

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

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 10-0275.02 Nicole Myers

**SENATE BILL 10-008**

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**SENATE SPONSORSHIP**

**Johnston, Romer**

**HOUSE SPONSORSHIP**

**Scanlan, Massey, Middleton**

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**Senate Committees**

Education  
Appropriations

**House Committees**

Education  
Appropriations

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**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.**

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**Bill Summary**

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

**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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

SENATE  
3rd Reading Unamended  
February 15, 2010

SENATE  
Amended 2nd Reading  
February 12, 2010

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.

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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) (a) SUBJECT TO THE PROVISIONS OF SUBSECTION (2) OF THIS  
6 SECTION, THE DEPARTMENT OF EDUCATION SHALL CONTRACT WITH A  
7 PRIVATE OR PRIVATE NONPROFIT COLORADO-BASED EDUCATION POLICY  
8 OR RESEARCH ORGANIZATION TO CONDUCT A STUDY TO EVALUATE THE  
9 FEASIBILITY, LOCAL EDUCATION PROVIDER IMPACT, AND DESIGN OF A

1 SYSTEM TO ALLOW THE CALCULATION OF A DISTRICT'S PUPIL ENROLLMENT  
2 BASED ON THE AVERAGE NUMBER OF DAYS THAT A PUPIL IS ENROLLED IN  
3 THE DISTRICT DURING THE SCHOOL YEAR RATHER THAN BASED ON A  
4 SINGLE COUNT DATE AS CALCULATED PURSUANT TO SECTION 22-54-103  
5 (10). THE DEPARTMENT SHALL AWARD THE CONTRACT BASED ON A  
6 COMPETITIVE BID; EXCEPT THAT THE PROVISIONS OF THE "PROCUREMENT  
7 CODE", ARTICLES 101 TO 112 OF TITLE 24, C.R.S., SHALL NOT APPLY TO  
8 THIS CONTRACT. THE DEPARTMENT SHALL AWARD THE CONTRACT NO  
9 LATER THAN SIXTY DAYS AFTER THE DATE THAT THE DEPARTMENT  
10 RECEIVES MONEYS TO CONDUCT THE STUDY PURSUANT TO SUBSECTION (2)  
11 OF THIS SECTION, AS INCLUDED IN THE NOTICE REQUIRED PURSUANT TO  
12 SUBSECTION (4) OF THIS SECTION. THE SYSTEM OF CALCULATING A  
13 DISTRICT'S PUPIL ENROLLMENT BASED ON THE AVERAGE NUMBER OF DAYS  
14 THAT A PUPIL IS ENROLLED IN THE DISTRICT SHALL BE KNOWN AS THE  
15 DISTRICT'S AVERAGE DAILY MEMBERSHIP.

16 (b) FOR THE PURPOSES OF THIS SECTION, "LOCAL EDUCATION  
17 PROVIDER IMPACT" MEANS THE IMPACT ON A LOCAL EDUCATION PROVIDER  
18 AS DEFINED IN SECTION 22-35-103, AND SHALL INCLUDE, BUT NEED NOT BE  
19 LIMITED TO, THE FISCAL IMPACT OF A NEW STUDENT COUNT METHOD, THE  
20 PROJECTED CHANGE IN A LOCAL EDUCATION PROVIDER'S FUNDED PUPIL  
21 COUNTS, THE ADMINISTRATIVE IMPACT OF A NEW STUDENT COUNT  
22 METHOD, NECESSARY STAFFING CHANGES THAT WOULD RESULT FROM A  
23 CHANGE IN THE STUDENT COUNT METHOD, AND NECESSARY INFORMATION  
24 TECHNOLOGY CHANGES THAT WOULD BE NECESSARY TO GATHER AND  
25 TRANSMIT DATA REQUIRED FOR THE NEW STUDENT COUNT METHOD.

26 (2) THE DEPARTMENT OF EDUCATION SHALL CONTRACT FOR A  
27 STUDY TO EVALUATE THE FEASIBILITY, LOCAL EDUCATION PROVIDER

1 IMPACT, AND DESIGN OF AN AVERAGE DAILY MEMBERSHIP SYSTEM OF  
2 DETERMINING A DISTRICT'S PUPIL ENROLLMENT PURSUANT TO THIS  
3 SECTION ONLY IF THE DEPARTMENT RECEIVES GIFTS, GRANTS, OR  
4 DONATIONS IN AN AMOUNT SUFFICIENT TO CONDUCT A STUDY PURSUANT  
5 TO THIS SECTION.

6 (3) THE ENTITY CONDUCTING THE STUDY SHALL INCORPORATE  
7 INTO THE STUDY CONDUCTED PURSUANT TO THIS SECTION ANY PREVIOUS  
8 STUDIES CONDUCTED OR INFORMATION GATHERED REGARDING AVERAGE  
9 DAILY MEMBERSHIP. THE STAFF OF THE SCHOOL FINANCE UNIT OF THE  
10 DEPARTMENT OF EDUCATION SHALL OVERSEE THE STUDY AND PROVIDE  
11 SUPPORT TO THE ENTITY CONDUCTING THE STUDY. [REDACTED]

12 (4) IF THE DEPARTMENT OF EDUCATION RECEIVES MONEYS  
13 SUFFICIENT TO IMPLEMENT THE PROVISIONS OF THIS SECTION PURSUANT TO  
14 SUBSECTION (2) OF THIS SECTION, THE DEPARTMENT SHALL PROVIDE  
15 WRITTEN NOTIFICATION TO THE HOUSE AND SENATE EDUCATION  
16 COMMITTEES, OR ANY SUCCESSOR COMMITTEES, AND TO THE REVISOR OF  
17 STATUTES AND SHALL INDICATE THE DATE BY WHICH THE DEPARTMENT IS  
18 AUTHORIZED TO SPEND SUCH MONEYS TO CONTRACT FOR AN AVERAGE  
19 DAILY MEMBERSHIP STUDY PURSUANT TO THIS SECTION.

20 (5) AN ADVISORY COMMITTEE SHALL BE APPOINTED PURSUANT TO  
21 SUBSECTION (6) OF THIS SECTION. THE ENTITY CONDUCTING THE STUDY  
22 SHALL CONSULT WITH THE ADVISORY COMMITTEE. THE AREAS OF STUDY  
23 SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING:

24 (a) RESEARCH REGARDING THE INCENTIVES OF COUNT DATES ON  
25 SCHOOL ATTENDANCE AND ENROLLMENT;

26 (b) THE ADVANTAGES AND DISADVANTAGES OF DIFFERENT  
27 STUDENT ENROLLMENT COUNT METHODS;

1           (c) POLICIES IN OTHER STATES REGARDING STUDENT ENROLLMENT  
2           COUNTS AND THE EFFECTS OF THOSE POLICIES;

3           (d) A COST ANALYSIS OF DEVELOPING A DATA SYSTEM TO  
4           IMPLEMENT AN ALTERNATIVE COUNT DATE SYSTEM TO THE SYSTEM  
5           SPECIFIED IN THIS ARTICLE;

6           (e) THE EFFECTS THAT ALTERNATIVE COUNT DATE MECHANISMS  
7           WOULD HAVE ON THE AMOUNT OF FUNDING THAT LOCAL EDUCATION  
8           PROVIDERS RECEIVE INDIVIDUALLY AND STATEWIDE;

9           (f) VARIOUS METHODS AND TIMELINESS FOR IMPLEMENTING AN  
10           ALTERNATIVE COUNT DATE MECHANISM; AND

11           (g) INPUT FROM THE ADVISORY COMMITTEE.

12           (6) THE ADVISORY COMMITTEE SHALL BE COMPRISED OF  
13           SEVENTEEN MEMBERS WHO SHALL BE APPOINTED AS FOLLOWS:

14           (a) THE PRESIDENT OF THE SENATE SHALL APPOINT ONE SENATOR;

15           (b) THE MINORITY LEADER OF THE SENATE SHALL APPOINT ONE  
16           SENATOR;

17           (c) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL  
18           APPOINT ONE REPRESENTATIVE;

19           (d) THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES  
20           SHALL APPOINT ONE REPRESENTATIVE;

21           (e) THE COMMISSIONER OF EDUCATION SHALL APPOINT ONE  
22           EMPLOYEE FROM THE DEPARTMENT OF EDUCATION;

23           (f) THE GOVERNOR SHALL APPOINT ONE EMPLOYEE OF THE  
24           GOVERNOR'S OFFICE;

25           (g) THE STATE BOARD OF EDUCATION SHALL APPOINT THE  
26           FOLLOWING MEMBERS:

27           (I) ONE MEMBER OF THE STATE BOARD OF EDUCATION;

1           (II) ONE PERSON WHO REPRESENTS A NATIONAL EDUCATION  
2 RESEARCH OR POLICY ORGANIZATION;

3           (III) THREE PEOPLE WHO REPRESENT ONE OR MORE  
4 COLORADO-BASED EDUCATION, RESEARCH, POLICY, OR ADVOCACY  
5 GROUPS;

6           (IV) TWO PEOPLE WHO REPRESENT ONE OR MORE ORGANIZATIONS  
7 THAT REPRESENT DISTRICT ADMINISTRATORS, WITH ONE PERSON FROM AN  
8 URBAN DISTRICT AND ONE PERSON FROM A RURAL DISTRICT;

9           (V) TWO PEOPLE WHO REPRESENT ONE OR MORE ORGANIZATIONS  
10 THAT REPRESENT LOCAL BOARDS OF EDUCATION, WITH ONE PERSON FROM  
11 AN URBAN DISTRICT AND ONE PERSON FROM A RURAL DISTRICT;

12           (VI) ONE PERSON WHO REPRESENTS A STATEWIDE TEACHER'S  
13 ASSOCIATION; AND

14           (VII) ONE PERSON WHO REPRESENTS THE EDUCATION DATA  
15 ADVISORY COMMITTEE CREATED IN SECTION 22-2-304.

16           (7) THE PRIVATE OR PRIVATE NONPROFIT ORGANIZATION WITH  
17 WHICH THE DEPARTMENT OF EDUCATION CONTRACTS TO CONDUCT THE  
18 STUDY SHALL PROVIDE THE NECESSARY STAFF SUPPORT AND  
19 ADMINISTRATIVE SERVICES TO THE ADVISORY COMMITTEE APPOINTED  
20 PURSUANT TO THIS SECTION. THE ADVISORY COMMITTEE MEMBERS MAY  
21 BE REIMBURSED FOR THEIR ACTUAL EXPENSES INCURRED IN CONNECTION  
22 WITH SERVING ON THE ADVISORY COMMITTEE BUT SHALL NOT RECEIVE  
23 ANY ADDITIONAL PAYMENT OR COMPENSATION IN CONNECTION WITH SUCH  
24 SERVICE.

25           (8) THE DEPARTMENT OF EDUCATION SHALL SUBMIT TO THE OFFICE  
26 OF THE GOVERNOR, THE STATE BOARD, AND THE MEMBERS OF THE  
27 EDUCATION COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE

1 SENATE, OR ANY SUCCESSOR COMMITTEES, A REPORT SUMMARIZING THE  
2 FINDINGS AND RECOMMENDATIONS FROM THE AVERAGE DAILY  
3 MEMBERSHIP STUDY NO LATER THAN DECEMBER 15, 2010.

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

8 (10) (a) THE DEPARTMENT OF EDUCATION IS HEREBY AUTHORIZED  
9 TO RECEIVE FUNDING FOR THE FINANCING OF THE AVERAGE DAILY  
10 MEMBERSHIP STUDY INCLUDING BUT NOT LIMITED TO FUNDING FROM  
11 PUBLIC OR PRIVATE GIFTS, GRANTS, OR DONATIONS. ANY MONEYS  
12 RECEIVED PURSUANT TO THIS SUBSECTION (10) SHALL BE CREDITED TO THE  
13 AVERAGE DAILY MEMBERSHIP STUDY FUND CREATED IN PARAGRAPH (b) OF  
14 THIS SUBSECTION (10).

15 (b) THERE IS HEREBY CREATED IN THE STATE TREASURY THE  
16 AVERAGE DAILY MEMBERSHIP STUDY FUND, REFERRED TO IN THIS  
17 PARAGRAPH (b) AS THE "FUND". THE FUND SHALL CONSIST OF ANY  
18 MONEYS CREDITED TO THE FUND PURSUANT TO PARAGRAPH (a) OF THIS  
19 SUBSECTION (10). ALL MONEYS CREDITED TO THE FUND AND ANY  
20 INTEREST AND INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF  
21 MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY  
22 THE GENERAL ASSEMBLY FOR FUNDING THE AVERAGE DAILY MEMBERSHIP  
23 STUDY PURSUANT TO THIS SECTION; EXCEPT THAT THE GENERAL  
24 ASSEMBLY MAY APPROPRIATE UP TO THREE PERCENT OF THE MONEYS IN  
25 THE FUND TO THE DEPARTMENT OF EDUCATION FOR THE ADMINISTRATIVE  
26 AND INDIRECT COSTS INCURRED BY THE DEPARTMENT IN CONNECTION  
27 WITH THE STUDY REQUIRED PURSUANT TO THIS SECTION. ANY MONEYS

1       REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN  
2       THE FUND AND SHALL NOT BE TRANSFERRED TO THE GENERAL FUND.

3           (11) THIS SECTION IS REPEALED, EFFECTIVE ONE YEAR AFTER THE  
4       DATE THE DEPARTMENT OF EDUCATION PROVIDES THE WRITTEN NOTICE  
5       SPECIFIED PURSUANT TO SUBSECTION (4) OF THIS SECTION. IMMEDIATELY  
6       PRECEDING THE REPEAL OF THIS SECTION, THE STATE TREASURER SHALL  
7       TRANSFER ANY MONEYS REMAINING IN THE FUND TO THE STATE  
8       EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE IX OF THE  
9       STATE CONSTITUTION.

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