

**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. 21-0870.01 Michael Dohr x4347

SENATE BILL 21-213

SENATE SPONSORSHIP

Moreno, Hansen, Rankin, Donovan, Pettersen

HOUSE SPONSORSHIP

McCluskie, Herod

Senate Committees
Appropriations

House Committees
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE INCREASED MONEY RECEIVED DUE TO THE FEDERAL**
102 **"FAMILIES FIRST CORONAVIRUS RESPONSE ACT", AND, IN**
103 **CONNECTION THEREWITH, MAKING AND REDUCING**
104 **APPROPRIATIONS.**

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 Budge Committee. For fiscal year 2021-22 and any subsequent fiscal years while increased reimbursements and payments associated with the federal public health emergency related to the

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
April 15, 2021

SENATE
3rd Reading Unamended
April 9, 2021

SENATE
2nd Reading Unamended
April 8, 2021

COVID-19 pandemic are still available, the bill specifies that:

- If a provider or a school district submits a certification of public expenditure pursuant to federal law, the provider or school district shall receive federal matching funds in the amount of 50% of the amount certified, and any federal financial participation in excess of 50% of the amount certified must be transferred to the general fund for the medical assistance program;
- The amount of increased federal financial participation in excess of 50% generated from appropriations out of the healthcare affordability and sustainability fee cash fund must be used to offset other general fund appropriations for the medical assistance program;
- The amount of increased federal financial participation in excess of 50% for reimbursements and payments must be transferred from the medicaid nursing facility cash fund to the general fund for the medical assistance program expenditures; and
- The appropriation to the university of Colorado for fee-for-service contracts for health services is reduced by the amount of federal financial participation that exceeds 50%.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25.5-3-108, **add** (20)
3 as follows:

4 **25.5-3-108. Responsibility of the department of health care**
5 **policy and financing - provider reimbursement - repeal.**

6 (20) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, FOR THE
7 STATE FISCAL YEAR STARTING JULY 1, 2021, AND ANY SUBSEQUENT FISCAL
8 YEARS, IF A PROVIDER SUBMITS A CERTIFICATION OF PUBLIC EXPENDITURES
9 PURSUANT TO 42 CFR 433.51 (b), THE STATE DEPARTMENT SHALL RETAIN
10 ANY FEDERAL MONEY PAYABLE AS REIMBURSEMENT FOR THE
11 EXPENDITURE IN EXCESS OF FIFTY PERCENT OF THE EXPENDITURE AMOUNT;
12 EXCEPT THAT THE STATE DEPARTMENT SHALL ONLY RETAIN THE FEDERAL
13 MONEY BASED ON THE DATE OF SERVICE AS LONG AS THE INCREASED

1 REIMBURSEMENTS AND PAYMENTS PURSUANT TO THE FEDERAL "FAMILIES
2 FIRST CORONAVIRUS RESPONSE ACT", PUB.L. 116-127, ARE STILL
3 AVAILABLE. THE STATE TREASURER SHALL TRANSFER SUCH MONEY TO THE
4 GENERAL FUND CREATED IN SECTION 24-75-201 FOR APPROPRIATION TO
5 THE STATE MEDICAL ASSISTANCE PROGRAM.

6 (b) THIS SUBSECTION (20) IS REPEALED, EFFECTIVE DECEMBER 31,
7 2024.

8 **SECTION 2.** In Colorado Revised Statutes, 25.5-4-402.4, **amend**
9 (4)(a)(II.3), (5)(b)(VIII.3), and (6)(b)(I.5)(B) as follows:

10 **25.5-4-402.4. Hospitals - healthcare affordability and**
11 **sustainability fee - legislative declaration - Colorado healthcare**
12 **affordability and sustainability enterprise - federal waiver - fund**
13 **created - rules - reports - repeal. (4) Healthcare affordability and**
14 **sustainability fee.** (a) For the fiscal year commencing July 1, 2017, and
15 for each fiscal year thereafter, the enterprise is authorized to charge and
16 collect a healthcare affordability and sustainability fee, as described in 42
17 CFR 433.68 (b), on outpatient and inpatient services provided by all
18 licensed or certified hospitals, referred to in this section as "hospitals", for
19 the purpose of obtaining federal financial participation under the state
20 medical assistance program as described in this article 4 and articles 5 and
21 6 of this title 25.5, referred to in this section as the "state medical
22 assistance program", and the Colorado indigent care program described
23 in part 1 of article 3 of this title 25.5, referred to in this section as the
24 "Colorado indigent care program". If the amount of healthcare
25 affordability and sustainability fee revenue collected exceeds the federal
26 net patient revenue-based limit on the amount of such fee revenue that
27 may be collected, requiring repayment to the federal government of

1 excess federal matching money received, hospitals that received such
2 excess federal matching money shall be responsible for repaying the
3 excess federal money and any associated federal penalties to the federal
4 government. The enterprise shall use the healthcare affordability and
5 sustainability fee revenue to:

6 (II.3) (A) For state fiscal years 2019-20, ~~and~~ 2020-21, AND ANY
7 SUBSEQUENT FISCAL YEARS, AS LONG AS THE INCREASED
8 REIMBURSEMENTS AND PAYMENTS PURSUANT TO THE FEDERAL "FAMILIES
9 FIRST CORONAVIRUS RESPONSE ACT", PUB.L. 116-127, AND THE
10 "AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 116-260, ARE STILL
11 AVAILABLE only, offset general fund expenditures for the state medical
12 assistance program.

13 (B) This subsection (4)(a)(II.3) is repealed, effective December
14 31, ~~2021~~ 2024.

15 (5) **Healthcare affordability and sustainability fee cash fund.**

16 (b) All money in the fund is subject to federal matching as authorized
17 under federal law and, subject to annual appropriation by the general
18 assembly, shall be expended by the enterprise for the following purposes:

19 (VIII.3) (A) For state fiscal years 2019-20, ~~and~~ 2020-21, AND ANY
20 SUBSEQUENT FISCAL YEARS, AS LONG AS THE INCREASED
21 REIMBURSEMENTS AND PAYMENTS PURSUANT TO THE FEDERAL "FAMILIES
22 FIRST CORONAVIRUS RESPONSE ACT", PUB.L. 116-127, AND THE
23 "AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 116-260, ARE STILL
24 AVAILABLE only, and regardless of when this federal money is made
25 available, the amount in excess of the fifty percent federal financial
26 participation generated by increased reimbursements and payments
27 appropriated for use in subsections (5)(b)(I) to (5)(b)(III) of this section

1 pursuant to the federal "Families First Coronavirus Response Act", Pub.L.
2 116-127, or any amendment thereto, to offset general fund expenditures
3 for the state medical assistance program.

4 (B) This subsection (5)(b)(VIII.3) is repealed, effective December
5 31, ~~2021~~ 2024.

6 (6) **Appropriations.** (b) If the revenue from the healthcare
7 affordability and sustainability fee is insufficient to fully fund all of the
8 purposes described in subsection (5)(b) of this section:

9 (I.5) (B) This subsection (6)(b)(I.5) is repealed, effective
10 December 31, ~~2021~~ 2024.

11 **SECTION 3.** In Colorado Revised Statutes, 25.5-6-203, **amend**
12 (2)(b)(VII) as follows:

13 **25.5-6-203. Nursing facilities - provider fees - federal waiver**
14 **- fund created - rules - repeal.** (2) (b) (VII) (A) Notwithstanding any
15 other provision of this subsection (2)(b), for state medicaid expenditures
16 for state fiscal years 2019-20, ~~and~~ 2020-21, AND ANY SUBSEQUENT FISCAL
17 YEARS, AS LONG AS THE INCREASED REIMBURSEMENTS AND PAYMENTS
18 PURSUANT TO THE FEDERAL "FAMILIES FIRST CORONAVIRUS RESPONSE
19 ACT", PUB.L. 116-127, ARE STILL AVAILABLE only, and regardless of
20 when this federal money is made available, money in the fund may be
21 used to offset general fund expenditures in the medicaid program in an
22 equivalent amount that would have been in excess of the fifty percent
23 federal financial participation generated by increased reimbursements and
24 payments appropriated for use in subsections (2)(b)(I) to (2)(b)(V) of this
25 section pursuant to the federal "Families First Coronavirus Response Act",
26 Pub.L. 116-127, or any amendment thereto, or any other federal law that
27 increases federal financial participation above the federal financial

1 participation percentage in effect prior to the increase in federal financial
2 participation provided through the federal "Families First Coronavirus
3 Response Act". The state treasurer shall transfer such amount to the
4 general fund for the state medicaid program.

5 (B) This subsection (2)(b)(VII) is repealed, effective December
6 31, ~~2021~~ 2024.

7 **SECTION 4.** In Colorado Revised Statutes, 23-18-304, **amend**
8 (1)(c)(II) as follows:

9 **23-18-304. Funding for specialty education programs - area**
10 **technical colleges - local district colleges - repeal.**

11 (1) (c) (II) (A) Notwithstanding the provisions of subsection (1)(a)(I) of
12 this section for the 2019-20, ~~and~~ 2020-21, AND ANY SUBSEQUENT state
13 fiscal years, AS LONG AS THE INCREASED REIMBURSEMENTS AND
14 PAYMENTS PURSUANT TO THE FEDERAL "FAMILIES FIRST CORONAVIRUS
15 RESPONSE ACT", PUB.L. 116-127, ARE STILL AVAILABLE, the
16 appropriations to the university of Colorado for fee-for-service contracts
17 for the services provided pursuant to subsection (1)(c)(I) of this section
18 are reduced by the amount of the federal participation received that
19 exceeds fifty percent pursuant to the federal "Families First Coronavirus
20 Response Act", Pub.L. 116-127, or any amendment thereto.

21 (B) This subsection (1)(c)(II) is repealed, effective December 31,
22 ~~2021~~ 2024.

23 **SECTION 5. Appropriation - adjustments to 2021 long bill.**

24 (1) To implement this act, appropriations made in the annual general
25 appropriation act for the 2021-22 state fiscal year to the department of
26 health care and policy and financing are adjusted as follows:

27 (a) The general fund appropriation, which is subject to the "(M)"

1 notation as defined in the annual general appropriation act for the same
2 fiscal year, for medical services premiums is decreased by \$57,330,334;

3 (b) The appropriation for medical services premiums is reduced
4 by \$10,231,185. This appropriation is from reappropriated funds received
5 from the department of higher education under subsection (2)(b) of this
6 section;

7 (c) The appropriation for medical services premiums is increased
8 by \$57,330,334, which consists of \$53,694,293 from the healthcare
9 affordability and sustainability fee cash fund created in section
10 25.5-4-402.4 (5)(a), C.R.S., and \$3,636,041 from the Medicaid nursing
11 facility cash fund created in section 25.5-6-203 (2)(a), C.R.S.; and

12 (d) The decrease of the appropriation in subsection (1)(b) of this
13 section is based on the assumption that the anticipated amount of federal
14 funds received for the 2021-22 state fiscal year by the department of
15 health care policy and financing for medical services premiums will
16 decrease by \$13,127,686.

17 (2) To implement this act, appropriations made in the annual
18 general appropriation act for the 2021-22 state fiscal year to the
19 department of higher education are adjusted as follows:

20 (a) The general fund appropriation for fee-for-service contracts
21 with state institutions for specialty education programs is decreased by
22 \$10,231,185; and

23 (b) The appropriation for the regents of the university of Colorado
24 is reduced by \$10,231,185. This appropriation is from reappropriated
25 funds received from the department of higher education under subsection
26 (2)(a) of this section.

27 **SECTION 6. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, or safety.