

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 16-1152.03 Julie Pelegrin x2700

SENATE BILL 16-188

SENATE SPONSORSHIP

Hill,

HOUSE SPONSORSHIP

Williams and Sias

Senate Committees
Education

House Committees

A BILL FOR AN ACT

101 CONCERNING INCREASING CHARTER SCHOOLS' ACCESS TO RESOURCES.

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>.)

Mill levy equalization among district public school students. Beginning in the 2017-18 budget year, the bill requires a school district to distribute revenue it receives from ongoing local property tax mill levies equally, on a per-student basis, to the school district charter schools, with exceptions for revenue that is restricted to certain uses by voters.

BEST requirements for charter schools. The bill repeals certain requirements imposed on charter schools as conditions of qualifying for

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.

SENATE
3rd Reading Unamended
May 3, 2016

SENATE
Amended 2nd Reading
May 2, 2016

capital construction funding.

Use of capital construction money. The bill allows a qualified charter school to use state education fund money received as capital construction assistance to maintain buildings.

Availability of buildings and land. If a school district has authorized one or more charter schools and has an available or underused building or land, the bill requires the school district to provide notice to the district's charter schools and on its website of the availability of the building or land. A charter school or a charter school applicant may apply to the school district to use the building or land. The local board must review each application and, in a public meeting, approve or deny each application. If the local board denies an application, it must state the reasons at the public meeting and provide a written explanation of the reasons for denial to the applicants.

Mill levy equalization - institute charter schools. The bill directs the department of education to calculate a mill levy equalization payment in the amount of the per pupil share of the mill levy overrides of the institute charter school's accounting district. The state will pay the amounts, subject to annual appropriations.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 22-30.5-112.4
3 as follows:

4 **22-30.5-112.4. Charter schools - mill levy revenues -**
5 **equalization - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE
6 CONTEXT OTHERWISE REQUIRES:

7 (a) "ADDITIONAL MILL LEVY" MEANS THE NUMBER OF MILLS THAT
8 A SCHOOL DISTRICT LEVIES THAT ARE IN ADDITION TO THE SCHOOL
9 DISTRICT'S TOTAL PROGRAM MILL LEVY ESTABLISHED IN SECTION
10 22-54-106 (2), BUT NOT INCLUDING MILLS THAT A SCHOOL DISTRICT MAY
11 LEVY UNDER SECTION 22-40-110 OR ARTICLE 42 OR 43 OF THIS TITLE, AND
12 THAT ARE AUTHORIZED BY VOTERS BEFORE, ON, OR AFTER THE EFFECTIVE
13 DATE OF THIS SECTION.

14 (b) "PER PUPIL MILL LEVY SHARE" MEANS AN AMOUNT EQUAL TO

1 THE REVENUE THAT A SCHOOL DISTRICT COLLECTS FROM ITS ADDITIONAL
2 MILL LEVY FOR THE APPLICABLE BUDGET YEAR DIVIDED BY THE SCHOOL
3 DISTRICT'S FUNDED PUPIL COUNT AS DEFINED IN SECTION 22-54-103 FOR
4 THE APPLICABLE BUDGET YEAR.

5 (c) "RESTRICTED REVENUE" MEANS REVENUE THAT A SCHOOL
6 DISTRICT COLLECTS FROM ITS ADDITIONAL MILL LEVY, THE USE OF WHICH
7 IS RESTRICTED BY VOTERS TO A SPECIFIC PROGRAM, TO STUDENTS
8 ENROLLED IN A SPECIFIC GRADE LEVEL, OR TO THE TERMS OF AN
9 AGREEMENT BETWEEN A THIRD-PARTY AND THE SCHOOL DISTRICT THAT
10 GOVERNS THE USE OF THE REVENUE AND THAT EXISTED BEFORE THE
11 EFFECTIVE DATE OF THIS SECTION.

12 (2) FOR THE 2017-18 BUDGET YEAR, EACH SCHOOL DISTRICT THAT
13 AUTHORIZES A CHARTER SCHOOL SHALL DISTRIBUTE TO EACH CHARTER
14 SCHOOL OF THE SCHOOL DISTRICT THE GREATER OF FIFTY PERCENT OR THE
15 PERCENTAGE THE SCHOOL DISTRICT DISTRIBUTED IN THE PRECEDING
16 BUDGET YEAR OF THE AMOUNT OF ADDITIONAL MILL LEVY REVENUE
17 CALCULATED FOR EACH CHARTER SCHOOL OF THE SCHOOL DISTRICT
18 PURSUANT TO SUBSECTION (3) OF THIS SECTION. FOR THE 2018-19 BUDGET
19 YEAR AND EACH BUDGET YEAR THEREAFTER, EACH SCHOOL DISTRICT THAT
20 AUTHORIZES A CHARTER SCHOOL SHALL DISTRIBUTE TO EACH CHARTER
21 SCHOOL OF THE SCHOOL DISTRICT ONE HUNDRED PERCENT OF THE AMOUNT
22 OF ADDITIONAL MILL LEVY REVENUE CALCULATED FOR EACH CHARTER
23 SCHOOL OF THE SCHOOL DISTRICT PURSUANT TO SUBSECTION (3) OF THIS
24 SECTION.

25 (3) (a) FOR THE 2017-18 BUDGET YEAR AND EACH BUDGET YEAR
26 THEREAFTER, EACH SCHOOL DISTRICT THAT AUTHORIZES A CHARTER
27 SCHOOL SHALL DISTRIBUTE TO THE CHARTER SCHOOL ONE HUNDRED

1 PERCENT OF AN AMOUNT EQUAL TO THE SCHOOL DISTRICT'S PER PUPIL MILL
2 LEVY SHARE FOR THE APPLICABLE BUDGET YEAR MULTIPLIED BY THE
3 NUMBER OF PUPILS, INCLUDING PRESCHOOL PROGRAM PUPILS, ENROLLED
4 IN THE CHARTER SCHOOL FOR THE APPLICABLE BUDGET YEAR, AS
5 REPORTED TO THE DEPARTMENT FOR THE APPLICABLE BUDGET YEAR
6 PURSUANT TO SECTION 22-30.5-112 (1) (a). IN COUNTING THE NUMBER OF
7 PUPILS ENROLLED IN THE CHARTER SCHOOL, THE SCHOOL DISTRICT SHALL
8 COUNT A PUPIL ENROLLED IN KINDERGARTEN OR IN A PRESCHOOL
9 PROGRAM AS AT LEAST A HALF-DAY PUPIL AND MAY, AT THE SCHOOL
10 DISTRICT'S DISCRETION, COUNT A PUPIL WHO IS INCLUDED IN THE SCHOOL
11 DISTRICT'S ONLINE PUPIL ENROLLMENT, AS DEFINED IN SECTION 22-54-103.

12 (b) NOTWITHSTANDING ANY PROVISION OF PARAGRAPH (a) OF THIS
13 SUBSECTION (3) TO THE CONTRARY, IN CALCULATING THE AMOUNT DUE TO
14 A CHARTER SCHOOL UNDER PARAGRAPH (a) OF THIS SUBSECTION (3), A
15 SCHOOL DISTRICT MAY SUBTRACT FROM THE AMOUNT DUE TO THE
16 CHARTER SCHOOL ANY PORTION THAT IS RESTRICTED REVENUE IF THE
17 CHARTER SCHOOL, DURING THE APPLICABLE BUDGET YEAR, CLEARLY DOES
18 NOT PROVIDE THE SPECIFIC PROGRAM FOR WHICH THE RESTRICTED
19 REVENUE IS AUTHORIZED BY VOTERS OR IF THE CHARTER SCHOOL, DURING
20 THE APPLICABLE BUDGET YEAR, DOES NOT SERVE STUDENTS ENROLLED IN
21 THE GRADE LEVEL FOR WHICH THE RESTRICTED REVENUE IS AUTHORIZED
22 BY VOTERS.

23 (c) NOTWITHSTANDING ANY PROVISION OF PARAGRAPH (a) OF THIS
24 SUBSECTION (3) TO THE CONTRARY, IN CALCULATING THE AMOUNT DUE TO
25 A CHARTER SCHOOL UNDER PARAGRAPH (a) OF THIS SUBSECTION (3), A
26 SCHOOL DISTRICT MAY SUBTRACT FROM THE AMOUNT DUE TO THE
27 CHARTER SCHOOL ANY PORTION THAT IS RESTRICTED REVENUE BECAUSE

1 IT IS SUBJECT TO A THIRD-PARTY AGREEMENT THAT EXISTED BEFORE THE
2 EFFECTIVE DATE OF THIS SECTION; EXCEPT THAT, IF THE THIRD PARTY AND
3 THE SCHOOL DISTRICT AMEND THE TERMS OF THE AGREEMENT TO ALLOW
4 DISTRIBUTION OF THE REVENUE TO A CHARTER SCHOOL, THE REVENUE
5 CEASES TO BE RESTRICTED REVENUE AND THE SCHOOL DISTRICT SHALL
6 DISTRIBUTE THE REVENUE TO A CHARTER SCHOOL IN ACCORDANCE WITH
7 PARAGRAPH (a) OF THIS SUBSECTION (3).

8 (d) NOTWITHSTANDING ANY PROVISION OF PARAGRAPH (a) OF THIS
9 SUBSECTION (3) TO THE CONTRARY, IF, BEFORE THE EFFECTIVE DATE OF
10 THIS SECTION, A LOCAL SCHOOL BOARD HAS ADOPTED A WRITTEN POLICY
11 THAT DIRECTS THE SCHOOL DISTRICT TO DISTRIBUTE ANY PORTION OF ITS
12 ADDITIONAL MILL LEVY REVENUE TO SPECIFICALLY BENEFIT STUDENTS
13 ENROLLED IN ALTERNATIVE EDUCATION CAMPUSES, STUDENTS WHO
14 QUALIFY FOR REDUCED-PRICE MEALS UNDER THE FEDERAL "RICHARD B.
15 RUSSELL NATIONAL SCHOOL LUNCH ACT", 42 U.S.C. 1751 ET SEQ., OR
16 STUDENTS WHO HAVE INDIVIDUALIZED EDUCATION PROGRAMS UNDER
17 PART 1 OF ARTICLE 20 OF THIS TITLE, THE SCHOOL DISTRICT MAY
18 CONTINUE DISTRIBUTING THE REVENUE FOR THESE PURPOSES, SO LONG AS
19 THE AMOUNT DISTRIBUTED FOR EACH STUDENT IS THE SAME REGARDLESS
20 OF WHETHER THE STUDENT IS ENROLLED IN A CHARTER SCHOOL OR
21 ANOTHER SCHOOL OF THE SCHOOL DISTRICT. IF THE SCHOOL DISTRICT
22 CHANGES THE DISTRIBUTION OF REVENUE FOR THESE PURPOSES AFTER THE
23 EFFECTIVE DATE OF THIS SECTION, THE SCHOOL DISTRICT SHALL
24 DISTRIBUTE THE REVENUE IN ACCORDANCE WITH PARAGRAPH (a) OF THIS
25 SUBSECTION (3). THE SCHOOL DISTRICT SHALL DISTRIBUTE ANY AMOUNT
26 OF ADDITIONAL MILL LEVY REVENUE THAT REMAINS AFTER DISTRIBUTION
27 FOR THESE PURPOSES IN ACCORDANCE WITH PARAGRAPH (a) OF THIS

1 SUBSECTION (3).
2 (e) NOTWITHSTANDING ANY PROVISION OF PARAGRAPH (a) OF THIS
3 SUBSECTION (2) TO THE CONTRARY, IF A SCHOOL DISTRICT AUTHORIZES A
4 CHARTER SCHOOL THAT IS PHYSICALLY LOCATED WITHIN THE GEOGRAPHIC
5 BOUNDARIES OF ANOTHER SCHOOL DISTRICT, THE CHARTERING SCHOOL
6 DISTRICT IS REQUIRED TO DISTRIBUTE TO THE CHARTER SCHOOL AN
7 AMOUNT EQUAL TO THE PER PUPIL MILL LEVY SHARE MULTIPLIED ONLY BY
8 THE NUMBER OF STUDENTS ENROLLED IN THE CHARTER SCHOOL WHO
9 RESIDE WITHIN THE AUTHORIZING SCHOOL DISTRICT, WHICH AMOUNT MAY
10 BE ADJUSTED AS PROVIDED IN PARAGRAPHS (b) TO (d) OF THIS SUBSECTION
11 (2), AS APPROPRIATE. THE AUTHORIZING SCHOOL DISTRICT MAY CHOOSE
12 TO DISTRIBUTE A GREATER PORTION OF THE ADDITIONAL MILL LEVY
13 REVENUE TO THE CHARTER SCHOOL.

14 =====
15 (4) THIS SECTION DOES NOT REQUIRE A SCHOOL DISTRICT TO
16 RECALCULATE THE DISTRIBUTION OF, OR TO REDISTRIBUTE, ANY
17 ADDITIONAL MILL LEVY REVENUE THAT THE SCHOOL DISTRICT COLLECTED
18 BEFORE THE 2017-18 BUDGET YEAR.

19 **SECTION 2.** In Colorado Revised Statutes, 22-43.7-103, **amend**
20 (7) as follows:

21 **22-43.7-103. Definitions.** As used in this article, unless the
22 context otherwise requires:

23 (7) "Charter school" means a charter school as described in
24 section 22-54-124 (1) (f.6) (I) (A) or (1) (f.6) (I) (B). ~~that has been~~
25 ~~chartered for at least five years on the date its authorizer forwards an~~
26 ~~application for financial assistance to the board on the charter school's~~
27 ~~behalf.~~

1 **SECTION 3.** In Colorado Revised Statutes, 22-43.7-109, **amend**
2 (3); and **repeal** (1) (b) as follows:

3 **22-43.7-109. Financial assistance for public school capital**
4 **construction - application requirements - evaluation criteria - local**
5 **match requirements.** (1) For fiscal years commencing on or after July
6 1, 2008, the board, with the support of the division and subject to the
7 approval of the state board and, in the case of financial assistance that
8 involves lease-purchase agreements, subject to both the preliminary
9 approval of the state board and the final approval of the capital
10 development committee, regarding financial assistance awards as
11 specified in this section, shall provide financial assistance as specified in
12 this section subject to the following limitations:

13 (b) ~~The board may provide financial assistance to a charter school~~
14 ~~that first occupies a public school facility on or after May 22, 2008, only~~
15 ~~if the public school facility occupied by the charter school complied with~~
16 ~~all public school facilities construction guidelines addressing health and~~
17 ~~safety issues established by the board pursuant to section 22-43.7-107 (2)~~
18 ~~(a) at the time the charter school first occupied the facility.~~

19 (3) A CHARTER SCHOOL THAT CHOOSES TO APPLY FOR FINANCIAL
20 ASSISTANCE MUST APPLY DIRECTLY TO THE BOARD. A charter school shall
21 notify its authorizer ~~that it intends to apply~~ IF THE CHARTER SCHOOL
22 APPLIES for financial assistance. ~~at least four months prior to the~~
23 ~~application submission deadline. The charter school shall forward its~~
24 ~~application for financial assistance to its authorizer, which shall forward~~
25 ~~the application to the board together with a letter indicating the~~
26 ~~authorizer's position on the application~~ THE AUTHORIZING SCHOOL
27 DISTRICT FOR AN APPLYING CHARTER SCHOOL MAY SUBMIT A LETTER TO

1 THE BOARD STATING ITS POSITION ON THE APPLICATION. The Colorado
2 school for the deaf and blind shall apply for financial assistance directly.
3 Financial assistance awarded to a charter school as a matching cash grant
4 shall be provided to the authorizer, which shall distribute all financial
5 assistance received as a grant to the charter school and may not retain any
6 portion of such moneys for any purpose. All other financial assistance
7 shall be provided in the form of lease payments made by the board
8 directly to a lessor or trustee as required by the terms of the applicable
9 lease-purchase agreement.

10 **SECTION 4.** In Colorado Revised Statutes, 22-54-124, **amend**
11 (1) (a) as follows:

12 **22-54-124. State aid for charter schools - use of state education**
13 **fund money - definitions.** (1) As used in this section:

14 (a) "Capital construction" means construction, demolition,
15 remodeling, MAINTAINING, financing, purchasing, or leasing of land,
16 buildings, or facilities used to educate pupils enrolled in or to be enrolled
17 in a charter school.

18 **SECTION 5.** In Colorado Revised Statutes, 22-30.5-104, **amend**
19 (7) (e); and **add** (7.5) as follows:

20 **22-30.5-104. Charter school - requirements - authority.**

21 (7) (e) Notwithstanding the provisions of paragraphs (b) and (c) of this
22 subsection (7) ~~any~~ OR THE PROVISIONS OF SUBSECTION (7.5) OF THIS
23 SECTION, A school district that has space in district facilities that is
24 unoccupied ~~shall be allowed to~~ MAY sell the facilities or use the facilities
25 for a different purpose and ~~shall not be~~ IS NOT required to maintain
26 ownership of the facilities for potential use by a charter school.

27 (7.5) (a) ~~NOLATER THAN NOVEMBER 1, 2016, AND NOLATER THAN~~

1 NOVEMBER 1 EACH YEAR THEREAFTER, EACH SCHOOL DISTRICT THAT
2 AUTHORIZES A CHARTER SCHOOL AND THAT HAS OR IS EXPECTING TO HAVE
3 ONE OR MORE VACANT OR UNDERUSED BUILDINGS OR VACANT OR
4 UNDERUSED LAND AVAILABLE DURING THE NEXT SCHOOL YEAR SHALL
5 PREPARE A LIST OF THE VACANT OR UNDERUSED BUILDINGS AND LAND AND
6 PROVIDE THE LIST, UPON REQUEST, TO CHARTER SCHOOLS AUTHORIZED BY
7 THE SCHOOL DISTRICT, CHARTER SCHOOL APPLICANTS, AND OTHER
8 INTERESTED PERSONS. THE SCHOOL DISTRICT SHALL ALSO POST ON ITS
9 WEBSITE A NOTICE THAT THE LIST OF UNDERUSED AND VACANT BUILDINGS
10 AND LAND IS AVAILABLE TO INTERESTED PERSONS UPON REQUEST. THE
11 SCHOOL DISTRICT MUST PROVIDE THE LIST WITHIN TWO SCHOOL DAYS
12 AFTER RECEIVING A REQUEST. NO LATER THAN FORTY-FIVE DAYS AFTER
13 THE SCHOOL DISTRICT POSTS THE AVAILABILITY OF THE LIST OR AFTER
14 RECEIVING THE LIST, _____ WHICHEVER IS LATER, A CHARTER SCHOOL OF THE
15 SCHOOL DISTRICT OR CHARTER APPLICANT MAY APPLY TO THE SCHOOL
16 DISTRICT TO USE THE BUILDING OR THE SCHOOL DISTRICT LAND AS THE
17 LOCATION FOR THE CHARTER SCHOOL. THE LOCAL BOARD OF EDUCATION
18 SHALL REVIEW EACH APPLICATION FOR USE AND, IN A PUBLIC MEETING
19 HELD NO LATER THAN NINETY DAYS AFTER THE SCHOOL DISTRICT POSTS
20 THE AVAILABILITY OF THE LIST, _____ APPROVE OR DISAPPROVE EACH
21 APPLICATION FOR USE OF THE BUILDING OR SCHOOL DISTRICT LAND. IF THE
22 LOCAL BOARD OF EDUCATION DISAPPROVES AN APPLICATION FOR USE, IT
23 MUST EXPLAIN AT THE PUBLIC MEETING AND PROVIDE IN WRITING TO THE
24 APPLICANT THE REASONS FOR DISAPPROVAL.

25 (b) FOR PURPOSES OF THIS SUBSECTION (7.5), A BUILDING IS
26 CONSIDERED UNDERUSED IF IT HAS UNUSED CAPACITY TO ACCOMMODATE
27 TWO HUNDRED FIFTY STUDENTS OR MORE.

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SECTION 6. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.