

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

REVISED

*This Version Includes All Amendments Adopted
on Second Reading 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

Senate Committees

Health & Human Services
Appropriations

House Committees

Appropriations

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.**

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/>.)

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.

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.

HOUSE
2nd Reading Unamended
June 2, 2021

SENATE
3rd Reading Unamended
May 27, 2021

SENATE
2nd Reading Unamended
May 26, 2021

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.

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 CONVENED 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.