

**First Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 07-0497.01 Brita Darling

**SENATE BILL 07-141**

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**SENATE SPONSORSHIP**

**Spence**, Brophy, Harvey, Kopp, Penry, Renfroe, Schultheis, Ward, and Wiens

**HOUSE SPONSORSHIP**

**Gardner C.**,

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**Senate Committees**  
Education

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING FUNDING FOR TEACHER PERFORMANCE INCENTIVE**  
102 **PROGRAMS, AND MAKING AN APPROPRIATION THEREFOR.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Establishes the teacher performance incentive grant program ("grant program"). Provides that school districts, charter schools, and institute charter schools ("applicants") may create a teacher performance incentive plan ("incentive plan"). Allows applicants to submit to the department of education ("department") an application, including a copy of the incentive plan, to apply for a teacher performance incentive grant ("grant"). Specifies that an applicant may use a grant to provide salary

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.*

incentives to teachers who qualify under the applicant's incentive plan. Instructs the state board of education to award grants to applicants, taking into consideration the department's recommendations. Establishes the teacher performance incentive grant fund. Requires the department to report annually to the education committees and to the governor regarding the implementation of the grant program.

Makes an appropriation from the state education fund.

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

**SECTION 1.** Title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

**ARTICLE 68**

**Teacher Performance Incentive Act**

**22-68-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "TEACHER PERFORMANCE INCENTIVE ACT".

**22-68-102. Legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS THAT:

(a) TEACHERS ARE A KEY COMPONENT IN THE ACADEMIC SUCCESS OF CHILDREN;

(b) SCHOOL DISTRICTS AND CHARTER SCHOOLS SHOULD ENCOURAGE INNOVATIVE, CREATIVE, AND HIGH-QUALITY TEACHING PRACTICES, AND TEACHERS WHO FOLLOW THESE PRACTICES AND WHO PROMOTE EXCELLENT STUDENT PERFORMANCE SHOULD BE REWARDED;

(c) PROMOTING STUDENT PERFORMANCE AND ACHIEVING TEACHING EXCELLENCE IS PARTICULARLY DIFFICULT WHEN DEALING WITH THE ISSUES RELATED TO AT-RISK STUDENTS; AND

(d) THE TIME IS RIGHT IN COLORADO TO REWARD EXCELLENCE IN TEACHING. AS PART OF "THE COLORADO PROMISE", GOVERNOR BILL RITTER HAS DECLARED TEACHER PERFORMANCE PAY TO BE A KEY ELEMENT IN CREATING NEW OPPORTUNITIES IN EDUCATION AND HAS

1 PLEDGED TO "SUPPORT EFFORTS THAT PROVIDE PERFORMANCE INCENTIVES  
2 TO TEACHERS..."

3 (2) THE GENERAL ASSEMBLY THEREFORE DECLARES THAT A GRANT  
4 PROGRAM DESIGNED TO PROVIDE MONEYS FOR TEACHER PAY INCENTIVES  
5 TO EXCELLENT TEACHERS WILL REWARD TEACHING EXCELLENCE AND  
6 PROVIDE AN INCENTIVE FOR HIGH-PERFORMING TEACHERS TO CONTINUE  
7 IN THE PROFESSION AND TO CONTINUOUSLY STRIVE FOR HIGHER LEVELS OF  
8 PERFORMANCE.

9 (3) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT,  
10 FOR PURPOSES OF SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION,  
11 PROVIDING FUNDING FOR PERFORMANCE INCENTIVES FOR TEACHERS IS  
12 SPECIFICALLY INCLUDED AS AN AUTHORIZED USE OF MONEYS IN THE STATE  
13 EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE IX OF THE  
14 STATE CONSTITUTION. THEREFORE, THIS ACT MAY BE IMPLEMENTED WITH  
15 APPROPRIATIONS FROM THE STATE EDUCATION FUND.

16 **22-68-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE  
17 CONTEXT OTHERWISE REQUIRES:

18 (1) "DEPARTMENT" MEANS THE DEPARTMENT OF EDUCATION,  
19 CREATED AND EXISTING PURSUANT TO SECTION 24-1-115, C.R.S.

20 (2) "DISTRICT BOARD" MEANS A SCHOOL DISTRICT BOARD OF  
21 EDUCATION.

22 (3) "EDUCATION ENTITY" MEANS A SCHOOL DISTRICT, A CHARTER  
23 SCHOOL, OR AN INSTITUTE CHARTER SCHOOL.

24 (4) "FUND" MEANS THE TEACHER PERFORMANCE INCENTIVE GRANT  
25 FUND, CREATED PURSUANT TO SECTION 22-68-106.

26 (5) "GRANT PROGRAM" MEANS THE TEACHER PERFORMANCE  
27 INCENTIVE GRANT PROGRAM, CREATED PURSUANT TO SECTION 22-68-104.

1 (6) "INSTITUTE CHARTER SCHOOL" MEANS A CHARTER SCHOOL  
2 THAT IS AUTHORIZED BY THE STATE CHARTER SCHOOL INSTITUTE  
3 PURSUANT TO PART 5 OF ARTICLE 30.5 OF THIS TITLE.

4 (7) "STATE BOARD" MEANS THE STATE BOARD OF EDUCATION,  
5 CREATED AND EXISTING PURSUANT TO SECTION 1 OF ARTICLE IX OF THE  
6 STATE CONSTITUTION.

7 (8) "TEACHER" MEANS A PERSON EMPLOYED TO INSTRUCT  
8 STUDENTS IN A PUBLIC SCHOOL IN THE STATE.

9 **22-68-104. Teacher performance incentive grant program -**  
10 **created - applications.** (1) THERE IS HEREBY CREATED IN THE  
11 DEPARTMENT THE TEACHER PERFORMANCE INCENTIVE GRANT PROGRAM  
12 TO ASSIST IN FUNDING TEACHER PERFORMANCE INCENTIVES FOR TEACHERS  
13 WHO EXHIBIT HIGH-QUALITY TEACHING PRACTICES AND WHO PROMOTE  
14 EXCELLENT STUDENT PERFORMANCE IN STUDENTS ENROLLED IN  
15 KINDERGARTEN THROUGH TWELFTH GRADE. THE GOAL IN FUNDING  
16 TEACHER PERFORMANCE INCENTIVES IS TO ENCOURAGE HIGHER QUALITY  
17 TEACHING THAT RESULTS IN IMPROVED STUDENT PERFORMANCE. AN  
18 EDUCATION ENTITY MAY APPLY TO THE DEPARTMENT, IN ACCORDANCE  
19 WITH PROCEDURES AND TIME FRAMES ADOPTED BY RULE OF THE STATE  
20 BOARD, TO RECEIVE MONEYS FOR TEACHER PERFORMANCE INCENTIVES  
21 FROM THE FUND. THE DEPARTMENT SHALL ADMINISTER THE GRANT  
22 PROGRAM AS PROVIDED IN THIS ARTICLE AND PURSUANT TO THE RULES  
23 ADOPTED BY THE STATE BOARD.

24 (2) IN A YEAR IN WHICH THE GENERAL ASSEMBLY APPROPRIATES  
25 MONEY TO THE FUND OR IN WHICH THE DEPARTMENT RECEIVES OTHER  
26 GIFTS, GRANTS, OR DONATIONS FOR THE FUND PURSUANT TO SECTION  
27 22-68-106, THE DEPARTMENT SHALL NOTIFY SCHOOL DISTRICTS, CHARTER

1       SCHOOLS, AND INSTITUTE CHARTER SCHOOLS IN THE MANNER PROVIDED  
2       BY RULE OF THE STATE BOARD OF THE AMOUNT OF MONEY DEPOSITED IN  
3       THE FUND AND AVAILABLE FOR GRANTS PURSUANT TO THIS ARTICLE. THE  
4       NOTICE MAY ALSO SPECIFY THE TIME AND PROCEDURE FOR APPLYING FOR  
5       A GRANT FROM THE GRANT PROGRAM.

6               (3) AN EDUCATION ENTITY THAT CHOOSES TO SEEK A GRANT FROM  
7       THE GRANT PROGRAM SHALL SUBMIT A GRANT APPLICATION, AS  
8       DESCRIBED BY RULE OF THE STATE BOARD, WHICH INCLUDES A COPY OF  
9       THE TEACHER PERFORMANCE INCENTIVE PLAN. THE EDUCATION ENTITY'S  
10      TEACHER PERFORMANCE INCENTIVE PLAN SHALL, AT A MINIMUM, INCLUDE  
11      THE FOLLOWING:

12              (a) PAYMENT OF ANNUAL SALARY BONUSES TO TEACHERS WHO  
13      ARE EVALUATED AT A SPECIFIED LEVEL THAT DEMONSTRATES EXEMPLARY  
14      PERFORMANCE; AND

15              (b) THE METHOD AND PROCEDURES USED TO EVALUATE TEACHER  
16      PERFORMANCE, WHICH MAY INCLUDE, BUT NEED NOT BE LIMITED TO:

17                  (I) PEER REVIEW;

18                  (II) EVALUATION OF A TEACHER'S KNOWLEDGE OF THE SUBJECT  
19      MATTER BEING TAUGHT BY THE TEACHER;

20                  (III) THE DEGREE OF IMPROVEMENT A TEACHER'S STUDENTS  
21      EXHIBIT IN ACADEMIC ACHIEVEMENT AND ON STUDENT ASSESSMENTS; AND

22                  (IV) OTHER METHODS IDENTIFIED BY THE EDUCATION ENTITY FOR  
23      MEASURING EXCELLENCE IN TEACHING AND IN ACHIEVING A HIGH LEVEL  
24      OF STUDENT PERFORMANCE.

25              (4) EACH EDUCATION ENTITY IS ENCOURAGED TO SEEK INPUT FROM  
26      TEACHERS, PARENTS, AND OTHER INTERESTED PERSONS IN DEVELOPING  
27      THE TEACHER PERFORMANCE INCENTIVE PLAN.

1 (5) THE STATE BOARD SHALL PROMULGATE RULES SPECIFYING THE  
2 TIME FRAMES DURING WHICH AN EDUCATION ENTITY MAY APPLY FOR A  
3 GRANT UNDER THE GRANT PROGRAM. THE RULES SHALL ALSO DESCRIBE  
4 THE PROCEDURES FOR APPLYING FOR THE GRANT.

5 (6) AN EDUCATION ENTITY THAT RECEIVES A GRANT FROM THE  
6 GRANT PROGRAM SHALL USE THE MONEYS RECEIVED TO PROVIDE ANNUAL  
7 SALARY BONUSES OR OTHER PERFORMANCE INCENTIVES TO TEACHERS  
8 WHO QUALIFY UNDER ITS TEACHER PERFORMANCE INCENTIVE PLAN.

9 (7) BONUSES OR PERFORMANCE INCENTIVES AWARDED FROM  
10 MONEYS RECEIVED PURSUANT TO THE GRANT PROGRAM SHALL BE IN  
11 ADDITION TO THE RECIPIENT'S BASE SALARY AND SHALL NOT BE BUILT  
12 INTO THE BASE SALARY.

13 (8) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO REQUIRE  
14 AN EDUCATION ENTITY TO PARTICIPATE IN THE GRANT PROGRAM OR TO  
15 MODIFY THE TERMS OF AN EXISTING TEACHER COMPENSATION PLAN OR  
16 CONTRACT.

17 **22-68-105. Teacher performance incentives - rules - awarding**  
18 **grants.** (1) THE STATE BOARD SHALL PROMULGATE RULES IN  
19 ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT",  
20 ARTICLE 4 OF TITLE 24, C.R.S., FOR IMPLEMENTATION OF THE GRANT  
21 PROGRAM. AT A MINIMUM, THE RULES SHALL SPECIFY THE PROCEDURES  
22 AND TIME FRAMES FOR APPLYING FOR THE GRANT, THE FORM OF THE  
23 GRANT APPLICATION, THE INFORMATION TO BE PROVIDED BY THE  
24 APPLICANT, AND ANY ADDITIONAL CRITERIA FOR AWARDING GRANTS NOT  
25 SPECIFIED IN SUBSECTION (3) OF THIS SECTION.

26 (2) THE DEPARTMENT SHALL REVIEW EACH GRANT APPLICATION  
27 RECEIVED FROM AN EDUCATION ENTITY PURSUANT TO SECTION 22-68-104

1 AND SHALL MAKE RECOMMENDATIONS TO THE STATE BOARD CONCERNING  
2 WHETHER THE GRANT SHOULD BE AWARDED AND THE AMOUNT OF THE  
3 GRANT TO BE AWARDED. IF THE DEPARTMENT DETERMINES THAT AN  
4 APPLICATION IS MISSING ANY INFORMATION REQUIRED BY RULE OF THE  
5 STATE BOARD TO BE INCLUDED WITH THE APPLICATION, THE DEPARTMENT  
6 MAY CONTACT THE APPLICANT TO OBTAIN THE MISSING INFORMATION.

7 (3) IN MAKING ITS RECOMMENDATIONS, IN ADDITION TO ANY  
8 CRITERIA IDENTIFIED BY RULE OF THE STATE BOARD, THE DEPARTMENT  
9 SHALL APPLY THE FOLLOWING CRITERIA:

10 (a) THE PERCENTAGE OF STUDENTS ENROLLED IN THE EDUCATION  
11 ENTITY WHO ARE AT-RISK PUPILS, AS DEFINED IN SECTION 22-54-103 (1.5);

12 (b) THE DROPOUT RATE OF THE EDUCATION ENTITY;

13 (c) THE PERFORMANCE ON STUDENT ASSESSMENTS OF STUDENTS  
14 ENROLLED IN THE EDUCATION ENTITY; AND

15 (d) ANY OTHER CRITERIA THAT INDICATE THE QUALITY OF THE  
16 EDUCATION ENTITY'S TEACHER PERFORMANCE INCENTIVE PLAN.

17 (4) FOR EACH YEAR IN WHICH MONEYS ARE CREDITED OR  
18 APPROPRIATED TO THE FUND, THE STATE BOARD SHALL AWARD GRANTS TO  
19 APPLICANTS THROUGH THE GRANT PROGRAM. THE STATE BOARD SHALL  
20 TAKE INTO CONSIDERATION THE RECOMMENDATIONS AND PRIORITIES  
21 RECEIVED FROM THE DEPARTMENT. IN ADDITION TO ANY CRITERIA  
22 ADOPTED BY RULE, THE STATE BOARD, IN AWARDING GRANTS, SHALL  
23 APPLY THE CRITERIA SPECIFIED IN SUBSECTION (3) OF THIS SECTION. A  
24 GRANT AWARDED PURSUANT TO THIS ARTICLE SHALL BE VALID FOR ONE  
25 YEAR.

26 **22-68-106. Teacher performance incentive grant fund -**  
27 **created - administrative costs.** (1) (a) THERE IS HEREBY CREATED IN

1 THE STATE TREASURY THE TEACHER PERFORMANCE INCENTIVE GRANT  
2 FUND. THE FUND SHALL CONSIST OF ANY MONEYS APPROPRIATED  
3 THERETO AND ANY GIFTS, GRANTS, OR DONATIONS RECEIVED BY THE  
4 DEPARTMENT FOR THE FUND PURSUANT TO SUBSECTION (2) OF THIS  
5 SECTION. THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL  
6 APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND  
7 INDIRECT COSTS ASSOCIATED WITH IMPLEMENTATION OF THE GRANT  
8 PROGRAM PURSUANT TO THIS ARTICLE.

9 (b) ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE  
10 OF THIS ARTICLE MAY BE INVESTED BY THE STATE TREASURER AS  
11 PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE  
12 INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED  
13 TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS  
14 REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN  
15 THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE  
16 GENERAL FUND OR ANOTHER FUND.

17 (2) THE DEPARTMENT IS AUTHORIZED TO SEEK AND ACCEPT GIFTS,  
18 GRANTS, AND DONATIONS FROM PRIVATE AND PUBLIC SOURCES FOR THE  
19 IMPLEMENTATION OF THE GRANT PROGRAM PURSUANT TO THIS ARTICLE.  
20 ALL PRIVATE AND PUBLIC FUNDS RECEIVED THROUGH GIFTS, GRANTS, AND  
21 DONATIONS SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO  
22 SHALL CREDIT THE SAME TO THE FUND.

23 (3) THE DEPARTMENT MAY EXPEND NO MORE THAN TWO PERCENT  
24 OF THE MONEYS ANNUALLY APPROPRIATED FROM THE FUND TO OFFSET THE  
25 DIRECT AND INDIRECT COSTS INCURRED IN IMPLEMENTING THE GRANT  
26 PROGRAM PURSUANT TO THIS ARTICLE.

27 **22-68-107. Teacher performance incentive grant program -**

1 **report.** (1) ON OR BEFORE JANUARY 15, 2008, AND ON OR BEFORE  
2 JANUARY 15 EACH YEAR THEREAFTER, THE DEPARTMENT SHALL REPORT  
3 TO THE EDUCATION COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND  
4 THE SENATE, OR ANY SUCCESSOR COMMITTEES, AND TO THE GOVERNOR  
5 THE FOLLOWING INFORMATION FROM THE PRECEDING ACADEMIC YEAR:

6 (a) A GENERAL DESCRIPTION OF HOW THE GRANT PROGRAM WAS  
7 IMPLEMENTED, INCLUDING THE CRITERIA USED TO AWARD THE GRANTS TO  
8 EDUCATION ENTITIES, AS WELL AS THE BASIC COMPONENTS OF EACH  
9 TEACHER PERFORMANCE INCENTIVE PLAN;

10 (b) THE NUMBER OF EDUCATION ENTITIES RECEIVING A TEACHER  
11 PERFORMANCE INCENTIVE GRANT AND THE AMOUNT RECEIVED BY EACH  
12 EDUCATION ENTITY;

13 (c) THE NUMBER OF SCHOOLS OF A SCHOOL DISTRICT, CHARTER  
14 SCHOOLS, OR INSTITUTE CHARTER SCHOOLS PARTICIPATING IN EACH  
15 TEACHER PERFORMANCE INCENTIVE PLAN AND THE NUMBER OF TEACHERS  
16 RECEIVING A TEACHER PERFORMANCE INCENTIVE IN EACH SCHOOL, AS  
17 WELL AS THE DOLLAR AMOUNT OF THE TEACHER PERFORMANCE INCENTIVE  
18 AWARDED PER TEACHER; AND

19 (d) DATA RELATING TO THE LEVEL OF STUDENT ACHIEVEMENT ON  
20 THE STUDENT ASSESSMENTS REQUIRED PURSUANT TO SECTION 22-7-409  
21 IN EACH OF THE RECIPIENT EDUCATION ENTITIES FOR THE MOST RECENT  
22 THREE-YEAR PERIOD.

23 (2) EACH EDUCATION ENTITY PARTICIPATING IN THE GRANT  
24 PROGRAM SHALL PROVIDE ANY DATA OR OTHER INFORMATION REQUESTED  
25 BY THE DEPARTMENT FOR THE PURPOSE OF MEETING THE REPORTING  
26 REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION.

27 **SECTION 2. Appropriation.** In addition to any other

1 appropriation, for the fiscal year beginning July 1, 2007, there is hereby  
2 appropriated, out of any moneys in the state education fund created in  
3 section 17 (4) of article IX of the state constitution not otherwise  
4 appropriated, to the teacher performance incentive grant fund created in  
5 section 22-68-106, Colorado Revised Statutes, the sum of ten million  
6 dollars (\$10,000,000), and such sum, or so much thereof as may be  
7 necessary, is further appropriated to the department of education, for the  
8 implementation of this act.

9           **SECTION 3. Safety clause.** The general assembly hereby finds,  
10 determines, and declares that this act is necessary for the immediate  
11 preservation of the public peace, health, and safety.