

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 16-1236.01 Julie Pelegrin x2700

SENATE BILL 16-187

---

SENATE SPONSORSHIP

Hill,

HOUSE SPONSORSHIP

Williams and Sias,

---

Senate Committees  
Education

House Committees

---

A BILL FOR AN ACT  
101 CONCERNING MEASURES AFFECTING THE OPERATION OF CHARTER  
102 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>.)*

**School performance plan.** If a charter school is operating under a school performance plan, the bill allows the charter school to submit a new plan every 2 years instead of annually.

**Exclusive chartering authority.** The bill directs the state board of education (state board) to consider applications to regain exclusive chartering authority only between November 1 and December 31 each

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.*

year. The bill clarifies the grounds on which a party may challenge a school district's exclusive chartering authority. If a local board loses exclusive chartering authority, the bill specifies that the local board must apply to regain exclusive chartering authority on or before October 1. If a local board allows the state charter school institute (institute) to authorize an institute charter school within the school district, the institute continues to oversee the institute charter school, regardless of subsequent actions taken by the local board, unless the institute charter school voluntarily converts to a district charter school.

**Open meetings.** The bill specifies that the governing board of an institute charter school is a local public body, not a state public body, for purposes of the open meetings law.

**Automatic waivers of statute and state rule.** The bill prohibits the state board from automatically waiving statutory requirements for a minimum number of teacher-pupil contact hours.

**Charter school network audit.** The bill allows a charter school network to meet the statutory requirements for charter school financial audits by completing a single network-wide audit that includes each of the charter schools in the network.

**Miscellaneous changes.** The bill clarifies that:

- ! An education management provider does not include a charter school network;
- ! At a charter school's request, a school district must include in the end-of-year itemized accounting of central administrative overhead costs for a charter school a list of the personnel who provided services to the charter school, including the personnel position and services provided;
- ! A school district must distribute state and federal money to charter schools on a per-pupil basis if the amount the school district received was calculated on a per-pupil basis that included the students enrolled in the charter school; and
- ! If a district charter school converts to an institute charter school, or an institute charter school converts to a district charter school, the converted school's funding is still calculated using the formula that applied to the school before the conversion.

---

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

2           **SECTION 1.** In Colorado Revised Statutes, 22-11-403, **amend**

3           (5) (a) as follows:

4           **22-11-403.      School    performance    plan    -    contents.**

1       (5) (a) Notwithstanding any provision of this section to the contrary:

2           (I) The school principal and the school district superintendent, or

3       his or her designee, of a public school of a small rural school district may

4       adopt a school performance plan for the public school as described in

5       subsection (3) of this section every two years so long as the state board,

6       pursuant to section 22-11-210, requires the public school to implement a

7       performance plan; AND

8           (II) THE SCHOOL PRINCIPAL AND THE SCHOOL DISTRICT

9       SUPERINTENDENT, OR HIS OR HER DESIGNEE, OF A DISTRICT CHARTER

10      SCHOOL, OR THE SCHOOL PRINCIPAL OF AN INSTITUTE CHARTER SCHOOL,

11      MAY ADOPT A SCHOOL PERFORMANCE PLAN FOR THE PUBLIC SCHOOL AS

12      DESCRIBED IN SUBSECTION (3) OF THIS SECTION EVERY TWO YEARS SO

13      LONG AS THE STATE BOARD, PURSUANT TO SECTION 22-11-210, REQUIRES

14      THE PUBLIC SCHOOL TO IMPLEMENT A PERFORMANCE PLAN.

15           **SECTION 2.** In Colorado Revised Statutes, 22-30.5-504, **amend**

16      (4) (a), (7.5) (b) introductory portion, and (8) as follows:

17           **22-30.5-504. Institute chartering authority - institute charter**

18      **schools - exclusive authority - retention - recovery - revocation.**

19      (4) (a) A local board of education may INITIALLY seek to retain ~~or~~ recover exclusive authority to authorize charter schools within the

20      geographic boundaries of the school district by presenting to the state

21      board, on or before March 1 of the fiscal year ~~prior to that~~ BEFORE THE

22      FIRST FISCAL YEAR for which the exclusive authority is to apply, a written

23      resolution adopted by the local board of education indicating the intent to

24      retain ~~or recover~~ exclusive authority to authorize charter schools. A

25      LOCAL BOARD MAY SEEK TO RECOVER EXCLUSIVE AUTHORITY TO

26      AUTHORIZE CHARTER SCHOOLS WITHIN THE GEOGRAPHIC BOUNDARIES OF

1 THE SCHOOL DISTRICT BY SUBMITTING A WRITTEN RESOLUTION TO  
2 RECOVER EXCLUSIVE CHARTERING AUTHORITY BEFORE OCTOBER 1 OF THE  
3 FISCAL YEAR BEFORE THE FIRST FISCAL YEAR IN WHICH THE RESTORED  
4 EXCLUSIVE AUTHORITY WILL APPLY. IN BOTH SITUATIONS, the written  
5 resolution ~~shall~~ MUST be accompanied by a written description of those  
6 portions of subsection (5) of this section that the local board of education  
7 intends to demonstrate. The local board of education shall provide a  
8 complete copy of the resolution, including the description, to each charter  
9 school authorized by the local board on or before the date the local board  
10 submits the resolution to the state board. ~~The state board shall determine~~  
11 Within sixty days after receiving the resolution TO RETAIN EXCLUSIVE  
12 CHARTERING AUTHORITY, THE STATE BOARD SHALL DETERMINE whether  
13 to grant the local board of education exclusive authority. ON OR AFTER  
14 NOVEMBER 1 BUT BEFORE DECEMBER 31 EACH YEAR, THE STATE BOARD  
15 SHALL CONSIDER ALL WRITTEN RESOLUTIONS TO RECOVER EXCLUSIVE  
16 CHARTERING AUTHORITY RECEIVED IN THE PRECEDING TWELVE MONTHS  
17 AND DETERMINE WHETHER TO GRANT THE SUBMITTING LOCAL BOARDS OF  
18 EDUCATION EXCLUSIVE CHARTERING AUTHORITY. If the state board denies  
19 the local board exclusive authority to authorize charter schools within the  
20 geographic boundaries of the school district, it shall provide to the local  
21 board of education a written explanation of the basis for the denial. IF THE  
22 STATE BOARD GRANTS THE LOCAL BOARD EXCLUSIVE AUTHORITY TO  
23 AUTHORIZE CHARTER SCHOOLS WITHIN THE GEOGRAPHIC BOUNDARIES OF  
24 THE SCHOOL DISTRICT, THE SCHOOL DISTRICT RETAINS ITS EXCLUSIVE  
25 CHARTERING AUTHORITY AS PROVIDED IN SUBSECTION (7) OF THIS  
26 SECTION.

27 (7.5) (b) A charter school, a charter school applicant, or an

1 organization that represents charter schools may request revocation of a  
2 local board of education's exclusive authority only on the grounds that the  
3 local board, since the date that the local board received exclusive  
4 authority, has demonstrated a pattern of failing to comply with one or  
5 more of the provisions of the "Charter Schools Act", part 1 of this article  
6 PARAGRAPH (a) OF SUBSECTION (5) OF THIS SECTION. A charter school, a  
7 charter school applicant, or an organization that represents charter schools  
8 may not request revocation of a local board of education's exclusive  
9 authority solely on the basis of:

10 (8) Notwithstanding any other provision of this section to the  
11 contrary, a local board of education may permit the establishment of one  
12 or more institute charter schools within the geographic boundaries of the  
13 school district by adopting a favorable resolution and submitting the  
14 resolution to the state board. ~~The resolution shall be effective until it is~~  
15 ~~rescinded by resolution of the local board of education~~ AN INSTITUTE  
16 CHARTER SCHOOL THAT IS ESTABLISHED WITH PERMISSION GRANTED IN A  
17 RESOLUTION ADOPTED BY THE LOCAL BOARD OF THE SCHOOL DISTRICT IN  
18 WHICH THE INSTITUTE CHARTER SCHOOL IS LOCATED CONTINUES TO BE  
19 AUTHORIZED BY AND ACCOUNTABLE TO THE INSTITUTE REGARDLESS OF  
20 LATER ACTIONS BY THE LOCAL BOARD UNLESS THE INSTITUTE CHARTER  
21 SCHOOL VOLUNTARILY CONVERTS TO A DISTRICT CHARTER SCHOOL AS  
22 PROVIDED IN SUBSECTION (10) OF THIS SECTION.

23 **SECTION 3.** In Colorado Revised Statutes, 24-6-402, **amend** (1)  
24 (d); and **add** (1) (a) (III) as follows:

25 **24-6-402. Meetings - open to public - definitions.** (1) For the  
26 purposes of this section:

27 (a) (III) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH

1 (I) OF THIS PARAGRAPH (a), "LOCAL PUBLIC BODY" INCLUDES THE  
2 GOVERNING BOARD OF AN INSTITUTE CHARTER SCHOOL THAT IS  
3 AUTHORIZED PURSUANT TO PART 5 OF ARTICLE 30.5 OF TITLE 22, C.R.S.

4 (d) (I) "State public body" means any board, committee,  
5 commission, or other advisory, policy-making, rule-making,  
6 decision-making, or formally constituted body of any state agency, state  
7 authority, governing board of a state institution of higher education  
8 including the regents of the university of Colorado, a nonprofit  
9 corporation incorporated pursuant to section 23-5-121 (2), C.R.S., or the  
10 general assembly, and any public or private entity to which the state, or  
11 an official thereof, has delegated a governmental decision-making  
12 function but does not include persons on the administrative staff of the  
13 state public body.

14 (II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF  
15 THIS PARAGRAPH (d), "STATE PUBLIC BODY" DOES NOT INCLUDE THE  
16 GOVERNING BOARD OF AN INSTITUTE CHARTER SCHOOL THAT IS  
17 AUTHORIZED PURSUANT TO PART 5 OF ARTICLE 30.5 OF TITLE 22, C.R.S.

18 **SECTION 4.** In Colorado Revised Statutes, 22-30.5-104, **amend**  
19 (6) (b) (II) as follows:

20 **22-30.5-104. Charter school - requirements - authority.**  
21 (6) (b) The state board shall promulgate rules that list the automatic  
22 waivers for all charter schools. In promulgating the list of automatic  
23 waivers, the state board shall consider the overall impact and complexity  
24 of the requirements specified in the statute and the potential consequences  
25 that waiving the statute may have on the practices of a charter school.  
26 Notwithstanding any provision of this paragraph (b) to the contrary, the  
27 state board shall not include the following statutes on the list of automatic

1       waivers:

2                   (II) Section 22-32-109 (1) (n), ~~(I) and (1) (n) (H) (B)~~, concerning  
3       the annual school calendar AND TEACHER-PUPIL CONTACT HOURS; and

4                   **SECTION 5.** In Colorado Revised Statutes, 22-30.5-104.7, **add**  
5       (6) as follows:

6                   **22-30.5-104.7. Charter school networks - authority -**

7                   **definitions.** (6) EACH CHARTER SCHOOL NETWORK SHALL COMPLY WITH  
8       THE AUDIT REQUIREMENTS IMPOSED ON CHARTER SCHOOLS AS FOLLOWS:

9                   (a) THE CHARTER SCHOOL NETWORK SHALL BE AUDITED AS AN  
10       ORGANIZATION, TREATING THE CHARTER SCHOOL NETWORK AS A SINGLE  
11       LEGAL ENTITY;

12                   (b) THE CHARTER SCHOOL NETWORK SHALL REPORT AS  
13       SUPPLEMENTARY INFORMATION IN ITS AUDITED FINANCIAL STATEMENTS  
14       A BALANCE SHEET AND STATEMENT OF REVENUES, EXPENDITURES, AND  
15       CHANGES IN FUND BALANCES USING THE MODIFIED ACCRUAL BASIS OF  
16       ACCOUNTING FOR EACH CHARTER SCHOOL CAMPUS THAT HAS A SEPARATE  
17       SCHOOL CODE WITHIN THE CHARTER SCHOOL NETWORK; AND

18                   (c) THE AUDIT MUST ADDRESS COMPLIANCE WITH PARAGRAPH (d)  
19       OF SUBSECTION (2) OF THIS SECTION.

20                   **SECTION 6.** In Colorado Revised Statutes, 22-30.5-103, **amend**  
21       (3.5) as follows:

22                   **22-30.5-103. Definitions.** As used in this part 1, unless the  
23       context otherwise requires:

24                   (3.5) "Education management provider" means a nonprofit,  
25       not-for-profit, or for-profit entity that contracts with a charter school to  
26       provide, manage, or oversee all or substantially all of the educational  
27       services provided by the charter school. Education management provider

1 does not include A CHARTER SCHOOL NETWORK AS DEFINED IN SECTION  
2 22-30.5-104.7 OR a charter school collaborative established pursuant to  
3 part 6 of article 30.5 of this title.

4 **SECTION 7.** In Colorado Revised Statutes, 22-30.5-112, **amend**  
5 (2) (a.4) (I), (2) (a.4) (II), and (3) (c); and **add** (3) (a) (IV) as follows:

6 **22-30.5-112. Charter schools - financing - definitions -**  
7 **guidelines.** (2) (a.4) (I) Within ninety days after the end of each fiscal  
8 year, each school district shall provide to each charter school within its  
9 district an itemized accounting of all its central administrative overhead  
10 costs. IF THE ITEMIZED ACCOUNTING INCLUDES SERVICES PROVIDED TO  
11 THE CHARTER SCHOOL BY SCHOOL DISTRICT PERSONNEL, THE ITEMIZED  
12 ACCOUNTING, AT THE CHARTER SCHOOL'S REQUEST, MUST INCLUDE A LIST  
13 OF THE PERSONNEL POSITIONS AND SERVICES PROVIDED BY PERSONS IN  
14 EACH POSITION. The actual central administrative overhead costs ~~shall be~~  
15 ARE the amount charged to the charter school. Any difference, within the  
16 limitations of subparagraph (III) of paragraph (a) of this subsection (2)  
17 and paragraph (a.3) of this subsection (2), between the amount initially  
18 charged to the charter school and the actual cost ~~shall~~ MUST be reconciled  
19 and paid to the owed party.

20 (II) Within ninety days after the end of each fiscal year, each  
21 school district shall provide to each charter school within its district an  
22 itemized accounting of all the actual costs of district services the charter  
23 school chose at its discretion to purchase from the district calculated in  
24 accordance with paragraph (b) of this subsection (2). IF THE ITEMIZED  
25 ACCOUNTING INCLUDES SERVICES PURCHASED BY THE CHARTER SCHOOL  
26 THAT WERE PROVIDED BY SCHOOL DISTRICT PERSONNEL, THE ITEMIZED  
27 ACCOUNTING, AT THE CHARTER SCHOOL'S REQUEST, MUST INCLUDE A LIST

1       OF THE PERSONNEL POSITIONS AND SERVICES PROVIDED BY PERSONS IN  
2       EACH POSITION. Any difference between the amount initially charged to  
3       the charter school and the actual cost shall be reconciled and paid to the  
4       owed party.

5               (3) (a) (IV) THE SCHOOL DISTRICT SHALL DISTRIBUTE TO EACH  
6       CHARTER SCHOOL ON A PER PUPIL BASIS ANY OTHER STATE OR FEDERAL  
7       MONEY THAT THE SCHOOL DISTRICT RECEIVES BASED ON A PER PUPIL  
8       CALCULATION IF THE CALCULATION INCLUDES PUPILS ENROLLED IN THE  
9       CHARTER SCHOOL.

10               (c) Within ninety days after the end of each budget year, each  
11       school district shall provide to each charter school of the school district  
12       an itemized accounting of all the actual special education costs that the  
13       school district incurred for the applicable budget year and the basis of any  
14       per pupil charges for special education that the school district imposed  
15       against the charter school for the applicable budget year. IF THE ITEMIZED  
16       ACCOUNTING INCLUDES SERVICES PROVIDED TO THE CHARTER SCHOOL BY  
17       SCHOOL DISTRICT PERSONNEL, THE ITEMIZED ACCOUNTING, AT THE  
18       CHARTER SCHOOL'S REQUEST, MUST INCLUDE A LIST OF THE PERSONNEL  
19       POSITIONS AND SERVICES PROVIDED BY PERSONS IN EACH POSITION.

20               **SECTION 8.** In Colorado Revised Statutes, 22-30.5-112.1,  
21       **amend** (4) as follows:

22               **22-30.5-112.1. Charter schools - definitions - exclusive  
23 jurisdiction districts - authorized on or after July 1, 2004 - financing.**

24               (4) Within ninety days after the end of each fiscal year, each qualifying  
25       school district shall provide to each district charter school authorized by  
26       the qualifying school district an itemized accounting of all its central  
27       administrative overhead costs. IF THE ITEMIZED ACCOUNTING INCLUDES

1 SERVICES PROVIDED TO THE CHARTER SCHOOL BY QUALIFYING SCHOOL  
2 DISTRICT PERSONNEL, THE ITEMIZED ACCOUNTING, AT THE CHARTER  
3 SCHOOL'S REQUEST, MUST INCLUDE A LIST OF THE PERSONNEL POSITIONS  
4 AND SERVICES PROVIDED BY PERSONS IN EACH POSITION. The actual  
5 central administrative overhead costs ~~shall be~~ ARE the amount charged to  
6 the district charter school. Any difference, within the limitations specified  
7 in subsection (3) of this section, between the amount initially charged to  
8 the district charter school and the actual cost ~~shall~~ MUST be reconciled and  
9 paid to the owed party.

10 **SECTION 9.** In Colorado Revised Statutes, 22-30.5-112, **add**  
11 (11) as follows:

12 **22-30.5-112. Charter schools - financing - definitions -**  
13 **guidelines.** (11) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO  
14 THE CONTRARY, A DISTRICT CHARTER SCHOOL THAT CONVERTS FROM AN  
15 INSTITUTE CHARTER SCHOOL PURSUANT TO SECTION 22-30.5-504 (10)  
16 CONTINUES TO RECEIVE, AS CALCULATED PURSUANT TO SECTION  
17 22-30.5-513, THE ACCOUNTING DISTRICT'S ADJUSTED PER PUPIL REVENUES  
18 AND AT-RISK SUPPLEMENTAL AID AS THE FUNDING APPLIED TO THE  
19 CONVERTED SCHOOL BEFORE THE CONVERSION.

20 **SECTION 10.** In Colorado Revised Statutes, 22-30.5-112.1, **add**  
21 (7) as follows:

22 **22-30.5-112.1. Charter schools - definitions - exclusive**  
23 **jurisdiction districts - authorized on or after July 1, 2004 - financing.**  
24 (7) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE  
25 CONTRARY, A DISTRICT CHARTER SCHOOL THAT CONVERTS FROM AN  
26 INSTITUTE CHARTER SCHOOL PURSUANT TO SECTION 22-30.5-504 (10)  
27 CONTINUES TO RECEIVE, AS CALCULATED PURSUANT TO SECTION

1 22-30.5-513, THE ACCOUNTING DISTRICT'S ADJUSTED PER PUPIL REVENUES  
2 AND AT-RISK SUPPLEMENTAL AID AS THE FUNDING APPLIED TO THE  
3 CONVERTED SCHOOL BEFORE THE CONVERSION.

4 **SECTION 11.** In Colorado Revised Statutes, 22-30.5-112.2, **add**  
5 (4) as follows:

6 **22-30.5-112.2. Charter schools - at-risk supplemental aid -**  
7 **definitions - legislative declaration.** (4) NOTWITHSTANDING ANY  
8 PROVISION OF THIS SECTION TO THE CONTRARY, AT-RISK SUPPLEMENTAL  
9 AID FOR A DISTRICT CHARTER SCHOOL THAT CONVERTS FROM AN  
10 INSTITUTE CHARTER SCHOOL PURSUANT TO SECTION 22-30.5-504 (10)  
11 CONTINUES TO BE CALCULATED FOR THE CONVERTED SCHOOL PURSUANT  
12 TO SECTION 22-30.5-513 AS THE FUNDING APPLIED TO THE CONVERTED  
13 SCHOOL BEFORE THE CONVERSION.

14 **SECTION 12.** In Colorado Revised Statutes, 22-30.5-504, **add**  
15 (10) (d) as follows:

16 **22-30.5-504. Institute chartering authority - institute charter**  
17 **schools - exclusive authority - retention - recovery - revocation.**  
18 (10) (d) IF AN INSTITUTE CHARTER SCHOOL CONVERTS TO A DISTRICT  
19 CHARTER SCHOOL, THE AUTHORIZING SCHOOL DISTRICT SHALL CALCULATE  
20 THE CONVERTED SCHOOL'S FUNDING, INCLUDING AT-RISK SUPPLEMENTAL  
21 AID, AS IT WAS CALCULATED BEFORE THE CONVERSION USING THE  
22 FORMULAS SPECIFIED IN SECTION 22-30.5-513.

23 **SECTION 13.** In Colorado Revised Statutes, 22-30.5-510, **add**  
24 (1) (a.7) as follows:

25 **22-30.5-510. Institute charter school application - process -**  
26 **rule-making.** (1) (a.7) IF A DISTRICT CHARTER SCHOOL CONVERTS TO AN  
27 INSTITUTE CHARTER SCHOOL, THE INSTITUTE SHALL CALCULATE THE

1        CONVERTED SCHOOL'S FUNDING AS IT WAS CALCULATED BEFORE THE  
2        CONVERSION USING THE APPLICABLE FORMULAS SPECIFIED IN PART 1 OF  
3        THIS ARTICLE.

4            **SECTION 14.** In Colorado Revised Statutes, 22-30.5-513, **add**  
5        (5.5) as follows:

6            **22-30.5-513. Institute charter schools - definitions - funding -**  
7        **at-risk supplemental aid - legislative declaration.**  
8        (5.5) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE  
9        CONTRARY, IF A DISTRICT CHARTER SCHOOL CONVERTS TO AN INSTITUTE  
10      CHARTER SCHOOL PURSUANT TO SECTION 22-30.5-510, THE CONVERTED  
11      SCHOOL'S PER PUPIL REVENUES OR ADJUSTED PER PUPIL REVENUES,  
12      WHICHEVER IS APPLICABLE, AND AT-RISK SUPPLEMENTAL AID CONTINUE  
13      TO BE CALCULATED PURSUANT TO SECTIONS 22-30.5-112 OR 22-305.112.1,  
14      WHICHEVER IS APPLICABLE, AND 22-30.5112.2, AS THE FUNDING APPLIED  
15      TO THE CONVERTED SCHOOL BEFORE THE CONVERSION.

16           **SECTION 15. Act subject to petition - effective date.** This act  
17      takes effect at 12:01 a.m. on the day following the expiration of the  
18      ninety-day period after final adjournment of the general assembly (August  
19      10, 2016, if adjournment sine die is on May 11, 2016); except that, if a  
20      referendum petition is filed pursuant to section 1 (3) of article V of the  
21      state constitution against this act or an item, section, or part of this act  
22      within such period, then the act, item, section, or part will not take effect  
23      unless approved by the people at the general election to be held in  
24      November 2016 and, in such case, will take effect on the date of the  
25      official declaration of the vote thereon by the governor.