

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 10-0033.01 Richard Sweetman

SENATE BILL 10-062

SENATE SPONSORSHIP

Steadman,

HOUSE SPONSORSHIP

Peniston,

Senate Committees
Education

House Committees
Education

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.**

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.*

HOUSE
3rd Reading Unam ended
April 5, 2010

HOUSE
Am ended 2nd Reading
April 1, 2010

SENATE
3rd Reading Unam ended
March 9, 2010

SENATE
Am ended 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.

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

2

3 **SECTION 1.** 22-55-102 (4) (g), Colorado Revised Statutes, is
4 amended to read:

5 **22-55-102. Definitions.** As used in this article, unless the context
6 otherwise requires:

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

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

10 **SECTION 2.** 22-24-102, Colorado Revised Statutes, is amended
11 to read:

12 **22-24-102. Legislative declaration.** The general assembly
13 hereby finds, determines, and declares that there ~~are~~ IS A substantial
14 ~~numbers~~ NUMBER of students in this state whose educational potential is
15 severely restricted ~~because a language other than English is their primary~~

1 ~~means of communication~~ DUE TO THEIR LACK OF PROFICIENCY WITH THE
2 ENGLISH LANGUAGE. The general assembly recognizes the need to
3 provide for transitional programs to improve the English language skills
4 of these students. The general assembly declares that, in order to improve
5 educational and career opportunities for every student in this state, it is
6 the purpose of this article to provide for the establishment of an English
7 language proficiency program in the public schools and facility schools
8 and to provide for the distribution of moneys to the several school
9 districts, the state charter school institute, and facility schools to help
10 defray the costs of such program.

11 **SECTION 3.** 22-24-103 (4), Colorado Revised Statutes, is
12 amended to read:

13 **22-24-103. Definitions.** As used in this article, unless the context
14 otherwise requires:

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

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

27 (b) A student who comprehends or speaks some English, but

1 whose ~~predominant~~ PRIMARY comprehension or speech is in a language
2 other than English; or

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

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

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

12 **SECTION 4.** 22-24-104 (1), (2), (5), and (6), Colorado Revised
13 Statutes, are amended to read:

14 **22-24-104. English language proficiency program established**
15 **- funding.** (1) There is hereby established an English language
16 proficiency program for students WITH LIMITED ENGLISH PROFICIENCY in
17 kindergarten and grades one through twelve. ~~whose dominant language~~
18 ~~is not English.~~

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

22 (5) Each district, the state charter school institute, and each
23 facility school shall provide the programs for district, institute charter
24 school, and facility school students ~~whose dominant language is not~~ WITH
25 LIMITED English PROFICIENCY; except that districts, the state charter
26 school institute, and the facility schools may cooperate in carrying out the
27 provisions of this article.

1 (6) Nothing in this article shall be construed to prohibit use of
2 moneys made available under this article by a district, the state charter
3 school institute, or a facility school for bilingual programs,
4 English-as-a-second-language programs, or any other method of
5 achieving the purposes of this article. Districts, the state charter school
6 institute, and facility schools conducting such programs shall receive
7 moneys made available under this article only on the basis of the number
8 of students ~~whose dominant language is not~~ WITH LIMITED English
9 PROFICIENCY enrolled in such programs.

10 **SECTION 5.** 22-24-105 (1), Colorado Revised Statutes, is
11 amended to read:

12 **22-24-105. District - powers and duties.** (1) It is the duty of
13 each district, the state charter school institute, and each facility school to:

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

17 (b) (I) Assess such students, using the entire instrument or
18 technique approved by the department PURSUANT TO SECTION 22-24-106
19 (1) (a), to determine if their ~~dominant language is not~~ English
20 PROFICIENCY IS LIMITED;

21 (II) Repealed.

22 (c) Certify each year to the department those students in the
23 district, in institute charter schools, or in facility schools ~~whose dominant~~
24 ~~language is not~~ WITH LIMITED English PROFICIENCY, including
25 specification of the number of non-English languages identified as
26 ~~dominant~~ SUCH STUDENTS' PRIMARY languages and of the number of
27 students who speak each non-English language as their ~~dominant~~

1 PRIMARY language;

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

4 **SECTION 6.** 22-24-106 (1) (a), (1) (a.7), (1) (d), and (1) (f),
5 Colorado Revised Statutes, are amended to read:

6 **22-24-106. Department - powers and duties.** (1) It is the duty
7 of the department to:

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

11 (a.7) Establish, by rule, any accommodations that shall be allowed
12 and in what situations accommodations shall be allowed for ~~an eligible~~
13 A student WITH LIMITED ENGLISH PROFICIENCY when ~~such~~ THE student is
14 taking an assessment pursuant to section 22-7-409;

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

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

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

26 **22-7-305. Parent involvement in education grant program -**
27 **creation - rules - fund - reports.** (1) (b) The school district of a public

1 school, or a board of cooperative services or regional service council that
2 operates a public school, that seeks a grant through the parent
3 involvement grant program shall apply on behalf of the public school;
4 except that, if the public school is a charter school, the public school may
5 apply on its own behalf. To be eligible to receive a grant, a public school
6 shall meet one or more of the following criteria:

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

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

12 **SECTION 8.** The introductory portion to 22-7-409 (1), Colorado
13 Revised Statutes, is amended to read:

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

1 **SECTION 9.** 22-7-1016 (5) (a), Colorado Revised Statutes, is
2 amended to read:

3 **22-7-1016. Postsecondary and workforce planning,**
4 **preparation, and readiness assessments - transcripts.**

5 (5) (a) Beginning in the 2011-12 academic year, if a student ~~whose~~
6 ~~dominant language is not~~ WITH LIMITED English PROFICIENCY, as defined
7 in section 22-24-103 (4), is enrolled in eleventh or twelfth grade and the
8 student has not demonstrated attainment of the standard for English
9 language competency and has not demonstrated postsecondary and
10 workforce readiness, the local education provider with which the student
11 is enrolled shall provide to the student additional services and supports as
12 necessary to assist the student in attaining the standard.

13 **SECTION 10.** 22-11-301 (3) (c), Colorado Revised Statutes, is
14 amended to read:

15 **22-11-301. School district accountability committees - creation**
16 **- membership.** (3) If a local school board appoints the members of the

17 school district accountability committee, the local school board, to the
18 extent practicable, shall ensure that the parents who are appointed reflect
19 the student populations that are significantly represented within the
20 school district. Said student populations may include, but need not be
21 limited to:

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

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

26 **22-11-401. School accountability committee - creation -**
27 **qualifications - elections.** (1) (d) If the local school board or the

1 institute determines that the members of a school accountability
2 committee should be appointed, the appointing authority shall, to the
3 extent practicable, appoint persons to serve on the school accountability
4 committee who reflect the student populations that are significantly
5 represented within the school. If the local school board or the institute
6 determines that persons shall be elected to serve on the school
7 accountability committee, the school principal shall encourage persons
8 who reflect the student populations that are significantly represented
9 within the school to seek election to the committee. Said student
10 populations may include, but need not be limited to:

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

13 **SECTION 12.** 22-32.5-105 (1) (c), Colorado Revised Statutes, is
14 amended to read:

15 **22-32.5-105. Suggested innovations.** (1) In considering or
16 creating an innovation plan or a plan for creating an innovation school
17 zone, each local school board is strongly encouraged to consider
18 innovations in the following areas:

19 (c) Provision of services, including but not limited to special
20 education services; services for gifted and talented students; services for
21 students ~~for whom~~ WITH LIMITED English ~~is not the dominant language~~
22 PROFICIENCY; educational services for students at risk of academic failure,
23 expulsion, or dropping out; and support services provided by the
24 department of human services or county social services agencies;

25 **SECTION 13.** The introductory portions to 22-54-103 (1.5) (a)
26 (V) and (1.5) (b) (IV), Colorado Revised Statutes, are amended to read:

27 **22-54-103. Definitions - repeal.** As used in this article, unless

1 the context otherwise requires:

2 (1.5) (a) "At-risk pupils" means:

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

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

7 (IV) "District pupils ~~whose dominant language is not~~ WITH
8 LIMITED English PROFICIENCY" means the number of pupils included in
9 the district pupil enrollment for the preceding budget year who were not
10 eligible for free lunch pursuant to the provisions of the federal "National
11 School Lunch Act", 42 U.S.C. sec. 1751 et seq., and ~~whose dominant~~
12 ~~language is not~~ WHO ARE STUDENTS WITH LIMITED English PROFICIENCY,
13 as defined in section 22-24-103 (4), and:

14 **SECTION 14.** 22-54-104.2 (1), Colorado Revised Statutes, is
15 amended to read:

16 **22-54-104.2. Legislative declaration.** (1) The general assembly
17 hereby finds and declares that, for purposes of section 17 of article IX of
18 the state constitution, the expansion of the definition of "at-risk pupils",
19 as defined in section 22-54-103 (1.5) (a) (V), to include district pupils
20 ~~whose dominant language is not~~ WITH LIMITED English PROFICIENCY, as
21 defined in section 22-54-103 (1.5) (b) (IV), the increase in the at-risk
22 factor pursuant to section 22-54-104 (5) (f) (II) for districts whose
23 percentage of at-risk pupils is greater than the statewide average
24 percentage of at-risk pupils and whose funded pupil count is greater than
25 fifty thousand, the requirement that districts that receive at-risk funding
26 spend a portion of their at-risk funding on implementation of the district's
27 English language proficiency program pursuant to section 22-54-105 (3)

1 (b) (I) and the increase in the at-risk factor from 11.2% to 12% for the
2 2005-06 budget year and each budget year thereafter pursuant to section
3 22-54-104 (2) (b) (II) (A) and (5) (f) are important elements of
4 accountable programs to meet state academic standards and may therefore
5 receive funding from the state education fund created in section 17 (4) of
6 article IX of the state constitution.

7



8 **SECTION 15. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, and safety.