

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 12-0909.01 Nicole Myers x4326

HOUSE BILL 12-1345

HOUSE SPONSORSHIP

Massey,

SENATE SPONSORSHIP

Bacon,

House Committees

Education
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE FINANCING OF PUBLIC SCHOOLS, AND, IN**
102 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill amends the "Public School Finance Act of 1994" (act) to modify the funding for public schools from kindergarten through the twelfth grade for the 2012-13 budget year and, in some circumstances, for budget years thereafter, as follows:

Statewide base per pupil funding. For the 2012-13 budget year,

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.

the statewide base per pupil funding is increased to \$5,843.26 to account for a 3.7% inflation rate.

Negative factor. During the 2010 and 2011 legislative sessions, the general assembly amended the act for the 2010-11 budget year and budget years thereafter to reduce the amount of the annual appropriation to fund the state's share of total program funding for all school districts and the funding for institute charter schools (total program funding) to assist in stabilizing the state budget. The general assembly accomplished the reduction to each district through a calculation that resulted in a factor, called the negative factor, to be applied to each district's total program funding amount in the applicable budget year.

For the 2012-13 budget year, the general assembly has determined that application of the negative factor to total program funding is necessary, but without an additional reduction in the amount of the annual appropriation to fund the state's share of total program funding. For the 2012-13 budget year, the bill increases the total program funding amount by approximately \$57,000,000 compared with the amount currently required in law to account for increases in student enrollment.

Charter school capital construction. Currently, \$5 million from the state education fund is annually appropriated for capital construction costs for all eligible districts and for all eligible institute charter schools. For the 2012-13 budget year and each budget year thereafter, the appropriation from the state education fund for charter school capital construction costs is increased to \$6 million.

In addition to the changes to the act, the bill modifies other provisions related to funding for public schools as follows:

Supplemental on-line education services contracts. Beginning on August 1, 2012, subject to available appropriations, the mountain board of cooperative services (BOCES) shall contract every 3 years, rather than every year, with an entity that sells supplemental on-line education courses to provide such courses to school districts, charter schools, and BOCES that choose to purchase the courses.

Assistance for meeting state educational priorities. Beginning in the 2012-13 fiscal year, the bill provides additional moneys for a BOCES to assist its participating school districts in implementing and meeting the state's educational priorities as determined by the commissioner of education every 3 years. To receive additional moneys, a BOCES must submit a plan to the state board of education (state board) that details how the BOCES will use the moneys to assist its participating school districts in implementing and meeting the state's educational priorities.

A BOCES may collaborate with one or more adjoining BOCES and with a school district that is contiguous to the area of the BOCES, but that is not a member of the BOCES, for the delivery of services that will assist school districts in implementing and meeting the state's educational

priorities. If a BOCES chooses not to submit a plan to the state board, the department of education will determine a method to allow one or more of the member school districts of the BOCES to submit an individual plan to the state board and to receive moneys to assist the district in implementing and meeting the state's educational priorities.

The bill appropriates \$1,300,000 from the state education fund to assist school districts in implementing and meeting the state's educational priorities and specifies how the department of education is required to distribute the moneys.

Children with disabilities. The definition of "children with disabilities" is clarified to include persons 3 through 8 years old who have been determined to be children experiencing developmental delays, as defined in the code of federal regulations.

Counselor corps. The appropriation from the state education fund for the 2012-13 fiscal year is increased by \$480,000 for the school counselor corps program.

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

2 **SECTION 1.** In Colorado Revised Statutes, 22-54-104, **amend**
3 **as added by House Bill 12-1201** (5) (g) (I) (C); and **add** (5) (a) (XIX) as
4 follows:

5 **22-54-104. District total program.** (5) For purposes of the
6 formulas used in this section:

7 (a) (XIX) FOR THE 2012-13 BUDGET YEAR, THE STATEWIDE BASE
8 PER PUPIL FUNDING IS \$5,843.26, WHICH IS AN AMOUNT EQUAL TO
9 \$5,634.77 SUPPLEMENTED BY \$208.49 TO ACCOUNT FOR INFLATION.

10 (g) (I) For the 2010-11 budget year and each budget year
11 thereafter, the general assembly determines that stabilization of the state
12 budget requires a reduction in the amount of the annual appropriation to
13 fund the state's share of total program funding for all districts and the
14 funding for institute charter schools. The department of education shall
15 implement the reduction in total program funding through the application
16 of a negative factor as provided in this paragraph (g). For the 2010-11

1 budget year and each budget year thereafter, the department of education
2 and the staff of the legislative council shall determine, based on budget
3 projections, the amount of such reduction to ensure the following:

4 (C) That, for the 2012-13 budget year, the sum of the total
5 program funding for all districts, including the funding for institute
6 charter schools, after application of the negative factor, is not less than
7 ~~five billion two hundred twenty-nine million five hundred sixty thousand~~
8 ~~three hundred forty-six dollars (\$5,229,560,346)~~ FIVE BILLION TWO
9 HUNDRED EIGHTY-SIX MILLION EIGHT HUNDRED NINETY-EIGHT THOUSAND
10 THREE HUNDRED EIGHTY-TWO DOLLARS (\$5,286,898,382); except that the
11 department of education and the staff of the legislative council shall make
12 mid-year revisions to replace projections with actual figures including,
13 but not limited to, actual pupil enrollment, assessed valuations, and
14 specific ownership tax revenue from the prior year, to determine any
15 necessary changes in the amount of the reduction to maintain a total
16 program funding amount for the 2012-13 budget year that is consistent
17 with this sub-subparagraph (C).

18 **SECTION 2.** In Colorado Revised Statutes, 22-54-124, **amend**
19 (3) (a) (III) (A) as follows:

20 **22-54-124. State aid for charter schools - use of state education**
21 **fund moneys - definitions.** (3) (a) (III) (A) The total amount of state
22 education fund moneys to be appropriated for all eligible districts and for
23 all eligible institute charter schools for the 2003-04 ~~2004-05, 2005-06,~~
24 ~~and 2007-08 budget years and each budget year thereafter~~ THROUGH
25 2011-12 BUDGET YEARS shall be an amount equal to five million dollars;
26 EXCEPT THAT, for the 2006-07 budget year, ~~seven~~ AN ADDITIONAL TWO
27 million eight hundred thousand dollars shall be appropriated for all

1 ~~eligible districts and for all eligible institute charter schools from the state~~
2 ~~education fund.~~ FROM THE STATE EDUCATION FUND AND SHALL BE USED
3 FOR THE PURPOSES OF THIS SECTION, AND for the 2008-09 budget year, an
4 additional one hundred thirty-five thousand dollars shall be appropriated
5 from the state education fund and shall be distributed pursuant to section
6 22-54-133, as said section existed prior to its repeal in 2010. THE TOTAL
7 AMOUNT OF STATE EDUCATION FUND MONEYS TO BE APPROPRIATED FOR
8 ALL ELIGIBLE DISTRICTS AND FOR ALL ELIGIBLE INSTITUTE CHARTER
9 SCHOOLS FOR THE 2012-13 BUDGET YEAR AND EACH BUDGET YEAR
10 THEREAFTER IS SIX MILLION DOLLARS.

11 **SECTION 3.** In Colorado Revised Statutes, 22-5-103, **amend** (2)
12 as follows:

13 **22-5-103. Definitions.** As used in this article, unless the context
14 otherwise requires:

15 (2) "Board of cooperative services" OR "BOCES" means a regional
16 educational service unit designed to provide supporting, instructional,
17 administrative, facility, community, or any other services contracted by
18 participating members.

19 **SECTION 4.** In Colorado Revised Statutes, 22-5-119, **amend** (3)
20 introductory portion as follows:

21 **22-5-119. Supplemental on-line education services - legislative**
22 **declaration - contract.** (3) On or before August 1, 2007, and on or
23 before August 1 of each year thereafter THROUGH AUGUST 1, 2011, AND
24 ON OR BEFORE AUGUST 1, 2012, AND ON OR BEFORE AUGUST 1 OF EVERY
25 THIRD YEAR THEREAFTER, the mountain BOCES, subject to available
26 appropriations, shall contract with a provider ~~on an annual basis~~ to
27 provide supplemental on-line education courses to school districts, charter

1 schools, and BOCES that choose to purchase the courses. At a minimum,
2 the contract shall provide that:

3 **SECTION 5.** In Colorado Revised Statutes, **add 22-5-122** as
4 follows:

5 **22-5-122. Assistance for implementing and meeting state**
6 **educational priorities - financing.** (1) (a) FOR THE 2012-13 FISCAL
7 YEAR AND EACH FISCAL YEAR THEREAFTER, A BOCES MAY RECEIVE
8 STATE MONEYS IN ADDITION TO ANY OTHER MONEYS RECEIVED PURSUANT
9 TO THIS ARTICLE BY SUBMITTING A PLAN TO THE STATE BOARD, IN A FORM
10 AND MANNER SPECIFIED BY RULE OF THE STATE BOARD, THAT DETAILS
11 HOW THE BOCES WILL USE THE ADDITIONAL MONEYS TO ASSIST ITS
12 PARTICIPATING SCHOOL DISTRICTS IN IMPLEMENTING AND MEETING THE
13 STATE'S EDUCATIONAL PRIORITIES AS DETERMINED BY THE COMMISSIONER
14 OF EDUCATION PURSUANT TO SUBSECTION (2) OF THIS SECTION. THE STATE
15 BOARD MAY SPECIFY ADDITIONAL INFORMATION THAT BOCES ARE
16 REQUIRED TO INCLUDE IN A PLAN SUBMITTED PURSUANT TO THIS
17 PARAGRAPH (a).

18 (b) FOR THE 2012-13 FISCAL YEAR, A BOCES THAT SEEKS
19 ADDITIONAL MONEYS SHALL SUBMIT A PLAN PURSUANT TO PARAGRAPH (a)
20 OF THIS SUBSECTION (1) TO THE STATE BOARD ON OR BEFORE AUGUST 1,
21 2012. FOR THE 2013-14 FISCAL YEAR AND EACH FISCAL YEAR
22 THEREAFTER, A BOCES THAT SEEKS ADDITIONAL MONEYS SHALL SUBMIT
23 A PLAN PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) TO THE
24 STATE BOARD ON OR BEFORE MAY 1 OF THE PRECEDING FISCAL YEAR.

25 (c) FOR THE 2013-14 FISCAL YEAR, AND EACH FISCAL YEAR
26 THEREAFTER, IF A BOCES THAT SUBMITS A PLAN TO THE STATE BOARD
27 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) ALSO SUBMITTED

1 A PLAN IN THE PREVIOUS FISCAL YEAR, THE BOCES SHALL INCLUDE A
2 REPORT DETAILING THE RESULTS OF THE PREVIOUS YEAR'S PLAN IN ITS NEW
3 PLAN SUBMISSION.

4 (2) ON OR BEFORE JUNE 1, 2012, ON OR BEFORE MARCH 1, 2015,
5 AND ON OR BEFORE MARCH 1 EVERY THIRD YEAR THEREAFTER, THE
6 COMMISSIONER OF EDUCATION, IN CONSULTATION WITH A STATEWIDE
7 ASSOCIATION IN THE STATE THAT REPRESENTS ONE OR MORE BOCES IN
8 THE STATE AND A COUNCIL CREATED BY THE COMMISSIONER OF
9 EDUCATION THAT ADVISES THE COMMISSIONER AND THE DEPARTMENT OF
10 EDUCATION REGARDING THE NEEDS AND CONCERNS OF RURAL SCHOOL
11 DISTRICTS IN THE STATE, SHALL DETERMINE THE STATE'S EDUCATIONAL
12 PRIORITIES FOR THE PURPOSES OF THIS SECTION. THE PRIORITIES MAY
13 INCLUDE, BUT NEED NOT BE LIMITED TO, EDUCATOR EFFECTIVENESS,
14 SCHOOL DISTRICT ACCREDITATION AND ACCOUNTABILITY, AND
15 STANDARDS AND ASSESSMENTS FOR PRESCHOOL THROUGH ELEMENTARY
16 AND SECONDARY EDUCATION.

17 (3) A BOCES MAY DEVELOP A MEMORANDUM OF UNDERSTANDING
18 WITH A SCHOOL DISTRICT THAT IS CONTIGUOUS TO THE AREA OF THE
19 BOCES, BUT THAT IS NOT A MEMBER OF THE BOCES, TO ENABLE THE
20 DISTRICT TO PARTICIPATE WITH THE BOCES IN THE PLAN SUBMITTED
21 PURSUANT TO SUBSECTION (1) OF THIS SECTION. IN ADDITION, TWO OR
22 MORE ADJOINING BOCES MAY COLLABORATE REGARDING THE
23 IMPLEMENTATION OF A PLAN SUBMITTED PURSUANT TO THIS SECTION.

24 (4) (a) THE DEPARTMENT OF EDUCATION SHALL ESTABLISH A
25 METHOD TO ALLOW THE MEMBER SCHOOL DISTRICTS OF A BOCES THAT
26 CHOOSES NOT TO SUBMIT A PLAN PURSUANT TO PARAGRAPH (a) OF
27 SUBSECTION (1) OF THIS SECTION TO SUBMIT A PLAN AS A CONSORTIUM OF

1 DISTRICTS OR AS A NEWLY FORMED BOCES TO THE STATE BOARD AND TO
2 RECEIVE MONEYS TO ASSIST THE DISTRICTS IN IMPLEMENTING AND
3 MEETING THE STATE EDUCATIONAL PRIORITIES AS DETERMINED PURSUANT
4 TO SUBSECTION (2) OF THIS SECTION.

5 (b) A MEMBER DISTRICT OF A BOCES THAT HAS SUBMITTED A
6 PLAN PURSUANT TO SUBSECTION (1) OF THIS SECTION MAY CHOOSE NOT TO
7 PARTICIPATE IN THE BOCES PLAN TO ASSIST THE MEMBER DISTRICTS IN
8 IMPLEMENTING AND MEETING THE STATE'S EDUCATIONAL PRIORITIES. IF
9 A MEMBER DISTRICT CHOOSES NOT TO PARTICIPATE, THE BOCES SHALL
10 WORK WITH THE OTHER MEMBER DISTRICTS IN THE BOCES TO IMPLEMENT
11 THE PLAN.

12 (5) (a) THE GENERAL ASSEMBLY MAY APPROPRIATE MONEYS TO
13 THE DEPARTMENT OF EDUCATION FOR THE PURPOSES OF THIS SECTION. OF
14 THE AMOUNT APPROPRIATED, THE DEPARTMENT MAY RETAIN UP TO ONE
15 HUNDRED TWENTY THOUSAND DOLLARS ANNUALLY FOR THE PURPOSE OF
16 FUNDING A DEPARTMENTAL LIAISON FOR RURAL SCHOOL DISTRICTS AND
17 UP TO FIFTY THOUSAND DOLLARS ANNUALLY FOR THE PURPOSE OF
18 FUNDING THE DEPARTMENT'S ONGOING SUPPORT OF A COUNCIL CREATED
19 BY THE COMMISSIONER OF EDUCATION THAT ADVISES THE COMMISSIONER
20 AND THE DEPARTMENT REGARDING THE NEEDS AND CONCERNS OF RURAL
21 SCHOOL DISTRICTS. THE DEPARTMENT SHALL DISTRIBUTE THE REMAINING
22 AMOUNT AS SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (5).

23 (b) THE DEPARTMENT OF EDUCATION SHALL DISTRIBUTE THE
24 REMAINING AMOUNT APPROPRIATED BY THE GENERAL ASSEMBLY FOR THE
25 PURPOSES OF THIS SECTION, AFTER SUBTRACTING THE AMOUNTS SPECIFIED
26 IN PARAGRAPH (a) OF THIS SUBSECTION (5), AS FOLLOWS:

27 (I) EQUALLY DISTRIBUTE FORTY-FIVE PERCENT TO THE BOCES

1 THAT SUBMIT PLANS PURSUANT TO SUBSECTION (1) OF THIS SECTION;

2 (II) DISTRIBUTE FORTY-FIVE PERCENT BASED ON THE TOTAL
3 NUMBER OF MEMBER SCHOOL DISTRICTS OF THE PARTICIPATING BOCES
4 AND NONMEMBER SCHOOL DISTRICTS THAT PARTICIPATE WITH THE
5 BOCES AS DETAILED IN A MEMORANDUM OF UNDERSTANDING ENTERED
6 INTO PURSUANT TO SUBSECTION (3) OF THIS SECTION; AND

7 (III) DISTRIBUTE TEN PERCENT BASED ON THE TOTAL NUMBER OF
8 STUDENTS ENROLLED IN THE MEMBER SCHOOL DISTRICTS OF THE
9 PARTICIPATING BOCES AND ENROLLED IN THE NONMEMBER SCHOOL
10 DISTRICTS THAT PARTICIPATE WITH THE BOCES AS DETAILED IN A
11 MEMORANDUM OF UNDERSTANDING ENTERED INTO PURSUANT TO
12 SUBSECTION (3) OF THIS SECTION.

13 (c) ANY STATE MONEYS APPROPRIATED BY THE GENERAL
14 ASSEMBLY FOR THE PURPOSES OF THIS SECTION SHALL NOT BE USED TO
15 SUPPLANT THE LEVEL OF STATE MONEYS APPROPRIATED TO SUPPORT AND
16 FOR USE BY BOCES DURING THE 2011-12 FISCAL YEAR.

17 (6) THE STATE BOARD SHALL PROMULGATE RULES PURSUANT TO
18 THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24,
19 C.R.S., FOR THE ADMINISTRATION OF THIS SECTION.

20 (7) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT, FOR
21 PURPOSES OF SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION, A
22 PROGRAM TO ASSIST SCHOOL DISTRICTS IN IMPLEMENTING AND MEETING
23 THE STATE'S EDUCATIONAL PRIORITIES IS A PROGRAM FOR ACCOUNTABLE
24 EDUCATION REFORM AND MAY THEREFORE RECEIVE FUNDING FROM THE
25 STATE EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE IX OF
26 THE STATE CONSTITUTION.

27 **SECTION 6.** In Colorado Revised Statutes, 22-20-103, **amend**

1 (5) (a) (I) (K) and (5) (a) (I) (L); **repeal** (5) (a) (I) (M); and **add** (5) (a)
2 (III) as follows:

3 **22-20-103. Definitions.** As used in this part 1, unless the context
4 otherwise requires:

5 (5) (a) "Children with disabilities" means:

6 (I) Those persons from three to twenty-one years of age who, by
7 reason of one or more of the following conditions, are unable to receive
8 reasonable benefit from general education:

9 (K) A visual impairment, including blindness; AND

10 (L) Deaf-blindness. ~~and~~

11 (M) ~~A preschooler with a disability.~~

12 (III) THOSE PERSONS FROM THREE THROUGH EIGHT YEARS OF AGE
13 WHO HAVE BEEN DETERMINED PURSUANT TO 34 CFR 300.8 (b) TO BE
14 CHILDREN EXPERIENCING DEVELOPMENTAL DELAYS.

15 **SECTION 7. Appropriation - adjustments in 2012 long bill.**

16 (1) For the implementation of this act, appropriations made in the annual
17 general appropriation act to the department of education for the fiscal
18 year beginning July 1, 2012, are adjusted as follows:

19 (a) The cash funds appropriation for the school counselor corps
20 program is increased by \$480,000. Said sum is from the state education
21 fund created in section 17 (4) (a) of article IX of the state constitution.

22 **SECTION 8. Appropriation.** In addition to any other
23 appropriation, there is hereby appropriated, out of any moneys in the state
24 education fund created in section 17 (4) (a) of article IX of the state
25 constitution, not otherwise appropriated, to the department of education,
26 for the fiscal year beginning July 1, 2012, the sum of \$1,300,000, or so
27 much thereof as may be necessary, for the implementation of section

1 22-5-122, Colorado Revised Statutes.

2 **SECTION 9. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, and safety.