

**STATE and LOCAL
FISCAL IMPACT**

Drafting Number: LLS 13-0243
Prime Sponsor(s): Rep. Buckner; Navarro

Date: February 18, 2013
Bill Status: House Education
Fiscal Analyst: Josh Abram (303-866-3561)

TITLE: CONCERNING ENGLISH LANGUAGE PROFICIENCY PROGRAMS IN PUBLIC SCHOOLS.

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
State Revenue		
State Expenditures General Fund	See State Expenditures section.	
FTE Position Change	4.5 FTE	4.5 FTE
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2013-2014: None required. See State Appropriations section.		
School District Impact: See School District Impact section.		

Summary of Legislation

This bill repeals and reenacts the English Language Proficiency Act (ELPA), recreating a state program providing supplemental funding to local education providers to implement English language proficiency programs.

Under both federal and state law, all local education providers (LEP) (school districts, the state Charter School Institute (CSI), and facility schools) are required to provide an ELL program for English language learners. Under this bill, LEPs are also required to:

- develop a process by which a student's academic performance, growth, and language proficiency will determine exit from the program and also a process for students to reenter the program, if necessary;
- certify to the Colorado Department of Education (CDE) that their ELL program is in compliance with state and federal laws, and that state funding is being used to implement a proficiency program; and
- provide detailed program budgets and year-end expenditure reports to the CDE.

Under current law, the CDE has responsibility to allocate both federal money and state money used to supplement ELL funding in school districts. Under this bill, the CDE is also required to:

- annually review statewide levels of English language proficiency for ELLs;
- assist LEPs to develop, implement, and evaluate ELL programs;
- monitor each LEP's program based on student performance and the LEPs compliance with program requirements outlined in the bill;
- allocate and track state funding to LEPs, including budget and expenditure review;
- administer an awards program for LEPs that achieve the highest academic growth and successfully transition the highest percentages of ELL students out of the program.

The General Assembly is required to appropriate money annually to the CDE for the implementation of the bill. The CDE may retain five percent of the appropriation for administrative purposes and five percent to make awards. Ninety percent of the appropriation must be provided to LEPs on a per-student basis. Each ELL student may remain qualified for state funding for up to seven budget years.

Background

School districts receive state funding through a variety of programs designed to special groups of students or student needs. The state constitution designates a group of these programs as "categorical programs, including English language proficiency programs. In FY2012-13, it is estimated there are 124,701 English language learners in 139 school districts.

The General Assembly is required to increase the sum of funding for all categorical programs by at least the rate of inflation each year; however, the total amount appropriated and the allocation across categorical programs is determined by the General Assembly. These appropriations are primarily paid from the General Fund and the State Education Fund.

ELPA provides financial assistance to districts to serve students whose dominant language is not English. Districts are required to identify, assess, and provide programs for students in the following classifications:

- A) students who do not comprehend or speak any English;
- B) students who comprehend or speak some English but whose predominant language is not English; and
- C) students who comprehend and speak English and at least one other language, whose dominant language is difficult to determine, and who score at or below average on state or national tests, or below an acceptable level on a state-developed test.

ELPA funding is disbursed on a per-pupil basis to districts for up to two years for each participating student. Three quarters of the appropriation is allocated to A and B students and one quarter is allocated for C students. The total appropriation for ELPA in FY 2012-13 is about \$25.8 million, including \$14.5 million in state funds, and \$11.3 million in federal funds. The CDE employs 4.6 FTE with the federal portion of the appropriation.

State Expenditures

The total state expenditure for ELL programs is unchanged by the bill. The CDE will have increased FTE beginning FY 2013-14. The CDE is permitted to retain five percent of the ELL appropriation for administrative purposes and five percent to make grant awards. The CDE's administrative cost to implement the bill is estimated below. If the department retains and spends more than this estimate, less money will be available for per-pupil funding allocation to districts.

For FY 2013-14, new expenses are for staff at the CDE to implement the oversight and accountability requirements in the bill, and to coordinate the grant awards program. New staff are required to:

- establish and implement accountability criteria, policies, and practices for local instruction of ELLs;
- assist local education providers to assess and identify ELL students;
- monitor and evaluate local ELL programs including budgetary oversight;
- track and disaggregate testing data to measure the academic progress of students identified as ELL;
- develop and implement a competitive grant program;
- provide administrative support across multiple departments at the CDE and school districts;
- allocate categorical funding on a per pupil basis for up to seven years; and
- prepare an annual report.

In addition to staff support, the CDE will have increased costs for printing and website updates, for legal assistance from the Department of Law, and for travel. Total expenses are displayed in Table 1.

Table 1. Expenditures Under HB13-1211		
Cost Components	FY 2013-14	FY 2014-15
Personal Services	\$311,029	\$311,029
FTE	4.5	4.5
Operating Expenses	4,275	4,275
Capital Expenses	21,164	-
Travel, printing, misc.	21,200	21,200
Legal Services	3,090	1,545
TOTAL	\$360,758	\$338,049

This bill does not increase the total categorical appropriation for English language programs. Rather, the bill increases costs for the CDE to monitor and enforce program accountability in school districts. The expenses identified above may be spent by the CDE without increasing the total categorical appropriation for ELL programs; however, the General Assembly may also choose to appropriate this expense in addition to the historical amount of support for ELL programs. If the appropriation is not increased, the amount available for distribution to school districts on a per-pupil basis is reduced.

Expenditures Not Included

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are summarized in Table 2.

Table 2. Expenditures Not Included Under HB13-1211*		
Cost Components	FY 2013-14	FY 2014-15
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$30,338	\$30,338
Supplemental Employee Retirement Payments	\$19,091	\$21,599
TOTAL	\$49,429	\$51,937

**More information is available at: <http://colorado.gov/fiscalnotes>*

School District Impact

Total funding provided to school districts is unchanged by the bill. Districts may now count students for per-pupil funding for up to seven years; however, this does not change the total amount of funding that flows to districts for ELL programs in a budget year. As more students are counted for allocation of available funds, per-pupil amounts will likely decrease, given the additional time ELL students are eligible for funding. This fiscal note will be revised as additional data becomes available to forecast district level impacts.

Pursuant to Section 22-32-143, C.R.S., as specified by House Bill 11-1277, school districts and Boards of Cooperative Educational Services (BOCES) may submit estimates of fiscal impacts within seven days of a bill's introduction. As of the date of this fiscal note, no summaries of fiscal impacts were submitted by districts or BOCES for this bill. If summaries of fiscal impacts are submitted by districts or BOCES in the future, they will be noted in subsequent revisions to the fiscal note and posted at this address: <http://www.colorado.gov/lcs>

State Appropriations

No appropriation is required. The funding necessary to implement the bill is provided in the annual Long Bill. The state portion of the categorical appropriation for ELPA in FY 2012-13 is \$14,460,255. Assuming an increase of 1.7 percent, reflecting an inflationary gain, the state portion of the appropriation for FY 2013-14 is anticipated to be \$14,706,079; however, the General Assembly may choose to appropriate a different amount.

The annual Long Bill appropriates funding to aid public schools to implement statutorily required programs (special education programs for children with disabilities and ELPA). Categorical funding for all programs combined must increase by inflation, but the actual allocation of funding across categorical programs is defined by the legislature via the Long Bill.

Departments Contacted

Education

Law