

Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO

INTRODUCED

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

**House Committees**

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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.*

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) 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 FEASABILITY, 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.