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SENATE BILL 11-188

BY SENATOR(S) Bacon and King K., Cadman, Giron, Grantham, Jahn, Johnston, King S., Lambert, Lundberg, Roberts, White;
also REPRESENTATIVE(S) Casso, Conti, Fields, Labuda, Massey, Summers, Todd, Wilson.

CONCERNING INCREASING THE STATE'S OVERSIGHT OF THE PROGRAM THAT
ALLOWS THE FINANCING OF CAPITAL CONSTRUCTION FOR QUALIFIED
CHARTER SCHOOLS.

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

SECTION 1. 22-30.5-407 (2) (a), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

22-30.5-407. State charter school debt reserve fund - creation - use of fund moneys - legislative declaration. (2) (a) There is hereby created in the state treasury the state charter school debt reserve fund. The fund shall consist of the following moneys:

(IV) MONEYS CREDITED TO THE FUND BY THE STATE TREASURER PURSUANT TO SECTION 22-30.5-408 (2) (c) (II).

SECTION 2. The introductory portion to 22-30.5-407 (4) (d) and

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

22-30.5-407 (4) (d) (II), Colorado Revised Statutes, are amended to read:

22-30.5-407. State charter school debt reserve fund - creation - use of fund moneys - legislative declaration. (4) (d) If the state treasurer expends moneys from the portion of the state charter school debt reserve fund that is not the state charter school interest savings account OR IF THE STATE TREASURER EXPENDS MONEYS FROM THE STATE CHARTER SCHOOL INTEREST SAVINGS ACCOUNT FOR PURPOSES OTHER THAN THE PAYMENT OF THE ADMINISTRATIVE COSTS OF THE STATE TREASURER, the state treasurer shall withhold charter school per pupil facilities aid program moneys to the extent necessary to restore that portion of the state charter school debt reserve fund, by the transfer of all withheld amounts from the state education fund to that portion of the state charter school debt reserve fund, to a one million dollar balance AND TO THE EXTENT NECESSARY TO RESTORE THE STATE CHARTER SCHOOL INTEREST SAVINGS ACCOUNT, BY THE TRANSFER OF ALL WITHHELD AMOUNTS FROM THE STATE EDUCATION FUND TO THE STATE CHARTER SCHOOL INTEREST SAVINGS ACCOUNT, TO THE BALANCE PRIOR TO EXPENDITURE OF MONEYS FROM THE ACCOUNT, in accordance with the following requirements:

(II) If, in any given fiscal year, the state treasurer determines that after withholding the maximum amount of charter school per pupil facilities aid program moneys that may be withheld pursuant to subparagraph (I) of this paragraph (d) the portion of the state charter school debt reserve fund that is not the state charter school interest savings account will not be restored to a one million dollar balance OR THE STATE CHARTER SCHOOL INTEREST SAVINGS ACCOUNT WILL NOT BE RESTORED TO THE BALANCE IN THE ACCOUNT PRIOR TO THE STATE TREASURER'S EXPENDITURE OF MONEYS FROM THE ACCOUNT, each charter school that is not relying upon the state charter school debt reserve fund and the provisions of section 22-30.5-408 with respect to bonds issued on its behalf by the Colorado educational and cultural facilities authority shall have its payment reduced by the same percentage and by a maximum of ten percent.

SECTION 3. 22-30.5-408 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22-30.5-408. Replenishment of qualified charter school debt service reserve funds - additional responsibilities - state treasurer - qualified charter schools - definitions. (1) As used in this section:

(b.5) "MAXIMUM PRINCIPAL OUTSTANDING" MEANS THE AGGREGATE OUTSTANDING PRINCIPAL AMOUNT OF BONDS FOR WHICH MONEYS MAY BE APPROPRIATED PURSUANT TO PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION.

SECTION 4. 22-30.5-408 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22-30.5-408. Replenishment of qualified charter school debt service reserve funds - additional responsibilities - state treasurer - qualified charter schools - definitions. (2) (c) (I) UPON THE EXPENDITURE OF MONEYS FROM THE STATE CHARTER SCHOOL DEBT RESERVE FUND OR THE STATE CHARTER SCHOOL INTEREST SAVINGS ACCOUNT OF THE FUND BY THE STATE TREASURER, THE STATE TREASURER MAY FILE A LIEN ON BEHALF OF THE STATE ON THE PROPERTY SECURING THE BONDS FOR WHICH THE QUALIFIED CHARTER SCHOOL DEBT RESERVE FUND IS EXPENDED IN AN AMOUNT EQUAL TO THE AMOUNT OF MONEYS EXPENDED FROM THE STATE CHARTER SCHOOL DEBT RESERVE FUND OR THE STATE CHARTER SCHOOL INTEREST SAVINGS ACCOUNT; EXCEPT THAT SUCH LIEN SHALL NOT BE ON A PARITY WITH OR SUPERIOR TO ANY LIEN THEN SECURED BY THE PROPERTY, INCLUDING ANY LIEN SECURING SUCH QUALIFIED CHARTER SCHOOL BONDS.

(II) ANY NET PROCEEDS FROM THE SALE OF PROPERTY SECURING THE BONDS FOR WHICH THE QUALIFIED CHARTER SCHOOL DEBT RESERVE FUND IS ESTABLISHED SHALL BE USED TO REIMBURSE THE STATE TREASURER FOR ANY COSTS INCURRED IN CONNECTION WITH THE SALE OF SUCH PROPERTY. THE STATE TREASURER SHALL CREDIT ANY ADDITIONAL NET PROCEEDS FROM THE SALE OF SUCH PROPERTY TO THE STATE CHARTER SCHOOL DEBT RESERVE FUND TO RESTORE THE FUND TO A BALANCE OF ONE MILLION DOLLARS. THE STATE TREASURER SHALL CREDIT ANY REMAINING NET PROCEEDS FROM THE SALE OF SUCH PROPERTY TO THE STATE CHARTER SCHOOL INTEREST SAVINGS ACCOUNT IN THE STATE CHARTER SCHOOL DEBT RESERVE FUND.

SECTION 5. 22-30.5-408, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

22-30.5-408. Replenishment of qualified charter school debt service reserve funds - additional responsibilities - state treasurer - qualified charter schools - definitions. (1.5) (a) THE COLORADO

EDUCATIONAL AND CULTURAL FACILITIES AUTHORITY SHALL DEVELOP AND PUBLICLY DISCLOSE THE APPLICATION REQUIREMENTS FOR THE QUALIFIED CHARTER SCHOOL, THE APPLICATION AND PROCESSING TIMELINE, AND ALL ISSUER FEES AND EXPENSES THAT WILL APPLY TO THE TRANSACTION.

(b) THE COLORADO EDUCATIONAL AND CULTURAL FACILITIES AUTHORITY SHALL NOT CHARGE A QUALIFIED CHARTER SCHOOL FOR WHICH IT ISSUES BONDS PURSUANT TO SECTION 22-30.5-407 AN ANNUAL FEE AFTER THE ISSUANCE OF THE BONDS OCCURS; EXCEPT THAT THIS PARAGRAPH (b) SHALL NOT BE CONSTRUED TO PROHIBIT THE AUTHORITY FROM CHARGING A QUALIFIED CHARTER SCHOOL FOR FEES AND EXPENSES INCURRED IN THE ENFORCEMENT OF COVENANTS OR REMEDIES.

(2.7) A QUALIFIED CHARTER SCHOOL THAT HAS FINANCED CAPITAL CONSTRUCTION WITH QUALIFIED CHARTER SCHOOL BONDS SHALL CONFIRM A STAND-ALONE CREDIT ASSESSMENT OR RATING OF AT LEAST INVESTMENT GRADE BY A NATIONALLY RECOGNIZED RATING AGENCY ON ITS OUTSTANDING QUALIFIED CHARTER SCHOOL BONDS AT THE TIME OF THE ISSUANCE OF ANY NEW CHARTER SCHOOL BONDS.

SECTION 6. Part 1 of article 30.5 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

22-30.5-110.3. Nonrenewal or revocation - qualified charter school - exceptions. (1) NOTWITHSTANDING THE PROVISIONS OF SECTIONS 22-30.5-108 AND 22-30.5-110, THE PROVISIONS OF THIS SECTION SHALL APPLY IF:

(a) A CHARTERING LOCAL BOARD OF EDUCATION DETERMINES THAT THE CHARTER OF A QUALIFIED CHARTER SCHOOL, AS DEFINED IN SECTION 22-30.5-408 (1) (c), WILL BE REVOKED OR WILL NOT BE RENEWED; AND

(b) THE QUALIFIED CHARTER SCHOOL HAS FINANCED CAPITAL CONSTRUCTION WITH REVENUES FROM BONDS ISSUED ON BEHALF OF THE QUALIFIED CHARTER SCHOOL BY THE COLORADO EDUCATIONAL AND CULTURAL FACILITIES AUTHORITY CREATED IN SECTION 23-15-104 (1) (a), C.R.S., PURSUANT TO SECTION 22-30.5-407.

(2) (a) IF A CHARTERING LOCAL BOARD OF EDUCATION MAKES A DETERMINATION TO REVOKE OR NOT RENEW THE CHARTER OF A QUALIFIED

CHARTER SCHOOL AND SUBSECTION (1) OF THIS SECTION APPLIES, THE CHARTERING LOCAL BOARD OF EDUCATION SHALL NOTIFY THE STATE TREASURER AND THE COMMISSIONER OF EDUCATION IMMEDIATELY UPON SUCH DETERMINATION. UPON RECEIPT OF SUCH NOTICE, THE COMMISSIONER SHALL SUSPEND THE REVOCATION OR NONRENEWAL OF THE CHARTER UNTIL SUCH TIME AS THE STATE TREASURER, THE COMMISSIONER, AND THE COLORADO EDUCATIONAL AND CULTURAL FACILITIES AUTHORITY DETERMINE, WITH THE CHARTERING LOCAL BOARD OF EDUCATION AND THE QUALIFIED CHARTER SCHOOL, WHETHER AN ALTERNATIVE EXISTS TO SUCH REVOCATION OR NONRENEWAL OF THE CHARTER.

(b) A CHARTERING LOCAL BOARD OF EDUCATION SHALL NOT BE REQUIRED TO SUSPEND A REVOCATION OR NONRENEWAL OF A CHARTER PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) FOR MORE THAN ONE HUNDRED TWENTY DAYS AFTER THE DATE THAT THE COMMISSIONER OF EDUCATION AND THE STATE TREASURER RECEIVED NOTICE OF THE DETERMINATION TO REVOKE OR NOT RENEW THE CHARTER PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) OR SIXTY DAYS AFTER THE ACTION OF THE STATE BOARD PURSUANT TO SECTION 22-30.5-108 (3) (a), WHICHEVER IS LATER.

(3) THE STATE TREASURER, COMMISSIONER OF EDUCATION, CHARTERING LOCAL BOARD OF EDUCATION, CHARTER SCHOOL, AND COLORADO EDUCATIONAL AND CULTURAL FACILITIES AUTHORITY MAY PURSUE THE FOLLOWING:

(a) THE CONVERSION OF THE QUALIFIED CHARTER SCHOOL FROM A SCHOOL OF THE CHARTERING DISTRICT TO AN INSTITUTE CHARTER SCHOOL;

(b) THE REORGANIZATION OF THE QUALIFIED CHARTER SCHOOL AND APPLICATION TO THE INITIAL CHARTERING LOCAL BOARD OF EDUCATION OR THE STATE CHARTER SCHOOL INSTITUTE FOR APPROVAL AS A CHARTER SCHOOL WITH THE CONDITION THAT THE NEWLY APPROVED CHARTER SCHOOL WILL ASSUME THE BOND OBLIGATIONS OF THE FORMER QUALIFIED CHARTER SCHOOL PURSUANT TO SECTION 22-30.5-407; OR

(c) ANY OTHER ALTERNATIVE DEEMED FEASIBLE BY THE STATE TREASURER, THE COMMISSIONER OF EDUCATION, THE COLORADO EDUCATIONAL AND CULTURAL FACILITIES AUTHORITY, THE CHARTERING LOCAL BOARD OF EDUCATION, AND THE QUALIFIED CHARTER SCHOOL.

(4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT THE CHARTERING LOCAL BOARD OF EDUCATION FROM REVOKING OR NOT RENEWING THE CHARTER OF A QUALIFIED CHARTER SCHOOL PURSUANT TO SECTION 22-30.5-110.

SECTION 7. Part 5 of article 30.5 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

22-30.5-511.3. Nonrenewal or revocation - qualified charter school - exceptions. (1) NOTWITHSTANDING THE PROVISIONS OF SECTION 22-30.5-511, THE PROVISIONS OF THIS SECTION SHALL APPLY IF:

(a) THE INSTITUTE BOARD DETERMINES THAT THE CHARTER OF A QUALIFIED CHARTER SCHOOL, AS DEFINED IN SECTION 22-30.5-408 (1) (c), WILL BE REVOKED OR WILL NOT BE RENEWED; AND

(b) THE QUALIFIED CHARTER SCHOOL HAS FINANCED CAPITAL CONSTRUCTION WITH REVENUES FROM BONDS ISSUED ON BEHALF OF THE QUALIFIED CHARTER SCHOOL BY THE COLORADO EDUCATIONAL AND CULTURAL FACILITIES AUTHORITY CREATED IN SECTION 23-15-104 (1) (a), C.R.S., PURSUANT TO SECTION 22-30.5-407.

(2) (a) IF THE INSTITUTE BOARD MAKES A DETERMINATION TO REVOKE OR NOT RENEW THE CHARTER OF A QUALIFIED CHARTER SCHOOL AND SUBSECTION (1) OF THIS SECTION APPLIES, THE INSTITUTE BOARD SHALL NOTIFY THE STATE TREASURER AND THE COMMISSIONER OF EDUCATION IMMEDIATELY UPON SUCH DETERMINATION. UPON RECEIPT OF SUCH NOTICE, THE COMMISSIONER SHALL SUSPEND THE REVOCATION OR NONRENEWAL OF THE CHARTER UNTIL SUCH TIME AS THE STATE TREASURER, THE COMMISSIONER, AND THE COLORADO EDUCATIONAL AND CULTURAL FACILITIES AUTHORITY DETERMINE, WITH THE INSTITUTE BOARD AND THE QUALIFIED CHARTER SCHOOL, WHETHER AN ALTERNATIVE EXISTS TO SUCH REVOCATION OR NONRENEWAL OF THE CHARTER.

(b) THE INSTITUTE BOARD SHALL NOT BE REQUIRED TO SUSPEND A REVOCATION OR NONRENEWAL OF A CHARTER PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) FOR MORE THAN ONE HUNDRED TWENTY DAYS AFTER THE DATE THAT THE COMMISSIONER OF EDUCATION AND THE STATE TREASURER RECEIVED NOTICE OF THE DETERMINATION TO REVOKE OR NOT RENEW THE CHARTER PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2)

OR SIXTY DAYS AFTER THE ACTION OF THE STATE BOARD PURSUANT TO SECTION 22-30.5-511 (5) (b) (II), WHICHEVER IS LATER.

(3) THE STATE TREASURER, COMMISSIONER OF EDUCATION, INSTITUTE BOARD, CHARTER SCHOOL, AND COLORADO EDUCATIONAL AND CULTURAL FACILITIES AUTHORITY MAY PURSUE THE FOLLOWING:

(a) THE CONVERSION OF THE QUALIFIED CHARTER SCHOOL FROM AN INSTITUTE CHARTER SCHOOL TO A SCHOOL OF THE ACCOUNTING DISTRICT OF THE INSTITUTE CHARTER SCHOOL, AS DEFINED IN SECTION 22-30.5-513 (1) (a);

(b) THE REORGANIZATION OF THE QUALIFIED CHARTER SCHOOL AND APPLICATION TO THE INSTITUTE BOARD OR THE LOCAL BOARD OF EDUCATION OF THE ACCOUNTING DISTRICT FOR APPROVAL AS A CHARTER SCHOOL WITH THE CONDITION THAT THE NEWLY APPROVED CHARTER SCHOOL WILL ASSUME THE BOND OBLIGATIONS OF THE FORMER QUALIFIED CHARTER SCHOOL PURSUANT TO SECTION 22-30.5-407; OR

(c) ANY OTHER ALTERNATIVE DEEMED FEASIBLE BY THE STATE TREASURER, THE COMMISSIONER OF EDUCATION, THE COLORADO EDUCATIONAL AND CULTURAL FACILITIES AUTHORITY, THE INSTITUTE BOARD, AND THE QUALIFIED CHARTER SCHOOL.

(4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT THE INSTITUTE BOARD FROM REVOKING OR NOT RENEWING THE CHARTER OF A QUALIFIED CHARTER SCHOOL PURSUANT TO SECTION 22-30.5-511.

SECTION 8. Effective date. This act shall take effect July 1, 2011.

SECTION 9. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Frank McNulty
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO