Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

BILL B

LLS NO. 10-0389.01 Jane Ritter **HOUSE BILL**

HOUSE SPONSORSHIP

Todd,

SENATE SPONSORSHIP

Steadman,

House Committees **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 necessarily reflect any amendments that may be subsequently adopted.)

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 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.

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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
12 INSURANCE CONTRACT AND EXCEED TEN PERCENT OF THE FIRST ONE
13 HUNDRED THOUSAND DOLLARS OF ANNUAL INCOME OF A CHILD'S FAMILY

PLUS FIFTEEN PERCENT OF THE EXCESS INCOME OVER ONE HUNDRED THOUSAND DOLLARS.

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

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

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

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

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

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

(2) (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE RELIEF FUND FOR CHILDREN WITH A CATASTROPHIC MEDICAL CONDITION. THE FUND SHALL CONSIST OF ANY GIFTS, GRANTS, AND DONATIONS RECEIVED, ANY APPROPRIATION BY THE GENERAL ASSEMBLY, AND THE MONEYS COLLECTED PURSUANT TO SUBSECTION (5) OF THIS SECTION. ANY

STATE AGENCY OR DEPARTMENT IS AUTHORIZED TO SEEK AND ACCEPT GIFTS, GRANTS, OR DONATIONS FROM PUBLIC OR PRIVATE SOURCES FOR THE PURPOSES OF THIS SECTION; EXCEPT THAT A GIFT, GRANT, OR DONATION SHALL NOT BE ACCEPTED IF IT IS SUBJECT TO CONDITIONS THAT ARE INCONSISTENT WITH THIS SECTION OR ANY OTHER LAW OF THE STATE. ALL PRIVATE AND PUBLIC MONEYS RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS OR APPROPRIATED BY THE GENERAL ASSEMBLY SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND. ALL MONEYS COLLECTED PURSUANT TO THIS SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND. THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THIS SECTION.

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

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

(d) THE COMMISSION MAY EXPEND UP TO ONE PERCENT OF THE MONEYS ANNUALLY APPROPRIATED FROM THE FUND TO OFFSET THE COSTS INCURRED IN IMPLEMENTING THIS SECTION.

(3) (a) A CHILD WITH A CATASTROPHIC MEDICAL CONDITION WHO

IS A RESIDENT SHALL BE ELIGIBLE TO APPLY, THROUGH HIS OR HER PARENT OR LEGAL GUARDIAN, TO THE FUND.

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

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

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

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

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

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

(IV) THE FOLLOWING SIX MEMBERS APPOINTED BY THE GOVERNOR

1 ON OR BEFORE SEPTEMBER 1, 2010:

2 (A) TWO HEALTH CARE PROVIDERS WHO SPECIALIZE IN CARE FOR

3 CHILDREN;

4 (B) TWO PERSONS WHO ARE MEMBERS OF ADVOCACY GROUPS FOR

5 PERSONS WITH CATASTROPHIC MEDICAL CONDITIONS; AND

6 (C) TWO CAREGIVERS OF CHILDREN WHO HAVE A CATASTROPHIC

7 MEDICAL CONDITION.

8 (b) MEMBERS OF THE COMMISSION SHALL SERVE FOR THREE-YEAR

9 TERMS; EXCEPT THAT, OF THE MEMBERS FIRST APPOINTED BY THE

10 GOVERNOR, ONE-THIRD SHALL BE APPOINTED FOR ONE-YEAR TERMS;

11 ONE-THIRD SHALL BE APPOINTED FOR TWO-YEAR TERMS; AND ONE-THIRD

12 SHALL BE APPOINTED FOR THREE-YEAR TERMS. THE GOVERNOR SHALL

13 DESIGNATE THE LENGTH OF TERMS FOR EACH OF THE MEMBERS FIRST

14 APPOINTED IN ACCORDANCE WITH THIS SUBSECTION (4). VACANCIES

15 SHALL BE FILLED BY APPOINTMENT FOR THE REMAINDER OF THE

16 UNEXPIRED TERM.

17 (c) THE COMMISSION SHALL HOLD ITS FIRST MEETING NO LATER

18 THAN OCTOBER 1, 2010, AT WHICH MEETING THE MEMBERS SHALL ELECT

19 A CHAIR AND CO-CHAIR. WHENEVER POSSIBLE, RURAL PARTICIPATION

20 SHALL BE ENCOURAGED THROUGH THE USE OF ELECTRONIC MEDIA FOR

21 MEETINGS.

22 (d) MEMBERS OF THE COMMISSION SHALL SERVE WITHOUT

23 COMPENSATION.

24 (e) THE COMMISSION SHALL HAVE THE FOLLOWING POWERS AND

25 DUTIES:

26 (I) TO ESTABLISH A PROGRAM TO ADMINISTER THE FUND AND

27 AUTHORIZE THE PAYMENT OR MEDICAL REIMBURSEMENT OF THE MEDICAL

1 AND RELATED EXPENSES OF CHILDREN WHO QUALIFY TO RECEIVE MONEYS
2 FROM THE FUND;
3 (II) TO ESTABLISH PROCEDURES FOR APPLYING TO THE FUND,
4 DETERMINING ELIGIBILITY FOR THE PAYMENT OR REIMBURSEMENT OF
5 MEDICAL AND RELATED EXPENSES FOR CHILDREN, AND PROCESSING CLAIM
6 DISPUTES;
7 (III) TO SCREEN EACH APPLICANT FOR OTHER SOURCES OF
8 COVERAGE AND FOR POTENTIAL ELIGIBILITY FOR GOVERNMENT PROGRAMS
9 AND TO DOCUMENT THE RESULTS OF THE SCREENING. IF THE COMMISSION
10 DETERMINES THAT AN APPLICANT IS POTENTIALLY ELIGIBLE FOR MEDICAID
11 OR ANOTHER GOVERNMENT PROGRAM, THE COMMISSION SHALL ASSIST THE
12 APPLICANT IN APPLYING FOR BENEFITS UNDER SUCH PROGRAM.
13 (IV) TO ESTABLISH PROCEDURES FOR REIMBURSEMENT OF THE
14 FUND WHERE A CHILD'S FAMILY, AFTER RECEIVING ASSISTANCE FROM THE
15 FUND, RECOVERS THE COSTS FOR THE ELIGIBLE CHILD'S MEDICAL AND
16 RELATED EXPENSES FOR A CATASTROPHIC MEDICAL CONDITION PURSUANT
17 TO A SETTLEMENT OR JUDGMENT IN A LEGAL ACTION. THE COMMISSION IS
18 AUTHORIZED TO NEGOTIATE OR SETTLE A CLAIM THAT THE FUND
19 MAINTAINS FOR REIMBURSEMENT AGAINST A CHILD'S FAMILY WHO HAS
20 RECEIVED ASSISTANCE FOR THE MEDICAL AND RELATED EXPENSES OF A
21 CHILD AND HAS RECOVERED DAMAGES IN A LEGAL ACTION FOR THE
22 CHILD'S MEDICAL AND RELATED EXPENSES. ANY MONEYS RECOVERED
23 PURSUANT TO THIS SUBPARAGRAPH (IV) SHALL BE DEPOSITED IN THE
24 FUND.
25 (V) TO ESTABLISH THE AMOUNT OF REIMBURSEMENT FOR THE
26 MEDICAL AND RELATED EXPENSES OF EACH CHILD WITH A CATASTROPHIC
27 MEDICAL CONDITION USING A SLIDING-FEE SCALE BASED ON THE CHILD'S

FAMILY'S ABILITY TO PAY FOR MEDICAL AND RELATED EXPENSES, TAKING INTO ACCOUNT THE SIZE, INCOME AND ASSETS, AND MEDICAL AND RELATED EXPENSES OF THE CHILD'S FAMILY;

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

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

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

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

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

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

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

1 **10-16-110. Fees paid by health coverage entities.** (1.5) EACH
2 CARRIER, SUBJECT TO THE PROVISIONS OF PART 1, 3, OR 4 OF THIS ARTICLE,
3 SHALL ANNUALLY COLLECT A SURCHARGE OF ONE DOLLAR PER COVERED
4 RESIDENT TO BE TRANSMITTED TO THE STATE TREASURER FOR DEPOSIT IN
5 THE RELIEF FUND FOR CHILDREN WITH A CATASTROPHIC MEDICAL
6 CONDITION CREATED IN SECTION 25-1-126 (2), C.R.S.
7 **SECTION 3. Act subject to petition - effective date.** (1) This
8 act shall take effect at 12:01 a.m. on the day following the expiration of
9 the ninety-day period after final adjournment of the general assembly
10 (August 11, 2010, if adjournment sine die is on May 12, 2010); except
11 that, if a referendum petition is filed pursuant to section 1 (3) of article V
12 of the state constitution against this act or an item, section, or part of this
13 act within such period, then the act, item, section, or part shall not take
14 effect unless approved by the people at the general election to be held in
15 November 2010 and shall take effect on the date of the official
16 declaration of the vote thereon by the governor.
17 (2) The provisions of this act shall apply to insurance policies in
18 place on or after January 1, 2011.