

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

**REVISED**

*This Version Includes All Amendments Adopted  
on Second Reading in the Second House*

LLS NO. 01-1021.01 Michael Dohr

**HOUSE BILL 01-1389**

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**HOUSE SPONSORSHIP**

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**Fitz-Gerald,**

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**House Committees**

Education

**Senate Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING CREATION OF AN INTEREST-FREE LOAN PROGRAM FOR**  
102             **CHARTER SCHOOLS TO ALLEVIATE CASH FLOW MANAGEMENT**  
103             **PROBLEMS.**

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**Bill Summary**

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

Creates an interest-free loan program from which a charter school may borrow money in any month when the charter school has a general fund cash deficit. Requires the charter school to repay the loan by June 25 of the fiscal year in which the loan was made. Attaches a lien, if the loan is not paid, and allows the chartering school district to withhold money due to the charter school to cover the loan. Requires an audit of any charter school receiving moneys through the program.

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  
Amended 2nd Reading  
May 8, 2001

HOUSE  
3rd Reading Unamended  
May 1, 2001

HOUSE  
Amended 2nd Reading  
April 30, 2001

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

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

5           **22-30.5-112.5. Charter schools - loans to alleviate cash flow**  
6 **management problems.** (1) (a) IN ANY MONTH IN WHICH A CHARTER  
7 SCHOOL ANTICIPATES A GENERAL FUND CASH DEFICIT, THE CHARTER  
8 SCHOOL MAY APPLY FOR A LOAN FROM THE STATE TREASURER PURSUANT  
9 TO THIS SECTION AFTER RECEIVING WRITTEN APPROVAL FROM ITS  
10 CHARTERING SCHOOL DISTRICT BOARD. WHEN APPLYING TO THE STATE  
11 TREASURER FOR A LOAN PURSUANT TO THIS SECTION, THE CHARTER  
12 SCHOOL SHALL PROVIDE THE STATE TREASURER WITH THE WRITTEN  
13 APPROVAL FROM THE CHARTERING SCHOOL DISTRICT BOARD, AS WELL AS  
14 ANY OTHER INFORMATION AND DOCUMENTATION REQUIRED BY THE STATE  
15 TREASURER. UPON APPROVAL BY THE STATE TREASURER OF AN  
16 APPLICATION SUBMITTED BY A CHARTER SCHOOL TO PARTICIPATE IN AN  
17 INTEREST-FREE LOAN PROGRAM, THE STATE TREASURER SHALL MAKE  
18 AVAILABLE TO SUCH CHARTER SCHOOL IN ANY MONTH OF THE BUDGET  
19 YEAR, AN INTEREST-FREE LOAN FROM THE STATE GENERAL FUND IN AN  
20 AMOUNT FOR THE MONTH AS CERTIFIED BY THE GOVERNING BOARD OF THE  
21 CHARTER SCHOOL. THE STATE TREASURER SHALL DETERMINE THE  
22 METHODOLOGY FOR THE CALCULATION OF CASH DEFICITS AND ESTABLISH  
23 REPORTING MECHANISMS NECESSARY TO ENSURE CONSISTENT AND  
24 ACCURATE REPORTING OF CASH DEFICITS. NO LOAN SHALL BE MADE IN  
25 ANY MONTH UNLESS THE CHARTER SCHOOL HAS DEMONSTRATED, TO THE  
26 SATISFACTION OF THE STATE TREASURER, THAT A CHARTER SCHOOL

1 GENERAL FUND CASH DEFICIT WILL EXIST FOR THAT MONTH. NO LOAN  
2 SHALL BE MADE TO ANY CHARTER SCHOOL WHERE AN AUDIT SHOWS THE  
3 CHARTER SCHOOL IS LIKELY TO BE INSOLVENT IN THE NEXT SIX MONTHS.

4 (b) A LOAN MAY NOT BE USED BY A CHARTER SCHOOL FOR THE  
5 SIMULTANEOUS PURCHASE AND SALE OF THE SAME SECURITY OR AN  
6 EQUIVALENT SECURITY IN ORDER TO PROFIT FROM PRICE DISPARITY.

7 (2) (a) FOR THE MONTHS OF MARCH, APRIL, AND MAY OF EACH  
8 BUDGET YEAR, ANY CHARTER SCHOOL RECEIVING A LOAN UNDER THE  
9 PROVISIONS OF THIS SECTION SHALL BEGIN TO REPAY SUCH LOAN IF THE  
10 CHARTER SCHOOL'S AVAILABLE RESOURCES, AS OF THE LAST DAY OF THE  
11 MONTH, INCREASED BY THE NEXT MONTH'S PROJECTED REVENUES EXCEED  
12 THE NEXT MONTH'S PROJECTED EXPENDITURES PLUS A CASH RESERVE. THE  
13 EXCESS RESOURCES SHALL BE REMITTED TO THE STATE TREASURER BY THE  
14 CLOSE OF BUSINESS ON THE FIFTH BUSINESS DAY OF THE FOLLOWING  
15 MONTH. ALL LOANS SHALL BE REPAYED BY JUNE 25 OF THE STATE FISCAL  
16 YEAR IN WHICH THE LOAN WAS MADE OR ON AN ALTERNATIVE DATE AS  
17 DETERMINED BY THE STATE TREASURER.

18 (a.5) BEGINNING MARCH OF EACH BUDGET YEAR, THE STATE  
19 TREASURER SHALL REVIEW THE REPORTS OF ANY CHARTER SCHOOL  
20 RECEIVING A LOAN PURSUANT TO THIS SECTION AND IF THE REPORTS  
21 INDICATE A CHARTER SCHOOL MAY FAIL TO REPAY A LOAN, THE STATE  
22 TREASURER SHALL NOTIFY THE CHARTERING SCHOOL DISTRICT THAT THE  
23 CHARTER SCHOOL MAY DEFAULT ON THE LOAN AND THE ANTICIPATED  
24 AMOUNT OF DEFAULT. THE STATE TREASURER WITH THE CHARTERING  
25 SCHOOL DISTRICT SHALL DEVELOP A PAYMENT PLAN WITH THE CHARTER  
26 SCHOOL FOR REPAYMENT OF THE LOAN PRIOR TO JUNE 25 OF THE STATE  
27 FISCAL YEAR IN WHICH THE LOAN IS MADE, OR AN ALTERNATIVE DATE AS

1 DETERMINED BY THE STATE TREASURER.

2 (b) FOR PURPOSES OF PARAGRAPH (a) OF THIS SUBSECTION (2):

3 (I) "AVAILABLE RESOURCES" MEANS ANY AVAILABLE CASH AND  
4 INVESTMENTS IN CHARTER SCHOOL FUNDS WHICH CAN BE USED TO  
5 ALLEVIATE CHARTER SCHOOL GENERAL FUND CASH SHORTFALLS  
6 INCLUDING, BUT NOT LIMITED TO, THE CHARTER SCHOOL'S CAPITAL  
7 RESERVE FUND AND ANY FUND OR ACCOUNT WITHIN THE CHARTER  
8 SCHOOL'S GENERAL FUND ESTABLISHED SOLELY FOR THE MANAGEMENT OF  
9 RISK-RELATED ACTIVITIES. "AVAILABLE RESOURCES" SHALL NOT INCLUDE  
10 CASH THAT IS LEGALLY SEGREGATED OR PLEDGED BY CONTRACT OR RULE  
11 OF THE STATE BOARD.

12 (II) "CASH RESERVE" MEANS EIGHT PERCENT OF THE CHARTER  
13 SCHOOL'S AVERAGE MONTHLY EXPENDITURES OR TWENTY THOUSAND  
14 DOLLARS, WHICHEVER IS GREATER.

15 (c) ALIEN IN THE AMOUNT OF ANY LOAN MADE PURSUANT TO THIS  
16 SECTION SHALL ATTACH TO ANY CHARTER SCHOOL REVENUES DUE TO THE  
17 CHARTER SCHOOL DURING THE STATE FISCAL YEAR IN WHICH THE LOAN  
18 WAS MADE, AND SUCH LIEN SHALL HAVE PRIORITY OVER ALL OTHER  
19 EXPENDITURES FROM SUCH REVENUES UNTIL THE LOAN IS REPAYED IN FULL.  
20 IF A CHARTER SCHOOL FAILS TO REPAY A LOAN TO THE STATE TREASURER  
21 IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION, THE STATE  
22 TREASURER SHALL NOTIFY THE CHARTERING SCHOOL DISTRICT THAT THE  
23 CHARTER SCHOOL IS IN DEFAULT ON THE LOAN AND THE AMOUNT OF THE  
24 DEFAULT. THE CHARTERING SCHOOL DISTRICT SHALL WITHHOLD ANY  
25 MONEYS OF THE SCHOOL DISTRICT DUE TO THE CHARTER SCHOOL IN AN  
26 AMOUNT EQUAL TO THE AMOUNT OF THE DEFAULT AND TRANSMIT SAID  
27 MONEYS TO THE STATE TREASURER. IF THE AMOUNT OF MONEYS DUE TO

1 THE CHARTER SCHOOL AND IN THE SCHOOL DISTRICT'S POSSESSION AT THE  
2 TIME NOTICE OF THE DEFAULT IS GIVEN IS LESS THAN THE AMOUNT OF THE  
3 DEFAULT, THE CHARTERING SCHOOL DISTRICT SHALL WITHHOLD  
4 ADDITIONAL MONEYS OF THE CHARTER SCHOOL UNTIL SUCH TIME AS THE  
5 DEFAULT HAS BEEN COMPLETELY PAID TO THE STATE TREASURER.

6 (3) THE STATE TREASURER SHALL CONSULT WITH THE DEPARTMENT  
7 OF EDUCATION CONCERNING THE ADMINISTRATION OF THE LOAN PROGRAM  
8 UNDER THIS SECTION IN ORDER TO ASSURE THAT IT IS IMPLEMENTED IN A  
9 MANNER THAT WILL MINIMIZE THE LOSS OF INTEREST TO THE STATE  
10 GENERAL FUND CAUSED BY THE LOAN OF MONEYS TO CHARTER SCHOOLS  
11 IN ORDER TO ALLEVIATE CASH FLOW MANAGEMENT PROBLEMS.

12 [REDACTED]

13 (4) A CHARTER SCHOOL RECEIVING A LOAN PURSUANT TO THIS  
14 SECTION SHALL BE SUBJECT TO AN AUDIT CONDUCTED, OR CONTRACTED  
15 FOR, BY THE STATE AUDITOR AND SHALL BE PENALIZED THROUGH THE  
16 WITHHOLDING OF MONEYS BY THE CHARTERING SCHOOL DISTRICT IN THE  
17 EVENT AN AUDIT FINDS THE CHARTER SCHOOL USED THE LOAN IN A  
18 MANNER CONTRARY TO THE PROVISIONS OF THIS SECTION.

19 (5) A CHARTER SCHOOL SHALL BE ELIGIBLE TO RECEIVE A LOAN  
20 PURSUANT TO THIS SECTION ONLY IF THE CHARTER SCHOOL IS CHARTERED  
21 BY A SCHOOL DISTRICT THAT ANNUALLY RECEIVES STATE AID IN AN  
22 AMOUNT EQUAL TO TWENTY PERCENT OR LESS OF ITS TOTAL PROGRAM  
23 FUNDING.

24 **SECTION 2. Safety clause.** The general assembly hereby finds,  
25 determines, and declares that this act is necessary for the immediate  
26 preservation of the public peace, health, and safety.