

Second Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0629.03 Jason Gelender x4330

SENATE BILL 14-185

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SENATE SPONSORSHIP

Johnston and Zenzinger,

HOUSE SPONSORSHIP

Pettersen,

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Senate Committees  
Education

House Committees

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A BILL FOR AN ACT

101 CONCERNING PAY FOR SUCCESS CONTRACTS FOR SUCCESSFUL EARLY  
102 CHILDHOOD EDUCATION SERVICES PROGRAMS.

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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>.)*

Pay for success contracts leverage private sector resources to implement social services programs that are likely, but not guaranteed, to generate subsequent direct or indirect reductions in government spending for other programs. Under a pay for success contract program, a government enters into a pay for success contract with a lead contractor

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 which the lead contractor implements one or more desired programs, the government agrees to make payments to the lead contractor from resulting direct or indirect reductions in government spending, and the lead contractor uses the payments to recoup its costs incurred in implementing the program or financing the implementation of the program. The government shifts the risk of a program being unsuccessful to the lead contractor because it only pays the lead contractor if the lead contractor meets defined performance targets and sufficient direct or indirect reductions in government spending for other programs result from the implementation of the program.

The bill establishes the pay for success contracts for early childhood education services program for the purpose of authorizing the office of state planning and budgeting (OSPB) to enter into state pay for success contracts with one or more lead contractors for the provision of early childhood education services that will reduce the need for the state to provide subsequent education support and other social services. A state pay for success contract must include provisions that:

- ! Clearly define the type, scope, and duration of the early childhood education services that the lead contractor will directly or indirectly provide and the specific outcomes sought to be achieved based on defined performance targets;
- ! Provide for an objective process by which an independent evaluator will determine whether the defined performance targets have been achieved;
- ! Specify the procedures that the lead contractor must follow in order to request payments; and
- ! Specify that the OSPB must approve any request for payment made by the lead contractor and that, unless the contract preauthorizes payments if cost savings are proven in a manner specified in the contract and requires money to be set aside for that purpose, the obligation of the OSPB to make any payment is subject to annual appropriation by the general assembly.

With the approval of the OSPB and the lead contractor, one or more school districts may be additional parties to a pay for success contract to be entered into by the OSPB if the chief financial officer and the board of education of the district or districts review and approve the terms of the proposed contract. Any pay for success contract that includes one or more school districts as additional parties must provide for the allocation of payment responsibilities between the state and each district if the lead contractor meets the defined performance targets specified in the contract.

The pay for success contracts fund is created in the state treasury and consists of a maximum amount of \$25 million of moneys transferred



1 CONTRACTOR, OR THE OFFICE, ONE OR MORE SCHOOL DISTRICTS, AND A  
2 LEAD CONTRACTOR AS AUTHORIZED BY SECTION 22-28-203; OR

3 (b) ONE OR MORE SCHOOL DISTRICTS AND A LEAD CONTRACTOR AS  
4 AUTHORIZED BY SECTION 22-28-204.

5 (2) "DISTRICT PROGRAM" MEANS A DISTRICT PAY FOR SUCCESS  
6 CONTRACTS FOR EARLY CHILDHOOD EDUCATION SERVICES PROGRAM  
7 ESTABLISHED BY ONE OR MORE SCHOOL DISTRICTS PURSUANT TO SECTION  
8 22-28-204.

9 (3) "EARLY CHILDHOOD EDUCATION SERVICES" MEANS EARLY  
10 LEARNING AND DEVELOPMENT SERVICES PROVIDED PRIMARILY TO  
11 CHILDREN UNDER FIVE YEARS OLD WHO MEET THE CRITERIA SPECIFIED IN  
12 SECTION 22-28-106 (1) (a) (II) TO (IV) AND ANY OTHER CRITERIA  
13 ESTABLISHED BY RULE BY THE STATE BOARD.

14 (4) "FUND" MEANS THE PAY FOR SUCCESS CONTRACTS FUND  
15 CREATED IN SECTION 22-28-203.

16 (5) "LEAD CONTRACTOR" MEANS AN ORGANIZATION OR SCHOOL  
17 DISTRICT SELECTED BY THE DIRECTOR OF THE OFFICE OF STATE PLANNING  
18 AND BUDGETING TO PARTICIPATE IN THE STATE PROGRAM OR AN  
19 ORGANIZATION SELECTED BY ONE OR MORE BOARDS OF EDUCATION TO  
20 PARTICIPATE IN A DISTRICT PROGRAM BY:

21 (a) ENTERING INTO A PAY FOR SUCCESS CONTRACT WITH THE  
22 OFFICE OF STATE PLANNING AND BUDGETING, WITH THE OFFICE AND ONE  
23 OR MORE SCHOOL DISTRICTS, OR WITH ONE OR MORE SCHOOL DISTRICTS,  
24 AS APPLICABLE, TO PROVIDE EARLY CHILDHOOD EDUCATION SERVICES  
25 DIRECTLY OR THROUGH SUBCONTRACTS WITH OTHER PROVIDERS;

26 (b) OVERSEEING THE PROVISION OF EARLY CHILDHOOD EDUCATION  
27 SERVICES BY ANY OTHER PROVIDERS WITH WHICH IT SUBCONTRACTS; AND

1 (c) USING ITS OWN MONEY OR BORROWING MONEY TO PAY THE  
2 COSTS OF PROVIDING EARLY CHILDHOOD EDUCATION SERVICES, AND, IF  
3 THE EARLY CHILDHOOD EDUCATION SERVICES THAT IT PROVIDES MEET THE  
4 DEFINED PERFORMANCE TARGETS ESTABLISHED IN A PAY FOR SUCCESS  
5 CONTRACT, RECEIVING SUCCESS PAYMENTS.

6 (6) "PROVIDER" MEANS A PERSON OR ENTITY THAT PROVIDES  
7 EARLY CHILDHOOD EDUCATION SERVICES ON A FOR-PROFIT OR NONPROFIT  
8 BASIS. "PROVIDER" INCLUDES:

9 (a) A LEAD CONTRACTOR TO THE EXTENT THAT THE LEAD  
10 CONTRACTOR PROVIDES EARLY CHILDHOOD EDUCATION SERVICES  
11 DIRECTLY RATHER THAN ENTERING INTO SUBCONTRACTS WITH OTHER  
12 PROVIDERS FOR THE PROVISION OF SUCH SERVICES; AND

13 (b) A SCHOOL DISTRICT, WHICH MAY BE THE SAME SCHOOL  
14 DISTRICT THAT ESTABLISHES AN EARLY CHILDHOOD EDUCATION SERVICES  
15 PROGRAM, TO THE EXTENT THAT THE SCHOOL DISTRICT PROVIDES EARLY  
16 CHILDHOOD EDUCATION SERVICES.

17 (7) "STATE PROGRAM" MEANS THE PAY FOR SUCCESS CONTRACTS  
18 FOR EARLY CHILDHOOD EDUCATION SERVICES PROGRAM ESTABLISHED IN  
19 SECTION 22-28-203.

20 **22-28-203. Establishment of pay for success contracts for early**  
21 **childhood education services program - pay for success contracts**  
22 **fund - creation.** (1) THERE IS HEREBY ESTABLISHED IN THE OFFICE OF  
23 STATE PLANNING AND BUDGETING THE PAY FOR SUCCESS CONTRACTS FOR  
24 EARLY CHILDHOOD EDUCATION SERVICES PROGRAM. THE PURPOSE OF THE  
25 STATE PROGRAM IS TO PROVIDE AUTHORIZATION, SUBJECT TO SPECIFIED  
26 REQUIREMENTS AND LIMITATIONS, FOR THE OFFICE TO ENTER INTO PAY  
27 FOR SUCCESS CONTRACTS WITH ONE OR MORE LEAD CONTRACTORS FOR

1 THE PROVISION OF EARLY CHILDHOOD EDUCATION SERVICES.

2 (2) THE OFFICE OF STATE PLANNING AND BUDGETING, OR THE  
3 OFFICE AND ONE OR MORE SCHOOL DISTRICTS AS AUTHORIZED BY  
4 SUBSECTION (3) OF THIS SECTION, MAY ENTER INTO A CONTRACT WITH A  
5 LEAD CONTRACTOR FOR THE PROVISION OF EARLY CHILDHOOD EDUCATION  
6 SERVICES. WHEN DEVELOPING AND REVIEWING THE TERMS OF A PAY FOR  
7 SUCCESS CONTRACT, THE OFFICE MAY CONSULT WITH THE STATE  
8 TREASURER ON FINANCIAL TERMS. THE CONTRACT MUST INCLUDE  
9 PROVISIONS THAT:

10 (a) CLEARLY DEFINE THE TYPE, SCOPE, AND DURATION OF THE  
11 EARLY CHILDHOOD EDUCATION SERVICES THAT THE LEAD CONTRACTOR  
12 WILL DIRECTLY OR INDIRECTLY PROVIDE AND THE SPECIFIC OUTCOMES  
13 SOUGHT TO BE ACHIEVED BASED ON DEFINED PERFORMANCE TARGETS;

14 (b) PROVIDE FOR AN OBJECTIVE PROCESS BY WHICH AN  
15 INDEPENDENT EVALUATOR WILL DETERMINE WHETHER THE DEFINED  
16 PERFORMANCE TARGETS HAVE BEEN ACHIEVED;

17 (c) SPECIFY THE PROCEDURES THAT THE LEAD CONTRACTOR MUST  
18 FOLLOW IN ORDER TO REQUEST PAYMENTS; AND

19 (d) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF  
20 THIS PARAGRAPH (d), STATE THAT THE OFFICE OF STATE PLANNING AND  
21 BUDGETING MUST APPROVE ANY REQUEST FOR PAYMENT MADE BY THE  
22 LEAD CONTRACTOR AND THAT THE OBLIGATION OF THE OFFICE OF STATE  
23 PLANNING AND BUDGETING TO MAKE ANY PAYMENT IS SUBJECT TO  
24 ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY.

25 (II) A CONTRACT MAY REQUIRE ANY STATE DEPARTMENT OR  
26 AGENCY THAT IS ANTICIPATED TO HAVE COST SAVINGS RESULTING FROM  
27 THE PROVISION OF EARLY CHILDHOOD EDUCATION SERVICES UNDER THE

1 CONTRACT, OR ANY SCHOOL DISTRICT THAT IS AN ADDITIONAL PARTY TO  
2 THE CONTRACT TO DEPOSIT MONEY ANTICIPATED TO BE PAID TO A LEAD  
3 CONTRACTOR INTO THE FUND IN ADVANCE AND PREAUTHORIZE THE  
4 PAYMENT OF SUCH MONEYS TO THE LEAD CONTRACTOR WITHOUT FURTHER  
5 APPROPRIATION OR APPROVAL IF DEFINED PERFORMANCE TARGETS ARE  
6 MET AS SPECIFIED IN THE CONTRACT.

7 (3) WITH THE APPROVAL OF THE OFFICE OF STATE PLANNING AND  
8 BUDGETING AND THE LEAD CONTRACTOR, ONE OR MORE SCHOOL DISTRICTS  
9 MAY BE ADDITIONAL PARTIES TO A CONTRACT TO BE ENTERED INTO BY THE  
10 OFFICE AS AUTHORIZED BY SUBSECTION (2) OF THIS SECTION IF THE CHIEF  
11 FINANCIAL OFFICER AND THE BOARD OF EDUCATION OF THE DISTRICT OR  
12 DISTRICTS REVIEW AND APPROVE THE TERMS OF THE PROPOSED CONTRACT.  
13 ANY CONTRACT THAT INCLUDES ONE OR MORE SCHOOL DISTRICTS AS  
14 ADDITIONAL PARTIES SHALL PROVIDE FOR THE ALLOCATION OF PAYMENT  
15 RESPONSIBILITIES BETWEEN THE STATE AND EACH DISTRICT IF THE LEAD  
16 CONTRACTOR MEETS THE DEFINED PERFORMANCE TARGETS SPECIFIED IN  
17 THE CONTRACT.

18 (4) (a) THE PAY FOR SUCCESS CONTRACTS FUND IS HEREBY  
19 CREATED IN THE STATE TREASURY. THE PRINCIPAL OF THE FUND CONSISTS  
20 OF:

21 (I) MONEYS APPROPRIATED OR TRANSFERRED TO THE FUND BY THE  
22 GENERAL ASSEMBLY THAT HAVE BECOME AVAILABLE OR ARE EXPECTED  
23 TO BECOME AVAILABLE DUE TO DIRECT OR INDIRECT REDUCTIONS IN STATE  
24 SPENDING RESULTING FROM THE PROVISION OF EARLY CHILDHOOD  
25 EDUCATION PROGRAMS UNDER A CONTRACT ENTERED INTO PURSUANT TO  
26 SUBSECTION (2) OF THIS SECTION;

27 (II) ANY MONEYS RECEIVED BY THE STATE FROM A SCHOOL

1 DISTRICT THAT HAS JOINED A CONTRACT AS AN ADDITIONAL PARTY AS  
2 AUTHORIZED BY SUBSECTION (3) OF THIS SECTION FOR THE PURPOSE OF  
3 MAKING PAYMENTS TO A LEAD CONTRACTOR; AND

4 (III) ANY OTHER MONEYS THAT THE GENERAL ASSEMBLY MAY  
5 APPROPRIATE OR TRANSFER TO THE FUND.

6 (b) THE TOTAL AMOUNT OF STATE MONEY CREDITED TO THE FUND  
7 PURSUANT TO SUBPARAGRAPHS (I) AND (III) OF PARAGRAPH (a) OF THIS  
8 SUBSECTION (4) SHALL NOT EXCEED TWENTY-FIVE MILLION DOLLARS.  
9 INTEREST AND INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF THE  
10 FUND IS CREDITED TO THE FUND. SUBJECT TO ANNUAL APPROPRIATION BY  
11 THE GENERAL ASSEMBLY, THE OFFICE OF STATE PLANNING AND  
12 BUDGETING MAY EXPEND MONEYS IN THE FUND TO MAKE PAYMENTS TO  
13 THE LEAD CONTRACTOR AS REQUIRED BY A CONTRACT AND TO PAY ANY  
14 ADMINISTRATIVE EXPENSES INCURRED IN CONNECTION WITH A CONTRACT;  
15 EXCEPT THAT ANY MONEYS IN THE FUND THAT ARE PREAUTHORIZED FOR  
16 MAKING PAYMENTS UNDER SUBPARAGRAPH (II) OF PARAGRAPH (d) OF  
17 SUBSECTION (2) OF THIS SECTION ARE CONTINUOUSLY APPROPRIATED TO  
18 THE OFFICE OF STATE PLANNING AND BUDGETING FOR THE PURPOSE OF  
19 MAKING SUCH PAYMENTS.

20 **22-28-204. School district pay for success contracts for early**  
21 **childhood education services program - authorization - district pay**  
22 **for success contracts.** (1) SUBJECT TO THE REQUIREMENTS AND  
23 LIMITATIONS SPECIFIED IN SUBSECTION (2) OF THIS SECTION, A SCHOOL  
24 DISTRICT, OR TWO OR MORE SCHOOL DISTRICTS WORKING TOGETHER, MAY  
25 ESTABLISH A DISTRICT PAY FOR SUCCESS CONTRACTS FOR EARLY  
26 CHILDHOOD EDUCATION SERVICES PROGRAM. THE PURPOSE OF A DISTRICT  
27 PROGRAM IS TO AUTHORIZE A SCHOOL DISTRICT, OR TWO OR MORE SCHOOL



1 DISTRICTS WORKING TOGETHER, TO ENTER INTO PAY FOR SUCCESS  
2 CONTRACTS WITH ONE OR MORE LEAD CONTRACTORS FOR THE PROVISION  
3 OF EARLY CHILDHOOD EDUCATION SERVICES.

4 (2) A SCHOOL DISTRICT, OR TWO OR MORE SCHOOL DISTRICTS  
5 WORKING TOGETHER, MAY ENTER INTO A CONTRACT WITH A LEAD  
6 CONTRACTOR FOR THE PROVISION OF EARLY CHILDHOOD EDUCATION  
7 SERVICES SUBJECT TO THE FOLLOWING REQUIREMENTS AND LIMITATIONS:

8 (a) THE CONTRACT MUST INCLUDE PROVISIONS THAT:

9 (I) CLEARLY DEFINE THE TYPE, SCOPE, AND DURATION OF THE  
10 EARLY CHILDHOOD EDUCATION SERVICES THAT THE LEAD CONTRACTOR  
11 WILL DIRECTLY OR INDIRECTLY PROVIDE AND THE SPECIFIC OUTCOMES  
12 SOUGHT TO BE ACHIEVED BASED ON DEFINED PERFORMANCE TARGETS;

13 (II) PROVIDE FOR AN OBJECTIVE PROCESS BY WHICH AN  
14 INDEPENDENT EVALUATOR WILL DETERMINE WHETHER THE DEFINED  
15 PERFORMANCE TARGETS HAVE BEEN ACHIEVED;

16 (III) SPECIFY THE PROCEDURES THAT THE LEAD CONTRACTOR  
17 MUST FOLLOW IN ORDER TO REQUEST PAYMENTS; AND

18 (IV) STATE THAT THE BOARD OF EDUCATION AND THE CHIEF  
19 FINANCIAL OFFICER OF A DISTRICT MUST APPROVE ANY REQUEST FOR  
20 PAYMENT MADE TO THE DISTRICT BY THE LEAD CONTRACTOR. ANY  
21 CONTRACT THAT INCLUDES MULTIPLE SCHOOL DISTRICTS AS PARTIES  
22 SHALL PROVIDE FOR THE ALLOCATION OF PAYMENT RESPONSIBILITIES  
23 BETWEEN THE DISTRICTS IF THE LEAD CONTRACTOR MEETS THE DEFINED  
24 PERFORMANCE TARGETS SPECIFIED IN THE CONTRACT.

25 (b) THE CHIEF FINANCIAL OFFICER AND THE BOARD OF EDUCATION  
26 OF EACH DISTRICT THAT IS TO BE A PARTY TO A PROPOSED CONTRACT MUST  
27 REVIEW THE TERMS OF THE PROPOSED CONTRACT, AND A SCHOOL DISTRICT

1 MAY NOT ENTER INTO THE CONTRACT UNTIL THE CHIEF FINANCIAL OFFICER  
2 AND THE BOARD OF EDUCATION OF THE DISTRICT APPROVE THE CONTRACT.

3 **SECTION 2. Safety clause.** The general assembly hereby finds,  
4 determines, and declares that this act is necessary for the immediate  
5 preservation of the public peace, health, and safety.