



# Fiscal Note

## Legislative Council Staff

Nonpartisan Services for Colorado’s Legislature

### SB 26-178: HEALTH INSURANCE AFFORDABILITY MEASURES

**Prime Sponsors:**

Sen. Mullica; Jodeh  
Rep. Brown; Gilchrist

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**Fiscal note status:** This revised fiscal note reflects the reengrossed bill.

### Summary Information

**Overview.** The bill creates new revenue sources for the Health Insurance Affordability Enterprise, reduces costs for certain enterprise programs, revises the allocation of funds among enterprise programs, and establishes review requirements.

**Types of impacts.** The bill is projected to affect the following areas on an ongoing basis:

- State Revenue
- State Expenditures
- State Transfer
- TABOR Refunds
- Statutory Public Entity

**Appropriations.** No appropriation is required. All expenditures are paid from the Health Insurance Affordability Cash Fund, which is continuously appropriated.

**Table 1  
State Fiscal Impacts**

Type of Impact	Current Year FY 2025-26	Budget Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2028-29
State Revenue	\$0	\$95.8 million	\$5.8 million	\$3.7 million
State Expenditures	\$0	up to \$130 million	at least \$7 million	at least \$7 million
State Transfers	\$40 million	\$0	\$0	\$0
Change in TABOR Refunds	\$0	\$0	\$0	Not estimated
Change in State FTE	0.0 FTE	0.0 FTE	0.0 FTE	0.0 FTE

Fund sources for these impacts are shown in the tables below. The exact timing of when new revenue received by the Health Insurance Affordability Enterprise will be spent, as well as the amount by which spending within the enterprise shifts between different programs, are not known and cannot be estimated. See State Expenditure section for more detail.

**Table 1A  
 State Revenue**

<b>Fund Source</b>	<b>Current Year FY 2025-26</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>	<b>Out Year FY 2028-29</b>
General Fund	\$0	\$0	\$0	-\$2,000,000
Marijuana Tax Cash Fund	\$0	-\$1,216,638	-\$1,253,643	-\$1,291,774
HIAE Cash Fund	\$0	\$97,000,000	\$7,000,000	\$7,000,000
<b>Total Revenue</b>	<b>\$0</b>	<b>\$95,783,362</b>	<b>\$5,746,357</b>	<b>\$3,708,226</b>

**Table 1B  
 State Expenditures**

<b>Fund Source</b>	<b>Current Year FY 2025-26</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>	<b>Out Year FY 2028-29</b>
General Fund	\$0	\$0	\$0	\$0
HIAE Cash Fund	\$0	up to \$130 million	at least \$7 million	at least \$7 million
Federal Funds	\$0	\$0	\$0	\$0
Centrally Appropriated	\$0	\$0	\$0	\$0
<b>Total Expenditures</b>	<b>\$0</b>	<b>up to \$130 million</b>	<b>at least \$7 million</b>	<b>at least \$7 million</b>
<b>Total FTE</b>	<b>0.0 FTE</b>	<b>0.0 FTE</b>	<b>0.0 FTE</b>	<b>0.0 FTE</b>

**Table 1C  
 State Transfers**

<b>Fund Source</b>	<b>Current Year FY 2025-26</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>	<b>Out Year FY 2028-29</b>
Marijuana Tax Cash Fund	-\$40,000,000	\$0	\$0	\$0
HIAE Cash Fund	\$40,000,000	\$0	\$0	\$0
<b>Net Transfer</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## Summary of Legislation

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The Health Insurance Affordability Enterprise (HIAE) under the Department of Regulatory Agencies (DORA) funds the following programs:

- the **reinsurance program**, which covers a portion of claims for high-cost individuals;
- **On-Exchange Subsidies**, which pay carriers to lower the cost of purchasing insurance through the Connect for Health Colorado for individuals who meet federal requirements, including having an income between 133 and 400 percent of the federal poverty line; and
- the **OmniSalud program**, which subsidizes insurance for Coloradans with incomes below 300 percent of the federal poverty line who are not eligible for federal tax credits or state-funded insurance.

Under current law, funds will be insufficient to fully-fund all of these programs (see Background Section).

The bill creates new revenue sources for the HIAE, reduces costs for certain enterprise programs, revises the allocation of funds among enterprise programs, and establishes review requirements.

### HIAE Revenue Sources

The bill directs the Health Insurance Affordability Enterprise (HIAE) to issue up to \$100 million in bonds, transfers \$40 million from the Marijuana Tax Cash fund (MTCF) to the HIAE, reallocates insurance premium tax credits to benefit the HIAE, and grants the HIAE investment authority.

### Bonds

After January 1, 2027, the HIAE may issue up to \$100 million in bonds under this bill. This amount the bond issuance must be reduced by the amount of the cost savings achieved from lowering the reinsurance program's premium reduction targets (described below). The HIAE Board will set the bond terms, including interest rate, maturity dates up to 45 years, and redemption terms. Proceeds will be deposited into the HIAE Cash Fund and may be used to cover fees, expenses, and commissions related to the bond sale. The bill requires that bond repayments from the HIAE Cash Fund take priority over allocations to HIAE supported programs.

As an enterprise, the HIAE is already authorized to issue bonds but has not done so historically. The fiscal note assumes that with the guidance from the bill, the HIAE will issue \$90 million in bonds.

## Emergency Reserve Adjustments and Fund Transfer

The bill lowers the amount of money held in the Marijuana Tax Cash Fund (MTCF) as part of the state emergency reserve by \$40 million (from \$100 million to \$60 million) and increases the amount held in reserve in the value of the Capitol Annex building by the same amount (from \$39.8 million to 79.8 million). The Capitol Annex building recently was significantly renovated to make it inhabitable and up to code. The bill then transfers \$40 million from the MTCF to the HIAE Cash Fund, which must occur no later than June 30, 2026.

## Insurance Premium Tax Credit Revenue Diversion

Since 2013, donations offered to Connect for Health Colorado, up to \$5 million annually, has been eligible for a tax credit. [Senate Bill 22-081](#) expanded this tax credit by \$4 million annually for tax years 2022 through 2028. The bill now limits eligibility to donations made to the HIAE only (and not Connect for Health Colorado) and extends the expanded tax credit indefinitely to allow \$9 million in donations to HIAE to be eligible for a tax credit annually.

## Investment Authority

The bill grants the HIAE authority to invest money in the HIAE fund without going through the State Treasurer and to contract with fund manager to advise on investment strategies.

## HIAE Program Cuts

The bill imposes cost-saving measures on the Reinsurance program and the OmniSalud program as discussed below. Savings incurred in the Reinsurance Program will reduce revenue to the HIAE by limiting how many bonds may be sold under the bill.

## Reinsurance Targets

Currently, the reinsurance program in the HIAE has a target of reducing statewide average premium by 20 percent. The bill reduces this target to 18 percent.

## OmniSalud Premiums

Starting in 2027, the bill requires individuals enrolled in OmniSalud to pay a premium, which will be set by DORA.

**Fund Reallocation**

The bill reallocates funds assessed starting in calendar year 2027, after all bond obligations have been met, to these programs as shown in Table 2A.

**Table 2A  
 Change to Funding Allocation for  
 the Health Insurance Affordability Enterprise**

<b>HIAE Programs</b>	<b>Current Law</b>	<b>Under SB 26-178</b>
Reinsurance Program	Lesser of 73 percent or \$90 million	50 percent
On-Exchange Subsidies	Up to 10 percent	25 percent
OmniSalud Program	\$18 million plus any remaining	20 percent
Administration	3 percent	3 percent
Other Uses	Not Available	2 percent

**Current Allocation Formula in Practice**

Under current law expenditures of state funds in the HIAE differs from the current allocation formula as shown in Table 2B because:

- the HIAE has been expending surplus funds which are allocated based on which programs accrued the surplus;
- prior legislation has allocated certain funds outside of the current allocation formula; and
- administrative costs have remained constant at \$4 million even as total state funds have increased.

**Table 2B  
 Actual and Projected Expenditure as a Percentage of State Funds  
 Under Current Law**

<b>HIAE Programs</b>	<b>FY 2025-26 Actuals</b>	<b>FY 2026-27 Projected</b>	<b>FY 2027-28 Projected</b>
Reinsurance Program	52%	32%	44%
On-Exchange Subsidies	9%	45%	34%
OmniSalud Program	37%	22%	21%
Administration	2%	2%	1%

## Hyde Amendment Compliance and Other Allocation

Under current law, the HIAE assists certain populations receiving health coverage through Connect for Health Colorado in complying with the Hyde amendment using funds allocated for On-Exchange Subsidies. Under the bill, this effort will be expanded and funded using funds allocated for “other uses”. Any funds that remaining after Hyde Amendment compliance is fully funded will be allocated to other initiatives to increase coverage in the individual market, including current programs.

## Review Requirements

Finally, the bill requires the HIAE to contract with a third party to evaluate the feasibility of restructuring the program and places new reporting and stakeholder engagement requirements on the HIAE board, including translation requirements.

## Background

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### Health Insurance Affordability Enterprise

The HIAE is regularly funded by the HIAE fee, which is assessed on health insurance carriers at 1.15 percent of premiums for nonprofit carriers and 2.1 percent for for-profit carriers, plus federal funds which must be allocated to the reinsurance program. These regular revenue sources have not sufficiently covered expenses since FY 2023-24 and the HIAE has been spending surplus accrued in previous years, which will soon be depleted.

[House Bill 25B-1006](#) planned to temporarily sustain the HIAE through the sale of \$100 million in insurance premium tax credits and a \$10 million transfer. Insurance entities have not yet purchased the full \$100 million of tax credits, so [House Bill 26-1346](#), if passed, would allow non-insurance entities to purchase these credits.

### State Emergency Reserve

Subsection (5) of TABOR requires the state and all local governments to maintain an emergency reserve. For 1995 and subsequent years, the emergency reserve must equal at least 3 percent of fiscal year spending, excluding bonded debt service. The state emergency reserve is specified annually in the Long Bill headnote and is usually made up of specific cash fund balances and capital assets.

## Assumptions

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### Bond Terms

This fiscal note assumes a 20-year bond with an estimated coupon rate of 7.5 percent. As of the date of this fiscal note, the yield on a 20-year U.S. Treasury note is approximately 4.98 percent. Government bonds may carry higher interest rates if they are considered riskier or have low liquidity, making them harder to sell. Final bond terms will be determined by the HIAE board and market conditions at issuance, which may alter the revenue and expenditure estimates.

### Insurance Tax Credit Sales

The fiscal note assumes that the HIAE will receive \$7 million in annual donations beginning in FY 2026-27. This is \$2 million less than the total tax credit amount allocated to the HIAE in the bill. This estimate is based on experience from implementing [Senate Bill 22-081](#).

In addition, [House Bill 25B-1004](#) and [House Bill 25B-1006](#) also permit the sale of insurance premium tax credits. Purchasing these credits at a discount is likely more appealing to insurers than contributing to HIAE for a tax credit of equal value. As a result, donations to the HIAE may fall below this \$7 million estimate.

### Investments

The fiscal note assumes that the HIAE investments will not outperform those managed by the State Treasurer. Therefore, it projects no fiscal impact resulting from the independent investment authority granted under the bill.

### OmniSalud Premiums

The fiscal note cannot not make any assumptions about how DORA will set OmniSalud premiums and therefore does not discuss this impact. Once the premium is set and the consequence for non-payment is established, expenditures in the program will decrease. If it decreases beyond the currently projected drop in revenue allocations to the program, savings will accrue and will be spent by OmniSalud in future years.

## State Revenue

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On net, the bill increases state revenue by about \$95.8 million in FY 2026-27, \$5.7 million in FY 2027-28, \$3.7 million in FY 2028-29, and lesser amounts in later years.

The bill also shifts revenue from the General Fund to the HIAE Cash Fund. This shift may also lower the TABOR refund obligation; none of the other changes will have an effect on TABOR refunds.

As shown in Table 3 and discussed below, the bill impacts state revenue through:

- bond sale proceeds;
- assumed donations to the HIAE starting in FY 2026-27 that will increase state revenue, decrease revenue to Connect for Health Colorado (a statutory public entity);
- starting in FY 2028-29, decreased premium tax revenue from extending tax credits for eligible donations; and
- lost interest to the MTCF, which is partially offset by increased interest to the HIAE cash fund.

**Table 3  
 State Revenue by Source**

<b>Revenue Source</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>	<b>Out Year FY 2028-29</b>
Bond Sale Proceeds– HIAE	\$90,000,000	\$0	\$0
Donations – HIAE	\$7,000,000	\$7,000,000	72,000,000
Insurance Premium Taxes – General Fund	\$0	\$0	-\$2,000,000
Interest – MTCF	-\$1,216,638	-\$1,253,643	-\$1,291,774
Interest – HIAE	Not estimated	Not estimated	Not estimated
<b>Total Revenue</b>	<b>\$95,783,362</b>	<b>\$5,746,357</b>	<b>\$3,708,226</b>

### **Bond Sale Proceeds**

The fiscal note estimates the bill will increase HIAE revenue by \$90 million from bond sales in FY 2026-27. This estimate assumes that lowering the target of the Reinsurance Program will save \$10 million annually. Per the bill, bonds may be issued up to \$100 million minus these savings. The fiscal note assumes that only one year of savings is included in this calculation. Bond revenue generated by the enterprise is not subject to TABOR.

### **Donations and Taxes**

As discussed in the Assumption Section, the fiscal note assumes that insurers will donate \$7 million per year to the HIAE in order to claim a tax credit. The sections below discuss the impact of this assumption on state revenue.

#### **Donations**

Current law incentivizes private entities to donate to Connect for Health Colorado, a statutory public entity. The bill alters these incentives such that an estimated \$7 million of donations will be diverted to the HIAE. Since the HIAE is a state enterprise, these donations will be newly recorded as state revenue. Donations are not subject to TABOR.

## Insurance Premium Taxes

By continuing the expanded tax credit set to expire August 2028, the bill reduces General Fund revenue by an estimated \$2 million starting in FY 2028-29. Insurance premium tax revenue is subject to TABOR (see TABOR Refund Section).

## Interest

The bill reduces revenue from interest earnings starting in FY 2026-27, as shown in Table 4. This lost interest will be partially offset by increased interest in the HIAE cash fund that will accrue until the new revenue and transfer proceeds are fully expended. These impacts are discussed below.

### Reduced Interest Earnings to the Marijuana Tax Cash Fund

The bill reduces interest revenue earned on money held in the MTCF. The amount of lost revenue depends on interest rates and other changes to the trust fund's balance. Assuming a 3 percent annual interest rate, compounded monthly, and that the transferred money and interest earnings would have otherwise stayed in the fund, the amount of lost revenue is estimated to be about \$1.2 million in FY 2026-27. The lost revenue will compound over time. Interest earned on the MTCF is not subject to TABOR.

### Increased Interest Earning to HIAE Cash Fund

Since the fiscal note cannot estimate when revenue and transfers to the HIAE Cash Fund will be spent, any resulting increase in interest earnings has not been estimated.

## State Transfer

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The bill requires a one-time transfer of \$40 million from the MTCF to the HIAE Cash Fund in the current FY 2025-26.

## State Expenditures

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The bill increases one-time expenditures in the HIAE by \$130 million, which is expected to occur across FY 2027-28 and FY 2028-29. On an ongoing basis, the bill increase expenditures in the HIAE by \$7 million per year starting in FY 2026-27. The bill's infusion of one-time revenue is anticipated to sustain HIAE programs for approximately 12 months, with this spending assumed to be spread across FY 2027-28 and FY 2028-29. Since the exact timing of spending is not known, this section does not break down spending by state fiscal years, but instead discusses how the one-time revenue and the ongoing revenue will be spent.

Based on the additional initial revenue received, the bill initially increases allocations to HIAE programs. Then, once bond obligations begin, the bill will decrease allocations to these programs in future years. Additionally, the bill places new spending obligations on certain programs' allocations.

Finally, the bill's change to the allocation formula will cause expenditures to shift between HIAE programs in unknown ways. This change cannot be estimated due to the complex legal interactions that have caused the current expenditure of state funds in the HIAE to differ from the current allocation formula. The bill will not affect the current revenue allocation until FY 2028-29.

**Spending of One-Time Revenue**

Table 5A shows how the HIAE may expend the \$130 million in one-time revenue generated under the bill. Bond issuance costs will be paid from the initial bond proceeds. The remainder of this revenue will be spent according to the bill's allocation formula.

**Table 5A**  
**One-Time Revenue Expenditure**  
 FY 2027-28 and FY 2028-29

<b>Cost Component</b>	<b>Allocation</b>	<b>One-Time</b>
One-Time Revenue		\$130,000,000
Bond Costs		\$1,350,000
<b>Available for HIAE Programs</b>		<b>\$128,650,000</b>
Reinsurance	50 percent after bonds	\$64,325,000
On-Exchange Subsidies	25 percent after bonds	\$32,162,500
OmniSalud	20 percent after bonds	\$25,730,000
Administration	3 percent after bonds	\$3,859,500
Other Uses	2 percent after bonds	\$2,573,000
<b>Total Expenditures</b>		<b>\$130,000,000</b>

**Future Year Decrease in HIAE Program Allocation**

After the one-time revenue is used to sustain the HIAE programs for an additional year, HIAE program costs will need to decrease (beyond current projections) to pay for the ongoing costs of the bonds. The fiscal note assumes that that one-twentieth of the principal, plus interest, will be paid each year. These cuts will be partially offset by the ongoing addition of \$7 million in newly generated revenue from donations incentivized by premium tax credits. The fiscal note assumes that expenditures will decrease based on the bill's allocation formula, as shown in Table 5B.

**Table 5B  
 Ongoing Revenue Expenditures**

<b>Cost Component</b>	<b>Assumed Allocation</b>	<b>Ongoing</b>
Ongoing Revenue		\$7,000,000
Bond Costs		\$11,232,000
<b>Available for HAIE Programs</b>		<b>-\$4,232,000</b>
Reinsurance	50 percent after bonds	-\$2,116,000
On-Exchange Subsidies	25 percent after bonds	-\$1,058,000
OmniSalud	20 percent after bonds	-\$846,400
Administration	3 percent after bonds	-\$126,960
Other Uses	2 percent after bonds	-\$84,640
<b>Total Expenditures</b>		<b>\$7,000,000</b>

**Expenditures within Allocations**

Within the program allocations, the bill drives costs and savings to HIAE programs. On net this will increase expenditures by \$1.8 million on a one-time basis and \$2.1 million on an ongoing basis, as shown in Table 6. Expenditures will increase for bond costs, administration, and “other uses”, and savings will be incurred in the reinsurance program.

**Table 6  
 State Expenditures  
 Health Insurance Affordability Enterprise**

<b>Cost Component</b>	<b>One-Time</b>	<b>Ongoing</b>
Reinsurance Target (State Funds)	\$250,000	-\$10,000,000
Bond Issuance Costs	\$1,350,000	\$0
Bond Obligation Costs	\$0	\$6,732,000
Bond Principal Repayment	\$0	\$4,500,000
Hyde Amendment Compliance	\$0	\$876,888
Feasibility Study	\$200,000	\$0
<b>Total Costs</b>	<b>\$1,800,000</b>	<b>\$2,108,888</b>

**Reinsurance Target**

The fiscal note estimates that targeting 18 percent premium reductions, rather than 20 percent, will save \$10 million in state funds for the reinsurance program. This is a preliminary estimate based on previous models estimating different targets and will be updated if more current information and modeling becomes available.

Creating a new model to target 18 percent, will require a one-time contract estimated to cost \$250,000. This will be paid from the HIAE "administrative" allocation, which historically has not been fully expended.

Adjusting the reinsurance target will also decrease the federal spending on the program. Due to time constraints this impact has not been estimated.

### Bond Issuance Costs

The fiscal note estimates \$1,350,000 in issuance costs for selling the bonds. The costs of selling bonds can vary depending on the complexity and terms of the sale. Issuance costs can range from 1 percent to 2 percent of the total face value of the bonds. The fiscal note assumes a 1.5 percent issuance fee calculated on the \$90 million face value, which is paid by the proceeds received from selling the bonds. If the issuance fee is higher than assumed in the fiscal note, the costs in Table 6 will be higher than estimated. Conversely, if the fees are less than 1.5 percent, the issuance costs will be lower.

### Bond Obligation Costs

As discussed in the Assumption Section, the fiscal note assumes a 20-year bond with an estimated coupon rate of 7.5 percent. Two bond repayments will be made each year, totaling \$6.7 million. Annual interest payments are expected through at least FY 2047-48.

#### Bond Principal Repayment

The HIAE must repay the \$90 million principal by the end of the assumed 20-year bond term. This requires annual payments of approximately \$4.5 million. The exact terms of bond repayment and annual payments will vary based on how the HIAE board structures the bond terms

### Feasibility Study

In FY 2026-27 only, the HIAE will contract with a third party to evaluate the feasibility of restructuring the HIAE. The fiscal note assumes this will be paid from the HIAE "administrative" allocation which historically has not been fully expended. Based on projects of similar scope, the fiscal note estimates that it will require \$200,000.

### Hyde Amendment Compliance

The bill increases expenditures for complying with the Hyde Amendment by about \$900,000 annually. These costs will be paid from the allocation for "other uses", which, per the bill, will receive 2 percent of incoming state revenue starting in calendar year 2027.

The Hyde Amendment prohibits the use of federal funds for abortion services, except in cases of life endangerment, rape, or incest. As a result, insurance carriers classify \$1 per member per

month as the cost of abortion services and bills the On-Exchange population separately for these costs to ensure that no federal funds are used. The HIAE currently has authority to subsidize insurance costs for roughly 70 percent of the On-Exchange population and uses that authority to pay the \$1 per member month fee for that population. The bill grants the HIAE distinct authority to cover the cost of complying with the Hyde amendment and the fiscal note assumes they will use this authority to cover these fees for 100 percent of the population.

### Reporting Requirements

Workload will increase for the HIAE to comply with the bill's reporting requirements. The fiscal note assumes this impact will be minimal. If resources are required, they will be paid from the HIAE "administrative" allocation which historically has not been fully expended.

### TABOR Refunds

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The bill is expected to decrease the amount of state revenue subject to TABOR by \$2 million stating in FY 2028-29. Because a forecast of state revenue subject to TABOR is not available beyond FY 2027-28, the impact to TABOR refunds cannot be estimated at this time.

Because TABOR refunds are paid from the General Fund, decreased General Fund revenue will lower the TABOR refund obligation, but result in no net change to the amount of General Fund otherwise available to spend or save in any future years when the state is over its revenue limit.

### Statutory Public Entity

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As discussed in the State Revenue section, the bill diverts \$7 million per year in donation revenue from Connect for Health Colorado, a statutory public entity, to the HIAE, a state enterprise. Expenditures for Connect for Health Colorado will decrease accordingly.

### Effective Date

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The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

### State and Local Government Contacts

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Regulatory Agencies

Treasury

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The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).