

Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO

**REENGROSSED**

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

LLS NO. 10-0033.01 Richard Sweetman

**SENATE BILL 10-062**

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**SENATE SPONSORSHIP**

**Steadman,**

**HOUSE SPONSORSHIP**

**Peniston,**

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**Senate Committees**  
Education

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE EXISTING CATEGORICAL EDUCATION PROGRAMS**  
102 **DESCRIBED BY SECTION 17 OF ARTICLE IX OF THE STATE**  
103 **CONSTITUTION.**

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**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 eliminates the requirement that the allocation of the increases in funding for categorical education programs be reflected in the annual general appropriation bill. Instead, the general assembly will annually pass a bill, other than the annual general appropriation bill, that

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  
March 9, 2010

SENATE  
Amended 2nd Reading  
March 8, 2010

establishes the allocation of the increases in funding for categorical education programs. The staff of the joint budget committee will make recommendations annually to the education committees of the house of representatives and senate concerning the allocation of the increases in funding for categorical education programs.

The bill repeals the Colorado comprehensive health education fund and credits the moneys remaining in the fund on the repeal date to the state public school fund.

The bill requires the department of education to increase annually the amount of moneys distributed to each administrative unit for each child with disabilities receiving special education services from the administrative unit, which increase shall reflect the percentage increase in funding for special education programs for children with disabilities from the previous budget year to the current budget year.

The bill amends provisions of the education statutes to replace the term "student whose dominant language is not English" with "student with limited English proficiency".

The bill makes conforming amendments.

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

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3                   **SECTION 1.** 22-25-105 (3), Colorado Revised Statutes, is  
4 amended to read:

5                   **22-25-105. Review of local comprehensive health education**  
6 **programs and local student wellness programs - allocation of funds**  
7 **by the state board of education.** (3) (a) The state board of education  
8 shall establish a review and prioritization process for the allocation of  
9 available funds to school districts, boards of cooperative services, and  
10 facility schools based upon applications submitted to the department of  
11 education and giving due consideration to the guidelines developed  
12 pursuant to section 22-25-104 (3) (a). Funding may be made available to  
13 districts or facility schools to implement portions of a comprehensive  
14 health education program or portions of a local student wellness program  
15 that are coordinated with health education, according to the needs of the

1 individual school district or facility school. Pursuant to the review and  
2 prioritization process, the state board of education shall allocate available  
3 funds to the applying school districts, boards of cooperative services, and  
4 facility schools based on whether the state board of education finds that  
5 a school district, a board of cooperative services, or a facility school has  
6 planned or developed a local comprehensive health education program or  
7 a local school wellness program that will serve the objectives of this  
8 article. Funding for local comprehensive health education programs and  
9 local school wellness programs may include, but shall not be limited to,  
10 the implementation of training programs, in-service education institutes,  
11 and curriculum development programs for staff who shall instruct in  
12 comprehensive health education or for staff who shall instruct in or  
13 otherwise provide services through student wellness programs that are  
14 coordinated with health education. The state board of education shall not  
15 allocate funds to school districts, boards of cooperative services, or  
16 facility schools pursuant to the provisions of this subsection (3) until the  
17 department determines the amount of money that will be available for  
18 allocation. ~~from the Colorado comprehensive health education fund.~~

19 (b) If SUFFICIENT moneys are not available ~~in the Colorado~~  
20 ~~comprehensive health education fund sufficient~~ to fund programs in every  
21 school district, the department may establish pilot programs for school  
22 districts that express an interest in developing or expanding a local  
23 comprehensive health education program or one or more components of  
24 a local student wellness program, ~~that~~ WHICH COMPONENTS include and  
25 are coordinated with health education, and in which DISTRICTS there is a  
26 need for a program.

27 (c) ~~(f) Notwithstanding any provision of this section to the~~

1 contrary, in any budget year in which the amount of moneys available in  
2 the Colorado comprehensive health education fund, created in section  
3 22-25-109, is equal to or less than the amount available for the 2007-08  
4 budget year, the state board shall not allocate moneys to a local student  
5 wellness program.

6 (H) ~~In any budget year in which the amount of moneys available~~  
7 ~~in the Colorado comprehensive health education fund exceeds the amount~~  
8 ~~available for the 2007-08 budget year, the total amount of moneys that the~~  
9 ~~state board may allocate to local student wellness programs shall not~~  
10 ~~exceed the difference between the amount available in the fund in the~~  
11 ~~applicable budget year and the amount available in the fund in the~~  
12 ~~2007-08 budget year.~~

13 **SECTION 2.** 22-25-109, Colorado Revised Statutes, is amended  
14 BY THE ADDITION OF A NEW SUBSECTION to read:

15 **22-25-109. Colorado comprehensive health education fund -**  
16 **creation - acceptance of funds - repeal.** (3) THIS SECTION IS REPEALED  
17 EFFECTIVE JULY 1, 2010. ANY MONEYS REMAINING IN THE COLORADO  
18 COMPREHENSIVE HEALTH EDUCATION FUND ON JULY 1, 2010, SHALL BE  
19 CREDITED TO THE STATE PUBLIC SCHOOL FUND CREATED IN SECTION  
20 22-54-114.

21 **SECTION 3.** 22-54-114 (3) (a), Colorado Revised Statutes, is  
22 amended to read:

23 **22-54-114. State public school fund.** (3) (a) Fifty percent of  
24 Any unexpended balance of moneys appropriated by the general assembly  
25 in the state public school fund at the end of each fiscal year shall be  
26 transferred to the Colorado comprehensive health education fund created  
27 in section 22-25-109. The remaining fifty percent and any balances

1 ~~derived from other sources shall remain in said THE state public school~~  
2 fund and become available for distribution during the following fiscal  
3 year.

4 **SECTION 4.** 22-55-102 (4) (g), Colorado Revised Statutes, is  
5 amended to read:

6 **22-55-102. Definitions.** As used in this article, unless the context  
7 otherwise requires:

8 (4) "Categorical programs" includes only the following programs:

9 (g) ~~Vocational~~ CAREER AND TECHNICAL education as described in  
10 article 8 of title 23, C.R.S.;

11 **SECTION 5.** 22-24-102, Colorado Revised Statutes, is amended  
12 to read:

13 **22-24-102. Legislative declaration.** The general assembly  
14 hereby finds, determines, and declares that there ~~are~~ IS A substantial  
15 ~~numbers~~ NUMBER of students in this state whose educational potential is  
16 severely restricted ~~because a language other than English is their primary~~  
17 ~~means of communication~~ DUE TO THEIR LACK OF PROFICIENCY WITH THE  
18 ENGLISH LANGUAGE. The general assembly recognizes the need to  
19 provide for transitional programs to improve the English language skills  
20 of these students. The general assembly declares that, in order to improve  
21 educational and career opportunities for every student in this state, it is  
22 the purpose of this article to provide for the establishment of an English  
23 language proficiency program in the public schools and facility schools  
24 and to provide for the distribution of moneys to the several school  
25 districts, the state charter school institute, and facility schools to help  
26 defray the costs of such program.

27 **SECTION 6.** 22-24-103 (4), Colorado Revised Statutes, is

1 amended to read:

2 **22-24-103. Definitions.** As used in this article, unless the context  
3 otherwise requires:

4 (4) "Student ~~whose dominant language is not English~~ WITH  
5 LIMITED ENGLISH PROFICIENCY" means a public school or facility school  
6 student whose academic achievement and English language proficiency  
7 are determined by the student's school district, the state charter school  
8 institute, or the facility school, using ~~instruments and tests~~ THE  
9 INSTRUMENT OR TECHNIQUE DEVELOPED AND approved by the department  
10 PURSUANT TO SECTION 22-24-106 (1) (a), to be impaired because of the  
11 student's inability to comprehend or speak English adequately ~~due to the~~  
12 ~~influence of a language other than English~~ and who is one or more of the  
13 following:

14 (a) A student who speaks a language other than English and does  
15 not comprehend or speak English; or

16 (b) A student who comprehends or speaks some English, but  
17 whose ~~predominant~~ PRIMARY comprehension or speech is in a language  
18 other than English; or

19 (c) A student who comprehends and speaks English and one or  
20 more other languages ~~and~~ BUT whose ~~dominant language is difficult to~~  
21 ~~determine, if the student's~~ English language development and  
22 comprehension is:

23 (I) At or below the district mean or below the mean or equivalent  
24 on a nationally standardized test; or

25 (II) Below the acceptable proficiency level BASED on ~~an English~~  
26 ~~language proficiency test~~ THE INSTRUMENT OR TECHNIQUE developed AND  
27 APPROVED by the department PURSUANT TO SECTION 22-24-106 (1) (a).

1           **SECTION 7.** 22-24-104 (1), (2), (5), and (6), Colorado Revised  
2 Statutes, are amended to read:

3           **22-24-104. English language proficiency program established**  
4 **- funding.** (1) There is hereby established an English language  
5 proficiency program for students WITH LIMITED ENGLISH PROFICIENCY in  
6 kindergarten and grades one through twelve. ~~whose dominant language~~  
7 ~~is not English.~~

8           (2) The purpose of the program is to provide assistance to  
9 districts, institute charter schools, and facility schools having students  
10 ~~whose dominant language is not~~ WITH LIMITED English PROFICIENCY.

11           (5) Each district, the state charter school institute, and each  
12 facility school shall provide the programs for district, institute charter  
13 school, and facility school students ~~whose dominant language is not~~ WITH  
14 LIMITED English PROFICIENCY; except that districts, the state charter  
15 school institute, and the facility schools may cooperate in carrying out the  
16 provisions of this article.

17           (6) Nothing in this article shall be construed to prohibit use of  
18 moneys made available under this article by a district, the state charter  
19 school institute, or a facility school for bilingual programs,  
20 English-as-a-second-language programs, or any other method of  
21 achieving the purposes of this article. Districts, the state charter school  
22 institute, and facility schools conducting such programs shall receive  
23 moneys made available under this article only on the basis of the number  
24 of students ~~whose dominant language is not~~ WITH LIMITED English  
25 PROFICIENCY enrolled in such programs.

26           **SECTION 8.** 22-24-105 (1), Colorado Revised Statutes, is  
27 amended to read:

1           **22-24-105. District - powers and duties.** (1) It is the duty of  
2 each district, the state charter school institute, and each facility school to:

3           (a) Identify, through the observations and recommendations of  
4 parents, teachers, or other persons, students ~~whose dominant language~~  
5 ~~may not be~~ WHO MAY HAVE LIMITED English PROFICIENCY;

6           (b) (I) Assess such students, using the entire instrument or  
7 technique approved by the department PURSUANT TO SECTION 22-24-106

8 (1) (a), to determine if their ~~dominant language is not~~ English  
9 PROFICIENCY IS LIMITED;

10          (II) Repealed.

11          (c) Certify each year to the department those students in the  
12 district, in institute charter schools, or in facility schools ~~whose dominant~~  
13 ~~language is not~~ WITH LIMITED English PROFICIENCY, including  
14 specification of the number of non-English languages identified as  
15 ~~dominant~~ SUCH STUDENTS' PRIMARY languages and of the number of  
16 students who speak each non-English language as their ~~dominant~~  
17 PRIMARY language;

18          (d) Administer and provide programs for students ~~whose~~  
19 ~~dominant language is not~~ WITH LIMITED English PROFICIENCY.

20           **SECTION 9.** 22-24-106 (1) (a), (1) (a.7), (1) (d), and (1) (f),  
21 Colorado Revised Statutes, are amended to read:

22           **22-24-106. Department - powers and duties.** (1) It is the duty  
23 of the department to:

24           (a) Develop and approve a single instrument or technique to be  
25 used by districts, the state charter school institute, and facility schools in  
26 identifying ~~eligible~~ students WITH LIMITED ENGLISH PROFICIENCY;

27           (a.7) Establish, by rule, any accommodations that shall be allowed



1 and in what situations accommodations shall be allowed for ~~an eligible~~  
2 A student WITH LIMITED ENGLISH PROFICIENCY when ~~such~~ THE student is  
3 taking an assessment pursuant to section 22-7-409;

4 (d) Determine which students are to be counted as ~~eligible~~  
5 STUDENTS WITH LIMITED ENGLISH PROFICIENCY for purposes of  
6 calculating the district's, the state charter school institute's, or the facility  
7 school's entitlement;

8 (f) Disaggregate testing data to track the academic progress of  
9 students ~~who have been identified as having a dominant language other~~  
10 ~~than~~ WITH LIMITED English PROFICIENCY but who have been enrolled in  
11 a public school of the state or one or more facility schools for three years  
12 or longer or have subsequently been assessed as proficient in English.

13 **SECTION 10.** 22-7-305 (1) (b) (I) (B), Colorado Revised  
14 Statutes, is amended to read:

15 **22-7-305. Parent involvement in education grant program -**  
16 **creation - rules - fund - reports.** (1) (b) The school district of a public  
17 school, or a board of cooperative services or regional service council that  
18 operates a public school, that seeks a grant through the parent  
19 involvement grant program shall apply on behalf of the public school;  
20 except that, if the public school is a charter school, the public school may  
21 apply on its own behalf. To be eligible to receive a grant, a public school  
22 shall meet one or more of the following criteria:

23 (I) A significant percentage, as defined by rule of the state board,  
24 of the students enrolled in the public school for the three academic years  
25 immediately preceding application were:

26 (B) Students ~~whose dominant language is not~~ WITH LIMITED  
27 English PROFICIENCY, as defined in section 22-24-103 (4);

1           **SECTION 11.** The introductory portion to 22-7-409 (1), Colorado  
2 Revised Statutes, is amended to read:

3           **22-7-409. Assessments.** (1) Beginning in the spring semester  
4 1997, the department shall implement the Colorado student assessment  
5 program under which the department shall administer statewide  
6 assessments adopted by the board pursuant to section 22-7-406 in the first  
7 priority areas of reading, writing, mathematics, and science. The  
8 department shall administer the English versions of the state assessments  
9 and may administer any assessments adopted by the board in languages  
10 other than English, as may be appropriate for students ~~whose dominant~~  
11 ~~language is not~~ WITH LIMITED English PROFICIENCY; except that any  
12 student who has participated in the English language proficiency  
13 program, created pursuant to section 22-24-104, for more than a total of  
14 three school years shall be ineligible to take the assessments in a language  
15 other than English. The statewide assessments shall be administered  
16 according to the following implementation schedule:

17           **SECTION 12.** 22-7-1016 (5) (a), Colorado Revised Statutes, is  
18 amended to read:

19           **22-7-1016. Postsecondary and workforce planning,**  
20 **preparation, and readiness assessments - transcripts.**

21 (5) (a) Beginning in the 2011-12 academic year, if a student ~~whose~~  
22 ~~dominant language is not~~ WITH LIMITED English PROFICIENCY, as defined  
23 in section 22-24-103 (4), is enrolled in eleventh or twelfth grade and the  
24 student has not demonstrated attainment of the standard for English  
25 language competency and has not demonstrated postsecondary and  
26 workforce readiness, the local education provider with which the student  
27 is enrolled shall provide to the student additional services and supports as

1 necessary to assist the student in attaining the standard.

2 **SECTION 13.** 22-11-301 (3) (c), Colorado Revised Statutes, is  
3 amended to read:

4 **22-11-301. School district accountability committees - creation**  
5 **- membership.** (3) If a local school board appoints the members of the  
6 school district accountability committee, the local school board, to the  
7 extent practicable, shall ensure that the parents who are appointed reflect  
8 the student populations that are significantly represented within the  
9 school district. Said student populations may include, but need not be  
10 limited to:

11 (c) Students ~~whose dominant language is not~~ WITH LIMITED  
12 English PROFICIENCY, as defined in section 22-24-103 (4);

13 **SECTION 14.** 22-11-401 (1) (d) (III), Colorado Revised Statutes,  
14 is amended to read:

15 **22-11-401. School accountability committee - creation -**  
16 **qualifications - elections.** (1) (d) If the local school board or the  
17 institute determines that the members of a school accountability  
18 committee should be appointed, the appointing authority shall, to the  
19 extent practicable, appoint persons to serve on the school accountability  
20 committee who reflect the student populations that are significantly  
21 represented within the school. If the local school board or the institute  
22 determines that persons shall be elected to serve on the school  
23 accountability committee, the school principal shall encourage persons  
24 who reflect the student populations that are significantly represented  
25 within the school to seek election to the committee. Said student  
26 populations may include, but need not be limited to:

27 (III) Students ~~whose dominant language is not~~ WITH LIMITED

1 English PROFICIENCY, as defined in section 22-24-103 (4);

2 **SECTION 15.** 22-32.5-105 (1) (c), Colorado Revised Statutes, is  
3 amended to read:

4 **22-32.5-105. Suggested innovations.** (1) In considering or  
5 creating an innovation plan or a plan for creating an innovation school  
6 zone, each local school board is strongly encouraged to consider  
7 innovations in the following areas:

8 (c) Provision of services, including but not limited to special  
9 education services; services for gifted and talented students; services for  
10 students ~~for whom~~ WITH LIMITED English ~~is not the dominant language~~  
11 PROFICIENCY; educational services for students at risk of academic failure,  
12 expulsion, or dropping out; and support services provided by the  
13 department of human services or county social services agencies;

14 **SECTION 16.** The introductory portions to 22-54-103 (1.5) (a)  
15 (V) and (1.5) (b) (IV), Colorado Revised Statutes, are amended to read:

16 **22-54-103. Definitions - repeal.** As used in this article, unless  
17 the context otherwise requires:

18 (1.5) (a) "At-risk pupils" means:

19 (V) For the 2005-06 budget year and budget years thereafter, the  
20 number of district pupils ~~whose dominant language is not~~ WITH LIMITED  
21 English PROFICIENCY plus the greater of:

22 (b) For purposes of this subsection (1.5):

23 (IV) "District pupils ~~whose dominant language is not~~ WITH  
24 LIMITED English PROFICIENCY" means the number of pupils included in  
25 the district pupil enrollment for the preceding budget year who were not  
26 eligible for free lunch pursuant to the provisions of the federal "National  
27 School Lunch Act", 42 U.S.C. sec. 1751 et seq., and ~~whose dominant~~

1 ~~language is not~~ WHO ARE STUDENTS WITH LIMITED English PROFICIENCY,  
2 as defined in section 22-24-103 (4), and:

3 **SECTION 17.** 22-54-104.2 (1), Colorado Revised Statutes, is  
4 amended to read:

5 **22-54-104.2. Legislative declaration.** (1) The general assembly  
6 hereby finds and declares that, for purposes of section 17 of article IX of  
7 the state constitution, the expansion of the definition of "at-risk pupils",  
8 as defined in section 22-54-103 (1.5) (a) (V), to include district pupils  
9 ~~whose dominant language is not~~ WITH LIMITED English PROFICIENCY, as  
10 defined in section 22-54-103 (1.5) (b) (IV), the increase in the at-risk  
11 factor pursuant to section 22-54-104 (5) (f) (II) for districts whose  
12 percentage of at-risk pupils is greater than the statewide average  
13 percentage of at-risk pupils and whose funded pupil count is greater than  
14 fifty thousand, the requirement that districts that receive at-risk funding  
15 spend a portion of their at-risk funding on implementation of the district's  
16 English language proficiency program pursuant to section 22-54-105 (3)  
17 (b) (I) and the increase in the at-risk factor from 11.2% to 12% for the  
18 2005-06 budget year and each budget year thereafter pursuant to section  
19 22-54-104 (2) (b) (II) (A) and (5) (f) are important elements of  
20 accountable programs to meet state academic standards and may therefore  
21 receive funding from the state education fund created in section 17 (4) of  
22 article IX of the state constitution.

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24 **SECTION 18. Specified effective date.** Sections 1 and 3 of this  
25 act shall take effect July 1, 2010, and the remainder of this act shall take  
26 effect upon passage.

27 **SECTION 19. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.