

First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 25-0975.01 Rebecca Bayetti x4348

SENATE BILL 25-228

SENATE SPONSORSHIP

Amabile and Bridges, Kirkmeyer

HOUSE SPONSORSHIP

Bird and Sirota, Taggart

Senate Committees
Appropriations

House Committees

A BILL FOR AN ACT

101 CONCERNING THE CREATION OF A CASH FUND WITHIN THE COLORADO
102 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY ENTERPRISE
103 FOR PREMIUMS PAID BY INDIVIDUALS TO BUY IN TO THE STATE
104 MEDICAL ASSISTANCE PROGRAMS FOR LOW-INCOME
105 INDIVIDUALS WITH DISABILITIES, AND, IN CONNECTION
106 THEREWITH, MAKING AND REDUCING 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 Budget Committee. Under current law, there are 2 programs

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

available to low-income individuals to buy in to the state medical assistance program: One for adults with disabilities and one for children with disabilities (medicaid buy-in programs). Individuals who participate in either program pay a premium based on their family income. The premiums are credited to the medicaid buy-in cash fund. The premiums credited to the medicaid buy-in cash fund are used to offset the costs of providing the medicaid buy-in programs. The costs of providing the medicaid buy-in programs are also offset by the money in the healthcare affordability and sustainability fee cash fund in the Colorado healthcare affordability and sustainability enterprise (CHASE) within the department of health care policy and financing (HCPF).

The bill repeals the existing medicaid buy-in cash fund and creates the healthcare affordability and sustainability medicaid buy-in cash fund (buy-in cash fund) within CHASE and directs that individuals who participate in the existing medicaid buy-in programs pay their premiums into the buy-in cash fund. The bill creates a medicaid buy-in enterprise support board within CHASE to support the existing enterprise with the implementation of the medicaid buy-in program, including consulting with HCPF and the state medical services board on the amount of the premiums for and other components of the medicaid buy-in programs. Because CHASE is an enterprise for purposes of the Taxpayer's Bill of Rights, its revenue does not count against the state fiscal year spending limit.

The bill also makes conforming amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25.5-4-402.4, **amend**
3 (2) introductory portion, (2)(f), (2)(g), (3)(a), (3)(d)(I), and (3)(d)(III);
4 and **add** (3)(c)(III), (5.1), and (7)(g) as follows:

5 **25.5-4-402.4. Hospitals - healthcare affordability and**
6 **sustainability fee - Colorado healthcare affordability and**
7 **sustainability enterprise - federal waiver - fund created - reports -**
8 **rules - legislative declaration - repeal.** (2) **Legislative declaration.** The
9 general assembly ~~hereby~~ finds and declares that:

10 (f) Consistent with the determination of the Colorado supreme
11 court in *Nicholl v. E-470 Public Highway Authority*, 896 P.2d 859 (Colo.

1 1995), that the power to impose taxes is inconsistent with enterprise status
2 under section 20 of article X of the state constitution, it is the conclusion
3 of the general assembly that the healthcare affordability and sustainability
4 fee AND THE MEDICAID BUY-IN PREMIUMS charged and collected by the
5 Colorado healthcare affordability and sustainability enterprise ~~is a fee~~ ARE
6 FEES, not ~~a tax~~ TAXES, because the ~~fee is~~ FEES ARE imposed for the
7 specific purposes of allowing the enterprise to defray the costs of
8 providing the business services specified in subsections (2)(d)(I), ~~and~~
9 (2)(d)(II), AND (2)(c) of this section to hospitals AND INDIVIDUALS that
10 pay the ~~fee~~ FEES and ~~is~~ ARE collected at rates that are reasonably
11 calculated based on the benefits received by those hospitals AND
12 INDIVIDUALS; and

13 (g) So long as the Colorado healthcare affordability and
14 sustainability enterprise qualifies as an enterprise for purposes of section
15 20 of article X of the state constitution, the revenues from the ~~healthcare~~
16 ~~affordability and sustainability fee~~ FEES charged and collected by the
17 enterprise are not state fiscal year spending, as defined in section
18 24-77-102 (17), or state revenues, as defined in section 24-77-103.6
19 (6)(c), and do not count against either the state fiscal year spending limit
20 imposed by section 20 of article X of the state constitution or the excess
21 state revenues cap, as defined in section 24-77-103.6 (6)(b)(I).

22 (3) **Colorado healthcare affordability and sustainability**
23 **enterprise.** (a) The Colorado healthcare affordability and sustainability
24 enterprise, referred to in this section as the "enterprise", is created. The
25 enterprise is and operates as a government-owned business within the
26 state department for the purpose of:

27 (I) Charging and collecting:

1 (A) The healthcare affordability and sustainability fee; AND
2 (B) MEDICAID BUY-IN PREMIUMS;
3 (II) Leveraging healthcare affordability and sustainability fee
4 revenue to obtain federal matching money; and
5 (III) Utilizing and deploying:
6 (A) The healthcare affordability and sustainability fee revenue and
7 federal matching money to provide the business services specified in
8 subsections (2)(d)(I) and (2)(d)(II) of this section to hospitals that pay the
9 healthcare affordability and sustainability fee; AND
10 (B) THE MEDICAID BUY-IN PREMIUM REVENUE TO PROVIDE THE
11 MEDICAID BUY-IN PROGRAMS CREATED PURSUANT TO PART 14 OF ARTICLE
12 6 OF THIS TITLE 25.5 AND SECTION 25.5-5-206, WHICH ARE SERVICES AND
13 BENEFITS SPECIFIED IN SUBSECTION (2)(c) OF THIS SECTION.
14 (c) (III) THE REPEAL OF THE MEDICAID BUY-IN CASH FUND, AS IT
15 EXISTED IN SECTION 25.5-6-1404 (3)(b) BEFORE ITS REPEAL, EFFECTIVE
16 MAY 1, 2025, BY THIS SENATE BILL 25-228, ENACTED IN 2025, AND THE
17 ENTERPRISE'S ABILITY TO CHARGE AND COLLECT THE MEDICAID BUY-IN
18 PREMIUMS AND PROVIDE PREMIUM-FUNDED BUSINESS SERVICES TO
19 INDIVIDUALS AND HOSPITALS THAT REPLACE AND SUPPLEMENT SERVICES
20 PREVIOUSLY FUNDED BOTH BY THE MEDICAID BUY-IN PREMIUMS AND THE
21 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE DO NOT
22 CONSTITUTE CREATION OF A NEW ENTERPRISE OR THE QUALIFICATION OF
23 AN EXISTING GOVERNMENT-OWNED BUSINESS AS AN ENTERPRISE FOR
24 PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION,
25 SECTION 24-77-103.6 (6)(b)(II), OR SECTION 24-77-108, AND, THEREFORE,
26 DO NOT REQUIRE OR AUTHORIZE ADJUSTMENT OF THE STATE FISCAL YEAR
27 SPENDING LIMIT CALCULATED PURSUANT TO SECTION 20 OF ARTICLE X OF

1 THE STATE CONSTITUTION OR THE EXCESS STATE REVENUES CAP, AS
2 DEFINED IN SECTION 24-77-103.6 (6)(b)(I), AND DO NOT REQUIRE VOTER
3 APPROVAL.

4 (d) The enterprise's primary powers and duties are:

5 (I) To charge and collect:

6 (A) The healthcare affordability and sustainability fee as specified
7 in subsection (4) of this section; AND

8 (B) THE MEDICAID BUY-IN PREMIUMS DESCRIBED IN SUBSECTION
9 (5.1) OF THIS SECTION AND SECTIONS 25.5-5-206 AND 25.5-6-1404;

10 (III) To expend:

11 (A) Healthcare affordability and sustainability fee revenue,
12 matching federal money, and any other money from the healthcare
13 affordability and sustainability fee cash fund as specified in subsections
14 (4) and (5) of this section; AND

15 (B) MEDICAID BUY-IN PREMIUM REVENUE FROM THE BUY-IN FUND
16 AS SPECIFIED IN SUBSECTION (5.1) OF THIS SECTION;

17 (5.1) **Healthcare affordability and sustainability medicaid**
18 **buy-in cash fund.** (a) THE HEALTHCARE AFFORDABILITY AND
19 SUSTAINABILITY MEDICAID BUY-IN CASH FUND, REFERRED TO IN THIS
20 SECTION AS THE "BUY-IN FUND", IS CREATED IN THE STATE TREASURY. THE
21 BUY-IN FUND CONSISTS OF THE PREMIUMS CREDITED TO THE BUY-IN FUND
22 PURSUANT TO SECTIONS 25.5-5-206 AND 25.5-6-1404 AND ANY OTHER
23 MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER
24 TO THE BUY-IN FUND. MONEY IN THE BUY-IN FUND SHALL NOT BE
25 TRANSFERRED TO ANY OTHER FUND AND SHALL NOT BE USED FOR ANY
26 PURPOSE OTHER THAN THE PURPOSES SPECIFIED IN THIS SUBSECTION (5.1).

27 (b) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND

1 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
2 BUY-IN FUND TO THE BUY-IN FUND.

3 (c) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
4 ASSEMBLY, THE ENTERPRISE MAY EXPEND MONEY FROM THE BUY-IN FUND
5 FOR THE PURPOSE OF PROVIDING THE MEDICAID BUY-IN PROGRAMS
6 CREATED PURSUANT TO PART 14 OF ARTICLE 6 OF THIS TITLE 25.5 AND
7 SECTION 25.5-5-206.

8 (7) **Colorado healthcare affordability and sustainability**
9 **enterprise board.** (g) (I) THE MEDICAID BUY-IN ENTERPRISE SUPPORT
10 BOARD IS CREATED WITHIN THE ENTERPRISE FOR THE PURPOSE OF
11 SUPPORTING THE ENTERPRISE BOARD WITH THE IMPLEMENTATION OF THE
12 MEDICAID BUY-IN PROGRAMS. THE MEDICAID BUY-IN ENTERPRISE SUPPORT
13 BOARD CONSISTS OF FIVE MEMBERS APPOINTED BY THE GOVERNOR, WITH
14 THE ADVICE AND CONSENT OF THE SENATE, AS FOLLOWS:

15 (A) ONE MEMBER WHO IS A REPRESENTATIVE OF PERSONS WITH
16 DISABILITIES, WHO IS LIVING WITH A DISABILITY;

17 (B) TWO MEMBERS WHO ARE REPRESENTATIVES OF A DISABILITY
18 RIGHTS ORGANIZATION OR A DISABLED PERSONS CONSUMER ADVOCACY
19 ORGANIZATION;

20 (C) ONE EMPLOYEE OF THE STATE DEPARTMENT; AND

21 (D) ONE EMPLOYEE OF THE DEPARTMENT OF HUMAN SERVICES
22 CREATED IN SECTION 24-1-120.

23 (II) (A) MEMBERS OF THE MEDICAID BUY-IN ENTERPRISE SUPPORT
24 BOARD SERVE AT THE PLEASURE OF THE GOVERNOR. ALL TERMS ARE FOR
25 FOUR YEARS. A MEMBER WHO IS APPOINTED TO FILL A VACANCY SHALL
26 SERVE THE REMAINDER OF THE UNEXPIRED TERM OF THE FORMER MEMBER.

27 (B) THE GOVERNOR SHALL MAKE THE INITIAL APPOINTMENTS TO

1 THE MEDICAID BUY-IN ENTERPRISE SUPPORT BOARD AS SOON AS
2 PRACTICAL FOLLOWING MAY 1, 2025.

3 (III) THE MEDICAID BUY-IN ENTERPRISE SUPPORT BOARD SHALL
4 ELECT A CHAIR AND A VICE-CHAIR FROM AMONG ITS MEMBERS.

5 (IV) ON BEHALF OF THE ENTERPRISE, THE MEDICAID BUY-IN
6 ENTERPRISE SUPPORT BOARD SHALL CONSULT WITH THE STATE
7 DEPARTMENT AND THE STATE BOARD ON THE AMOUNT OF THE PREMIUMS
8 FOR AND OTHER COMPONENTS OF THE MEDICAID BUY-IN PROGRAMS
9 CREATED PURSUANT TO PART 14 OF ARTICLE 6 OF THIS TITLE 25.5 AND
10 SECTION 25.5-5-206.

11 (V) MEMBERS OF THE MEDICAID BUY-IN ENTERPRISE SUPPORT
12 BOARD SERVE WITHOUT COMPENSATION BUT MUST BE REIMBURSED FROM
13 MONEY IN THE BUY-IN FUND FOR ACTUAL AND NECESSARY EXPENSES
14 INCURRED IN THE PERFORMANCE OF THEIR DUTIES PURSUANT TO THIS
15 SECTION.

16 **SECTION 2.** In Colorado Revised Statutes, 25.5-5-206, **add** (3)
17 as follows:

18 **25.5-5-206. Medicaid buy-in program - disabled children -**
19 **disabled adults - federal authorization - rules.** (3) ANY PREMIUMS OR
20 COST-SHARING CHARGES PAID FOR THE MEDICAID BUY-IN PROGRAMS
21 ESTABLISHED PURSUANT TO THIS SECTION ARE CREDITED TO THE
22 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY MEDICAID BUY-IN
23 CASH FUND CREATED IN SECTION 25.5-4-402.4 (5.1).

24 **SECTION 3.** In Colorado Revised Statutes, 25.5-6-1404, **amend**
25 (3)(a) and (3)(b) as follows:

26 **25.5-6-1404. Medicaid buy-in program - eligibility - premiums**
27 **- medicaid buy-in fund - report - rules - repeal.** (3) **Premiums.** (a) An

1 individual who is eligible for and receives medicaid under subsection (1)
2 of this section shall pay a premium pursuant to a payment schedule
3 established by the state department IN CONSULTATION WITH THE
4 COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
5 ENTERPRISE CREATED IN SECTION 25.5-4-402.4 (3)(a). The amount of the
6 premium shall be determined from a sliding-fee scale adopted by rule of
7 the state board that is based on a percentage of the individual's income
8 adjusted for family size and on any impairment-related work expenses;
9 except that, consistent with federal law, if the amount of the individual's
10 adjusted gross income exceeds seventy-five thousand dollars, the
11 individual shall be responsible for paying one hundred percent of the
12 premium. The rules shall specify the amount of unearned income the state
13 department shall disregard in calculating the individual's income.
14 PREMIUMS ARE CREDITED TO THE HEALTHCARE AFFORDABILITY AND
15 SUSTAINABILITY MEDICAID BUY-IN CASH FUND CREATED IN SECTION
16 25.5-4-402.4 (5.1) FOR THE PURPOSE OF OFFSETTING PROGRAM COSTS.

17 (b) (I) The rules setting the premiums and the sliding-fee scale
18 ~~shall~~ MUST be based on an actuarial study of the disabled population in
19 this state. The state department may solicit and accept federal grants to
20 cover the costs of the actuarial study. ~~Moneys~~ MONEY received through
21 any grants ~~and any premiums shall be~~ IS credited to the medicaid buy-in
22 cash fund, which fund is ~~hereby~~ created in the state treasury. ~~Moneys~~
23 MONEY in the fund ~~shall be~~ IS appropriated by the general assembly and
24 expended by the state department for the purpose of conducting
25 implementation activities as determined by the state department,
26 including conducting the actuarial study. ~~Premiums shall be credited to~~
27 ~~the fund for the purpose of offsetting program costs.~~

1 (II) ON JUNE 30, 2025, THE STATE TREASURER SHALL TRANSFER
2 THE BALANCE OF THE MEDICAID BUY-IN CASH FUND TO THE HEALTHCARE
3 AFFORDABILITY AND SUSTAINABILITY MEDICAID BUY-IN CASH FUND
4 CREATED IN SECTION 25.5-4-402.4 (5.1).

5 (III) THIS SUBSECTION (3)(b) IS REPEALED, EFFECTIVE JULY 1,
6 2025.

7 **SECTION 4.** In Colorado Revised Statutes, 25.5-6-1405, **amend**
8 (1) as follows:

9 **25.5-6-1405. Rule-making authority.** (1) The state board shall
10 promulgate rules necessary to implement and administer the medicaid
11 buy-in program created in this part 14, including, IN CONSULTATION WITH
12 THE COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
13 ENTERPRISE CREATED IN SECTION 25.5-4-402.4 (3)(a), the establishment
14 of appropriate premium and cost-sharing charges on a sliding-fee scale
15 based on income. The premiums and cost-sharing charges shall be based
16 upon an actuarial study of the disabled population in this state.

17 **SECTION 5. Appropriation - adjustments to 2025 long bill.**

18 (1) To implement this act, appropriations made in the annual general
19 appropriation act for the 2025-26 state fiscal year to the department of
20 health care policy and financing are adjusted as follows:

21 (a) The cash funds appropriation from the Medicaid buy-in cash
22 fund created in section 25.5-6-1404 (3)(b), C.R.S., for medical and
23 long-term care services for Medicaid-eligible individuals is decreased by
24 \$6,660,761.

25 (b) The cash funds appropriation from the healthcare affordability
26 and sustainability Medicaid buy-in cash fund created in section
27 25.5-4-402.4 (5.1)(a), C.R.S., for medical and long-term care services for

1 Medicaid-eligible individuals is increased by \$6,660,761.

2 (2) To implement this act, appropriations made in the annual
3 general appropriation act for the 2024-25 state fiscal year to the
4 department of health care policy and financing, as amended by Senate Bill
5 25-206, enacted in 2025, are adjusted as follows:

6 (a) The cash funds appropriation from the Medicaid buy-in cash
7 fund created in section 25.5-6-1404 (3)(b), C.R.S., for medical and
8 long-term care services for Medicaid-eligible individuals is decreased by
9 \$1,110,126.

10 (b) The cash funds appropriation from the healthcare affordability
11 and sustainability Medicaid buy-in cash fund created in section
12 25.5-4-402.4 (5.1)(a), C.R.S., for medical and long-term care services for
13 Medicaid-eligible individuals is increased by \$1,110,126.

14 **SECTION 6. Effective date.** This act takes effect May 1, 2025.

15 **SECTION 7. Safety clause.** The general assembly finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, or safety or for appropriations for
18 the support and maintenance of the departments of the state and state
19 institutions.