

**NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**

# An Act

SENATE BILL 10-008

BY SENATOR(S) Johnston, Romer, Bacon, Boyd, Gibbs, Harvey, Heath, Hodge, Keller, Kester, Morse, Newell, Penry, Schwartz, Shaffer B., Spence, Whitehead, Williams;  
also REPRESENTATIVE(S) Scanlan, Massey, Middleton, Apuan, Ferrandino, Fischer, Gardner B., Kerr A., Kerr J., Labuda, McFadyen, Pace, Schafer S., Summers, Vigil.

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

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

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

**22-54-135. Average daily membership study - fund created - repeal.** (1) (a) SUBJECT TO THE PROVISIONS OF SUBSECTION (2) OF THIS SECTION, THE DEPARTMENT OF EDUCATION SHALL CONTRACT WITH A PRIVATE OR PRIVATE NONPROFIT COLORADO-BASED EDUCATION POLICY OR RESEARCH ORGANIZATION TO CONDUCT A STUDY TO EVALUATE THE FEASIBILITY, LOCAL EDUCATION PROVIDER IMPACT, AND DESIGN OF A

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

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

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

(2) THE DEPARTMENT OF EDUCATION SHALL CONTRACT FOR A STUDY TO EVALUATE THE FEASIBILITY, LOCAL EDUCATION PROVIDER IMPACT, AND DESIGN OF AN AVERAGE DAILY MEMBERSHIP SYSTEM OF DETERMINING A DISTRICT'S PUPIL ENROLLMENT PURSUANT TO THIS SECTION ONLY IF THE DEPARTMENT RECEIVES GIFTS, GRANTS, OR DONATIONS IN AN AMOUNT SUFFICIENT TO CONDUCT A STUDY PURSUANT TO THIS SECTION.

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

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

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

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

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

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

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

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

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

(g) INPUT FROM THE ADVISORY COMMITTEE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) THE DEPARTMENT OF EDUCATION SHALL SUBMIT TO THE OFFICE OF THE GOVERNOR, THE STATE BOARD, AND THE MEMBERS OF THE EDUCATION COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, A REPORT SUMMARIZING THE FINDINGS AND RECOMMENDATIONS FROM THE AVERAGE DAILY MEMBERSHIP STUDY NO LATER THAN DECEMBER 15, 2010.

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

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

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

THE DEPARTMENT IN CONNECTION WITH THE STUDY REQUIRED PURSUANT TO THIS SECTION. ANY MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE TRANSFERRED TO THE GENERAL FUND.

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

**SECTION 2. Safety clause.** The general assembly hereby finds,

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

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Brandon C. Shaffer  
PRESIDENT OF  
THE SENATE

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Terrance D. Carroll  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Karen Goldman  
SECRETARY OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_

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Bill Ritter, Jr.  
GOVERNOR OF THE STATE OF COLORADO