A BILL FOR AN ACT

CONCERNING THE CREATION OF A MODERN SCHOOL FINANCE FORMULA.

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 a new school finance funding formula to replace the existing formula. The new funding formula is effective for the second budget year following voter approval of a ballot measure that increases state revenue for funding preschool through high school public education that is not included in the bill.

If enacted, the new school finance funding formula:
• Builds a school district's (district's) total program funding from statewide base per pupil funding by adding additional funding for student and district characteristics;
• Adds district "factor" funding to the district's base funding, including district:
  • Size factor funding;
  • Poverty factor funding for students eligible for free or reduced-price meals;
  • English language learner factor funding, adjusted for district size;
  • Gifted child factor funding, adjusted for district size;
  • Special education factor funding, adjusted for a child's disability and district size; and
  • Cost of living factor funding, limited to a percentage of statewide cost of living factor funding.

For purposes of calculating district total program funding under the new formula, the bill:
• Adds on district factor funding to create transparency in the amount of funding, in addition to base funding, that each district receives for each factor;
• Counts kindergarten students as half-day or full-day pupils depending on the length of the kindergarten program;
• Counts preschool students as half-day pupils, anticipating conforming changes to the Colorado preschool program following enactment of the bill that remove limits on the number of pupils attending state-funded preschool, as well as pupil eligibility criteria for 4-year-olds;
• Differentiates between pupils with specified disabilities for purposes of determining the new special education factor funding, anticipating conforming changes to categorical funding programs following enactment of the bill to use special education categorical funding for high-cost disability reimbursement grants.
• Applies English language learner factor funding for up to 7 years to all English language learners, except for those students with no English proficiency, anticipating conforming changes to categorical funding programs following enactment of the bill to use categorical funding for students with no English proficiency.

The bill creates a hold-harmless provision for a limited number of years in specific circumstances if a district's total program funding under the new school finance funding formula is less than it was under the previous school finance funding formula without a budget stabilization
reduction in funding.

The bill includes a special effective date provision for the bill that requires voter approval of a ballot measure that increases funding for preschool through high school public education.

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

SECTION 1. Legislative declaration. (1) The general assembly finds that:

(a) (I) House Bill 18-____, enacted in 2018, creates a new school finance funding formula for calculating each school district's total program funding that will replace the school finance formula set forth in section 22-54-104, Colorado Revised Statutes;

(II) The new school finance funding formula will take effect only if Colorado voters approve a statewide ballot measure increasing state tax revenues for the purpose of funding preschool through secondary school public education;

(III) If the ballot measure is approved, the new school finance funding formula will take effect in the second budget year following approval;

(IV) The new school finance funding formula, if enacted, will conflict with other provisions of the Colorado Revised Statutes that are not amended in House Bill 18-____. For example:

(A) The Colorado preschool program set forth in article 28 of title 22, Colorado Revised Statutes, limits the program to a certain number of state-funded preschool program students and requires that state-funded children attending preschool meet certain eligibility criteria. The new school finance funding formula in House Bill 18-____, if enacted, contemplates universal, quality preschool for four-year-old children, for
which each child is funded as a half-day pupil, and does not limit
preschool funding to a restricted number of preschool program students
or by a child's risk factors.

(B) In addition, under current law, a school district receives
categorical program funding for each child with a disability. If enacted,
the new school finance funding formula in House Bill 18-____
contemplates reserving special education categorical program funding for
reimbursement grants to serve children with severe, high-cost disabilities,
and provides districts with special education factor funding for all
children receiving special education services or programs in the district
through an individualized education program; and

(C) The new school finance funding formula will also provide
English language learner factor funding to children who are English
language learners, except for those children entering school with no
English language proficiency. Those children will be served through the
English language learner categorical funding.

(V) Conforming changes to the Colorado preschool program and
the special education and English language learner categorical programs
are not included in House Bill 18-____ and must be made by the General
Assembly through implementing legislation following the approval of a
ballot measure that provides funding for the new school finance funding
formula and prior to the effective date of the new formula, which is in the
second budget year following passage of the ballot measure; and

(VI) Finally, conforming changes to the Colorado Revised
Statutes are necessary to reflect the repeal of the old school finance
formula and related provisions and to amend or repeal definitions used in
school finance.
(b) Therefore, the general assembly declares that it is the intent of the general assembly to enact and implement legislation, following voter approval of a ballot measure funding the new school finance funding formula and prior to the effective date of the new formula, that amends the Colorado preschool program, categorical funding programs, and other programs and terms used in the Colorado Revised Statutes to conform to the intent of the new school finance funding formula enacted through House Bill 18-____.

SECTION 2. In Colorado Revised Statutes, add 22-54-104.6 as follows:

22-54-104.6. District total program - legislative declaration - definitions - effective date - rules. (1) (a) The general assembly finds that:

(I) A sound and adequately funded public education system is essential to developing the full potential of Colorado's children, including the ability to engage meaningfully in the civil and economic life of the state and the nation;

(II) Section 2 of Article IX of the state constitution requires the general assembly to establish and maintain a thorough and uniform system of public schools throughout the state;

(III) A thorough and uniform system of public education should prepare all Colorado students, regardless of where they live, for success in career, college, and life;

(IV) Over twenty years have passed since passage of the "Public School Finance Act of 1994";
(V) During this period, various constitutional provisions and statutory formulas have impacted funding for public schools, and financial resources are inadequate to provide the educational supports and opportunities necessary to meet the needs of all of Colorado's students;

(VI) Further, during this same period, the public's expectations of Colorado's public schools have also increased substantially, both in terms of expected outcomes for students and the level of public accountability for school districts and public schools;

(VII) To meet these higher expectations and the increasing needs and challenges of students, the programming and services that school districts and public schools must provide have also expanded exponentially;

(VIII) Coloradans demand, and the needs of the state require, that all students, including those who are underserved or face significant challenges in meeting Colorado's graduation guidelines, finish high school career and college ready;

(IX) In order to provide each child in this state with a high-quality preschool through secondary school education, Colorado's public school finance law should be modernized to:

(A) Ensure that all school districts and public schools receive additional funding that is distributed in a fair and equitable manner to support high academic standards for instruction and public school accountability to students, parents, and the community;

(B) Create a student-centered distribution formula for
PUBLIC SCHOOL FUNDING THAT USES WEIGHTS FOR STUDENTS WHO
REQUIRE SPECIAL EDUCATION, STUDENTS WHO ARE GIFTED AND TALENTED,
AND STUDENTS WHO ARE ENGLISH LANGUAGE LEARNERS, AS WELL AS
STUDENTS LIVING IN POVERTY;

(C) ENSURE THAT THE NEW SCHOOL FINANCE FORMULA IS FULLY
FUNDED AND BUDGET STABILIZATION REDUCTIONS, OR NEGATIVE
FACTORS, ARE NOT APPLIED TO THE CALCULATED AMOUNT OF FUNDING
UNDER THE FORMULA;

(D) RECOGNIZE AND ADJUST FUNDING FOR COST DIFFERENCES
AMONG SCHOOL DISTRICTS AND PUBLIC SCHOOLS RELATED TO SIZE,
GEOGRAPHY, AND THE COST OF DOING BUSINESS;

(E) PROVIDE FOR A BASE AMOUNT OF PUPIL FUNDING THAT IS MORE
ADEQUATE AND THAT MORE CLOSELY ALIGNS COLORADO’S PUBLIC SCHOOL
FUNDING WITH AVERAGE PER PUPIL FUNDING NATIONWIDE; AND

(F) CREATE A PUBLIC SCHOOL FINANCE FORMULA THAT IS
TRANSPARENT AND UNDERSTANDABLE BY STATE POLICYMAKERS, SCHOOL
LEADERS, AND LOCAL COMMUNITIES.

(b) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT
MODERNIZING COLORADO’S PUBLIC SCHOOL FINANCE FORMULA THROUGH
THE ENACTMENT OF THIS SECTION, IN CONJUNCTION WITH THE PASSAGE OF
A STATEWIDE MEASURE TO INCREASE STATE TAX REVENUES FOR THE
PURPOSE OF FUNDING PRESCHOOL THROUGH SECONDARY SCHOOL PUBLIC
EDUCATION, IS A NECESSARY AND CRITICAL FIRST STEP TOWARD
ACHIEVING THE ONGOING MAINTENANCE OF A THOROUGH AND UNIFORM
SYSTEM OF FREE PUBLIC SCHOOLS.

(2) THIS SECTION APPLIES TO THE SECOND BUDGET YEAR
COMMENCING JULY 1 FOLLOWING THE EFFECTIVE DATE OF THIS SECTION
AND EACH BUDGET YEAR THEREAFTER.

(3) (a) The department of education shall apply the
provisions of this section to calculate annually for each
district an amount that represents the financial base of support
for public education in that district, which amount is known as
the district's total program. Each district's total program is
available to the district to fund the costs of providing public
education in the district, and the district has discretion
concerning the amounts and purposes for which the money is
budgeted and expended.

(b) Notwithstanding the provisions of subsection (3)(a) of
this section, if a district is the accounting district of an
institute charter school, then the calculation of total program
pursuant to the provisions of this section also represents the
financial base of support for the institute charter school, even
though the institute charter school is not a school of the
district. The amount of the district's state share of total
program that is withheld from the district and paid to the state
charter school institute, pursuant to the provisions of section
22-54-115 (1.3), is not available to nor under the control of the
district, but is under the control of the governing board of the
institute charter school to fund the costs of providing public
education to pupils enrolled in the institute charter school. The
institute charter school has discretion to determine the
amounts and purposes for which the money is budgeted and
expended.

(4) **Total program funding.** A district's total program
Funding is the greater of the following:

(a) \((\text{Statewide base per pupil funding} \times (\text{district funded pupil count} - \text{district online pupil enrollment} - \text{district extended high school pupil enrollment})) + \text{district size factor funding} + \text{district poverty factor funding} + \text{district English language learner factor funding} + \text{district gifted child factor funding} + \text{district special education factor funding} + \text{district online funding} + \text{district extended high school funding} + \text{district cost of living factor funding}); or

(b) (I) \((\text{Statewide average per pupil funding} \times .95) \times \text{district funded pupil count}.

(II) For purposes of subsection (4)(b)(I) of this section, "statewide average per pupil funding" is the sum of each district's total program funding calculated pursuant to subsection (4)(a) of this section, not including district online funding and district extended high school funding, divided by the sum of each district's funded pupil count, not including online pupil enrollment and district extended high school pupil enrollment.

(5) **Statewide base per pupil funding.** The statewide base per pupil funding must annually increase over the amount established for the preceding budget year by at least the rate of inflation, as defined in section 20 (2)(f) of Article X of the state constitution, for the preceding budget year. The statewide base per pupil funding is:
(a) For the budget years commencing prior to the effective date of this section, the amount specified in section 22-54-104 (5).

(b) For the second budget year commencing July 1 following the effective date of this section, the amount specified in subsection (5)(a) of this section, increased by at least inflation pursuant to this subsection (5).

(6) District size factor funding. (a) The department of education shall calculate each district's size factor funding as an amount equal to:

(Statewide base per pupil funding x (District size factor - 1) x District funded pupil count).

(b) A district's size factor is determined in accordance with the following formula:

If the district's funded pupil count is:

The district's size factor is:

Less than 156

2.269

156 or more but less than 495

2.664-(0.00253 x District funded pupil count)

495 or more but less than 1,790

1.513-(0.000206 x District funded pupil count)

1,790 or more but less than 5,050

1.171-(0.000015 x District funded pupil count)

5,050 or more but less than 13,275

1.132-(0.0000069 x District funded pupil count)

13,275 or more but less than 43,865
1.059-(0.0000013 x DISTRICTFUNDEDPUPILCOUNT)

(c) (I) If the reorganization of a district or districts results in one or more of the districts involved in the reorganization having a higher size factor than the original district or districts had for the budget year immediately preceding reorganization, the size factor for each subsequent budget year for the districts involved in the reorganization is the size factor the original district or districts had for the budget year preceding the reorganization or, if two or more districts reorganize into a single district, the size factor of the original district having the lowest size factor for the budget year immediately preceding reorganization. A district involved in the reorganization shall not, for any budget year, be allowed the size factor that would otherwise be provided by subsection (6)(b) of this section.

(II) If the reorganization of a district or districts results in one or more of the districts involved in the reorganization having a lower size factor than the original district or districts had for the budget year immediately preceding reorganization, the size factor for the new district or districts is determined as follows:

(A) For the first budget year following reorganization, the size factor of the original district for the budget year immediately preceding reorganization or, if two or more districts are involved in the reorganization, the weighted average size factor of the original districts for the budget year immediately preceding reorganization. For purposes of this
SUBSECTION (6)(c)(II)(A), THE WEIGHTED AVERAGE SIZE FACTOR IS THE AMOUNT CALCULATED BY MULTIPLYING THE FUNDED PUPIL COUNT OF EACH ORIGINAL DISTRICT BY THE SIZE FACTOR OF THE ORIGINAL DISTRICT, ADDING THE RESULTING AMOUNTS TOGETHER AND DIVIDING THAT SUM BY THE TOTAL FUNDED PUPIL COUNT OF THE ORIGINAL DISTRICTS.

(B) FOR THE SECOND BUDGET YEAR FOLLOWING REORGANIZATION, THE SIZE FACTOR FOR THE PRIOR BUDGET YEAR MINUS AN AMOUNT EQUAL TO ONE-FIFTH OF THE DIFFERENCE BETWEEN THE SIZE FACTOR FOR THE PRIOR BUDGET YEAR AND THE SIZE FACTOR DETERMINED PURSUANT TO SUBSECTION (6)(b) OF THIS SECTION;

(C) FOR THE THIRD BUDGET YEAR FOLLOWING REORGANIZATION, THE SIZE FACTOR FOR THE PRIOR BUDGET YEAR MINUS AN AMOUNT EQUAL TO ONE-FOURTH OF THE DIFFERENCE BETWEEN THE SIZE FACTOR FOR THE PRIOR BUDGET YEAR AND THE SIZE FACTOR DETERMINED PURSUANT TO SUBSECTION (6)(b) OF THIS SECTION;

(D) FOR THE FOURTH BUDGET YEAR FOLLOWING REORGANIZATION, THE SIZE FACTOR FOR THE PRIOR BUDGET YEAR MINUS AN AMOUNT EQUAL TO ONE-THIRD OF THE DIFFERENCE BETWEEN THE SIZE FACTOR FOR THE PRIOR BUDGET YEAR AND THE SIZE FACTOR DETERMINED PURSUANT TO SUBSECTION (6)(b) OF THIS SECTION;

(E) FOR THE FIFTH BUDGET YEAR FOLLOWING REORGANIZATION, THE SIZE FACTOR FOR THE PRIOR BUDGET YEAR MINUS AN AMOUNT EQUAL TO ONE-HALF OF THE DIFFERENCE BETWEEN THE SIZE FACTOR FOR THE PRIOR BUDGET YEAR AND THE SIZE FACTOR DETERMINED PURSUANT TO SUBSECTION (6)(b) OF THIS SECTION; AND

(F) FOR THE SIXTH BUDGET YEAR FOLLOWING REORGANIZATION AND BUDGET YEARS THEREAFTER, THE SIZE FACTOR DETERMINED
PURSUANT TO SUBSECTION (6)(b) OF THIS SECTION.

(III) FOR THE PURPOSES OF THIS SUBSECTION (6)(c), A DISTRICT'S SIZE FACTOR FOR THE "BUDGET YEAR IMMEDIATELY PRECEDING REORGANIZATION" IS THE SIZE FACTOR FOR THE DISTRICT IF THE DISTRICT'S SIZE FACTOR HAD BEEN DETERMINED PURSUANT TO SUBSECTION (6)(b) OF THIS SECTION FOR THE BUDGET YEAR IMMEDIATELY PRECEDING REORGANIZATION.

(7) District poverty factor funding. The department of education shall calculate each district's poverty factor funding as an amount equal to:

(Statewide base per pupil funding x 0.31) x poverty enrollment.

(8) District English language learner factor funding. (a) The department of education shall calculate each district's English language learner factor funding as provided in this subsection (8). A district's English language learner factor funding is in addition to categorical program funding the district receives pursuant to section 22-24-104 for English language learners, as described in section 22-24-104 (3)(b)(I)(A). A district's English language learner factor funding is an amount equal to:

(Statewide base per pupil funding x district's English language learner factor) x English language learner enrollment.

(b) If a district's funded pupil count is:

(I) Less than 495, the district's English language learner factor is 0.35;

(II) At least 495 but less than 1,790, the district's English language learner factor is
LANGUAGE LEARNER FACTOR IS 0.372934-(0.00004633 x DISTRICT FUNDED PUPIL COUNT); AND

(III) 1,790 OR MORE, THE DISTRICT'S ENGLISH LANGUAGE LEARNER FACTOR IS 0.29.

(9) District gifted child factor funding. (a) The Department of Education shall calculate each district's gifted child factor funding as an amount equal to:

\[(\text{STATEWIDE BASE PER PUPIL FUNDING} \times \text{DISTRICT'S GIFTED CHILD FACTOR}) \times \text{GIFTED CHILD ENROLLMENT}.\]

(b) If the district's funded pupil count is:

(I) LESS THAN 495, THE DISTRICT'S GIFTED CHILD FACTOR IS 0.18;

(II) AT LEAST 495 BUT LESS THAN 1,790, THE DISTRICT'S GIFTED CHILD FACTOR IS 0.191467-(0.000023 x DISTRICT FUNDED PUPIL COUNT);

AND

(III) 1,790 OR MORE, THE DISTRICT'S GIFTED CHILD FACTOR IS 0.15.

(10) District special education factor funding. (a) The Department of Education shall calculate each district's special education factor funding for children with disabilities as provided in this subsection (10). For children with severe, high-cost disabilities, a district may also receive high-cost reimbursement grants pursuant to section 22-20-114.5. A district's special education factors are determined pursuant to subsection (10)(b) of this section. A district's special education funding is an amount equal to:

\[\left(\text{STATEWIDE BASE PER PUPIL FUNDING} \times \text{SPECIAL EDUCATION NONSPECIFIED DISABILITY FACTOR}\right) \times \text{SPECIAL EDUCATION NONSPECIFIED DISABILITY ENROLLMENT}\]
(STATEWIDE BASE PER PUPIL FUNDING x SPECIAL EDUCATION SPECIFIED DISABILITY FACTOR) x SPECIAL EDUCATION SPECIFIED DISABILITY ENROLLMENT).

(b) (I) For a child with a disability that is not specified in section 22-20-114 (1)(c)(II), if the district's funded pupil count is:

(A) Less than 115, the district's special education nonspecified disability factor is 0.67342;

(B) At least 115 but less than 14,373, the district's special education nonspecified disability factor is 1.184421 x (district funded pupil count to the power of -0.119); and

(C) 14,373 or more, the district's special education nonspecified disability factor is 0.37910.

(c) For a child with a disability, that is specified in section 22-20-114 (1)(c)(II), if the district's funded pupil count is:

(A) Less than 113, the district's special education specified disability factor is 1.27271;

(B) At least 113 but less than 8,814, the district's special education specified disability factor is 1.89316 x (district funded pupil count to the power of -0.084); and

(C) 8,814 or more, the district's special education specified disability factor is 0.88266.

(11) District online funding. The department of education shall calculate each district's online funding as an amount equal to:

(Statewide base per pupil funding x .95) x district online pupil enrollment.

(12) District extended high school funding. The department
OF EDUCATION SHALL CALCULATE EACH DISTRICT'S EXTENDED HIGH
SCHOOL FUNDING AS AN AMOUNT EQUAL TO:

STATEWIDE BASE PER PUPIL FUNDING \times DISTRICT EXTENDED
HIGH SCHOOL PUPIL ENROLLMENT.

(13) **District cost of living factor funding.** (a) A DISTRICT'S COST
OF LIVING FACTOR FUNDING REFLECTS THE DIFFERENCES AMONG THE
REGIONS OF THE STATE IN WHICH SCHOOL DISTRICTS ARE LOCATED IN THE
WAGES FOR PERSONNEL; THE COST OF HOUSING, GOODS, AND SERVICES;
AND THE COST OF DOING BUSINESS IN THE REGION, INCLUDING THE COST
OF TECHNOLOGY, AND FACILITY MAINTENANCE AND REPAIR. THE FUNDING
DOES NOT REFLECT ANY ANNUAL INCREASES IN THE COSTS OF HOUSING,
GOODS, OR SERVICES CAUSED BY INFLATION. A DISTRICT'S COST OF LIVING
AMOUNT REFERS TO THE VALUES AS ADJUSTED FOR DISTRICT LABOR POOL
AREAS.

(b) (I) (A) THE DEPARTMENT OF EDUCATION SHALL CALCULATE
EACH DISTRICT'S COST OF LIVING FACTOR FUNDING AS PROVIDED IN THIS
SUBSECTION (13). A DISTRICT'S COST OF LIVING FACTOR FUNDING IS AN
AMOUNT EQUAL TO:

DISTRICT PRELIMINARY TOTAL PROGRAM FUNDING \times
DISTRICT ADJUSTED COST OF LIVING FACTOR.

(B) FOR THE PURPOSES OF SUBSECTION (13)(b)(I)(A) OF THIS
SECTION, "PRELIMINARY TOTAL PROGRAM FUNDING" MEANS THE
DISTRICT'S TOTAL PROGRAM FUNDING CALCULATED PURSUANT TO
SUBSECTION (4) OF THIS SECTION, NOT INCLUDING THE DISTRICT COST OF
LIVING FACTOR FUNDING CALCULATED PURSUANT TO THIS SUBSECTION
(13).

(C) FOR THE PURPOSES OF SUBSECTION (13)(b)(I)(A) OF THIS
SECTION, A DISTRICT'S ADJUSTED COST OF LIVING FACTOR IS DETERMINED IN ACCORDANCE WITH THE FOLLOWING FORMULA:

\[
[(\text{PERSONNEL COSTS FACTOR} \times \text{COST OF LIVING FACTOR}) + (1 - \text{PERSONNEL COSTS FACTOR}) - 1].
\]

(II) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (13)(b)(I) OF THIS SECTION TO THE CONTRARY, A DISTRICT'S COST OF LIVING FACTOR FUNDING SHALL NOT EXCEED AN AMOUNT EQUAL TO:

DISTRICT PROPORTIONATE SHARE OF FUNDING \( \times \) (5\% \( \times \) STATEWIDE COST OF LIVING FACTOR FUNDING).

(A) FOR THE PURPOSES OF THIS SUBSECTION (13)(b)(II), A DISTRICT'S PROPORTIONATE SHARE OF FUNDING IS THE DISTRICT'S COST OF LIVING FACTOR FUNDING CALCULATED PURSUANT TO SUBSECTION (13)(b)(I) OF THIS SECTION DIVIDED BY STATEWIDE COST OF LIVING FACTOR FUNDING.

(B) FOR THE PURPOSES OF THIS SUBSECTION (13)(b)(II), STATEWIDE COST OF LIVING FACTOR FUNDING IS THE SUM OF EACH DISTRICT'S COST OF LIVING FACTOR FUNDING CALCULATED PURSUANT TO SUBSECTION (13)(b)(I) OF THIS SECTION.

(c) (I) **Cost of living factor.** The staff of the legislative council shall determine each district’s cost of living factor in accordance with this subsection (13)(c). Based on the cost of living analysis conducted pursuant to Senate Bill 93-87, enacted in 1993, the staff of the legislative council shall certify the cost of living factor for each district to the department of education for each two-year period thereafter based upon a new cost of living analysis. The staff of the legislative council shall certify the new cost of living factors
NO LATER THAN APRIL 15 OF THE APPLICABLE YEAR FOR THE BUDGET YEAR BEGINNING ON JULY 1 OF THAT YEAR AND THE BUDGET YEAR THEREAFTER. IF THE INCOME LEVEL USED IN A COST OF LIVING ANALYSIS DOES NOT INCREASE ABOVE THE INCOME LEVEL USED IN THE PREVIOUS COST OF LIVING ANALYSIS, THE COST OF LIVING FACTOR FOR EACH DISTRICT REMAINS THE SAME AS THE COST OF LIVING FACTOR DERIVED FROM THE PREVIOUS COST OF LIVING ANALYSIS.

(II) FOR EACH BUDGET YEAR IN WHICH A NEW COST OF LIVING ANALYSIS IS REQUIRED PURSUANT TO SUBSECTION (13)(c)(I) OF THIS SECTION, THE DEPARTMENT OF EDUCATION SHALL TRANSFER A PORTION OF THE TOTAL AMOUNT APPROPRIATED BY THE GENERAL ASSEMBLY IN THE ANNUAL GENERAL APPROPRIATION ACT FOR THAT BUDGET YEAR FOR ASSISTANCE TO PUBLIC SCHOOLS, PUBLIC SCHOOL FINANCE, STATE SHARE OF DISTRICTS' TOTAL PROGRAM FUNDING TO THE LEGISLATIVE COUNCIL TO FUND THE COST OF LIVING ANALYSIS REQUIRED PURSUANT TO SUBSECTION (13)(c)(I) OF THIS SECTION. THE AMOUNT TRANSFERRED BY THE DEPARTMENT OF EDUCATION SHALL NOT EXCEED THE MAXIMUM AMOUNT SPECIFIED IN A FOOTNOTE RELATED TO THIS APPROPRIATION IN THE ANNUAL GENERAL APPROPRIATION ACT FOR THAT BUDGET YEAR. THE REMAINDER OF THE AMOUNT APPROPRIATED FOR ASSISTANCE TO PUBLIC SCHOOLS, PUBLIC SCHOOL FINANCE, STATE SHARE OF DISTRICTS' TOTAL PROGRAM FUNDING SHALL BE DISTRIBUTED TO SCHOOL DISTRICTS IN THE MANNER PROVIDED IN SECTION 22-54-106 (4)(c).

(III) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (13)(c)(IV) OF THIS SECTION, A DISTRICT'S COST OF LIVING FACTOR IS THE DISTRICT'S COST OF LIVING FACTOR FOR THE PRIOR BUDGET YEAR; EXCEPT THAT:

(A) IF THE PERCENT INCREASE IN THE INCOME LEVEL USED IN THE
COST OF LIVING STUDY IS ONE PERCENT OR LESS AND IF THE PERCENTAGE CHANGE IN THE DISTRICT'S COST OF LIVING AMOUNT FROM THE PREVIOUS COST OF LIVING STUDY TO THE CURRENT COST OF LIVING STUDY IS GREATER THAN ONE PERCENT, A DISTRICT'S COST OF LIVING FACTOR IS DETERMINED BY DIVIDING THE PERCENTAGE CHANGE IN THE DISTRICT'S COST OF LIVING AMOUNT FROM THE PREVIOUS COST OF LIVING STUDY TO THE CURRENT COST OF LIVING STUDY BY ONE PERCENT, DIVIDING THAT AMOUNT BY ONE THOUSAND AND ROUNDING TO THE NEAREST THOUSANDTH OF ONE PERCENT AND ADDING THE RESULT OBTAINED TO THE DISTRICT'S COST OF LIVING FACTOR FOR THE PRIOR BUDGET YEAR; OR

(B) IF THE PERCENT INCREASE IN THE INCOME LEVEL USED IN THE COST OF LIVING STUDY IS MORE THAN ONE PERCENT AND IF THE PERCENTAGE CHANGE IN THE DISTRICT'S COST OF LIVING AMOUNT FROM THE PREVIOUS COST OF LIVING STUDY TO THE CURRENT COST OF LIVING STUDY IS GREATER THAN THE PERCENT INCREASE IN THE INCOME LEVEL USED IN THE COST OF LIVING STUDY, A DISTRICT'S COST OF LIVING FACTOR IS DETERMINED BY DIVIDING THE PERCENTAGE CHANGE IN THE DISTRICT'S COST OF LIVING AMOUNT FROM THE PREVIOUS COST OF LIVING STUDY TO THE CURRENT COST OF LIVING STUDY BY THE PERCENT INCREASE IN THE INCOME LEVEL USED IN THE COST OF LIVING STUDY, DIVIDING THAT AMOUNT BY ONE THOUSAND AND ROUNDING TO THE NEAREST THOUSANDTH OF ONE PERCENT AND ADDING THE RESULT OBTAINED TO THE DISTRICT'S COST OF LIVING FACTOR FOR THE PRIOR BUDGET YEAR.

(IV) (A) THE DEPARTMENT OF EDUCATION SHALL PROMULGATE RULES FOR THE ASSIGNMENT OF A COST OF LIVING FACTOR TO ANY NEW DISTRICT ORGANIZED PURSUANT TO ARTICLE 30 OF THIS TITLE 22, EXCEPT FOR NEW DISTRICTS THAT ARE CREATED AS THE RESULT OF A
DECONSOLIDATION AS DESCRIBED IN SECTION 22-30-102 (2)(a), UNTIL THE
COST OF LIVING FACTOR FOR THE DISTRICT IS CERTIFIED BY THE STAFF OF
THE LEGISLATIVE COUNCIL PURSUANT TO SUBSECTION (13)(c)(I) OF THIS
SECTION.

(B) THE DEPARTMENT OF EDUCATION'S RULES MUST BE DESIGNED
TO PROVIDE NEITHER AN INCENTIVE NOR A DISINCENTIVE TO THE
ORGANIZATION OF NEW DISTRICTS PURSUANT TO ARTICLE 30 OF THIS TITLE
22 AND MUST INCLUDE PROVISIONS TO ENSURE THAT THE COST OF LIVING
FACTOR WITHIN A NEW DISTRICT IS NOT REDUCED SOLELY BECAUSE THE
NEW DISTRICT IS THE RESULT OF A CONSOLIDATION OF EXISTING DISTRICTS.
The rules must consider the cost of living factors assigned to
the districts that are affected by the organization of the new
district and the circumstances of the new district based on the
most recent cost of living analysis performed by the legislative
council.

(V) NEW DISTRICTS THAT ARE CREATED AS THE RESULT OF A
DECONSOLIDATION AS DESCRIBED IN SECTION 22-30-102 (2)(a) RETAIN
THE COST OF LIVING FACTOR OF THE DISTRICT FROM WHICH THEY WERE
SEPARATED UNTIL THE COST OF LIVING FACTOR FOR THE NEW DISTRICT IS
CERTIFIED BY THE STAFF OF THE LEGISLATIVE COUNCIL PURSUANT TO
SUBSECTION (13)(c)(I) OF THIS SECTION.

(d) Personnel costs component of cost of living factor. A
DISTRICT'S PERSONNEL COSTS FACTOR IS DETERMINED IN ACCORDANCE
WITH THE FOLLOWING FORMULA:

IF THE DISTRICT'S FUNDED PUPIL COUNT IS:
THE DISTRICT'S PERSONNEL COSTS FACTOR IS:
LESS THAN 453.5
0.8250 - (0.0000639 x THE DIFFERENCE BETWEEN THE FUNDED PUPIL COUNT AND 453.5)
453.5 OR MORE BUT LESS THAN 1,567.5
0.8595 - (0.0000310 x THE DIFFERENCE BETWEEN THE FUNDED PUPIL COUNT AND 1,567.5)
1,567.5 OR MORE BUT LESS THAN 6,682
0.8850 - (0.0000050 x THE DIFFERENCE BETWEEN THE FUNDED PUPIL COUNT AND 6,682)
6,682 OR MORE BUT LESS THAN 30,000
0.9050 - (0.0000009 x THE DIFFERENCE BETWEEN THE FUNDED PUPIL COUNT AND 30,000)
30,000 OR MORE
0.9050

SECTION 3. In Colorado Revised Statutes, 22-54-103, amend the introductory portion and (6); and add (6.5), (7.2), (7.3), (9.4), (10.2), (10.7), and (10.8) as follows:

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

(6) "District's total program" means the funding for a district, as determined pursuant to section 22-54-104, or section 22-54-104.3, or section 22-54-104.6, whichever is applicable, which represents the financial base of support for public education in that district.

(6.5) "ENGLISH LANGUAGE LEARNER ENROLLMENT" MEANS THE NUMBER OF PUPILS ENROLLED IN A DISTRICT WHO ARE ENGLISH LANGUAGE LEARNERS, AS DEFINED IN SECTION 22-24-103, BUT DOES NOT INCLUDE ENGLISH LANGUAGE LEARNERS DESCRIBED IN SECTION 22-24-104 (3)(b)(I)(A). AS LONG AS A PUPIL CONTINUES TO BE IDENTIFIED AS AN
ENGLISH LANGUAGE LEARNER PURSUANT TO SECTION 22-24-105 (2), THE PUPIL MAY BE INCLUDED IN A DISTRICT'S ENGLISH LANGUAGE LEARNER ENROLLMENT FOR UP TO SEVEN YEARS.

(7.2) (a) "FUNDED PUPIL COUNT" MEANS, FOR THE BUDGET YEAR COMMENCING JULY 1 FOLLOWING THE EFFECTIVE DATE OF THIS SUBSECTION (7.2) AND EACH BUDGET YEAR THEREAFTER, FOR THE APPLICABLE BUDGET YEAR, THE DISTRICT'S ONLINE PUPIL ENROLLMENT PLUS THE DISTRICT'S EXTENDED HIGH SCHOOL PUPIL ENROLLMENT, PLUS THE GREATER OF:

(I) The district's pupil enrollment; or

(II) (A) The average of the district's pupil enrollment and the district's pupil enrollment for the immediately preceding budget year;

(B) The average of the district's pupil enrollment and the district's pupil enrollment for the two immediately preceding budget years;

(C) The average of the district's pupil enrollment and the district's pupil enrollment for the three immediately preceding budget years; or

(D) The average of the district's pupil enrollment and the district's pupil enrollment for the four immediately preceding budget years.

(b) The general assembly hereby finds and declares that for the purposes of section 17 of article IX of the state constitution, averaging a district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the four immediately preceding budget years pursuant to
SUBSECTION (7.2)(a) OF THIS SECTION IS A PROGRAM FOR ACCOUNTABLE EDUCATION REFORM AND MAY THEREFORE RECEIVE FUNDING FROM THE STATE EDUCATION FUND CREATED IN SECTION 17(4) OF ARTICLE IX OF THE STATE CONSTITUTION.

(c) A DISTRICT’S FUNDED PUPIL COUNT INCLUDES THE CERTIFIED PUPIL ENROLLMENT, ONLINE PUPIL ENROLLMENT, AND EXTENDED HIGH SCHOOL ENROLLMENT OF EACH OPERATING INSTITUTE CHARTER SCHOOL FOR WHICH THE DISTRICT IS THE ACCOUNTING DISTRICT. THE DEPARTMENT OF EDUCATION SHALL ADD THE INSTITUTE CHARTER SCHOOL'S CERTIFIED PUPIL ENROLLMENT, ONLINE PUPIL ENROLLMENT, AND EXTENDED HIGH SCHOOL ENROLLMENT TO THE FUNDED PUPIL COUNT OF THE DISTRICT PRIOR TO CALCULATING THE DISTRICT’S TOTAL PROGRAM PURSUANT TO SECTION 22-54-104.6.

(d) A DISTRICT’S PUPIL ENROLLMENT FOR THE APPLICABLE BUDGET YEAR AND A DISTRICT’S PUPIL ENROLLMENT FOR ANY PRECEDING BUDGET YEAR DOES NOT INCLUDE A PUPIL WHO IS OR WAS ENROLLED IN A CHARTER SCHOOL THAT WAS ORIGINALLY AUTHORIZED BY THE DISTRICT BUT WAS SUBSEQUENTLY CONVERTED, ON OR AFTER JULY 1, 2010, TO AN INSTITUTE CHARTER SCHOOL OR TO A CHARTER SCHOOL OF A DISTRICT CONTIGUOUS TO THE ORIGINALLY AUTHORIZING DISTRICT.

(e) NOTWITHSTANDING THE PROVISIONS OF THIS SUBSECTION (7.2) TO THE CONTRARY, FOR THE PURPOSES OF THIS SUBSECTION (7.2), IF A DISTRICT’S FUNDED PUPIL COUNT CALCULATED PURSUANT TO THIS SUBSECTION (7.2) FOR A BUDGET YEAR IS FEWER THAN FIFTY PUPILS, THE DISTRICT'S FUNDED PUPIL COUNT FOR THE BUDGET YEAR IS FIFTY PUPILS.

(7.3) "GIFTED CHILD ENROLLMENT" MEANS THE NUMBER OF PUPILS ENROLLED IN A DISTRICT WHO ARE IDENTIFIED AS A GIFTED CHILD, AS

(9.4) (a) "Poverty enrollment" means the greater of:

(I) The number of pupils enrolled in a district who are eligible for free or reduced-price meals; or

(II) The number of pupils calculated in accordance with the following formula:

\[
\text{(District percentage of poverty enrollment} \times \text{District pupil enrollment}).
\]

(b) For the purposes of subsection (9.4)(a) of this section:

(I) "District percentage of poverty enrollment" means the number of district pupils eligible for free or reduced-price meals enrolled in grades kindergarten through eight divided by the district pupil enrollment for grades kindergarten through eight.

(II) "District pupil enrollment" means the district's pupil enrollment, as determined pursuant to subsection (10.2) of this section.

(III) "District pupils eligible for free or reduced-price meals" means the number of pupils included in the district pupil enrollment who are eligible for free or reduced-price meals pursuant to provisions of the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq., or the federal "Child Nutrition Act of 1966", 42 U.S.C. sec. 1771 et seq.

(10.2) (a) "Pupil enrollment" means, for the budget year commencing July 1 following the effective date of this subsection (10.2) and each budget year thereafter, the number of pupils enrolled in a district on the pupil enrollment count.
DAY WITHIN THE APPLICABLE BUDGET YEAR, AS EVIDENCED BY ACTUAL
ATTENDANCE OF THE PUPIL PRIOR TO THAT DAY, AND INCLUDING:

(I) THE NUMBER OF PUPILS EXPELLED PRIOR TO THE PUPIL
ENROLLMENT COUNT DAY WHO ARE RECEIVING EDUCATIONAL SERVICES
PURSUANT TO SECTION 22-33-203;

(II) A PUPIL WHO IS ENROLLED IN, ATTENDING, AND ACTIVELY
PARTICIPATING IN A SINGLE-DISTRICT ONLINE PROGRAM OR ONLINE
SCHOOL OPERATED PURSUANT TO ARTICLE 30.7 OF THIS TITLE 22;

(III) A JUVENILE TO WHOM THE SCHOOL DISTRICT IS PROVIDING
EDUCATIONAL SERVICES PURSUANT TO SECTION 22-32-141 AS OF THE
PUPIL ENROLLMENT COUNT DAY;

(IV) A PUPIL ENROLLED IN A DISTRICT PRESCHOOL PROGRAM
PURSUANT TO ARTICLE 28 OF THIS TITLE 22 ON THE PUPIL ENROLLMENT
COUNT DAY OR, IF THE DISTRICT Chooses, ON NOVEMBER 1 WITHIN THE
APPLICABLE BUDGET YEAR OR THE SCHOOL DAY NEAREST THAT DATE
RATHER THAN THE PUPIL ENROLLMENT COUNT DAY, AS EVIDENCED BY THE
ACTUAL ATTENDANCE OF THE PUPIL ON NOVEMBER 1 OR THE SCHOOL DAY
NEAREST THAT DATE. THE DISTRICT COUNT A PUPIL ONLY IF HE OR SHE IS
AT LEAST THREE YEARS OLD AS OF OCTOBER 1 OF THE APPLICABLE
BUDGET YEAR. A PUPIL ENROLLED IN A DISTRICT PRESCHOOL PROGRAM
PURSUANT TO ARTICLE 28 OF THIS TITLE 22 IS COUNTED AS A HALF-DAY
PUPIL; AND

(V) A THREE- OR FOUR-YEAR-OLD PUPIL WITH A DISABILITY
RECEIVING AN EDUCATIONAL PROGRAM UNDER THE "EXCEPTIONAL
CHILDREN'S EDUCATIONAL ACT", ARTICLE 20 OF THIS TITLE 22, ON THE
PUPIL ENROLLMENT COUNT DAY OR, IF THE DISTRICT Chooses, ON
NOVEMBER 1 WITHIN THE APPLICABLE BUDGET YEAR OR THE SCHOOL DAY
NEAREST THAT DATE RATHER THAN THE PUPIL ENROLLMENT COUNT DAY, AS EVIDENCED BY THE ACTUAL ATTENDANCE OF THE PUPIL ON NOVEMBER 1 OR THE SCHOOL DATE NEAREST THAT DATE. THE THREE- OR FOUR-YEAR-OLD PUPIL IS COUNTED AS A HALF-DAY PUPIL.

(b) A DISTRICT SHALL COUNT A PUPIL ENROLLED IN A KINDERGARTEN EDUCATIONAL PROGRAM PURSUANT TO SECTION 22-32-119 ONLY IF THE PUPIL IS FIVE YEARS OLD AS OF OCTOBER 1 OF THE APPLICABLE BUDGET YEAR, OR IS FOUR YEARS OLD AS OF THAT DATE AND HAS BEEN IDENTIFIED BY AN ADMINISTRATIVE UNIT AS A HIGHLY ADVANCED GIFTED CHILD FOR WHOM EARLY ACCESS TO KINDERGARTEN IS APPROPRIATE PURSUANT TO SECTION 22-20-204.5. A CHILD ENROLLED IN A FULL-DAY KINDERGARTEN PROGRAM IS COUNTED AS A FULL-DAY PUPIL, AND A CHILD ENROLLED IN A HALF-DAY KINDERGARTEN PROGRAM IS COUNTED AS A HALF-DAY PUPIL; EXCEPT THAT, IF THE PUPIL DOES NOT ADVANCE TO FIRST GRADE, PURSUANT TO SECTION 22-7-1207, AFTER COMPLETING ONE YEAR OF ENROLLMENT IN A KINDERGARTEN EDUCATIONAL PROGRAM, THE PUPIL SHALL BE COUNTED AS A FULL-DAY PUPIL FOR THE SECOND YEAR IN WHICH HE OR SHE IS ENROLLED IN THE KINDERGARTEN EDUCATIONAL PROGRAM.

(c) A DISTRICT SHALL COUNT A PUPIL ENROLLED IN FIRST GRADE ONLY IF THE PUPIL IS SIX YEARS OLD AS OF OCTOBER 1 OF THE APPLICABLE BUDGET YEAR, OR IS FIVE YEARS OLD AS OF THAT DATE AND HAS ATTENDED AT LEAST ONE HUNDRED TWENTY DAYS OF KINDERGARTEN IN A STATE OTHER THAN COLORADO, OR IS FIVE YEARS OLD AND HAS BEEN IDENTIFIED BY THE DISTRICT OR ADMINISTRATIVE UNIT AS A HIGHLY ADVANCED GIFTED CHILD FOR WHOM EARLY ACCESS TO FIRST GRADE IS APPROPRIATE, AS PROVIDED IN SECTION 22-20-204.5.
(d) For the purposes of subsection (10.2)(a) of this section, "pupil enrollment" does not include a pupil who is placed in a facility, as defined in section 22-2-402 (3), and is receiving services through an approved facility school, as defined in section 22-2-402 (1).

(e) For the purposes of subsection (10.2)(a) of this section, a pupil with a disability receiving an educational program under the "Exceptional Children's Educational Act", article 20 of this title 22, who would be in a kindergarten educational program but for the disability is counted as a full-day pupil if the kindergarten educational program is a full-day program, and as a half-day pupil if the kindergarten educational program is a half-day program. If, but for the disability, the pupil would be enrolled in a grade beyond kindergarten, the pupil is counted as a full-day pupil.

(f) A pupil determined to have a disability in accordance with section 22-20-108 and receiving an educational program outside of the district of residence is considered enrolled in the district of residence for the purposes of subsection (10.2)(a) of this section.

(g) For the purposes of subsection (10.2)(a) of this section, a pupil who is enrolled as less than a full-time pupil, other than a preschool or kindergarten pupil, a three- or four-year-old pupil described in subsection (10.2)(a)(V) of this section, or a pupil enrolled in a P-TECH school pursuant to article 35.3 of this title 22, is counted in accordance with state board rules relating to pupils who are enrolled as less than full-time pupils.
(h) In certifying the district's pupil enrollment to the state board pursuant to the provisions of section 22-54-112, the district shall specify the number of pupils enrolled in a district preschool program pursuant to article 28 of this title 22; the number of pupils enrolled in a half-day kindergarten program; the number of pupils enrolled in kindergarten through twelfth grade, specifying those who are enrolled as full-time pupils and those who are enrolled as less than full-time pupils; the number of expelled pupils receiving educational services pursuant to section 22-33-203; the number of pupils receiving educational programs under the "Exceptional Children's Educational Act", article 20 of this title; the district's poverty enrollment; the district's English language learner enrollment; the district's gifted child enrollment; the district's special education non-specified disability enrollment; the district's special education specified disability enrollment; the district's online enrollment; and the district's extended high school enrollment.

(10.7) "Special education non-specified disability enrollment" means the number of pupils enrolled in a district who have been identified pursuant to section 22-20-108 as a child with a disability that is not listed in section 22-20-114 (1)(c)(II) and who are receiving special education services or programs as provided in part 1 of article 20 of this title 22 pursuant to an individualized education program on December 1 of the preceding budget year.

(10.8) "Special education specified disability enrollment" means the number of pupils enrolled in a district who have been
IDENTIFIED PURSUANT TO SECTION 22-20-108 AS A CHILD WITH A DISABILITY THAT IS LISTED IN SECTION 22-20-114 (1)(c)(II) AND WHO ARE RECEIVING SPECIAL EDUCATION SERVICES OR PROGRAMS AS PROVIDED IN PART 1 OF ARTICLE 20 OF THIS TITLE 22 PURSUANT TO AN INDIVIDUALIZED EDUCATION PROGRAM ON DECEMBER 1 OF THE PRECEDING BUDGET YEAR.

SECTION 4. Effective date. This act takes effect upon the proclamation by the governor of the vote cast in a statewide election held no later than January 1, 2023, at which an increase in state tax revenues for the purpose of funding preschool through secondary school public education is approved by the voters, so long as the amount of the approved revenue increase is equal to or greater than the total estimated state fiscal impact associated with the payment of the state share of total program pursuant to section 22-54-104.6 in the second budget year commencing after the increase is approved, as stated in the fiscal note prepared for House Bill 18-____, enacted in 2018.

SECTION 5. 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.