

Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO

REVISED

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

LLS NO. 20-1196.01 Jason Gelender x4330

HOUSE BILL 20-1386

HOUSE SPONSORSHIP

McCluskie, Esgar

SENATE SPONSORSHIP

Moreno, Zenzinger, Rankin

House Committees  
Appropriations

Senate Committees  
Appropriations

A BILL FOR AN ACT

101 CONCERNING THE USE OF A SPECIFIED AMOUNT OF THE MONEY IN THE  
102 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE CASH  
103 FUND TO OFFSET GENERAL FUND EXPENDITURES FOR THE STATE  
104 MEDICAL ASSISTANCE PROGRAM, AND, IN CONNECTION  
105 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.** For the 2020-21 state fiscal year (FY 2020-21), the bill:

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.

SENATE  
2nd Reading Unamended  
June 5, 2020

HOUSE  
3rd Reading Unamended  
June 3, 2020

HOUSE  
2nd Reading Unamended  
June 1, 2020

- ! Authorizes the use of healthcare affordability and sustainability fee revenue for state medical assistance program expenditures;
- ! Requires \$161 million to be appropriated from the healthcare affordability and sustainability fee cash fund to offset general fund expenditures for the state medical assistance program;
- ! Reduces the FY 2020-21 general fund appropriation to the department of health care policy and financing (HCPF) for medical services premiums by \$161 million; and
- ! Appropriates \$161 million from the healthcare affordability and sustainability fee cash fund to HCPF for medical services premiums.

The bill also clarifies that if the amount of healthcare affordability and sustainability fee revenue collected exceeds a federal limit, hospitals that received such excess federal matching money are responsible for repaying the excess federal money and any associated federal penalties to the federal government.

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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 (4)(a) introductory portion, (5)(b)(VIII), and (6)(a)(I); and **add**  
4 (4)(a)(II.5), (5)(b)(VIII.5), and (6)(b)(I.5) as follows:

5           **25.5-4-402.4. Hospitals - healthcare affordability and**  
6 **sustainability fee - legislative declaration - Colorado healthcare**  
7 **affordability and sustainability enterprise - federal waiver - fund**  
8 **created - rules - reports - repeal. (4) Healthcare affordability and**  
9 **sustainability fee.** (a) For the fiscal year commencing July 1, 2017, and  
10 for each fiscal year thereafter, the enterprise is authorized to charge and  
11 collect a healthcare affordability and sustainability fee, as described in 42  
12 CFR 433.68 (b), on outpatient and inpatient services provided by all  
13 licensed or certified hospitals, referred to in this section as "hospitals", for  
14 the purpose of obtaining federal financial participation under the state  
15 medical assistance program as described in this article 4 and articles 5 and

1 6 of this title 25.5, referred to in this section as the "state medical  
2 assistance program", and the Colorado indigent care program described  
3 in part 1 of article 3 of this title 25.5, referred to in this section as the  
4 "Colorado indigent care program". IF THE AMOUNT OF HEALTHCARE  
5 AFFORDABILITY AND SUSTAINABILITY FEE REVENUE COLLECTED EXCEEDS  
6 THE FEDERAL NET PATIENT REVENUE-BASED LIMIT ON THE AMOUNT OF  
7 SUCH FEE REVENUE THAT MAY BE COLLECTED, REQUIRING REPAYMENT TO  
8 THE FEDERAL GOVERNMENT OF EXCESS FEDERAL MATCHING MONEY  
9 RECEIVED, HOSPITALS THAT RECEIVED SUCH EXCESS FEDERAL MATCHING  
10 MONEY SHALL BE RESPONSIBLE FOR REPAYING THE EXCESS FEDERAL  
11 MONEY AND ANY ASSOCIATED FEDERAL PENALTIES TO THE FEDERAL  
12 GOVERNMENT. The enterprise shall use the healthcare affordability and  
13 sustainability fee revenue to:

14 (II.5) (A) FOR STATE FISCAL YEAR 2020-21 ONLY, OFFSET  
15 GENERAL FUND EXPENDITURES FOR THE STATE MEDICAL ASSISTANCE  
16 PROGRAM.

17 (B) THIS SUBSECTION (4)(a)(II.5) IS REPEALED, EFFECTIVE  
18 DECEMBER 31, 2021.

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

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

23 (VIII) Subject to any necessary federal waivers being obtained, to  
24 provide funding for a health care delivery system reform incentive  
25 payments program as described in subsection (8) of this section; ~~and~~

26 (VIII.5) (A) FOR STATE FISCAL YEAR 2020-21 ONLY, ONE  
27 HUNDRED SIXTY-ONE MILLION DOLLARS SHALL BE APPROPRIATED TO

1       OFFSET GENERAL FUND EXPENDITURES FOR THE STATE MEDICAL  
2       ASSISTANCE PROGRAM.

3               (B) THIS SUBSECTION (5)(b)(VIII.5) IS REPEALED, EFFECTIVE  
4       DECEMBER 31, 2021.

5               (6) **Appropriations.** (a) (I) EXCEPT AS OTHERWISE PROVIDED IN  
6       SUBSECTION (6)(b)(I.5) OF THIS SECTION, the healthcare affordability and  
7       sustainability fee is to supplement, not supplant, general fund  
8       appropriations to support hospital reimbursements. General fund  
9       appropriations for hospital reimbursements shall be maintained at the  
10      level of appropriations in the medical services premium line item made  
11      for the fiscal year commencing July 1, 2008; except that general fund  
12      appropriations for hospital reimbursements may be reduced if an index of  
13      appropriations to other providers shows that general fund appropriations  
14      are reduced for other providers. If the index shows that general fund  
15      appropriations are reduced for other providers, the general fund  
16      appropriations for hospital reimbursements shall not be reduced by a  
17      greater percentage than the reductions of appropriations for the other  
18      providers as shown by the index.

19              (b) If the revenue from the healthcare affordability and  
20      sustainability fee is insufficient to fully fund all of the purposes described  
21      in subsection (5)(b) of this section:

22              (I.5) (A) ONE HUNDRED SIXTY-ONE MILLION DOLLARS OF REVENUE  
23      FROM THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE SHALL  
24      BE USED FIRST TO OFFSET GENERAL FUND EXPENDITURES FOR THE STATE  
25      MEDICAL ASSISTANCE PROGRAM.

26              (B) THIS SUBSECTION (6)(b)(I.5) IS REPEALED, EFFECTIVE  
27      DECEMBER 31, 2021.

1           **SECTION 2. Appropriation - adjustments to 2020 long bill.**

2           (1) To implement this act, the general fund appropriation made in the  
3           annual general appropriation act for the 2020-21 state fiscal year to the  
4           department of health care policy and financing for medical services  
5           premiums is decreased by \$161,000,000.

6           (2) For the 2020-21 state fiscal year, \$161,000,000 is appropriated  
7           to the department of health care policy and financing. This appropriation  
8           is from the healthcare affordability and sustainability fee cash fund  
9           created in section 25.5-4-402.4 (5)(a), C.R.S. To implement this act, the  
10          department may use this appropriation for medical services premiums.

11          **SECTION 3. Safety clause.** The general assembly hereby finds,  
12          determines, and declares that this act is necessary for the immediate  
13          preservation of the public peace, health, or safety.