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0589 Interim Committee to Study School Finance



**Report to the
Colorado General Assembly**

**Interim Committee to
Study School Finance**

Prepared by

*The Colorado Legislative Council
Research Publication No. 589
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Interim Committee to Study School Finance

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Senator Chris Romer, Vice-Chair

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Representative Christine Scanlan	Senator Mike Johnston
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This report is also available on line at:

<http://www.colorado.gov/lcs/SchoolFinanceInterim>

Executive Summary

Committee Charge

Pursuant to House Joint Resolution 09-1020, the Interim Committee to Study School Finance is charged with studying the funding for students in public schools statewide to determine modifications to the "Public School Finance Act of 1994" to pay for education reform. The committee is to determine appropriate funding factors, formulas, and the allocation of resources to ensure that all students in public schools are receiving a thorough and uniform education.

Committee Activities

The Interim Committee to Study School Finance met six times during the 2009 interim. Each meeting focused on a variety of school finance-related issues. The committee heard presentations on:

- the activities of the 2005 School Finance Interim Committee;
- an overview of the current School Finance Act;
- national school finance trends;
- categorical funding;
- weighted student and innovative funding models;
- at-risk funding;
- count date options;
- the administration of the Public School Finance Act of 1994; and
- special education funding.

The committee received input from local school districts, state and national school finance experts, and working groups. The committee also heard several lunch-time presentations on current education topics of local and national interest.

2005 School Finance Interim Committee. Members of the 2005 School Finance Interim Committee and the School Finance Task Force provided observations on the activities and legislation considered by the 2005 committee. Major themes of the discussion included: the adequacy of school finance in meeting the thorough and uniform education requirement in the state constitution; the impact of the state's tax policy on school finance; categorical funding; capital construction assistance; and accountability. The panel included former legislators, a school district representative, and a former member of the task force.

Current School Finance Act. Legislative Council Staff and the Office of Legislative Legal Services provided an overview of the current School Finance Act, specifically discussing the changes enacted during the 2009 legislative session and the size, cost-of-living, and at-risk factors. The Colorado Department of Education (department) also discussed the processes for funding Colorado school districts and the Charter School Institute. The department explained how the October 1 pupil count is administered and how school funding flows from the department to the school districts and the Charter School Institute. School district representatives also provided perspectives on how they distribute funds within their respective districts. In response to these deliberations, the committee recommends Bill F, which modifies and eliminates several provisions in the School Finance Act. The committee also recommends Bill G, which creates a stable funding mechanism for small school districts.



National school finance trends. Staff from the National Conference of State Legislatures and the Education Commission of the States presented information on national school finance trends. The presentation focused on different methods for identifying at-risk students, using categorical funds, counting students, funding rural districts, and dealing with declining enrollment. The committee's discussion focused on at-risk funding options, proxies for identifying at-risk students, using weighted student funding, and identifying the components of a successful at-risk program.

Categorical funding. Legislative Council Staff provided the committee with an overview of categorical funding, specifically reviewing transportation payments, English Language Proficiency Act allocations, and special education funding. The committee heard more detailed presentations on how special education funds are distributed from the department and from a panel of school district and board of cooperative educational services (BOCES) administrators. The department explained the response-to-intervention model for delivering special education services and provided the committee with considerations for changing the current funding structure of special education. The panel presented the findings and recommendations of the 2008 Special Education Fiscal Advisory Committee, specifically reviewing the different tiers of special education funding in Colorado.

Weighted student funding. Staff from the Center for Education Policy Analysis at the University of Colorado – Denver, presented a recently published paper titled "Student-Centered Funding and its Implications for Colorado." The presentation included an explanation of student-centered funding and considerations for moving to a student-centered funding model. The presenters illustrated how such a change would affect the current school finance funding model in Colorado and shared examples of school districts that have implemented student-centered funding. The presenters recommended that the state incentivize school districts to voluntarily adopt this approach, as opposed to imposing a statewide mandate. In response to these discussions, the committee recommends Bill C, which creates a grant program to help school districts design weighted student funding formulas.

At-risk funding. Staff from Augenblick, Paliach and Associates, an education policy consulting firm, made a presentation about how school funding levels affect student achievement, and how at-risk student funding works in different states. In addition, the committee heard from school district and charter school representatives who discussed issues concerning the identification of at-risk students, how charter school at-risk funding is calculated, and the tools schools use to reach at-risk students. Also included in the discussions were representatives of the Partnership for Families and Children and Colorado Youth for a Change, who addressed the committee about at-risk student behaviors and dropout prevention. Finally, the Colorado Children's Campaign made a presentation on child poverty and the education outcomes of poor children.

Count date options. A panel of school district administrators and board members provided perspectives on options to a single count date. The panelists discussed the impact of adding a second count date or adopting an average daily attendance or average daily membership count. Each panelist emphasized the complexity of conducting the October count and discussed concerns about adding another count date. In response to these deliberations, the committee recommends Bill H, which requires the department to study the use of an average daily membership count.

Stakeholder input. In addition to hearing from school district representatives and national and local school finance experts, the committee formed working groups to provide input on key school finance issues, including at-risk funding, small and rural school district funding, a potential rewrite of the school finance funding formula, and the development of new revenue streams. The working groups, comprised of committee members, other legislators, and interested parties, met



twice during the course of the interim and reported to the committee recommendations and concerns specific to their charge.

The at-risk funding working group was charged with reviewing existing and potential proxies for at-risk student populations and making recommendations for proxies to be used in the school finance formula. The small and rural school district funding working group was charged with developing recommendations regarding online education funding, incentives for administrative collaboration among school districts, and increasing access to qualified teachers in rural districts. The charge of the funding formula working group was to review proposed changes to the school finance formula and to develop a prioritized list of formula changes, including categorical programs; size, cost-of-living, and at-risk factors; and base funding. Finally, the working group considering new revenue streams was charged with identifying potential new funding sources. This working group also met with members of the Fiscal Stability Commission.

As a result of these working group meetings, the committee recommended Bill A, which continues funding for supplemental on-line education, and Bill E, which requires school districts to post financial information on-line for public access. The committee also recommended Bill B, which recognizes the highest performing schools in the state.

Additional informational briefings. The committee hosted three lunch-time informational presentations during the July, August, and September meetings. In July, the Colorado School Finance Project described the nexus between school finance and the accountability system established in Senate Bill 09-163. In August, the Blackboard Institute presented information on the role of technology in modernizing and improving the U.S. educational system. In September, EagleNet and Centennial BOCES provided information on the need for increased broadband access for Colorado schools and briefed the members on a federal grant application that the two entities submitted to secure funding for building broadband infrastructure in Colorado.

Committee Recommendations

As a result of committee deliberations, the Interim Committee to Study School Finance recommends eight bills for consideration in the 2010 legislative session.

Bill A — Continuation of Funding for Supplemental On-line Education Services. This bill eliminates the current repeal date for the state's program for funding supplemental on-line education. Under current law, the state contracts with an outside vendor to provide on-line educational courses that are supplemental to the education program provided by a school district, charter school, or BOCES. Additionally, the state provides a grant assistance program to help eligible districts, schools, and BOCES purchase these supplemental programs. Funding for the vendor contract and grants (totaling \$530,000 in FY 2009-10) is from federal mineral leasing revenue. Both the contract for an outside vendor and the grant program to aid in the purchase of programs are scheduled for repeal on July 1, 2010.

Bill B — School Awards Program Fund. This bill authorizes the department to accept gifts, grants, and donations to pay for items of recognition, such as banners and trophies. These items are to be awarded to public schools identified as eligible to receive the John Irwin Schools of Excellence Award, the Governor's Distinguished Improvement Award, or the Centers of Excellence Award.

Bill C — Assistance to School Districts for Implementing Weighted Student Funding Formulas. This bill creates a grant program in the department to provide financial assistance to school districts that choose to design weighted student funding formulas, and to provide professional development for implementing the formulas. Generally, weighted student formulas



allow funding to be attached to specific students instead of specific programs. With weighted student funding, money is intended to "follow the student." Such funding is adjusted according to the individual student's needs and is given directly to the school providing the educational services. The bill sets minimum requirements for the grant applications and limits the total amount of any single grant to \$100,000. Money for the grant program is from either federal funds or gifts, grants, and donations.

Bill D — Credentialing of School Speech-Language Pathology Assistants. This bill expands the positions for which the department is able to issue a one-year, emergency authorization for employment to include speech-language pathology assistants. Such authorization may be issued if: (1) a school district requests the emergency authorization; (2) the district submits evidence to document the need for the specific educational services required that would otherwise be unavailable; and (3) the State Board of Education determines that employment of the applicant is essential to the preservation of the district's instructional program.

Bill E — On-line Public Access to Public School Financial Information. This bill requires school districts, BOCES, the Charter School Institute, district charter schools, and institute charter schools to post specific financial information on-line in a format that can be downloaded by the public. The bill establishes timelines for financial data to be posted, including annual budgets, financial statements, salary schedules, investment performance reports, and check, debit, and credit transactions. The department must recommend a uniform format for all information posted on-line.

Bill F — Modifications to School Finance Administration. This bill eliminates the following provisions related to the financing of public schools:

- the authority of school districts to enter into business incentive agreements (BIA) that exempt a taxpayer from paying property taxes to the school district;
- the provision allowing a school district to receive the state share of total program funding equal to the amount lost from local property taxes as a result of the BIA;
- the requirement that a district notify the department when it plans to seek voter approval to retain and spend additional property tax revenue;
- the requirement that the department reduce a school district's state share of total program funding equal to the amount the district receives as impact assistance in lieu of taxes from the Division of Wildlife; and
- the prohibition against using matching fund money provided for the National School Lunch Act in lieu of local funds that were already used for school lunches.

Bill G — Creation of a Stable Funding Pilot Program for Small School Districts. This bill creates a pilot program that tests a stable funding mechanism for small school districts. For a district that chooses to participate, from budget year 2010-11 through 2015-16, it will receive total program funding equal to the total program funding for the 2009-10 budget year. This amount is modified if there is a statewide increase in per pupil funding that is not related to the funded pupil count of a district, or if there is an increase or decrease in pupil enrollment that exceeds a defined threshold. Districts that choose to participate must enter into memoranda of understanding with other school districts to share costs. The State Board of Education is required to conduct a final review and evaluation of the pilot program, which includes recommendations to the General Assembly concerning continuation of the program.

Bill H — Study of Average Daily Membership for Pupil Count. This bill requires the department to study the development and implementation of a system to count pupils based on the average number of days they are enrolled during the school year, rather than at a single count date. The department is required to prepare this study only if the state receives sufficient federal funds or gifts, grants, and donations to cover the costs of the study.



Committee Charge

The Interim Committee to Study School Finance, created pursuant to House Joint Resolution 09-1020, was charged with studying the funding for students in public schools statewide to determine necessary modifications to the "Public School Finance Act of 1994" to fund education reform. The committee was also charged to consider the needs of public school facilities and to determine appropriate funding factors and formulas for the allocation of resources to ensure that all students are receiving a thorough and uniform education. The committee, comprised of five members of the House of Representatives and five members of the Senate, was authorized to meet seven times during the 2009 interim.

House Joint Resolution 09-1020 required the committee to consider, but did not limit it to discussing, the following issues:

- the impact of recent state and federal education reforms on the ability of school districts and the state to meet their legal and constitutional obligations under the current school finance funding structure;
- whether there are any legislative or constitutional barriers that have created difficulties for school districts or the state to meet their obligations to all students attending public schools;
- the components of a new school finance act that would maximize the ability of school districts and the state to better meet and exceed education standards for all students attending public schools;
- school funding modifications to ensure an equitable distribution of moneys and the necessary funding to meet the mandates and standards of federal and state law;
- methods to ensure that funding is focused on keeping students in school through graduation and on adequately preparing students to attend college, participate in career or technical training, or enter the workforce;
- ways in which the school finance act could be modified to improve the recruitment and retention of high-quality teachers and principals;
- incentives to increase attendance rates and retain students;
- incentives to encourage school districts to work with all schools within the district's jurisdiction to provide the curricula to ensure that each student attains the level of academic achievement and preparation that the student needs;
- methods to provide appropriate support and funding for learning to proficiency as opposed to funding based on increments of time spent in the classroom;
- strategies to align resource allocation more closely with individual student needs;
- strategies to bring about education reform and increased student achievement, including, but not limited to, concurrent enrollment, implementing a longer school day or school year, and early graduation;
- whether the current system by which school districts pay for capital facility needs is thorough and uniform;
- methods to provide appropriate support and funding for regional service areas;
- the consequences to students, from both a geographic and demographic perspective, of implementing a new school finance act under current budget conditions, without the addition of new revenue; and
- how current reform efforts could be synthesized into a new school finance act with other necessary supporting legislation to create a vision for Colorado's public education system that could and would be enacted only upon the provision of new resources by the voters of the State of Colorado.



Committee Activities

The following lists the principal topics addressed by the interim committee during its six meetings in 2009.

Review of 2005 Interim Committee on School Finance

During the committee's first meeting, a panel comprised of members of the 2005 Interim Committee on School Finance and the School Finance Task Force provided perspectives on the activities and legislation considered by the 2005 committee. One major theme of the discussion was whether current K-12 funding is adequate to meet the thorough and uniform education requirement in the state constitution and federal mandates for student achievement. The panelists described their conversations during the 2005 interim around the issue of adequacy and discussed with the committee how to measure adequacy. The committee also heard panelists talk about the impact of state tax policy on school finance and school district bonding capacity. Other topics covered by the panelists included categorical funding, including funding for at-risk students, special education students, and English language learners, and capital construction assistance for school districts. Finally, the committee discussed the importance of accountability and transparency of funding and student outcomes.

Current School Finance Act

Staff from Legislative Council and the Office of Legislative Legal Services presented information on the funding of the current School Finance Act in Colorado. The presentation included a description of how a school district's per pupil funding is determined by various statutory factors that consider, for instance, cost-of-living and size differences across districts, as well as the requirements of Amendment 23. Staff also described how districts are impacted differently by the factors contained in the school finance funding formula.

Additionally, the committee received information on the provisions of the school finance bill passed in the 2009 legislative session. Overall, the bill provided \$5.7 billion to school districts in budget year 2009-10, with 65 percent of the funding coming from state sources and 35 percent from local sources. This represents an increase in school district funding of \$343 million, or a 6.4 percent increase from the prior year. However, because of the state's fiscal situation, the bill also required school districts and the Charter School Institute to set aside \$110 million in emergency reserve accounts, which could be subject to a rescission by the legislature during the 2010 legislative session.

Committee recommendations. The committee recommended Bill G, which creates a stable funding mechanism for small school districts.

Draft bills not recommended. The committee considered, but did not recommend, two draft bills relating to public school finance. One would have authorized local school boards of education to create school improvement zones for purposes of implementing educational innovations to improve academic performance. The other would have required the General Assembly to transfer the savings associated with the mill levy freeze (Senate Bill 07-199) into the State Education Fund. The savings could not supplant General Fund money that would have been required to fund public education.



National School Finance Trends

Staff from the National Conference of State Legislatures and the Education Commission of the States presented information on national school finance trends. The presentation focused on different methods for identifying at-risk students, using categorical funds, counting students, funding rural districts, and dealing with declining enrollment. The committee's discussion focused on at-risk funding options, proxies for identifying at-risk students, using weighted student funding, and identifying the components of a successful at-risk program.

The presenters noted that the most common tool for identifying at-risk students is through free- and reduced-lunch (FRL) qualification under the federal National School Lunch Act. They also identified issues with using FRL as a measurement for at-risk students, including the fact that some students are counted as FRL but do not qualify. Additionally, high school students tend to be undercounted, and not all low-income students need extra help, while some non-low income students need assistance. The presenters also shared other measures states use for identifying at-risk students, including: students in remedial education programs; low scores on standardized tests; and wealth measures other than FRL. They noted that Texas uses additional measures, such as students who are pregnant or are parents and students who have been identified as abused. The committee discussed how weights can be used in determining at-risk funding. The presenters highlighted several at-risk programs that have shown positive educational results. These programs provided additional tutors, targeted instruction time through after-school or summer school programs, added more general instruction time by lengthening the school day or year, used early learning programs, and maintained small class and school sizes.

The committee was provided information on strategies states employ to deal with declining enrollment, student count day options, the benefits of school districts sharing costs, measures for identifying small and isolated school districts, and stable funding sources for school finance.

Categorical Programs

Legislative Council Staff provided the committee with an overview of state funding for categorical programs. The overview included descriptions of each categorical program and how funding is distributed. Categorical programs are designed to serve particular groups of students (e.g., students with limited proficiency in English) or particular student needs (e.g., transportation). The following categorical programs were reviewed:

- public school transportation;
- English language proficiency;
- small attendance center aid;
- special education - children with disabilities;
- special education - gifted and talented;
- vocational education;
- expelled and at-risk student services; and
- comprehensive health education.

Regarding special education programs, staff from the department discussed the response to intervention (RtI) model. RtI is an early intervention model for students who are at-risk for academic and behavior failure. It is an effort to identify learning disabilities prior to a student failing, rather than waiting for the student to fail before providing special services. The department staff noted that using RtI complicates funding as students that are identified as needing services are not always special education students.



A panel including representatives from school districts and BOCES discussed special education funding needs with the committee. The panel reviewed the three tiers of categorical special education funding: Tier A, all special education students are eligible for \$1,250 per child; Tier B, up to \$6,000 is provided per child with specifically identified disabilities (e.g., vision, hearing, and traumatic brain injury); and Tier C, high cost students. Also discussed were in- and out-of-district costs and the general difficulty in meeting costs with existing funding levels.

The committee did not consider any draft legislation related to categorical programs.

Weighted Student Funding

Staff from the Center for Education Policy Analysis (CEPA) at the University of Colorado – Denver, presented a recently published paper titled "Student-Centered Funding and its Implications for Colorado." The presentation included an explanation of student-centered funding (SCF) and considerations for moving to an SCF model.

SCF is a term used for funding strategies in which resources are based on individual student needs and follow the student to the schools they attend. Examples of SCF include: weighted student funding, student-based budgeting, and school-based budgeting. The CEPA report provided information on several districts that are using SCF strategies, including Edmonton, Houston, New York City, San Francisco, and districts in Washington State. Of these, New York City is currently transitioning to SCF. Edmonton has the most complex weighting formula, with eight levels of funding that take into consideration different characteristics of students.

The report recommended Colorado employ an SCF system to drive funding to the schools, with additional weights for school-based decisions. The system should include accountability based on performance, keeping educational strategies that work and eliminating those that do not. The following recommendations were suggested regarding implementing SCF in Colorado:

- adopt a statewide vision for school funding that will shape the SCF system;
- provide incentives to districts to move to SCF systems rather than mandate the change;
- provide state support to help districts build expertise in effective use of the funding system;
- improve data systems in order to identify successful practices; and
- structure funding to ensure accountability and an equitable and adequate distribution of moneys.

Following the discussion by CEPA, school administrators from various school districts participated in a panel discussion about innovative funding models they are using within the current school finance formula. Poudre School District distributes almost half of the district's moneys based on student weights. The remaining money is used for items such as textbooks, utilities, and other pooled costs. Adams 50 School District has a standards-based education system that groups students by ability rather than age, which presents some unique funding challenges under the current school finance formula. Finally, Aurora Public Schools is developing a model to centralize and share services under which the schools are able to purchase services from the school district. The district is also providing summer school, known as the Fifth Block program, to students who need additional class time.



Committee recommendation. In response to these discussions, the committee recommended Bill C, which creates a grant program to help school districts design weighted student funding formulas.

At-Risk Student Funding

The committee heard a number of presentations concerning at-risk student funding. Staff from Augenblick, Paliach and Associates, an education policy consulting firm, made a presentation about how school funding levels affect student achievement, and how at-risk student funding works in different states. Regarding the latter, information was presented on how different states define at-risk students, the funding weights attached to at-risk students, and the types of programs offered. Most states use some proxy measure for identifying and quantifying at-risk students. Several states use the number of students eligible for FRL as a proxy, while other states rely upon different measures, such as assessment scores, parent education levels, and/or families living below the poverty threshold. It was also noted that most states provide additional funding for at-risk students based on a weighted amount above the base or foundation level. Colorado currently provides a minimum amount per at-risk student, with higher weights provided for districts that exceed the statewide average proportion of at-risk students. However, the presentation noted that there are differences in how the weights are defined and used in states, which can create comparison problems. Finally, states vary in terms of how at-risk funds are allocated. Many states do not restrict the expenditures, while others require that funds are spent on certain types of programs serving at-risk students.

In addition, the committee heard from a number of representatives from school districts and charter schools regarding at-risk funding issues, strategies, and options. Concerns were raised about using free-lunch eligible students as the proxy for at-risk students. It was noted that charter schools have difficulty identifying at-risk students because many charter school facilities do not meet federal standards for the National School Lunch Program. Testimony was also received recommending that at-risk funding be outcomes-based. The committee spent time discussing and hearing testimony about the advantages and disadvantages of various incentive-based funding mechanisms for at-risk students. The committee also discussed the possibility of defining at-risk students by other factors, such as poverty or incarceration rates.

Lastly, several educational advocacy organizations made presentations to the committee regarding dropout prevention methods and at-risk funding changes. In particular, representatives from the Partnership for Families and Children described early warning signs of future dropouts and ways to mitigate the problem. Many dropout prevention programs encourage attendance, attachment, and achievement, while discouraging expulsion. Representatives from Colorado Youth for a Change discussed strategies for returning students to school and the importance of targeting specific age groups. It was also noted that the current October student count date can create a disincentive for schools to serve at-risk students who subsequently drop out of school. Representatives from the Colorado Children's Campaign presented information on child poverty and school finance. They discussed the importance of pre-kindergarten programs in mitigating the effects of child poverty and improving academic performance.

Draft bills not recommended. The committee considered, but did not recommend a draft bill that would have changed the allocation of at-risk student funding for both school districts and charter schools. The bill would have required that a certain percentage of at-risk funding be directed to the school attended by the at-risk pupil.



Count Date Options

Representatives from the department provided background information on the historical use of count dates, noting that for FY 1992-93 and FY 1993-94, the department added a second count date in February, but subsequently reverted to a single October 1 count. The department testified that allowing districts to count students received after October 1 would be useful to districts that gain students throughout the year, such as districts with a large military presence. The department also noted that a second count date places additional burdens on districts and department staff.

The department briefly discussed using average daily attendance (ADA) in place of a single dedicated count date or multiple count dates. ADA is an average of a daily count during all or most of the school year. Using information reported by the districts, the department calculated that statewide ADA in FY 2007-08 was 93.5 percent of the funded pupil count in that year. The department testified that if funding had been based on ADA during this year, the decrease in funding to districts would have exceeded \$327 million. The committee also discussed average daily membership (ADM), in which enrollment is calculated by dividing the total days of attendance and absence by the number of instructional days in an academic year.

A panel of school district administrators and board members provided perspectives on other options to a single count date. The panelists discussed the impact of adding a second count date or adopting an ADA or ADM count. Each panelist emphasized the complexity of conducting the October count and discussed concerns about adding another count date.

Committee recommendation. The committee recommended Bill H, which requires the department to study the use of an ADM count.

District Reporting and Funding Statutes

The committee heard testimony from the department related to public school district reporting and funding statutes. The department proposed eliminating or waiving several of these requirements. In testimony to the committee, the department recommends that the General Assembly:

- prohibit districts from entering into taxpayer incentive agreements while still receiving the full state share of total program funding;
- eliminate the requirement that districts report their intent to utilize voter-approved property tax increases to the State Board of Education;
- stop appropriating state money to assist district compliance with state matching fund requirements under the National School Lunch Act;
- repeal requirements for additional aid to districts that open charter schools while experiencing declining enrollment;
- eliminate an unfunded program permitting school districts to submit a supplemental student count in February to account for increased military-dependent pupil enrollment;
- repeal legislation requiring conditional funding to a charter school for the deaf and the blind in Jefferson County; and
- repeal other unfunded programs and remove redundant budget reporting requirements.

Committee recommendation. The committee recommended Bill F, which eliminates several provisions in the School Finance Act.



Constitutional Provisions and School Finance

Lobato v. State of Colorado. Staff from the Office of Legislative Legal Services provided the committee with information on the *Lobato v. State of Colorado* lawsuit, that was filed by a group of parents and school districts in 2005. The plaintiffs in the case assert that the current system of funding public schools in Colorado is unconstitutional. The plaintiffs allege that the existing system is underfunded and allocates funds on an irrational and arbitrary basis. As a result, it violates the General Assembly's constitutional duty to provide a "thorough and uniform" system of free public schools throughout the state. They also claim that the lack of adequate funding undermines local school district control over the quality of services and instruction.

The presentation further described the status of the case. In March 2006, the district court dismissed the plaintiffs' motion without taking evidence, ruling that the plaintiffs failed to state a claim upon which relief could be granted. The Court of Appeals affirmed the lower court decision in January 2008, ruling that the school districts lacked standing and that the plaintiffs' claims were a non-justiciable political question. However, in October 2009, the Colorado Supreme Court reversed the lower court's decision. The court stated that it is the judiciary's responsibility to determine whether the state's public school system is rationally related to the constitutional mandate to provide a thorough and uniform system. The court held that the plaintiffs' claims are justiciable and they must be given an opportunity to prove their claim. As such, the case will proceed to trial in district court. The district court is required to give substantial deference to the legislature's fiscal and policy judgments in its deliberations. If the trial court finds that the current system is unconstitutional, it must give the legislature a reasonable amount of time to change the funding structure.

Gallagher, TABOR, and Amendment 23. The committee received information from Legislative Council Staff on how various constitutional provisions influence the funding of elementary and secondary public education in Colorado. Over the past 25 years, the state share of school funding has risen from 45 percent to 65 percent, while the local share has fallen from 55 percent to 35 percent. In regard to these trends, staff described how the Gallagher Amendment has affected the residential assessment rate and how this impacts school finance funding. In addition, the Taxpayer's Bill of Rights (TABOR Amendment) was described. The committee heard how it affects local school district mill levies and the local share of school funding. Lastly, Amendment 23 was summarized and analyzed in relation to the other two constitutional provisions. The combination of all of these provisions has been to contribute to the increase in the state share of school finance funding, while lowering the local share.

The committee did not request draft legislation concerning these constitutional provisions.

Working Group Meetings and Other Input

In addition to hearing from school district representatives and national and local school finance experts, the committee formed working groups to provide input on key school finance issues, including the at-risk funding, small and rural school district funding, a potential rewrite of the school finance funding formula, and the development of new revenue streams. The working groups, comprised of committee members, other legislators, and interested parties, met twice during the course of the interim and reported to the committee recommendations and concerns specific to their charge.



The at-risk funding working group was charged with reviewing existing and potential proxies for at-risk student populations and making recommendations for proxies to be used in the school finance formula. The small and rural school district funding working group was charged with developing recommendations regarding online education funding, incentives for administrative collaboration among school districts, and increasing access to qualified teachers in rural districts. The charge of the funding formula working group was to review proposed changes to the school finance formula and to develop a prioritized list of formula changes, including categorical programs; size, cost-of-living, and at-risk factors; and base funding. Finally, the working group considering new revenue streams was charged with identifying potential new funding sources. This working group also met with members of the Fiscal Stability Commission.

Additional informational briefings. The committee hosted three lunch-time informational presentations during the July, August, and September meetings. In July, the Colorado School Finance Project described the nexus between school finance and the accountability system established in Senate Bill 09-163. In August, the Blackboard Institute presented information on the role of technology in modernizing and improving the U.S. educational system. In September, EagleNet and Centennial BOCES provided information on the need for increased broadband access for Colorado schools and briefed the members on a federal grant application that the two entities submitted to secure funding for building broadband infrastructure in Colorado.

Committee recommendations. The committee recommended Bill A, which continues funding for supplemental on-line education, and Bill E, which requires school districts to post financial information on-line for public access. The committee also recommended Bill B, which recognizes the highest performing schools in the state.

Summary of Recommendations

As a result of committee deliberations, the Interim Committee to Study School Finance recommends eight bills for consideration during the 2010 legislative session.

Bill A — Continuation of Funding for Supplemental On-line Education Services

Bill A eliminates the current repeal date for the state's program for funding supplemental on-line education. Under current law, the state contracts with an outside vendor to provide on-line educational courses that are supplemental to the education program provided by a school district, charter school, or BOCES. Additionally, the state provides a grant assistance program to help eligible districts, schools, and BOCES purchase these supplemental programs. Funding for the vendor contract and grants (totaling \$530,000 in FY 2009-10) is from federal mineral leasing revenue. Both the contract for an outside vendor and the grant program to aid in the purchase of programs are scheduled for repeal on July 1, 2010.

Bill B — School Awards Program Fund

Bill B authorizes the department to accept gifts, grants, and donations to pay for items of recognition, such as banners and trophies. These items are to be awarded to public schools identified as eligible to receive the John Irwin Schools of Excellence Award, the Governor's Distinguished Improvement Award, or the Centers of Excellence Award.

Bill C — Assistance to School Districts for Implementing Weighted Student Funding Formulas

Bill C creates a grant program in the department to provide financial assistance to school districts that choose to design weighted student funding formulas, and to provide professional development for implementing the formulas. Generally, weighted student formulas allow funding to be attached to specific students instead of specific programs. With weighted student funding, money is intended to "follow the student." Such funding is adjusted according to the individual student's needs and is given directly to the school providing the educational services. The bill sets minimum requirements for the grant applications and limits the total amount of any single grant to \$100,000. Money for the grant program is from either federal funds or gifts, grants, and donations.

Bill D — Credentialing of School Speech-Language Pathology Assistants

Bill D expands the positions for which the department is able to issue a one-year, emergency authorization for employment to include speech-language pathology assistants. Such authorization may be issued if: (1) a school district requests the emergency authorization; (2) the district submits evidence to document the need for the specific educational services required that would otherwise be unavailable; and (3) the State Board of Education determines that employment of the applicant is essential to the preservation of the district's instructional program.



Bill E — On-line Public Access to Public School Financial Information

Bill E requires school districts, BOCES, the Charter School Institute, district charter schools, and institute charter schools to post specific financial information on-line in a format that can be downloaded by the public. The bill establishes timelines for financial data to be posted, including annual budgets, financial statements, salary schedules, investment performance reports, and check, debit, and credit transactions. The department must recommend a uniform format for all information posted on-line.

Bill F — Modifications to School Finance Administration

Bill F eliminates the following provisions related to the financing of public schools:

- the authority of school districts to enter into business incentive agreements (BIA) that exempt a taxpayer from paying property taxes to the school district;
- the provision allowing a school district to receive the state share of total program funding equal to the amount lost from local property taxes as a result of the BIA;
- the requirement that a district notify the department when it plans to seek voter approval to retain and spend additional property tax revenue;
- the requirement that the department reduce a school district's state share of total program funding equal to the amount the district receives as impact assistance in lieu of taxes from the Division of Wildlife; and
- the prohibition against using matching fund money provided for the National School Lunch Act in lieu of local funds that were already used for school lunches.

Bill G — Creation of a Stable Funding Pilot Program for Small School Districts

Bill G creates a pilot program that tests a stable funding mechanism for small school districts. For a district that chooses to participate, from budget year 2010-11 through 2015-16, it will receive total program funding equal to the total program funding for the 2009-10 budget year. This amount is modified if there is a statewide increase in per pupil funding that is not related to the funded pupil count of a district, or if there is an increase or decrease in pupil enrollment that exceeds a defined threshold. Districts that choose to participate must enter into memoranda of understanding with other school districts to share costs. The State Board of Education is required to conduct a final review and evaluation of the pilot program, which includes recommendations to the General Assembly concerning continuation of the program.

Bill H — Study of Average Daily Membership for Pupil Count

Bill H requires the department to study the development and implementation of a system to count pupils based on the average number of days they are enrolled during the school year, rather than at a single count date. The department is required to prepare this study only if the state receives sufficient federal funds or gifts, grants, and donations to cover the costs of the study.



Resource Materials

Meeting summaries are prepared for each meeting of the committee and contain all handouts provided to the committee. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver (303-866-4900). The listing below contains the dates of committee meetings and the topics discussed at those meetings. Meeting summaries are also available on our website at:

<http://www.colorado.gov/lcs/SchoolFinanceInterim>

Meeting Date and Topics Discussed

June 29, 2009

- ◆ Overview of the 2005 committee and task force
- ◆ School finance: national trends and highlights
- ◆ Overview of current School Finance Act and funding
- ◆ Authority of the General Assembly to change the school finance formula under Section 17 of Article IX of the State Constitution
- ◆ Convening of working groups

July 27, 2009

- ◆ Race to the Top update
- ◆ CDE analysis of district level data and overview of categorical programs
- ◆ University of Colorado - Denver Center for Education Policy Analysis (CEPA) report on weighted student funding
- ◆ Innovative funding models
- ◆ Presentation from the Colorado School Finance Project
- ◆ Funding impacts on student achievement and the at-risk factor
- ◆ Panel: at-risk funding from school leaders' perspectives
- ◆ Panel: at-risk student behaviors and the School Finance Act
- ◆ Child poverty and the school finance formula

August 27, 2009

- ◆ Count date options: department overview and school district perspective
- ◆ School district perspective: administration of the School Finance Act
- ◆ Review of school district reporting statutes
- ◆ Presentation on online learning
- ◆ Convening of working groups



September 15, 2009

- ◆ Special education funding and response to intervention: department overview and school district perspective
- ◆ Presentation on school district broadband issues
- ◆ Discussion of potential draft legislation

October 1, 2009

- ◆ Impact of TABOR, Gallagher, and Amendment 23 on school finance
- ◆ Update from the Early Childhood and School Readiness Commission
- ◆ Discussion of draft legislation and report recommendations

October 26, 2009

- ◆ Final action on draft bills
- ◆ National Math and Science Initiative Grant webinar

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

BILL A

LLS NO. 10-0180.01 Brita Darling

HOUSE BILL

HOUSE SPONSORSHIP

Massey, Merrifield, Middleton, Scanlan, Stephens

SENATE SPONSORSHIP

Spence, Johnston, King K., Steadman

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF FUNDING FOR SUPPLEMENTAL**
102 **ON-LINE EDUCATION SERVICES.**

Bill Summary

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

Interim Committee to Study School Finance. The bill continues the supplemental on-line education grant program and the funding of a contract for the provision of supplemental on-line education services.

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

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.

1 **SECTION 1. Repeal.** 22-2-130 (8), Colorado Revised Statutes,
2 is repealed as follows:

3 **22-2-130. Supplemental on-line education grant program -**
4 **legislative declaration - definitions - creation - eligibility - award -**
5 **fund.** (8) ~~This section is repealed, effective July 1, 2010.~~

6 **SECTION 2. Repeal.** 22-5-119 (6), Colorado Revised Statutes,
7 is repealed as follows:

8 **22-5-119. Supplemental on-line education services - legislative**
9 **declaration - contract.** (6) ~~This section is repealed, effective July 1,~~
10 ~~2010.~~

11 **SECTION 3. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, and safety.

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

BILL B

LLS NO. 10-0182.01 Richard Sweetman

SENATE BILL

SENATE SPONSORSHIP

King K., Johnston

HOUSE SPONSORSHIP

Merrifield, Massey, Middleton, Scanlan

Senate Committees

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE SCHOOL AWARDS PROGRAM FUND.**

Bill Summary

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

Interim Committee to Study School Finance. The bill authorizes the department of education to accept gifts, grants, and donations to the school awards program fund to pay for banners and trophies for schools that are identified as eligible to receive awards under the Colorado school awards program.

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

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.

1 **SECTION 1.** 22-11-601 (2), Colorado Revised Statutes, is
2 amended to read:

3 **22-11-601. Colorado school awards program - created - rules.**
4 (2) In addition to the monetary awards made and distributed pursuant to
5 sections 22-11-602, 22-11-603, 22-11-603.5, and 22-11-605, the state
6 board may annually apply ~~any amount remaining from the amount~~
7 ~~annually appropriated for implementation of section 22-11-202~~ MONEYS
8 FROM THE SCHOOL AWARDS PROGRAM FUND CREATED IN SECTION
9 22-11-605 to provide tangible items of recognition, such as banners or
10 trophies, to schools that ~~receive~~ ARE IDENTIFIED AS ELIGIBLE TO RECEIVE
11 the John Irwin schools of excellence awards, ~~and~~ the governor's
12 distinguished improvement awards, AND THE CENTERS OF EXCELLENCE
13 AWARDS.

14 **SECTION 2.** 22-11-605 (1) and (2), Colorado Revised Statutes,
15 are amended to read:

16 **22-11-605. School awards program fund - creation -**
17 **contributions.** (1) The department is hereby authorized to receive gifts,
18 grants, and donations from any source, public or private, to fund financial
19 awards to public schools pursuant to the program established in this part
20 6. THE DEPARTMENT IS FURTHER AUTHORIZED TO RECEIVE GIFTS, GRANTS,
21 AND DONATIONS FROM ANY SOURCE, PUBLIC OR PRIVATE, TO FUND
22 TANGIBLE ITEMS OF RECOGNITION, SUCH AS BANNERS OR TROPHIES, TO BE
23 AWARDED TO PUBLIC SCHOOLS THAT ARE IDENTIFIED AS ELIGIBLE TO
24 RECEIVE SUCH FINANCIAL AWARDS. The department shall transmit all
25 public and private gifts, grants, and donations received pursuant to this
26 section to the state treasurer who shall credit the same, in addition to any
27 appropriations made by the general assembly and the amount transferred

1 pursuant to subsection (3) of this section, to the school awards program
2 fund, which is hereby created in the state treasury and referred to in this
3 section as the "fund".

4 (2) Moneys in the fund shall be subject to annual appropriation by
5 the general assembly to the department for purposes of making financial
6 awards AND FUNDING TANGIBLE ITEMS OF RECOGNITION, SUCH AS
7 BANNERS OR TROPHIES, pursuant to the provisions of this part 6. At the
8 end of any fiscal year, all unexpended and unencumbered moneys in the
9 fund shall remain in the fund and shall not be credited or transferred to
10 the general fund or any other fund. However, in accordance with section
11 24-36-114, C.R.S., all interest derived from the deposit and investment
12 of moneys in the fund shall be credited to the general fund. Any moneys
13 credited to the fund shall be used exclusively for awards AND ITEMS OF
14 RECOGNITION and shall not be used to pay for the expenses of the
15 department in administering the program established in this part 6.

16 **SECTION 3. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, and safety.

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

BILL C

LLS NO. 10-0183.01 Julie Pelegrin

SENATE BILL

SENATE SPONSORSHIP

King K.,

HOUSE SPONSORSHIP

Stephens,

Senate Committees

House Committees

A BILL FOR AN ACT

101 **CONCERNING ASSISTANCE TO SCHOOL DISTRICTS FOR IMPLEMENTING**
102 **WEIGHTED STUDENT FUNDING FORMULAS.**

Bill Summary

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

Interim Committee to Study School Finance. The bill makes legislative findings concerning the benefits of implementing weighted student funding formulas at the school district level. The bill creates in the department of education (department) a grant program to provide moneys to school districts for designing weighted student funding formulas and providing professional development for implementation of the formulas. The department will review the applications to ensure they

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Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

meet the minimum specified requirements and award grants in the order applications are received. The grant program will be funded from any federal moneys or gifts, grants, or donations received by the department for the grant program. The commissioner of education will inform the revisor of statutes on July 1, 2011, that the department has or has not received sufficient moneys to implement the grant program, and the grant program will repeal on July 1, 2011, if the department has not received sufficient moneys by that date to implement the grant program.

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

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

5 **22-2-138. Weighted student funding - legislative declaration**
6 **- grants - repeal.** (1) THE GENERAL ASSEMBLY FINDS THAT:

7 (a) INCREASED AUTONOMY FOR PUBLIC SCHOOLS THROUGH THE
8 USE OF WEIGHTED STUDENT FUNDING BY SCHOOL DISTRICTS HAS BEEN
9 SHOWN TO RAISE THE LEVEL OF ACADEMIC ACHIEVEMENT IN THE PUBLIC
10 SCHOOLS BY ENSURING THAT THE MONEYS APPROPRIATED TO ADDRESS
11 THE INDIVIDUAL NEEDS OF CERTAIN STUDENTS FOLLOWS THOSE STUDENTS
12 INTO THEIR RESPECTIVE SCHOOLS;

13 (b) THE USE OF A DISTRICT-LEVEL WEIGHTED STUDENT FUNDING
14 FORMULA DIRECTS THE INCREMENTALLY INCREASED FUNDING PROVIDED
15 FOR CERTAIN STUDENTS BASED ON IDENTIFIED STUDENT CHARACTERISTICS
16 INTO EACH STUDENT'S RESPECTIVE PUBLIC SCHOOL WHERE THE PERSONNEL
17 AT THAT SCHOOL CAN USE THOSE MONEYS DIRECTLY TO BENEFIT THE
18 PARTICULAR STUDENT;

19 (c) USING A WEIGHTED STUDENT FUNDING FORMULA TO DRIVE
20 RESOURCES INTO EACH PUBLIC SCHOOL ENABLES THE SCHOOL TO DEVELOP
21 THE SPECIFIC PROGRAMS IT NEEDS TO ADDRESS EACH STUDENT'S UNIQUE

1 NEEDS AND ENHANCE EACH STUDENT'S ACADEMIC GROWTH;

2 (d) TO SUCCESSFULLY IMPLEMENT A WELL-PLANNED WEIGHTED
3 STUDENT FUNDING FORMULA, SCHOOL DISTRICTS NEED TO PROVIDE
4 INCREASED STAFF DEVELOPMENT THAT WILL EMPOWER THE PERSONNEL
5 LEADING EACH PUBLIC SCHOOL TO EXERCISE THE INCREASED AUTONOMY
6 THAT THE PUBLIC SCHOOL RECEIVES DUE TO APPLICATION OF THE
7 WEIGHTED STUDENT FUNDING FORMULA;

8 (e) THE DESIGN AND IMPLEMENTATION OF A SCHOOL DISTRICT
9 BUDGET THAT INCLUDES SIGNIFICANT USE OF A WEIGHTED STUDENT
10 FUNDING FORMULA ARE CHALLENGING ENTREPRENEURIAL TASKS THAT
11 REQUIRE RESOURCES BOTH FOR PLANNING AND FOR PROFESSIONAL
12 DEVELOPMENT TO HELP ENSURE SUCCESSFUL IMPLEMENTATION.

13 (2) (a) THERE IS HEREBY CREATED IN THE DEPARTMENT A
14 WEIGHTED STUDENT FUNDING PLANNING GRANT PROGRAM, REFERRED TO
15 IN THIS SECTION AS THE "GRANT PROGRAM", TO PROVIDE RESOURCES FOR
16 SCHOOL DISTRICTS THAT CHOOSE TO CREATE AND IMPLEMENT A WEIGHTED
17 STUDENT FUNDING FORMULA. A SCHOOL DISTRICT MAY APPLY TO THE
18 DEPARTMENT FOR A ONE-TIME GRANT OF UP TO ONE HUNDRED THOUSAND
19 DOLLARS FOR USE IN CREATING A WEIGHTED STUDENT FUNDING FORMULA
20 OR PROVIDING PROFESSIONAL DEVELOPMENT TO PRINCIPALS OR OTHER
21 ADMINISTRATORS FOR IMPLEMENTATION OF A WEIGHTED STUDENT
22 FUNDING FORMULA, OR FOR BOTH DESIGN AND PROFESSIONAL
23 DEVELOPMENT. IMPLEMENTATION OF THE GRANT PROGRAM AND THE
24 AWARDING OF GRANTS SHALL BE SUBJECT TO THE RECEIPT OF SUFFICIENT
25 MONEYS PURSUANT TO SUBSECTION (3) OF THIS SECTION.

26 (b) A SCHOOL DISTRICT THAT CHOOSES TO APPLY FOR A GRANT
27 SHALL SUBMIT AN APPLICATION TO THE DEPARTMENT BEGINNING AUGUST

1 1 OF THE APPLICABLE BUDGET YEAR. EACH APPLICATION SHALL SPECIFY
2 THE GRANT AMOUNT THE DISTRICT IS REQUESTING AND HOW THE DISTRICT
3 WILL USE THE GRANT MONEYS, INCLUDING:

4 (I) WHETHER THE SCHOOL DISTRICT ALREADY USES A WEIGHTED
5 STUDENT FUNDING FORMULA IN ALLOCATING MONEYS TO THE PUBLIC
6 SCHOOLS OF THE SCHOOL DISTRICT;

7 (II) THE TIME FRAME FOR IMPLEMENTING A WEIGHTED STUDENT
8 FUNDING FORMULA IF ONE IS NOT ALREADY IN USE AND THE PROCESS THAT
9 THE SCHOOL DISTRICT WILL USE TO DESIGN THE FORMULA;

10 (III) THE TYPE OF PROFESSIONAL DEVELOPMENT, IF ANY, THAT THE
11 SCHOOL DISTRICT SEEKS TO PROVIDE WITH THE GRANT MONEYS.

12 (c) THE DEPARTMENT SHALL REVIEW THE APPLICATIONS AND,
13 SUBJECT TO THE RECEIPT OF MONEYS PURSUANT TO SUBSECTION (3) OF
14 THIS SECTION, AWARD ONE-TIME GRANTS TO SCHOOL DISTRICTS PURSUANT
15 TO THIS SECTION. AN INDIVIDUAL GRANT SHALL NOT EXCEED ONE
16 HUNDRED THOUSAND DOLLARS. THE DEPARTMENT SHALL PAY THE GRANT
17 MONEYS FROM ANY MONEYS RECEIVED PURSUANT TO SUBSECTION (3) OF
18 THIS SECTION BASED ON THE ORDER IN WHICH THE DEPARTMENT RECEIVES
19 THE GRANT APPLICATIONS.

20 (3) THE DEPARTMENT MAY SEEK, ACCEPT, AND EXPEND FEDERAL
21 MONEYS AND OTHER GIFTS, GRANTS, AND DONATIONS TO IMPLEMENT THE
22 GRANT PROGRAM; EXCEPT THAT THE DEPARTMENT MAY NOT ACCEPT A
23 GIFT, GRANT, OR DONATION THAT IS SUBJECT TO CONDITIONS THAT ARE
24 INCONSISTENT WITH THIS SECTION OR ANY OTHER LAW OF THE STATE. THE
25 GENERAL ASSEMBLY SHALL NOT APPROPRIATE STATE MONEYS FOR THE
26 IMPLEMENTATION OF THE GRANT PROGRAM.

27 (4) (a) ON JULY 1, 2011, OR AS SOON AS POSSIBLE THEREAFTER,

1 THE COMMISSIONER OF EDUCATION SHALL PROVIDE WRITTEN NOTICE TO
2 THE REVISOR OF STATUTES THAT THE DEPARTMENT, AS OF JULY 1, 2011,
3 HAS OR HAS NOT RECEIVED FEDERAL MONEYS AND ALLOCATED SAID
4 MONEYS TO THE GRANT PROGRAM OR THAT THE DEPARTMENT, AS OF SAID
5 DATE, HAS OR HAS NOT RECEIVED A SUFFICIENT AMOUNT IN OTHER GIFTS,
6 GRANTS, OR DONATIONS TO IMPLEMENT THE GRANT PROGRAM.

7 (b) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2011, IF THE
8 REVISOR OF STATUTES RECEIVES NOTICE FROM THE COMMISSIONER
9 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (4) THAT THE
10 DEPARTMENT, AS OF SAID DATE, HAS NOT RECEIVED AND ALLOCATED
11 SUFFICIENT FEDERAL MONEYS OR RECEIVED A SUFFICIENT AMOUNT IN
12 OTHER GIFTS, GRANTS, OR DONATIONS TO IMPLEMENT THE GRANT
13 PROGRAM.

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

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

BILL D

LLS NO. 10-0187.01 Richard Sweetman

HOUSE BILL

HOUSE SPONSORSHIP

Massey, Middleton, Scanlan

SENATE SPONSORSHIP

King K., Johnston, Spence

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREDENTIALING OF SCHOOL SPEECH-LANGUAGE**
102 **PATHOLOGY ASSISTANTS.**

Bill Summary

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

Interim Committee to Study School Finance. The bill allows the department of education to issue an emergency authorization to a school speech-language pathology assistant (SLP assistant) who has not yet met the statutory requirements for a school SLP assistant authorization.

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.

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

2 **SECTION 1.** 22-60.5-111 (4) (a), Colorado Revised Statutes, is
3 amended to read:

4 **22-60.5-111. Authorization - types - applicants' qualifications.**

5 (4) **Emergency authorization.** (a) The department may issue an
6 emergency authorization to an applicant who is enrolled in an approved
7 preparation program but has not yet met the requirements for an initial
8 educator license OR A SCHOOL SPEECH-LANGUAGE PATHOLOGY ASSISTANT
9 AUTHORIZATION. The department may issue an emergency authorization
10 if:

11 (I) A school district requests the emergency authorization to
12 employ a nonlicensed teacher, principal, administrator, ~~or~~ special services
13 provider, OR SCHOOL SPEECH-LANGUAGE PATHOLOGY ASSISTANT;

14 (II) The requesting school district submits to the department ~~of~~
15 ~~education~~ documented evidence of a demonstrated need for specific and
16 essential educational services for students that the applicant would
17 provide and that would otherwise be unavailable to students in the school
18 district due to a shortage of licensed educators with appropriate
19 endorsements; AND

20 (III) The state board of education determines that employment of
21 the applicant is essential to preservation of the school district's
22 instructional program and that establishment of a one-year or two-year
23 alternative teacher preparation program within the school district is not
24 a practicable solution for resolution of the demonstrated shortage.

25 **SECTION 2. Act subject to petition - effective date.** This act
26 shall take effect at 12:01 a.m. on the day following the expiration of the
27 ninety-day period after final adjournment of the general assembly (August

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

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

BILL E

LLS NO. 10-0181.01 Brita Darling

HOUSE BILL

HOUSE SPONSORSHIP

Scanlan and Massey, Merrifield, Middleton, Stephens

SENATE SPONSORSHIP

Romer, Johnston, King K., Spence, Steadman

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING ON-LINE PUBLIC ACCESS TO PUBLIC SCHOOL FINANCIAL**
102 **INFORMATION.**

Bill Summary

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

Interim Committee to Study School Finance. This bill enacts the "Public School Financial Transparency Act", which requires school districts, district charter schools, boards of cooperative education, the state charter school institute, and institute charter schools (local education providers) to post financial information on-line, in a downloadable format, for free public access. Additionally, local education providers shall provide a link to, or web site information for, the department of

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.

education (department).

The requirement for posting certain types of financial information is phased-in over 3 years. Commencing July 1, 2010, local education providers shall post adopted budgets, annual audited financial statements, at least quarterly financial statements, and salary schedules or policies on-line within a specified number of days after the reports or schedules are completed. Commencing July 1, 2011, local education providers shall post check registers and credit, debit, and purchase card statements on-line within a specified number of days after the statements are received. Commencing July 1, 2012, local education providers shall post investment performance reports or statements on-line within a specified number of days after receipt of those statements. The public will have on-line access to the posted information for a specified period.

The bill requires the department's policies and procedures advisory committee, by January 1, 2011, to create a template for voluntary use by a local education provider for the posting of the required information. The template may include the type of electronic file posted as well as the information to be included in the posting.

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

2 **SECTION 1.** Article 44 of title 22, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PART to read:

4 **PART 3**

5 **PUBLIC SCHOOL FINANCIAL TRANSPARENCY ACT**

6 **22-44-301. Short title.** THIS PART 3 SHALL BE KNOWN AND MAY
7 BE CITED AS THE "PUBLIC SCHOOL FINANCIAL TRANSPARENCY ACT".

8 **22-44-302. Legislative declaration.** THE GENERAL ASSEMBLY
9 FINDS THAT MEMBERS OF THE PUBLIC, AS TAXPAYERS AND PARENTS, HAVE
10 A STRONG INTEREST IN HOW PUBLIC MONEYS ARE EXPENDED IN COLORADO
11 IN THE PURSUIT OF A QUALITY EDUCATION FOR ALL OF COLORADO'S PUBLIC
12 SCHOOL STUDENTS. THE GENERAL ASSEMBLY FURTHER FINDS THAT
13 EDUCATORS AND ADMINISTRATORS, AS EDUCATION INNOVATORS AND
14 STEWARDS OF THESE PUBLIC MONEYS, ARE EAGER TO LEARN FROM ONE
15 ANOTHER AND EVALUATE BEST PRACTICES THAT MAY RESULT IN

1 EFFICIENCIES AND POTENTIAL COST SAVINGS FOR THEIR SCHOOLS. WHILE
2 ACHIEVING THESE IMPORTANT ENDS THROUGH THE STATEWIDE
3 DISSEMINATION OF PUBLIC SCHOOL FINANCIAL INFORMATION MAY HAVE
4 BEEN CUMBERSOME IN THE PAST, NEW TECHNOLOGIES AND THE EASE WITH
5 WHICH THE PUBLIC CAN ACCESS ELECTRONIC INFORMATION NOW MAKE
6 GREATER TRANSPARENCY IN PUBLIC SCHOOL FINANCES NOT ONLY
7 IMPORTANT BUT PRACTICAL. THEREFORE, IT IS THE INTENT OF THE
8 GENERAL ASSEMBLY TO ENSURE PUBLIC ACCESS TO PUBLIC SCHOOL
9 FINANCIAL INFORMATION THROUGH THE ADOPTION OF THE "PUBLIC
10 SCHOOL FINANCIAL TRANSPARENCY ACT", WHICH DIRECTS PUBLIC
11 SCHOOLS TO POST FINANCIAL INFORMATION ON-LINE, IN A DOWNLOADABLE
12 FORMAT, FOR FREE PUBLIC ACCESS.

13 **22-44-303. Definitions.** AS USED IN THIS PART 3, UNLESS THE
14 CONTEXT OTHERWISE REQUIRES:

15 (1) "DEPARTMENT" MEANS THE DEPARTMENT OF EDUCATION
16 CREATED AND OPERATING PURSUANT TO SECTION 24-1-115, C.R.S.

17 (2) "LOCAL EDUCATION PROVIDER" MEANS:

18 (a) A SCHOOL DISTRICT, OTHER THAN A JUNIOR COLLEGE DISTRICT,
19 ORGANIZED AND EXISTING PURSUANT TO LAW;

20 (b) A BOARD OF COOPERATIVE SERVICES CREATED PURSUANT TO
21 ARTICLE 5 OF THIS TITLE;

22 (c) THE STATE CHARTER SCHOOL INSTITUTE ESTABLISHED
23 PURSUANT TO SECTION 22-30.5-503;

24 (d) A DISTRICT CHARTER SCHOOL AUTHORIZED PURSUANT TO PART
25 1 OF ARTICLE 30.5 OF THIS TITLE; OR

26 (e) AN INSTITUTE CHARTER SCHOOL AUTHORIZED PURSUANT TO
27 PART 5 OF ARTICLE 30.5 OF THIS TITLE.

1 **22-44-304. Financial reporting - on-line access to information.**

2 (1) (a) COMMENCING JULY 1, 2010, AND ON A CONTINUING BASIS
3 THEREAFTER, EACH LOCAL EDUCATION PROVIDER SHALL POST THE
4 FOLLOWING INFORMATION ON-LINE, IN A DOWNLOADABLE FORMAT, FOR
5 FREE PUBLIC ACCESS:

6 (I) THE LOCAL EDUCATION PROVIDER'S ANNUAL BUDGET, ADOPTED
7 PURSUANT TO SECTION 22-44-110 (4), COMMENCING WITH THE BUDGET
8 FOR THE 2009-10 BUDGET YEAR;

9 (II) THE LOCAL EDUCATION PROVIDER'S ANNUAL AUDITED
10 FINANCIAL STATEMENTS, PREPARED PURSUANT TO SECTION 22-32-109 (1)
11 (k), COMMENCING WITH THE AUDITS PREPARED FOR THE 2009-10 BUDGET
12 YEAR;

13 (III) THE LOCAL EDUCATION PROVIDER'S QUARTERLY FINANCIAL
14 STATEMENTS, AT A MINIMUM, PREPARED PURSUANT TO SECTION
15 22-45-102, COMMENCING WITH THE STATEMENTS FOR THE 2010-11
16 BUDGET YEAR; AND

17 (IV) THE LOCAL EDUCATION PROVIDER'S SALARY SCHEDULES OR
18 POLICIES, ADOPTED PURSUANT TO SECTIONS 22-32-109.4 AND 22-63-401,
19 COMMENCING WITH THOSE APPLICABLE TO THE 2010-11 BUDGET YEAR.

20 (b) ADDITIONALLY, COMMENCING JULY 1, 2011, EACH LOCAL
21 EDUCATION PROVIDER SHALL POST CHECK REGISTERS AND CREDIT, DEBIT,
22 AND PURCHASE CARD STATEMENTS ON-LINE, IN A DOWNLOADABLE
23 FORMAT, FOR FREE PUBLIC ACCESS.

24 (c) ADDITIONALLY, COMMENCING JULY 1, 2012, EACH LOCAL
25 EDUCATION PROVIDER SHALL POST INVESTMENT PERFORMANCE REPORTS
26 OR STATEMENTS ON-LINE, IN A DOWNLOADABLE FORMAT, FOR FREE PUBLIC
27 ACCESS.

1 (2) (a) EACH LOCAL EDUCATION PROVIDER SHALL UPDATE THE
2 INFORMATION SPECIFIED IN SUBSECTION (1) OF THIS SECTION WITHIN SIXTY
3 DAYS AFTER THE LOCAL EDUCATION PROVIDER'S COMPLETION OR RECEIPT
4 OF THE APPLICABLE REPORT, STATEMENT, OR DOCUMENT.

5 (b) A LOCAL EDUCATION PROVIDER SHALL MAINTAIN THE PRIOR
6 TWO BUDGET YEARS' FINANCIAL INFORMATION ON-LINE, IN A
7 DOWNLOADABLE FORMAT, FOR FREE PUBLIC ACCESS, UNTIL THE END OF
8 THE LOCAL EDUCATION PROVIDER'S CURRENT BUDGET YEAR.

9 (3) NO LATER THAN JANUARY 1, 2011, THE FINANCIAL POLICIES
10 AND PROCEDURES ADVISORY COMMITTEE OF THE DEPARTMENT SHALL
11 CREATE A TEMPLATE FOR VOLUNTARY USE BY LOCAL EDUCATION
12 PROVIDERS NEEDING ASSISTANCE WITH THE ON-LINE POSTING OF THE
13 INFORMATION SPECIFIED IN SUBSECTION (1) OF THIS SECTION. THE
14 TEMPLATE MAY INCLUDE BOTH THE TYPE OF ELECTRONIC FILE POSTED AS
15 WELL AS THE INFORMATION TO BE INCLUDED IN THE POSTING.

16 (4) IN ADDITION TO THE INFORMATION REQUIRED IN SUBSECTION
17 (1) OF THIS SECTION, A LOCAL EDUCATION PROVIDER SHALL PROVIDE A
18 LINK TO THE DEPARTMENT'S WEB SITE OR THE LOCATION INFORMATION
19 FOR THE DEPARTMENT'S WEB SITE WHERE A MEMBER OF THE PUBLIC MAY
20 ACCESS INFORMATION OR REPORTS THAT ARE SUBMITTED DIRECTLY TO
21 THE DEPARTMENT.

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

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

BILL F

LLS NO. 10-0188.01 Nicole Myers

HOUSE BILL

HOUSE SPONSORSHIP

Middleton, Massey, Merrifield, Scanlan, Stephens

SENATE SPONSORSHIP

Romer, King K., Spence, Steadman

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE MODIFICATION OF CERTAIN PROVISIONS RELATED**
102 **TO THE ADMINISTRATION OF PUBLIC SCHOOLS FROM**
103 **KINDERGARTEN THROUGH THE TWELFTH GRADE.**

Bill Summary

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

Interim Committee to Study School Finance. Section 1 requires school districts to provide funding for capital construction to each qualified charter school in the district by making a monthly payment to the qualified charter school after the school district has received the monthly payment from the department of education (department). **Section 2** requires the department to provide funding for capital

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.

construction to the state charter school institute by making a monthly payment to the institute and requires the institute to promptly remit the appropriate amount to each qualified institute charter school. Both **sections 1 and 2** are conforming amendments necessary due to a change, made during the 2009 legislative session, in the way capital construction moneys are distributed to charter schools.

Section 3 eliminates a local board of education's authority to negotiate business incentive agreements (BIAs) with a taxpayer who establishes a new business facility in the school district. **Section 5** eliminates the provision allowing any school district that has entered into a business incentive agreement with a taxpayer to receive state share of total program funding in an amount equal to the amount of the incentive payment or credit to the taxpayer pursuant to the agreement. This funding is in lieu of property taxes that are not collected by the district due to the agreement. School districts were prohibited from entering into new agreements after May 22, 2003. Only 2 districts still have an agreement in place, and those agreements will expire in the 2010-11 budget year. Money has not been appropriated for funding the agreements since the 2006-07 budget year. **Sections 4 and 10** make conforming amendments necessary due to the elimination of BIAs.

Section 6. During the 2009 legislative session, the amount of additional local property tax revenues that a school district may receive was increased from 20% to 25% of the district's total program. To retain the additional 5%, the statute requires a district to notify the state board of education when it plans to seek voter approval to retain and spend the additional property tax revenues and to submit a proposal of what the district will do with the additional revenues. Section 6 eliminates the notification requirements but still allows a district to receive up to 25% of the district's total program from additional local property tax revenues.

Section 7 eliminates the requirement that the department reduce a school district's state share of total program funding by an amount equal to the payment that the district receives as impact assistance in lieu of taxes from the division of wildlife. **Section 11** eliminates the requirement that the district certify to the department the amount it receives from impact funds.

Section 8. The general assembly is required to make an annual appropriation for matching funds pursuant to the "National School Lunch Act". Prior to the budget year in which the general assembly began to appropriate moneys for the matching funds, some school food authorities used moneys from the authority's general fund to subsidize school lunches. Those authorities are prohibited from using the matching fund moneys in lieu of the general fund moneys they were already spending on school lunches. Section 8 eliminates the prohibition.

Section 9. In the 2008 legislative session, the general assembly increased the charter school capital construction appropriation and

required that a specific amount of the increase be distributed to a charter school for the deaf and blind for the 2008-09 budget year only. Section 9 eliminates language that was necessary in connection with the distribution of these moneys. **Section 12** is a conforming amendment necessitated by the repeal in section 9.

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

2 **SECTION 1.** 22-30.5-112.3 (1) (c), Colorado Revised Statutes,
3 is amended to read:

4 **22-30.5-112.3. Charter schools - additional aid from district.**
5 (1) (c) A district shall provide funding to each qualified charter school,
6 as defined in section 22-54-124 (1) (f.6), by making a ~~single lump-sum~~
7 MONTHLY payment to the qualified charter school as soon as possible
8 after the district receives a ~~lump-sum~~ MONTHLY payment of state
9 education fund moneys pursuant to section 22-54-124 (4).

10 **SECTION 2.** 22-30.5-515 (3), Colorado Revised Statutes, is
11 amended to read:

12 **22-30.5-515. Institute charter school - additional aid.** (3) The
13 department shall provide funding to each qualified charter school that is
14 an institute charter school by making a ~~single lump-sum~~ MONTHLY
15 payment to the institute as soon as possible after the department receives
16 a ~~lump-sum~~ MONTHLY payment of state education fund moneys pursuant
17 to section 22-54-124. The institute shall promptly remit the appropriate
18 amount to each eligible institute charter school and shall not withhold any
19 portion of the amount.

20 **SECTION 3. Repeal.** 22-32-110 (1) (ff) and (1) (gg), Colorado
21 Revised Statutes, are repealed as follows:

22 **22-32-110. Board of education - specific powers.** (1) In
23 addition to any other power granted to a board of education of a school

1 district by law, each board of education of a school district shall have the
2 following specific powers, to be exercised in its judgment:

3 ~~(ff) (f) To negotiate for an incentive payment or credit with any~~
4 ~~taxpayer who establishes a new business facility, as defined in section~~
5 ~~39-30-105 (7) (e), C.R.S., in the school district; however, no negotiations~~
6 ~~may be entered into with any taxpayer establishing a new business facility~~
7 ~~unless the school district has been notified, pursuant to sections~~
8 ~~30-11-123 (5) and 31-15-903 (4), C.R.S., by any county and by any~~
9 ~~municipality in which the new business facility would be located of~~
10 ~~agreements negotiated by the local governments with the taxpayer. In no~~
11 ~~instance shall any negotiation result in an annual incentive payment or~~
12 ~~credit that exceeds fifty percent of the amount of the taxes levied by the~~
13 ~~school district upon the taxable personal property located at or within the~~
14 ~~new business facility and used in connection with the operation of the~~
15 ~~new business facility for the current property tax year. An agreement~~
16 ~~negotiated pursuant to this paragraph (ff) prior to July 1, 1994, shall be~~
17 ~~valid. Any school district that negotiates any agreement pursuant to the~~
18 ~~provisions of this paragraph (ff) shall inform any county and any~~
19 ~~municipality in which a new business facility would be located of the~~
20 ~~negotiations. The terms of any agreement made pursuant to the~~
21 ~~provisions of this paragraph (ff) shall not exceed four years; except that~~
22 ~~the term of any agreement made or amended on or after June 3, 2002,~~
23 ~~may extend to as many as ten years, including the term of any original~~
24 ~~agreement being renewed, if the county, and if applicable the~~
25 ~~municipality, in which a new business facility is established have~~
26 ~~negotiated agreements with the same taxpayer for the same period~~
27 ~~pursuant to sections 30-11-123 (1) (b) and 31-15-903 (1) (b), C.R.S.~~

1 ~~(H) On or after June 3, 2002, a school district board of education~~
2 ~~shall not enter into an agreement to provide an incentive payment or~~
3 ~~credit pursuant to subparagraph (I) of this paragraph (ff) unless the~~
4 ~~Colorado economic development commission has reviewed the~~
5 ~~agreement.~~

6 ~~(HH) Notwithstanding any other provision of law, on or after May~~
7 ~~22, 2003, a school district shall not enter into an agreement to provide an~~
8 ~~incentive payment or credit pursuant to subparagraph (I) of this paragraph~~
9 ~~(ff).~~

10 ~~(gg) (I) To negotiate for an incentive payment or credit with any~~
11 ~~taxpayer who expands a facility, as defined in section 39-30-105 (7) (c),~~
12 ~~C.R.S., the expansion of which constitutes a new business facility, as~~
13 ~~defined in section 39-30-105 (7) (e), C.R.S., and that is located in the~~
14 ~~school district; however, no negotiations may be entered into with any~~
15 ~~taxpayer expanding a facility unless the school district has been notified,~~
16 ~~pursuant to sections 30-11-123 (5) and 31-15-903 (4), C.R.S., by any~~
17 ~~county and by any municipality in which the expanded business facility~~
18 ~~is located of agreements negotiated by the local governments with the~~
19 ~~taxpayer. In no instance shall any negotiation result in an annual~~
20 ~~incentive payment or credit that is greater than fifty percent of the amount~~
21 ~~of the taxes levied by the school district upon the taxable personal~~
22 ~~property directly attributable to the expansion, located at or within the~~
23 ~~expanded facility, and used in connection with the operation of the~~
24 ~~expanded facility for the current property tax year. An agreement~~
25 ~~negotiated pursuant to this paragraph (gg) prior to July 1, 1994, shall be~~
26 ~~valid. Any school district which negotiates any agreement pursuant to the~~
27 ~~provisions of this paragraph (gg) shall inform any county and any~~

1 ~~municipality in which an expanded business facility is located of the~~
2 ~~negotiations. The terms of any agreement made pursuant to the~~
3 ~~provisions of this paragraph (gg) shall not exceed four years; except that~~
4 ~~the term of any agreement made or amended on or after June 3, 2002,~~
5 ~~may extend to as many as ten years, including the term of any original~~
6 ~~agreement being renewed, if the county, and if applicable the~~
7 ~~municipality, in which an expanded business facility is located have~~
8 ~~negotiated agreements with the same taxpayer for the same period~~
9 ~~pursuant to sections 30-11-123 (2) and 31-15-903 (2), C.R.S.~~

10 ~~(H) On or after June 3, 2002, a school district board of education~~
11 ~~shall not enter into an agreement to provide an incentive payment or~~
12 ~~credit pursuant to subparagraph (I) of this paragraph (gg) unless the~~
13 ~~Colorado economic development commission has reviewed the~~
14 ~~agreement.~~

15 ~~(HH) Notwithstanding any other provision of law, on or after May~~
16 ~~22, 2003, a school district shall not enter into an agreement to provide an~~
17 ~~incentive payment or credit pursuant to subparagraph (I) of this paragraph~~
18 ~~(gg).~~

19 **SECTION 4.** 22-54-104.1 (2), Colorado Revised Statutes, is
20 amended to read:

21 **22-54-104.1. General fund appropriations requirements -**
22 **maintenance of effort base.** (2) For purposes of this section,
23 "maintenance of effort base" means the aggregate amount of general fund
24 appropriations for total program pursuant to the provisions of this article
25 for the immediately preceding state fiscal year, including ANY INCREASES
26 OR DECREASES MADE TO SAID APPROPRIATIONS THROUGH THE ENACTMENT
27 OF A SUPPLEMENTAL APPROPRIATION BILL OR BILLS FOR THAT STATE

1 FISCAL YEAR.

2 ~~(a) Any increases or decreases made to said appropriations~~
3 ~~through the enactment of a supplemental appropriation bill or bills for~~
4 ~~that state fiscal year; and~~

5 ~~(b) Any general fund appropriation for the state's share of the~~
6 ~~district's total program as determined pursuant to section 22-54-106 (8).~~

7 **SECTION 5.** 22-54-106 (1) (b), (4) (d), and (8), Colorado
8 Revised Statutes, are amended to read:

9 **22-54-106. Local and state shares of district total program.**

10 (1) (b) Except as provided in ~~subsections (8), (11)~~, SUBSECTIONS (11) and
11 (12) of this section, the state's share of a district's total program shall be
12 the difference between the district's total program and the district's share
13 of its total program; except that no district shall receive less in state aid
14 than an amount established by the general assembly in the annual general
15 appropriation act based upon the amount of school lands and mineral
16 lease moneys received pursuant to the provisions of article 41 of this title
17 and section 34-63-102 (2), C.R.S., multiplied by the district's funded
18 pupil count.

19 ~~(4) (d) For purposes of this subsection (4), "state's share of the~~
20 ~~total program of all districts" does not include the aggregate amount of~~
21 ~~additional state aid provided pursuant to subsection (8) of this section to~~
22 ~~all districts that have entered into agreements with taxpayers pursuant to~~
23 ~~section 22-32-110 (1) (ff) or (1) (gg).~~

24 (8) (a) (I) ~~Subject to the limitations in subparagraph (H) of this~~
25 ~~paragraph (a), for any school district that has entered into an agreement~~
26 ~~with a taxpayer pursuant to section 22-32-110 (1) (ff) or (1) (gg) before~~
27 ~~May 22, 2003, the state's share of the district's total program shall be the~~

1 amount by which the district's total program exceeds the amount of
2 specific ownership tax revenue paid to the district and the amount of
3 property tax revenue that the district would have been entitled to receive
4 if the valuation for assessment of the district did not include the portion
5 of the valuation for assessment of the personal property of such taxpayer
6 that, when levied upon by the district, would result in property tax
7 revenue equal to the amount of incentive payment or credit to such
8 taxpayer pursuant to such agreement.

9 (H) For the 1995-96 budget year and budget years thereafter until
10 the earlier of the 2012-13 budget year or ten years after the creation of an
11 agreement entered into pursuant to section 22-32-110 (1) (ff) or (1) (gg)
12 before May 22, 2003, the department of education shall ensure that the
13 amount of the state's share of the district's total program, as calculated
14 pursuant to subparagraph (I) of this paragraph (a), does not exceed the
15 amount of the state's share of the district's total program that would
16 otherwise have resulted if the taxpayer had not established the new
17 business facility or expanded the existing facility. The state board shall
18 prescribe, by rule and regulation, guidelines for the department to use in
19 making the determination concerning the state's share pursuant to this
20 subparagraph (H):

21 (b) The calculation required by paragraph (a) of this subsection
22 (8) is solely for the purpose of determining the state's share of a district's
23 total program if the district has entered into an agreement pursuant to
24 section 22-32-110 (1) (ff) or (1) (gg), and nothing in this subsection (8)
25 shall be construed to decrease the valuation for assessment of personal
26 property in the district or to affect the number of mills required by
27 subsection (2) of this section or section 22-54-107 to be levied on the

1 valuation for assessment of real and personal property in the district.

2 (c) Nothing in this subsection (8) shall be construed to increase a
3 district's total program as determined in accordance with section
4 22-54-104.

5 (d) The state's share of a district's total program shall only be
6 calculated under the provisions of this subsection (8) for a period of ten
7 years as a result of an agreement or series of agreements between the
8 district and a taxpayer with respect to the establishment of the same new
9 business facility or the same specific expansion of an existing facility.

10 (e) (I) For the 2005-06 budget year and each budget year
11 thereafter, if the general assembly does not appropriate an amount
12 sufficient to fully fund the amount of additional state aid available
13 pursuant to paragraph (a) of this subsection (8) to all districts that have
14 entered into an agreement with a taxpayer pursuant to section 22-32-110
15 (1) (ff) or (1) (gg), or if a supplemental appropriation is made to reduce
16 or eliminate the additional state aid that such districts would otherwise
17 receive pursuant to paragraph (a) of this subsection (8), the additional
18 state aid that each such district would otherwise receive pursuant to
19 paragraph (a) of this subsection (8) shall be reduced by a percentage
20 determined by dividing the deficit in such appropriation or the reduction
21 in the appropriation, whichever is applicable, by the total amount of
22 additional state aid that such districts would have received pursuant to
23 paragraph (a) of this subsection (8) absent the deficit or reduction in the
24 appropriation. The department of education shall ensure that the
25 reduction in state aid required by this paragraph (e) is accomplished prior
26 to the end of the budget year.

27 (H) For purposes of this section, "additional state aid" means the

1 difference between:

2 ~~(A) The amount of the state's share of a district's total program~~
3 ~~calculated in accordance with paragraph (a) of this subsection (8); and~~

4 ~~(B) The amount of what the state's share of such district's total~~
5 ~~program would have been if the valuation for assessment of the district~~
6 ~~that entered into an agreement with a taxpayer pursuant to section~~
7 ~~22-32-110 (1) (ff) or (1) (gg) included the portion of the valuation for~~
8 ~~assessment of the personal property of the taxpayer which, when levied~~
9 ~~upon by the district, would result in property tax revenue equal to the~~
10 ~~amount of incentive payment or credit to such taxpayer pursuant to such~~
11 ~~agreement.~~

12 **SECTION 6.** 22-54-108 (3) (b) (III) and (4), Colorado Revised
13 Statutes, are amended to read:

14 **22-54-108. Authorization of additional local revenues.**
15 (3) (b) (III) On and after May 21, 2009, for any district that meets the
16 requirements of subsection (4) of this section, the total additional local
17 property tax revenues that may be received pursuant to an election held
18 pursuant to this section shall not exceed under any circumstances
19 twenty-five percent of the district's total program, as determined pursuant
20 to section 22-54-104 (2), or two hundred thousand dollars, whichever is
21 greater, plus an amount equal to the maximum dollar amount of property
22 tax revenue that the district could have generated for the 2001-02 budget
23 year if, in accordance with the provisions of section 22-54-107.5, the
24 district submitted a question to and received approval of the eligible
25 electors of the district at an election held in November 2001.

26 ~~(4) (a) On and after May 21, 2009, any district that intends to seek~~
27 ~~voter approval to retain and spend additional property tax revenues~~

1 pursuant to subparagraph (III) of paragraph (b) of subsection (3) of this
2 section shall notify the state board, in a manner to be determined by the
3 state board, prior to holding an election pursuant to this section.

4 (b) Any district that submits notice to the state board pursuant to
5 paragraph (a) of this subsection (4) shall also submit to the state board a
6 proposal regarding the district's proposed use of the additional property
7 tax revenues, which may include capital construction projects.

8 **SECTION 7.** 22-54-115 (1) (a), Colorado Revised Statutes, is
9 amended to read:

10 **22-54-115. Distribution from state public school fund.** (1) No
11 later than June 30 of each year, the state board shall determine the amount
12 of the state's share of the district's total program for the budget year
13 beginning on July 1, and the total thereof for all districts, which amount
14 shall be payable in twelve approximately equal monthly payments during
15 such budget year; except that:

16 (a) Such payments shall be adjusted following the certification of
17 pupil enrollments PURSUANT TO SECTION 22-54-112 (2), the certification
18 of valuations for assessment to the state board pursuant to section
19 22-54-112 (1), and (2), the certification of the amount of any impact
20 assistance grants on behalf of school districts pursuant to section
21 30-25-302, C.R.S., and the certification of any payments in lieu of taxes
22 received by school districts pursuant to section 39-3-114.5, C.R.S.;

23 **SECTION 8.** 22-54-123 (1), Colorado Revised Statutes, is
24 amended to read:

25 **22-54-123. National school lunch act - appropriation of state**
26 **matching funds.** (1) For the 2001-02 budget year and budget years
27 thereafter, the general assembly shall appropriate by separate line item an

1 amount to comply with the requirements for state matching funds under
2 the federal "National School Lunch Act", 42 U.S.C. sec. 1751 et seq. The
3 department of education shall develop procedures to allocate and disburse
4 the funds among participating school food authorities each year in an
5 equitable manner so as to comply with the requirements of said act. In
6 any participating school food authority that, prior to the enactment of this
7 section, subsidized school lunch service with moneys from the school
8 food authority's general fund, moneys received by such school food
9 authority pursuant to this section shall be applied in addition to, and not
10 in lieu of, the amount of the school food authority's subsidy. Any moneys
11 received pursuant to this section shall be used only for the provision of
12 the school food authority's school lunch program.

13 **SECTION 9. Repeal.** 22-54-133, Colorado Revised Statutes, is
14 repealed as follows:

15 **22-54-133. Charter school for the deaf and the blind -**
16 **supplementary funding - definitions.** (1) ~~As used in this section, unless~~
17 ~~the context otherwise requires, "charter school for the deaf or the blind"~~
18 ~~means a charter school, as defined in section 22-54-124 (1) (b), in which~~
19 ~~no less than ninety percent of the funded pupils have an individualized~~
20 ~~education program pursuant to section 22-20-108 and are eligible to~~
21 ~~attend the Colorado school for the deaf and the blind pursuant to section~~
22 ~~22-80-109.~~

23 (2) ~~For the 2008-09 budget year, of the moneys appropriated for~~
24 ~~the purposes of section 22-54-124 (3), one hundred thirty-five thousand~~
25 ~~dollars of such amount shall be used for the purposes of this section. This~~
26 ~~section shall not affect the ability of a charter school for the deaf or the~~
27 ~~blind to apply for and to be eligible to receive additional moneys pursuant~~

1 to section 22-54-124 (3).

2 (3) The department of education shall distribute moneys under this
3 section to the authorizer of a charter school for the deaf or the blind, and
4 the authorizer shall distribute all moneys received under this section to the
5 charter schools for the deaf or the blind and may not retain any of such
6 moneys to defray administrative expenses or for any other purpose. A
7 charter school for the deaf or the blind shall use moneys it receives
8 pursuant to this section solely for operating costs that are not defrayed by
9 other funding sources. Moneys received pursuant to this section and
10 section 22-54-124 shall not be considered in the calculation of excess
11 costs pursuant to section 22-20-109.

12 (4) No later than February 1, 2009, the department of education
13 shall report to the education committees of the senate and the house of
14 representatives, or any successor committees, and the joint budget
15 committee of the expected change, if any, in need for funding under this
16 section.

17 **SECTION 10.** 22-55-105 (2), Colorado Revised Statutes, is
18 amended to read:

19 **22-55-105. General fund appropriations requirements -**
20 **maintenance of effort base.** (2) For purposes of this section,
21 "maintenance of effort base" means the aggregate amount of general fund
22 appropriations for total program pursuant to the "Public School Finance
23 Act of 1994", article 54 of this title, for the immediately preceding state
24 fiscal year, including ANY INCREASES OR DECREASES MADE TO SAID
25 APPROPRIATIONS THROUGH THE ENACTMENT OF A SUPPLEMENTAL
26 APPROPRIATION BILL OR BILLS FOR THAT STATE FISCAL YEAR.

27 (a) ~~Any increases or decreases made to said appropriations~~

1 through the enactment of a supplemental appropriation bill or bills for
2 that state fiscal year; and

3 (b) ~~Any general fund appropriation for the state's share of the~~
4 ~~district's total program as determined pursuant to section 22-54-106 (8).~~

5 **SECTION 11. Repeal.** 30-25-302 (5), Colorado Revised
6 Statutes, is repealed as follows:

7 **30-25-302. Eligibility - determination of impact - procedures**
8 **- legislative declaration.** (5) (a) ~~Repealed.~~

9 (b) ~~Any school district which receives an impact assistance grant~~
10 ~~pursuant to this section shall certify the amount of said grant to the state~~
11 ~~board of education.~~

12 **SECTION 12.** 22-54-124 (3) (a) (III) (A), Colorado Revised
13 Statutes, is amended to read:

14 **22-54-124. State aid for charter schools - use of state education**
15 **fund moneys - definitions.** (3) (a) (III) (A) The total amount of state
16 education fund moneys to be appropriated for all eligible districts and for
17 all eligible institute charter schools for the 2003-04, 2004-05, 2005-06,
18 and 2007-08 budget years and each budget year thereafter shall be an
19 amount equal to five million dollars. For the 2006-07 budget year, seven
20 million eight hundred thousand dollars shall be appropriated for all
21 eligible districts and for all eligible institute charter schools from the state
22 education fund. For the 2008-09 budget year, an additional one hundred
23 thirty-five thousand dollars shall be appropriated from the state education
24 fund and shall be distributed pursuant to section 22-54-133, AS SAID
25 SECTION EXISTED PRIOR TO ITS REPEAL IN 2010.

26 **SECTION 13. Safety clause.** The general assembly hereby finds,

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

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

BILL G

LLS NO. 10-0179.01 Nicole Myers

HOUSE BILL

HOUSE SPONSORSHIP

Massey and Middleton, Scanlan

SENATE SPONSORSHIP

King K., Romer, Spence

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF A STABLE FUNDING PILOT PROGRAM**
102 **FOR SMALL SCHOOL DISTRICTS THAT ENTER INTO AGREEMENTS**
103 **TO JOINTLY PROVIDE SERVICES TO SAVE COSTS.**

Bill Summary

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

Interim Committee to Study School Finance. The bill creates a stable funding pilot program for small school districts (small districts) that provides consistent total program funding for each of 5 consecutive budget years, beginning with the 2010-11 budget year (stable funding period), to allow a participating small district more predictability in its budgeting process. A small district that participates in the pilot program

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Capital letters indicate new material to be added to existing statute.
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will receive total program funding equal to its total program funding for the 2009-10 budget year throughout the stable funding period. The total program funding calculated for a small district pursuant to the pilot program will be in lieu of total program as traditionally calculated.

A small district may choose to participate in the pilot program during the first or second year of the stable funding period. A small district that chooses to participate in the pilot program shall participate for the entire remaining stable funding period.

The total program funding for a small district that participates in the pilot program shall be altered from the 2009-10 budget year funding during the stable funding period only if there is a statewide increase in per pupil funding that is not related to the funded pupil count of a district or if the small district experiences an increase or decrease in pupil enrollment that is larger than a specified percentage over the small district's pupil enrollment for the 2009-10 budget year.

A small district that participates in the pilot program must enter into memoranda of understanding or other agreements with one or more school districts or boards of cooperative services to jointly provide services for the districts and to share in the cost of providing the services.

The state board of education will:

- Conduct a final review and evaluation of the pilot program with input from the participating small districts and recommend to the general assembly whether to continue the program; and
- Promulgate rules to implement the pilot program.

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

2 **SECTION 1.** Article 54 of title 22, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW SECTION to read:

4 **22-54-135. Stable funding for small school districts - pilot**
5 **program - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE
6 CONTEXT OTHERWISE REQUIRES:

7 (a) "BASE YEAR" MEANS THE BUDGET YEAR IMMEDIATELY
8 PRECEDING THE FIRST BUDGET YEAR OF THE STABLE FUNDING PERIOD.

9 (b) "PILOT PROGRAM" MEANS THE PROGRAM THROUGH WHICH A
10 SMALL DISTRICT MAY CHOOSE TO RECEIVE CONSISTENT TOTAL PROGRAM
11 FUNDING FOR A STABLE FUNDING PERIOD PURSUANT TO THIS SECTION.

1 (c) "SMALL DISTRICT" MEANS A SCHOOL DISTRICT WITH A FUNDED
2 PUPIL COUNT OF LESS THAN TWO THOUSAND PUPILS AS OF OCTOBER 1 OF
3 THE BUDGET YEAR IN WHICH THE DISTRICT CHOOSES TO PARTICIPATE IN
4 THE PILOT PROGRAM.

5 (d) "STABLE FUNDING PERIOD" MEANS THE 2010-11 THROUGH
6 2015-16 BUDGET YEARS.

7 (2) (a) BEGINNING IN THE 2010-11 BUDGET YEAR, THE
8 DEPARTMENT OF EDUCATION SHALL ADMINISTER A PILOT PROGRAM FOR
9 THE PURPOSE OF PROVIDING A MULTI-YEAR PERIOD DURING WHICH A
10 SMALL DISTRICT THAT CHOOSES TO PARTICIPATE MAY RECEIVE
11 CONSISTENT TOTAL PROGRAM FUNDING FOR EACH OF FIVE CONSECUTIVE
12 BUDGET YEARS, THEREBY ALLOWING THE DISTRICT MORE PREDICTABILITY
13 AND STABILITY IN ITS BUDGETING PROCESS.

14 (b) NOTWITHSTANDING THE PROVISIONS OF SECTION 22-54-104,
15 AND SUBJECT TO THE PROVISIONS OF SUBSECTION (4) OF THIS SECTION,
16 BEGINNING IN THE 2010-11 BUDGET YEAR, A SMALL DISTRICT MAY
17 PARTICIPATE IN THE PILOT PROGRAM AND ANNUALLY RECEIVE TOTAL
18 PROGRAM FUNDING PURSUANT TO THIS SECTION THROUGHOUT THE STABLE
19 FUNDING PERIOD IN LIEU OF TOTAL PROGRAM FUNDING AS CALCULATED
20 PURSUANT TO SECTION 22-54-104 (2) (a).

21 (c) A SMALL DISTRICT MAY CHOOSE TO PARTICIPATE IN THE PILOT
22 PROGRAM BEGINNING IN THE 2010-11 OR 2011-12 BUDGET YEAR AND MAY
23 NOT CHOOSE TO PARTICIPATE IN THE PILOT PROGRAM AFTER THE 2011-12
24 BUDGET YEAR. A SMALL DISTRICT THAT CHOOSES TO PARTICIPATE IN THE
25 PILOT PROGRAM BEGINNING IN THE 2010-11 BUDGET YEAR SHALL
26 PARTICIPATE FOR THE ENTIRETY OF THE STABLE FUNDING PERIOD. A
27 SMALL DISTRICT THAT CHOOSES TO PARTICIPATE IN THE PILOT PROGRAM

1 BEGINNING IN THE 2011-12 BUDGET YEAR SHALL PARTICIPATE FOR THE
2 ENTIRE REMAINDER OF THE STABLE FUNDING PERIOD.

3 (d) A PARTICIPATING SMALL DISTRICT'S TOTAL PROGRAM FUNDING
4 FOR EACH BUDGET YEAR DURING THE STABLE FUNDING PERIOD SHALL BE
5 THE SMALL DISTRICT'S TOTAL PROGRAM FUNDING AS CALCULATED
6 PURSUANT TO SECTION 22-54-104 (2) (a) FOR THE BASE YEAR. A SMALL
7 DISTRICT'S TOTAL PROGRAM FUNDING MAY BE MODIFIED DURING THE
8 STABLE FUNDING PERIOD ONLY AS ALLOWED PURSUANT TO SUBSECTION (3)
9 OF THIS SECTION.

10 (3) THE AMOUNT OF TOTAL PROGRAM FUNDING FOR A
11 PARTICIPATING SMALL DISTRICT SHALL BE ALTERED FROM THE AMOUNT OF
12 TOTAL PROGRAM FUNDING CALCULATED FOR THE SMALL DISTRICT IN THE
13 BASE YEAR ONLY UNDER THE FOLLOWING CIRCUMSTANCES:

14 (a) IF, IN ANY BUDGET YEAR DURING THE STABLE FUNDING PERIOD,
15 THERE IS A STATEWIDE INCREASE IN BASE PER PUPIL FUNDING OR ANY
16 OTHER STATEWIDE INCREASE IN PER PUPIL FUNDING THAT IS NOT RELATED
17 TO THE FUNDED PUPIL COUNT OF A DISTRICT, THE SMALL DISTRICT SHALL
18 RECEIVE THE INCREASE IN FUNDING BASED ON THE SMALL DISTRICT'S PUPIL
19 ENROLLMENT CALCULATED PURSUANT TO SECTION 22-54-103 (10) FOR
20 THE APPLICABLE BUDGET YEAR.

21 (b) IF, IN ANY BUDGET YEAR DURING THE STABLE FUNDING PERIOD,
22 THE PUPIL ENROLLMENT OF THE SMALL DISTRICT INCREASES BY _____
23 PERCENT OR MORE OVER THE SMALL DISTRICT'S BASE YEAR FUNDED PUPIL
24 COUNT, THE SMALL DISTRICT SHALL ADD THE NUMBER OF ADDITIONAL
25 PUPILS TO ITS BASE YEAR FUNDED PUPIL COUNT AND THE SMALL
26 DISTRICT'S TOTAL PROGRAM SHALL BE RECALCULATED USING THE
27 RESULTING SUM.

1 (c) IF, IN ANY BUDGET YEAR DURING THE STABLE FUNDING PERIOD,
2 THE PUPIL ENROLLMENT OF THE SMALL DISTRICT DECREASES BY _____
3 PERCENT OR MORE BELOW THE SMALL DISTRICT'S BASE YEAR FUNDED
4 PUPIL COUNT, THE SMALL DISTRICT SHALL SUBTRACT THE NUMBER OF
5 PUPILS BY WHICH THE PUPIL ENROLLMENT DECREASED FROM THE BASE
6 YEAR FUNDED PUPIL COUNT AND THE SMALL DISTRICT'S TOTAL PROGRAM
7 SHALL BE RECALCULATED USING THE RESULTING SUM.

8 (4) (a) A SMALL DISTRICT THAT CHOOSES TO PARTICIPATE IN THE
9 PILOT PROGRAM SHALL ENTER INTO MEMORANDA OF UNDERSTANDING OR
10 OTHER AGREEMENTS WITH ONE OR MORE DISTRICTS OR BOARDS OF
11 COOPERATIVE SERVICES CREATED PURSUANT TO ARTICLE 5 OF THIS TITLE
12 TO JOINTLY PROVIDE SERVICES FOR THE DISTRICTS AND TO SHARE IN THE
13 COST OF PROVIDING SUCH SERVICES. SMALL DISTRICTS AND BOARDS OF
14 COOPERATIVE SERVICES MAY AGREE TO SHARE ANY SERVICE FOR WHICH
15 EACH DISTRICT WILL REALIZE A COST-SAVINGS AS A RESULT OF SHARING
16 THE SERVICE. THE SERVICES THAT SMALL DISTRICTS AND BOARDS OF
17 COOPERATIVE SERVICES MAY AGREE TO SHARE MAY INCLUDE, BUT NEED
18 NOT BE LIMITED TO:

19 (I) ADMINISTRATIVE SERVICES, INCLUDING ACCOUNTING AND
20 AUDITING SERVICES, AND ADMINISTRATIVE STAFF, INCLUDING THE
21 DISTRICT SUPERINTENDENT;

22 (II) FOOD, TRANSPORTATION, HEALTH, MENTAL HEALTH, AT-RISK,
23 AND SPECIAL EDUCATION SERVICES; AND

24 (III) PERSONAL SERVICES, INCLUDING MAINTENANCE, JANITORIAL,
25 AND TEACHING STAFF.

26 (b) A SMALL SCHOOL DISTRICT THAT CHOOSES TO PARTICIPATE IN
27 THE PILOT PROGRAM PURSUANT TO THIS SECTION AND THAT IS ALREADY

1 PARTICIPATING IN ONE OR MORE MEMORANDA OF UNDERSTANDING OR
2 OTHER AGREEMENTS WITH ANOTHER DISTRICT TO SHARE THE COST OF
3 SERVICES MAY BE REQUIRED TO SATISFY ADDITIONAL CRITERIA AS
4 ESTABLISHED BY THE STATE BOARD OF EDUCATION TO PARTICIPATE IN THE
5 PILOT PROGRAM.

6 (5) IN DETERMINING THE ESTIMATED REQUIREMENTS TO PROVIDE
7 EACH DISTRICT AND EACH INSTITUTE CHARTER SCHOOL THE AMOUNT IT IS
8 ELIGIBLE TO RECEIVE FROM THE STATE DURING THE NEXT BUDGET YEAR
9 PURSUANT TO SECTION 22-54-114 (2), THE DEPARTMENT OF EDUCATION
10 SHALL MAKE NECESSARY ADJUSTMENTS TO ACCOUNT FOR SMALL
11 DISTRICTS THAT HAVE CHOSEN TO PARTICIPATE IN THE PILOT PROGRAM.

12 (6) ON A PERIODIC BASIS, THE STATE BOARD OF EDUCATION SHALL
13 SOLICIT INPUT FROM THE SMALL DISTRICTS PARTICIPATING IN THE PILOT
14 PROGRAM TO DETERMINE WHETHER THE STABLE FUNDING PERIOD ALLOWS
15 SMALL DISTRICTS MORE PREDICTABILITY AND CONSISTENCY IN THEIR
16 BUDGETING PROCESS. ON OR BEFORE _____, 2015, WITH INPUT FROM THE
17 SMALL DISTRICTS THAT PARTICIPATED IN THE PILOT PROGRAM, THE STATE
18 BOARD SHALL CONDUCT A FINAL REVIEW AND EVALUATION OF THE PILOT
19 PROGRAM AND SHALL MAKE A RECOMMENDATION TO THE GENERAL
20 ASSEMBLY REGARDING THE CONTINUATION OF THE PILOT PROGRAM.

21 (7) THE STATE BOARD OF EDUCATION SHALL PROMULGATE RULES
22 PURSUANT TO THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE
23 4 OF TITLE 24, C.R.S., FOR THE IMPLEMENTATION OF THE PILOT PROGRAM,
24 WHICH RULES SHALL INCLUDE BUT NEED NOT BE LIMITED TO:

25 (a) A PROCESS BY WHICH A SMALL DISTRICT THAT CHOOSES TO
26 PARTICIPATE IN THE PILOT PROGRAM SHALL NOTIFY THE DEPARTMENT OF
27 EDUCATION OF ITS INTENT TO PARTICIPATE IN THE PROGRAM;

1 (b) A PROCESS BY WHICH THE DEPARTMENT OF EDUCATION SHALL
2 VERIFY THE ELIGIBILITY OF THE SMALL DISTRICT TO PARTICIPATE IN THE
3 PILOT PROGRAM AND NOTIFY THE SMALL DISTRICT OF ITS ELIGIBILITY OR
4 NONELIGIBILITY TO PARTICIPATE;

5 (c) GUIDELINES FOR THE MEMORANDA OF UNDERSTANDING OR
6 OTHER AGREEMENTS THAT DISTRICTS ARE REQUIRED TO ENTER INTO
7 PURSUANT TO SUBSECTION (4) OF THIS SECTION; AND

8 (d) ADDITIONAL CRITERIA THAT A SMALL DISTRICT SHALL SATISFY
9 IN THE EVENT THAT IT IS ALREADY PARTICIPATING IN MEMORANDA OF
10 UNDERSTANDING OR OTHER AGREEMENTS WITH OTHER DISTRICTS FOR
11 MORE COST-EFFECTIVE DELIVERY OF SERVICES.

12 **SECTION 2. Act subject to petition - effective date.** This act
13 shall take effect at 12:01 a.m. on the day following the expiration of the
14 ninety-day period after final adjournment of the general assembly
15 (August 11, 2010, if adjournment sine die is on May 12, 2010); except
16 that, if a referendum petition is filed pursuant to section 1 (3) of article
17 V of the state constitution against this act or an item, section, or part of
18 this act within such period, then the act, item, section, or part shall not
19 take effect unless approved by the people at the general election to be
20 held in November 2010 and shall take effect on the date of the official
21 declaration of the vote thereon by the governor.

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

BILL H

LLS NO. 10-0275.02 Nicole Myers

SENATE BILL

SENATE SPONSORSHIP

Johnston, Romer

HOUSE SPONSORSHIP

Scanlan, Massey, Middleton

Senate Committees

House Committees

A BILL FOR AN ACT

101 **CONCERNING A STUDY TO EVALUATE THE FEASIBILITY OF A SYSTEM TO**
102 **DETERMINE PUPIL ENROLLMENT FOR PURPOSES OF THE "PUBLIC**
103 **SCHOOL FINANCE ACT OF 1994" BASED ON THE AVERAGE DAILY**
104 **MEMBERSHIP OF PUPILS IN SCHOOL DISTRICTS.**

Bill Summary

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

Interim Committee to Study School Finance. Under current law, the pupil enrollment of a school district is determined based on the number of pupils enrolled on October 1 of the applicable budget year as evidenced by the actual attendance of such pupils prior to such date. The

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Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

bill directs the department of education (department) to contract for a study to evaluate the feasibility, design, and impact of a system to determine pupil enrollment based on the average number of days that each pupil is enrolled in school during the school year (average daily membership) rather than based on a single count date; except that the department shall contract for the study only if:

- The state receives, and makes available to the department, federal race to the top fund moneys;
- The department is able to secure federal funding from another source in an amount necessary to cover the costs of the study; or
- The department receives gifts, grants, or donations in an amount necessary to cover the costs of the study.

The bill requires the department to incorporate any previous studies or information gathered regarding average daily membership into the study, and the staff of the school finance unit of the department is required to oversee the study.

When the department receives the necessary funding to contract for the study, the department is required to notify the general assembly. The bill directs the department to submit a report to the general assembly within 2 years after the time that the department notifies the general assembly that it has received sufficient funding to conduct the study.

The bill prohibits the use of state moneys for the purposes of conducting the average daily membership study. In addition, the bill authorizes the department to receive gifts, grants, and donations to use in conducting the study and creates the average daily membership study fund in the state treasury. The bill specifies that any gifts, grants, or donations received for the study shall be deposited into the fund.

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

2 **SECTION 1.** Article 54 of title 22, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW SECTION to read:

4 **22-54-135. Average daily membership study - fund created**
5 **- repeal.** (1) SUBJECT TO THE PROVISIONS OF SUBSECTION (2) OF THIS
6 SECTION, THE DEPARTMENT OF EDUCATION SHALL CONTRACT WITH A
7 PRIVATE PERSON OR ENTITY TO CONDUCT A STUDY TO EVALUATE THE
8 FEASIBILITY, IMPACT, AND DESIGN OF A SYSTEM TO ALLOW THE
9 CALCULATION OF A DISTRICT'S PUPIL ENROLLMENT BASED ON THE

1 AVERAGE NUMBER OF DAYS THAT A PUPIL IS ENROLLED IN THE DISTRICT
2 DURING THE SCHOOL YEAR RATHER THAN BASED ON A SINGLE COUNT DATE
3 AS CALCULATED PURSUANT TO SECTION 22-54-103 (10). THE SYSTEM OF
4 CALCULATING A DISTRICT'S PUPIL ENROLLMENT BASED ON THE AVERAGE
5 NUMBER OF DAYS THAT A PUPIL IS ENROLLED IN THE DISTRICT SHALL BE
6 KNOWN AS THE DISTRICT'S AVERAGE DAILY MEMBERSHIP.

7 (2) THE DEPARTMENT OF EDUCATION SHALL CONTRACT FOR A
8 STUDY TO EVALUATE THE FEASIBILITY, IMPACT, AND DESIGN OF AN
9 AVERAGE DAILY MEMBERSHIP SYSTEM OF DETERMINING A DISTRICT'S PUPIL
10 ENROLLMENT PURSUANT TO THIS SECTION ONLY IF:

11 (a) THE STATE IS A RECIPIENT OF MONEYS MADE AVAILABLE
12 THROUGH THE "AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009",
13 PUB.L. 111-5, FROM THE UNITED STATES DEPARTMENT OF EDUCATION
14 RACE TO THE TOP FUND AND THE AMOUNT REQUIRED BY THE STATE
15 DEPARTMENT OF EDUCATION TO CONDUCT A STUDY PURSUANT TO THIS
16 SECTION IS ALLOCATED TO THE DEPARTMENT FOR SUCH PURPOSE; OR

17 (b) THE DEPARTMENT OF EDUCATION SECURES FEDERAL MONEYS
18 FROM A SOURCE OTHER THAN FROM THE RACE TO THE TOP FUND IN AN
19 AMOUNT SUFFICIENT TO CONDUCT A STUDY PURSUANT TO THIS SECTION;
20 OR

21 (c) THE DEPARTMENT OF EDUCATION RECEIVES GIFTS, GRANTS, OR
22 DONATIONS IN AN AMOUNT SUFFICIENT TO CONDUCT A STUDY PURSUANT
23 TO THIS SECTION.

24 (3) THE DEPARTMENT OF EDUCATION SHALL INCORPORATE INTO
25 THE STUDY CONDUCTED PURSUANT TO THIS SECTION ANY PREVIOUS
26 STUDIES CONDUCTED OR INFORMATION GATHERED REGARDING AVERAGE
27 DAILY MEMBERSHIP. THE STAFF OF THE SCHOOL FINANCE UNIT OF THE

1 DEPARTMENT OF EDUCATION SHALL OVERSEE THE STUDY AND PROVIDE
2 SUPPORT TO THE ENTITY CONDUCTING THE STUDY.

3 (4) IF THE DEPARTMENT OF EDUCATION RECEIVES MONEYS
4 SUFFICIENT TO IMPLEMENT THE PROVISIONS OF THIS SECTION PURSUANT TO
5 SUBSECTION (2) OF THIS SECTION, THE DEPARTMENT SHALL PROVIDE
6 WRITTEN NOTIFICATION TO THE HOUSE AND SENATE EDUCATION
7 COMMITTEES, OR ANY SUCCESSOR COMMITTEES, AND TO THE REVISOR OF
8 STATUTES AND SHALL INDICATE THE DATE BY WHICH THE DEPARTMENT IS
9 AUTHORIZED TO SPEND SUCH MONEYS TO CONTRACT FOR AN AVERAGE
10 DAILY MEMBERSHIP STUDY PURSUANT TO THIS SECTION.

11 (5) THE DEPARTMENT OF EDUCATION SHALL SUBMIT TO THE
12 MEMBERS OF THE EDUCATION COMMITTEES OF THE HOUSE OF
13 REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, A
14 REPORT SUMMARIZING THE FINDINGS AND RECOMMENDATIONS FROM THE
15 AVERAGE DAILY MEMBERSHIP STUDY NO LATER THAN TWO YEARS AFTER
16 THE DATE THAT THE DEPARTMENT WAS AUTHORIZED TO SPEND THE
17 MONEYS IT RECEIVED TO CONDUCT THE STUDY.

18 (6) UNDER NO CIRCUMSTANCE SHALL ANY MONEYS FROM THE
19 GENERAL FUND OR THE STATE EDUCATION FUND CREATED IN SECTION 17
20 (4) OF ARTICLE IX OF THE STATE CONSTITUTION BE USED TO CONDUCT THE
21 AVERAGE DAILY MEMBERSHIP STUDY.

22 (7) (a) THE DEPARTMENT OF EDUCATION IS HEREBY AUTHORIZED
23 TO RECEIVE FUNDING FOR THE FINANCING OF THE AVERAGE DAILY
24 MEMBERSHIP STUDY INCLUDING BUT NOT LIMITED TO FUNDING FROM
25 PUBLIC OR PRIVATE GIFTS, GRANTS, OR DONATIONS. ANY MONEYS
26 RECEIVED PURSUANT TO THIS SUBSECTION (7) SHALL BE CREDITED TO THE
27 AVERAGE DAILY MEMBERSHIP STUDY FUND CREATED IN PARAGRAPH (b) OF

1 THIS SUBSECTION (7).

2 (b) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
3 AVERAGE DAILY MEMBERSHIP STUDY FUND, REFERRED TO IN THIS
4 PARAGRAPH (b) AS THE "FUND". THE FUND SHALL CONSIST OF ANY
5 MONEYS CREDITED TO THE FUND PURSUANT TO PARAGRAPH (a) OF THIS
6 SUBSECTION (7). ALL MONEYS CREDITED TO THE FUND AND ANY INTEREST
7 AND INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF MONEYS IN
8 THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
9 ASSEMBLY FOR FUNDING THE AVERAGE DAILY MEMBERSHIP STUDY
10 PURSUANT TO THIS SECTION. ANY MONEYS REMAINING IN THE FUND AT
11 THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT
12 BE TRANSFERRED TO THE GENERAL FUND.

13 (8) THIS SECTION IS REPEALED, EFFECTIVE THREE YEARS AFTER
14 THE DATE THE DEPARTMENT OF EDUCATION PROVIDES THE WRITTEN
15 NOTICE SPECIFIED PURSUANT TO SUBSECTION (4) OF THIS SECTION.
16 IMMEDIATELY PRECEDING THE REPEAL OF THIS SECTION, THE STATE
17 TREASURER SHALL TRANSFER ANY MONEYS REMAINING IN THE FUND TO
18 THE STATE EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE IX
19 OF THE STATE CONSTITUTION.

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