges and universities which award a baccalaureate or higher degree and which maintain and operate an educational program comparable in terms of academic standards to the state colleges, junior colleges, and universities referred to in paragraph (g) of this subsection.

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- (j) A private school which provides a basic academic education comparable to that provided in the public schools of the state.
- (k) A school offering a program only for children six years of age or younger.
- (1) A school which is regulated and licensed under an occupational licensing act of Colorado.
- (4) "State board" means the state board of education.
- (5) "Agent" means any employee, solicitor, owner, or other person who, for remuneration, enrolls or seeks to enroll a resident of this state, whether through personal contact, telephone, advertisement of any nature, letter, or publication of other printed material, in a course or courses of instruction or study offered or maintained by a proprietary school, or who otherwise holds himself out to the residents of this state as representing a proprietary school for such purpose.
- (6) "Agent's permit" means a nontransferable written authorization issued to a natural person by the state board, pursuant to the provisions of this act, to solicit any resident of this state to enroll in a course or courses of instruction or study offered or maintained by a proprietary school.
- (7) "Certificate of approval" means a nontransferable written authorization issued by the state board to a proprietary school located within this state in the name of such school, pursuant to the provisions of this act, to offer or maintain a course or courses of instruction or study in compliance with the provisions of this act and the rules and regulations of the state board promulgated pursuant to law.
- (8) "Accredited school" means a proprietary school located within this state which offers and maintains a course or courses of instruction or study in compliance with the provisions of this act and the rules and regulations promulgated pursuant to law, and

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which school also has been issued a certificate of accreditation by the state board as a result of maintaining standards of excellence for its course or courses of instruction or study which meet or exceed minimum accreditation standards, said standards being higher than those prescribed as a condition of obtaining a certificate of approval for said proprietary school.

SECTION 4. Agent's permit. (1) No person shall solicit or perform the services of an agent in this state for a proprietary school, located either within or without this state, unless said person shall have been issued an agent's permit for said proprietary school.

(2) No person shall be issued an agent's permit unless he is an individual of good moral character as determined by the state board.

(3) Except as provided in subsection (8) of this section, no person shall be issued an agent's permit unless he shall make application upon forms to be provided by the state board, and unless said application shall be accompanied by a fee of five dollars and a good and sufficient surety bond in a penal sum of five thousand dollars. The state board shall have the authority to determine and approve the sufficiency of said surety bond.

(4) The surety bond shall be conditioned to provide indemnification to any student or enrollee who shall suffer loss or damage as a result of fraud or misrepresentation to said student or enrollee in procuring his enrollment in a course or courses of instruction or study offered or maintained by said proprietary school. The liability on said surety bond shall be five thousand dollars for each agent each school year, as the term "school year" is defined in section 5(8) of this act.

(5) The surety bond may be of blanket form to cover more than one agent for a proprietary school, but it shall cover each agent for said proprietary school in a penal sum of five thousand dollars.

(6) A surety on said bond may be released therefrom after

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said surety shall make a written notice thereof directed to the state board at least thirty days prior to said release; provided, that no surety shall be released from said bond unless all sureties on said bond shall be released.

(7) The surety bond shall cover the period of the agent's permit except when a surety or the sureties shall be released in the manner as provided by subsection (6) of this section.

(8) Notwithstanding the provisions of subsections (3) to (7) of this section, the state board may issue an agent's permit to each person who is an owner of more than ten per cent legal interest in a proprietary school located in this state and who is a resident of this state, and no such owner shall be required to pay the agent's permit fee or execute an agent's surety bond as otherwise required by this section; provided, that said proprietary school shall have been issued a certificate of approval pursuant to the provisions of this act.

(9) An agent's permit shall be suspended by operation of law when said agent is no longer covered by a surety bond as required by this section; provided, that the state board shall cause said agent to receive at least ten days written notice prior to the release of his surety or sureties to the effect that said permit shall be suspended by operation of law until another surety bond shall be filed in the same manner and like amount as required for the initial surety bond.

(10) An agent's permit shall be valid for a period of twelve months from the date of issuance except when suspended or cancelled pursuant to the provisions of this act. An agent's permit may be renewed in the same manner and under the same conditions prescribed for the issuance of an initial agent's permit.

SECTION 5. Proprietary school -- certificate of approval. (1) No person, company, firm, corporation, association, society, or partnership shall maintain and operate a proprietary school located within this state until said school shall have been issued a certificate of approval by the state board pursuant to the provisions of this act.

(2) No proprietary school shall be issued a certificate of approval unless it shall make application, through its officers or an owner, upon forms to be provided by the state board, and unless said application shall be accompanied by a fee of twenty-five dollars and a good and sufficient surety bond in a penal sum of five thousand dollars. The state board shall have the authority to determine and approve the sufficiency of said surety bond.

(3) The surety bond shall be conditioned to provide indemnification to any student or enrollee who shall suffer loss or damage as a result of said proprietary school having failed or neglected to faithfully perform all agreements, express or otherwise, with the student or enrollee, or the parents or guardians thereof, as represented by the application for the certificate of approval and the materials submitted in support of said application, or as a result of having failed or neglected to maintain and operate a course or courses of instruction or study in compliance with the standards of this act and the rules and regulations promulgated pursuant to law. The liability on said surety bond shall be five thousand dollars for each school year, as the term "school year" is defined in subsection (8) of this section.

(4) A surety on said bond may be released therefrom after said surety shall have made a written notice thereof directed to the state board at least thirty days prior to said release; provided, that no surety shall be released from said bond unless all sureties on said bond shall be released.

(5) The surety bond shall cover the period of the certificate of approval except when said surety or sureties shall be released in the manner as provided by this section.

(6) The certificate of approval shall be suspended by operation of law when said proprietary school is no longer covered by a surety bond as required by this section; provided that the state board shall cause said proprietary school to receive at least ten days written notice prior to the release of said surety or sureties to the effect that said approval shall be suspended by operation of law until another surety bond shall be filed in the same manner and

like amount as required for the initial surety bond.

(7) The application for a certificate of approval shall be accompanied by a copy of each of all school catalogs, bulletins, and other published materials to aid the state board in evaluating the school for the purpose of granting or denying a certificate of approval. The application and accompanying data shall be certified as true and correct in content and policy by the chief executive officer of said proprietary school.

(8) A certificate of approval shall be valid for a period of one school year, beginning the first day of July and ending the thirtieth day of June next following, except when said approval shall be suspended or cancelled pursuant to the provisions of this act. A certificate of approval may be renewed in the same manner and under the same conditions prescribed for the issuance of initial approval.

(9) The bonding requirements herein set forth may be reduced in the sole discretion of the state board upon a showing by the proprietary school that they are excessive in the case of any particular proprietary school.

SECTION 6. Fees -- deposit. All fees collected pursuant to the provisions of sections 4 and 5 of this act shall be deposited in the state treasury to the credit of the general fund, and no fees collected under the provisions of said sections shall be subject to refund.

SECTION 7. Agent's permits -- school approval -- violations. Any person, company, firm, corporation, association, society, or partnership, or any officer or employee thereof, who shall violate the provisions of sections 4 (1) or 5 (1) of this act shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed three hundred dollars, or by imprisonment in the county jail not to exceed six months, or by both such fine and imprisonment.

SECTION 8. Minimum standards -- certificate of approval. (1)

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- (a) No proprietary school located in this state shall be issued a certificate of approval under the provisions of this act until the state board shall have determined that said proprietary school is maintained, operated, or, in the event of a new proprietary school, that said school can be reasonably maintained and operated, in substantial compliance with the following minimum standards:
  - (b) That the instructional quality and content of each course of instruction or study shall be consistent with generally accepted criteria for institutions of like nature.
  - (c) That the proprietary school has adequate space, equipment, instructional materials, and instructor personnel to provide training and preparation of the quality specified in paragraph (b) of this subsection.
  - (d) That the educational and experience qualifications of directors, administrators, supervisors, and instructors are satisfactory in terms of the quality of instruction specified in paragraph (b) of this subsection.
  - (e) That a copy of the course outline and a schedule of tuition be furnished each student applicant prior to enrollment.
  - (f) That upon satisfactory completion of training, the student shall be given a certificate by said proprietary school which indicates that said course or courses of instruction or study had been satisfactorily completed by said student.
  - (g) That adequate records shall be maintained and available for inspection.
  - (h) That the proprietary school shall be maintained and operated in compliance with all local, city, and county ordinances and state law, including rules and regulations adopted pursuant thereto, relative to the safety and health of all persons upon the premises.
  - (i) That the proprietary school is financially sound and



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reasonably capable of fulfilling commitments to students for training and preparation.

(j) That the proprietary school does not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission, or intimation.

(k) That the chief executive officer, directors, owners, administrators, supervisors, and instructors are of good moral character.

(1) That the proprietary school adheres to a tuition refund schedule as presented in published form prior to enrollment in the event a student fails or neglects to enter training, or in the event he shall discontinue the training or be excluded therefrom.

(2) The state board shall have the power to investigate, appraise, and evaluate from time to time any proprietary school now located, or which may be hereafter located, in this state. The investigation, appraisal, and evaluation shall be for the purpose of determining whether the proprietary school is maintained and operated or, in the event of a new proprietary school, whether such new proprietary school can be reasonably maintained and operated, in compliance with the provisions of this section.

(3) If the state board shall determine upon investigation, appraisal, and evaluation that a proprietary school located within this state is maintained and operated, or, in the event of a new proprietary school, that said school can be reasonably maintained and operated, in compliance with the minimum standards prescribed by this section, the state board shall issue a certificate of approval to said proprietary school.

SECTION 9. Accreditation. (1) The state board shall have the power to investigate, appraise, and evaluate from time to time any approved proprietary school located in this state, or which may be hereafter located in this state, upon request of said school, for the purpose of determining whether said school shall be an accredited school.

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(2) Said school shall pay the reasonable expenses not to exceed one hundred dollars incurred by state employees and officers during said investigation, appraisal, and evaluation.

(3) If the state board determines, after the investigation, appraisal, and evaluation, that said proprietary school shall be classified as an accredited school, the state board shall issue to said accredited school a certificate of accreditation.

(4) The state board shall have authority to revoke or suspend a certificate of accreditation if, at any time, said accredited school shall not be maintained and operated in compliance with the rules, regulations, and standards promulgated for the accreditation of any proprietary school.

(5) The suspension or revocation of a certificate of accreditation or the failure to obtain such certificate, shall not in any manner affect the certificate of approval issued to said school or otherwise prevent a proprietary school from obtaining a certificate of approval under the provisions of this act.

SECTION 10. Revocation of agent's permits and certificates of approval. (1) An agent's permit may be revoked by the state board for fraud or misrepresentation in procuring or soliciting a student or prospective student for enrollment in a course or courses of instruction or study offered or maintained by a proprietary school located within or without this state. An agent's permit may be revoked by the state board for a false or misleading written or oral statement in the application therefor submitted by the applicant with the intent to mislead or conceal the truth.

(2) In the event that the certificate of approval of the proprietary school designated upon an agent's permit shall be suspended or revoked, or in the event said agent shall leave the employ of said approved proprietary school, the agent's permit shall be suspended by operation of law; provided, that the agent shall be given at least ten days written notice of said suspension, and of the suspension or revocation of the certificate of approval,

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## COMMENTS

of said proprietary school; and provided further, that said agent shall be entitled to obtain a reissue of his agent's permit for the remaining unexpired period of time, without an additional fee, with another approved proprietary school designated thereon.

(3) A certificate of approval issued to a proprietary school may be suspended or revoked for the failure to maintain and operate a course or courses of instruction or study in compliance with the standards prescribed in section 8 of this act. A certificate of approval may be suspended or revoked by the state board for a false or misleading written or oral statement submitted by the applicant proprietary school with the intent to mislead or conceal the truth.

(4) An agent's permit or the certificate of approval of a proprietary school may be suspended or revoked by the state board in accordance with the procedures prescribed for revocation of permits and licenses by article 16 of chapter 3, C.R.S. 1963.

SECTION 11. Advisory committee. (1) There is hereby created an advisory committee of seven persons to advise the state board relative to the administration of this act. Each member of the committee shall be a citizen of the United States and a resident of this state. Members shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties. Four members shall be representative of proprietary schools. One member shall be representative of industry, one shall be representative of labor, and one shall represent the public.

(2) Within thirty days after the effective date of this act, the governor shall appoint four members for a term of two years and three members for a term of four years. As the term of office of each such member shall expire, a successor shall be appointed for a term of four years.

(3) The proprietary school advisory committee shall make recommendations to the state board relative to whether a proprietary school is maintained and operated, or in the event of a new proprietary school, whether it can be reasonably maintained and

operated, in substantial compliance with the provisions of this act.

SECTION 12. Rules and regulations. The state board shall have the authority to promulgate and adopt reasonable rules and regulations for the administration of the provisions of this act.

SECTION 13. Effective date. This act shall take effect on July 1, 1965.

SECTION 14. Certificate of approval -- agent's permit -- time to comply. (1) Any proprietary school in operation prior to October 1, 1965, shall have until October 1, 1965, to apply for a certificate of approval. The state board shall grant or deny any such certificate of approval, pursuant to the provisions of this act, within ninety days after application is made therefor.

(2) Any agent performing the services of an agent in this state for a proprietary school prior to October 1, 1965, shall have until October 1, 1965, to apply for an agent's permit. The state board shall grant or deny any such agent's permit, pursuant to the provisions of this act, within ninety days after application is made therefor.

SECTION 15. Appropriation. There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, to the state department of education, for the fiscal year beginning July 1, 1965, the sum of seventeen thousand five hundred dollars (\$17,500), or so much thereof as may be necessary, for the purpose of administering the provisions of this act.

SECTION 16. Severability clause. If any provision of this act, or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 17. Safety clause. The general assembly hereby finds,

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determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

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COMMENTS

TEXT

BILL H -- SCHOOL DISTRICT ORGANIZATION

A BILL FOR AN ACT  
CONCERNING SCHOOLS AND THE ORGANIZATION AND REORGANIZATION OF  
SCHOOL DISTRICTS.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 25 of chapter 123, Colorado Revised Statutes 1963, and all amendments thereto enacted by chapters 39, 70, 71, 73, and 74, Session Laws of Colorado 1964, are hereby REPEALED AND RE-ENACTED, WITH AMENDMENTS, to read:

ARTICLE 25

"The School District Organization Act of 1965"

123-25-1. Short title. This article may be cited as "The School District Organization Act of 1965".

123-25-2. Legislative declaration. The general assembly hereby declares that this article is passed for the general improvement of the public schools in the state of Colorado; the equalization of the benefits and burdens of education throughout the various counties and communities of the state; the organization of public school districts in the state, and the alteration of the boundaries of established districts and generally to enlarge the areas of school districts in the state in order to provide for the maintenance of a thorough and uniform system of free public schools throughout the state; to provide for education of the citizens of the state of school age who are qualified therefor; to make possible a higher degree of uniformity of school tax rate among school districts; and to have a wiser use of public funds expended for the support of the public school system of the state. To these ends this article shall be liberally construed.

123-25-3. Definitions. (1) Unless otherwise indicated by the context, the following words and phrases when used in this

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Based on present 123-25-1.

Based on present 123-25-2.

This section is based on present 123-25-3. Several of

TEXT

article shall have the meanings respectively ascribed to them in this section.

- (2) "State board" means the state board of education.
- (3) "Commissioner" means the state commissioner of education.

(4) "School district" means a school district organized and existing pursuant to law, but shall not include a junior college district.

(5) "New district" means a school district which has become a new body corporate pursuant to the provisions of this article.

(6) "Proposed district" means an area composed of all or parts of two or more districts, the plan for the organization of which shall have been proposed by a school planning committee, or, in case the same embraces parts of two or more counties, by the school planning committees of the said counties.

(7) "County superintendent" means a county superintendent of schools.

(8) "Committee" means the school planning committee provided for under section 123-25-4.

(9)(a) "Qualified elector" means a person who is at least twenty-one years of age, a citizen of the United States, and who has resided in the state for at least twelve months, in the county for ninety days, in the new district or in the area of the proposed district for thirty days, and in the school election precinct for fifteen days immediately preceding the election; and a "registered qualified elector" means a qualified elector who has complied with the registration requirements of law for the election of school directors.

COMMENTS

the definitions have been simplified.

Based on present 123-25-3(4) but eliminates reference to classes and types of school districts. Specifically excludes junior college districts.

Based on present 123-25-3(5) but changed to clarify that mere boundary changes do not result in a new district.

This subsection is based on present 123-25-3(9) but adds definitions of "qualified elector", "registered qualified elector", and "registered qualified taxpayer elector".

These definitions are basically the same as those in Chapter 70 and 74, S.L. 1964.

TEXT

(b) "Qualified taxpaying elector" means a qualified elector who, during the twelve months next preceding the election, has paid an ad valorem school tax upon property located within the new district or the area of the proposed district and owned by said person; and "registered qualified taxpaying elector" means a qualified taxpaying elector" means a qualified taxpaying elector who has complied with the registration requirements of law for the election of school directors.

(10) "Ad valorem school tax" means only the general property tax, levied annually on real or personal property listed with the county assessor. No person shall be considered as a qualified taxpaying elector for the purposes of this article by payment of any one or more or all of the following taxes: Income tax, sales tax, use tax, excise tax, specific ownership tax on a motor vehicle or trailer, or any other tax which is not a general ad valorem school tax as hereinabove defined, and the generality of said definition shall never be restricted by the listing set forth herein.

(11) "Registration list" means the list of registered qualified electors of each school district organization election precinct prepared by the county clerk from the county registration books.

(12) "Poll book" means the list of voters to whom ballots are delivered or who are permitted to enter a voting machine booth for the purpose of casting their votes at a special school district organization election.

(13) "Watcher" means a person whose name has been submitted to the county clerk of the county in which his school district organization election precinct is located and who has been certified by such county clerk as a registered qualified elector of the proposed school district, entitled to serve at a polling place in such proposed school district with the right to remain inside the polling place from at least fifteen minutes prior to the opening of the polls until after the completion of the count of votes cast at the election and the certification of the count by the election judges. Each watcher shall have the right to maintain a list of

COMMENTS

Requirement for residence in the area of the proposed district is reduced from 90 days to 30 days, but 15-day precinct residence and 90-day county residence are new requirements.

This is a new definition basically the same as those in Chapters 70 and 74, S.L. 1964

Subsections (11) through (14) are new definitions similar to those in Chapter 74, S.L. 1964.



TEXT

voters, to witness and verify each step in the conduct of the election from prior to the opening of the polls through the completion of the count and announcement of the results, and, in case of discrepancies, to assist in the correction thereof.

(14) "School enrollment" means the end-of-year enrollment reported by the secretary of the board of education to the state department of education for the school year next preceding the school year in which the election is held.

(15) "Plan of organization" means the plan of organization developed by a county school planning committee, or committees if the territory of more than one county is included therein, for a proposed district which may become a new district under the provisions of this article, and the word "plan" may include more than a single plan of organization if the registered qualified taxpaying electors of the respective proposed districts are to vote simultaneously on the plans of organization.

123-25-4. School planning committee. (1) Except as provided in subsection (2) of this section, there shall be elected in each county, within sixty days after July 1 of each odd numbered year, beginning with July 1, 1965, a school planning committee, herein-after referred to as "the committee", of not less than nine nor more than thirteen members. The members so elected shall serve for terms of two years and until their successors are duly elected and qualified.

(2)(a) A committee need not be elected:

(b) In any county or city and county which has only one school district embracing the entire county or city and county, unless a majority of the members of the board of education of said school district make request to the state board for the election of such a committee, or unless the state board shall order a committee to be elected in such county or city and county.

COMMENTS

New definition. Eliminates contention that there is only a single plan even though it may include more than one proposed new school district. Otherwise a court might invalidate the formation of several new districts for an invalid proceeding in the formation of only one such district.

Based on parts of present 123-25-4(1) and 123-25-5. Eliminates provision for 15 members in counties with more than 40 districts (no county has more than 40 districts now). Also eliminates reference to classification of school districts.

Based on part of present 123-25-4(1). Adds provision permitting the state board to order the election of a committee (even though not requested by the local board or boards). See also 123-25-5

TEXT

(c) In any county in which a complete plan of reorganization has been effected under "The School District Reorganization Act of 1949" or "The School District Organization Act of 1957", unless a majority of the boards of directors of all school districts in such county shall make request to the state board for the election of such a committee, or unless the state board shall order a committee to be elected in such county.

(3) The commissioner shall notify in writing the county superintendent of each county in which a committee is required to be elected under the provisions of subsections (1) and (2) of this section. Within thirty days after receipt of such notification, the county superintendent shall call a meeting of the presidents of the boards of education of all school districts within his county. The notice of such meeting shall be sent by certified mail at least seven days before the date set for such meeting and shall state the time, place, and purpose of such meeting. If the president of any board of education cannot personally attend said meeting, it shall be his duty to designate in writing a member of his board as his proxy, who shall have the same rights as said president if attending personally. If the board of education in any county or city and county which has only one school district embracing the entire county or city and county requests the election of a committee as authorized by subsection (2)(b) of this section, said board shall set the date for a meeting within sixty days after such request is made to the commissioner.

(4) At said meeting, the number of members of the committee shall be established, within the limits prescribed in this article, by a majority vote of those present, provided a quorum is in attendance. A quorum shall be a simple majority of the presidents of the boards of education notified under subsection (2) of this section, or their proxies. The members of the committee shall then be elected at said meeting by nomination and secret ballot. There shall also be elected by the same method an alternate for each member of the committee. Each member of the committee and each alternate

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(1) of this bill on termination of committee existence.

Based on present 123-25-4(2). Adds provision for the board (rather than the county superintendent) of a one-district county to set the meeting date.

Based on present 123-25-4(3).

TEXT

COMMENTS

shall be a qualified taxpaying elector of the county in which elected, as defined in section 123-25-3 (9)(b). Due consideration in the selection of members of the committee and alternates shall be given to the interest theretofore shown by such persons in the affairs of the schools in the county, and to the place of residence of such members and alternates, in order that all parts of the county may be duly represented.

(5) Upon the election of members of the committee and their alternates, the county superintendent shall prepare a written form of acceptance of membership on said committee, and shall send by certified mail to each member elected one of such forms, together with a letter notifying such person of his election as a member of such committee and of the duties of such committee, and that acceptance as a member of such committee should be returned to the county superintendent within ten days. If such person so elected as a member of the committee fails to accept such election within fifteen days of the date of mailing of such notification, he shall be dropped from such committee and a similar form of acceptance and notification shall be mailed by certified mail to his alternate. If such alternate does not accept such election to said committee within fifteen days of date of mailing such notification, then there shall be a vacancy in such committee to be filled as provided for filling of vacancies on the committee under section 123-25-6.

Based on present 123-25-4(4).

(6) Upon the acceptance by a majority of the members of such committee or their alternates the county superintendent shall call a meeting of such committee to be held at such time and place as he may designate and shall send notice thereof by certified mail to each member at least five days before the date set for such meeting.

Based on present 123-25-4(5).

(7) If acceptance shall not be received as provided in subsection (5) of this section from a majority of the members of said committee or their alternates, then a new meeting shall be called by the county superintendent of the presidents of the boards of education as provided in subsection (3) of this section, at which meeting vacancies in said committee shall be filled by election as provided in subsections (4) and (5) of this section, and so successively until a majority of this committee has been elected and

Based on present 123-25-4(6).

TEXT

accepted; and thereafter vacancies occasioned by nonacceptance shall be filled by the committee as provided in section 123-25-6.

(8) At its first meeting the committee shall select a chairman and vice-chairman. The county superintendent shall be a non-voting member of said committee and shall serve as the secretary thereof.

(9) (a) The committee shall have the following duties:

(b) To make a careful study of the public school system in its county;

(c) To cooperate with the state board and the commissioner in arriving at a plan of organization of school districts within said county;

(d) To pass upon and recommend any plan for the organization of the school districts in said county, or portion thereof;

(e) To call for an election or elections to vote upon such plan as provided in section 123-25-18 and, if the majority vote in favor of such plan, to call for an election to select a board of education for the new district as provided in section 123-25-26;

(f) To make arrangements for and conduct such elections;

(g) To assist in the dissemination of information as to the purpose and benefits of such proposed plan;

(h) To cooperate with the committee of adjoining counties in the event districts embracing two or more counties appear advisable;

(i) To make all certifications and perform all other acts specifically enjoined upon said committee by this article;

(j) In general, to do and perform all things reasonable or necessary to carry out the intent and purpose of this article and

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Based on present 123-25-4(7).

Based on present 123-25-4(8).

Present 123-25-4(9) is deleted. It provides for an

TEXT

perfect an organization of the school districts within the county in conformity with the spirit of this article.

123-25-5. Termination of committee existence. (1) A committee shall continue in existence as such until all of the territory within said county shall have been included within one or more new districts.

(2) As the terms of office of committee members shall expire, a subsequent committee shall be elected in accordance with section 123-25-4 until the termination of committee existence as prescribed in subsection (1) of this section. A committee subsequently formed shall have the same powers, duties, jurisdiction, and terms of office for its members as herein prescribed for the initial committee.

123-25-6. Vacancies. After the committee is constituted by acceptance of the majority as provided in section 123-25-4, in case of a vacancy in a committee by death, resignation, removal from the county, or failure of both a committee member and alternate to accept membership on a committee under the provisions of section 123-25-4, the majority members of the committee shall have authority to fill such vacancy or vacancies. If a member shall fail to attend two consecutive meetings, after due notice and without being excused by the committee, the office of such member shall be declared vacant and such vacancy filled by action of the remaining members of the committee.

123-25-7. Meetings -- notice. Meetings of a committee may be held at a time and place specified by the committee at a previous meeting without further notice. The chairman may call special meetings upon notice mailed by the secretary to each member at least five days before such meeting. A meeting of the committee shall be called by the chairman on written request of three members of the committee upon notice mailed by the secretary to each member at least five days before such meeting.

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election in a joint district to designate the county in which to participate for planning committee purposes.

Based on present 123-25-5. Changes from "until a complete plan of organization...shall have been adopted" to "until all...territory shall have been included within one or more new districts". Compare 123-25-4(2)(c) of this bill. Also note that present 123-25-37 is deleted by this bill.

Based on present 123-25-6.

Based on present 123-25-7.

TEXT

123-25-8. Names certified to commissioner. When any committee shall have been constituted, as provided in section 123-25-4, the secretary thereof shall certify to the commissioner the names and post office addresses of each member of such committee, indicating the persons elected as chairman and vice-chairman; any change in the personnel or officers of such committee shall be likewise certified to the commissioner.

123-25-9. Department consultants. (1) The state board is authorized to employ such consultants, assistants, and other personnel, within the limits of appropriations to the department of education for salaries and travel expenses of personnel, as may be necessary to render all reasonable assistance to the various committees in the development and submission of a plan or plans of organization for one or more new school districts, or plan or plans of boundary change. All personnel employed shall work under the direction of the commissioner of education or designated assistant commissioner of education.

(2) All supplies, equipment, and expenses other than salaries reasonably necessary to the performance of the duties as specified in this article shall be paid from the state school organization fund upon vouchers approved by the commissioner of education.

123-25-10. Duties of commissioner and consultants. (1)(a) It shall be the duty of the commissioner, and of the consultants if any be selected:

(b) To make a thorough study and survey of the plan or plans for the organization of school districts in each county in the state and to make available to the committees in each county of the state all information, facts, figures, and statistics as available within the department;

(c) To render to the various committees such aid and assistance as may be reasonably required in each county, including visits

COMMENTS

Based on present 123-25-8.

Based on present 123-25-9.

Employee designation is changed from "special assistant to the commissioner" to "consultants".

Changes compensation charge to regular department budget by removing it from the items to be paid from the state school organization fund. Specifically refers to supplies and equipment; present language says "other expenses".

Based on present 123-25-10. Subsection (4), requiring an annual report, is deleted.

TEXT

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to such county and meetings with the committee, to the end that a proper plan of organization, or necessary boundary changes may be accomplished in every county in the state.

123-25-11. Organization plan -- development. (1)(a) In developing a plan of organization in any county, or part thereof, the committee and commissioner shall give consideration to the following:

- (b) Educational needs of local communities.
- (c) Maximum use of existing school buildings, sites, playgrounds, and facilities either for school purposes, or other community activities.
- (d) Convenience and welfare of pupils.
- (e) Equalization of burdens and benefits of the public school system in the county.
- (f) Value, amount, and location of school properties involved in the proposed plan.
- (g) Nature and amount of all bonded, warrant, or other indebtedness of the districts, or parts of districts involved, including unsatisfied legal obligations and contracts of the districts involved, together with any cash or other assets of such districts.
- (h) Existing highways and roads and particularly as to whether they are all-weather roads.
- (i) Terrain and topography of the counties and existing attendance areas.
- (j) The manner and extent to which transportation should be furnished to pupils who attend the school or schools in any proposed district, the approximate cost of such transportation and the manner in which such cost should be met, and no plan shall provide for the closing of any school unless suitable provision is made

Based on present 123-25-11.

TEXT

where necessary for the transportation of the pupils who would attend such school to some other school; provided, that nothing in said plan shall be construed in a manner to prohibit the board of education of a new district from changing routes for the transportation of pupils or changing the points at which pupils shall be received or delivered.

(k) Recommend attendance units for students in grade one through grade six near enough each student to permit transportation of such student to and from school each day under normal weather and road conditions in no more than one hour each round trip.

(l) Means of providing a twelve grade education for residents of any proposed districts of school age who are qualified therefor.

(m) Advisability of combining under one administrative head, high school and elementary school districts, and including all territory within a new school district.

123-25-12. Submission of plan to vote. (1)(a) No plan of organization shall be subject to a vote as in this article provided unless:

(b) The plan shall have been approved by the committee and the commissioner.

(c) The plan shall set forth the name and number by which the proposed district shall be designated.

(d) The plan shall set forth the considerations of section 123-25-11 and all other details as may have been determined by the committee and approved by the commissioner.

123-25-13. Organizational plan -- requirements. (1) The plan of organization shall contain a specific proposal for the equitable adjustment and distribution of all or any part of the properties and cash assets of the districts, the boundaries of

COMMENTS

Proviso is added to give greater flexibility to the new board.

Changes the word "provide" to "recommend". Also eliminates requirement for approval of state department of education when exceptions are proposed.

Adds "and including all territory within a new school district".

Based on present 123-25-12.

Based on present 123-25-13. Subsection (1) adds cross reference to 123-25-27 to 123-25-29.



TEXT

which may be affected by the creation of a new district, and such proposal shall not be contrary to sections 123-25-27 to 123-25-29. In considering an equitable adjustment of the assets of the school districts the boundaries of which may be affected by the organization of a new district, the committee shall consider the outstanding general liabilities and obligations of the districts which may be so affected, the number of school age children resident in each such district, the assessed valuation of taxable property in each such district, the amount of outstanding bonded indebtedness of each such district, the purpose for which such bonded indebtedness was incurred, and the value, location, and disposition of all real properties located in the districts which may be so affected by the organization of a proposed new district. The committee may also consider other matters which, in the judgment of the committee, are of importance or essential in making the proposed equitable adjustment and distribution of the properties and cash assets of the districts which may be affected by the organization of a new school district.

(2) A plan shall provide a specific plan of representation for the members of the board of education of the proposed district. Said proposed district shall be subdivided into five, six, or seven director districts as recommended by the committee and commissioner. Each director district shall be represented by one director and shall, as nearly as practicable, be contiguous, compact, and shall contain substantially the same number of people as each other director district within the proposed district. The plan shall state whether the terms of office of school directors shall be four years or six years. The plan shall designate the director districts from which members of the board of education shall be elected.

(3) If the plan of organization for a proposed district shall result in the dissolution of a school district which shall have outstanding bonded indebtedness obligations or liabilities, the plan of organization shall designate a new district, which includes at least a portion of the dissolved district, as a successor for the purpose of administering payment of the bonded indebtedness obligations of the dissolved district and the board of education of the new district so designated shall have all the powers, rights, duties, and responsibilities of the board of education of the

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The plan could provide for either four-year terms or six-year terms; at present this article requires four-year terms. See Section 5(7) of chapter 74, S.L. 1964, for optional length of term.

This is a new provision designed to eliminate confusion and questionable practices now being followed with regard to outstanding bonded indebtedness obligations and liabilities of dissolved districts.

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dissolved district for administering payment of the outstanding bonded indebtedness obligations and liabilities of the dissolved district. All revenues which shall accrue from the tax levies to satisfy said obligations and liabilities, and all interest which may accrue thereto as a result of investments authorized by law, shall be held in trust by the board of education of the new district so designated for the purpose only of satisfying said bonded indebtedness obligations and liabilities of the dissolved district.

123-25-14. Jurisdiction -- committee. (1) The jurisdiction of a committee shall be continuing in nature until its existence shall terminate in accordance with the provisions of this article.

(2) The committee may disregard the existing boundaries of any school district or new district in developing a plan or plans of organization for a new district within the county or any portion thereof. A plan for a proposed district may include territory in one or more counties, all of one or more counties, or both; provided, that if a proposed district shall include territory in more than one county, the committee of each county in which such territory is situated shall approve the plan for organization.

(3) Nothing in this article shall be construed in a manner to prohibit the committee or committees from developing, proposing, holding a hearing thereon, adopting, or holding an election on more than one plan of organization simultaneously; provided, that at least one hearing on the plan and one meeting to explain the plan shall be held within the territorial limits of the proposed district. If territory of more than one county shall be included in a proposed district and the committee in which the territory is situated shall not be in existence after having given prior approval or consent, the committee of the county which received the prior approval or consent shall have jurisdiction relative to the territory in question. If territory of more than one county shall be included in a proposed district, the committees of such counties may designate the committee of one county to do and perform all things necessary for the hearing, meeting to explain the plan, special school district organization election on the plan of organization and the special election for the school directors of

## COMMENTS

New provision to clarify the effect of committee action upon new committee members.

Based on present 123-25-14. Portions of "new districts" could be included in subsequently proposed districts. Reference to the intent of the section is deleted.

New provision specifically authorizing consideration of several plans at once and facilitating the formation of a proposed district to be situated partly in two or more counties, with particular reference to election procedures and the consent of a committee the existence of which has terminated.

See also 123-25-19 of this bill concerning requirement for a meeting to explain the plan.

TEXT

the new district on the day it shall become a body corporate. Nothing in this article shall be construed in a manner to prohibit the detachment and annexation of territory of any school district as authorized by law.

(4) No new school district shall be formed which shall have fewer than fifty pupils enrolled in grades nine through twelve, unless the state board shall give its approval in writing for the formation of any such new school district.

123-25-15. Map and statements of benefits -- filing. (1) When a proposed plan of organization of the school districts within a county or part thereof shall have been tentatively agreed upon by a committee, a map of the proposed district or districts shall be prepared showing the boundaries thereof and a statement of the description of the boundaries of such proposed district or districts and details of the plan. Said map and statement shall be placed on file with the county superintendent, together with a statement prepared by the committee setting forth the considerations under section 123-25-11 and other facts considered pertinent by said committee for the information of the public as to the reasons for and benefits to be had from such proposal. The committee shall fix a date and place for a hearing on such proposed plan.

(2) The county superintendent shall give notice of the filing of such map and statement by publication of said fact in a newspaper of general circulation in each of the proposed districts and by causing to be posted a copy of said notice upon each schoolhouse in which school is held during any part of the preceding twelve months and which is located within any such proposed district, and in five other public places within any such proposed district, and which notice shall give the time and place of the meeting of the committee for hearings on such proposed plan. A sufficient number of hearings shall be held to enable the residents of existing districts which will be affected by the proposed plan to receive adequate information and detail of said plan being considered. Any interested person may appear at such hearings and make objections to the proposed plan.

(3) One publication of such notice shall be sufficient and

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New restriction to prohibit formation of a new district with less than 50 high school pupils, unless approved by the state board.

Based on present 123-25-15.

TEXT

said publication and posting of such notice as aforesaid shall be made at least ten days prior to the date of such hearings. If there be no newspaper of general circulation in the district or districts affected, then posting of the notice as provided in subsection (2) of this section shall be sufficient.

123-25-16. Approval of plan and submission to commissioner. After such hearing or hearings the committee may make any changes in the proposed plan of organization as it shall deem advisable and thereafter formally approve the proposed plan within sixty days after the hearing, or last hearing. After the committee shall have formally approved the proposed plan, the committee shall forward to the commissioner a copy of the approved proposed plan, together with a map showing the proposed boundaries, and other statements and provisions which may be required by this article and which may have been considered important by the committee in developing the proposed plan. If the commissioner may require modifications or amendments to the proposed plan as approved by the committee, the proposed plan shall not be approved by the commissioner and it shall be returned to the committee with the suggested modifications or amendments with the view toward developing a proposed plan which shall be mutually satisfactory to both the committee and the commissioner. Typographical or minor clerical errors in the proposed plan, if any, shall not require further action by the committee. If modifications or amendments, including changes in the boundaries of the proposed district or in proposed director district or districts, or both, are required by the commissioner and approved by the committee, the plan of organization shall be deemed to be a revised plan of organization and subject to the procedures prescribed by section 123-25-25.

123-25-17. Final approved plan. When a plan of organization for a new district has been approved by the committee and the commissioner, it shall be designated as the "final approved plan" and a special election shall be held wherein the registered qualified taxpayer electors in the proposed district may vote upon its adoption or rejection.

COMMENTS

Based on present 123-25-16.  
Requires that plan must be approved by committee within 60 days after hearing. Also clarifies when plan is to be deemed a revised plan with a required subsequent hearing.

Based on present 123-25-17.

TEXT

123-25-18. Special school district organization election -- notice. (1) The committee shall set the date for the special school district organization election, which shall be held not more than forty days after the final plan has been approved, and shall give notice in the same manner as provided for notice of regular biennial school elections.

(2) The committee, not less than five weeks prior to the time of the holding of any such organization election, shall establish one or more school district organization election precincts in the proposed new school district, consisting of one or more whole general election precincts wherever practicable, numbering the same consecutively beginning with the number one, and shall designate one polling place in each precinct; provided, that the committee may at any time before the day of election change the location of the polling place in the election precinct, and in case of such change shall post notices thereof at both the original and newly selected polling places no later than seven a.m. on election day.

(3) Immediately after the establishment of such precincts the secretary of the committee shall certify to the county clerk of the county or counties in which the proposed district is situated, a description of the school district organization election precincts. The description may give the boundaries of said precincts or may name the general election precincts contained in each of said school district organization election precincts.

(4)(a) The county clerk of each county, prior to the time of holding any school district organization election in said proposed school district, shall make a full and complete copy of the list of the registered qualified electors of each school district organization election precinct located within his county. The registration list for each school district organization election precinct shall contain the names of the registered qualified electors whose names appear on the registration list at the close of business on the fifteenth day prior to the time of such school election, arranged in alphabetical order. He shall certify the registration list and shall deliver the same to the secretary of the committee not less than five days prior to the time of holding of such school district

COMMENTS

Subsection (1) is based on present 123-25-18. Present 123-25-19, which contains details on notice and publication, would be deleted.

Provision for school district organization election precincts is new. It follows the pattern of the school election law (Chapter 74, S.L. 1964).

Provision for registration list is new. It follows the pattern of the school election law.

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organization election. The state school organization fund shall pay to the county clerk a fee of not to exceed one cent for each name contained on the registration list.

(b) A committee may contract with a county clerk or clerks for the administration of any of the duties of the committee, or of the secretary thereof, relating to the conduct of a special school district organization election under this article.

(5) The polling places shall be open for voting from seven a.m. to seven p.m. on the day of the election.

123-25-19. Meeting to explain plan. Prior to any organization election a meeting or meetings of the qualified electors in the area to be included in the proposed district shall be held in a convenient place or places within the area at which the proposed plan of organization of the school districts in such area shall be fully explained. The committee shall arrange for such meeting or meetings and shall give notice thereof through the public press and in such other manner as may be deemed best by the committee.

123-25-20. Conduct of election. (1) At least five days before the organization election the committee shall appoint three election judges, and in their discretion one clerk, for each polling place. Each election judge or clerk shall be a registered qualified taxpaying elector who resides in the area of the proposed district. Such judges and clerk shall have the same powers and duties as provided for judges at regular biennial school elections not inconsistent with this article. In case any judge or clerk of election shall be absent or unable to act at the time for opening of the polls, the vacancy shall be filled by vote of the registered qualified taxpaying electors present at the polling place, including the other judges. Judges shall receive not to exceed twenty dollars each for their services, as determined by the committee, to be paid from the state school organization fund provided for in section 123-25-32. The person elected to fill the vacancy shall have all

COMMENTS

Provision for contracting with the county clerk for the conduct of the election is new and follows the school election law.

Present 123-25-20 specifies 8:00 a.m. to 7:00 p.m. This change follows the school election law.

Based on present 123-25-21(3). See also 123-25-14(3) of this bill.

Based on present 123-25-20. Compensation is changed from \$5.00 to "not to exceed \$20.00".

TEXT

the powers and perform all the duties prescribed for an election judge.

(2) Prior to the time of the organization election, the committee shall deliver to the election judges one poll book for each polling place. The first page of the poll book shall contain the oath for election judges as prescribed for judges and clerks in regular biennial school elections, which oath shall be taken by each of the judges before any votes shall be received. The next succeeding pages shall contain spaces in which a judge of election shall write the names and addresses of the registered qualified tax-paying electors in the order in which they present themselves for voting. On one of the latter pages of said poll book shall be printed a blank form of certificate of return showing the number of votes for and against the plan of organization, the whole number of votes cast, the number of excess ballots, and the number of unused ballots.

(3) Certification of the results of the organization election shall be made by the judges to the secretary of the committee within twenty-four hours after the closing of the polls. The judges shall deliver the poll book, together with the ballot box and used and unused ballots, to the secretary of the committee along with the certification of results. The secretary shall preserve the ballot boxes unopened and intact for at least fifteen days after the day of election, after which time the secretary shall open the same and burn their contents, unless the committee shall be required to produce them in a court of competent jurisdiction. In proposed districts using voting machines, the machines may be unlocked and the seals broken after fifteen days after the day of election unless otherwise ordered by a court of competent jurisdiction.

123-25-21. Qualification of electors -- ballot. (1) Only registered qualified taxpaying electors who reside in the area of the proposed district shall be permitted to vote in such organization election. Any such elector desiring to vote shall give his name and place of residence to one of the judges, who shall thereupon announce the same clearly and audibly. If his name is found on the registration list and he is a qualified taxpaying elector, his name and

COMMENTS

Based on part of present 123-25-21(1) and patterned after the school election law (Chapter 74, S.L. 1964).

Based on parts of present 123-25-20, 123-25-21(1), and 123-25-22 and patterned after the school election law.

Based on part of present 123-25-21(1). Registration would be required.

TEXT

address shall be entered by the judge or clerk of election having charge of the poll book in the column prepared for that purpose.

(2)(a) Either paper ballots or voting machines of a type approved for use in general elections may be used in an organization election. If paper ballots are used, such ballots shall be printed in form similar to paper ballots used in regular biennial school elections, and procedures in the marking and casting of such ballots shall be the same, so far as applicable as in such school elections. There shall be printed on the face of the ballot the following:

OFFICIAL BALLOT

For the plan of organization.....( )

Against the plan of organization.....( )

If voting machines are used, there shall be placed on such machines the following:

For the plan of organization.....( )

Against the plan of organization.....( )

(b) Each elector voting at said organization election shall cast his vote for or against the plan of organization by marking a cross on the paper ballot opposite his choice, or by operating the voting machine accordingly.

(c) A registered qualified taxpaying elector may vote in a special school district organization election by absent voter's ballot under the terms and conditions and in substantially the same manner as is set forth in article 14 of chapter 49, C.R.S. 1963, except that all acts required or permitted to be performed by the county clerk under said sections shall be performed by the secretary of the committee.

(d) Voting and challenge procedures in organization elections shall be conducted in the same manner as provided for regular

COMMENTS

Subsections (2)(a) and (b) are based on part of present 123-25-21(2). Adds specific authorization for voting machines.

Absentee voting would be permitted.

This is a general reference to the school election



TEXT

biennial school elections insofar as possible.

123-25-22. Canvass of votes -- certificate. The committee shall meet to canvass the returns and make certification of said election and to declare the result thereof within five days after the closing of the polls. A certificate of such canvass and results thereof shall be forthwith filed in the office of the county superintendent.

123-25-23. Result of election certified -- contests. (1) If the majority vote be in favor of the organization plan, the county superintendent shall certify such fact to the commissioner within ten days from the filing in his office of the certificate as to the result of the election. He shall furnish to the commissioner a map and description of the new district together with the name and number by which the same shall be designated.

(2) Proceedings to contest the organization election of any school district in this state may be instituted by any qualified taxpaying elector of such school district. Such proceedings shall be instituted within ten days after the votes cast at such election are canvassed. The district court of the county wherein the headquarters of a school district shall be situated shall have jurisdiction in all such contests for the organization of any school district. In such cases the rules of practice and procedure in contested elections for county officers shall apply, as far as applicable.

123-25-24. New district -- powers. If a majority of the votes cast in the area of the proposed new district shall vote in favor of said organization, the new district shall, upon the sixtieth day after certification of the results of said election to the county superintendent, become a body corporate under the name and number in the plan, and in that name may take, hold, and convey property, both real and personal, and be a party to suits and contracts in the same manner and form as municipal corporations of this state.

COMMENTS

procedures set forth in Chapter 74, S.L. 1964.

Based on part of present 123-25-22.

Based on present 123-25-23.

Based on present 123-25-24.  
Eliminates authorization for boards of education of old school districts to operate the schools therein until the end of the school year.

TEXT

123-25-25. Revised plan -- when. If the majority vote at said election shall not be in favor of the plan of organization the committee shall continue in its efforts in an attempt to prepare a revised plan which might be acceptable. If a revised plan is approved by the committee, it shall be submitted for the approval of the commissioner and if approved by him it shall be submitted to a vote under the procedure provided for submission of an original plan.

123-25-26. Election of school directors in new districts.  
(1)(a) When a new district is formed under the provisions of this article, the chairman of the committee shall call for a special election in such new district for the selection of a board of education for the district, to be held on the day the new district becomes a body corporate. At such election five, six, or seven school directors, the number and terms of office having been established in section 123-25-13(2), shall be elected as follows:

(b) When five school directors are to be elected at such election in new districts having four-year terms of office, two shall be elected to serve until the next regular biennial school election, and three shall be elected to serve until the second regular biennial school election. As the term of office of each such school director shall expire, a successor shall be elected for a four-year term of office. In new districts having six-year terms of office, two shall be elected to serve until the next regular biennial school election, two shall be elected to serve until the second regular biennial school election, and one shall be elected to serve until the third regular biennial school election. As the term of office of each such school director shall expire, a successor shall be elected for a six-year term of office.

(c) When six school directors are to be elected at such

COMMENTS

If this section is adopted, Section 1 of Chapter 73, S.L. 1964, should be amended to restore the reference to municipal corporations.

Based on present 123-25-25.

Present 123-25-26, declaring all new reorganized districts to be first class districts, is deleted.

This section is based on present 123-25-27. Provisions are added for the optional six-year term.

TEXT

COMMENTS

election, in new districts having four-year terms of office, three shall be elected to serve until the next regular biennial school election, and three shall be elected to serve until the second regular biennial school election. As the term of office of each such school director shall expire, a successor shall be elected for a four-year term of office. In new districts having six-year terms of office, two shall be elected to serve until the next regular biennial school election, two shall be elected to serve until the second regular biennial school election, and two shall be elected to serve until the third regular biennial school election. As the term of office of each such school director shall expire, a successor shall be elected for a six-year term of office.

(d) When seven directors are to be elected at such election, in new districts having four-year terms of office, three shall be elected to serve until the next regular biennial school election, and four to serve until the second regular biennial school election. As the term of office of each such school director shall expire, a successor shall be elected for a four-year term of office. In new districts having six-year terms of office, two shall be elected to serve until the next regular biennial school election, two shall be elected to serve until the second regular biennial school election, and three shall be elected to serve until the third regular biennial school election. As the term of office of each such school director shall expire, a successor shall be elected for a six-year term of office.

(e) Said election shall be held in accordance with the laws covering regular biennial school elections except as otherwise provided in this article.

(f) The chairman of the committee shall appoint judges and clerks of election, designate the polling place or places, and give notice of the election, and in the absence of the secretary of the committee, he shall act as secretary with reference to such elections.

(g) All school directors shall be voted on at large by the registered qualified electors of the new district, even though each

New provision added for clarification of present practice.

TEXT

candidate is required to be a resident of the director district which he seeks to represent.

(2) After the first election of members of the board of education, the members so elected for such new district shall meet within ten days after the date of the first election of members of the board of education, and shall elect officers as provided by law and thereupon enter upon and perform all the duties and exercise all the powers of a board of education. Such officers shall be selected to serve until the next regular biennial school election.

(3) When the members of the board of education of the new district assume their duties as herein provided, the board of education of any district or districts situated wholly within said new district shall cease to function and the terms of office of the members thereof shall thereupon automatically expire.

(4) Any person desiring to be a candidate for the office of director of a new district formed under the provisions of this article shall be a qualified elector of the district and a resident of the director district which he seeks to represent. Each such candidate shall be nominated in the manner otherwise provided by law for school directors.

123-25-27. Status of old district -- assets. (1) When a portion of the territory of a school district shall be included within a new district organized under the provisions of this article, such portion of the territory of the old school district shall be detached by operation of law when the new district becomes a body corporate, and it shall become territory of the new district. When all of the territory of an old school district shall be included within a new district or districts, if the electors of more than one proposed new district shall simultaneously adopt the plans of organization, the corporate status of the old school district or districts shall be dissolved by operation of law when said new district shall become a body corporate.

(2) Unless otherwise provided in the plan of organization, when a new district formed under this article shall embrace all of

COMMENTS

Compare Sections 4(3) and (4)(a) of Chapter 73, S.L. 1964, on terms of office.

Eliminates exception which permitted boards of education of old districts to operate the schools until the end of the year.

Based on present 123-25-27(4), as amended by Section 33 of Chapter 74, S.L. 1964.

Subsection (1) is a new provision designed to clarify status of school districts.

Based on present 123-25-28(1), but adds a provision to fix

TEXT

the territory of an old school district, all of the assets of the old school district, including all personal and real property, except moneys then on hand or to be received from previously made tax levies for the satisfaction of bonded indebtedness, shall become the property of the new district. The board of education of the successor new district as designated in the plan of organization shall have all rights, powers, and duties for administering payment of said outstanding bonded indebtedness obligations in accordance with section 123-25-13(3).

(3) Unless otherwise provided in the plan of organization, when only a portion of the territory of a school district shall be included within a new district organized under the provisions of this article, or when all of the territory of an old school district shall be included in more than one new district organized simultaneously, all of the assets of the old school district shall be apportioned between the old school district and the new district, or between the two or more new districts, if applicable, in the manner prescribed by subsection (4) of this section. If the corporate status of the old school district shall not be dissolved as a result of the organization of the new district, the board of education of the old district shall continue to perform duties and exercise powers delegated concerning the administering of the payment of its previously incurred bonded indebtedness, even though such territory is detached, except as a new district shall have voted to assume a proportionate share of said bonded indebtedness in the manner authorized by law. If the corporate status of the old school district shall be dissolved as a result of it having been wholly included within a new district or districts as specified in subsection (1) of this section, the board of education of the new district shall perform the duties and exercise the powers delegated for administering payment of such bonded indebtedness with due regard to any proportionate share thereof which may have been assumed by a new district in the manner authorized by law.

(4)(a) Unless otherwise provided in the plan of organization, when the conditions prescribed in subsection (3) of this section shall occur, all of the assets of the old school district, including all personal and real properties except moneys then on hand or to

COMMENTS

responsibility for the procedures for administering payment of bonded indebtedness incurred by a former district.

Based on part of present 123-25-28(2), but adds provisions concerning bonded indebtedness and assumption thereof.

Subsections (4) and (5) are based in part on present 123-25-28(2), 123-25-29, and on several Attorney General's opinions.

TEXT

be received from previously made tax levies for the satisfaction of bonded indebtedness, shall be apportioned between the old school district and the new district or districts or between the two or more new districts, if applicable, as follows:

(b) All real property shall remain or become the property of the old school district or new district in which located.

(c) All personal property, except cash assets and including moneys then on hand or to be received from previously made tax levies for the satisfaction of bonded indebtedness, shall remain or become the property of the old school district or new district in which located.

(d) All cash assets, except moneys then on hand or to be received from previously made tax levies for the satisfaction of bonded indebtedness, shall be apportioned between the old school district and the new district or districts, or between the two or more new districts, if applicable, on the basis of the school enrollment of each such old school district as shown by the secretary's most recent annual report. The apportionment of moneys under this provision shall be made by the county superintendent monthly as the moneys become available and, if there be any unpaid school district taxes on the date upon which the new district becomes a body corporate other than taxes levied for the satisfaction of bonded indebtedness, the county superintendent shall apportion the revenues from such unpaid taxes monthly when such revenues accrue after the new district shall have become a body corporate, between the old school district and the new district or districts, or between the two or more new districts, if applicable, in accordance with the location of the property from which such tax revenues shall accrue.

(5)(a) In the event only one new district shall embrace all of the territory of an old school district, the new district shall assume all of the outstanding obligations and liabilities of the dissolved district, except those for previously incurred bonded indebtedness; provided, that bonded indebtedness incurred by the former school district may be assumed by the new district as provided in section 123-25-38.

COMMENTS

Present 123-25-29 (union or county high school assets) is deleted. Also, present 123-7-6 (division of funds) is repealed by this bill.

TEXT

(b) When the old school district shall remain in existence, even though a portion of the territory shall have been incorporated within a new district, previously incurred bonded indebtedness of such old district shall be paid as provided in sections 123-11-23 and 123-25-31; and, except when the plan of organization provides otherwise, the school district from which the territory was removed shall remain liable for all other previously incurred liabilities and obligations.

(c) Unless otherwise provided in the plan of organization, when two or more new districts organized simultaneously shall include all of the territory of an old school district, each new district shall be jointly and severally liable for all of the outstanding liabilities and obligations of the dissolved school district, except those outstanding obligations and liabilities previously incurred for bonded indebtedness; provided, that a proportionate share of the previously incurred bonded indebtedness may be assumed as provided in section 123-25-38.

123-25-28. Sale of assets. In the event lands, buildings, or land and buildings shall be sold by a new district organized under this article, the proceeds of such sale, less costs of sale, shall be applied first to the payment of unpaid principal and interest of bonded indebtedness, if any, of the new district or old school district, in which such property is situated at the time of its inclusion in the new district; provided, that the net proceeds of such sale shall not be applied to such outstanding bonded indebtedness if the new district shall have assumed the outstanding bonded indebtedness of the old district, or a proportionate share thereof, as provided in section 123-25-38. If there be no such outstanding bonded indebtedness or the new district shall have assumed the outstanding bonded indebtedness, or a proportionate share thereof, then the net proceeds of such sale shall be deposited in and expended from the capital reserve fund of the new district. This provision shall apply also to the proceeds from any insurance which may accrue as a result of fire, explosion, or other casualty when such insurance proceeds cannot be utilized in an advantageous manner to repair the property owned by said new district or old school district.

Based on present 123-25-30. Eliminates requirement that proceeds from the sale of buildings owned by former school district must be applied to bonded indebtedness of former school district when the bonded indebtedness has been assumed. Adds provision concerning proceeds from insurance.

TEXT

123-25-29. Existing bonded indebtedness. (1)(a) The bonded indebtedness of any school district outstanding at the time of inclusion of all or any part of such district's territory in a new district organized under this article shall be paid in the following manner:

(b) All of said bonded indebtedness of such old school district shall be paid by the old school district which issued and owes the same by a special tax levied from time to time as may be necessary by the board of education of the new district, which special tax shall be levied upon the same taxable property which would have been levied upon to pay said indebtedness of said old school district if no reorganization had occurred, except as is hereinafter provided to the contrary.

(c) If the assumption of all of said bonded indebtedness by one new district has been approved as provided in section 123-25-38, such bonded indebtedness shall be paid in the manner provided by law for the paying of any bonded indebtedness which the new district contracts pursuant to section 123-25-31.

(d) If the assumption of only a portion of said bonded indebtedness has been approved by any new district, as provided in section 123-25-38, such portion of the bonded indebtedness shall be paid by a tax levied from time to time on all the taxable property located within the new district. Such tax shall not exceed that proportionate share of the total amount of outstanding bonded indebtedness so assumed, as determined by the proportion which the total valuation for assessment of the taxable property in the old school district, which is included in the new district, bears to the total valuation for assessment of all taxable property in such old school district.

(2)(a) Whenever two or more old school districts, or portions of such districts, shall have been reorganized and included within a new district, and whenever an old school district shall have been dissolved and included in any other district or districts, under the provisions of this article, and at the time of such reorganization or dissolution and inclusion one or more of said old

COMMENTS

Subsection (1) is based on Section 4 of Chapter 70, S.L. 1964.

Subsection (2) is based on part of 123-25-31.



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school districts has outstanding bonded indebtedness, which indebtedness has not been assumed by said new district pursuant to section 123-25-38, the following duties and responsibilities shall be performed by the following officers:

(b) The school board of such new district shall certify to the county commissioners under separate headings the following: The numbers of all old school districts which had any bonded indebtedness outstanding at the time said old school districts were reorganized and united into such new districts, the legal description of the property of such old school districts, which property is liable for payment of all or a portion of the outstanding bonded indebtedness of such districts, the amount of such indebtedness which is outstanding, and the amount required for the ensuing fiscal year to meet the interest and principal falling due therein.

(c) The county commissioners shall levy, segregated under separate headings for the said old school districts and for the whole of said new district, the several amounts properly applicable thereto for taxes at the same time that other taxes are levied and at such rates, as to each such old school district and as to the whole of said new district, for the payment of the moneys required for said amounts of either principal or interest, or both, and for the other funds needed by said new district, certified by the school board, as will produce the several amounts so certified.

(d) The amounts of said taxes which shall be levied on the several portions of said new district and on the entire new district shall be placed in separate columns in the tax book, which columns shall be headed "special school tax" and shall be subdivided into separate columns designated by the numbers of the old school districts by which said bonded indebtedness was issued, showing what portion of said special tax is for the purposes of the entire new district and what portion is for interest or principal of bonded indebtedness of old school districts, to which indebtedness said old school districts were subject at the time of reorganization or dissolution, and inclusion of such old school districts in the new district.

## TEXT

(e) The county assessor and the county treasurer shall so arrange their tax schedules and books as to conform to the above provisions and with column headings respectively for the entire new district subdivided into columns designated by parentheses, with the number of the old school district by which such bonded indebtedness was created and which indebtedness is undischarged, and showing, as to each property listed, the amount of tax properly levied on such property on account of such bonded indebtedness existing against said property as a portion of the old school district reorganized or dissolved, and included within the new district at the time of said levy.

123-25-30. Limit of bonded indebtedness -- new district.  
Any new district organized under this article shall have a limit of bonded indebtedness of ten per cent of the latest valuation for assessment on the taxable property in such district. The indebtedness of the old school districts or parts of districts, constituting the new district, shall not be considered in fixing the limit of such ten per cent; provided, that if any new district shall assume the bonded indebtedness of any district or districts, or a proportionate share thereof, existing at the time of inclusion in the new district pursuant to the provisions of section 123-25-38, such bonded indebtedness shall be included in the ten per cent limitation; and provided further, that if the board of education of such new district shall determine that an emergency exists and that the limit of bonded indebtedness of the new district set forth in this section prevents such new district from meeting such emergency, said board may make application to the Colorado tax commission for permission to incur an additional bonded indebtedness of not exceeding five per cent of the valuation for assessment of the taxable property within such new district, and on receiving such permission, such new district may contract an additional indebtedness of five per cent of such valuation for assessment of the taxable property within such new district.

123-25-31. New district -- bonded indebtedness. (1) Any new district organized under the provisions of this article shall have the power and authority to contract bonded indebtedness in the same manner and under the same procedure for the issuance of bonds as is now or may hereafter be provided by law for the issuance of such bonds by other school districts.

## COMMENTS

Based on present 123-25-32 and made to conform to 123-11-5 (Chapter 70, S.L. 1964).

Based on present 123-25-33 (Section 2 of Chapter 238, S.L. 1964).

TEXT

COMMENTS

- (2) Any new district shall have the power and authority to issue refunding bonds for the purpose of refunding outstanding indebtedness of said new district in the same manner and procedure as is now or may hereafter be provided by law for the issuance of such bonds by other school districts.
- (3) Any new district shall have power and authority to issue refunding bonds for the purpose of refunding outstanding indebtedness of old school districts, which old districts have been reorganized or dissolved, and included within said new district and which indebtedness has been assumed by said new district pursuant to section 123-25-38 of this article. Such refunding bonds shall be issued in the same manner as if the indebtedness being refunded were indebtedness originally contracted by the new district under the provisions of this article.
- (4)(a) Any new district shall have power and authority to issue refunding bonds for the purpose of refunding outstanding bonded indebtedness of old school districts, which old districts have been reorganized or dissolved, and included within said new district, and which indebtedness has not been assumed by the new district, in the same manner as if the indebtedness being refunded were indebtedness originally contracted by the new district under the provisions of this article, except for the following particulars:
- (b) Said bonds shall be designated as refunding bonds of the old school district which contracted the original indebtedness in the first instance. The refunding bonds shall be payable from the same funds which are to be derived from the same source as would have been used to pay the original bonds of the old school district if no refunding thereof had ever occurred.
- (c) The covenants and agreements in and relating to such refunding bonds shall be made and entered into by the new district as successor to the old district, and all necessary actions shall be taken by the board of education of the new district as successor to the board of education of the old district.

TEXT

(5) Whenever any old school district shall have been reorganized and parts thereof included within two or more new districts, and whenever an old school district shall have been dissolved and parts thereof included in two or more other districts, under the provisions of this article, and said old district has outstanding bonded indebtedness, the refunding of such outstanding indebtedness of said former district shall require affirmative action by a majority of the members of the boards of education of each new district within which any part of the lands formerly included within said old district are now included, except as is hereinafter provided to the contrary.

(6) Any school district from which land has been detached and included within any other school district, by reorganization or any other lawful means, and which district has retained its lawful corporate existence subsequent to the detachment of such land from said district shall be specifically exempted from the requirements and provisions of subsection (5) of this section, and the board of said district from which land has been detached may refund its bonds to which such detached land is subject with or without concurrence or action by the board of the district within which said detached land is then included.

123-25-32. State school organization fund. There is hereby established in the office of the state treasurer a fund to be known as the "State School Organization Fund", which fund shall consist of such money as may be from time to time appropriated thereto by the general assembly, and shall be administered by the commissioner.

123-25-33. Compensation -- expenses. (1) Members of a committee shall not receive any compensation for their services, but shall be entitled to reimbursement for actual expenses incurred in the performance of their duties under this article.

(2) County superintendents shall not receive any additional

COMMENTS

Present 123-25-34, concerning additional powers of the board, has been deleted. See Chapter 73, S.L. 1964, for repeal of (1)(b) and (c) and the replacement thereof. Section 10 of Chapter 74, S.L. 1964, covers (1)(d).

Based on present 123-25-35.

Based on present 123-25-36. Subsections (5), (6), and (7) would be deleted. Section 123-25-9 of this bill covers (5).

TEXT

compensation for their services, but shall be entitled to reimbursement for any extra expenses incurred in the performance of their duties under this article.

(3) On request of a committee and approval by the commissioner, a county superintendent may employ temporary assistants to be paid from the state school organization fund, upon the submission of an expense account signed by the person rendering such service, approved by the county superintendent and commissioner.

(4) Reimbursement for travel and other expenses within the state of Colorado, of a county superintendent, his assistants employed under this article, and of the members of a committee and its employees, including necessary supplies and travel expenses within the state of Colorado, shall be made by the state treasurer from the state school organization fund upon the submission of an expense account signed by the person claiming reimbursement, and in case of members of the committee, its assistants, and assistants to the county superintendent, the expense accounts shall be approved by the county superintendent and by the commissioner, or in case the claimant is a county superintendent, the expense accounts shall be approved by the commissioner only.

123-25-34. Application. From and after the effective date of this article no school district shall be organized except under the provisions of this article, and no consolidation of existing school districts, annexation to existing districts, or formation of joint school districts shall be made except as permitted under this article.

123-25-35. Duties of the attorney general. The attorney general shall be the legal counsel and advisor of the state board of education, the commissioner of education, and also, when requested by the commissioner, shall be the legal counsel and advisor of any of the county school planning committees organized pursuant to the provisions of this article for purposes related to the proper administration of this article. It shall be the duty of the attorney general, at the request of the commissioner, to prosecute

COMMENTS

Present 123-25-37 and 123-25-38 would be deleted. (See 123-25-5 of this bill concerning termination of committee existence.)

Based on present 123-25-39.

Based on present 123-25-40.

TEXT

and defend any suit or suits relating to the organization of school districts pursuant to this article.

123-25-36. Dissolution and annexation of districts. (1)(a) Notwithstanding the provisions of section 123-25-34, the general assembly determines and declares that a county school planning committee, with the approval of the commissioner and without being required to follow the other procedures for organizing new districts as provided in this article, shall dissolve and annex a district or districts under the jurisdiction of the committee when either of the following conditions exists:

(b) When any school district fails to establish and operate a school within the district during the current or any subsequent school year after the effective date of this article.

(c) When the board of education of any school district which maintains one or more schools within the district fails to provide within such schools a full twelve-grade educational program and requests the committee to dissolve such district.

(2) If a county committee shall dissolve and annex a district under the conditions set forth in subsection (1) of this section, the committee shall notify in writing the county superintendent of schools and the secretary of each district affected, that effective on the thirtieth day following the date of such notice, such district shall be declared to be dissolved and immediately thereupon all or any part of such resultant unorganized territory shall be annexed to and shall become a part of one or more adjacent school districts operating a school program grades one through twelve and having its designated headquarters within the county.

(3) Within twenty days following receipt of notice of the dissolution of a district, the secretary of such district shall deliver to the county superintendent of schools in which county the district has its designated headquarters for custody thereafter all financial and other records of such district. The disposition of funds, the proceeds from sale of assets, and the payment of bonded indebtedness of the dissolved district shall be as provided by the

COMMENTS

Based on present 123-25-41 but substitutes the word "shall" for "may" in subsection (1).

Dissolution and annexation would be mandatory for non-operating districts.

Changes notice from 10 days to 30 days. Present subsection (2)(b) is deleted.

Allows 20 days (instead of 10) for delivery of records.

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committee and in accord with the applicable provisions of sections 123-25-27 to 123-25-29; provided, that one annexing school district shall be designated as a successor for the purpose of administering payment of the outstanding bonded indebtedness, if any, of the dissolved district and such sections shall be applicable thereto whether or not the annexing district is a new district or whether or not a plan of organization was adopted.

(4) Within ten days following receipt of notice of the dissolution of a district, the county superintendent shall give notice of such dissolution to the county assessor of the proper county and to the commissioner.

123-25-37. Appeal to the state board of education. Whenever under the provisions of this article, the commissioner shall fail to approve any plan, or part of any plan, submitted to him by a committee, after approval of such plan by the committee, the committee shall have the right to appeal the disapproval of the commissioner to the state board of education. Any committee wishing to make such appeal to the board shall petition the chairman of the board, in writing, for a hearing on the reasonableness of such disapproval by the commissioner. Upon receipt of any such petition the chairman of the board shall fix a time for the hearing of the petition, not more than thirty days after receipt thereof, and shall cause notice of such hearing to be given to the committee by service of such notice upon the county superintendent serving as secretary of the committee, by mailing a copy thereof to said county superintendent, who shall in turn notify each member of the committee of such notice. All such hearings shall be held in such places as the board may designate, and shall be open to the public. The board, upon the completion of any such hearing, shall rule upon the reasonableness of the commissioner's disapproval or veto, and shall make its decision as to and resolve the points at issue between the committee and the commissioner, and such decision of the board shall be final.

123-25-38. Election on assuming the existing bonded indebtedness. (1) The committee may submit the issue of assuming the bonded indebtedness of any school district or districts, or of

## COMMENTS

Eliminates requirement for approval of the commissioner. Proviso is added for clarity.

Notice to the commissioner is new.

Based on present 123-25-42.

Present 123-25-43 (requiring the commissioner to prepare a plan of reorganization by 1960) is deleted.

Based on present 123-25-44 (Section 5 of Chapter 70, S.L. 1964). Under this proposed

## TEXT

any portion thereof, existing at the time of inclusion in the proposed new district, to the registered qualified taxpaying electors of such new district. If the committee so decides, the question shall be submitted at the special school district organization election.

(2)(a) The election shall be held in the manner prescribed by law for a school district to incur bonded indebtedness unless otherwise specified in this section. The outstanding bonded indebtedness incurred by more than one school district, or the proportionate shares thereof, may be assumed simultaneously by a new district under the provisions of this section through the submission of a single ballot; provided, that voting on separate amounts, or alternative voting, on one ballot shall be prohibited.

(b) If one or more whole school districts have been included in a new district, the ballot shall contain a statement of the amount or amounts of outstanding bonded indebtedness proposed to be assumed by the new district. If only a portion of the territory of an old school district has been included in a new district, the proportionate share of the outstanding bonded indebtedness incurred by said old school district to be assumed shall be determined on the basis of the total amount of outstanding bonded indebtedness on the first day of the month next immediately preceding the month during which the election is to be held, in proportion to the amount of the valuation for assessment of all taxable property within the territory of the old school district so included in the new district, as shown by a certification of such valuation for assessment made by the county assessor, or assessors if the territory is situated in more than one county, on the first day of the month next immediately preceding the month during which the election is to be held. When requested by the secretary of the committee, the county assessor or assessors shall make such certification on such date or immediately thereafter, and such certification shall be computed upon the most recent valuation for assessment of all taxable property of the territory in the old school district which is liable for said bonded indebtedness, with due regard to the location of such properties as related to the territory included within the

## COMMENTS

change the question could not be submitted after the formation of a new district. Instead, it would be submitted by the committee at the school district organization election.

Method of computing the proportionate share is changed to conform to the method which existed prior to the 1964 amendment.



new district. The legal description of said territory included in said new district shall be furnished to the county assessor or assessors by the secretary of the committee when he requests the certification of such valuation for assessment.

(c) If printed ballots are used, the ballot shall be printed or typewritten and shall contain the words "Official Ballot" and below set forth the amount or amounts of outstanding bonded indebtedness to be assumed by the new district, the name and number of each old school district which incurred said bonded indebtedness, and, if the ballot contains more than one amount to be assumed, the total of such amounts shall be indicated thereon.

(3) Only registered qualified taxpaying electors eligible to vote on the question of a school district incurring bonded indebtedness shall be entitled to vote on the question of assuming the outstanding bonded indebtedness, or proportionate share thereof, pursuant to the provisions of this section.

(4) Election offenses in such election shall be the same as those prescribed in article 23 of chapter 49, C.R.S. 1963.

(5) If a majority of the registered qualified taxpaying electors voting on the proposed question vote for the assumption of the bonded indebtedness, the public officials shall perform the duties set forth in sections 123-11-18 to 123-11-22, which are necessary to assure that the assumed bonded indebtedness is paid in the manner provided by law for the paying of any bonded indebtedness which the new district contracts.

123-25-39. Detachment and annexation of territory. (1) Whenever the boards of education of adjoining new school districts or of adjoining old school districts each having a school enrollment of over fifteen hundred, deem it to be in the best interests of their respective districts to revise, alter, or modify the boundaries common to each such district, for the purpose of more economical operation or administration, or in order to provide better educational opportunities for the school-age children resident in certain territory, such revision, alteration, or modification of the

Present subsection (6), making this section applicable to annexing districts as well as to new districts, is deleted.

Based on present 123-25-45.

common boundary may be made by mutual consent in the manner prescribed in either subsection (2) or (3) of this section. Nothing in this section shall be construed in a manner to limit the amount of territory of a school district which may be detached as a result of such territory having been included in a new district organized pursuant to and after the effective date of this article.

(2)(a) The boards of education of the adjoining new districts or of old school districts each having a school enrollment of over fifteen hundred shall adopt a resolution relative to the proposed change in boundaries, which shall set forth the legal description of the proposed new common boundary, and such legal description of the proposed new boundary shall be identical in the resolution adopted by the board of education of each such school district, except for typographical errors or minor omissions, if any.

(b) The board of education of each such new district or old school district having a school enrollment of over fifteen hundred shall thereafter submit to the committee or committees a certified true and correct copy of said resolution; provided, that if a committee shall not be in existence in the county or counties, such copy shall be submitted to the county superintendent or superintendents. The committee or committees, or county superintendent or superintendents, as the case may be, shall approve the resolutions if determined to be in compliance with the provisions of this section.

(c) After both resolutions shall have been approved by the committee or committees, or county superintendent or superintendents, as the case may be, the board of education of the new district or old school district having a school enrollment of over fifteen hundred from which the territory is proposed to be detached shall call a special election to be held in such territory proposed to be detached. Said special election shall be held in the manner for the holding of a special school district organization election in a proposed new district, except for the form of the ballot, and all powers and duties delegated to the committee, the chairman and secretary thereof, under the provisions of this article for such organization election shall be performed by the board of education,

TEXT

the president and secretary of the new district or old school district having a school enrollment of over fifteen hundred from which said territory is proposed to be detached, whether the territory proposed to be detached is situated within or without the county; provided, that no special election as authorized in this section shall be held within sixty days prior to the regular biennial school election or within sixty days after an election in the new district from which the territory is proposed to be detached on the question of incurring bonded indebtedness.

(d) Only registered qualified taxpaying electors who are also resident within the territory proposed to be detached shall be eligible to vote at such election. If a majority of the said electors voting at said election shall vote in favor of said detachment and annexation, the said territory shall be automatically so detached and annexed upon the thirtieth day after the date of the election.

(e) The assets and liabilities of the school district from which said territory was detached shall be apportioned, distributed, and paid in the manner prescribed by the applicable provisions of sections 123-25-27 to 123-25-29 without a plan of organization.

(f) If a majority of the registered qualified taxpaying electors voting at said election shall vote in favor of said detachment and annexation, the committee or committees, or county superintendent or superintendents, as the case may be, shall forward to the commissioner copies of the resolutions adopted by each board of education, together with a copy of the certificate of canvass of the election results and provide written notice thereof to the county assessor.

(g) If a majority of the registered qualified taxpaying electors voting at said election shall vote against said detachment and annexation of territory, the question of detaching and annexing any portion of said territory shall not be submitted to a vote or be subject to a statement of consent as authorized by subsection (3) of this section for a period of twelve months thereafter.

Changes from majority of taxpaying electors "resident therein" to "voting at said election".

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(3)(a) If only five or less registered qualified taxing electors shall be resident within the territory proposed to be detached and annexed and shall submit to the board of education of each new district or old school district having a school enrollment of over fifteen hundred to be affected by the proposed detachment and annexation, a notarized statement of consent to the proposed detachment and annexation, it shall not be necessary to hold a special election within said territory as required by subsection (2) of this section. In the absence of a statement of consent of all such registered qualified taxing electors resident therein, a special election may be held as authorized by subsection (2) of this section; provided, that the time limitations as prescribed in said subsection (2) concerning an election shall be applicable to detachment and annexation of territory under this subsection.

(b) The board of education of the new district or old school district having a school enrollment of over fifteen hundred from which said territory is proposed to be detached shall certify to the committee or committees, or county superintendent or superintendents, as the case may be, that five or less registered qualified taxing electors are resident within the territory proposed to be detached and annexed, and that each such elector resident therein has submitted a notarized written statement of consent to the proposed detachment and annexation of territory. If there are no registered qualified taxing electors resident within the territory proposed to be detached and annexed, the board of education of the new district or old school district having a school enrollment of over fifteen hundred from which said territory is proposed to be detached shall certify to the committee or committees, or county superintendent or superintendents, as the case may be, a written statement to such effect and no special election shall be held in the territory on said question.

(c) The committee or committees, or county superintendent or superintendents, as the case may be, shall approve the proposed detachment and annexation of territory if otherwise in compliance with subsection (1) of this section; provided, that the legal description of the proposed new common boundary as set forth in the