INTRODUCED

SENATE BILL 21-037

SENATE SPONSORSHIP
Lundeen,

HOUSE SPONSORSHIP
( None ),

Senate Committees
Education

House Committees

A BILL FOR AN ACT

CONCERNING FINANCIAL SUPPORT FOR PARENTS TO PROVIDE
EDUCATIONAL ASSISTANCE FOR STUDENTS WHO ARE SUBJECT TO
REQUIRED PERIODS OF REMOTE LEARNING DURING A SCHOOL
YEAR, AND, IN CONNECTION THEREWITH, REQUIRING CERTAIN
EDUCATION PROVIDERS TO OPERATE STUDENT EQUITY
EDUCATION FUNDING PROGRAMS.

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://leg.colorado.gov.)

The bill requires each school district and institute charter school
that is closed to in-person instruction for a total of 30 or more school days during a school year (education provider) to establish and operate a student equity education funding program (program) for the next school year, which provides money to parents of eligible students for the purchase of educational services and supplies for the eligible student. An eligible student who participates in a program is deemed to be enrolled by the education provider that operates the program, although the eligible student may not receive educational services from the education provider. The eligible student's participation in educational services purchased using money from the program is deemed to meet the compulsory education requirements.

The education provider must provide information to the public concerning the program it operates, including the manner in which a parent may apply to participate in the program. The bill establishes eligibility requirements that a student must meet to participate in a program and requirements for program applications.

For each eligible student who participates in a program, the student's parent receives an amount equal to the state share of the education provider's per pupil revenue for the applicable school year. The parent must report to the education provider how the parent spends the money received and provide receipts. The education provider is required to audit a representative sample of the parents of eligible students who participate in the education provider's program to ensure that the eligible students met the eligibility requirements and the parents used the money for authorized purposes.

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

SECTION 1. In Colorado Revised Statutes, add article 56.5 to title 22 as follows:

ARTICLE 56.5

Student Equity Education Funding Programs

22-56.5-101. Legislative declaration. (1) The General Assembly finds that:

(a) On March 10, 2020, the governor of Colorado declared a state public health emergency due to the COVID-19 pandemic;

(b) Beginning March 23, 2020, and continuing through the end of the 2019-20 school year, the governor ordered all
SCHOOLS IN THE STATE SERVING PRESCHOOL, KINDERGARTEN, OR ANY OF
GRADES ONE THROUGH TWELVE TO SUSPEND NORMAL IN-PERSON
INSTRUCTION;

(c) ALTHOUGH THE SCHOOL DISTRICTS AND INSTITUTE CHARTER
SCHOOLS OF THE STATE DID ALL THEY COULD TO PROVIDE VIABLE ONLINE
AND OTHER REMOTE LEARNING OPTIONS FOR STUDENTS, THE BURDEN FELL
TO PARENTS IN MOST CASES TO ASSIST THEIR CHILDREN IN PARTICIPATING
IN REMOTE LEARNING. IN SOME CASES, PARENTS WORKED TOGETHER TO
POOL THEIR RESOURCES AND CREATE STUDENT LEARNING GROUPS. IN
OTHER CASES, PARENTS WERE FORCED TO PAY FOR EXTENDED DAY CARE
SERVICES AND TUTORING SERVICES TO HELP ENSURE THAT THEIR
CHILDREN CONTINUED TO LEARN THROUGH THE END OF THE SCHOOL YEAR.

(d) GENERALLY, THE SCHOOL DISTRICTS AND INSTITUTE CHARTER
SCHOOLS OF THE STATE WERE ABLE TO RETURN TO VARYING LEVELS OF
IN-PERSON INSTRUCTION WITH THE START OF THE 2020-21 SCHOOL YEAR.
BY NOVEMBER, HOWEVER, MOST SCHOOL DISTRICTS AND INSTITUTE
CHARTER SCHOOLS HAD AGAIN SUSPENDED IN-PERSON INSTRUCTION DUE
TO SURGING NUMBERS OF COVID-19 INFECTIONS. IN NOVEMBER AND
DECEMBER, PARENTS WERE AGAIN FORCED TO SUPPORT THEIR CHILDREN'S
EFFORTS TO PARTICIPATE IN SCHOOL REMOTELY.

(e) IT IS LIKELY THAT DURING THE SECOND HALF OF THE 2020-21
SCHOOL YEAR, SCHOOL DISTRICTS AND INSTITUTE CHARTER SCHOOLS WILL
AGAIN BE FORCED TO SUSPEND IN-PERSON INSTRUCTION FOR THE SAFETY
OF THEIR STUDENTS, FACULTY, AND EMPLOYEES;

(f) IN TRYING TO ENSURE THAT THEIR CHILDREN WERE ABLE TO
MAINTAIN A STEADY LEVEL OF LEARNING THROUGHOUT THE 2020-21
SCHOOL YEAR, IT IS LIKELY THAT SOME PARENTS HAVE CHOSEN NOT TO
ENROLL THEIR CHILDREN IN SCHOOL DISTRICTS OR INSTITUTE CHARTER SCHOOLS AND HAVE INSTEAD INVESTED IN EDUCATIONAL SERVICES, INCLUDING ADDITIONAL CURRICULUM, TUTORING SERVICES, AND OTHER FORMS OF ONLINE OR IN-PERSON PERSONAL EDUCATIONAL SERVICES;

(g) OTHER PARENTS HAVE ENROLLED THEIR CHILDREN IN PUBLIC SCHOOL, BUT HAVE HAD TO MAKE SIMILAR INVESTMENTS TO HELP ENSURE THAT THEIR CHILDREN CONTINUE TO LEARN DURING THE RECURRING PERIODS OF ENFORCED REMOTE LEARNING;

(h) THOSE PARENTS WHO HAVE IDENTIFIED AND PURCHASED EDUCATIONAL SERVICES THAT HAVE SUCCESSFULLY KEPT THEIR CHILDREN ON A STEADY PATH OF LEARNING AND ACADEMIC GROWTH MAY CHOOSE TO CONTINUE THESE SERVICES INTO THE 2021-22 SCHOOL YEAR RATHER THAN EXPOSE THEIR CHILDREN TO ANY UNPREDICTABLE PUBLIC HEALTH RISKS AND EDUCATIONAL INCONSISTENCIES THAT MAY PERSIST INTO THE 2021-22 SCHOOL YEAR;

(i) WHILE THE LIKELIHOOD THAT SCHOOL DISTRICTS AND INSTITUTE CHARTER SCHOOLS WILL BE REQUIRED TO CLOSE TO IN-PERSON INSTRUCTION IN SUBSEQUENT SCHOOL YEARS MAY BE SIGNIFICANTLY REDUCED, THE POSSIBILITY REMAINS THAT, DUE TO UNFORESEEN CIRCUMSTANCES, SCHOOL DISTRICTS AND INSTITUTE CHARTER SCHOOLS MAY CONTINUE IN SUBSEQUENT SCHOOL YEARS TO BE FORCED TO MANDATE REMOTE LEARNING FOR HEALTH AND SAFETY REASONS; AND

(j) PARENTS WHO ARE MORE AFFLUENT ARE LIKELY TO BE ABLE TO PURCHASE EDUCATIONAL SERVICES TO SUPPORT THEIR CHILDREN'S CONSISTENT LEARNING AND ENSURE THAT THEIR CHILDREN DO NOT FALL BEHIND BECAUSE OF PERIODS OF ENFORCED REMOTE EDUCATION. PARENTS WHO ARE IN A LOWER SOCIOECONOMIC DEMOGRAPHIC, HOWEVER, OFTEN
DO NOT HAVE THE MEANS TO PURCHASE EDUCATIONAL SERVICES FOR THEIR CHILDREN, AND THESE CHILDREN ARE MORE LIKELY TO FALL BEHIND IN THEIR LEARNING. THIS INEQUITABLE ACCESS TO EDUCATIONAL OPPORTUNITIES INCREASES THE LEARNING GAP THAT ALREADY EXISTS BETWEEN STUDENTS FROM AFFLUENT HOUSEHOLDS AND THOSE FROM LOWER-INCOME HOUSEHOLDS AND EXACERBATES THE OPPORTUNITY GAP CURRENTLY PRESENT IN SOCIETY.

(2) THE GENERAL ASSEMBLY FINDS, THEREFORE, THAT IT IS NECESSARY TO MAKE STATE FINANCIAL SUPPORT AVAILABLE TO PARENTS TO PURCHASE EDUCATIONAL SERVICES AND OPPORTUNITIES FOR THEIR CHILDREN, THEREBY EMPOWERING THESE PARENTS TO PROVIDE THE LEVEL OF EDUCATIONAL STABILITY AND SUPPORT THEY DETERMINE IS REQUIRED FOR THEIR CHILDREN'S ACADEMIC SUCCESS.

22-56.5-102. Definitions. AS USED IN THIS ARTICLE 56.5, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ACCOUNTING DISTRICT" HAS THE SAME MEANING AS PROVIDED IN SECTION 22-54-103.

(2) "APPLICABLE SCHOOL YEAR" MEANS THE SCHOOL YEAR IN WHICH AN ELIGIBLE STUDENT PARTICIPATES IN A STUDENT EQUITY EDUCATION FUNDING PROGRAM.

(3) "EDUCATION PROVIDER" MEANS A SCHOOL DISTRICT OR AN INSTITUTE CHARTER SCHOOL THAT IS REQUIRED TO ESTABLISH A STUDENT EQUITY EDUCATION FUNDING PROGRAM PURSUANT TO THIS ARTICLE 56.5.

(4) "ELIGIBLE STUDENT" MEANS A STUDENT WHO MEETS THE ELIGIBILITY REQUIREMENTS SPECIFIED IN SECTION 22-56.5-104 (1).

(5) "INSTITUTE CHARTER SCHOOL" MEANS AN INSTITUTE CHARTER SCHOOL AUTHORIZED BY THE STATE CHARTER SCHOOL INSTITUTE
Pursuant to part 5 of article 30.5 of this title 22.

(6) "Parent" means a student's biological or adoptive parent or the student's legal guardian or legal custodian.

(7) "Per pupil revenue" means:

(a) For a school district, the school district's total program calculated pursuant to section 22-54-104 for the applicable school year divided by the school district's funded pupil count, as defined in section 22-54-103, for the applicable school year; and

(b) For an institute charter school, the total program of the institute charter school's accounting district calculated pursuant to section 22-54-104 for the applicable school year divided by the accounting district's funded pupil count, as defined in section 22-54-103, for the applicable school year.

(8) "Program" means a student equity education funding program implemented by a school district or institute charter school pursuant to this article 56.5.

(9) "School district" means a school district organized and existing pursuant to law but does not include a local college district.

(10) "State-share portion" means:

(a) For a school district, the portion of the school district's per pupil revenue that is funded by the school district's state share calculated pursuant to section 22-54-106; and

(b) For an institute charter school, an amount equal to the portion of the per pupil revenue of the institute charter school's accounting district that is funded by the accounting
DISTRICT'S STATE SHARE CALCULATED PURSUANT TO SECTION 22-54-106.

22-56.5-103. Student equity education funding programs - education providers - duties. (1) (a) For the 2021-22 school year and each school year thereafter, the school district board of education of each school district that closed one or more schools of the school district to in-person instruction for a total of thirty or more school days during the immediately preceding school year shall establish, and the school district shall implement, a student equity education funding program as described in this article 56.5. For the 2021-22 school year and each school year thereafter, the governing board of each institute charter school that closed to in-person instruction for a total of thirty or more school days during the immediately preceding school year shall establish, and the institute charter school shall implement, a student equity education funding program as described in this article 56.5.

(b) The purpose of a student equity education funding program is to provide money to the parent of an eligible student that the parent may use to purchase educational services or supplies for the eligible student. No later than June 1, 2021, and no later than June 1 of each year thereafter, each education provider shall inform the parents of students enrolled, or expected to be enrolled, by the education provider for the upcoming school year of the existence of and opportunity to apply for the education provider's student equity education funding program and post in an easily accessible location on its website information concerning the program, which must
INCLUDE:

(I) THE NAME OF AND CONTACT INFORMATION FOR AN EMPLOYEE
OF THE EDUCATION PROVIDER WHO IS THE CONTACT PERSON FOR
QUESTIONS AND INFORMATION CONCERNING THE PROGRAM;

(II) THE STUDENT ELIGIBILITY REQUIREMENTS, AS DESCRIBED IN
SECTION 22-56.5-104 (1), TO PARTICIPATE IN THE PROGRAM;

(III) THE MANNER IN WHICH A PARENT MAY ELECTRONICALLY
ACCESS, COMPLETE, AND SUBMIT AN APPLICATION, AS DESCRIBED IN
SECTION 22-56.5-104 (2), TO PARTICIPATE IN THE PROGRAM;

(IV) AS PROVIDED IN SECTION 22-56.5-104 (3), THE AMOUNT OF
MONEY AVAILABLE TO THE PARENT FOR EACH OF THE PARENT'S ELIGIBLE
STUDENTS WHO PARTICIPATE IN THE PROGRAM AND AN EXPLANATION OF
THE MANNER IN WHICH THE MONEY WILL BE DISTRIBUTED IN ACCORDANCE
WITH SAID SECTION; AND

(V) A DESCRIPTION OF THE PURPOSES, AS SPECIFIED IN SECTION
22-56.5-104 (4), FOR WHICH A PARENT MAY SPEND THE MONEY RECEIVED
THROUGH THE PROGRAM AND, AS DESCRIBED IN SAID SECTION, THE
MANNER IN WHICH THE PARENT MUST REPORT TO THE EDUCATION
PROVIDER HOW THE MONEY IS USED.

(2) THE PARENT OF AN ELIGIBLE STUDENT WHO PARTICIPATES IN
A STUDENT EQUITY EDUCATION FUNDING PROGRAM MAY CHOOSE THAT
THE STUDENT DOES NOT RECEIVE EDUCATIONAL SERVICES FROM THE
EDUCATION PROVIDER THAT OPERATES THE PROGRAM, BUT THE ELIGIBLE
STUDENT IS DEEMED TO BE ENROLLED BY THE EDUCATION PROVIDER FOR
PURPOSES OF DETERMINING THE EDUCATION PROVIDER'S PUPIL
ENROLLMENT, AS DEFINED IN SECTION 22-54-103, FOR THE APPLICABLE
SCHOOL YEAR. NOTWITHSTANDING ANY PROVISION OF SECTION 22-33-104
TO THE CONTRARY, AN ELIGIBLE STUDENT WHO PARTICIPATES SOLELY IN
EDUCATIONAL SERVICES PURCHASED USING PROGRAM MONEY IS DEEMED
TO MEET THE COMPULSORY EDUCATION REQUIREMENTS FOR THE
APPLICABLE SCHOOL YEAR.

(3) AN ELIGIBLE STUDENT WHO PARTICIPATES IN A STUDENT
EQUITY EDUCATION FUNDING PROGRAM IS REQUIRED TO PARTICIPATE IN
THE STATEWIDE ASSESSMENTS ADMINISTERED PURSUANT TO SECTION
22-7-1006.3 FOR THE APPLICABLE SCHOOL YEAR TO THE SAME EXTENT
THAT OTHER STUDENTS ARE REQUIRED TO PARTICIPATE IN THE STATEWIDE
ASSESSMENTS. NOTWITHSTANDING ANY PROVISION OF LAW TO THE
CONTRARY, THE DEPARTMENT OF EDUCATION AND THE EDUCATION
PROVIDER SHALL NOT INCLUDE THE SCORES ACHIEVED BY SAID ELIGIBLE
STUDENTS ON THE STATEWIDE ASSESSMENTS ADMINISTERED FOR THE
APPLICABLE SCHOOL YEAR IN DETERMINING THE EDUCATION PROVIDER'S
ACCREDITATION RATING OR REQUIRED PERFORMANCE PLAN, AS
APPLICABLE.

22-56.5-104. Student equity education funding programs -
eligibility - application - reporting. (1) A STUDENT IS ELIGIBLE TO
PARTICIPATE IN AN EDUCATION PROVIDER'S STUDENT EQUITY EDUCATION
FUNDING PROGRAM IF:

(a) (I) THE STUDENT WAS ENROLLED FOR THE SCHOOL YEAR
IMMEDIATELY PRECEDING THE APPLICABLE SCHOOL YEAR BY THE
EDUCATION PROVIDER THAT PROVIDES THE PROGRAM; OR

(II) THE STUDENT WAS NOT ENROLLED FOR THE SCHOOL YEAR
THAT IMMEDIATELY PRECEDES THE APPLICABLE SCHOOL YEAR IN A PUBLIC
OR PRIVATE SCHOOL, BUT, DURING THE IMMEDIATELY PRECEDING AND
APPLICABLE SCHOOL YEARS, THE STUDENT RESIDES WITHIN THE
GEOGRAPHIC BOUNDARIES OF THE SCHOOL DISTRICT THAT PROVIDES THE
PROGRAM; AND

(b) (I) IF THE STUDENT WAS ENROLLED IN A PUBLIC SCHOOL FOR
THE SCHOOL YEAR THAT IMMEDIATELY PRECEDES THE APPLICABLE
SCHOOL YEAR, THE PUBLIC SCHOOL WAS CLOSED TO IN-PERSON LEARNING
FOR A TOTAL OF THIRTY OR MORE SCHOOL DAYS DURING THE SCHOOL
YEAR; OR

(II) IF THE STUDENT WAS NOT ENROLLED IN A PUBLIC SCHOOL FOR
THE SCHOOL YEAR THAT IMMEDIATELY PRECEDES THE APPLICABLE
SCHOOL YEAR, ONE OR MORE OF THE SCHOOLS OF THE SCHOOL DISTRICT IN
WHICH THE STUDENT RESIDED DURING SAID SCHOOL YEAR WERE CLOSED
FOR A TOTAL OF THIRTY OR MORE SCHOOL DAYS DURING THE SAID SCHOOL
YEAR.

(2) THE PARENT OF A STUDENT MAY APPLY FOR A STUDENT TO
PARTICIPATE IN A STUDENT EQUITY EDUCATION FUNDING PROGRAM BY
SUBMITTING AN APPLICATION TO THE EDUCATION PROVIDER IN WHICH THE
STUDENT WILL BE ENROLLED FOR THE APPLICABLE SCHOOL YEAR. THE
PARENT MUST SUBMIT THE APPLICATION IN THE MANNER DESCRIBED BY
THE EDUCATION PROVIDER IN THE INFORMATION PROVIDED PURSUANT TO
SECTION 22-56.5-103 (1)(b)(III) NO LATER THAN JUNE 15 IMMEDIATELY
PRIOR TO THE APPLICABLE SCHOOL YEAR. THE APPLICATION AT A MINIMUM
MUST INCLUDE:

(a) AFFIRMATION ON PENALTY OF PERJURY THAT THE STUDENT
MEETS THE ELIGIBILITY REQUIREMENTS SPECIFIED IN SUBSECTION (1) OF
THIS SECTION;

(b) A DESCRIPTION OF THE EDUCATIONAL SERVICES, IF ANY, THAT
THE PARENT PURCHASED OR OTHERWISE PROVIDED FOR THE STUDENT
DURING THE SCHOOL YEAR IMMEDIATELY PRECEDING THE APPLICABLE SCHOOL YEAR IN ADDITION TO OR IN LIEU OF EDUCATIONAL SERVICES PROVIDED BY A PUBLIC SCHOOL; AND

(c) A DESCRIPTION OF THE EDUCATIONAL SERVICES THAT THE PARENT INTENDS TO PURCHASE OR OTHERWISE PROVIDE FOR THE STUDENT DURING THE APPLICABLE SCHOOL YEAR USING MONEY RECEIVED THROUGH THE PROGRAM.

(3) EACH EDUCATION PROVIDER SHALL REVIEW EACH APPLICATION RECEIVED PURSUANT TO SUBSECTION (2) OF THIS SECTION AND, IF THE STUDENT MEETS THE ELIGIBILITY REQUIREMENTS SPECIFIED IN SUBSECTION (1) OF THIS SECTION, SHALL INCLUDE THE ELIGIBLE STUDENT IN THE EDUCATION PROVIDER'S STUDENT EQUITY EDUCATION FUNDING PROGRAM. THE EDUCATION PROVIDER SHALL PAY TO EACH PARENT, FOR EACH OF THE PARENT'S ELIGIBLE STUDENTS WHO PARTICIPATE IN THE EDUCATION PROVIDER'S PROGRAM, A TOTAL AMOUNT EQUAL TO THE STATE-SHARE PORTION OF THE EDUCATION PROVIDER'S PER PUPIL REVENUE FOR THE APPLICABLE SCHOOL YEAR. THE EDUCATION PROVIDER SHALL PAY THE MONEY IN TWELVE APPROXIMATELY EQUAL MONTHLY CASH PAYMENTS BEGINNING IN JULY OF THE APPLICABLE SCHOOL YEAR.

(4) A PARENT WHO RECEIVES MONEY FOR AN ELIGIBLE STUDENT THROUGH A STUDENT EQUITY EDUCATION FUNDING PROGRAM SHALL USE THE MONEY FOR PURPOSES OF THE ELIGIBLE STUDENT'S EDUCATION, WHICH MAY INCLUDE PURCHASING CURRICULUM FOR USE IN A NONPUBLIC HOME-BASED EDUCATIONAL PROGRAM, AS DEFINED IN SECTION 22-33-104.5 (2), OR PURCHASING EDUCATIONAL SERVICES FOR THE ELIGIBLE STUDENT FROM AN INDIVIDUAL OR A PRIVATE SCHOOL. THE PARENT MUST ELECTRONICALLY SUBMIT TO THE EDUCATION PROVIDER
QUARTERLY REPORTS CONCERNING HOW THE PARENT USES THE MONEY, INCLUDING RECEIPTS FOR PURCHASES MADE USING THE MONEY.

**22-56.5-105. Audit.** No later than November 1, 2022, and no later than November 1 of each year thereafter that follows a school year in which an education provider operates a program, the education provider shall audit a representative sample of the parents who received money for eligible students through the student equity education funding program to ensure that said eligible students met the requirements specified in section 22-56.5-104 (1) and the parents spent the money for purposes of the eligible students' education as required in section 22-56.5-104 (4). If the audit provides evidence that an eligible student whose parent received money through a program did not meet the requirements specified in section 22-56.5-104 (1) or that the parent spent all or any portion of the amount received for purposes that were not related to the eligible student's education, the education provider shall commence legal action to recover the amount illegally distributed or spent.

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