

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

ENGROSSED

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

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.

SENATE
Amended 2nd Reading
April 23, 2019

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 DEFRAY 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 JULY 1, 2019, THE STATE TREASURER SHALL TRANSFER
18 TWO MILLION FIVE HUNDRED THOUSAND DOLLARS FROM THE MARIJUANA
19 TAX CASH FUND, CREATED IN SECTION 39-28.8-501, TO THE TRUST FUND.

20 (II) THE GENERAL ASSEMBLY IS ENCOURAGED TO PRIORITIZE THE
21 TRANSFER OR APPROPRIATION OF MONEY TO THE TRUST FUND IN FUTURE
22 FISCAL YEARS.

23 (c) THE TRUST FUND CONSISTS OF MONEY TRANSFERRED TO THE
24 TRUST FUND PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION AND ANY
25 OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE TO THE
26 TRUST FUND AND THE INTEREST AND INCOME EARNED ON THE PRINCIPAL
27 OF THE TRUST FUND.

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

7 (e) THE STATE TREASURER IS AUTHORIZED AND DIRECTED TO
8 MANAGE THE TRUST FUND THROUGH PRUDENT INVESTMENTS ===== AND
9 SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT
10 AND INVESTMENT OF MONEY IN THE TRUST FUND TO THE TRUST FUND.

11 (f) TRUST FUND INTEREST AND INCOME IS CONTINUOUSLY
12 APPROPRIATED TO THE DEPARTMENT FOR HIGH-COST SPECIAL EDUCATION
13 TRUST FUND GRANTS AWARDED BY THE COMMITTEE PURSUANT TO
14 SUBSECTION (3) OF THIS SECTION. INTEREST AND INCOME NOT EXPENDED
15 DURING THE FISCAL YEAR FOR HIGH-COST SPECIAL EDUCATION TRUST
16 FUND GRANTS MAY BE EXPENDED IN SUBSEQUENT FISCAL YEARS FOR THAT
17 PURPOSE.

18 (3) (a) THE COMMITTEE MAY AWARD HIGH-COST SPECIAL
19 EDUCATION TRUST FUND GRANTS FROM INTEREST AND INCOME IN THE
20 TRUST FUND.

21 (b) AN ADMINISTRATIVE UNIT MAY APPLY TO THE COMMITTEE FOR
22 A HIGH-COST SPECIAL EDUCATION TRUST FUND GRANT IF THE
23 ADMINISTRATIVE UNIT:

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

27 (II) THE EXPENDITURES EXCEED THE LESSER OF:

1 (A) ONE HUNDRED THOUSAND DOLLARS; OR

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

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

11 (d) IF THE COMMITTEE DETERMINES THAT AN ADMINISTRATIVE
12 UNIT IS ELIGIBLE FOR A HIGH-COST SPECIAL EDUCATION TRUST FUND
13 GRANT, THE COMMITTEE SHALL CONSIDER THE FOLLOWING CRITERIA IN
14 DETERMINING WHETHER TO AWARD A TRUST FUND GRANT AND IN WHAT
15 AMOUNT:

- 16
- 17 (I) NUMBER OF APPLICATIONS RECEIVED IN A GIVEN YEAR;
 - 18 (II) THE AMOUNT OF HIGH-COST SPECIAL EDUCATION TRUST FUND
19 GRANT MONEY AVAILABLE FOR DISTRIBUTION IN A GIVEN YEAR; AND
 - 20 (III) ANY SPECIAL CIRCUMSTANCES ASSOCIATED WITH THE
21 INDIVIDUAL HIGH-COST SPECIAL EDUCATION TRUST FUND GRANT REQUEST.

22 (e) THE COMMITTEE SHALL MAKE THE FINAL DETERMINATION AS
23 TO THE HIGH-COST SPECIAL EDUCATION TRUST FUND GRANT AWARD AND
24 AMOUNT; HOWEVER, THE COMMITTEE SHALL ATTEMPT TO AWARD TRUST
25 FUND GRANTS IN PROPORTION TO THE NEED PRESENTED BY INDIVIDUAL
26 CASES AND THE NUMBER OF APPLICATIONS PRESENTED BY
27 ADMINISTRATIVE UNITS IN A GIVEN YEAR.

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

4 (g) THE COMMITTEE IS ENCOURAGED TO WORK DIRECTLY WITH AN
5 ADMINISTRATIVE UNIT TO HELP TAILOR HIGH-COST SPECIAL EDUCATION
6 TRUST FUND GRANTS TO THE SPECIFIC NEEDS OF THE INDIVIDUAL
7 ADMINISTRATIVE UNIT FOR THE MOST EFFICIENT USE OF TRUST FUND
8 GRANT MONEY.

9 (4) (a) FOR EACH FISCAL YEAR IN WHICH THE COMMITTEE AWARDS
10 A HIGH-COST SPECIAL EDUCATION TRUST FUND GRANT, THE COMMITTEE
11 SHALL INCORPORATE THE FOLLOWING INFORMATION REGARDING THE
12 SPECIAL EDUCATION TRUST FUND GRANT INTO THE ANNUAL SPECIAL
13 EDUCATION FISCAL ADVISORY COMMITTEE REPORT TO THE STATE BOARD
14 OF EDUCATION AND THE EDUCATION COMMITTEES OF THE HOUSE OF
15 REPRESENTATIVES AND OF THE SENATE, OR ANY SUCCESSOR COMMITTEES:

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

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

20 (III) THE NAME OF THE ADMINISTRATIVE UNIT RECEIVING A
21 HIGH-COST SPECIAL EDUCATION TRUST FUND GRANT AND THE AMOUNT OF
22 MONEY AWARDED FOR EACH TRUST FUND GRANT; AND

23 (IV) THE BALANCE IN THE TRUST FUND, INCLUDING PRINCIPAL AND
24 AVAILABLE INTEREST AND INCOME IN THE TRUST FUND.

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

1 (5) (a) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2027.
2 (b) PRIOR TO SUCH REPEAL, THE STATE TREASURER SHALL:
3 (I) TRANSFER ANY UNEXPENDED AND UNENCUMBERED TRUST
4 FUND INTEREST AND INCOME TO THE GENERAL FUND; AND
5 (II) TRANSFER ANY REMAINING MARIJUANA TAX CASH FUND
6 MONEY TRANSFERRED TO THE TRUST FUND PURSUANT TO SUBSECTION
7 (2)(b) OF THIS SECTION TO THE MARIJUANA TAX CASH FUND, CREATED IN
8 SECTION 39-28.8-501.

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

11 **22-20-114.5. Special education fiscal advisory committee -**
12 **special education high-cost grants - definitions - repeal.** (6) (a) IN
13 ADDITION TO AWARDING GRANTS PURSUANT TO SUBSECTION (3) OF THIS
14 SECTION, THE COMMITTEE SHALL AWARD HIGH-COST SPECIAL EDUCATION
15 TRUST FUND GRANTS AND REPORT ON THOSE GRANTS PURSUANT TO
16 SECTION 22-20-114.7.

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

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

20 **39-28.8-501. Marijuana tax cash fund - creation - distribution**
21 **- legislative declaration - repeal.** (2) (c) Subject to the limitations in
22 subsection (5) of this section and in addition to the purposes for which the
23 general assembly may appropriate ~~moneys~~ MONEY in the fund specified
24 in ~~paragraphs (a) and (b) of this subsection (2)~~ SUBSECTIONS (2)(a) AND
25 (2)(b) OF THIS SECTION, the general assembly may also direct the state
26 treasurer to transfer ~~moneys~~ MONEY in the fund to the general fund as
27 specified in subsection (4) of this section AND TO THE HIGH-COST SPECIAL

1 EDUCATION TRUST FUND. The general assembly may direct the state
2 treasurer to make such transfers only for a fiscal year following the fiscal
3 year in which the ~~moneys~~ MONEY in the fund ~~were~~ WAS received by the
4 state.

5 (4.5) (a) ON JULY 1, 2019, THE STATE TREASURER SHALL
6 TRANSFER FROM THE FUND TO THE HIGH-COST SPECIAL EDUCATION TRUST
7 FUND, CREATED IN SECTION 22-20-114.7, THE AMOUNT SPECIFIED IN
8 SECTION 22-20-114.7 (2)(b)(I).

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

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