

Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

**REENGROSSED**

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

LLS NO. 12-0818.01 Richard Sweetman x4333

**HOUSE BILL 12-1306**

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**HOUSE SPONSORSHIP**

**Holbert,**

**SENATE SPONSORSHIP**

**King K.,**

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**House Committees**

Education  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE MANNER OF DETERMINING PUPIL ENROLLMENT**  
102 **COUNTS IN PUBLIC SCHOOLS, AND, IN CONNECTION THEREWITH,**  
103 **MAKING AN APPROPRIATION.**

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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>.)*

On or before April 30, 2013, and on or before April 30 each year thereafter, a school district and an institute charter school may elect to make available to the department of education (department) the following information:

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 Unamended  
April 24, 2012

HOUSE  
Amended 2nd Reading  
April 23, 2012

- ! The total number of students enrolled in grades three through ten in the school district (participant school district) or institute charter school (participant institute charter school) to whom the department administered a statewide assessment in mathematics; and
- ! The total number of students enrolled in grade eleven in the participant school district or participant institute charter school who took a curriculum-based, achievement college entrance exam.

On or before May 15, 2013, and on or before May 15 each year thereafter, the department shall compare, for each participant school district and each participant institute charter school, the total number of such students to the total number of students enrolled in grades three through eleven who were included in the October 1 pupil enrollment count.

For each participant school district and each participant institute charter school for which the total number of students to whom the department administered a statewide assessment in mathematics and who took a curriculum-based, achievement college entrance exam exceeds the total number of students enrolled in grades three through eleven who were included in the October 1 pupil enrollment count, the department shall make available to the participant school district or to the state charter school institute (institute), in addition to any other moneys made available to the participant school district or to the institute during the current fiscal year, for each student in excess of the October 1 pupil enrollment count, an amount that is equal to the department's per-pupil on-line education funding. The department shall make the moneys available to each such participant school district or to the institute before the conclusion of the current fiscal year.

If the institute receives from the department any such moneys, the institute, in accordance with the terms negotiated by the institute and the participant institute charter school that submitted the information that is the basis for the moneys received, shall retain no more of the moneys than is permitted by such terms and shall pay the remainder of the moneys to the participant institute charter school.

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

2           **SECTION 1. Legislative declaration.** (1) The general assembly  
3 hereby finds that:

4           (a) It has been asserted that:

5           (I) Some on-line education programs in Colorado receive funding

1 for students who are enrolled in the on-line programs on the statutory  
2 pupil enrollment count date of October 1 but who leave the on-line  
3 programs shortly thereafter; and

4 (II) Such students then enroll in schools of public school districts,  
5 which do not receive funding for the students, thereby straining the  
6 limited resources of such schools;

7 (b) However, students enroll in schools of public school districts  
8 after October 1 for other reasons as well, and brick-and-mortar schools,  
9 as well as school districts, can and do lose students after October 1,  
10 thereby receiving compensation from the state for students they are not  
11 required to educate;

12 (c) The problem of inaccurate pupil enrollment counts is not  
13 limited to the practices of on-line education programs but is rooted in the  
14 state's school finance system, which shortchanges education providers  
15 that are required to educate students for free if the students enrolled after  
16 October 1;

17 (d) If Colorado altered its school finance system to employ  
18 multiple count days or a rolling average count for the purpose of  
19 determining pupil enrollment counts, it would solve this problem because  
20 such an alternative system would provide for the readjustment of official  
21 pupil enrollment counts;

22 (e) However, if Colorado employed multiple count days or a  
23 rolling average count for the purpose of determining pupil enrollment  
24 counts, it appears that most school districts would actually lose money.  
25 According to figures compiled by legislative council staff, one hundred  
26 forty-four of the state's one hundred seventy-eight school districts actually  
27 lost students between October 1 and the administration of assessments in

1 the spring of last year. Even if some of those school districts were  
2 required to absorb students who dropped out of on-line programs after  
3 October 1 and returned to brick-and-mortar schools uncompensated by  
4 the state, the net effect nonetheless was that those school districts still  
5 received compensation from the state for more students than the school  
6 districts were actually educating; and

7 (f) Meanwhile, the thirty-four school districts that gained students  
8 during that time span experienced negligible enrollment gains for the  
9 most part. Most gained one to three students per district; a few posted  
10 gains between ten and twenty. As a combined total, those thirty-four  
11 school districts gained only one hundred nineteen students.

12 (2) Now, therefore, the general assembly hereby declares that a  
13 better approach to addressing the problem of pupil enrollment counts is  
14 simply to backfill funding for those school districts and institute charter  
15 schools that gain students after October 1.

16 **SECTION 2.** In Colorado Revised Statutes, **add** 22-54-136 as  
17 follows:

18 **22-54-136. Adjustments to pupil enrollment counts.** (1) AS  
19 USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

20 (a) "PARTICIPANT INSTITUTE CHARTER SCHOOL" MEANS AN  
21 INSTITUTE CHARTER SCHOOL THAT ELECTS TO MAKE AVAILABLE TO THE  
22 DEPARTMENT, IN A MANNER THAT COMPLIES WITH THE PROVISIONS OF THIS  
23 SECTION, THE INFORMATION DESCRIBED IN PARAGRAPHS (a) AND (b) OF  
24 SUBSECTION (3) OF THIS SECTION.

25 (b) "PARTICIPANT SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT  
26 OF THE STATE THAT ELECTS TO MAKE AVAILABLE TO THE DEPARTMENT, IN  
27 A MANNER THAT COMPLIES WITH THE PROVISIONS OF THIS SECTION, THE

1 INFORMATION DESCRIBED IN PARAGRAPHS (a) AND (b) OF SUBSECTION (3)  
2 OF THIS SECTION.

3 (2) ON OR BEFORE APRIL 30, 2013, AND ON OR BEFORE APRIL 30  
4 EACH YEAR THEREAFTER, A SCHOOL DISTRICT AND AN INSTITUTE CHARTER  
5 SCHOOL MAY ELECT TO MAKE AVAILABLE TO THE DEPARTMENT OF  
6 EDUCATION THE INFORMATION DESCRIBED IN PARAGRAPHS (a) AND (b) OF  
7 SUBSECTION (3) OF THIS SECTION. NOTHING IN THIS SECTION SHALL BE  
8 INTERPRETED TO REQUIRE A SCHOOL DISTRICT OR AN INSTITUTE CHARTER  
9 SCHOOL TO MAKE SUCH INFORMATION AVAILABLE TO THE DEPARTMENT OF  
10 EDUCATION.

11 (3) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE TO THE  
12 CONTRARY, ON OR BEFORE MAY 15, 2013, AND ON OR BEFORE MAY 15 OF  
13 EACH YEAR THEREAFTER, THE DEPARTMENT OF EDUCATION SHALL:

14 (a) DETERMINE THE TOTAL NUMBER OF STUDENTS ENROLLED IN  
15 GRADES THREE THROUGH TEN IN EACH PARTICIPANT SCHOOL DISTRICT AND  
16 EACH PARTICIPANT INSTITUTE CHARTER SCHOOL TO WHOM THE  
17 DEPARTMENT ADMINISTERED A STATEWIDE ASSESSMENT IN MATHEMATICS  
18 PURSUANT TO SECTION 22-7-409;

19 (b) DETERMINE THE TOTAL NUMBER OF STUDENTS ENROLLED IN  
20 GRADE ELEVEN IN EACH PARTICIPANT SCHOOL DISTRICT AND EACH  
21 PARTICIPANT INSTITUTE CHARTER SCHOOL WHO TOOK THE  
22 CURRICULUM-BASED, ACHIEVEMENT COLLEGE ENTRANCE EXAM  
23 DESCRIBED IN SECTION 22-7-409 (1.5); ■

24 (c) FOR EACH PARTICIPANT SCHOOL DISTRICT AND EACH  
25 PARTICIPANT INSTITUTE CHARTER SCHOOL, COMPARE THE TOTAL NUMBER  
26 OF STUDENTS DESCRIBED IN PARAGRAPHS (a) AND (b) OF THIS SUBSECTION  
27 (3) TO THE TOTAL NUMBER OF STUDENTS ENROLLED IN GRADES THREE

1 THROUGH ELEVEN WHO WERE INCLUDED IN THE MOST RECENT OCTOBER  
2 1 PUPIL ENROLLMENT COUNT;

3 (d) DETERMINE, FOR EACH PARTICIPANT SCHOOL DISTRICT AND  
4 EACH PARTICIPANT INSTITUTE CHARTER SCHOOL IN WHICH THE TOTAL  
5 NUMBER OF STUDENTS DESCRIBED IN PARAGRAPHS (a) AND (b) OF  
6 SUBSECTION (3) OF THIS SECTION EXCEEDS THE TOTAL NUMBER OF  
7 STUDENTS ENROLLED IN GRADES THREE THROUGH ELEVEN WHO WERE  
8 INCLUDED IN THE OCTOBER 1 PUPIL ENROLLMENT COUNT, THE AVERAGE  
9 PUPIL ENROLLMENT INCREASE FOR EACH SUCH GRADE;

10 (e) USING THE AVERAGE PUPIL ENROLLMENT INCREASE FOR EACH  
11 OF GRADES THREE THROUGH ELEVEN, AS DETERMINED PURSUANT TO  
12 PARAGRAPH (d) OF THIS SUBSECTION (3), PROJECT SUCH AVERAGE PUPIL  
13 ENROLLMENT INCREASE FOR GRADES ONE, TWO, AND TWELVE; AND  
14 PROJECT HALF OF SUCH AVERAGE PUPIL ENROLLMENT INCREASE FOR  
15 KINDERGARTEN FOR EACH PARTICIPANT SCHOOL DISTRICT AND EACH  
16 PARTICIPANT INSTITUTE CHARTER SCHOOL IN WHICH THE TOTAL NUMBER  
17 OF STUDENTS DESCRIBED IN PARAGRAPHS (a) AND (b) OF SUBSECTION (3)  
18 OF THIS SECTION EXCEEDS THE TOTAL NUMBER OF STUDENTS ENROLLED IN  
19 GRADES THREE THROUGH ELEVEN WHO WERE INCLUDED IN THE OCTOBER  
20 1 PUPIL ENROLLMENT COUNT; AND

21 (f) USING THE AVERAGE PUPIL ENROLLMENT INCREASE FOR EACH  
22 OF GRADES THREE THROUGH ELEVEN, AS DETERMINED PURSUANT TO  
23 PARAGRAPH (d) OF THIS SUBSECTION (3), AND THE AVERAGE PUPIL  
24 ENROLLMENT INCREASE FOR GRADES ONE, TWO, AND TWELVE AND  
25 KINDERGARTEN, AS PROJECTED PURSUANT TO PARAGRAPH (e) OF THIS  
26 SUBSECTION (3), DETERMINE, FOR EACH PARTICIPANT SCHOOL DISTRICT  
27 ANDEACH PARTICIPANT INSTITUTE CHARTER SCHOOL IN WHICH THE TOTAL

1 NUMBER OF STUDENTS DESCRIBED IN PARAGRAPHS (a) AND (b) OF  
2 SUBSECTION (3) OF THIS SECTION EXCEEDS THE TOTAL NUMBER OF  
3 STUDENTS ENROLLED IN GRADES THREE THROUGH ELEVEN WHO WERE  
4 INCLUDED IN THE OCTOBER 1 PUPIL ENROLLMENT COUNT, THE TOTAL  
5 NUMBER OF STUDENTS IN GRADES ONE THROUGH TWELVE AND  
6 KINDERGARTEN BY WHICH EACH SUCH SCHOOL DISTRICT'S AND EACH SUCH  
7 INSTITUTE CHARTER SCHOOL'S PUPIL ENROLLMENT INCREASED.

8 (4) (a) FOR EACH PARTICIPANT SCHOOL DISTRICT FOR WHICH THE  
9 TOTAL NUMBER OF STUDENTS DESCRIBED IN PARAGRAPHS (a) AND (b) OF  
10 SUBSECTION (3) OF THIS SECTION EXCEEDS THE TOTAL NUMBER OF  
11 STUDENTS ENROLLED IN GRADES THREE THROUGH ELEVEN WHO WERE  
12 INCLUDED IN THE MOST RECENT OCTOBER 1 PUPIL ENROLLMENT COUNT,  
13 THE DEPARTMENT OF EDUCATION SHALL MAKE AVAILABLE TO THE  
14 PARTICIPANT SCHOOL DISTRICT, IN ADDITION TO ANY OTHER MONEYS  
15 MADE AVAILABLE TO THE PARTICIPANT SCHOOL DISTRICT DURING THE  
16 CURRENT FISCAL YEAR, FOR EACH STUDENT IN GRADES ONE THROUGH  
17 TWELVE AND KINDERGARTEN, AS DETERMINED PURSUANT TO PARAGRAPH  
18 (f) OF SUBSECTION (3) OF THIS SECTION, IN EXCESS OF THE OCTOBER 1  
19 PUPIL ENROLLMENT COUNT, AN AMOUNT THAT IS EQUAL TO THE PER-PUPIL  
20 ON-LINE FUNDING DESCRIBED IN SECTION 22-54-104 (4.5). THE  
21 DEPARTMENT OF EDUCATION SHALL MAKE SUCH MONEYS AVAILABLE  
22 FROM THE STATE EDUCATION FUND CREATED IN SECTION 17(4) OF ARTICLE  
23 IX OF THE STATE CONSTITUTION TO EACH SUCH PARTICIPANT SCHOOL  
24 DISTRICT BEFORE THE CONCLUSION OF THE CURRENT FISCAL YEAR.

25 (b) (I) FOR EACH PARTICIPANT INSTITUTE CHARTER SCHOOL FOR  
26 WHICH THE TOTAL NUMBER OF STUDENTS DESCRIBED IN PARAGRAPHS (a)  
27 AND (b) OF SUBSECTION (3) OF THIS SECTION EXCEEDS THE TOTAL NUMBER

1 OF STUDENTS ENROLLED IN GRADES THREE THROUGH ELEVEN WHO WERE  
2 INCLUDED IN THE MOST RECENT OCTOBER 1 PUPIL ENROLLMENT COUNT,  
3 THE DEPARTMENT OF EDUCATION SHALL MAKE AVAILABLE TO THE STATE  
4 CHARTER SCHOOL INSTITUTE, IN ADDITION TO ANY OTHER MONEYS MADE  
5 AVAILABLE TO THE STATE CHARTER SCHOOL INSTITUTE DURING THE  
6 CURRENT FISCAL YEAR, FOR EACH STUDENT IN GRADES ONE THROUGH  
7 TWELVE AND KINDERGARTEN, AS DETERMINED PURSUANT TO PARAGRAPH  
8 (f) OF SUBSECTION (3) OF THIS SECTION, IN EXCESS OF THE OCTOBER 1  
9 PUPIL ENROLLMENT COUNT, AN AMOUNT THAT IS EQUAL TO THE PER-PUPIL  
10 ON-LINE FUNDING DESCRIBED IN SECTION 22-54-104 (4.5). THE  
11 DEPARTMENT OF EDUCATION SHALL MAKE SUCH MONEYS AVAILABLE  
12 FROM THE STATE EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE  
13 IX OF THE STATE CONSTITUTION TO THE STATE CHARTER SCHOOL  
14 INSTITUTE BEFORE THE CONCLUSION OF THE CURRENT FISCAL YEAR.

15 (II) IF THE STATE CHARTER SCHOOL INSTITUTE RECEIVES FROM THE  
16 DEPARTMENT OF EDUCATION ANY MONEYS PURSUANT TO SUBPARAGRAPH  
17 (I) OF THIS PARAGRAPH (b), THE INSTITUTE SHALL RETAIN NO MORE OF THE  
18 MONEYS THAN IS PERMITTED BY THE TERMS NEGOTIATED PURSUANT TO  
19 SECTION 22-30.5-513 (2) BY THE INSTITUTE AND THE PARTICIPANT  
20 INSTITUTE CHARTER SCHOOL THAT SUBMITTED THE INFORMATION  
21 DESCRIBED IN PARAGRAPHS (a) AND (b) OF SUBSECTION (3) OF THIS  
22 SECTION, WHICH INFORMATION IS THE BASIS FOR THE MONEYS RECEIVED.  
23 THE INSTITUTE SHALL PAY THE REMAINDER OF THE MONEYS TO THE  
24 PARTICIPANT INSTITUTE CHARTER SCHOOL.

25 **SECTION 3. Appropriation.** In addition to any other  
26 appropriation, there is hereby appropriated, out of any moneys in the state  
27 education fund created in section 17 (4) (a) of Article IX of the State



1 Constitution, not otherwise appropriated, to the department of education,  
2 for the fiscal year beginning July 1, 2012, the sum of \$1,253,132, or so  
3 much thereof as may be necessary, for the implementation of section  
4 22-54-136, Colorado Revised Statutes.

5           **SECTION 4. Act subject to petition - effective date.** This act  
6 takes effect at 12:01 a.m. on the day following the expiration of the  
7 ninety-day period after final adjournment of the general assembly (August  
8 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a  
9 referendum petition is filed pursuant to section 1 (3) of article V of the  
10 state constitution against this act or an item, section, or part of this act  
11 within such period, then the act, item, section, or part will not take effect  
12 unless approved by the people at the general election to be held in  
13 November 2012 and, in such case, will take effect on the date of the  
14 official declaration of the vote thereon by the governor.