

Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

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**

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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 DEPARTMENT OF EDUCATION SHALL INCORPORATE INTO  
7 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. UPON CONCLUSION OF  
12 THE STUDY, THE DEPARTMENT SHALL SUBMIT ITS FINDINGS TO THE  
13 EDUCATION DATA ADVISORY COMMITTEE CREATED IN SECTION 22-2-304  
14 FOR REVIEW AND SHALL INCLUDE ANY COMMENTS OR RECOMMENDATIONS  
15 FROM THE ADVISORY COMMITTEE IN THE REPORT SUBMITTED TO THE  
16 GENERAL ASSEMBLY PURSUANT TO SUBSECTION (5) OF THIS SECTION.

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

25 (5) AN ADVISORY COMMITTEE SHALL BE APPOINTED PURSUANT TO  
26 SUBSECTION (6) OF THIS SECTION. THE ENTITY CONDUCTING THE STUDY  
27 SHALL CONSULT WITH THE ADVISORY COMMITTEE. THE AREAS OF STUDY

- 1 SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING:
- 2 (a) RESEARCH REGARDING THE INCENTIVES OF COUNT DATES ON  
3 SCHOOL ATTENDANCE AND ENROLLMENT;
- 4 (b) THE ADVANTAGES AND DISADVANTAGES OF DIFFERENT  
5 STUDENT ENROLLMENT COUNT METHODS;
- 6 (c) POLICIES IN OTHER STATES REGARDING STUDENT ENROLLMENT  
7 COUNTS AND THE EFFECTS OF THOSE POLICIES;
- 8 (d) A COST ANALYSIS OF DEVELOPING A DATA SYSTEM TO  
9 IMPLEMENT AN ALTERNATIVE COUNT DATE SYSTEM TO THE SYSTEM  
10 SPECIFIED IN THIS ARTICLE;
- 11 (e) THE EFFECTS THAT ALTERNATIVE COUNT DATE MECHANISMS  
12 WOULD HAVE ON THE AMOUNT OF FUNDING THAT LOCAL EDUCATION  
13 PROVIDERS RECEIVE INDIVIDUALLY AND STATEWIDE;
- 14 (f) VARIOUS METHODS AND TIMELINESS FOR IMPLEMENTING AN  
15 ALTERNATIVE COUNT DATE MECHANISM; AND
- 16 (g) INPUT FROM THE ADVISORY COMMITTEE.
- 17 (6) THE ADVISORY COMMITTEE SHALL BE COMPRISED OF SIXTEEN  
18 MEMBERS WHO SHALL BE APPOINTED AS FOLLOWS:
- 19 (a) THE PRESIDENT OF THE SENATE SHALL APPOINT ONE SENATOR;
- 20 (b) THE MINORITY LEADER OF THE SENATE SHALL APPOINT ONE  
21 SENATOR;
- 22 (c) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL  
23 APPOINT ONE REPRESENTATIVE;
- 24 (d) THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES  
25 SHALL APPOINT ONE REPRESENTATIVE;
- 26 (e) THE COMMISSIONER OF EDUCATION SHALL APPOINT ONE  
27 EMPLOYEE FROM THE DEPARTMENT OF EDUCATION;

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

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

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

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

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

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

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

17           (VI) ONE PERSON WHO REPRESENTS A STATEWIDE TEACHER'S  
18 ASSOCIATION.

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

1           (8) THE DEPARTMENT OF EDUCATION SHALL SUBMIT TO THE OFFICE  
2 OF THE GOVERNOR, THE STATE BOARD, AND THE MEMBERS OF THE  
3 EDUCATION COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE  
4 SENATE, OR ANY SUCCESSOR COMMITTEES, A REPORT SUMMARIZING THE  
5 FINDINGS AND RECOMMENDATIONS FROM THE AVERAGE DAILY  
6 MEMBERSHIP STUDY NO LATER THAN JANUARY 15, 2011.

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

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

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

1     THE FUND TO THE DEPARTMENT OF EDUCATION FOR THE ADMINISTRATIVE  
2     AND INDIRECT COSTS INCURRED BY THE DEPARTMENT IN CONNECTION  
3     WITH THE STUDY REQUIRED PURSUANT TO THIS SECTION. ANY MONEYS  
4     REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN  
5     THE FUND AND SHALL NOT BE TRANSFERRED TO THE GENERAL FUND.

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

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