A BILL FOR AN ACT

CONCERNING THE CREATION OF THE HEALTH AND WELLNESS THROUGH COMPREHENSIVE QUALITY PHYSICAL EDUCATION INSTRUCTION PILOT PROGRAM, 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.)

The bill creates the health and wellness through comprehensive quality physical education instruction pilot program (pilot program) in the department of education (department).
The purpose of the pilot program is to allow a school or a school district, as defined in the bill, serving any of grades K-8, to apply for grant money to implement a pilot program in a school or in schools of a school district. The pilot program must be implemented in all K-8 grades in the school or school district.

Pilot program grants are for 3 academic years and are awarded to at least 15 but not more than 30 eligible schools or school districts for a total of not more than $3 million awarded annually, including department administrative expenses. Pilot program grants are awarded in February prior to the first academic year to allow grantees to create a 3-year plan for the use of the grant money.

The bill includes application deadlines and criteria for the award of grants. The department will review grant applications and make recommendations to the state board of education for the award of the pilot program grants.

Grant money awarded through the pilot program can be used only to implement comprehensive quality physical education instruction, as described in the bill. The bill lists the components that must be included in a comprehensive quality physical education instruction program.

The department shall contract with a program evaluator for purposes of completing a program evaluation of the pilot program at the end of the 3-year grant period. The bill lists program evaluation criteria. First priority shall be given to a vendor proposal from a state-supported institution of higher education that has the expertise necessary to assess the impact of the pilot program.

The bill requires annual reporting to the education committees of the senate and the house of representatives.

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

2 SECTION 1. In Colorado Revised Statutes, add article 99 to title

3 22 as follows:

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5 ARTICLE 99

6 Health and Wellness Through Comprehensive

7 Quality Physical Education Instruction Pilot Program

8 22-99-101. Legislative declaration. (1) The general assembly

9 finds that:

10 (a) While ensuring cognitive development and strong

11 academic outcomes for Colorado’s students is of paramount
IMPORTANCE, FOCUS MUST ALSO BE PLACED ON THE WHOLE STUDENT, INCLUDING THEIR PHYSICAL, PSYCHOLOGICAL, AND SOCIAL HEALTH AND DEVELOPMENT;

(b) Not only does physical education instruction reduce childhood obesity and foster a lifetime commitment to physical activity and healthy lifestyles, but a 2007 study by the Institute of Medicine found that physical activity also has a positive impact on cognitive ability and brain development, insomnia, depression, anxiety, and avoiding tobacco use;

(c) According to the United States Department of Defense, in 2018, obesity was one of the top reasons why seventy-one percent of Americans ages seventeen to twenty-four did not meet the military's physical requirements for military service;

(d) Recent research has demonstrated that there is a positive relationship between frequency of physical education and academic achievement;

(e) In addition, increased time devoted to physical education has been demonstrated to lead to positive development of social skills, social behaviors, self-esteem, pro-school attitudes, and improved mental health;

(f) Further, children who have physical education instruction are two and one-half times more likely to be active adults;

(g) Quality physical education strengthens the whole child through movement competency, cognitive development, and social-emotional wellness to achieve lifelong health benefits; and
In 2016, a coalition of Colorado-based health and wellness organizations and educators drafted a model physical education policy based on research and best practices for voluntary adoption by school and school districts.

Therefore, the general assembly declares that it is important to the health and well-being of Colorado's children and youth to ensure competent and comprehensive quality physical education instruction in Colorado schools through the creation of a pilot program for comprehensive quality physical education instruction based on the model physical education policy and through the subsequent evaluation of the pilot program's impact on participating children and youth.

22-99-102. Definitions. As used in this article 99, unless the context otherwise requires:

(1) "Applicant" means a Colorado school or school district applying to participate in the pilot program.

(2) "Comprehensive quality physical education" means the program of comprehensive quality physical education instruction described in section 22-99-103 (5).

(3) "Department" means the department of education created and existing pursuant to section 24-1-115.

(4) "Eligible school or school district" means an elementary or middle school or the elementary and middle schools of a school district.

(5) "Pilot program" means the health and wellness through comprehensive quality physical education instruction pilot program created in this article 99.
(6) "School" means a school of a school district authorized by section 15 of article IX of the state constitution, a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title 22, a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title 22, or a school operated by a board of cooperative services pursuant to article 5 of this title 22.

(7) "School district" means a school district authorized by section 15 of article IX of the state constitution.

(8) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

22-99-103. Pilot program - creation - qualifying instruction - application - award of grants - report. (1) There is created in the department the health and wellness through comprehensive quality physical education instruction pilot program for the purpose of awarding grants to eligible schools or school districts to implement a program of comprehensive quality physical education instruction, as described in subsection (5) of this section. A school or school district awarded a grant pursuant to this section shall only use the grant money to address a resource need in its current physical education program that creates a barrier to implementing a program of comprehensive quality physical education instruction, as described in subsection (5) of this section. A school or school district awarded a pilot program grant shall use the money to
SUPPLEMENT, NOT SUPPLANT, EXISTING SCHOOL OR SCHOOL DISTRICT RESOURCES USED FOR PHYSICAL EDUCATION PROGRAMS.

(2) An eligible school or school district may apply for a three-year pilot program grant. The grant application must include all grade levels served in the eligible school or eligible schools of the school district. An application from an individual school must be submitted by the chief administrative officer of the school and, if the school is not a charter school, approved by the superintendent of the school district.

(3) Subject to available appropriations, pilot program grants are three-year grants, renewable annually, that cover the 2020-21 academic year through the 2022-23 academic year. The department shall evaluate all complete pilot program grant applications received by December 1, 2019, and shall make recommendations to the state board for the award of pilot program grants to up to fifteen eligible schools or school districts for a total amount awarded annually of no more than three million dollars, including department administrative expenses. The state board shall award the initial pilot program grants no later than February 29, 2020, to allow for a planning period for grant recipients prior to the implementation of the required pilot program components during the 2020-21 academic year.

(4) In awarding pilot program grants to eligible schools or school districts, the state board shall consider, among other award criteria:

(a) Barriers to implementing a comprehensive quality
PHYSICAL EDUCATION INSTRUCTION PROGRAM IN THE ELIGIBLE SCHOOL OR
SCHOOL DISTRICT, INCLUDING BUT NOT LIMITED TO:

(I) LACK OF RESOURCES;

(II) LACK OF APPROPRIATE EQUIPMENT;

(III) DIFFICULTY RETAINING STAFF;

(IV) THE EXISTENCE OF A FOUR-DAY SCHOOL WEEK; AND

(V) LACK OF LOCAL SCHOOL MILL LEVY OVERRIDE FUNDING TO
SUPPLEMENT SCHOOL TOTAL PROGRAM FUNDING;

(b) THE ABILITY OF THE ELIGIBLE SCHOOL OR SCHOOL DISTRICT TO
IMPLEMENT ALL COMPONENTS OF THE PILOT PROGRAM AND WHETHER A
PILOT PROGRAM GRANT WILL ENABLE THE SCHOOL OR SCHOOL DISTRICT TO
ADDRESS A RESOURCE NEED NECESSARY TO PROVIDE COMPREHENSIVE
QUALITY PHYSICAL EDUCATION INSTRUCTION;

(c) THE AMOUNT OF GRANT MONEY NEEDED FOR THE ELIGIBLE
SCHOOL OR SCHOOL DISTRICT TO IMPLEMENT THE PILOT PROGRAM
WITHOUT SUPPLANTING EXISTING RESOURCES AND A PRELIMINARY DRAFT
OF THE ELIGIBLE SCHOOL OR SCHOOL DISTRICT'S THREE-YEAR
COMPREHENSIVE QUALITY PHYSICAL EDUCATION INSTRUCTION ACTION
PLAN, AS DESCRIBED IN SUBSECTION (6) OF THIS SECTION, IF AVAILABLE,
OR A STATEMENT OF HOW THE SCHOOL OR SCHOOL DISTRICT INTENDS TO
USE THE THREE-YEAR GRANT;

(d) THE REQUIREMENT THAT AT LEAST THIRTY PERCENT OF THE
GRANTS ARE AWARDED TO ELIGIBLE SCHOOLS OR SCHOOL DISTRICTS
RECEIVING FEDERAL MONEY FOR PROGRAMS UNDER TITLE I, PART A OF
THE FEDERAL "ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965",
20 U.S.C. SEC. 6301 ET SEQ., AS AMENDED;

(e) THE ELIGIBLE SCHOOL OR SCHOOL DISTRICT'S GEOGRAPHIC
LOCATION AND THE DESIRABILITY OF CREATING, TO THE EXTENT POSSIBLE,
AN EVEN DISTRIBUTION OF RURAL, URBAN, AND SUBURBAN SCHOOLS, AS
WELL AS ELEMENTARY AND MIDDLE SCHOOLS, TO ENSURE ADEQUATE
SAMPLE AND DIVERSITY FOR PURPOSES OF THE PILOT PROGRAM
EVALUATION; AND

(f) A PRELIMINARY DRAFT OF THE SCHOOL OR SCHOOL DISTRICT’S
THREE-YEAR COMPREHENSIVE QUALITY PHYSICAL EDUCATION
INSTRUCTION ACTION PLAN.

(5) A SCHOOL OR SCHOOL DISTRICT AWARDED A PILOT PROGRAM
GRANT SHALL USE THE GRANT TO IMPLEMENT A COMPREHENSIVE QUALITY
PHYSICAL EDUCATION INSTRUCTION PROGRAM THAT INCLUDES, AT A
MINIMUM, ALL OF THE FOLLOWING COMPONENTS:

(a) (I) THIRTY MINUTES DAILY OR ONE HUNDRED FIFTY MINUTES
PER WEEK OF PHYSICAL EDUCATION INSTRUCTION FOR ALL STUDENTS IN
KINDERGARTEN THROUGH FIFTH GRADE, NOT INCLUDING RECESS TIME OR
PHYSICAL ACTIVITY BREAKS;

(II) FORTY-FIVE MINUTES DAILY OR TWO HUNDRED TWENTY-FIVE
MINUTES PER WEEK FOR ALL STUDENTS IN SIXTH THROUGH EIGHTH GRADE,
NOT INCLUDING RECESS TIME OR PHYSICAL ACTIVITY BREAKS;

(III) A CLASS SIZE FOR PHYSICAL EDUCATION INSTRUCTION THAT
IS COMPARABLE TO THE CLASS SIZE FOR ACADEMIC SUBJECTS;

(IV) SAFE, CLEAN, AND WELL-MAINTAINED INDOOR AND OUTDOOR
SPACES FOR PHYSICAL EDUCATION INSTRUCTION AND PHYSICAL ACTIVITY,
AND EQUIPMENT AND FACILITIES THAT SUPPORT PHYSICAL EDUCATION
INSTRUCTION;

(V) CURRICULUM THAT MEETS COLORADO’S PHYSICAL EDUCATION
STANDARDS AT EACH COVERED GRADE LEVEL;
(VI) Moderate to vigorous physical activity for at least half of the physical education class time;

(VII) Regular assessment of physical education learning objectives, including formative and summative assessments and a measure for student growth;

(VIII) Student progress monitoring, including student surveys of physical activity, nutrition, sleep habits, and perceptions of physical education instruction;

(IX) Physical education instructor and classroom teachers surveys of student outcomes or changes in student behavior attributed to the pilot program;

(X) A prohibition against removal of a student from the physical education program for academic reasons or as a form of punishment; and

(XI) A prohibition against exempting students from physical education instruction; except that a parent or guardian may excuse a student from participation for a limited period of time or limited portion of the instruction for religious observances or due to religious prohibitions. A student may be excused from the physical activity component of the instruction if the student is injured or has a physical or emotional condition that prevents participation. In those circumstances, modified physical activities may be provided. In accordance with the federal "Individuals with Disabilities Education Improvement Act", 42 U.S.C. sec. 1400, et. seq., as amended, all students shall receive equal-quality physical education;

(b) Licensed educators with a physical education
ENDORSEMENT, OR, IF EMPLOYED BY A SCHOOL THAT DOES NOT REQUIRE
TEACHER LICENSING FOR EMPLOYMENT, A PROGRAM OF PROFESSIONAL
DEVELOPMENT THAT ENABLES THE PHYSICAL EDUCATION INSTRUCTOR TO
BECOME PROFICIENT IN TEACHING COMPREHENSIVE QUALITY PHYSICAL
EDUCATION IN ACCORDANCE WITH THE PILOT PROGRAM REQUIREMENTS
AND PHYSICAL EDUCATION ENDORSEMENT STANDARDS; AND

(c) A MANDATORY PROFESSIONAL DEVELOPMENT PROGRAM FOR
INSTRUCTORS THAT INCLUDES AT LEAST FIFTEEN HOURS OF INSTRUCTION
EACH YEAR, WHICH INSTRUCTION MUST ADDRESS APPROPRIATE PRACTICES
IN PROVIDING COMPREHENSIVE QUALITY PHYSICAL EDUCATION,
INCLUDING EMERGING TECHNOLOGIES, MODEL PHYSICAL EDUCATION
PROGRAMS, AND IMPROVEMENT IN PHYSICAL EDUCATION TEACHING
METHODS.

(6) EACH SCHOOL AWARDED A PILOT PROGRAM GRANT AND EACH
SCHOOL DISTRICT AWARDED A PILOT PROGRAM GRANT SHALL PREPARE A
THREE-YEAR COMPREHENSIVE QUALITY PHYSICAL EDUCATION
INSTRUCTION ACTION PLAN THAT INCLUDES CLASS SCHEDULES, PHYSICAL
EDUCATION CURRICULUM, PHYSICAL EDUCATION TEACHER
QUALIFICATIONS, A PROFESSIONAL DEVELOPMENT PLAN, AND SAMPLE
PHYSICAL EDUCATION ASSESSMENTS AND ASSESSMENT RUBRICS.

(7) THE DEPARTMENT SHALL PROVIDE EACH SCHOOL AWARDED A
GRANT WITH THE FOLLOWING SUPPORT, IF AVAILABLE AND RELEVANT:
(a) STANDARDS-BASED PHYSICAL EDUCATION CURRICULUM;
(b) A LIST OF APPROVED INSTRUCTIONAL RESOURCES AND THE
PROCESS FOR APPROVAL FOR NEW AND INNOVATIVE INSTRUCTIONAL
RESOURCES;
(c) SAMPLES OF APPROVED FORMATIVE AND SUMMATIVE
ASSESSMENTS AND THE PROCESS FOR APPROVAL OF NEW ASSESSMENTS;

(d) Samples of approved physical education instructor assessment rubrics;

(e) Criteria to assess student and instructor growth in physical education;

(f) Resources relating to professional development for physical education instructors; and

(g) School district-appropriate practices for physical education instructors to use in physical education classes.

(8) Pilot program grant recipients shall notify parents of students in participating schools of the grant award and pilot program goals and requirements and the opportunities for parents to participate and provide feedback regarding the pilot program and its implementation within their student’s school.

(9) The department shall encourage pilot program grant recipients to share best practices and to collaborate during the implementation planning process and throughout the duration of the pilot program. Grant recipients are also encouraged to provide education and training to school administrators regarding the importance of comprehensive quality physical education instruction and the necessary components of a comprehensive quality physical education program in the school.

(10) If a grant recipient is substantially out of compliance with significant requirements of the pilot program, after providing as much notice as is practicable, the state board may decline to renew a recipient’s pilot program grant for the
SECOND OR THIRD ACADEMIC YEAR.

(11) PARTICIPATING PILOT PROGRAM SCHOOLS AND SCHOOL DISTRICTS SHALL PROVIDE DATA AND INFORMATION TO THE DEPARTMENT AND TO THE PROGRAM EVALUATOR DESCRIBED IN SECTION 22-99-104 FOR PURPOSES OF REPORTING ON THE IMPLEMENTATION AND EVALUATION OF THE PILOT PROGRAM.

(12) NOTWITHSTANDING THE PROVISIONS OF SECTION 24-1-136 (11)(a)(I) TO THE CONTRARY, THE DEPARTMENT SHALL REPORT TO THE EDUCATION COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, AT THE ANNUAL MEETING OF LEGISLATIVE COMMITTEES OF REFERENCE CONDUCTED DURING THE LEGISLATIVE INTERIM PURSUANT TO SECTION 2-7-203, CONCERNING GRANTS AWARDED PURSUANT TO THE PILOT PROGRAM.

22-99-104. Pilot program evaluation. (1) SUBJECT TO AVAILABLE APPROPRIATIONS, THE DEPARTMENT SHALL ISSUE A REQUEST FOR PROPOSALS FOR A PROGRAM EVALUATION OF THE PILOT PROGRAM TO BE COMPLETED NO LATER THAN OCTOBER 1, 2023. THE COST OF THE PROGRAM EVALUATION MUST NOT EXCEED ONE HUNDRED EIGHTY THOUSAND DOLLARS FOR THE DURATION OF THE PILOT PROGRAM THROUGH COMPLETION OF THE PROGRAM EVALUATION. THE CONTRACT MUST INCLUDE DATA COLLECTION ON AN ONGOING BASIS WITH BASELINE, FORMATIVE DATA COLLECTION THROUGHOUT THE PILOT PROGRAM PERIOD AND A POST-DATA COLLECTION ANALYSIS. IN AWARDING THE CONTRACT FOR THE PROGRAM EVALUATION, FIRST PRIORITY SHALL BE GIVEN TO A PROPOSAL FROM A STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION IN COLORADO THAT OFFERS A KINDERGARTEN THROUGH TWELFTH GRADE PHYSICAL EDUCATION LICENSURE PROGRAM.
(2) (a) The department shall contract with the program evaluator at the commencement of the pilot program, if possible, so that the pilot program evaluator can develop the necessary data collection practices prior to implementation of the operation of the pilot program in schools. At a minimum, the pilot program evaluator shall develop the necessary data collection practices to ensure that the program evaluation can assess pilot program impacts, including but not limited to:

(I) Objective measures of student behavior resulting from implementation of the pilot program, which measures may demonstrate changes in student disciplinary referrals, attendance, and academic achievement, among other behaviors; and

(II) Objective measures of changes to student health and well-being, which measures may demonstrate student physical fitness, as well as broader measures of student health and well-being, including changes in mental health or substance use.

(b) The program evaluator shall conduct a student and instructor perception survey and interviews to determine the value of the pilot program experience to students and to physical education instructors and classroom instructors and shall also review student and instructor formative and summative assessments to determine the impact of the pilot program.

(c) For purposes of program evaluation, the program evaluator shall work with pilot program recipients to identify
AND DETERMINE COLLECTION PRACTICES FOR NECESSARY DATA FROM INITIAL IMPLEMENTATION OF THE PILOT PROGRAM THROUGH COMPLETION OF THE FINAL PILOT PROGRAM EVALUATION. NECESSARY DATA COLLECTED BY PILOT PROGRAM PARTICIPANTS MUST INCLUDE, BUT IS NOT LIMITED TO, STUDENT DEMOGRAPHICS, MEASURES OF STUDENT POVERTY, AND ENGLISH LANGUAGE LEARNER STATUS. THE PROGRAM EVALUATOR SHALL NOT RELEASE STUDENT IDENTIFYING INFORMATION AND SHALL COMPLY WITH STATE AND FEDERAL LAW RELATING TO STUDENT DATA PRIVACY.

22-99-105. Appropriation. For the 2019-20 state fiscal year, the general assembly shall appropriate one million one hundred thousand dollars from the marijuana tax cash fund, created in section 39-28.8-501, to the department to implement the pilot program. Any money appropriated for the pilot program pursuant to this section that is not expended prior to July 1, 2020, is further appropriated to the department for the 2020-21 through 2023-24 state fiscal years for the same purpose.

22-99-106. Repeal of article. This article 99 is repealed, effective July 1, 2024.

SECTION 2. In Colorado Revised Statutes, 39-28.8-501, amend (2)(b)(IV)(N); and add (2)(b)(IV)(P) as follows:

39-28.8-501. Marijuana tax cash fund - creation - distribution - legislative declaration. (2) (b) (IV) Subject to the limitation in subsection (5) of this section, the general assembly may annually appropriate any money in the fund for any fiscal year following the fiscal year in which it was received by the state for the following purposes:

(N) For housing, rental assistance, and supportive services, including reentry services, pursuant to section 24-32-721; and
FOR COMPREHENSIVE QUALITY PHYSICAL EDUCATION INSTRUCTION PURSUANT TO ARTICLE 99 OF TITLE 22.

SECTION 3. Appropriation. For the 2019-20 state fiscal year, $1,100,000 is appropriated to the department of education. This appropriation is from the marijuana tax cash fund created in section 39-28.8-501 (1), C.R.S., and is based on an assumption that the department will require an additional 0.7 FTE. To implement this act, the department may use this appropriation for the health and wellness through comprehensive quality physical education instruction pilot program.

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