

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0389.01 Jane Ritter

HOUSE BILL 10-1103

HOUSE SPONSORSHIP

Todd,

SENATE SPONSORSHIP

Steadman,

House Committees

Health and Human Services
Finance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE CREATION OF THE RELIEF FUND FOR CHILDREN
102 WITH A CATASTROPHIC MEDICAL CONDITION.

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://www.leg.state.co.us/billsummaries>.)

Interim Committee on the Developmental Disability Waiting List. The bill creates the relief fund for children with a catastrophic medical condition (fund) and the commission for the relief fund for children with a catastrophic medical condition (commission).

The bill defines a catastrophic medical condition as an illness, a

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

condition, or chronic care needs where the medical expenses are not covered by any other state or federal program or any insurance contract and exceed 10% of the first \$100,000 of annual income of a family plus 15% of the excess income over \$100,000.

The bill outlines basic eligibility for receiving financial assistance from the fund and lists medical and related expenses toward which the financial assistance may be applied. State agencies are authorized to seek public and private moneys for deposit into the fund.

Membership for the commission is described, as well as the powers and duties of the commission. The commission is authorized to negotiate or settle a claim that the fund maintains for reimbursement against a family who has received assistance for the medical and related expenses of a child with a catastrophic medical condition and has recovered damages in a legal action for the child's medical and related expenses.

For the purposes of providing the moneys necessary to establish the fund and meet the purposes of the bill, health coverage carriers shall charge a one-dollar annual surcharge on the premium for each covered resident, which shall then be transmitted to the state treasurer for deposit into the fund.

Finally, the bill requires the commission to submit an annual report to the health and human services committees of the house of representatives and the senate on the activities of the commission and fund.

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

2 **SECTION 1.** Part 1 of article 1 of title 25.5, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **25.5-1-126. Relief fund for children with a catastrophic**
6 **medical condition - creation - eligibility - expenses covered -**
7 **commission created - funding - reporting.** (1) AS USED IN THIS
8 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 (a) "CATASTROPHIC MEDICAL CONDITION" MEANS AN ILLNESS, A
10 CONDITION, OR CHRONIC CARE NEEDS IN WHICH THE MEDICAL EXPENSES
11 ARE NOT COVERED BY ANY OTHER STATE OR FEDERAL PROGRAM OR ANY

1 INSURANCE CONTRACT AND EXCEED TEN PERCENT OF THE FIRST ONE
2 HUNDRED THOUSAND DOLLARS OF ANNUAL INCOME OF A CHILD'S FAMILY
3 PLUS FIFTEEN PERCENT OF THE EXCESS INCOME OVER ONE HUNDRED
4 THOUSAND DOLLARS.

5 (b) "CHILD" MEANS A PERSON TWENTY-ONE YEARS OF AGE OR
6 YOUNGER WHO HAS A CATASTROPHIC MEDICAL CONDITION.

7 (c) "CHILD'S FAMILY" MEANS A CHILD AND THE CHILD'S PARENT OR
8 LEGAL GUARDIAN WHO IS LEGALLY RESPONSIBLE FOR THE CHILD'S
9 MEDICAL EXPENSES.

10 (d) "COMMISSION" MEANS THE COMMISSION FOR THE RELIEF FUND
11 FOR CHILDREN WITH A CATASTROPHIC MEDICAL CONDITION CREATED IN
12 SUBSECTION (4) OF THIS SECTION.

13 (e) "FUND" MEANS THE RELIEF FUND FOR CHILDREN WITH A
14 CATASTROPHIC MEDICAL CONDITION CREATED IN SUBSECTION (2) OF THIS
15 SECTION.

16 (f) "INCOME" MEANS ALL INCOME, FROM WHATEVER SOURCE
17 DERIVED, ACTUALLY RECEIVED BY A CHILD'S FAMILY.

18 (g) "RESIDENT" MEANS A PERSON LEGALLY DOMICILED WITHIN THE
19 STATE FOR A PERIOD OF THREE MONTHS IMMEDIATELY PRECEDING THE
20 DATE OF APPLICATION TO THE FUND. MERE SEASONAL OR TEMPORARY
21 RESIDENCE WITHIN THE STATE, OF WHATEVER DURATION, DOES NOT
22 CONSTITUTE DOMICILE. THE BURDEN OF ESTABLISHING LEGAL DOMICILE
23 WITHIN THE STATE IS UPON THE PARENT OR LEGAL GUARDIAN OF THE
24 CHILD.

25 (2) (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
26 RELIEF FUND FOR CHILDREN WITH A CATASTROPHIC MEDICAL CONDITION.
27 THE FUND SHALL CONSIST OF ANY GIFTS, GRANTS, AND DONATIONS

1 RECEIVED, ANY APPROPRIATION BY THE GENERAL ASSEMBLY, AND THE
2 MONEYS COLLECTED PURSUANT TO SUBSECTION (5) OF THIS SECTION. ANY
3 STATE AGENCY OR DEPARTMENT IS AUTHORIZED TO SEEK AND ACCEPT
4 GIFTS, GRANTS, OR DONATIONS FROM PUBLIC OR PRIVATE SOURCES FOR
5 THE PURPOSES OF THIS SECTION; EXCEPT THAT A GIFT, GRANT, OR
6 DONATION SHALL NOT BE ACCEPTED IF IT IS SUBJECT TO CONDITIONS THAT
7 ARE INCONSISTENT WITH THIS SECTION OR ANY OTHER LAW OF THE STATE.
8 ALL PRIVATE AND PUBLIC MONEYS RECEIVED THROUGH GIFTS, GRANTS, OR
9 DONATIONS OR APPROPRIATED BY THE GENERAL ASSEMBLY SHALL BE
10 TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME
11 TO THE FUND. ALL MONEYS COLLECTED PURSUANT TO THIS SECTION
12 SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT
13 THE SAME TO THE FUND. THE MONEYS IN THE FUND SHALL BE SUBJECT TO
14 ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND
15 INDIRECT COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THIS
16 SECTION.

17 (b) ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE
18 OF THIS SECTION MAY BE INVESTED BY THE STATE TREASURER AS
19 PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE
20 INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED
21 TO THE FUND.

22 (c) ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING
23 IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND
24 AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR
25 ANOTHER FUND.

26 (d) THE COMMISSION MAY EXPEND UP TO ONE PERCENT OF THE
27 MONEYS ANNUALLY APPROPRIATED FROM THE FUND TO OFFSET THE COSTS

1 INCURRED IN IMPLEMENTING THIS SECTION.

2 (3) (a) A CHILD WITH A CATASTROPHIC MEDICAL CONDITION WHO
3 IS A RESIDENT SHALL BE ELIGIBLE TO APPLY, THROUGH HIS OR HER PARENT
4 OR LEGAL GUARDIAN, TO THE FUND.

5 (b) WHENEVER A CHILD WITH A CATASTROPHIC MEDICAL
6 CONDITION IS ELIGIBLE FOR THE PROGRAM, THE CHILD, THROUGH HIS OR
7 HER PARENT OR LEGAL GUARDIAN, MAY RECEIVE FINANCIAL ASSISTANCE
8 FROM MONEYS IN THE FUND, SUBJECT TO POLICIES AND PROCEDURES
9 ESTABLISHED BY THE COMMISSION IN SUBSECTION (4) OF THIS SECTION
10 AND THE AVAILABILITY OF MONEYS IN THE FUND.

11 (c) THE FINANCIAL ASSISTANCE SHALL INCLUDE, BUT IS NOT
12 LIMITED TO, PAYMENTS OR REIMBURSEMENTS FOR THE COSTS OF MEDICAL
13 TREATMENT, HOSPITAL CARE, PRESCRIPTION DRUGS, NURSING CARE,
14 PHYSICIAN SERVICES, RESPITE AND MEDICALLY NECESSARY SUPPLIES,
15 FORMULA AND DIAPERS, DURABLE MEDICAL EQUIPMENT, HOME
16 MODIFICATIONS AND ADAPTATIONS TO TRANSPORTATION RELATED TO THE
17 CATASTROPHIC MEDICAL CONDITION, AND OTHER IDENTIFIABLE FINANCIAL
18 NEEDS RELATED TO THE HEALTH AND WELLNESS OF A CHILD WITH A
19 CATASTROPHIC MEDICAL CONDITION.

20 (4) (a) THERE IS HEREBY CREATED IN THE STATE DEPARTMENT THE
21 COMMISSION FOR THE RELIEF FUND FOR CHILDREN WITH A CATASTROPHIC
22 MEDICAL CONDITION. THE COMMISSION SHALL CONSIST OF THE
23 FOLLOWING NINE MEMBERS:

24 (I) THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT, OR HIS
25 OR HER DESIGNEE;

26 (II) THE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND
27 ENVIRONMENT, OR HIS OR HER DESIGNEE;

1 (III) THE COMMISSIONER OF INSURANCE, OR HIS OR HER DESIGNEE;

2 (IV) THE FOLLOWING SIX MEMBERS APPOINTED BY THE GOVERNOR
3 ON OR BEFORE SEPTEMBER 1, 2010:

4 (A) TWO HEALTH CARE PROVIDERS WHO SPECIALIZE IN CARE FOR
5 CHILDREN;

6 (B) TWO PERSONS WHO ARE MEMBERS OF ADVOCACY GROUPS FOR
7 PERSONS WITH CATASTROPHIC MEDICAL CONDITIONS; AND

8 (C) TWO CAREGIVERS OF CHILDREN WHO HAVE A CATASTROPHIC
9 MEDICAL CONDITION.

10 (b) MEMBERS OF THE COMMISSION SHALL SERVE FOR THREE-YEAR
11 TERMS; EXCEPT THAT, OF THE MEMBERS FIRST APPOINTED BY THE
12 GOVERNOR, ONE-THIRD SHALL BE APPOINTED FOR ONE-YEAR TERMS;
13 ONE-THIRD SHALL BE APPOINTED FOR TWO-YEAR TERMS; AND ONE-THIRD
14 SHALL BE APPOINTED FOR THREE-YEAR TERMS. THE GOVERNOR SHALL
15 DESIGNATE THE LENGTH OF TERMS FOR EACH OF THE MEMBERS FIRST
16 APPOINTED IN ACCORDANCE WITH THIS SUBSECTION (4). VACANCIES
17 SHALL BE FILLED BY APPOINTMENT FOR THE REMAINDER OF THE
18 UNEXPIRED TERM.

19 (c) THE COMMISSION SHALL HOLD ITS FIRST MEETING NO LATER
20 THAN OCTOBER 1, 2010, AT WHICH MEETING THE MEMBERS SHALL ELECT
21 A CHAIR AND CO-CHAIR. WHENEVER POSSIBLE, RURAL PARTICIPATION
22 SHALL BE ENCOURAGED THROUGH THE USE OF ELECTRONIC MEDIA FOR
23 MEETINGS.

24 (d) MEMBERS OF THE COMMISSION SHALL SERVE WITHOUT
25 COMPENSATION.

26 (e) THE COMMISSION SHALL HAVE THE FOLLOWING POWERS AND
27 DUTIES:

1 (I) TO ESTABLISH A PROGRAM TO ADMINISTER THE FUND AND
2 AUTHORIZE THE PAYMENT OR MEDICAL REIMBURSEMENT OF THE MEDICAL
3 AND RELATED EXPENSES OF CHILDREN WHO QUALIFY TO RECEIVE MONEYS
4 FROM THE FUND;

5 (II) TO ESTABLISH PROCEDURES FOR APPLYING TO THE FUND,
6 DETERMINING ELIGIBILITY FOR THE PAYMENT OR REIMBURSEMENT OF
7 MEDICAL AND RELATED EXPENSES FOR CHILDREN, AND PROCESSING CLAIM
8 DISPUTES;

9 (III) TO SCREEN EACH APPLICANT FOR OTHER SOURCES OF
10 COVERAGE AND FOR POTENTIAL ELIGIBILITY FOR GOVERNMENT PROGRAMS
11 AND TO DOCUMENT THE RESULTS OF THE SCREENING. IF THE COMMISSION
12 DETERMINES THAT AN APPLICANT IS POTENTIALLY ELIGIBLE FOR MEDICAID
13 OR ANOTHER GOVERNMENT PROGRAM, THE COMMISSION SHALL ASSIST THE
14 APPLICANT IN APPLYING FOR BENEFITS UNDER SUCH PROGRAM.

15 (IV) TO ESTABLISH PROCEDURES FOR REIMBURSEMENT OF THE
16 FUND WHERE A CHILD'S FAMILY, AFTER RECEIVING ASSISTANCE FROM THE
17 FUND, RECOVERS THE COSTS FOR THE ELIGIBLE CHILD'S MEDICAL AND
18 RELATED EXPENSES FOR A CATASTROPHIC MEDICAL CONDITION PURSUANT
19 TO A SETTLEMENT OR JUDGMENT IN A LEGAL ACTION. THE COMMISSION IS
20 AUTHORIZED TO NEGOTIATE OR SETTLE A CLAIM THAT THE FUND
21 MAINTAINS FOR REIMBURSEMENT AGAINST A CHILD'S FAMILY WHO HAS
22 RECEIVED ASSISTANCE FOR THE MEDICAL AND RELATED EXPENSES OF A
23 CHILD AND HAS RECOVERED DAMAGES IN A LEGAL ACTION FOR THE
24 CHILD'S MEDICAL AND RELATED EXPENSES. ANY MONEYS RECOVERED
25 PURSUANT TO THIS SUBPARAGRAPH (IV) SHALL BE DEPOSITED IN THE
26 FUND.

27 (V) TO ESTABLISH THE AMOUNT OF REIMBURSEMENT FOR THE

1 MEDICAL AND RELATED EXPENSES OF EACH CHILD WITH A CATASTROPHIC
2 MEDICAL CONDITION USING A SLIDING-FEE SCALE BASED ON THE CHILD'S
3 FAMILY'S ABILITY TO PAY FOR MEDICAL AND RELATED EXPENSES, TAKING
4 INTO ACCOUNT THE SIZE, INCOME AND ASSETS, AND MEDICAL AND
5 RELATED EXPENSES OF THE CHILD'S FAMILY;

6 (VI) TO ADJUST THE FINANCIAL ELIGIBILITY CRITERIA BASED ON
7 THE MONEYS AVAILABLE IN THE FUND;

8 (VII) TO DISSEMINATE INFORMATION ON THE FUND TO THE PUBLIC;

9 (VIII) TO MAINTAIN CONFIDENTIAL RECORDS ON EACH CHILD WHO
10 APPLIES FOR ASSISTANCE FROM THE FUND; AND

11 (IX) TO PREPARE AND SUBMIT A REPORT TO THE GENERAL
12 ASSEMBLY PURSUANT TO SUBSECTION (6) OF THIS SECTION.

13 (5) FOR THE PURPOSES OF PROVIDING THE MONEYS NECESSARY TO
14 ESTABLISH THE FUND AND MEET THE PURPOSES OF THIS SECTION,
15 CARRIERS, AS DEFINED IN SECTION 10-16-102 (8), C.R.S., SHALL
16 ANNUALLY COLLECT A ONE-DOLLAR SURCHARGE ON PREMIUMS FOR EACH
17 COVERED PERSON IN THE STATE. THE CARRIERS SHALL TRANSMIT THE
18 MONEYS COLLECTED TO THE STATE TREASURER, WHO SHALL DEPOSIT THE
19 MONEYS IN THE FUND.

20 (6) ON OR BEFORE JANUARY 1, 2012, AND EACH JANUARY 1
21 THEREAFTER, THE COMMISSION SHALL PREPARE AND SUBMIT A REPORT TO
22 THE HEALTH AND HUMAN SERVICES COMMITTEES OF THE HOUSE OF
23 REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES,
24 SUMMARIZING THE ACTIVITIES OF THE COMMISSION AND THE FUND,
25 INCLUDING BUT NOT LIMITED TO THE NUMBER OF FAMILIES SERVED, THE
26 AMOUNT OF MONEY DISTRIBUTED FROM THE FUND, AND THE AMOUNT OF
27 MONEY IN THE FUND AT THE TIME OF THE REPORT.

1 **SECTION 2.** 10-16-110, Colorado Revised Statutes, is amended
2 BY THE ADDITION OF A NEW SUBSECTION to read:

3 **10-16-110. Fees paid by health coverage entities.** (1.5) EACH
4 CARRIER, SUBJECT TO THE PROVISIONS OF PART 1, 3, OR 4 OF THIS ARTICLE,
5 SHALL ANNUALLY COLLECT A SURCHARGE OF ONE DOLLAR PER COVERED
6 RESIDENT TO BE TRANSMITTED TO THE STATE TREASURER FOR DEPOSIT IN
7 THE RELIEF FUND FOR CHILDREN WITH A CATASTROPHIC MEDICAL
8 CONDITION CREATED IN SECTION 25-1-126 (2), C.R.S.

9 **SECTION 3. Act subject to petition - effective date -**
10 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day
11 following the expiration of the ninety-day period after final adjournment
12 of the general assembly (August 11, 2010, if adjournment sine die is on
13 May 12, 2010); except that, if a referendum petition is filed pursuant to
14 section 1 (3) of article V of the state constitution against this act or an
15 item, section, or part of this act within such period, then the act, item,
16 section, or part shall not take effect unless approved by the people at the
17 general election to be held in November 2010 and shall take effect on the
18 date of the official declaration of the vote thereon by the governor.

19 (2) The provisions of this act shall apply to insurance policies in
20 place on or after January 1, 2011.