

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0891.01 Jacob Baus x2173

SENATE BILL 24-122

SENATE SPONSORSHIP

Kirkmeyer,

HOUSE SPONSORSHIP

(None),

Senate Committees
Education

House Committees

A BILL FOR AN ACT

101 CONCERNING CREATING A SCHOLARSHIP PROGRAM FOR STUDENTS TO
102 PURSUE EDUCATIONAL OPPORTUNITIES.

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://leg.colorado.gov>.)

The bill creates the empowerment scholarship program (program) in the department of education (department). The purpose of the program is to meet the educational needs of every eligible student by assisting with certain education expenses. The bill requires:

- The department to contract with an entity that will administer the program (administering entity);

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

- The department to transfer to the administering entity an amount equal to 80% of the prior budget year's statewide average of district per pupil funding for an eligible student who receives a scholarship, except to prorate the amount based on the amount of time remaining in the budget year if the eligible student is found eligible after the beginning of the budget year;
- The parent of an eligible student to apply to the administering entity for an empowerment scholarship account (account);
- A parent of an eligible student to only spend money in the account on defined eligible expenses; and
- The administering entity to oversee the program and comply with an audit to ensure scholarship money is spent on defined eligible expenses.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 108 to
3 title 22 as follows:

4 **ARTICLE 108**

5 **Empowerment Scholarship Act**

6 **22-108-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 108 IS
7 THE "EMPOWERMENT SCHOLARSHIP ACT".

8 **22-108-102. Definitions.** AS USED IN THIS ARTICLE 108, UNLESS
9 THE CONTEXT OTHERWISE REQUIRES:

10 (1) "ADMINISTERING ENTITY" MEANS THE ORGANIZATION THE
11 DEPARTMENT CONTRACTS WITH TO ADMINISTER THE EMPOWERMENT
12 SCHOLARSHIP PROGRAM.

13 (2) "DEPARTMENT" MEANS THE DEPARTMENT OF EDUCATION
14 CREATED AND EXISTING PURSUANT TO SECTION 24-1-115.

15 (3) "ELIGIBLE EXPENSE" MEANS AN EXPENSE NECESSARY FOR THE
16 EDUCATION OF AN ELIGIBLE STUDENT. ELIGIBLE EXPENSES INCLUDE:

17 (a) TUITION OR FEES AT A NONPUBLIC ELEMENTARY, MIDDLE, OR

1 HIGH SCHOOL, INCLUDING A NONPUBLIC ONLINE SCHOOL, IN COLORADO;

2 (b) COSTS INCURRED IN PROVIDING A NONPUBLIC HOME-BASED
3 EDUCATIONAL PROGRAM AS DEFINED IN SECTION 22-33-104.5;

4 (c) COSTS OR FEES FOR TUTORING BY AN APPROVED
5 SUPPLEMENTAL EDUCATIONAL SERVICES PROVIDER, AS DEFINED IN
6 SECTION 22-2-129;

7 (d) COSTS OR FEES FOR STANDARDIZED NATIONAL ASSESSMENT
8 EXAMS FOR ADMISSION TO A POSTSECONDARY EDUCATION PROGRAM OR
9 INSTITUTION OR FOR ADVANCED PLACEMENT EXAMS AND COSTS OR FEES
10 FOR PREPARATORY COURSES FOR THESE EXAMS;

11 (e) COSTS OR FEES ASSOCIATED WITH ACQUIRING AN
12 INDUSTRY-RECOGNIZED CREDENTIAL;

13 (f) COSTS OR FEES FOR BEFORE-SCHOOL PROGRAMS,
14 AFTER-SCHOOL PROGRAMS, OR SUMMER SCHOOL PROGRAMS; AND

15 (g) COSTS OR FEES FOR SPECIAL EDUCATION SERVICES OR
16 THERAPIES, INCLUDING OCCUPATIONAL THERAPY, BEHAVIORAL THERAPY,
17 PHYSICAL THERAPY, SPEECH-LANGUAGE THERAPY, AND AUDIOLOGY
18 THERAPY.

19 (4) "ELIGIBLE STUDENT" MEANS A STUDENT WHO:

20 (a) IS A RESIDENT OF COLORADO;

21 (b) AT THE TIME OF APPLICATION, IS ELIGIBLE TO ENROLL IN ANY
22 OF GRADES KINDERGARTEN THROUGH TWELVE IN A PUBLIC SCHOOL IN
23 COLORADO;

24 (c) AT THE TIME A NOTICE THAT AN ACCOUNT IS CREATED IS
25 ISSUED BY THE DEPARTMENT PURSUANT TO SECTION 22-108-105,
26 WITHDRAWS ENROLLMENT FROM A PUBLIC SCHOOL IN COLORADO, IF THE
27 STUDENT IS ENROLLED IN A PUBLIC SCHOOL IN COLORADO AT THE TIME OF

1 THE NOTICE; AND

2 (d) (I) IS DIAGNOSED WITH AN INTELLECTUAL DISABILITY, HEARING
3 IMPAIRMENT, SPEECH OR LANGUAGE IMPAIRMENT, VISUAL IMPAIRMENT,
4 EMOTIONAL DISTURBANCE, ORTHOPEDIC IMPAIRMENT, AUTISM, A
5 TRAUMATIC BRAIN INJURY, ANOTHER HEALTH IMPAIRMENT OR SPECIFIC
6 LEARNING DISABILITY, AND WHO, AS A RESULT, NEEDS SPECIAL EDUCATION
7 OR RELATED SERVICES;

8 (II) HAS AN INDIVIDUALIZED EDUCATION PROGRAM OR AN
9 ACCOMMODATION PURSUANT TO SECTION 504 OF THE FEDERAL
10 "REHABILITATION ACT OF 1973", 29 U.S.C. SEC. 701 ET SEQ., AS
11 AMENDED, AND ITS IMPLEMENTING REGULATIONS;

12 (III) RESIDES ON A FEDERALLY RECOGNIZED INDIAN TRIBE'S
13 RESERVATION IN COLORADO;

14 (IV) IS, OR WAS AT ANY TIME, PLACED IN FOSTER CARE; OR

15 (V) IS THE SIBLING OF AN INDIVIDUAL WHO HAS OR HAD AN
16 EMPOWERMENT SCHOLARSHIP ACCOUNT.

17 (5) "EMPOWERMENT SCHOLARSHIP ACCOUNT" OR "ACCOUNT"
18 MEANS AN ACCOUNT CREATED AND MANAGED BY THE ADMINISTERING
19 ENTITY FOR EACH ELIGIBLE STUDENT TO USE TO PURCHASE ELIGIBLE
20 EXPENSES.

21 (6) "PARENT" MEANS THE PARENT, LEGAL GUARDIAN, OR LEGAL
22 CUSTODIAN OF A STUDENT.

23 (7) "PROGRAM" MEANS THE EMPOWERMENT SCHOLARSHIP
24 PROGRAM CREATED IN SECTION 22-108-103.

25 (8) "SIBLING" MEANS A BIOLOGICAL SIBLING, HALF-SIBLING,
26 STEP-SIBLING, FORMER STEP-SIBLING, OR AN ADOPTIVE SIBLING.

27 (9) "STATE BOARD" MEANS THE STATE BOARD OF EDUCATION

1 CREATED IN SECTION 1 OF ARTICLE IX OF THE STATE CONSTITUTION.

2 **22-108-103. Empowerment scholarship program - created -**
3 **department of education - legislative declaration - state board -**

4 **funding.**(1) THERE IS CREATED IN THE DEPARTMENT THE EMPOWERMENT
5 SCHOLARSHIP PROGRAM TO MEET THE EDUCATIONAL NEEDS OF EVERY
6 ELIGIBLE STUDENT BY ASSISTING WITH CERTAIN EDUCATION EXPENSES.
7 THE GENERAL ASSEMBLY DECLARES THAT THE EMPOWERMENT
8 SCHOLARSHIP PROGRAM IS A VALID PUBLIC PURPOSE TO ENSURE THAT
9 STUDENTS HAVE THE BEST EDUCATIONAL OPPORTUNITY BASED ON THEIR
10 INDIVIDUAL NEEDS.

11 (2) NO LATER THAN SEPTEMBER 30, 2024, THE DEPARTMENT
12 SHALL ISSUE A REQUEST FOR PROPOSALS FOR AN ORGANIZATION TO
13 ADMINISTER THE PROGRAM. THE STATE BOARD SHALL SELECT AND
14 CONTRACT WITH AN ORGANIZATION THAT HAS DEMONSTRATED SUCCESS
15 IN ADMINISTERING FINANCIAL ACCOUNTS AND IS CAPABLE OF EFFICIENTLY
16 IMPLEMENTING A SYSTEM FOR PAYMENT OF MONEY FROM ACCOUNTS. THE
17 STATE BOARD SHALL SELECT THE ADMINISTERING ENTITY AND ENTER INTO
18 A CONTRACT, WHICH IS SUBJECT TO ANNUAL REVIEW AND RENEWAL, WITH
19 THE ADMINISTERING ENTITY NO LATER THAN JANUARY 31, 2025. THE
20 STATE BOARD SHALL PERFORM ITS DUTIES PURSUANT TO THIS SUBSECTION
21 (2) PURSUANT TO THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF
22 TITLE 24.

23 (3)(a) UPON RECEIVING NOTICE FROM THE ADMINISTERING ENTITY
24 THAT AN ACCOUNT IS CREATED FOR AN ELIGIBLE STUDENT, THE
25 DEPARTMENT SHALL, AS SOON AS PRACTICABLE, TRANSFER TO THE
26 ADMINISTERING ENTITY AN AMOUNT EQUAL TO EIGHTY PERCENT OF THE
27 STATEWIDE AVERAGE OF DISTRICT PER PUPIL FUNDING FOR THE PRIOR

1 BUDGET YEAR, PRORATED, IF NECESSARY, PURSUANT TO SUBSECTION
2 (3)(c) OF THIS SECTION.

3 (b) (I) THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE
4 FROM THE STATE EDUCATION FUND TO THE DEPARTMENT THE AMOUNT
5 REQUIRED TO FUND THE TRANSFERS DESCRIBED IN SUBSECTION (3)(a) OF
6 THIS SECTION.

7 (II) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT, FOR
8 PURPOSES OF SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION,
9 ENSURING THAT ELIGIBLE STUDENTS HAVE THE BEST EDUCATIONAL
10 OPPORTUNITY BASED ON THEIR INDIVIDUAL NEEDS IS A CRITICAL ELEMENT
11 OF ACCOUNTABLE EDUCATION REFORM, AND THEREFORE ELIGIBLE
12 STUDENTS MAY RECEIVE FUNDING FROM THE STATE EDUCATION FUND
13 CREATED IN SECTION 17 (4) OF ARTICLE IX OF THE STATE CONSTITUTION.

14 (c) IF AN ACCOUNT IS INITIALLY CREATED FOR AN ELIGIBLE
15 STUDENT AFTER THE START OF THE BUDGET YEAR, THE DEPARTMENT
16 SHALL PRORATE THE AMOUNT TRANSFERRED TO THE ADMINISTERING
17 ENTITY BASED ON THE AMOUNT OF TIME REMAINING IN THE BUDGET YEAR.

18 (d) THE ADMINISTERING ENTITY SHALL ANNUALLY PROVIDE
19 INFORMATION TO THE DEPARTMENT CONCERNING THE ACTIVE ACCOUNTS
20 FOR THE UPCOMING BUDGET YEAR, AND THE DEPARTMENT SHALL
21 TRANSFER TO THE ADMINISTERING ENTITY THE AMOUNT DESCRIBED IN
22 THIS SUBSECTION (3) AS APPLICABLE FOR EACH ACCOUNT.

23 (4) IF THE ADMINISTERING ENTITY CLOSES AN ACCOUNT PURSUANT
24 TO SECTION 22-108-105 AND TRANSFERS ANY MONEY REMAINING IN THE
25 ACCOUNT TO THE DEPARTMENT, THE DEPARTMENT SHALL TRANSFER THE
26 MONEY RECEIVED TO THE STATE TREASURER FOR DEPOSIT INTO THE STATE
27 EDUCATION FUND.

1 **22-108-104. Empowerment scholarship account -**

2 **administering entity - duties - funding.** (1) THE ADMINISTERING ENTITY
3 SHALL:

4 (a) ESTABLISH AND IMPLEMENT THE PROCESS BY WHICH A PARENT
5 MAY APPLY TO RECEIVE AN ACCOUNT FOR AN ELIGIBLE STUDENT. THE
6 ADMINISTERING ENTITY SHALL CREATE AN ELECTRONICALLY AVAILABLE
7 APPLICATION FORM FOR PROGRAM APPLICANTS. BY FEBRUARY 28, 2025,
8 THE DEPARTMENT SHALL MAKE THE APPLICATION AVAILABLE ON ITS
9 WEBSITE IN A PROMINENT AND EASILY ACCESSIBLE LOCATION.

10 (b) MAINTAIN CLEAR ACCOUNTING AND SEPARATE ACCOUNTS FOR
11 OPERATIONAL MONEY AND MONEY FOR EACH ELIGIBLE STUDENT;

12 (c) IMPLEMENT AND OVERSEE A SYSTEM FOR PAYMENT OF MONEY
13 TO ACCOUNTS AND CONTINUING OPERATION OF ACCOUNTS;

14 (d) COMPLETE AND SUBMIT TO THE DEPARTMENT AN ANNUAL
15 INDEPENDENT FINANCIAL AUDIT IN ACCORDANCE WITH DATES SET BY THE
16 DEPARTMENT;

17 (e) COMPLY WITH THE AUDIT AS PROVIDED IN SECTION 22-108-106;
18 AND

19 (f) PROVIDE INFORMATION TO THE DEPARTMENT CONCERNING
20 ACCOUNTS PURSUANT TO THIS ARTICLE 108.

21 (2) THE ADMINISTERING ENTITY MAY RETAIN UP TO FIVE PERCENT
22 OF THE AMOUNT THAT IT ANNUALLY RECEIVES FROM THE DEPARTMENT
23 FOR EACH ACCOUNT TO OFFSET THE COSTS THAT THE ADMINISTERING
24 ENTITY INCURS IN ADMINISTERING THE PROGRAM. THE STATE BOARD
25 SHALL NOT AGREE TO PROVIDE THE ADMINISTERING ENTITY ANY
26 ADDITIONAL AMOUNT OF REMUNERATION FROM THE STATE.

27 **22-108-105. Empowerment scholarship account - application**

1 **- award - denial - annual confirmation - account closure.** (1) THE
2 ADMINISTERING ENTITY SHALL ACCEPT AND REVIEW PROGRAM
3 APPLICATIONS. WITHIN FIFTEEN DAYS AFTER RECEIPT OF AN APPLICATION,
4 THE ADMINISTERING ENTITY SHALL REVIEW THE APPLICATION AND ISSUE
5 TO THE APPLICANT EITHER A NOTICE OF AN ACCOUNT CREATION OR A
6 NOTICE OF DENIAL. A NOTICE OF DENIAL MUST INCLUDE THE REASON FOR
7 DENIAL AND WHETHER AND HOW THE APPLICANT MAY REMEDY AN
8 APPLICATION DEFICIENCY.

9 (2) THE ADMINISTERING ENTITY SHALL AWARD AN ACCOUNT TO
10 EACH STUDENT WHO SATISFIES THE FOLLOWING REQUIREMENTS:

11 (a) THE STUDENT'S PARENT SUBMITS A COMPLETE APPLICATION;

12 (b) THE ADMINISTERING ENTITY DETERMINES THE STUDENT IS AN
13 ELIGIBLE STUDENT; AND

14 (c) THE STUDENT'S PARENT SIGNS AN AGREEMENT THAT INCLUDES
15 THE PARENT'S UNDERSTANDING AND AGREEMENT TO:

16 (I) PROVIDE AN EDUCATION TO THE STUDENT AT A NONPUBLIC
17 ELEMENTARY, MIDDLE, OR HIGH SCHOOL, INCLUDING A NONPUBLIC ONLINE
18 SCHOOL, IN COLORADO, OR A NONPUBLIC HOME-BASED EDUCATIONAL
19 PROGRAM AS DEFINED IN SECTION 22-33-104.5, AS LONG AS THE ELIGIBLE
20 STUDENT RECEIVES MONEY IN THE ACCOUNT. THE ELIGIBLE STUDENT
21 MUST NOT RECEIVE EDUCATIONAL SERVICES FROM A PUBLIC SCHOOL;
22 EXCEPT THAT AN ELIGIBLE STUDENT IS NOT PROHIBITED FROM
23 PARTICIPATING IN AN ACTIVITY, AS DEFINED IN SECTION 22-32-116.5.

24 (II) USE THE MONEY IN THE ACCOUNT ONLY FOR ELIGIBLE
25 EXPENSES; AND

26 (III) COMPLY WITH ALL RULES AND REQUIREMENTS FOR
27 PARTICIPATION IN THE PROGRAM.

1 (3) THE ADMINISTERING ENTITY SHALL PROVIDE INFORMATION
2 CONCERNING THE OPERATION OF AN ACCOUNT, INCLUDING A DESCRIPTION
3 OF ELIGIBLE EXPENSES, TO EACH PARENT OF AN ELIGIBLE STUDENT WHO
4 HAS AN ACCOUNT. THE ADMINISTERING ENTITY SHALL ENSURE THAT
5 PROVIDERS OF ELIGIBLE EXPENSES ARE ABLE TO ACCEPT TRANSFERS OF
6 FUNDS FROM AN ACCOUNT FOR APPROVED ELIGIBLE EXPENSES AND THAT
7 PARENTS OF ELIGIBLE STUDENTS ARE UNABLE TO DIRECTLY ACCESS
8 MONEY FROM THE ACCOUNT.

9 (4) ANNUALLY, IN ACCORDANCE WITH DATES ESTABLISHED BY THE
10 ADMINISTERING ENTITY, THE PARENT OF AN ELIGIBLE STUDENT WHO HAS
11 AN ACCOUNT AND WANTS TO CONTINUE TO PARTICIPATE IN THE PROGRAM
12 MUST CONFIRM WITH THE ADMINISTERING ENTITY THE STUDENT
13 CONTINUES TO BE AN ELIGIBLE STUDENT, AND THAT THE PARENT
14 CONTINUES TO UNDERSTAND AND AGREE TO THE TERMS PURSUANT TO
15 SUBSECTION (2)(b) OF THIS SECTION. AN ACCOUNT CONTINUES TO BE
16 ACTIVE WITHOUT NEED FOR RENEWAL AND IS FUNDED UNTIL:

17 (a) THE ELIGIBLE STUDENT COMPLETES TWELFTH GRADE OR IS NO
18 LONGER ENROLLED IN A NONPUBLIC ELEMENTARY, MIDDLE, OR HIGH
19 SCHOOL, INCLUDING A NONPUBLIC ONLINE SCHOOL, IN COLORADO, OR A
20 NONPUBLIC HOME-BASED EDUCATIONAL PROGRAM;

21 (b) THE ELIGIBLE STUDENT TURNS TWENTY-ONE YEARS OF AGE;

22 (c) THE PARENT FAILS TO CONFIRM ELIGIBILITY, UNDERSTANDING,
23 AND AGREEMENT TO TERMS OF THE PROGRAM PURSUANT TO THIS
24 SUBSECTION (4);

25 (d) THE STUDENT IS NO LONGER ELIGIBLE FOR AN ACCOUNT; OR

26 (e) THE PARENT OF AN ELIGIBLE STUDENT WITHDRAWS OR
27 TERMINATES PARTICIPATION IN THE PROGRAM.

1 (5) ANY UNEXPENDED AMOUNT IN AN ACCOUNT AT THE END OF A
2 SCHOOL YEAR REMAINS IN THE ACCOUNT, AND THE ELIGIBLE STUDENT'S
3 PARENT MAY EXPEND IT ON ELIGIBLE EXPENSES IN SUBSEQUENT SCHOOL
4 YEARS.

5 (6) ANY ACCRUED INTEREST IN AN ACCOUNT REMAINS IN THE
6 ACCOUNT, AND THE ELIGIBLE STUDENT'S PARENT MAY EXPEND IT ON
7 ELIGIBLE EXPENSES. THE MONEY DEPOSITED INTO AN ELIGIBLE STUDENT'S
8 ACCOUNT AND ANY INTEREST EARNED ON MONEY IN THE ACCOUNT DO NOT
9 CONSTITUTE TAXABLE INCOME FOR THE PARENT.

10 (7) IF A STUDENT WHO HAS AN ACCOUNT IS NO LONGER AN
11 ELIGIBLE STUDENT, OR THE STUDENT'S PARENT CHOOSES TO WITHDRAW OR
12 TERMINATE THE STUDENT'S PARTICIPATION IN THE PROGRAM, THE
13 STUDENT'S PARENT SHALL NOTIFY THE ADMINISTERING ENTITY. THE
14 ADMINISTERING ENTITY SHALL IMMEDIATELY CLOSE THE ACCOUNT AND
15 TRANSFER ANY AMOUNT REMAINING IN THE ACCOUNT TO THE
16 DEPARTMENT FOR DEPOSIT INTO THE STATE EDUCATION FUND.

17 **22-108-106. Audit.** NO LATER THAN OCTOBER 31, 2025, AND NO
18 LATER THAN OCTOBER 31 OF EACH YEAR THEREAFTER THAT FOLLOWS A
19 SCHOOL YEAR IN WHICH THE ADMINISTERING ENTITY OPERATES THE
20 PROGRAM, THE DEPARTMENT SHALL AUDIT A REPRESENTATIVE SAMPLE OF
21 PARENTS WHO RECEIVED MONEY FOR ELIGIBLE STUDENTS THROUGH THE
22 PROGRAM TO ENSURE THAT THE ELIGIBLE STUDENTS MET THE
23 REQUIREMENTS SPECIFIED IN THIS ARTICLE 108 AND THAT THE PARENTS
24 SPENT THE MONEY ON ELIGIBLE EXPENSES AS REQUIRED PURSUANT TO THIS
25 ARTICLE 108. IF THE AUDIT PROVIDES EVIDENCE THAT AN ELIGIBLE
26 STUDENT WHOSE PARENT RECEIVED MONEY THROUGH A PROGRAM DID NOT
27 MEET THE REQUIREMENTS SPECIFIED IN THIS ARTICLE 108 OR THAT THE

1 PARENT SPENT ALL OR ANY PORTION OF THE AMOUNT RECEIVED FOR
2 PURPOSES THAT WERE NOT ELIGIBLE EXPENSES, THE DEPARTMENT SHALL
3 START LEGAL ACTION TO RECOVER THE AMOUNT ILLEGALLY DISTRIBUTED
4 OR SPENT.

5 **SECTION 2. 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; except
8 that, if a referendum petition is filed pursuant to section 1 (3) of article V
9 of the state constitution against this act or an item, section, or part of this
10 act within such period, then the act, item, section, or part will not take
11 effect unless approved by the people at the general election to be held in
12 November 2024 and, in such case, will take effect on the date of the
13 official declaration of the vote thereon by the governor.