

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

**REREVISED**

*This Version Includes All Amendments  
Adopted in the Second House*

LLS NO. 12-0523.01 Julie Pelegrin x2700

**SENATE BILL 12-121**

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**SENATE SPONSORSHIP**

**King K.,**

**HOUSE SPONSORSHIP**

**Massey,**

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**Senate Committees**

Education  
Appropriations

**House Committees**

Education

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**A BILL FOR AN ACT**

101 **CONCERNING CHARTER SCHOOLS.**

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**Bill Summary**

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

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.*

HOUSE  
3rd Reading Unam ended  
April 26, 2012

HOUSE  
2nd Reading Unam ended  
April 25, 2012

SENATE  
3rd Reading Unam ended  
M arch 29, 2012

SENATE  
Am ended 2nd Reading  
M arch 28, 2012

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.

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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, ALONE OR WITH A  
9 CONSORTIUM OF CHARTER SCHOOLS, for a grant through a nonformulaic,  
10 competitive grant program created by a federal or state statute or  
11 program, the charter school OR CONSORTIUM OF CHARTER SCHOOLS,  
12 pursuant to the provisions of section 22-30.5-503 (3.5), may request that  
13 the state charter school institute act as a local education agency and fiscal  
14 agent for the charter school OR CONSORTIUM OF CHARTER SCHOOLS for  
15 purposes of the grant MANAGEMENT AND LIABILITY. The charter school  
16 OR CONSORTIUM OF CHARTER SCHOOLS shall pay the fee, if any, imposed  
17 by the state charter school institute board as provided in section  
18 22-30.5-503 (3.5).

19 **SECTION 5.** In Colorado Revised Statutes, 22-30.5-503, **amend**  
20 (3.5) as follows:

21 **22-30.5-503. State charter school institute - establishment -**

22 **rules.** (3.5) (a) The state charter school institute may act as the local  
23 education agency and fiscal agent FOR PURPOSES OF GRANT MANAGEMENT  
24 AND LIABILITY for a district charter school, or an institute charter school,  
25 OR A CONSORTIUM OF CHARTER SCHOOLS that chooses to apply for a grant  
26 through a nonformulaic, competitive grant program created by a federal  
27 or state statute or program; except that the provisions of this subsection

1 (3.5) shall not apply to an application for:

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

5 (II) (Deleted by amendment, L. 2011, (HB11-1089), ch. 55, p.  
6 147, § 1, effective March 25, 2011.)

7 (b) In acting as a local education agency and fiscal agent FOR  
8 PURPOSES OF GRANT MANAGEMENT AND LIABILITY pursuant to this  
9 subsection (3.5), the institute shall treat district charter schools and  
10 institute charter schools equally.

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

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

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27 **SECTION 6.** In Colorado Revised Statutes, 22-30.5-502, **amend**

1 (1) as follows:

2 **22-30.5-502. Definitions.** As used in this part 5, unless the  
3 context otherwise requires:

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

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

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

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

13 **22-30.5-507. Institute charter school - requirements -**  
14 **authority - rules.** (7) (a) Pursuant to the charter contract, an institute  
15 charter school may operate free from specified statutes and state board  
16 rules. THE STATE BOARD SHALL PROMULGATE RULES IDENTIFYING STATE  
17 STATUTES AND STATE RULES THAT ARE AUTOMATICALLY WAIVED FOR ALL  
18 CHARTER SCHOOLS, INCLUDING INSTITUTE CHARTER SCHOOLS.

19 (b) AN INSTITUTE CHARTER SCHOOL MAY APPLY TO THE STATE  
20 BOARD, THROUGH THE INSTITUTE, FOR A WAIVER OF STATE STATUTES AND  
21 STATE RULES THAT ARE NOT AUTOMATICALLY WAIVED. The state board  
22 may waive state statutory requirements or rules promulgated by the state  
23 board; except that the state board may not waive any statute or rule  
24 relating to school accountability committees as described in section  
25 22-11-401, any state statute or rule relating to the assessments required  
26 to be administered pursuant to section 22-7-409, any state statute or rule  
27 necessary to prepare the school performance reports pursuant to part 5 of

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

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

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11 **SECTION 8.** In Colorado Revised Statutes, 22-30.5-506, **amend**  
12 (1); and **add** (4) as follows:

13 **22-30.5-506. State charter school institute fund - created.**

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

1 deposit and investment of the moneys in the fund shall be credited to the  
2 fund. Any unexpended and unencumbered moneys remaining in the fund  
3 at the end of any fiscal year shall remain in the fund and shall not be  
4 transferred to the general fund or any other fund.

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

21 **SECTION 9.** In Colorado Revised Statutes, 22-30.5-513, **amend**  
22 (2) (b), (2) (d) (I), and (4) (a) (I.5) (E) as follows:

23 **22-30.5-513. Institute charter schools - definitions - funding.**  
24 (2) (b) For budget year 2004-05 and budget years thereafter, each  
25 institute charter school and the institute shall negotiate funding under the  
26 charter contract at a minimum of ninety-five percent of the institute  
27 charter school's accounting district's adjusted per pupil revenues for each

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

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

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

24 (E) ~~The amount of the actual costs incurred by the institute in~~  
25 ~~providing necessary administration, oversight, and management services~~  
26 ~~to the institute charter school, not to exceed~~ AN AMOUNT EQUAL TO three  
27 percent of the amount ~~withheld~~ CALCULATED FOR THE INSTITUTE CHARTER

1 SCHOOL PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), WHICH  
2 AMOUNT SHALL BE CREDITED TO THE ACCOUNT CREATED PURSUANT TO  
3 SECTION 22-30.5-506 (4) AND USED TO OFFSET ADMINISTRATIVE  
4 OVERHEAD COSTS; and

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