

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 16-1208.01 Brita Darling x2241

HOUSE BILL 16-1422

HOUSE SPONSORSHIP

Hamner and Rankin,

SENATE SPONSORSHIP

Lambert and Steadman,

House Committees

Education
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING FINANCING PUBLIC SCHOOLS.**

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 sets the statewide base per pupil funding amount for the 2016-17 budget year at \$6,367.90, which is an inflationary increase of 1.2%, and establishes the minimum amount of total program funding for the 2016-17 budget year. For the 2017-18 budget year, the difference between the amount of statewide total program funding calculated without the negative factor and the amount of statewide total program funding calculated with the negative factor cannot exceed the dollar amount of that difference for the 2016-17 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.*

Under current law, if a school district's calculated funded pupil count for a budget year, or as averaged over a period of years, is fewer than 50 pupils, the district's minimum funded pupil count is set at 50 pupils. The bill changes the minimum funded pupil count for a budget year to 25 pupils, if the district's calculated funded pupil count is 19 or fewer pupils, and 40 pupils, if the district's calculated funded pupil count is at least 20 but fewer than 35 pupils. The minimum funded pupil count remains at 50 pupils if the district's calculated funded pupil count is at least 35 but fewer than 50 pupils.

The bill adjusts the size factor for a school district by increasing the number of pupils to 5,000 or more for application of the flat factor, and adjusts the factor for districts with at least 2,293 but fewer than 5,000 pupils to increase the funding for districts with at least 2,293 pupils.

Under certain circumstances, current law requires a school district to use property tax revenue to replace, on a pro rata basis, any categorical program support funds that the school district receives from the state. The bill requires the school district to replace the categorical program support funds by the end of the budget year in which the funds were paid to the school district. If unpaid, the commissioner of education (commissioner) is required to withhold the amount due, with interest, from any state money due to the district for any reason, commencing in the budget year immediately following the budget year in which the school district fails to replace the categorical program support funds. The commissioner may waive accrued interest upon payment of the amount due from the school district.

The bill permits the state board of education to provide supplemental assistance from the contingency reserve fund to a school district that experiences an unusual financial burden due to a significant decline in the assessed value of real property of the district that results in the school district receiving a state share of total program funding that is reduced by the negative factor when the school district in the previous budget year did not receive state share. The district must reimburse the contingency reserve fund by June 30 of the budget year following the budget year in which the district receives the supplemental assistance payment.

In a budget year in which a school district's total program mill levy would be reduced because the local property tax revenues received from the total program mill levy exceed the district's total program and categorical buyout requirements, the bill authorizes the school district to continue levying the same number of mills. The school district must deposit the revenues generated by the excess mills in the school district's total program reserve fund and may use the revenues only to replace state share lost as a result of the negative factor.

Under current law, the public school capital construction assistance board (board) may provide financial assistance in the form of

matching grants to school districts or public schools (applicants) for capital construction on school facilities that are owned by the applicant or that the applicant has the right to own through a lease-purchase agreement. The bill permits the board to award financial assistance in the form of matching grants to an applicant for a public school that is operated or will operate in a state-owned, leased facility that is listed on the state inventory of real property and improvements and other capital assets maintained by the office of the state architect or state-owned property leased by the state board of land commissioners to the applicant. The board shall adopt rules relating to the award of financial assistance in these circumstances.

The bill makes a conforming amendment to the definition of facility school funding for purposes of state assistance for career and technical education to reflect that facility schools receive funding based on pupil enrollment multiplied by an amount equal to 1.73 of the statewide base per pupil funding for the applicable budget year, rather than the state average per pupil revenues.

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

2 **SECTION 1.** In Colorado Revised Statutes, 22-54-104, **add** (5)

3 (a) (XXIII) and (5) (g) (I) (G) as follows:

4 **22-54-104. District total program - definitions.** (5) For
5 purposes of the formulas used in this section:

6 (a) (XXIII) FOR THE 2016-17 BUDGET YEAR, THE STATEWIDE BASE
7 PER PUPIL FUNDING IS \$6,367.90, WHICH IS AN AMOUNT EQUAL TO
8 \$6,292.39, SUPPLEMENTED BY \$75.51 TO ACCOUNT FOR INFLATION.

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

1 and the staff of the legislative council shall determine, based on budget
2 projections, the amount of such reduction to ensure the following:

3 (G) THAT, FOR THE 2016-17 BUDGET YEAR, THE SUM OF THE TOTAL
4 PROGRAM FUNDING FOR ALL DISTRICTS, INCLUDING THE FUNDING FOR
5 INSTITUTE CHARTER SCHOOLS, AFTER APPLICATION OF THE NEGATIVE
6 FACTOR, IS NOT LESS THAN SIX BILLION THREE HUNDRED NINETY-FOUR
7 MILLION NINE HUNDRED FORTY-NINE THOUSAND TWO HUNDRED SEVENTY
8 DOLLARS (\$6,394,949,270); [REDACTED] EXCEPT THAT THE DEPARTMENT OF
9 EDUCATION AND THE STAFF OF THE LEGISLATIVE COUNCIL SHALL MAKE
10 MID-YEAR REVISIONS TO REPLACE PROJECTIONS WITH ACTUAL FIGURES,
11 INCLUDING BUT NOT LIMITED TO ACTUAL PUPIL ENROLLMENT, ASSESSED
12 VALUATIONS, AND SPECIFIC OWNERSHIP TAX REVENUE FROM THE PRIOR
13 YEAR, TO DETERMINE ANY NECESSARY CHANGES IN THE AMOUNT OF THE
14 REDUCTION TO MAINTAIN A TOTAL PROGRAM FUNDING AMOUNT FOR THE
15 APPLICABLE BUDGET YEAR THAT IS CONSISTENT WITH THIS
16 SUB-SUBPARAGRAPH (G). FOR THE 2017-18 BUDGET YEAR, THE
17 DIFFERENCE BETWEEN CALCULATED STATEWIDE TOTAL PROGRAM
18 FUNDING AND ACTUAL STATEWIDE TOTAL PROGRAM FUNDING MUST NOT
19 EXCEED THE DIFFERENCE BETWEEN CALCULATED STATEWIDE TOTAL
20 PROGRAM FUNDING AND ACTUAL STATEWIDE TOTAL PROGRAM FUNDING
21 FOR THE 2016-17 BUDGET YEAR.

22 **SECTION 2.** In Colorado Revised Statutes, 22-54-103, **amend**
23 (7) (e) (VI); and **add** (7) (e) (VII) as follows:

24 **22-54-103. Definitions.** As used in this article, unless the context
25 otherwise requires:

26 (7) "Funded pupil count" means:

27 (e) (VI) Notwithstanding any provision of this paragraph (e) to the

1 contrary, for the 2013-14 budget year and each budget year thereafter
2 THROUGH THE 2015-16 BUDGET YEAR, for the purposes of this subsection
3 (7), if a district's funded pupil count calculated pursuant to this subsection
4 (7) for a budget year is fewer than fifty pupils, the district's funded pupil
5 count for the budget year is fifty pupils.

6 (VII) NOTWITHSTANDING ANY PROVISION OF THIS PARAGRAPH (e)
7 TO THE CONTRARY, FOR THE 2016-17 BUDGET YEAR AND EACH BUDGET
8 YEAR THEREAFTER, FOR THE PURPOSES OF THIS SUBSECTION (7), IF A
9 DISTRICT'S FUNDED PUPIL COUNT CALCULATED PURSUANT TO THIS
10 SUBSECTION (7) FOR A BUDGET YEAR IS:

11 (A) AT LEAST THIRTY-FIVE BUT FEWER THAN FIFTY PUPILS, THE
12 DISTRICT'S FUNDED PUPIL COUNT FOR THE BUDGET YEAR IS FIFTY PUPILS;

13 (B) AT LEAST TWENTY BUT FEWER THAN THIRTY-FIVE PUPILS, THE
14 DISTRICT'S FUNDED PUPIL COUNT FOR THE BUDGET YEAR IS FORTY PUPILS;

15 OR

16 (C) NINETEEN OR FEWER PUPILS, THE DISTRICT'S FUNDED PUPIL
17 COUNT IS TWENTY-FIVE PUPILS.

18 **SECTION 3.** In Colorado Revised Statutes, 22-54-104, **amend**
19 (5) (b) (I.5) as follows:

20 **22-54-104. District total program - definitions.** (5) For
21 purposes of the formulas used in this section:

22 (b) (I.5) A district's size factor for the 2003-04 budget year and
23 budget years thereafter shall be determined in accordance with the
24 following formula:

| 25 If the district's funded | The district's size |
|------------------------------------|---------------------------------------|
| 26 pupil count is: | factor shall be: |
| 27 Less than 276 | 1.5457 + (0.00376159 x the difference |

| | | |
|----|--------------------------------|--|
| 1 | | between the funded pupil count |
| 2 | | and 276) |
| 3 | 276 or more but less | 1.2385 + (0.00167869 x the difference |
| 4 | than 459 | between the funded pupil count |
| 5 | | and 459) |
| 6 | 459 or more but less | 1.1215 + (0.00020599 x the difference |
| 7 | than 1,027 | between the funded pupil count |
| 8 | | and 1,027) |
| 9 | 1,027 or more but less | 1.0533 + (0.00005387 x the difference |
| 10 | than 2,293 | between the funded pupil count |
| 11 | | and 2,293) |
| 12 | 2,293 or more but less | 1.0297 + (0.00001364 0.000008717 x |
| 13 | than 4,023 5,000 | the difference between the funded |
| 14 | | pupil count and 4,023 5,000) |
| 15 | 4,023 5,000 or more | 1.0297 |

16 **SECTION 4.** In Colorado Revised Statutes, 22-54-107, **amend**
17 (2) introductory portion as follows:

18 **22-54-107. Buy-out of categorical programs.** (2) When a
19 district receives property tax revenue from the additional levy made
20 pursuant to subsection (1) of this section or when a district has elected to
21 keep excess property tax revenue collected during the 1992 calendar year
22 pursuant to the provisions of section 22-44-103.5 (2) (b) (III) (C) or (2)
23 (c) (III), ~~such~~ THE DISTRICT SHALL USE THE property tax revenue ~~shall be~~
24 ~~used~~ to replace, on a pro rata basis, any categorical program support funds
25 that ~~such~~ THE district would otherwise be eligible to receive from the
26 state. THE DISTRICT SHALL REPLACE THE CATEGORICAL PROGRAM SUPPORT
27 FUNDS BY JUNE 30 OF THE BUDGET YEAR IN WHICH THE DISTRICT

1 COLLECTS THE PROPERTY TAX REVENUE. THE COMMISSIONER OF
2 EDUCATION SHALL RECOVER ANY UNPAID CATEGORICAL PROGRAM
3 SUPPORT FUNDS AS PROVIDED IN SECTION 22-2-112 (5). THE DEPARTMENT
4 OF EDUCATION SHALL USE the amount of categorical program support
5 funds replaced by property tax revenue pursuant to the provisions of this
6 subsection (2) ~~shall be used~~ to make payments of categorical program
7 support funds to eligible districts. ~~and, in the event that~~ If the
8 appropriations for categorical programs are less than the total categorical
9 program support funds to which districts are entitled under applicable
10 provisions of law, ~~such~~ THE DEPARTMENT OF EDUCATION SHALL APPLY
11 THE funds ~~shall be applied~~ to categorical programs in the following order:

12 **SECTION 5.** In Colorado Revised Statutes, 22-2-112, **add** (5) as
13 follows:

14 **22-2-112. Commissioner - duties.** (5) IF A SCHOOL DISTRICT
15 FAILS TO REPLACE CATEGORICAL PROGRAM SUPPORT FUNDS AS REQUIRED
16 IN SECTION 22-54-107, THE COMMISSIONER SHALL WITHHOLD FROM ANY
17 STATE MONEY DUE TO THE SCHOOL DISTRICT FOR ANY REASON THE UNPAID
18 AMOUNT OF CATEGORICAL PROGRAM SUPPORT FUNDS RECOVERABLE FROM
19 THE SCHOOL DISTRICT. THE COMMISSIONER SHALL WITHHOLD THE STATE
20 MONEY COMMENCING IN THE BUDGET YEAR IMMEDIATELY FOLLOWING THE
21 BUDGET YEAR IN WHICH THE SCHOOL DISTRICT FAILS TO PAY THE
22 RECOVERABLE AMOUNT. THE COMMISSIONER SHALL ASSESS AND RECOVER
23 AN INTEREST FEE ON THE UNPAID AMOUNT, BEGINNING JULY 1, AT A RATE
24 THAT IS EQUAL TO THE EARNINGS ON THE TREASURY POOLED FUNDS FOR
25 THE PREVIOUS FISCAL YEAR; EXCEPT THAT THE COMMISSIONER MAY WAIVE
26 ACCRUED INTEREST UPON RECOVERY OF THE UNPAID AMOUNT.

27 **SECTION 6.** In Colorado Revised Statutes, 22-54-117, **as added**

1 by Senate Bill 16-066, add (1) (a) (VIII) and (1) (c.5) as follows:

2 22-54-117. Contingency reserve - capital construction
3 expenditures reserve - fund - lottery proceeds contingency reserve.

4 (1) (a) For the 2007-08 fiscal year and fiscal years thereafter, the general
5 assembly shall annually determine the amount to appropriate to the
6 contingency reserve fund, which is hereby created in the state treasury. In
7 deciding the amount to appropriate to the contingency reserve fund, the
8 general assembly may take into consideration any recommendations made
9 by the department of education, but nothing in this section obligates the
10 general assembly to provide supplemental assistance to all districts that
11 are found to be in need or to fully fund the total amount of such need. The
12 state board may approve and order payments from the contingency
13 reserve fund for supplemental assistance to districts determined to be in
14 need as the result of any or all of the following circumstances:

15 (VIII) UNUSUAL FINANCIAL BURDEN CAUSED BY A SIGNIFICANT
16 REDUCTION IN THE ASSESSED VALUE OF REAL PROPERTY IN A DISTRICT
17 THAT DID NOT RECEIVE A STATE SHARE OF TOTAL PROGRAM FUNDING
18 PURSUANT TO SECTION 22-54-106 IN THE PREVIOUS BUDGET YEAR,
19 CAUSING THE DISTRICT TO RECEIVE A STATE SHARE OF TOTAL PROGRAM
20 FUNDING IN THE BUDGET YEAR IN WHICH THE ASSESSED VALUE IS
21 REDUCED, WHICH STATE SHARE IS REDUCED BY THE APPLICATION OF THE
22 NEGATIVE FACTOR PURSUANT TO SECTION 22-54-104(5) (g). THE AMOUNT
23 OF SUPPLEMENTAL ASSISTANCE PAID PURSUANT TO THIS SUBPARAGRAPH
24 (VIII) SHALL NOT EXCEED THE AMOUNT OF THE REDUCTION IN THE
25 DISTRICT'S STATE SHARE AS A RESULT OF THE NEGATIVE FACTOR.

26 (c.5) IF THE STATE BOARD MAKES A PAYMENT OF SUPPLEMENTAL
27 ASSISTANCE BASED ON THE CIRCUMSTANCES DESCRIBED IN

1 SUBPARAGRAPH (VIII) OF PARAGRAPH (a) OF THIS SUBSECTION (1), THE
2 DISTRICT SHALL REIMBURSE THE FULL AMOUNT OF THE PAYMENT TO THE
3 CONTINGENCY RESERVE FUND BY JUNE 30 OF THE BUDGET YEAR
4 IMMEDIATELY FOLLOWING THE BUDGET YEAR IN WHICH THE
5 SUPPLEMENTAL ASSISTANCE PAYMENT IS MADE.

6 **SECTION 7.** In Colorado Revised Statutes, 22-54-107, **add** (5)
7 as follows:

8 **22-54-107. Buy-out of categorical programs - total program**
9 **reserve fund levy.** (5) FOR THE 2016-17 BUDGET YEAR AND EACH
10 BUDGET YEAR THEREAFTER, IF A DISTRICT LEVIES THE NUMBER OF MILLS
11 CALCULATED PURSUANT TO SECTION 22-54-106 (2) (a) (II) AND THE
12 ADDITIONAL MILL LEVY DESCRIBED IN SUBSECTION (1) OF THIS SECTION
13 FOR CATEGORICAL SUPPORT FUNDS, AND THE COMBINED TOTAL OF THE
14 TWO LEVIES IS LESS THAN THE NUMBER OF MILLS THAT THE DISTRICT
15 LEVIED IN THE PRECEDING BUDGET YEAR, THE DISTRICT, IN ADDITION TO
16 THE TWO LEVIES, SHALL ASSESS A NUMBER OF MILLS EQUAL TO THE
17 DIFFERENCE BETWEEN THE COMBINED TOTAL OF THE TWO LEVIES AND THE
18 NUMBER OF MILLS LEVIED IN THE PRECEDING BUDGET YEAR. THE DISTRICT
19 SHALL DEPOSIT THE PROPERTY TAX REVENUE COLLECTED FROM THE MILLS
20 LEVIED PURSUANT TO THIS SUBSECTION (5) IN THE TOTAL PROGRAM
21 RESERVE FUND CREATED IN SECTION 22-45-103 (1) (j).

22 **SECTION 8.** In Colorado Revised Statutes, 22-45-103, **add** (1)
23 (j) as follows:

24 **22-45-103. Funds.** (1) The following funds are created for each
25 school district for purposes specified in this article:

26 (j) **Total program reserve fund.** A SCHOOL DISTRICT SHALL
27 DEPOSIT THE PROPERTY TAX REVENUES THAT IT COLLECTS FROM A TAX

1 LEVY IMPOSED PURSUANT TO SECTION 22-54-107 (5) IN THE TOTAL
2 PROGRAM RESERVE FUND OF THE DISTRICT. THE DISTRICT MAY EXPEND
3 MONEY FROM THE TOTAL PROGRAM RESERVE FUND ONLY TO OFFSET THE
4 AMOUNT OF A REDUCTION IN THE DISTRICT'S STATE SHARE CAUSED BY
5 APPLICATION OF THE NEGATIVE FACTOR PURSUANT TO SECTION 22-54-104
6 (5) (g); EXCEPT THAT, IN A BUDGET YEAR IN WHICH THE SCHOOL DISTRICT
7 LEVIES FOR ITS TOTAL PROGRAM THE NUMBER OF MILLS CALCULATED
8 PURSUANT TO SECTION 22-54-106 (2) (a) (II), IF THE BALANCE OF THE
9 TOTAL PROGRAM RESERVE FUND EXCEEDS AN AMOUNT EQUAL TO THE
10 DISTRICT'S TOTAL PROGRAM FOR THAT BUDGET YEAR MULTIPLIED BY THE
11 NEGATIVE FACTOR CALCULATED PURSUANT TO SECTION 22-54-104 (5) (g)
12 FOR THAT BUDGET YEAR, THE DISTRICT MAY EXPEND THE AMOUNT OF THE
13 EXCESS BALANCE. ANY MONEY REMAINING IN THE FUND AT THE END OF A
14 FISCAL YEAR MUST REMAIN IN THE FUND AND MAY BE USED IN FUTURE
15 YEARS ONLY AS PROVIDED IN THIS PARAGRAPH (j).

16 **SECTION 9.** In Colorado Revised Statutes, 22-43.7-109, **add**
17 (1.5) as follows:

18 **22-43.7-109. Financial assistance for public school capital**
19 **construction - application requirements - evaluation criteria - local**
20 **match requirements - rules.** (1.5) (a) NOTWITHSTANDING ANY
21 PROVISION OF THIS ARTICLE TO THE CONTRARY, FOR FISCAL YEARS
22 COMMENCING ON OR AFTER JULY 1, 2016, AND SUBJECT TO RULES
23 ADOPTED BY THE BOARD PURSUANT TO PARAGRAPH (b) OF THIS
24 SUBSECTION (1.5), THE BOARD, WITH THE SUPPORT OF THE DIVISION AND
25 SUBJECT TO THE APPROVAL OF THE STATE BOARD AND THE LESSOR OF THE
26 PROPERTY, MAY PROVIDE FINANCIAL ASSISTANCE AS SPECIFIED IN THIS
27 SECTION TO AN APPLICANT THAT IS OPERATING OR WILL OPERATE IN THE

1 NEXT BUDGET YEAR IN A LEASED FACILITY THAT IS:

2 (I) LISTED ON THE STATE INVENTORY OF REAL PROPERTY AND
3 IMPROVEMENTS AND OTHER CAPITAL ASSETS MAINTAINED BY THE OFFICE
4 OF THE STATE ARCHITECT PURSUANT TO SECTION 24-30-1303.5, C.R.S.; OR

5 (II) STATE-OWNED PROPERTY LEASED BY THE STATE BOARD OF
6 LAND COMMISSIONERS, DESCRIBED IN SECTION 36-1-101.5, C.R.S., TO THE
7 APPLICANT.

8 (b) THE BOARD SHALL PROMULGATE RULES RELATING TO THE
9 AWARD OF FINANCIAL ASSISTANCE PURSUANT TO THIS SUBSECTION (1.5).

10 (c) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT AN AWARD
11 OF FINANCIAL ASSISTANCE PURSUANT TO THIS SUBSECTION (1.5) MUST BE
12 USED TO PRESERVE OR ENHANCE THE VALUE OF STATE-OWNED, LEASED
13 PROPERTY.

14 **SECTION 10.** In Colorado Revised Statutes, 23-8-101.5, **amend**
15 (4) (d) as follows:

16 **23-8-101.5. Definitions.** As used in this article, unless the context
17 otherwise requires:

18 (4) "Education provider's per pupil revenues" means:

19 (d) For a facility school, the ~~state average per pupil revenues~~
20 AMOUNT RECEIVED BY A FACILITY SCHOOL PURSUANT TO SECTION
21 22-54-129 (2) (c) (II), C.R.S.

22 **SECTION 11. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, and safety.