

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

**REREVISED**

*This Version Includes All Amendments  
Adopted in the Second House*

LLS NO. 21-0828.02 Jane Ritter x4342

**SENATE BILL 21-274**

**SENATE SPONSORSHIP**

**Moreno,** Hansen, Rankin, Bridges, Buckner, Fields, Ginal, Gonzales, Kolker, Pettersen, Priola, Winter, Zenzinger

**HOUSE SPONSORSHIP**

**Herod,** McCluskie, Bernett, Esgar, Exum, Gonzales-Gutierrez, Hooton, Jodeh, Kipp, Lontine, Michaelson Jenet, Valdez A., Young

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**Senate Committees**

Health & Human Services  
Appropriations

**House Committees**

Appropriations

HOUSE  
3rd Reading Unamended  
June 3, 2021

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**A BILL FOR AN ACT**

101      **CONCERNING A SUSTAINABLE MODEL THAT IS NOT EMBEDDED IN THE**  
102                    **CHILD WELFARE SYSTEM FOR SERVING FACILITY STUDENTS,**  
103                    **AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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HOUSE  
2nd Reading Unamended  
June 2, 2021

**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/>.)*

SENATE  
3rd Reading Unamended  
May 27, 2021

**Joint Budget Committee.** The bill creates a work group that is tasked with developing a sustainable model that is not embedded in the child welfare system to better serve students. The bill outlines membership in the work group, duties of the work group, and reporting requirements for the work group and commissioner of education.

SENATE  
2nd Reading Unamended  
May 26, 2021

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.*

The bill requires, in state fiscal year 2021-22 only, and within available appropriations, that the department of education distribute supplemental payments to facility schools approved by the department as of October 1, 2021. The supplemental payments must be above and beyond the current daily per pupil revenue rate as established for the 2021-22 state fiscal year.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 finds and declares that:

4 (a) Approximately 1,600 children and youth per day require the  
5 delivery of educational services and supports in residential or day  
6 treatment facilities, hospital settings, home-bound environments, or other  
7 specially designed district programs due to physical, behavioral, mental  
8 health, or special education service needs that exceed the services and  
9 supports available in some educational settings in the state of Colorado;

10 (b) Facility schools are currently operated by residential child  
11 care, day treatment, and hospital providers whose overall capacity has  
12 decreased by thirty percent in the past five years due to provider closures  
13 and reforms in the child welfare system that limit the number of  
14 placements in a residential facility;

15 (c) Insufficient capacity in facility schools may result in  
16 out-of-state placements for students, separating students from families  
17 and communities, and often imposing extraordinary costs on school  
18 districts and counties to pay for those out-of-state placements and  
19 services; and

20 (d) The educational placement costs are borne directly by the  
21 placing entity, thereby negatively impacting available resources to  
22 provide services and supports to all children and youth.

1           (2) The general assembly therefore resolves and declares that  
2 addressing the educational, physical, behavioral, and mental health needs  
3 of children and youth who need advanced services requires:

4           (a) The development of a comprehensive continuum of  
5 educational settings to support the educational, physical, behavioral, and  
6 mental health needs of these children and youth;

7           (b) The provision of adequate educational options that include, but  
8 are not limited to, eligible and approved facility schools as described in  
9 part 4 of article 2 of title 22, school districts, boards of cooperative  
10 services, multi-district cooperatives, multi-agency partnerships, and the  
11 division of youth services; and

12           (c) Ensuring the development of a sustainable funding structure  
13 that supports a high-quality educational continuum intended to meet the  
14 educational needs of children and youth requiring advanced services.

15           **SECTION 2.** In Colorado Revised Statutes, 22-2-402, **add** (3.3),  
16 (3.8), and (9) as follows:

17           **22-2-402. Definitions.** As used in this part 4, unless the context  
18 otherwise requires:

19           (3.3) "FACILITY STUDENT", AS USED IN SECTION 22-2-407.5,  
20 MEANS A STUDENT WHO IS IN AN APPROVED FACILITY SCHOOL, ELIGIBLE  
21 FACILITY SCHOOL, OR SCHOOL DISTRICT SETTING, AND WHO IS RECEIVING  
22 OR REQUIRES SPECIALIZED SERVICES, AND WHOSE EDUCATIONAL NEEDS  
23 MAY BE BEYOND THE DELIVERY CAPACITY OF THE STUDENT'S CURRENT  
24 EDUCATIONAL SETTING.

25           (3.8) "MODEL" MEANS THE SUSTAINABLE EDUCATIONAL  
26 CONTINUUM DESIGNED TO MEET THE EDUCATIONAL NEEDS OF FACILITY  
27 STUDENTS IN THE TARGET POPULATION AS DEFINED BY THE WORK GROUP

1 PURSUANT TO SECTION 22-2-407.5.

2 (9) "WORK GROUP" MEANS THE WORK GROUP CREATED AND  
3 CONVENE PURSUANT TO SECTION 22-2-407.5.

4 **SECTION 3.** In Colorado Revised Statutes, **add** 22-2-407.5 as  
5 follows:

6 **22-2-407.5. Facility schools - sustainable model of education**  
7 **for facility students - work group - created - membership - duties -**  
8 **reporting requirements - funding.** (1) (a) ON OR BEFORE JULY 1, 2021,  
9 THE DEPARTMENT SHALL CONVENE A WORK GROUP OF THE STAKEHOLDERS  
10 DESCRIBED IN SUBSECTION (1)(b) OF THIS SECTION. THE PURPOSE OF THE  
11 WORK GROUP IS TO DEVELOP AND IMPLEMENT A SUSTAINABLE MODEL  
12 WITH CAPACITY TO MEET THE EDUCATIONAL NEEDS OF CHILDREN AND  
13 YOUTH IN OR AT RISK OF OUT-OF-HOME PLACEMENT AND CHILDREN AND  
14 YOUTH WHO ARE AT RISK OF EDUCATIONAL FAILURE DUE TO CHALLENGING  
15 BEHAVIOR, MENTAL OR BEHAVIORAL HEALTH NEEDS, OR DISABILITIES,  
16 REGARDLESS OF THE CHILD'S OR YOUTH'S ELIGIBILITY FOR SPECIAL  
17 EDUCATION SERVICES.

18 (b) THE WORK GROUP SHALL OBTAIN INPUT FROM PARENTS AND  
19 STUDENTS WHO REFLECT THE DIVERSITY OF THE STATE WITH REGARD TO  
20 RACE, ETHNICITY, IMMIGRATION STATUS, INCOME, AND DISABILITY. THE  
21 WORK GROUP MUST INCLUDE REPRESENTATIVES FROM THE FOLLOWING  
22 ENTITIES:

- 23 (I) SCHOOL DISTRICTS;
- 24 (II) BOARDS OF COOPERATIVE SERVICES;
- 25 (III) SPECIAL EDUCATION DIRECTORS;
- 26 (IV) FACILITY SCHOOLS AND FACILITY SCHOOL BOARD MEMBERS;
- 27 (V) THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING;

- 1 (VI) THE DEPARTMENT OF EDUCATION;
- 2 (VII) THE DEPARTMENT OF HUMAN SERVICES, INCLUDING THE  
3 DIVISION OF YOUTH SERVICES; AND
- 4 (VIII) COUNTY DEPARTMENTS OF HUMAN OR SOCIAL SERVICES.
- 5 (2) THE WORK GROUP SHALL:
- 6 (a) DEFINE THE TARGET POPULATION OF FACILITY STUDENTS;
- 7 (b) ANALYZE DATA TO DETERMINE THE EDUCATIONAL NEEDS OF  
8 STUDENTS IN THE TARGET POPULATION;
- 9 (c) ANALYZE COST DATA FOR PROVIDING EDUCATIONAL SERVICES  
10 TO STUDENTS IN THE TARGET POPULATION;
- 11 (d) EVALUATE EXISTING CAPACITY WITHIN THE STATE, INCLUDING,  
12 BUT NOT LIMITED TO, THE LOCATION AND NUMBER OF DESKS IN EACH  
13 FACILITY SCHOOL AND OTHER PROGRAMS THAT CURRENTLY SERVE  
14 STUDENTS IN THE TARGET POPULATION IN COLORADO;
- 15 (e) EVALUATE OTHER EFFECTIVE EVIDENCE-BASED OPTIONS THAT  
16 CURRENTLY EXIST IN COLORADO OR IN OTHER STATES AND THAT MAY BE  
17 INCORPORATED INTO THE MODEL TO ENSURE THE NECESSARY CAPACITY TO  
18 SERVE STUDENTS IN THE TARGET POPULATION IN THE STATE;
- 19 (f) IDENTIFY BARRIERS AND DEVELOP SOLUTIONS TO ADDRESS THE  
20 DEVELOPMENT OF ADDITIONAL CAPACITY IN EDUCATIONAL PROGRAMS IN  
21 MEETING THE NEEDS OF STUDENTS IN THE TARGET POPULATION;
- 22 (g) IDENTIFY AND ANALYZE:
- 23 (I) THE STATE'S CURRENT CAPACITY TO PROVIDE APPROPRIATE  
24 INSTRUCTION, SUPPORT, AND SERVICES TO STUDENTS IN THE TARGET  
25 POPULATION;
- 26 (II) THE CURRENT FUNDING METHODOLOGY FOR FACILITY  
27 SCHOOLS;

1 (III) THE FEDERAL, STATE, LOCAL, AND OTHER SOURCES OF  
2 FUNDING AVAILABLE TO SUPPORT THE CURRENT EDUCATIONAL OPTIONS  
3 FOR SERVING STUDENTS IN THE TARGET POPULATION, INCLUDING THE  
4 RESTRICTIONS ON USE OF EACH TYPE OF FUNDING;

5 (IV) THE CAPACITY AND FUNDING NECESSARY TO ADEQUATELY  
6 SERVE AND SUPPORT STUDENTS IN THE TARGET POPULATION WHO WILL  
7 RECEIVE EDUCATIONAL SERVICES THROUGH THE MODEL DEVELOPED  
8 PURSUANT TO THIS SECTION; AND

9 (V) THE FUNDING METHODOLOGY AND NECESSARY RESOURCES TO  
10 ENSURE LONG-TERM VIABILITY;

11 (h) IDENTIFY THE OUTCOMES THAT ARE TO BE EVALUATED  
12 PURSUANT TO SUBSECTION (3) OF THIS SECTION; AND

13 (i) DEVELOP SHORT-TERM STRATEGIES TO ADDRESS THE LOST  
14 CAPACITY IN FACILITY SCHOOLS.

15 (3) THE EDUCATIONAL OPTIONS FOR THE MODEL MUST CLEARLY  
16 DEFINE THE ROLES OF THE DEPARTMENT OF EDUCATION, THE DEPARTMENT  
17 OF HUMAN SERVICES, THE DEPARTMENT OF HEALTH CARE POLICY AND  
18 FINANCING, AND THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT  
19 IN THE MODEL'S CONTINUUM, WHICH INCLUDES, BUT IS NOT LIMITED TO,  
20 RESIDENTIAL TREATMENT, DAY TREATMENT, AND HOSPITALS. THE MODEL  
21 MUST INCLUDE A MEANS BY WHICH TO EVALUATE APPROPRIATE OUTCOMES  
22 OF THE TARGET POPULATION SERVED IN THE CONTINUUM.

23 (4) (a) AFTER ANALYZING THE DATA REQUIRED PURSUANT TO  
24 SUBSECTION (2) OF THIS SECTION, AND NO LATER THAN OCTOBER 1, 2022,  
25 THE WORK GROUP SHALL DEVELOP THE MODEL THROUGH WHICH  
26 EDUCATIONAL SERVICES WILL BE MADE AVAILABLE TO THE TARGET  
27 POPULATION. ON OR BEFORE OCTOBER 1, 2022, THE WORK GROUP SHALL

1 DEVELOP THE IMPLEMENTATION PLAN, INCLUDING THE DEADLINES FOR  
2 IDENTIFIED DELIVERABLES WITHIN THE PLAN TO ENSURE THAT  
3 IMPLEMENTATION OF THE MODEL CAN BEGIN ON OR BEFORE JULY 1, 2023,  
4 AND BE FULLY IMPLEMENTED ON OR BEFORE JULY 1, 2027. ADDITIONALLY,  
5 THE WORK GROUP SHALL DEVELOP A REPORT IDENTIFYING ANY NECESSARY  
6 STATUTORY CHANGES FOR FULL IMPLEMENTATION OF THE MODEL, AS  
7 WELL AS ANY FISCAL IMPACT OF THE MODEL'S IMPLEMENTATION.

8 (b) THE WORK GROUP SHALL SUBMIT THE INFORMATION REQUIRED  
9 BY THIS SUBSECTION (4) TO THE DEPARTMENT ON OR BEFORE OCTOBER 1,  
10 2022. ON OR BEFORE NOVEMBER 1, 2022, THE DEPARTMENT SHALL  
11 SUBMIT A WRITTEN REPORT SUMMARIZING THE WORK GROUP'S WORK, AS  
12 REQUIRED PURSUANT TO THIS SUBSECTION (4), TO THE JOINT BUDGET  
13 COMMITTEE.

14 (c) THE DEPARTMENT MAY CONTRACT WITH AN INDEPENDENT  
15 FACILITATOR TO SUPPORT THE WORK GROUP AND WRITE THE REPORT  
16 REQUIRED PURSUANT TO THIS SUBSECTION (4), AND AN INDEPENDENT  
17 ENTITY TO PERFORM THE FINANCIAL ANALYSIS REQUIRED PURSUANT TO  
18 SUBSECTION (2)(g) OF THIS SECTION.

19 (d) ON OR BEFORE DECEMBER 31, 2022, THE COMMISSIONER OF  
20 EDUCATION, AS DEFINED IN SECTION 22-2-102, SHALL PRESENT THE  
21 REPORT COMPILED PURSUANT TO SUBSECTION (4)(b) OF THIS SECTION TO  
22 THE JOINT BUDGET COMMITTEE, INCLUDING DETAILS OF THE MODEL, THE  
23 IMPLEMENTATION PLAN AND TIMELINE, ANY FISCAL IMPACT OF  
24 IMPLEMENTING THE MODEL, ANY NECESSARY STATUTORY CHANGES, AND  
25 ANY RECOMMENDATIONS TO INCREASE COLORADO'S SYSTEM TO SERVE  
26 AND ITS CAPACITY TO SUPPORT STUDENTS IN THE TARGET POPULATION,  
27 INCLUDING SHORT-TERM STRATEGIES DEVELOPED TO ADDRESS LOST

1 FACILITY SCHOOL CAPACITY.

2 (e) ON OR BEFORE OCTOBER 1, 2023, AND ON OR BEFORE EACH  
3 OCTOBER 1 DURING THE IMPLEMENTATION PHASE OF THE MODEL, THE  
4 DEPARTMENT SHALL SUBMIT A WRITTEN REPORT CONCERNING THE  
5 PROGRESS OF THE MODEL'S IMPLEMENTATION, INCLUDING BUT NOT  
6 LIMITED TO, THE STATUS OF EACH DELIVERABLE IDENTIFIED IN THE  
7 IMPLEMENTATION PLAN, ANY MODIFICATIONS TO THE IMPLEMENTATION  
8 PLAN, AND ANY STATUTORY CHANGES AND FUNDING NECESSARY IN THE  
9 UPCOMING FISCAL YEAR IN ORDER TO SUCCESSFULLY IMPLEMENT EACH  
10 PHASE OF THE MODEL.

11 **SECTION 4.** In Colorado Revised Statutes, 22-2-408, **add** (3) as  
12 follows:

13 **22-2-408. Approved facility schools - funding.** (3) IN STATE  
14 FISCAL YEAR 2021-22 ONLY, AND WITHIN AVAILABLE APPROPRIATIONS,  
15 THE DEPARTMENT SHALL DISTRIBUTE SUPPLEMENTAL PAYMENTS TO  
16 FACILITY SCHOOLS APPROVED BY THE DEPARTMENT AS OF OCTOBER 1,  
17 2021. THE SUPPLEMENTAL PAYMENTS MUST BE ABOVE AND BEYOND THE  
18 CURRENT DAILY PER PUPIL REVENUE RATE AS ESTABLISHED FOR THE  
19 2021-22 STATE FISCAL YEAR. THE DEPARTMENT SHALL DETERMINE THE  
20 METHOD THROUGH WHICH THE SUPPLEMENTAL PAYMENTS ARE  
21 DISTRIBUTED TO ALL APPROVED FACILITY SCHOOLS AND SHALL ENSURE  
22 THAT THE SUPPLEMENTAL PAYMENTS MADE PURSUANT TO THIS  
23 SUBSECTION (3) ARE PAID TO THE APPROVED FACILITY SCHOOL PRIOR TO  
24 JUNE 30, 2022.

25 **SECTION 5. Appropriation.** (1) For the 2021-22 state fiscal  
26 year, \$6,200,000 is appropriated to the department of education. This  
27 appropriation is from the general fund. To implement this act, the

1 department may use this appropriation as follows:

2 (a) \$500,000 for the facility school work group; and

3 (b) \$5,700,000 for supplemental payments to facility schools.

4 **SECTION 6. Safety clause.** The general assembly hereby finds,  
5 determines, and declares that this act is necessary for the immediate  
6 preservation of the public peace, health, or safety.