

*Colorado Legislative Council Staff Fiscal Note*

**STATE and LOCAL  
REVISED FISCAL IMPACT**

(replaces fiscal note dated February 18, 2013)

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| <b>Drafting Number:</b> LLS 13-0243                            | <b>Date:</b> April 8, 2013                       |
| <b>Prime Sponsor(s):</b> Rep. Buckner; Navarro<br>Sen. Roberts | <b>Bill Status:</b> House Appropriations         |
|  | <b>Fiscal Analyst:</b> Josh Abram (303-866-3561) |

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**TITLE:** CONCERNING ENGLISH LANGUAGE PROFICIENCY PROGRAMS IN PUBLIC SCHOOLS.

| <b>Fiscal Impact Summary</b>   | <b>FY 2013-2014</b> | <b>FY 2014-2015</b> |
|--|---------------------|---------------------|
| <b>State Revenue</b>   |                     |                     |
| <b>State Expenditures</b>  |                     |                     |
| State Education Fund   |                     |                     |
| Colorado Department of Education   | \$482,234           | \$450,926           |
| Excellence Award Fund  | 250,000             | 250,000             |
| Professional Development and Student Support Fund  | 6,267,766           | 6,299,074           |
| <b>FTE Position Change</b>   | 6.0 FTE             | 6.0 FTE             |
| <b>Effective Date:</b> Upon signature of the Governor, or upon becoming law without his signature. |                     |                     |
| <b>Appropriation Summary for FY 2013-2014:</b> See State Appropriations section.                   |                     |                     |
| <b>School District Impact:</b> See School District Impact section.                                 |                     |                     |

**Summary of Legislation**

This bill, *as amended by the House Education Committee*, repeals and reenacts the English Language Proficiency Act (ELPA), recreating a state program providing supplemental funding to local education providers (LEP) (school districts, the state Charter School Institute, and facility schools) to implement English language proficiency programs. The Colorado Department of Education (CDE) is required to allocate state money to a LEP for each student receiving services from an English language proficiency program. LEPs may receive an allocation for each student for up to five budget years.

Under both federal and state law, each LEP is 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;
- report and certify to the CDE the number of non-English language learners enrolled in ELL programs;
- assure the CDE that their ELL program is in compliance with state and federal laws; and
- provide detailed program budgets and year-end expenditure reports.

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:

- identify the English language proficiency assessments to be used by LEPs;
- annually review statewide levels of English language proficiency for ELLs;
- assist LEPs to develop, implement, and evaluate ELL programs, including the provision of guidance documents and technical assistance;
- monitor each LEP's program based on student performance and the LEP's compliance with program requirements outlined in the bill; and
- allocate and track state funding to LEPs, including budget and expenditure review.

***English Language Proficiency Act Excellence Award Program (award program).*** The bill creates a program to provide grant awards to LEPs that achieve the highest English language and academic growth among English language learners who transition out of a program. The State Board of Education (SBE) must create rules and set the award amount based on the student enrollment in qualifying LEPs. The CDE will administer the program and allocate awards. Each LEP that receives an award must submit data analysis of its ELL program and report how award money was used. The CDE must make the information reported available to other LEPs and to the public.

***Professional Development and Student Support Program (support program).*** The CDE will also administer a support program to provide moneys to LEPs to offset costs incurred in complying with the new act, to support professional development for ELL educators, and to expand programs to assist ELL students in achieving greater content proficiency. The CDE will calculate the allocation from the support program to LEPs on a pro rata basis, based on ELL enrollment and the amount appropriated to fund the program by the General Assembly.

The CDE is permitted to use 2.5 percent of moneys allocated from these two newly created program funds for administrative overhead. The new programs may receive appropriations from the State Education Fund. Finally, the bill is repealed July 1, 2015, if Senate Bill 13-213 (the proposed new school finance act) becomes law.

## **Background**

ELPA provides financial assistance to districts who serve students whose dominant language is not English. As of FY2012-13, it is estimated there are 124,701 English language learners in 139 school districts. School districts receive state funding through a variety of programs designed to serve special groups of students or student needs. The state constitution designates a group of these programs as "categorical programs," including English language proficiency programs. 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 categorical funding is disbursed on a per-pupil basis to districts for up to two years for each participating student. The total appropriation proposed for ELPA in the 2013 Long Bill is about \$26.4 million, including

\$15.2 million in state funds and \$11.2 million in federal funds. House Bill 13-1211 makes \$7.0 million in additional funding available for the two new programs. This funding is separate from what is provided through the existing categorical program.

**State Expenditures**

*For both FY 2013-14 and FY 2014-15, state expenditures increase by \$7.0 million. The administrative cost for the Colorado Department of Education is \$482,234 and 6.0 FTE for FY 2013-14 and \$450,926 and 6.0 FTE for FY 2014-15. New funding for district ELL programs is about \$6.5 million in each year.*

For FY 2013-14, new expenses are for staff at the CDE to implement the oversight and accountability requirements in the bill, and to allocate supplemental funding to LEPs for ELL programs. New staff in the CDE 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 an awards program and a professional development and student support program; and
- provide administrative and technical assistance across LEPs.

The department will also have increased costs for printing and website updates, for legal assistance from the Department of Law, and for travel. Total expenses are estimated in Table 1.

| <b>Table 1. Expenditures Under HB13-1211</b>         |                    |                    |
|--|--------------------|--------------------|
| <b>Cost Components</b>                               | <b>FY 2013-14</b>  | <b>FY 2014-15</b>  |
| Personal Services                                    | \$424,426          | \$424,426          |
| FTE  | 6.0                | 6.0                |
| Operating Expenses                                   | 5,700              | 5,700              |
| Capital Expenses                                     | 28,218             | -                  |
| Travel, printing, misc.                              | 20,800             | 20,800             |
| Legal Services                                       | 3,090              | -                  |
| ELPA Excellence Awards Program                       | \$250,000          | \$250,000          |
| Professional Development and Student Support Program | \$6,267,766        | \$6,299,074        |
| <b>TOTAL</b>   | <b>\$7,000,000</b> | <b>\$7,000,000</b> |

This bill does not increase the categorical appropriation for English language programs. Rather, the bill requires that the CDE monitor and enforce program accountability in school districts, and creates two new programs in the department to allocate additional funding to LEPs for their ELL programs. The bill authorizes funding for the new programs and the CDE's administrative expenses from the State Education Fund.

### **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.

| <b>Table 2. Expenditures Not Included Under HB13-1211*</b>           |                   |                   |
|--|-------------------|-------------------|
| <b>Cost Components</b>   | <b>FY 2013-14</b> | <b>FY 2014-15</b> |
| Employee Insurance (Health, Life, Dental, and Short-term Disability) | \$40,467          | \$40,467          |
| Supplemental Employee Retirement Payments                            | \$26,051          | \$29,474          |
| <b>TOTAL</b>   | <b>\$66,518</b>   | <b>\$69,941</b>   |

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

### **School District Impact**

***Total funding provided to LEPs for ELL programs increases by about \$6.5 million for FY 2013-14 and FY 2014-15.*** In addition, LEPs may now count students for per-pupil funding for up to five years, and be eligible to receive award grants from the CDE for the continued academic growth of ELL students. As more students are counted for allocation, total per-pupil funding will increase for some LEPs, and others may be eligible for awards or other state support.

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**

For FY 2013-14, this bill requires an appropriation of \$7.0 million from the State Education Fund in the following amounts:

- \$482,234 and 6.0 FTE to the Colorado Department of Education;
- \$6,267,766 to the ELPA Professional Development and Student Support Fund; and
- \$250,000 to the ELPA Excellence Awards Fund.

**Departments Contacted**

Education

Law