

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0523.01 Julie Pelegrin x2700

SENATE BILL 12-121

SENATE SPONSORSHIP

King K.,

HOUSE SPONSORSHIP

Massey,

Senate Committees
Education

House Committees

A BILL FOR AN ACT

101 CONCERNING CHARTER SCHOOLS.

Bill Summary

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

Under current law, a charter school that decides to apply for financial assistance through the building excellent schools today (BEST) program must give its authorizer a notice of intent to apply at least 3 months before the application deadline. The bill extends the time for the notice to 4 months. The public school capital construction board (BEST board) reviews each application and calculates how much an applicant must provide in matching moneys by applying several factors. The bill

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

changes the factors that apply to charter school applicants. The amount of match moneys calculated for charter schools must be comparable to the amounts calculated for school districts in the same year.

The bill creates the charter school matching moneys loan program (loan program) to assist charter schools in obtaining up to 50% of the matching moneys required for financial assistance through the BEST program. To be eligible to participate, a charter school must qualify for payments from the state charter school debt reserve fund. An eligible charter school that participates in the loan program must comply with several requirements, including authorizing the state treasurer to withhold the amount of the loan payments from moneys otherwise payable to the charter school and putting 6 months of loan payments into escrow for the benefit of the state. The loans are funded through the lease-purchase agreements the state treasurer enters into for the charter schools' construction projects.

If a charter school chooses to apply for a state or federal, nonformulaic grant, other than a grant under the federal special education law, the charter school is a local education agency for purposes of determining eligibility for the grant. The state charter school institute (institute) may act as the fiscal agent for the charter school, at the charter school's request.

The bill clarifies the definition of "at-risk student" for purposes of the institute statutes. Under current law, the institute is the local education agency for institute charter schools for federal law purposes. Under the bill, an institute charter school that does not receive certain federal moneys will be its own local education agency. The state board of education currently, by rule, automatically waives certain rules and statutes for charter schools. The bill clarifies that these automatic waivers apply to institute charter schools.

Under existing law, the institute can authorize an institute charter school located within the boundaries of a school district only if the school district does not have exclusive chartering authority. The bill allows the institute to authorize institute charter schools that are located within the boundaries of school districts that are accredited with turnaround plans, regardless of whether the school districts have exclusive chartering authority.

Under current law, the institute retains up to 3% of each institute charter school's per pupil revenues, but the amount retained cannot exceed the actual amount of central administrative overhead costs incurred by the institute for the institute charter school. The bill allows the institute to retain the full 3% of per pupil revenues until the end-of-year balance of the account to which these moneys are credited exceeds a certain amount. The institute is subject to annual appropriations. The bill continuously appropriates operational moneys to the institute.

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

2 **SECTION 1.** In Colorado Revised Statutes, 22-43.7-109, **amend**
3 (3), (4) (f), and (9) (c); and **add** (12) as follows:

4 **22-43.7-109. Financial assistance for public school capital**
5 **construction - application requirements - evaluation criteria - local**
6 **match requirements.** (3) A charter school shall notify its authorizer that
7 it intends to apply for financial assistance at least ~~three~~ FOUR months prior
8 to the application submission deadline. The charter school shall forward
9 its application for financial assistance to its authorizer, which shall
10 forward the application to the board together with a letter indicating the
11 authorizer's position on the application. The Colorado school for the deaf
12 and blind shall apply for financial assistance directly. Financial assistance
13 awarded to a charter school as a matching cash grant shall be provided to
14 the authorizer, which shall distribute all financial assistance received as
15 a grant to the charter school and may not retain any portion of such
16 moneys for any purpose. All other financial assistance shall be provided
17 in the form of lease payments made by the board directly to a lessor or
18 trustee as required by the terms of the applicable lease-purchase
19 agreement.

20 (4) Applications for financial assistance submitted to the board
21 shall be in a form prescribed by the board and shall include:

22 (f) A statement regarding the means by which the applicant
23 intends to provide matching moneys required for the projects, including
24 but not limited to means such as voter-approved multiple-fiscal year debt
25 or other financial obligations, gifts, grants, donations, A LOAN OBTAINED
26 PURSUANT TO SECTION 22-43.7-110.5, or any other means of financing

1 permitted by law, or the intent of the applicant to seek a waiver of the
2 matching moneys requirement pursuant to subsection (10) of this section.
3 If an applicant that is a school district or a board of cooperative services
4 with a participating school district intends to raise matching moneys by
5 obtaining voter approval to enter into a sublease-purchase agreement that
6 constitutes an indebtedness of the district as authorized by section
7 22-32-127, it shall indicate whether it has received the required voter
8 approval or, if the election has not already been held, the anticipated date
9 of the election.

10 (9) Except as otherwise provided in subsection (10) of this
11 section, the board shall recommend and the state board shall approve
12 financial assistance for a public school facility capital construction project
13 only if the applicant provides matching moneys in an amount equal to a
14 percentage of the total financing for the project determined by the board
15 after consideration of the applicant's financial capacity, as determined by
16 the following factors:

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

19 ~~(I) The amount of per pupil revenues that the charter school has~~
20 ~~budgeted to expend in order to meet its facilities obligations during the~~
21 ~~fiscal year for which an application is made relative to other charter~~
22 ~~schools in the state, measured both in terms of total dollars and as a~~
23 ~~percentage of the charter school's total per pupil revenues~~ THE WEIGHTED
24 AVERAGE OF THE MATCH PERCENTAGES FOR THE SCHOOL DISTRICTS OF
25 RESIDENCE FOR THE STUDENTS ENROLLED IN A DISTRICT CHARTER SCHOOL
26 OR FIFTY PERCENT OF THE AVERAGE OF THE MATCH PERCENTAGES FOR ALL
27 SCHOOL DISTRICTS IN THE STATE FOR AN INSTITUTE CHARTER SCHOOL;

1 ~~(H) Repealed.~~

2 (II) WHETHER THE CHARTER SCHOOL'S AUTHORIZER RETAINS NO
3 MORE THAN TEN PERCENT OF ITS CAPACITY TO ISSUE BONDS PURSUANT TO
4 ARTICLE 42 OF THIS TITLE;

5 ~~(III) The per pupil revenue received by the charter school from the~~
6 ~~state education fund for capital construction pursuant to section~~
7 ~~22-30.5-112.3~~ WHETHER THE CHARTER SCHOOL IS OPERATING IN A
8 DISTRICT-OWNED FACILITY AT THE TIME IT SUBMITS ITS APPLICATION;

9 ~~(III.5) (IV) If the charter school is an institute charter school,~~
10 ~~whether the charter school has applied for or received a grant from the~~
11 ~~institute charter school assistance fund created in section 22-30.5-515.5~~
12 ~~to assist the charter school in providing matching moneys~~ IN THE TEN
13 YEARS PRECEDING THE YEAR IN WHICH THE CHARTER SCHOOL SUBMITS
14 THE APPLICATION, THE NUMBER OF TIMES THE CHARTER SCHOOL HAS
15 ATTEMPTED TO OBTAIN OR HAS OBTAINED:

16 (A) BOND PROCEEDS PURSUANT TO SECTION 22-30.5-404
17 THROUGH INCLUSION IN A BALLOT MEASURE SUBMITTED BY THE CHARTER
18 SCHOOL'S AUTHORIZER TO THE REGISTERED ELECTORS OF THE SCHOOL
19 DISTRICT;

20 (B) PROCEEDS FROM A SPECIAL MILL LEVY FOR CAPITAL NEEDS
21 PURSUANT TO SECTION 22-30.5-405;

22 (C) GRANT FUNDING FOR CAPITAL NEEDS FROM A SOURCE OTHER
23 THAN THE ASSISTANCE FUND; AND

24 (D) FUNDING FOR CAPITAL CONSTRUCTION FROM BONDS ISSUED ON
25 ITS BEHALF BY THE COLORADO EDUCATIONAL AND CULTURAL FACILITIES
26 AUTHORITY CREATED AND EXISTING PURSUANT TO SECTION 23-15-104 (1)
27 (a), C.R.S., OR FROM SOME OTHER SOURCE OF FINANCING;

1 (V) IF THE CHARTER SCHOOL IS A DISTRICT CHARTER SCHOOL, THE
2 STUDENT ENROLLMENT OF THE CHARTER SCHOOL AS A PERCENTAGE OF
3 THE STUDENT ENROLLMENT OF THE CHARTER SCHOOL'S AUTHORIZING
4 SCHOOL DISTRICT;

5 ~~(IV)~~ (VI) The percentage of ~~children~~ STUDENTS enrolled in the
6 charter school who are eligible for the federal free and reduced-cost lunch
7 program IN RELATION TO THE OVERALL PERCENTAGE OF STUDENTS
8 ENROLLED IN THE PUBLIC SCHOOLS IN THE STATE WHO ARE ELIGIBLE FOR
9 THE FEDERAL FREE AND REDUCED-COST LUNCH PROGRAM; and

10 ~~(V)~~ (VII) ~~The amount of effort put forth by the charter school~~
11 ~~during the ten years preceding the year in which the charter school~~
12 ~~submitted the application to meet its facilities needs by accessing vacant~~
13 ~~school district facilities or obtaining funding for capital construction by~~
14 ~~having the Colorado educational and cultural facilities authority created~~
15 ~~and existing pursuant to section 23-15-104 (1) (a), C.R.S, issue bonds on~~
16 ~~its behalf, seeking voter approval of a ballot question for bonded~~
17 ~~indebtedness or for a special mill levy authorized by section 22-30.5-405,~~
18 ~~or seeking inclusion of its capital construction needs in a school district's~~
19 ~~ballot question seeking voter approval for bonded indebtedness, which~~
20 ~~factor may be used only to reduce the percentage of matching moneys~~
21 ~~required from a charter school that has put forth such effort and not to~~
22 ~~increase the amount of matching moneys required from any charter school~~
23 THE PERCENTAGE OF THE PER PUPIL REVENUE RECEIVED BY THE CHARTER
24 SCHOOL THAT THE CHARTER SCHOOL SPENDS ON FACILITY COSTS OTHER
25 THAN FACILITIES OPERATIONS AND MAINTENANCE; AND

26 (VIII) THE CHARTER SCHOOL'S UNRESERVED FUND BALANCE AS A
27 PERCENTAGE OF ITS ANNUAL BUDGET.

1 (12) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
2 CONTRARY, THE MATCH PERCENTAGE FOR A CHARTER SCHOOL
3 CALCULATED PURSUANT TO PARAGRAPH (c) OF SUBSECTION (9) OF THIS
4 SECTION SHALL NOT BE HIGHER THAN THE HIGHEST MATCH PERCENTAGE
5 FOR A SCHOOL DISTRICT, OR LOWER THAN THE LOWEST MATCH
6 PERCENTAGE FOR A SCHOOL DISTRICT, IN THE SAME GRANT CYCLE.

7 **SECTION 2.** In Colorado Revised Statutes, 22-43.7-110, **amend**
8 (2) (b) as follows:

9 **22-43.7-110. Financial assistance - grants - lease-purchase**
10 **agreements.** (2) Subject to the following requirements and limitations,
11 the board may also instruct the state treasurer to enter into lease-purchase
12 agreements on behalf of the state to provide financial assistance to
13 applicants by financing public school facility capital construction projects
14 for which the state board has authorized the provision of financial
15 assistance pursuant to section 22-43.7-109 (7):

16 (b) (I) The state treasurer may enter into lease-purchase
17 agreements for which the aggregate annual lease payments of principal
18 or interest for any fiscal year exceed one-half of the maximum total
19 amount of annual lease payments permitted for the fiscal year pursuant to
20 paragraph (a) of this subsection (2) only if the aggregate amount of
21 matching moneys expected to be credited to the assistance fund pursuant
22 to paragraph (c) of this subsection (2) and section 22-43.7-104 (2) (b)
23 (IV) and any interest or income derived from the deposit and investment
24 of the matching moneys is at least equal to the annual lease payments of
25 principal and interest that exceed one-half of said maximum total amount.

26 (II) FOR PURPOSES OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b),
27 IN CALCULATING ONE-HALF THE MAXIMUM TOTAL AMOUNT OF ANNUAL

1 LEASE PAYMENTS PERMITTED FOR THE FISCAL YEAR PURSUANT TO
2 PARAGRAPH (a) OF THIS SUBSECTION (2), THE STATE TREASURER SHALL
3 NOT INCLUDE ANY AMOUNT OF ANNUAL LEASE PAYMENTS OF PRINCIPAL OR
4 INTEREST THAT ARE ATTRIBUTABLE TO LOANS OF MATCHING MONEYS FOR
5 ELIGIBLE CHARTER SCHOOLS THAT THE BOARD APPROVES PURSUANT TO
6 SECTION 22-43.7-110.5.

7 **SECTION 3.** In Colorado Revised Statutes, **add** 22-43.7-110.5
8 as follows:

9 **22-43.7-110.5. Charter school matching moneys loan program**

10 **- rules.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
11 REQUIRES:

12 (a) "ELIGIBLE CHARTER SCHOOL" MEANS A CHARTER SCHOOL THAT
13 IS:

14 (I) A QUALIFIED CHARTER SCHOOL AS DEFINED IN SECTION
15 22-30.5-408 (1) (c); AND

16 (II) AUTHORIZED TO RECEIVE FINANCIAL ASSISTANCE PURSUANT
17 TO SECTION 22-43.7-109 (7).

18 (b) "LOAN PROGRAM" MEANS THE CHARTER SCHOOL MATCHING
19 MONEYS LOAN PROGRAM CREATED IN THIS SECTION.

20 (2) (a) THERE IS HEREBY CREATED THE CHARTER SCHOOL
21 MATCHING MONEYS LOAN PROGRAM TO ASSIST ELIGIBLE CHARTER
22 SCHOOLS IN OBTAINING THE MATCHING MONEYS REQUIRED FOR AN AWARD
23 OF FINANCIAL ASSISTANCE PURSUANT TO SECTION 22-43.7-109. THROUGH
24 THE LOAN PROGRAM, THE BOARD MAY APPROVE A LOAN FOR AN ELIGIBLE
25 CHARTER SCHOOL IN AN AMOUNT THAT DOES NOT EXCEED FIFTY PERCENT
26 OF THE AMOUNT OF MATCHING MONEYS CALCULATED FOR THE ELIGIBLE
27 CHARTER SCHOOL PURSUANT TO SECTION 22-43.7-109 (9) (c).

1 (b) THE BOARD SHALL DIRECT THE STATE TREASURER TO INCLUDE
2 THE AMOUNT OF A LOAN APPROVED PURSUANT TO THIS SECTION IN THE
3 LEASE-PURCHASE AGREEMENT ENTERED INTO PURSUANT TO SECTION
4 22-43.7-110 (2) TO PROVIDE FINANCIAL ASSISTANCE TO THE ELIGIBLE
5 CHARTER SCHOOL FOR WHICH THE LOAN IS APPROVED.

6 (3) AN ELIGIBLE CHARTER SCHOOL THAT CHOOSES TO SEEK A
7 LOAN THROUGH THE LOAN PROGRAM SHALL APPLY TO THE BOARD TO
8 RECEIVE A LOAN. THE BOARD SHALL PROMULGATE RULES PURSUANT TO
9 THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24,
10 C.R.S., ESTABLISHING THE CONTENTS OF A LOAN APPLICATION AND THE
11 TIMELINES AND PROCEDURES FOR APPLYING FOR A LOAN THROUGH THE
12 LOAN PROGRAM.

13 (4) TO RECEIVE A LOAN THROUGH THE LOAN PROGRAM, AN
14 ELIGIBLE CHARTER SCHOOL SHALL:

15 (a) AUTHORIZE THE STATE TREASURER TO WITHHOLD MONEYS
16 PAYABLE TO THE ELIGIBLE CHARTER SCHOOL IN THE AMOUNT OF THE LOAN
17 PAYMENTS PURSUANT TO THE PROCEDURE DESCRIBED IN SECTION
18 22-30.5-406;

19 (b) PAY AN INTEREST RATE ON THE LOAN THAT IS EQUAL TO THE
20 INTEREST RATE PAID BY THE STATE TREASURER ON THE LEASE-PURCHASE
21 AGREEMENT ENTERED INTO PURSUANT TO SECTION 22-43.7-110 TO
22 PROVIDE FINANCIAL ASSISTANCE TO THE ELIGIBLE CHARTER SCHOOL FOR
23 WHICH THE LOAN IS APPROVED;

24 (c) AMORTIZE THE LOAN PAYMENTS OVER THE SAME PERIOD IN
25 YEARS AS THE LEASE-PURCHASE AGREEMENT ENTERED INTO PURSUANT TO
26 SECTION 22-43.7-110 TO PROVIDE FINANCIAL ASSISTANCE TO THE ELIGIBLE
27 CHARTER SCHOOL FOR WHICH THE LOAN IS APPROVED; EXCEPT THAT THE

1 ELIGIBLE CHARTER SCHOOL MAY PAY THE FULL AMOUNT OF THE LOAN
2 EARLY WITHOUT INCURRING A PREPAYMENT PENALTY; AND

3 (d) CREATE AN ESCROW ACCOUNT FOR THE BENEFIT OF THE STATE
4 WITH A BALANCE IN THE AMOUNT OF SIX MONTHS OF LOAN PAYMENTS.

5 **SECTION 4.** In Colorado Revised Statutes, 22-30.5-104, **amend**
6 (11) (a) as follows:

7 **22-30.5-104. Charter school - requirements - authority.**

8 (11) (a) If a charter school chooses to apply for a grant through a
9 nonformulaic, competitive grant program created by a federal or state
10 statute or program, the charter school ~~pursuant to the provisions of section~~
11 ~~22-30.5-503 (3.5)~~, IS THE LOCAL EDUCATION AGENCY FOR PURPOSES OF
12 APPLYING FOR AND DETERMINING ELIGIBILITY FOR THE GRANT AND may
13 request PURSUANT TO SECTION 22-30.5-503 (3.5) that the state charter
14 school institute act as a ~~local education agency and~~ fiscal agent for the
15 charter school for purposes of the grant; ~~The charter school shall pay the~~
16 ~~fee, if any, imposed by the state charter school institute board as provided~~
17 ~~in section 22-30.5-503 (3.5)~~ EXCEPT THAT THE PROVISIONS OF THIS
18 SUBSECTION (11) DO NOT APPLY TO AN APPLICATION FOR A GRANT
19 PROGRAM CREATED IN THE FEDERAL "INDIVIDUALS WITH DISABILITIES
20 EDUCATION ACT", 20 U.S.C. SEC. 1400 ET SEQ., AS AMENDED, OR IN ITS
21 IMPLEMENTING REGULATIONS.

22 **SECTION 5.** In Colorado Revised Statutes, 22-30.5-503, **amend**
23 (3.5) as follows:

24 **22-30.5-503. State charter school institute - establishment -**
25 **rules.** (3.5) (a) The state charter school institute may act as the ~~local~~
26 ~~education agency and~~ fiscal agent for a district charter school or an
27 institute charter school that chooses to apply for a grant through a

1 nonformulaic, competitive grant program created by a federal or state
2 statute or program; except that the provisions of this subsection (3.5) shall
3 not apply to an application for:

4 (I) A grant program created in the federal "Individuals with
5 Disabilities Education Act", 20 U.S.C. sec. 1400 et seq., as amended, or
6 in its implementing regulations.

7 (II) (Deleted by amendment, L. 2011, (HB11-1089), ch. 55, p.
8 147, § 1, effective March 25, 2011.)

9 (b) In acting as a ~~local education agency~~ and fiscal agent pursuant
10 to this subsection (3.5), the institute shall treat district charter schools and
11 institute charter schools equally.

12 (c) The institute board, by rule, may establish a fee that a district
13 charter school or an institute charter school shall pay if it requests that the
14 institute act as the ~~local education agency~~ and fiscal agent for the charter
15 school pursuant to this subsection (3.5). The amount of the fee shall not
16 exceed the direct costs incurred by the institute in implementing the
17 provisions of this subsection (3.5). Any amount received by the institute
18 from fees paid pursuant to this subsection (3.5) is continuously
19 appropriated to the institute for the costs incurred in implementing this
20 subsection (3.5). The institute board shall adopt rules as necessary to
21 implement the provisions of this subsection (3.5).

22 (d) The state board shall promulgate rules to establish processes,
23 guidelines, and eligibility for a single school or consortium of schools to
24 apply for grants and programs. ~~pursuant to this section.~~

25 **SECTION 6.** In Colorado Revised Statutes, **add** 22-30.5-523 as
26 follows:

27 **22-30.5-523. Grant applications.** (1) EXCEPT AS OTHERWISE

1 PROVIDED IN SUBSECTION (2) OF THIS SECTION, AN INSTITUTE CHARTER
2 SCHOOL MAY CHOOSE TO APPLY FOR A GRANT THROUGH A
3 NONFORMULAIC, COMPETITIVE GRANT PROGRAM CREATED BY A FEDERAL
4 OR STATE STATUTE OR PROGRAM. IF AN INSTITUTE CHARTER SCHOOL
5 APPLIES FOR A GRANT, THE INSTITUTE CHARTER SCHOOL IS THE LOCAL
6 EDUCATION AGENCY FOR PURPOSES OF APPLYING FOR AND DETERMINING
7 ELIGIBILITY FOR THE GRANT AND MAY REQUEST THAT THE STATE CHARTER
8 SCHOOL INSTITUTE ACT AS A FISCAL AGENT FOR THE INSTITUTE CHARTER
9 SCHOOL PURSUANT TO SECTION 22-30.5-503 (3.5) FOR PURPOSES OF THE
10 GRANT.

11 (2) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO AN
12 APPLICATION FOR A GRANT PROGRAM CREATED IN THE FEDERAL
13 "INDIVIDUALS WITH DISABILITIES EDUCATION ACT", 20 U.S.C. SEC. 1400
14 ET SEQ., AS AMENDED, OR IN ITS IMPLEMENTING REGULATIONS.

15 **SECTION 7.** In Colorado Revised Statutes, 22-30.5-502, **amend**
16 (1) as follows:

17 **22-30.5-502. Definitions.** As used in this part 5, unless the
18 context otherwise requires:

19 (1) "At-risk student" means a student:

20 (a) Who is eligible to receive free or reduced-cost lunch pursuant
21 to the provisions of the federal "National School Lunch Act", 42 U.S.C.
22 sec. 1751 et seq.; or

23 (b) Who has performed at the proficiency level of "~~low~~" or
24 "unsatisfactory" OR "PARTIALLY PROFICIENT" on a statewide assessment.

25 **SECTION 8.** In Colorado Revised Statutes, 22-30.5-503, **amend**
26 (3) as follows:

27 **22-30.5-503. State charter school institute - establishment -**

1 **rules.** (3) (a) For purposes of federal law, the state charter school
2 institute shall be a local educational agency, deemed to be a public
3 authority legally constituted within the state for the administrative control
4 and direction of, and to perform a service function for, public elementary
5 schools and secondary schools in the state.

6 (b) NOTWITHSTANDING ANY PROVISION OF PARAGRAPH (a) OF THIS
7 SUBSECTION (3) TO THE CONTRARY, SO LONG AS AN INSTITUTE CHARTER
8 SCHOOL DOES NOT RECEIVE MONEYS UNDER TITLE I OF THE FEDERAL
9 "ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965", 20 U.S.C.
10 SEC. 6301 ET SEQ., THE INSTITUTE CHARTER SCHOOL IS A LOCAL
11 EDUCATIONAL AGENCY FOR PURPOSES OF SAID TITLE I.

12 **SECTION 9.** In Colorado Revised Statutes, 22-30.5-507, **amend**
13 (7) as follows:

14 **22-30.5-507. Institute charter school - requirements -**
15 **authority - rules.** (7) (a) Pursuant to the charter contract, an institute
16 charter school may operate free from specified statutes and state board
17 rules. THE STATE BOARD SHALL PROMULGATE RULES IDENTIFYING STATE
18 STATUTES AND STATE RULES THAT ARE AUTOMATICALLY WAIVED FOR ALL
19 CHARTER SCHOOLS, INCLUDING INSTITUTE CHARTER SCHOOLS.

20 (b) AN INSTITUTE CHARTER SCHOOL MAY APPLY TO THE STATE
21 BOARD, THROUGH THE INSTITUTE, FOR A WAIVER OF STATE STATUTES AND
22 STATE RULES THAT ARE NOT AUTOMATICALLY WAIVED. The state board
23 may waive state statutory requirements or rules promulgated by the state
24 board; except that the state board may not waive any statute or rule
25 relating to school accountability committees as described in section
26 22-11-401, any state statute or rule relating to the assessments required
27 to be administered pursuant to section 22-7-409, any state statute or rule

1 necessary to prepare the school performance reports pursuant to part 5 of
2 article 11 of this title, or any statute or rule necessary to implement the
3 provisions of the "Public School Finance Act of 1994", article 54 of this
4 title, or any state statute or rule relating to the "Children's Internet
5 Protection Act", article 87 of this title.

6 (c) Any waiver of state statute or state board rule made pursuant
7 to this subsection (7) shall be for the term of the contract for which the
8 waiver is made. A request for a waiver may be submitted to the institute
9 as a part of the application for an institute charter school.

10 **SECTION 10.** In Colorado Revised Statutes, 22-30.5-504,
11 **amend** (2) as follows:

12 **22-30.5-504. Institute chartering authority - institute charter**
13 **schools - exclusive authority - retention - recovery - revocation.**

14 (2) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS
15 SUBSECTION (2), an institute charter school applicant may submit an
16 application to the institute only if the school district in which the institute
17 charter school is to be located has not retained exclusive authority to
18 authorize charter schools as provided in subsection (5) of this section. If
19 a school district has not retained exclusive authority to authorize charter
20 schools as provided in subsection (5) of this section, the school district
21 and the institute shall have concurrent authority to authorize charter
22 schools and institute charter schools, respectively, to be located within the
23 geographic boundaries of the school district. The school district shall
24 monitor and oversee all charter schools authorized by the school district
25 as provided in part 1 of this article. The institute shall monitor and
26 oversee all institute charter schools authorized by the institute as provided
27 in this part 5.

1 (b) AN INSTITUTE CHARTER SCHOOL APPLICANT MAY SUBMIT AN
2 APPLICATION TO THE INSTITUTE FOR AUTHORIZATION OF AN INSTITUTE
3 CHARTER SCHOOL WITHIN THE GEOGRAPHIC BOUNDARIES OF A SCHOOL
4 DISTRICT THAT HAS EXCLUSIVE AUTHORITY TO AUTHORIZE CHARTER
5 SCHOOLS IF THE SCHOOL DISTRICT IS ACCREDITED WITH TURNAROUND
6 PLAN AS DESCRIBED IN SECTION 22-11-207 (1) (e). IF THE INSTITUTE
7 AUTHORIZES AN INSTITUTE CHARTER SCHOOL IN A SCHOOL DISTRICT WHILE
8 THE SCHOOL DISTRICT IS ACCREDITED WITH TURNAROUND PLAN, THE
9 INSTITUTE CHARTER SCHOOL SHALL CONTINUE TO OPERATE PURSUANT TO
10 ITS CHARTER CONTRACT UNTIL THE INSTITUTE REVOKES OR DOES NOT
11 RENEW THE CONTRACT PURSUANT TO SECTION 22-30.5-511, REGARDLESS
12 OF WHETHER THE SCHOOL DISTRICT SUBSEQUENTLY ATTAINS A HIGHER
13 ACCREDITATION LEVEL.

14 **SECTION 11.** In Colorado Revised Statutes, 22-30.5-506,
15 **amend** (1); and **add** (4) as follows:

16 **22-30.5-506. State charter school institute fund - created.**

17 (1) The state charter school institute is authorized to receive and expend
18 gifts, grants, and donations of any kind from any public or private entity
19 to carry out the purposes of this part 5, subject to the terms and conditions
20 under which given; except that no gift, grant, or donation shall be
21 accepted if the conditions attached thereto require the use or expenditure
22 thereof in a manner contrary to law. Any gifts, grants, or donations
23 received pursuant to this subsection (1) shall be transmitted to the state
24 treasurer who shall credit the same to the state charter school institute
25 fund, hereinafter referred to as the "fund", which fund is hereby created
26 in the state treasury. ~~Except as otherwise provided in subsection (3) of~~
27 ~~this section, Moneys in the fund shall be subject to annual appropriation~~

1 ~~by the general assembly~~ ARE CONTINUOUSLY APPROPRIATED to the
2 institute, to offset the actual and reasonable costs incurred by the institute
3 in implementing this part 5. All investment earnings derived from the
4 deposit and investment of the moneys in the fund shall be credited to the
5 fund. Any unexpended and unencumbered moneys remaining in the fund
6 at the end of any fiscal year shall remain in the fund and shall not be
7 transferred to the general fund or any other fund.

8 (4) THE STATE CHARTER SCHOOL INSTITUTE SHALL CREATE IN THE
9 FUND AN ACCOUNT FOR PAYMENT OF THE INSTITUTE'S ADMINISTRATIVE
10 OVERHEAD COSTS, AS DEFINED IN SECTION 22-30.5-513 (1) (h), WHICH
11 ACCOUNT CONSISTS SOLELY OF MONEYS RETAINED BY THE INSTITUTE
12 FROM THE INSTITUTE CHARTER SCHOOLS' ADJUSTED PER PUPIL REVENUES
13 AND PER-PUPIL ON-LINE FUNDING PURSUANT TO SECTION 22-30.5-513 (4)
14 (a) (I.5) (E). AT THE END OF A BUDGET YEAR, IF THE AMOUNT OF
15 UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE ACCOUNT
16 EXCEEDS TEN PERCENT OF THE TOTAL ADJUSTED PER PUPIL REVENUES AND
17 PER-PUPIL ON-LINE FUNDING FOR INSTITUTE CHARTER SCHOOLS FOR THE
18 APPLICABLE BUDGET YEAR, THE INSTITUTE SHALL REFUND TO THE
19 INSTITUTE CHARTER SCHOOLS THE AMOUNT OF THE EXCESS. THE
20 INSTITUTE SHALL ALLOCATE THE REFUND TO EACH INSTITUTE CHARTER
21 SCHOOL ON A PER-PUPIL BASIS BY DIVIDING THE EXCESS AMOUNT BY THE
22 TOTAL PUPIL ENROLLMENT OF THE INSTITUTE CHARTER SCHOOLS FOR THE
23 APPLICABLE BUDGET YEAR.

24 **SECTION 12.** In Colorado Revised Statutes, 22-30.5-513,
25 **amend** (2) (b), (2) (d) (I), and (4) (a) (I.5) (E) as follows:

26 **22-30.5-513. Institute charter schools - definitions - funding.**
27 (2) (b) For budget year 2004-05 and budget years thereafter, each

1 institute charter school and the institute shall negotiate funding under the
2 charter contract at a minimum of ninety-five percent of the institute
3 charter school's accounting district's adjusted per pupil revenues for each
4 pupil enrolled in the institute charter school who is not an on-line pupil
5 and ninety-five percent of the institute charter school's accounting
6 district's per pupil on-line funding for each on-line pupil enrolled in the
7 institute charter school. The institute may retain ~~the actual amount of the~~
8 ~~institute charter school's per pupil share of the administrative overhead~~
9 ~~costs for services actually provided to the institute charter school; except~~
10 ~~that the institute may retain no more than the actual cost of the~~
11 ~~administrative overhead costs not to exceed~~ three percent of the
12 accounting district's adjusted per pupil revenues for each pupil, who is not
13 an on-line pupil, enrolled in the institute charter school and three percent
14 of the accounting district's per pupil on-line funding for each on-line
15 pupil enrolled in the institute charter school.

16 (d) (I) Within ninety days after the end of each fiscal year, the
17 institute shall provide to each institute charter school an itemized
18 accounting of all the institute's administrative overhead costs. ~~The actual~~
19 ~~administrative overhead costs shall be the amount charged to the institute~~
20 ~~charter school. Any difference, within the limitations of this subsection~~
21 ~~(2), between the amount initially charged to the institute charter school~~
22 ~~and the actual cost shall be reconciled and paid to the owed party.~~

23 (4) (a) (I.5) The institute shall forward to each institute charter
24 school an amount equal to the institute charter school's pupil enrollment
25 multiplied by the accounting district's adjusted per pupil revenues of the
26 institute charter school's accounting district, minus:

27 (E) ~~The amount of the actual costs incurred by the institute in~~

1 ~~providing necessary administration, oversight, and management services~~
2 ~~to the institute charter school, not to exceed~~ AN AMOUNT EQUAL TO three
3 percent of the amount ~~withheld~~ CALCULATED FOR THE INSTITUTE CHARTER
4 SCHOOL PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), WHICH
5 AMOUNT SHALL BE CREDITED TO THE ACCOUNT CREATED PURSUANT TO
6 SECTION 22-30.5-506 (4) AND USED TO OFFSET ADMINISTRATIVE
7 OVERHEAD COSTS; and

8 **SECTION 13. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, and safety.