

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 19-0388.01 Brita Darling x2241

SENATE BILL 19-066

SENATE SPONSORSHIP

Todd,

HOUSE SPONSORSHIP

Buentello,

Senate Committees

Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING HIGH-COST SPECIAL EDUCATION GRANTS AWARDED**
102 **FROM A TRUST FUND ESTABLISHED FOR THAT PURPOSE.**

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 high-cost special education trust fund (trust fund) to be used for high-cost special education trust fund grants (trust fund grants) to public school special education administrative units that have made significant expenditures in providing special education services to a child with a disability.

The trust fund consists of money transferred from the general fund

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

to the trust fund for the 2018-19 fiscal year, as well as an annual appropriation beginning in the 2019-20 fiscal year from the marijuana tax cash fund to the trust fund.

The department of education may expend interest and income from the trust fund for trust fund grants awarded by the Colorado special education fiscal advisory committee (committee).

The bill specifies the eligibility criteria for a trust fund grant and criteria that the committee shall consider in determining the trust fund grant recipients and the amount of the trust fund grants.

The bill requires an annual report to the education committees of the general assembly concerning trust fund grants awarded during the fiscal year.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 22-20-114.7 as
3 follows:

4 **22-20-114.7. High-cost special education trust fund - creation**
5 **- grants - eligibility - legislative declaration - definition - annual**
6 **report - repeal.** (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES

7 THAT:

8 (I) PROVIDING EQUAL ACCESS TO HIGH-QUALITY PUBLIC
9 EDUCATION FOR ALL STUDENTS, INCLUDING CHILDREN WITH DISABILITIES,
10 IS A TOP PRIORITY FOR THE STATE;

11 (II) EACH ADMINISTRATIVE UNIT IN THE STATE IS RESPONSIBLE FOR
12 MAKING AVAILABLE SPECIAL EDUCATION SERVICES REQUIRED BY THE IEP
13 FOR ANY CHILD WITH A DISABILITY FOR WHOM IT IS RESPONSIBLE;

14 (III) EACH YEAR, A SMALL NUMBER OF CASES, RANDOMLY
15 AFFECTING ADMINISTRATIVE UNITS ACROSS THE STATE, BECOME
16 EXTRAORDINARILY EXPENSIVE, THREATENING TO JEOPARDIZE THE
17 ADMINISTRATIVE UNIT'S ABILITY TO PROVIDE EQUAL ACCESS TO EACH
18 CHILD AND TO MAINTAIN FINANCIAL STABILITY;

19 (IV) ENSURING THAT FINANCIAL SUPPORT IS AVAILABLE TO HELP

1 ADMINISTRATIVE UNITS DEFRAID THE COSTS ASSOCIATED WITH PROVIDING
2 HIGH-COST SPECIAL EDUCATION SERVICES IS A STATEWIDE CONCERN; AND

3 (V) BUILDING A RESERVE THAT MAY PROVIDE NECESSARY
4 FUNDING FOR ADMINISTRATIVE UNITS EXPERIENCING HIGH COSTS WILL
5 HELP BRING EQUITY AND STABILITY TO THE STATE'S SPECIAL EDUCATION
6 PROGRAMS.

7 (b) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT IT IS
8 NECESSARY AND APPROPRIATE TO CREATE A HIGH-COST SPECIAL
9 EDUCATION TRUST FUND TO BUILD A RESERVE FOR HIGH-COST SPECIAL
10 EDUCATION SERVICES.

11 (2) (a) THE HIGH-COST SPECIAL EDUCATION TRUST FUND,
12 REFERRED TO IN THIS SECTION AS THE "TRUST FUND", IS CREATED IN THE
13 STATE TREASURY. THE TRUST FUND IS ADMINISTERED BY THE COLORADO
14 SPECIAL EDUCATION FISCAL ADVISORY COMMITTEE, CREATED IN THE
15 DEPARTMENT OF EDUCATION PURSUANT TO SECTION 22-20-114.5(2), AND
16 REFERRED TO IN THIS SECTION AS THE "COMMITTEE".

17 (b) (I) ON JUNE 30, 2019, THE STATE TREASURER SHALL TRANSFER
18 ONE MILLION DOLLARS FROM THE MARIJUANA TAX CASH FUND, CREATED
19 IN SECTION 39-28.8-501, TO THE TRUST FUND.

20 (II) ON AUGUST 1, 2019, AND EACH AUGUST 1 THEREAFTER, THE
21 STATE TREASURER SHALL TRANSFER TWO MILLION SIX HUNDRED
22 THOUSAND DOLLARS FROM THE MARIJUANA TAX CASH FUND, CREATED IN
23 SECTION 39-28.8-501, TO THE TRUST FUND; EXCEPT THAT, THE TRANSFER
24 IN THE 2020-21 FISCAL YEAR AND IN EACH FISCAL YEAR THEREAFTER
25 SHALL BE AN AMOUNT EQUAL TO THE AMOUNT TRANSFERRED IN THE
26 PREVIOUS FISCAL YEAR INCREASED BY TEN PERCENT.

27 (c) THE TRUST FUND CONSISTS OF MONEY TRANSFERRED TO THE

1 TRUST FUND PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION AND ANY
2 OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE TO THE
3 TRUST FUND AND THE INTEREST AND INCOME EARNED ON THE PRINCIPAL
4 OF THE TRUST FUND.

5 (d) TRANSFERS TO THE TRUST FUND PURSUANT TO SUBSECTION
6 (2)(b) OF THIS SECTION AND ANY MONEY APPROPRIATED TO THE TRUST
7 FUND PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION CONSTITUTE THE
8 PRINCIPAL OF THE TRUST FUND. THE PRINCIPAL OF THE TRUST FUND
9 REMAINS IN THE TRUST FUND AND SHALL NOT BE APPROPRIATED,
10 TRANSFERRED, OR EXPENDED.

11 (e) THE STATE TREASURER IS AUTHORIZED AND DIRECTED TO
12 MANAGE THE TRUST FUND THROUGH PRUDENT INVESTMENTS WITH A
13 TARGETED MINIMUM ANNUAL RETURN OF THREE PERCENT ON THE
14 PRINCIPAL AND SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM
15 THE DEPOSIT AND INVESTMENT OF MONEY IN THE TRUST FUND TO THE
16 TRUST FUND.

17 (f) TRUST FUND INTEREST AND INCOME IS CONTINUOUSLY
18 APPROPRIATED TO THE DEPARTMENT FOR HIGH-COST SPECIAL EDUCATION
19 TRUST FUND GRANTS AWARDED BY THE COMMITTEE PURSUANT TO
20 SUBSECTION (3) OF THIS SECTION. INTEREST AND INCOME NOT EXPENDED
21 DURING THE FISCAL YEAR FOR HIGH-COST SPECIAL EDUCATION TRUST
22 FUND GRANTS MAY BE EXPENDED IN SUBSEQUENT FISCAL YEARS FOR THAT
23 PURPOSE.

24 (3) (a) THE COMMITTEE MAY AWARD HIGH-COST SPECIAL
25 EDUCATION TRUST FUND GRANTS FROM INTEREST AND INCOME IN THE
26 TRUST FUND.

27 (b) AN ADMINISTRATIVE UNIT MAY APPLY TO THE COMMITTEE FOR

1 A HIGH-COST SPECIAL EDUCATION TRUST FUND GRANT IF THE
2 ADMINISTRATIVE UNIT:

3 (I) HAS EXPENDITURES, AS DEFINED IN SUBSECTION (3)(c) OF THIS
4 SECTION, IN THE PRECEDING BUDGET YEAR TO MEET THE NEEDS OF A
5 SINGLE STUDENT WITH AN IEP; AND

6 (II) THE EXPENDITURES EXCEED THE LESSER OF:

7 (A) ONE HUNDRED THOUSAND DOLLARS; OR

8 (B) TWO AND ONE-HALF PERCENT OF THE ADMINISTRATIVE UNIT'S
9 ANNUAL AUDITED OPERATING EXPENSES FOR THE PRECEDING BUDGET
10 YEAR.

11 (c) FOR THE PURPOSES OF SUBSECTION (3)(b) OF THIS SECTION,
12 "EXPENDITURES" INCLUDES ITEMS THAT ARE ALLOWABLE SPECIAL
13 EDUCATION EXPENDITURES PURSUANT TO STATE AND FEDERAL LAW. AN
14 ADMINISTRATIVE UNIT APPLYING FOR A HIGH-COST SPECIAL EDUCATION
15 TRUST FUND GRANT SHALL PROVIDE DOCUMENTATION OR OTHER
16 CERTIFICATION OF EXPENDITURES, AS REQUIRED BY THE COMMITTEE.

17 (d) IF THE COMMITTEE DETERMINES THAT AN ADMINISTRATIVE
18 UNIT IS ELIGIBLE FOR A HIGH-COST SPECIAL EDUCATION TRUST FUND
19 GRANT, THE COMMITTEE SHALL CONSIDER THE FOLLOWING CRITERIA IN
20 DETERMINING WHETHER TO AWARD A TRUST FUND GRANT AND IN WHAT
21 AMOUNT:

22

23 (I) NUMBER OF APPLICATIONS RECEIVED IN A GIVEN YEAR;

24 (II) THE AMOUNT OF HIGH-COST SPECIAL EDUCATION TRUST FUND
25 GRANT MONEY AVAILABLE FOR DISTRIBUTION IN A GIVEN YEAR; AND

26 (III) ANY SPECIAL CIRCUMSTANCES ASSOCIATED WITH THE
27 INDIVIDUAL HIGH-COST SPECIAL EDUCATION TRUST FUND GRANT REQUEST.

1 (e) THE COMMITTEE SHALL MAKE THE FINAL DETERMINATION AS
2 TO THE HIGH-COST SPECIAL EDUCATION TRUST FUND GRANT AWARD AND
3 AMOUNT; HOWEVER, THE COMMITTEE SHALL ATTEMPT TO AWARD TRUST
4 FUND GRANTS IN PROPORTION TO THE NEED PRESENTED BY INDIVIDUAL
5 CASES AND THE NUMBER OF APPLICATIONS PRESENTED BY
6 ADMINISTRATIVE UNITS IN A GIVEN YEAR.

7 (f) THE COMMITTEE MAY REQUEST ADDITIONAL INFORMATION
8 FROM ADMINISTRATIVE UNITS PRIOR TO THE DISTRIBUTION OF HIGH-COST
9 SPECIAL EDUCATION TRUST FUND GRANTS.

10 (g) THE COMMITTEE IS ENCOURAGED TO WORK DIRECTLY WITH AN
11 ADMINISTRATIVE UNIT TO HELP TAILOR HIGH-COST SPECIAL EDUCATION
12 TRUST FUND GRANTS TO THE SPECIFIC NEEDS OF THE INDIVIDUAL
13 ADMINISTRATIVE UNIT FOR THE MOST EFFICIENT USE OF TRUST FUND
14 GRANT MONEY.

15 (4) (a) FOR EACH FISCAL YEAR IN WHICH THE COMMITTEE AWARDS
16 A HIGH-COST SPECIAL EDUCATION TRUST FUND GRANT, THE COMMITTEE
17 SHALL INCORPORATE THE FOLLOWING INFORMATION REGARDING THE
18 SPECIAL EDUCATION TRUST FUND GRANT INTO THE ANNUAL SPECIAL
19 EDUCATION FISCAL ADVISORY COMMITTEE REPORT TO THE STATE BOARD
20 OF EDUCATION AND THE EDUCATION COMMITTEES OF THE HOUSE OF
21 REPRESENTATIVES AND OF THE SENATE, OR ANY SUCCESSOR COMMITTEES:

22 (I) THE NUMBER OF APPLICATIONS RECEIVED FOR A HIGH-COST
23 SPECIAL EDUCATION TRUST FUND GRANT;

24 (II) THE NUMBER OF HIGH-COST SPECIAL EDUCATION TRUST FUND
25 GRANTS AWARDED DURING THE FISCAL YEAR;

26 (III) THE NAME OF THE ADMINISTRATIVE UNIT RECEIVING A
27 HIGH-COST SPECIAL EDUCATION TRUST FUND GRANT AND THE AMOUNT OF

1 MONEY AWARDED FOR EACH TRUST FUND GRANT; AND
2 (IV) THE BALANCE IN THE TRUST FUND, INCLUDING PRINCIPAL AND
3 AVAILABLE INTEREST AND INCOME IN THE TRUST FUND.

4 (b) NOTWITHSTANDING THE PROVISIONS OF SECTION 24-1-136
5 (11)(a)(I) TO THE CONTRARY, THE REPORT REQUIRED PURSUANT TO THIS
6 SUBSECTION (4) CONTINUES INDEFINITELY.

7 (5) (a) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2027.

8 (b) PRIOR TO SUCH REPEAL, THE STATE TREASURER SHALL:

9 (I) TRANSFER ANY UNEXPENDED AND UNENCUMBERED TRUST
10 FUND INTEREST AND INCOME TO THE GENERAL FUND; AND

11 (II) TRANSFER ANY REMAINING MARIJUANA TAX CASH FUND
12 MONEY TRANSFERRED TO THE TRUST FUND PURSUANT TO SUBSECTION
13 (2)(b) OF THIS SECTION TO THE MARIJUANA TAX CASH FUND, CREATED IN
14 SECTION 39-28.8-501.

15 **SECTION 2.** In Colorado Revised Statutes, 22-20-114.5, **add** (6)
16 as follows:

17 **22-20-114.5. Special education fiscal advisory committee -**
18 **special education high-cost grants - definitions - repeal.** (6) (a) IN
19 ADDITION TO AWARDING GRANTS PURSUANT TO SUBSECTION (3) OF THIS
20 SECTION, THE COMMITTEE SHALL AWARD HIGH-COST SPECIAL EDUCATION
21 TRUST FUND GRANTS AND REPORT ON THOSE GRANTS PURSUANT TO
22 SECTION 22-20-114.7.

23 (b) THIS SUBSECTION (6) IS REPEALED, EFFECTIVE JULY 1, 2027.

24 **SECTION 3.** In Colorado Revised Statutes, 39-28.8-501, **amend**
25 (2)(c); and **add** (4.5) as follows:

26 **39-28.8-501. Marijuana tax cash fund - creation - distribution**
27 **- legislative declaration - repeal.** (2) (c) Subject to the limitations in

1 subsection (5) of this section and in addition to the purposes for which the
2 general assembly may appropriate ~~moneys~~ MONEY in the fund specified
3 in ~~paragraphs (a) and (b) of this subsection (2)~~ SUBSECTIONS (2)(a) AND
4 (2)(b) OF THIS SECTION, the general assembly may also direct the state
5 treasurer to transfer ~~moneys~~ MONEY in the fund to the general fund as
6 specified in subsection (4) of this section AND TO THE HIGH-COST SPECIAL
7 EDUCATION TRUST FUND AS SPECIFIED IN SUBSECTION (4.5) OF THIS
8 SECTION. The general assembly may direct the state treasurer to make
9 such transfers only for a fiscal year following the fiscal year in which the
10 ~~moneys~~ MONEY in the fund ~~were~~ WAS received by the state.

11 (4.5) (a) ON JUNE 30, 2019, ON AUGUST 1, 2019, AND ON AUGUST
12 1 OF EACH YEAR THEREAFTER, THE STATE TREASURER SHALL TRANSFER
13 FROM THE FUND TO THE HIGH-COST SPECIAL EDUCATION TRUST FUND,
14 CREATED IN SECTION 22-20-114.7, THE AMOUNTS SPECIFIED IN SECTION
15 22-20-114.7 (2)(b).

16 (b) THIS SUBSECTION (4.5) IS REPEALED, EFFECTIVE JULY 1, 2027.

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