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An Act

SENATE BILL 10-062

BY SENATOR(S) Steadman, Bacon, Newell, Spence, Whitehead,
Williams;
also REPRESENTATIVE(S) Peniston.

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

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

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

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

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

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

SECTION 2. 22-24-102, Colorado Revised Statutes, is amended to

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(II) Repealed.

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

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

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

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

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

(a.7) Establish, by rule, any accommodations that shall be allowed and in what situations accommodations shall be allowed for ~~an eligible~~ A student WITH LIMITED ENGLISH PROFICIENCY when ~~such~~ THE student is

taking an assessment pursuant to section 22-7-409;

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

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

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

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

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

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

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

22-7-409. Assessments. (1) Beginning in the spring semester 1997, the department shall implement the Colorado student assessment program under which the department shall administer statewide assessments adopted by the board pursuant to section 22-7-406 in the first priority areas of reading, writing, mathematics, and science. The department shall

administer the English versions of the state assessments and may administer any assessments adopted by the board in languages other than English, as may be appropriate for students ~~whose dominant language is not~~ WITH LIMITED English PROFICIENCY; except that any student who has participated in the English language proficiency program, created pursuant to section 22-24-104, for more than a total of three school years shall be ineligible to take the assessments in a language other than English. The statewide assessments shall be administered according to the following implementation schedule:

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

22-7-1016. Postsecondary and workforce planning, preparation, and readiness assessments - transcripts. (5) (a) Beginning in the 2011-12 academic year, if a student ~~whose dominant language is not~~ WITH LIMITED English PROFICIENCY, as defined in section 22-24-103 (4), is enrolled in eleventh or twelfth grade and the student has not demonstrated attainment of the standard for English language competency and has not demonstrated postsecondary and workforce readiness, the local education provider with which the student is enrolled shall provide to the student additional services and supports as necessary to assist the student in attaining the standard.

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

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

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

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

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

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

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

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

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

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

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

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

(V) For the 2005-06 budget year and budget years thereafter, the

number of district pupils ~~whose dominant language is not~~ WITH LIMITED English PROFICIENCY plus the greater of:

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

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

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

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

SECTION 15. Safety clause. The general assembly hereby finds,

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

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO