

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0010.01 Jane Ritter

SENATE BILL 10-089

SENATE SPONSORSHIP

Schultheis, Harvey, Lundberg, Cadman, Renfroe, Mitchell, Scheffel, King K., Brophy

HOUSE SPONSORSHIP

Sonnenberg,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING THE CREATION OF RELIGIOUS BILLS OF RIGHTS FOR
102 INDIVIDUALS CONNECTED TO PUBLIC 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>.)

The bill establishes the "Religious Bill of Rights for Individuals Connected to Public Schools Act" (act), which requires the state board of education (state board) to adopt a religious bill of rights for public school students and parents and a religious bill of rights for public school teachers and employees (religious bills of rights) outlining each party's

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.

respective inalienable individual religious rights. The state board shall distribute the religious bills of rights to school district boards of education (local boards), and each local board shall adopt policies and procedures to implement the act, including the annual distribution of the religious bills of rights to students, parents, teachers, and employees of the school district. Additionally, local boards of education shall provide opt-out provisions to individuals for classes or course materials that are in conflict with the individual's religious beliefs.

The bill provides that individual members of local boards are personally liable for lawsuits brought under the act if the local board fails to adopt policies and procedures to implement the act or to ensure compliance with the act.

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

2 **SECTION 1.** Title 22, Colorado Revised Statutes, is amended BY
3 THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 15**

5 **Religious Bill of Rights for Individuals**

6 **Connected to Public Schools**

7 **22-15-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY
8 BE CITED AS THE "RELIGIOUS BILL OF RIGHTS FOR INDIVIDUALS
9 CONNECTED TO PUBLIC SCHOOLS ACT".

10 **22-15-102. Legislative declaration.** (1) THE GENERAL
11 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

12 (a) THE UNITED STATES CONSTITUTION AND THE COLORADO
13 CONSTITUTION GUARANTEE INDIVIDUALS CERTAIN BASIC RELIGIOUS
14 RIGHTS;

15 (b) MANY INDIVIDUALS ARE UNAWARE OF THEIR EXISTING
16 CONSTITUTIONAL RELIGIOUS RIGHTS. BECAUSE THESE RIGHTS ARE
17 COMING UNDER INCREASING ATTACK IN THE PUBLIC SCHOOL SYSTEM, A
18 METHOD TO RECOGNIZE, PROMOTE, AND ENFORCE THESE RIGHTS IS OF
19 GREAT IMPORTANCE TO STUDENTS, PARENTS, TEACHERS, AND EMPLOYEES.

1 (c) PUBLIC SCHOOLS ARE FACING AN INCREASING NUMBER OF
2 LAWSUITS FROM PARENTS AND CHILDREN CHALLENGING RESTRICTIONS OR
3 PERCEIVED RESTRICTIONS ON THEIR RELIGIOUS RIGHTS. DEFENDING
4 AGAINST THESE LAWSUITS HAS COST AND WILL CONTINUE TO COST STATE
5 TAXPAYERS THOUSANDS OF DOLLARS ANNUALLY.

6 (d) IT IS BENEFICIAL TO RAISING MORALS AND OBEDIENCE WITHIN
7 THE PUBLIC SCHOOLS TO FOSTER AN ATMOSPHERE THAT RECOGNIZES AND
8 ENCOURAGES THE CONCEPT AND UNDERSTANDING OF RELIGIOUS LIBERTY
9 THAT WAS SO IMPORTANT TO THE FOUNDERS OF OUR NATION;

10 (e) THERE IS A GROWING PERCEPTION AMONG CITIZENS THAT
11 PUBLIC SCHOOLS ARE HOSTILE TO INDIVIDUAL EXPRESSION AND EXERCISE
12 OF RELIGIOUS BELIEFS, AND PARENTS OR GUARDIANS WHOSE CHILDREN
13 FEEL THEIR RELIGIOUS RIGHTS ARE BEING SUPPRESSED OR THREATENED
14 ARE REMOVING THEIR CHILDREN FROM PUBLIC SCHOOLS, THUS
15 SUBSTANTIALLY REDUCING THE SCHOOL DISTRICT'S PUPIL COUNT AND
16 THEREFORE ITS REVENUE; AND

17 (f) JUST AS HOSPITALS ARE NOW REQUIRED TO POST A PATIENTS'
18 BILL OF RIGHTS AND RESPONSIBILITIES AND BUSINESSES ARE REQUIRED TO
19 POST WAGE AND WORKERS' COMPENSATION RIGHTS AND RESPONSIBILITIES,
20 PUBLIC SCHOOLS SHOULD INFORM INDIVIDUALS CONNECTED TO PUBLIC
21 SCHOOLS OF THEIR CONSTITUTIONAL RELIGIOUS RIGHTS.

22 (2) THE GENERAL ASSEMBLY THEREFORE FINDS THAT IT IS IN THE
23 BEST INTEREST OF THE CITIZENS OF THE STATE OF COLORADO TO CREATE
24 RELIGIOUS BILLS OF RIGHTS FOR INDIVIDUALS CONNECTED TO PUBLIC
25 SCHOOLS AND TO REQUIRE PUBLIC SCHOOLS TO POST THE RELIGIOUS BILLS
26 OF RIGHTS IN A PROMINENT PLACE IN THE SAME SIZE AND STYLE AS THOSE
27 REQUIRED FOR LABOR LAWS AND TO INFORM ALL INDIVIDUALS CONNECTED

1 TO PUBLIC SCHOOLS OF THE RELIGIOUS BILLS OF RIGHTS.

2 **22-15-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
3 CONTEXT OTHERWISE REQUIRES:

4 (1) "DEPARTMENT" MEANS THE DEPARTMENT OF EDUCATION
5 CREATED AND EXISTING PURSUANT TO SECTION 24-1-115, C.R.S.

6 (2) "EMPLOYEE OF A PUBLIC SCHOOL" MEANS A FULL-TIME,
7 PART-TIME, OR CONTRACTUAL EMPLOYEE OF A SCHOOL DISTRICT OR OF A
8 CHARTER SCHOOL.

9 (3) "INDIVIDUAL CONNECTED TO A PUBLIC SCHOOL" MEANS A
10 STUDENT WHO IS ENROLLED IN, A TEACHER OR EMPLOYEE EMPLOYED BY,
11 OR A PARENT OR GUARDIAN OF A STUDENT ENROLLED IN A PUBLIC SCHOOL.

12 (4) "INSTRUCTIONAL TIME" MEANS ANY TIME DURING THE
13 DESIGNATED SCHOOL DAY BUT DOES NOT INCLUDE LUNCH TIME.

14 (5) "LOCAL BOARD OF EDUCATION" MEANS THE BOARD OF
15 EDUCATION OF A SCHOOL DISTRICT AS ESTABLISHED BY SECTION
16 22-32-103.

17 (6) "NONSCHOOL-SPONSORED ACTIVITY" MEANS AN ACTIVITY
18 THAT IS NOT INITIATED BY OR WHOLLY UNDER THE CONTROL OF THE
19 PUBLIC SCHOOL.

20 (7) "PUBLIC SCHOOL" MEANS A SCHOOL THAT IS DIRECTLY FUNDED,
21 IN WHOLE OR IN PART, BY MONEYS RAISED BY A GENERAL STATE OR
22 DISTRICT TAX. FOR THE PURPOSES OF THIS ARTICLE, "PUBLIC SCHOOL"
23 SHALL INCLUDE DISTRICT AND INSTITUTE CHARTER SCHOOLS AND
24 PRESCHOOLS AND KINDERGARTENS OPERATING UNDER THE COLORADO
25 PRESCHOOL PROGRAM ESTABLISHED IN SECTION 22-28-104.

26 (8) "RELIGIOUS BELIEF" MEANS A BELIEF THAT IS SINCERELY HELD
27 AND IS A TENET OF AN INDIVIDUAL'S FAITH. AN INDIVIDUAL CAN PROVE

1 THE SINCERITY OF HIS OR HER BELIEFS BY SWORN AFFIRMATION.

2 (9) "SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT ORGANIZED
3 UNDER THE LAWS OF COLORADO, EXCEPT FOR A JUNIOR COLLEGE
4 DISTRICT.

5 (10) "STATE BOARD" MEANS THE STATE BOARD OF EDUCATION
6 CREATED AND EXISTING PURSUANT TO SECTION 1 OF ARTICLE IX OF THE
7 STATE CONSTITUTION.

8 **22-15-104. State board of education - duties.** (1) IN ADDITION
9 TO ANY OTHER DUTY REQUIRED BY LAW, THE STATE BOARD SHALL HAVE
10 AND PERFORM THE FOLLOWING SPECIFIC DUTIES TO IMPLEMENT THIS
11 ARTICLE:

12 (a) NO LATER THAN JANUARY 30, 2011, THE STATE BOARD SHALL
13 ESTABLISH A WRITTEN RELIGIOUS BILL OF RIGHTS FOR PUBLIC SCHOOL
14 STUDENTS AND THEIR PARENTS OR GUARDIANS THAT OUTLINES EXISTING
15 AND INALIENABLE INDIVIDUAL RELIGIOUS RIGHTS. THE RELIGIOUS BILL OF
16 RIGHTS FOR PUBLIC SCHOOL STUDENTS AND THEIR PARENTS OR GUARDIANS
17 SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, A DECLARATION THAT A
18 PUBLIC SCHOOL STUDENT HAS AN INALIENABLE RIGHT TO:

19 (I) EXPRESS HIS OR HER RELIGIOUS BELIEFS ON A PUBLIC SCHOOL
20 CAMPUS OR AT A SCHOOL-SPONSORED EVENT TO THE SAME EXTENT AS HE
21 OR SHE MAY EXPRESS A PERSONAL SECULAR VIEWPOINT;

22 (II) PARTICIPATE IN A PRIVATE RELIGIOUS CEREMONY HELD ON A
23 PUBLIC SCHOOL CAMPUS OUTSIDE OF INSTRUCTIONAL TIME TO THE SAME
24 EXTENT AS HE OR SHE MAY PARTICIPATE IN A PRIVATE SECULAR ACTIVITY
25 OR CEREMONY OUTSIDE OF INSTRUCTIONAL TIME;

26 (III) EXCHANGE A GREETING CARD OR OTHER ITEM WITH A
27 RELIGIOUS THEME;

1 (IV) SING RELIGIOUS SONGS ALONG WITH SECULAR SONGS AS PART
2 OF A SCHOOL-SPONSORED OR CURRICULUM-RELATED PROGRAM;

3 (V) USE A RELIGIOUS GREETING;

4 (VI) WEAR RELIGIOUS GARB ON A PUBLIC SCHOOL CAMPUS,
5 INCLUDING BUT NOT LIMITED TO CLOTHING WITH A RELIGIOUS MESSAGE;

6 (VII) EXPRESS HIS OR HER RELIGIOUS BELIEFS OR SELECT
7 RELIGIOUS MATERIALS WHEN RESPONDING TO A SCHOOL ASSIGNMENT IF
8 HIS OR HER RESPONSE REASONABLY MEETS THE EDUCATIONAL PURPOSE OF
9 THE ASSIGNMENT; AND

10 (VIII) RECITE RELIGIOUS MATERIAL WHEN AN ORAL RECITATION
11 IS ASSIGNED IF THE MATERIAL FAIRLY MEETS THE EDUCATIONAL PURPOSE
12 OF THE ASSIGNMENT.

13 (b) NO LATER THAN JANUARY 30, 2011, THE STATE BOARD SHALL
14 ESTABLISH A WRITTEN RELIGIOUS BILL OF RIGHTS FOR TEACHERS AND
15 EMPLOYEES OF PUBLIC SCHOOLS THAT OUTLINES EXISTING AND
16 INALIENABLE INDIVIDUAL RELIGIOUS RIGHTS. THE RELIGIOUS BILL OF
17 RIGHTS FOR TEACHERS AND EMPLOYEES OF PUBLIC SCHOOLS SHALL
18 INCLUDE, BUT NEED NOT BE LIMITED TO, A DECLARATION THAT A TEACHER
19 OR AN EMPLOYEE OF A PUBLIC SCHOOL HAS AN INALIENABLE RIGHT TO:

20 (I) TEACH A RELIGIOUS TOPIC IN PUBLIC SCHOOL FOR HISTORICAL,
21 LITERARY, OR OTHER EDUCATIONAL PURPOSES, INCLUDING BUT NOT
22 LIMITED TO THE RELIGIOUS ORIGINS OF VARIOUS HOLIDAYS;

23 (II) DISPLAY RELIGIOUS MATERIALS AND ITEMS THAT DIRECTLY
24 RELATE TO A TOPIC BEING DISCUSSED IN THE CLASSROOM;

25 (III) ALLOW STUDENTS TO EXCHANGE GREETING CARDS OR OTHER
26 ITEMS WITH RELIGIOUS THEMES;

27 (IV) PARTICIPATE IN A NON-SCHOOL-SPONSORED ACTIVITY THAT

1 IS CONSIDERED RELIGIOUS;

2 (V) ANSWER A STUDENT'S QUESTION ON A RELIGIOUS TOPIC;

3 (VI) NOT BE REQUIRED TO TEACH A TOPIC THAT VIOLATES HIS OR
4 HER RELIGIOUS BELIEFS AND NOT BE DISCIPLINED FOR REFUSING TO TEACH
5 THE TOPIC;

6 (VII) WEAR RELIGIOUS JEWELRY; AND

7 (VIII) USE A RELIGIOUS GREETING AS A RECOGNITION OF A
8 RELIGIOUS HOLIDAY.

9 (2) ON OR BEFORE JANUARY 1, 2011, AND ON OR BEFORE JANUARY
10 1 EACH YEAR THEREAFTER, THE STATE BOARD SHALL PREPARE AND
11 UPDATE GUIDELINES CONCERNING THE GOAL AND USE OF THE RELIGIOUS
12 BILLS OF RIGHTS AND DISTRIBUTE THEM TO THE LOCAL BOARDS OF
13 EDUCATION.

14 (3) ON OR BEFORE JANUARY 30, 2011, THE STATE BOARD SHALL
15 CREATE A STANDARD GRIEVANCE FORM FOR USE TO REPORT GRIEVANCES
16 IN CONJUNCTION WITH THIS ARTICLE. THE GRIEVANCE FORM MAY BE USED
17 BY AN INDIVIDUAL CONNECTED TO A PUBLIC SCHOOL AND SHALL BE
18 FORWARDED TO THE SCHOOL PRINCIPAL BY THE INDIVIDUAL COMPLETING
19 THE FORM. THE STATE BOARD SHALL MAKE THE GRIEVANCE FORM
20 ACCESSIBLE THROUGH ITS OFFICIAL WEB SITE.

21 (4) ON OR BEFORE AUGUST 1, 2011, THE STATE BOARD SHALL POST
22 THE RELIGIOUS BILLS OF RIGHTS ON ITS OFFICIAL WEB SITE.

23 **22-15-105. Local boards of education - duties.** (1) IN ADDITION
24 TO ANY OTHER DUTY REQUIRED TO BE PERFORMED BY LAW, NO LATER
25 THAN AUGUST 1, 2011, EACH LOCAL BOARD OF EDUCATION IN THE STATE
26 SHALL IMPLEMENT THIS ARTICLE BY ADOPTING WRITTEN POLICIES AND
27 PROCEDURES TO IMPLEMENT THE RELIGIOUS BILLS OF RIGHTS AS

1 ESTABLISHED BY THE STATE BOARD PURSUANT TO SECTION 22-15-104,
2 INCLUDING BUT NOT LIMITED TO WAYS TO:

3 (a) INFORM ANNUALLY EACH PUBLIC HIGH SCHOOL STUDENT IN
4 WRITING AT THE BEGINNING OF EACH SCHOOL YEAR OR AT THE TIME OF
5 ENROLLMENT OF THE RELIGIOUS BILL OF RIGHTS. EACH PUBLIC HIGH
6 SCHOOL SHALL KEEP ON FILE A COPY OF THE STUDENT'S
7 ACKNOWLEDGMENT OF RECEIPT OF THE RELIGIOUS BILL OF RIGHTS.

8 (b) INFORM ANNUALLY EACH PARENT OR GUARDIAN OF A NEWLY
9 REGISTERED OR CONTINUING PUBLIC HIGH SCHOOL, MIDDLE SCHOOL,
10 JUNIOR HIGH SCHOOL, AND ELEMENTARY SCHOOL STUDENT IN WRITING AT
11 THE BEGINNING OF EACH SCHOOL YEAR OF THE RELIGIOUS BILL OF RIGHTS.
12 EACH MIDDLE SCHOOL, JUNIOR HIGH SCHOOL, OR ELEMENTARY SCHOOL
13 SHALL KEEP ON FILE A SIGNED DOCUMENT FROM THE PARENT OR
14 GUARDIAN THAT STATES THE PARENT OR GUARDIAN IS AWARE OF THE
15 RELIGIOUS BILL OF RIGHTS.

16 (c) PROVIDE A WRITTEN COPY OF THE RELIGIOUS BILL OF RIGHTS TO
17 EACH NEW PUBLIC SCHOOL EMPLOYEE AT HIS OR HER NEW EMPLOYEE
18 ORIENTATION AND TO EACH EXISTING EMPLOYEE BY AUGUST 1, 2011, AND
19 BY AUGUST 1 EACH YEAR THEREAFTER;

20 (d) PROVIDE ANNUALLY TO EACH PUBLIC SCHOOL EMPLOYEE,
21 INCLUDING TEACHERS AND ADMINISTRATORS, UPDATED GUIDELINES
22 CONCERNING THE GOAL AND USE OF THE RELIGIOUS BILL OF RIGHTS, AS
23 DEFINED BY THE STATE BOARD. EACH PUBLIC SCHOOL EMPLOYEE SHALL
24 SIGN A FORM CONFIRMING RECEIPT OF THIS INFORMATION. THE EMPLOYEE
25 SHALL RECEIVE A COPY OF THE SIGNED FORM, AND THE EMPLOYING PUBLIC
26 SCHOOL SHALL KEEP A COPY IN THE EMPLOYEE'S PERSONNEL FILE.

27 (e) PROVIDE INFORMATION TO EACH PUBLIC SCHOOL TEACHER

1 CONCERNING THE RELIGIOUS BILL OF RIGHTS THROUGH WRITTEN
2 MATERIALS AND DISCUSSIONS AT ANNUAL TEACHER IN-SERVICE MEETINGS
3 AND THROUGH ANNUAL WRITTEN COMMUNICATION TO TEACHERS WITHIN
4 ONE MONTH PRIOR TO THE START OF EACH SCHOOL YEAR;

5 (f) POST THE RELIGIOUS BILLS OF RIGHTS ON ITS OFFICIAL WEB
6 SITE.

7 (2) IN ADDITION TO THE DUTIES SET FORTH IN SUBSECTION (1) OF
8 THIS SECTION, EACH LOCAL BOARD OF EDUCATION SHALL ADOPT POLICIES
9 AND PROCEDURES ALLOWING:

10 (a) A HIGH SCHOOL STUDENT TO OPT OUT OF ANY CLASS OR THE
11 USE OF SPECIFIC COURSE MATERIAL THAT IS INCONSISTENT WITH HIS OR
12 HER RELIGIOUS BELIEFS; OR

13 (b) A PARENT OR GUARDIAN OF AN ELEMENTARY SCHOOL, MIDDLE
14 SCHOOL, OR JUNIOR HIGH SCHOOL STUDENT TO EXCUSE HIS OR HER CHILD
15 FROM ANY CLASS OR THE USE OF SPECIFIC COURSE MATERIAL THAT IS
16 INCONSISTENT WITH THE PARENT'S OR LEGAL GUARDIAN'S RELIGIOUS
17 BELIEFS.

18 (3) IF A LOCAL BOARD OF EDUCATION IS AWARE OF A CLASS OR
19 SPECIFIC COURSE MATERIAL THAT ROUTINELY ENCOUNTERS STRONG
20 RESISTANCE BY EITHER STUDENTS OR PARENTS OR GUARDIANS BECAUSE
21 OF CONFLICTS WITH RELIGIOUS BELIEFS, THE LOCAL BOARD OF EDUCATION
22 SHALL DIRECT THE PUBLIC SCHOOL ADMINISTRATION TO NOTIFY PARENTS
23 OR GUARDIANS AND STUDENTS OF THEIR ABILITY TO OPT OUT OF THE
24 CLASSES OR SPECIFIC COURSE MATERIALS PURSUANT TO SUBSECTION (2)
25 OF THIS SECTION PRIOR TO THE FIRST DAY OF THE CLASS.

26 (4) NO LATER THAN DECEMBER 30, 2011, AND NO LATER THAN
27 DECEMBER 30 EACH YEAR THEREAFTER, EACH LOCAL BOARD OF

1 EDUCATION SHALL CERTIFY TO THE OFFICE OF THE ATTORNEY GENERAL
2 THAT IT HAS FULLY COMPLIED WITH ALL OF THE PROVISIONS OF THIS
3 ARTICLE.

4 **22-15-106. Liability.** NOTWITHSTANDING THE PROVISIONS OF
5 ARTICLE 12 OF THIS TITLE, A MEMBER OF A LOCAL BOARD OF EDUCATION
6 SHALL BE HELD PERSONALLY LIABLE IF THE MEMBER WILLFULLY AND
7 WANTONLY FAILS TO ADMINISTER HIS OR HER DUTIES WITH RESPECT TO
8 THIS ARTICLE, INCLUDING ESTABLISHING AND IMPLEMENTING POLICIES
9 AND PROCEDURES. IF A PLAINTIFF PREVAILS IN AN ACTION TO DEFEND HIS
10 OR HER RELIGIOUS RIGHTS PURSUANT TO THIS ARTICLE, MEMBERS OF THE
11 LOCAL BOARD OF EDUCATION SHALL BE PERSONALLY LIABLE FOR THE
12 PLAINTIFF'S ATTORNEY FEES AND THEY SHALL BE SUBJECT TO PERSONAL
13 LIABILITY FOR DAMAGES.

14 **22-15-107. School discipline.** NOTHING IN THIS ARTICLE SHALL
15 BE CONSTRUED TO PRECLUDE A PUBLIC SCHOOL FROM ESTABLISHING AND
16 MAINTAINING THE DISCIPLINE NECESSARY TO EXECUTE ITS EDUCATIONAL
17 MISSION AS DEFINED BY THE PUBLIC SCHOOL'S ADOPTED CURRICULUM AND
18 STATE LAW.

19 **SECTION 2.** 24-10-110, Colorado Revised Statutes, is amended
20 BY THE ADDITION OF A NEW SUBSECTION to read:

21 **24-10-110. Defense of public employees - payment of**
22 **judgments or settlements against public employees.** (7) THE
23 PROVISIONS OF THIS SECTION SHALL NOT EXEMPT A PUBLIC EMPLOYEE
24 FROM PERSONAL FINANCIAL LIABILITY UNDER THE "RELIGIOUS BILL OF
25 RIGHTS FOR INDIVIDUALS CONNECTED TO PUBLIC SCHOOLS ACT",
26 ARTICLE 15 OF TITLE 22, C.R.S.

27 **SECTION 3. Act subject to petition - effective date.** This act

1 shall take effect at 12:01 a.m. on the day following the expiration of the
2 ninety-day period after final adjournment of the general assembly (August
3 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a
4 referendum petition is filed pursuant to section 1 (3) of article V of the
5 state constitution against this act or an item, section, or part of this act
6 within such period, then the act, item, section, or part shall not take effect
7 unless approved by the people at the general election to be held in
8 November 2010 and shall take effect on the date of the official
9 declaration of the vote thereon by the governor.