

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 09-0711.01 Julie Pelegrin

SENATE BILL 09-155

SENATE SPONSORSHIP

King K.,

HOUSE SPONSORSHIP

Rice,

Senate Committees
Local Government and Energy

House Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO PROVIDE EDUCATION FACILITIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Authorizes a metropolitan district to build a public school building if the school district in which the public school will be located (school district) refuses the dedication of the site and land area for the public school and refuses the payment in lieu thereof. Directs the metropolitan district board (district board) to consult with the school district board of education concerning the operation of the public school. Authorizes the district board to appoint an advisory board to assist the district board in addressing issues pertaining to the public school. Allows the district board to contract with an entity or group to operate the public school as

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.

a charter school. Directs the contracting entity or group to apply for authorization as a charter school first to the school district and, if denied, to the state charter school institute. If the district board chooses not to contract for operation of the public school, requires the district board to apply for authorization to operate the public school as a charter school.

Allows a subdivider to dedicate a school site, or payment in lieu thereof, to a metropolitan district.

Adds private, not-for-profit early childhood education facilities, public early childhood, elementary, and secondary education facilities, and facilities for public institutions of higher education to the list of projects for which a municipality or county may issue bonds.

Authorizes the state board of land commissioners to lease or sell school trust lands to charter schools.

Requires the state treasurer, rather than the Colorado educational and cultural facilities authority (CECFA) board, to notify the governor if a qualified charter school does not restore its qualified charter school debt service reserve fund to the required level.

Specifies that CECFA, on behalf of an educational institution, may buy a building that has a tenant at the time of purchase and allow the tenancy to continue through the end of the lease.

Makes conforming amendments.

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

2 **SECTION 1.** 32-1-1004 (1), Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4 **32-1-1004. Metropolitan districts - additional powers and**
5 **duties.** (1) In addition to the powers specified in section 32-1-1001, the
6 board of any metropolitan district has the following powers for and on
7 behalf of such district:

8 (e) TO FINANCE THE DESIGN, CONSTRUCTION, EQUIPPING, AND
9 CAPITAL MAINTENANCE OF ONE OR MORE SCHOOL BUILDINGS WITHIN THE
10 BOUNDARIES OF THE METROPOLITAN DISTRICT AND TO OWN AND LEASE
11 THE SCHOOL BUILDINGS FOR OPERATION PURSUANT TO THE PROVISIONS OF
12 SUBSECTION (10) OF THIS SECTION.

13 **SECTION 2.** 32-1-1004, Colorado Revised Statutes, is amended

1 BY THE ADDITION OF A NEW SUBSECTION to read:

2 **32-1-1004. Metropolitan districts - additional powers and**
3 **duties.** (10) (a) THE BOARD OF A METROPOLITAN DISTRICT HAS THE
4 POWER TO FINANCE THE DESIGN, CONSTRUCTION, EQUIPPING, AND CAPITAL
5 MAINTENANCE OF ONE OR MORE PUBLIC SCHOOL BUILDINGS WITHIN THE
6 BOUNDARIES OF THE METROPOLITAN DISTRICT, IF THE SCHOOL DISTRICT IN
7 WHICH THE PUBLIC SCHOOL WILL BE LOCATED REFUSES THE DEDICATION
8 OF THE SITE AND LAND AREA FOR THE PUBLIC SCHOOL AND REFUSES THE
9 PAYMENT IN LIEU THEREOF. A BOARD OF A METROPOLITAN DISTRICT THAT
10 CHOOSES TO DESIGN, CONSTRUCT, EQUIP, AND MAINTAIN ONE OR MORE
11 PUBLIC SCHOOL BUILDINGS SHALL NOT BE SUBJECT TO ANY BUILDING
12 REQUIREMENTS IMPOSED BY THE SCHOOL DISTRICT IN WHICH THE PUBLIC
13 SCHOOL BUILDING IS LOCATED.

14 (b) A METROPOLITAN DISTRICT BOARD THAT CHOOSES TO DESIGN,
15 CONSTRUCT, EQUIP, AND MAINTAIN A PUBLIC SCHOOL BUILDING SHALL
16 CONSULT WITH THE BOARD OF EDUCATION OF THE SCHOOL DISTRICT IN
17 WHICH THE PUBLIC SCHOOL WILL BE LOCATED CONCERNING THE
18 OPERATION OF THE PUBLIC SCHOOL. AT A MINIMUM, THE METROPOLITAN
19 DISTRICT BOARD AND THE BOARD OF EDUCATION SHALL CONSIDER:

20 (I) THE ANTICIPATED STUDENT ENROLLMENT OF THE PUBLIC
21 SCHOOL AND THE PUBLIC SCHOOL'S CAPACITY TO ENROLL STUDENTS FROM
22 OUTSIDE THE METROPOLITAN DISTRICT;

23 (II) THE ABILITY OF THE PUBLIC SCHOOL TO PROVIDE ENHANCED
24 EDUCATION OPTIONS FOR STUDENTS ENROLLED IN SCHOOLS OF THE
25 SCHOOL DISTRICT THAT ARE RATED AS ACADEMICALLY LOW-PERFORMING;

26 (III) THE TYPES OF SCHOOLS AND PROGRAMS THE SCHOOL DISTRICT
27 WILL MAKE AVAILABLE TO STUDENTS RESIDING WITHIN THE

1 METROPOLITAN DISTRICT;

2 (IV) THE CURRICULUM TO BE TAUGHT AT THE PUBLIC SCHOOL AND
3 ANY PUBLIC OR PRIVATE ENTITIES OR GROUPS THAT ARE INTERESTED,
4 AVAILABLE, AND QUALIFIED TO OPERATE THE PUBLIC SCHOOL AS A
5 CHARTER SCHOOL; AND

6 (V) ANY ISSUES CONCERNING TRANSPORTATION OF STUDENTS
7 ENROLLED IN THE PUBLIC SCHOOL.

8 (c) A METROPOLITAN DISTRICT BOARD MAY APPOINT AN ADVISORY
9 BOARD TO ASSIST THE METROPOLITAN DISTRICT BOARD IN ADDRESSING
10 ISSUES AFFECTING THE PUBLIC SCHOOL. THE ADVISORY BOARD MAY
11 INCLUDE, BUT NEED NOT BE LIMITED TO, RESIDENTS OF THE
12 METROPOLITAN DISTRICT; EXPERTS IN PRE-KINDERGARTEN, ELEMENTARY,
13 AND SECONDARY EDUCATION; AND REPRESENTATIVES FROM THE BOARD
14 OF EDUCATION OF THE SCHOOL DISTRICT IN WHICH THE PUBLIC SCHOOL
15 WILL BE LOCATED.

16 (d) (I) FOLLOWING CONSULTATION WITH THE SCHOOL DISTRICT
17 BOARD OF EDUCATION, THE METROPOLITAN DISTRICT BOARD MAY
18 CONTRACT WITH A PUBLIC OR PRIVATE ENTITY OR GROUP TO OPERATE THE
19 PUBLIC SCHOOL. AS PART OF THE CONTRACT, THE METROPOLITAN
20 DISTRICT BOARD SHALL LEASE THE SCHOOL BUILDING TO THE CONTRACT
21 ENTITY OR GROUP. THE CONTRACT ENTITY OR GROUP MAY APPLY TO THE
22 BOARD OF EDUCATION OF THE SCHOOL DISTRICT IN WHICH THE PUBLIC
23 SCHOOL IS LOCATED FOR AUTHORIZATION TO OPERATE AS A DISTRICT
24 CHARTER SCHOOL PURSUANT TO PART 1 OF ARTICLE 30.5 OF TITLE 22,
25 C.R.S. IF THE SCHOOL DISTRICT BOARD OF EDUCATION DENIES THE
26 CHARTER SCHOOL APPLICATION, THE CONTRACT ENTITY OR GROUP MAY
27 APPLY TO THE STATE CHARTER SCHOOL INSTITUTE FOR AUTHORIZATION TO

1 OPERATE AS AN INSTITUTE CHARTER SCHOOL PURSUANT TO THE
2 PROVISIONS OF PART 5 OF ARTICLE 30.5 OF TITLE 22, C.R.S. THE STATE
3 CHARTER SCHOOL INSTITUTE MAY AUTHORIZE A CHARTER SCHOOL
4 LOCATED WITHIN A PUBLIC SCHOOL BUILDING BUILT BY A METROPOLITAN
5 DISTRICT BOARD, REGARDLESS OF WHETHER THE SCHOOL DISTRICT IN
6 WHICH THE PUBLIC SCHOOL IS LOCATED HAS EXCLUSIVE CHARTERING
7 AUTHORITY GRANTED PURSUANT TO SECTION 22-30.5-504, C.R.S.

8 (II) IF THE METROPOLITAN DISTRICT BOARD CHOOSES NOT TO
9 CONTRACT WITH AN ENTITY OR GROUP TO OPERATE THE PUBLIC SCHOOL
10 PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (d), THE
11 METROPOLITAN DISTRICT BOARD MAY ITSELF APPLY FOR A CHARTER FOR
12 THE PUBLIC SCHOOL PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH
13 (d).

14 (e) THE PROVISIONS OF PARAGRAPHS (a) TO (d) OF THIS
15 SUBSECTION (10) SHALL NOT APPLY TO A PUBLIC SCHOOL BUILDING IN A
16 METROPOLITAN DISTRICT IF THE PUBLIC SCHOOL BUILDING IS FINANCED,
17 DESIGNED, CONSTRUCTED, EQUIPPED, AND MAINTAINED BY A SCHOOL
18 DISTRICT RATHER THAN BY THE BOARD OF THE METROPOLITAN DISTRICT.

19 **SECTION 3.** 22-30.5-504, Colorado Revised Statutes, is
20 amended BY THE ADDITION OF A NEW SUBSECTION to read:

21 **22-30.5-504. Institute chartering authority - institute charter**
22 **schools.** (11) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO
23 THE CONTRARY, THE INSTITUTE MAY ACCEPT AND GRANT AN APPLICATION
24 FOR AN INSTITUTE CHARTER SCHOOL SUBMITTED PURSUANT TO SECTION
25 32-1-1004 (10), C.R.S., FOR THE OPERATION OF AN INSTITUTE CHARTER
26 SCHOOL IN A SCHOOL BUILDING BUILT BY A METROPOLITAN DISTRICT IF
27 THE SCHOOL DISTRICT IN WHICH THE METROPOLITAN DISTRICT IS LOCATED

1 HAS PREVIOUSLY DENIED THE APPLICATION FOR A CHARTER SCHOOL,
2 REGARDLESS OF WHETHER THE SCHOOL DISTRICT HAS EXCLUSIVE
3 AUTHORITY TO AUTHORIZE CHARTER SCHOOLS WITHIN ITS GEOGRAPHIC
4 BOUNDARIES.

5 **SECTION 4.** 30-28-133 (4) (a) (II) and (4.3), Colorado Revised
6 Statutes, are amended to read:

7 **30-28-133. Subdivision regulations.** (4) Subdivision regulations
8 adopted by the board of county commissioners pursuant to this section
9 shall also include, as a minimum, provisions governing the following
10 matters:

11 (a) Sites and land areas for schools and parks when such are
12 reasonably necessary to serve the proposed subdivision and the future
13 residents thereof. Such provisions may include:

14 (II) Dedication of the sites and land areas to the county, to a
15 school district, TO AN EXISTING OR PLANNED METROPOLITAN DISTRICT, or
16 to the public or, in lieu thereof, payment of a sum of money not exceeding
17 the fair market value of the sites and land areas or a combination of such
18 dedication and such payment; except that the value of the combination
19 shall not exceed the fair market value of the sites and land areas. Any
20 sums, when required, or moneys to be paid to the board of county
21 commissioners pursuant to this paragraph (a) may, if approved by the
22 board of county commissioners, be paid directly to a school district OR
23 METROPOLITAN DISTRICT. If the sites and land areas are dedicated to the
24 county, to a school district, TO A METROPOLITAN DISTRICT, or TO the
25 public, the board of county commissioners may, at the request of the
26 affected entity, sell the land. The subdivider shall have a right of first
27 refusal to purchase all or a portion of any land dedicated by the subdivider

1 to a county, school district, METROPOLITAN DISTRICT, or other public
2 entity pursuant to this subparagraph (II) before the land is sold,
3 transferred, or conveyed to any party other than a school district OR
4 METROPOLITAN DISTRICT. Prior to selling or otherwise transferring
5 ownership of the land, the county, school district, METROPOLITAN
6 DISTRICT, or other public entity selling the land shall provide written
7 notice to the subdivider of its intention to sell or transfer ownership of all
8 or any portion of the land. The subdivider shall then have sixty days to
9 provide written notice to the county, school district, METROPOLITAN
10 DISTRICT, or other public entity of the subdivider's interest in purchasing
11 all or a portion of the land to be sold. The purchase of the land by the
12 subdivider shall be upon such terms and conditions and for such
13 consideration as the parties may mutually agree; however, in no event
14 shall the purchase price exceed the fair market value of the land at the
15 time the subdivider dedicated the land to the county, school district,
16 METROPOLITAN DISTRICT, or other public entity. Any right of first refusal
17 created pursuant to this subparagraph (II) shall expire twenty years from
18 the date the land was dedicated by the subdivider to a county, school
19 district, METROPOLITAN DISTRICT, or other public entity. Except as
20 provided in subsection (4.3) of this section, any such sums, when
21 required, or moneys paid to the board of county commissioners from the
22 sale of the dedicated sites and land areas shall be held by the board of
23 county commissioners:

24 (A) For the acquisition of reasonably necessary sites and land
25 areas or for other capital outlay purposes for schools or parks;

26 (B) For the development of the sites and land areas for park
27 purposes; or

1 (C) For growth-related planning functions by school districts OR
2 METROPOLITAN DISTRICTS for educational purposes;

3 (4.3) After final approval of a subdivision plan or plat and receipt
4 of dedications of sites and land areas or payments in lieu thereof required
5 pursuant to subparagraph (II) of paragraph (a) of subsection (4) of this
6 section, the board of county commissioners shall give written notification
7 to the appropriate school districts, METROPOLITAN DISTRICTS, and local
8 government entities. Following such notice, a school district,
9 METROPOLITAN DISTRICT, or local government entity may request periodic
10 transfer on no longer than an annual basis of such land or moneys to the
11 district or entity. When a board of county commissioners determines that
12 the school district, METROPOLITAN DISTRICT, or local government entity
13 has demonstrated a need for the land or moneys based on a long-range
14 capital plan or evidence of the impact of the subdivision on the district or
15 entity, or both, it shall periodically transfer on no longer than an annual
16 basis the land or moneys to the appropriate school district, METROPOLITAN
17 DISTRICT, or local government entity. The district or entity shall use the
18 transferred land or moneys only for a purpose authorized by
19 sub-subparagraphs (A) to (C) of subparagraph (II) of paragraph (a) of
20 subsection (4) of this section. Any moneys received by the board of
21 county commissioners that are transferred pursuant to this subsection
22 (4.3) are not county revenues for purposes of paragraph (d) of subsection
23 (7) of section 20 of article X of the state constitution.

24 **SECTION 5.** 29-3-102 (2) and (4), Colorado Revised Statutes,
25 are amended to read:

26 **29-3-102. Legislative declaration.** (2) It is the further intent of
27 the general assembly to authorize counties and municipalities to finance,

1 refinance, acquire, own, lease, improve, and dispose of properties to the
2 end that THE FOLLOWING PURPOSES, ALL OF WHICH PROMOTE THE PUBLIC
3 HEALTH, WELFARE, SAFETY, CONVENIENCE, AND PROSPERITY, MAY BE
4 ACCOMPLISHED:

- 5 (a) Pollution may be ameliorated and controlled;
- 6 (b) More adequate hospital care may be provided;
- 7 (c) More adequate residential housing facilities for low- and
8 middle-income families and persons may be provided;
- 9 (d) MORE ADEQUATE EARLY CHILDHOOD, ELEMENTARY,
10 SECONDARY, AND POSTSECONDARY EDUCATION FACILITIES MAY BE
11 PROVIDED;
- 12 (e) More adequate facilities for disposing of sewage and solid
13 waste and furnishing water, energy, and gas may be provided;
- 14 (f) More adequate facilities for sports events and activities and
15 recreation activities, conventions, and trade shows may be provided;
- 16 (g) More adequate airports, mass commuting facilities, parking
17 facilities, or storage or training facilities may be provided; and
- 18 (h) More adequate research, product-testing, and administrative
19 facilities may be provided. ~~all of which promote the public health,~~
20 ~~welfare, safety, convenience, and prosperity.~~

21 (4) It is not intended by this article to:

- 22 (a) Authorize any county or municipality to operate any
23 manufacturing, industrial, commercial, or business enterprise; ~~or~~ any
24 research, product-testing, or administrative facilities of such enterprise;
25 OR ANY ELEMENTARY, SECONDARY, OR POSTSECONDARY EDUCATION
26 PROGRAMS OR FACILITIES; ~~nor to~~

27 (b) Prohibit the operation of ANY COUNTY OR MUNICIPALITY FROM

1 OPERATING utility plants; residential housing facilities; EARLY CHILDHOOD
2 PROGRAMS OR FACILITIES; hospitals; sewage or solid waste disposal
3 facilities; facilities for the furnishing of water, energy, or gas; sports and
4 recreation facilities; convention or trade show facilities; airports; mass
5 commuting facilities; parking facilities; or storage or training facilities.
6 ~~by any county or municipality.~~

7 **SECTION 6.** 29-3-103 (10) (l) and (10) (m), Colorado Revised
8 Statutes, are amended, and the said 29-3-103 (10) is further amended BY
9 THE ADDITION OF A NEW PARAGRAPH, to read:

10 **29-3-103. Definitions.** As used in this article, unless the context
11 otherwise requires:

12 (10) "Project" means any land, building, or other improvement
13 and all real or personal properties, and any undivided or other interest in
14 any of the foregoing, except inventories and raw materials, whether or not
15 in existence, suitable or used for or in connection with any of the
16 following:

17 (l) Facilities for private and not-for-profit institutions of higher
18 education; ~~and~~

19 (m) Capital improvements to existing residential, commercial, or
20 industrial structures to retrofit such structures for significant energy
21 savings or installation of solar or other alternative electrical
22 energy-producing improvements to serve that structure or other structures
23 on contiguous property under common ownership; AND

24 (n) FACILITIES FOR PRIVATE AND NOT-FOR-PROFIT EARLY
25 CHILDHOOD EDUCATION PROGRAMS; FACILITIES FOR PUBLIC EARLY
26 CHILDHOOD, ELEMENTARY, AND SECONDARY EDUCATION PROGRAMS,
27 INCLUDING BUT NOT LIMITED TO CHARTER SCHOOL PROGRAMS; AND

1 FACILITIES FOR PUBLIC INSTITUTIONS OF HIGHER EDUCATION.

2 **SECTION 7.** 36-1-152, Colorado Revised Statutes, is amended
3 to read:

4 **36-1-152. Public school districts - charter schools - lease,**
5 **purchase, or other use of state lands.** (1) The state board of land
6 commissioners shall provide opportunities for public school districts
7 within which school trust lands are located to lease, purchase, or
8 otherwise use such lands or portions thereof as are necessary for school
9 building sites, at an amount to be determined by the board, which shall
10 not exceed the appraised fair market value, which amount may be paid
11 over time.

12 (2) THE STATE BOARD OF LAND COMMISSIONERS MAY PROVIDE
13 OPPORTUNITIES FOR CHARTER SCHOOLS THAT ARE AUTHORIZED BY
14 SCHOOL DISTRICTS PURSUANT TO PART 1 OF ARTICLE 30.5 OF TITLE 22,
15 C.R.S., OR CHARTER SCHOOLS THAT ARE AUTHORIZED BY THE STATE
16 CHARTER SCHOOL INSTITUTE PURSUANT TO PART 5 OF ARTICLE 30.5 OF
17 TITLE 22, C.R.S., TO LEASE, PURCHASE, OR OTHERWISE USE SCHOOL TRUST
18 LANDS, OR PORTIONS THEREOF, FOR SCHOOL BUILDING SITES. THE BOARD
19 SHALL DETERMINE THE AMOUNT A CHARTER SCHOOL SHALL BE REQUIRED
20 TO PAY TO LEASE, PURCHASE, OR OTHERWISE USE SAID LANDS, WHICH
21 AMOUNT SHALL NOT EXCEED THE APPRAISED FAIR MARKET VALUE AND
22 MAY BE PAID OVER TIME.

23 **SECTION 8.** 22-30.5-408 (2) (a), Colorado Revised Statutes, is
24 amended to read:

25 **22-30.5-408. Replenishment of qualified charter school debt**
26 **service reserve funds.** (2) (a) If the Colorado educational and cultural
27 facilities authority has issued qualified charter school bonds on behalf of

1 any qualified charter school that fails immediately to restore its qualified
2 charter school debt service reserve fund to the applicable qualified charter
3 school debt service reserve fund requirement, the ~~board of directors of the~~
4 ~~authority~~ STATE TREASURER shall submit to the governor a certificate
5 certifying any amount of moneys required to restore the qualified charter
6 school debt service reserve fund to the applicable qualified charter school
7 debt service reserve fund requirement. The governor shall submit a
8 request for appropriations in an amount sufficient to restore any or all
9 qualified charter school debt reserve funds to their respective qualified
10 charter school debt service reserve fund requirements and the general
11 assembly may, but shall not be required to, appropriate moneys for said
12 purpose. If, in its sole discretion, the general assembly appropriates any
13 moneys for said purpose, the aggregate outstanding principal amount of
14 bonds for which moneys may be appropriated for said purpose shall not
15 exceed four hundred million dollars.

16 **SECTION 9.** 23-15-108, Colorado Revised Statutes, is amended
17 to read:

18 **23-15-108. Acquisition of property.** The authority, directly or
19 by or through a participating educational institution or cultural institution
20 as its agent, may acquire by purchase, lease, gift, devise, or other means
21 such lands, structures, real or personal property, rights-of-way, franchises,
22 easements, and other interests in lands, including lands lying under water
23 and riparian rights which are located within or without the state, as it may
24 deem necessary or convenient for the construction, acquisition, or
25 operation of facilities, upon such terms as may be considered by the
26 authority to be reasonable, and may take title thereto in the name of the
27 authority or in the name of such participating educational institution or

1 cultural institution as its agent. IF THE AUTHORITY, DIRECTLY OR
2 THROUGH A PARTICIPATING EDUCATIONAL INSTITUTION, ACQUIRES A
3 BUILDING THAT HAS A TENANT AT THE TIME OF ACQUISITION, THE
4 AUTHORITY OR THE PARTICIPATING EDUCATIONAL INSTITUTION MAY
5 ALLOW THE TENANT TO CONTINUE USING THE BUILDING THROUGH THE
6 CONCLUSION OF THE TERM OF TENANCY.

7 **SECTION 10. Act subject to petition - effective date.** This act
8 shall take effect at 12:01 a.m. on the day following the expiration of the
9 ninety-day period after final adjournment of the general assembly that is
10 allowed for submitting a referendum petition pursuant to article V,
11 section 1 (3) of the state constitution, (August 4, 2009, if adjournment
12 sine die is on May 6, 2009); except that, if a referendum petition is filed
13 against this act or an item, section, or part of this act within such period,
14 then the act, item, section, or part, if approved by the people, shall take
15 effect on the date of the official declaration of the vote thereon by
16 proclamation of the governor.