

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REVISED

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

LLS NO. 17-1080.01 Jason Gelender x4330

SENATE BILL 17-267

SENATE SPONSORSHIP

Sonnenberg and Guzman,

HOUSE SPONSORSHIP

Becker K. and Becker J.,

Senate Committees

Finance
Appropriations

House Committees

Finance
Appropriations

A BILL FOR AN ACT

101 CONCERNING THE SUSTAINABILITY OF RURAL COLORADO.

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>.)

Section 3 of the bill eliminates annual statutory transfers of general fund revenue to the highway users tax fund (HUTF) and the capital construction fund for state fiscal years 2017-18, 2018-19, and 2019-20. **Section 1** makes statutory general fund transfers to the state public school fund in amounts equal to the amounts of the eliminated statutory transfers to the HUTF for the sole purpose of reducing, proportionally to the extent feasible, the financial impacts of inconsistent funding of the state share of district total program on rural and small rural

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.

HOUSE
2nd Reading Unamended
May 9, 2017

SENATE
3rd Reading Unamended
May 8, 2017

SENATE
Amended 2nd Reading
May 5, 2017

school districts.

Section 2 requires executive branch departments to submit 2018-19 budget requests to the office of state planning and budgeting (OSPB) that are at least 2% lower than their 2017-18 budgets. The OSPB must strongly consider the budget reduction proposals made by each department when preparing the annual executive budget proposals to the general assembly and shall seek to ensure that the executive budget proposal for each department is at least 2% lower than the department's actual budget for the 2017-18 fiscal year.

Section 5 authorizes the state to execute lease-purchase agreements for eligible state facilities to generate up to \$1.35 billion of net proceeds, with maximum annual lease payments of \$100 million for up to 20 years. Lease payments must be paid first from any legally available money under the control of the transportation commission and next from the general fund or any other legally available source of money. \$1.2 billion of the net proceeds are credited to the HUTF and allocated to the state highway fund and \$150 million of the net proceeds are credited to the capital construction fund, with such amounts being reduced proportionally if the full \$1.35 billion of net proceeds is not received. As specified in **section 19**, the department of transportation (CDOT) may use the net proceeds only for qualified federal aid highway projects, with at least 25% of the money being used for projects that are located in counties with populations of 50,000 or less.

Section 6 creates the Colorado healthcare affordability and sustainability enterprise (enterprise) as a **type 2** agency and government-owned business within the department of health care policy and financing (HCPF) for the purpose of participating in the implementation and administration of a Colorado healthcare affordability and sustainability program (program) on and after July 1, 2017, and creates a board consisting of 13 members appointed by the governor with the advice and consent of the senate to govern the enterprise. The business purpose of the enterprise is, in exchange for the payment of a new healthcare affordability and sustainability fee (fee) by hospitals to the enterprise, to administer the program and thereby support hospitals that provide uncompensated medical services to uninsured patients and participate in publicly funded health insurance programs by:

- ! Participating in a federal program that provides additional matching money to states;
- ! Using fee revenue, which must be credited to a newly created healthcare affordability and sustainability fee fund and used solely for purposes of the program, and federal matching money to:
 - ! Reduce the amount of uncompensated care that hospitals provide by increasing the number of individuals covered by publicly funded health

- insurance; and
- ! Increase publicly funded insurance reimbursement rates to hospitals; and
- ! Providing or contracting for or arranging advisory and consulting services to hospitals and coordinating services to hospitals to help them more effectively and efficiently participate in publicly funded insurance programs.

The bill does not take effect if the federal centers for medicare and medicaid services determine that it does not comply with federal law.

The enterprise is designated as an enterprise for purposes of the taxpayer's bill of rights (TABOR) so long as it meets TABOR requirements. The primary powers and duties of the enterprise are to:

- ! Charge and collect the fee from hospitals;
- ! Leverage fee revenue collected to obtain federal matching money;
- ! Utilize and deploy both fee revenue and federal matching money in furtherance of the business purpose of the enterprise;
- ! Issue revenue bonds payable from its revenues;
- ! Enter into agreements with HCPF as necessary to collect and expend fee revenue;
- ! Engage the services of private persons or entities serving as contractors, consultants, and legal counsel for professional and technical assistance and advice and to supply other services related to the conduct of the affairs of the enterprise, including the provision of additional business services to hospitals;
- ! Seek any federal waiver necessary to fund and, in cooperation with HCPF and hospitals, support the implementation, no earlier than October 1, 2019, of a health care delivery reform incentive payments program that will improve health care access and outcomes for individuals served by HCPF while efficiently utilizing available financial resources. The health care delivery reform incentive payments program must include, at a minimum, an initial planning phase to assess needs and develop achievable outcome-based metrics to be used to measure progress towards specified program goals and address specified focus areas.
- ! Adopt and amend or repeal policies for the regulation of its affairs and the conduct of its business.

The existing hospital provider fee program is repealed by **section 18** and the existing hospital provider fee oversight and advisory board is abolished, effective July 1, 2017.

So long as the enterprise qualifies as a TABOR-exempt enterprise,

fee revenue does not count against either the TABOR state fiscal year spending limit or the referendum C cap, the higher statutory state fiscal year spending limit established after the voters of the state approved referendum C in 2005. The bill clarifies that the creation of the new enterprise to charge and collect the fee is the creation of a new government-owned business that provides business services to hospitals as an enterprise for purposes of TABOR and related statutes and does not constitute the qualification of an existing government-owned business as a new enterprise that would require or authorize downward adjustment of the TABOR state fiscal year spending limit or the referendum C cap.

Section 4 lowers the referendum C cap for the 2017-18 fiscal year and subsequent fiscal years. **Section 16** requires HCPF, within 120 days of the enactment of the federal "Advancing Care of Exceptional Kids Act", to seek any federal waiver necessary to fund, in cooperation with hospitals that meet the specified requirements, the implementation of an enhanced pediatric health home for children with complex medical conditions.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) In comparison to the urban and suburban areas of the state,
5 rural Colorado, on average and with some exceptions, faces complex
6 demographic, economic, and geographical challenges including:

7 (I) An older population that requires more medical care;

8 (II) Less robust and diverse economic activity and associated
9 lower average wages and household incomes; and

10 (III) Greater challenges, due to distance and less adequate
11 transportation infrastructure, in accessing critical services such as health
12 care; and

13 (b) The purpose of this legislation is to ensure and perpetuate the
14 sustainability of rural Colorado by addressing some of these demographic,
15 economic, and geographical challenges and by such other means as the
16 general assembly, in its considered judgment, finds necessary and

1 appropriate.

2 (2) The general assembly further finds and declares that the
3 sustainability of rural Colorado is directly connected to the economic
4 vitality of the state as a whole, and that all of the provisions of this act,
5 including provisions that on their face apply to and affect all areas of the
6 state but that especially benefit rural Colorado, relate to and serve and are
7 necessarily and properly connected to the general assembly's purpose of
8 ensuring and perpetuating the sustainability of rural Colorado.

9 **SECTION 2.** In Colorado Revised Statutes, **amend 2-3-119** as
10 follows:

11 **2-3-119. Audit of healthcare affordability and sustainability**
12 **fee - cost shift.** Starting with the second full state fiscal year following
13 the receipt of the notice from the executive director of the department of
14 health care policy and financing pursuant to section 25.5-4-402.3 (7),
15 C.R.S., and thereafter At the discretion of the legislative audit committee,
16 the state auditor shall conduct or cause to be conducted a performance
17 and fiscal audit of the ~~hospital provider~~ HEALTHCARE AFFORDABILITY AND
18 SUSTAINABILITY fee established pursuant to section 25.5-4-402.3, C.R.S.
19 SECTION 25.5-4-402.4.

20 **SECTION 3.** In Colorado Revised Statutes, 2-3-1203, **repeal**
21 (8)(a)(V) as follows:

22 **2-3-1203. Sunset review of advisory committees - legislative**
23 **declaration - definition - repeal.** (8) (a) The following statutory
24 authorizations for the designated advisory committees will repeal on July
25 1, 2019:

26 (V) ~~The hospital provider fee oversight and advisory board~~
27 ~~created in section 25.5-4-402.3, C.R.S.;~~

1 **SECTION 4.** In Colorado Revised Statutes, add 22-54-139 as
2 follows:

3 **22-54-139. Additional funding for schools - use of retail**
4 **marijuana sales tax revenue transferred to state public school fund**
5 **- definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
6 OTHERWISE REQUIRES:

7 (a) "LARGE RURAL DISTRICT" MEANS A DISTRICT IN COLORADO
8 THAT THE DEPARTMENT OF EDUCATION DETERMINES IS RURAL, BASED ON
9 THE GEOGRAPHIC SIZE OF THE DISTRICT AND THE DISTANCE OF THE
10 DISTRICT FROM THE NEAREST LARGE, URBANIZED AREA, AND THAT HAD A
11 FUNDED PUPIL COUNT FOR THE PRIOR BUDGET YEAR OF ONE THOUSAND
12 PUPILS OR MORE BUT FEWER THAN SIX THOUSAND FIVE HUNDRED PUPILS.

13 (b) "PER PUPIL DISTRIBUTION AMOUNT" MEANS:

14 (I) FOR A LARGE RURAL DISTRICT, AN AMOUNT EQUAL TO THIRTY
15 MILLION DOLLARS MULTIPLIED BY THE PERCENTAGE SPECIFIED IN
16 SUBSECTION (2)(a) OF THIS SECTION AND THEN DIVIDED BY THE SUM OF
17 THE TOTAL FUNDED PUPIL COUNT FOR THE PRIOR BUDGET YEAR OF ALL
18 LARGE RURAL DISTRICTS; AND

19 (II) FOR A SMALL RURAL DISTRICT, AN AMOUNT EQUAL TO THIRTY
20 MILLION DOLLARS MULTIPLIED BY THE PERCENTAGE SPECIFIED IN
21 SUBSECTION (2)(b) OF THIS SECTION AND THEN DIVIDED BY THE SUM OF
22 THE TOTAL FUNDED PUPIL COUNT FOR THE PRIOR BUDGET YEAR OF ALL
23 SMALL RURAL DISTRICTS;

24 (c) "SMALL RURAL DISTRICT" MEANS A DISTRICT IN COLORADO
25 THAT THE DEPARTMENT OF EDUCATION DETERMINES IS RURAL, BASED ON
26 THE GEOGRAPHIC SIZE OF THE DISTRICT AND THE DISTANCE OF THE
27 DISTRICT FROM THE NEAREST LARGE, URBANIZED AREA, AND THAT HAD A

1 FUNDED PUPIL COUNT FOR THE PRIOR BUDGET YEAR OF FEWER THAN ONE
2 THOUSAND PUPILS.

3 (2) FOR THE 2017-18 BUDGET YEAR, ALL OF THE GROSS RETAIL
4 MARIJUANA SALES TAX PROCEEDS TRANSFERRED FROM THE GENERAL
5 FUND TO THE STATE PUBLIC SCHOOL FUND CREATED IN SECTION 22-54-114
6 (1) AS REQUIRED BY SECTION 39-28.8-203 (1)(b)(I.3)(B) IS APPROPRIATED
7 FROM THE STATE PUBLIC SCHOOL FUND TO THE DEPARTMENT FOR
8 MONTHLY DISTRIBUTION TO EACH LARGE RURAL DISTRICT AND EACH
9 SMALL RURAL DISTRICT FOR THE PURPOSE OF IMPROVING STUDENT
10 LEARNING AND THE EDUCATIONAL ENVIRONMENT, INCLUDING BUT NOT
11 LIMITED TO LOAN FORGIVENESS FOR EDUCATORS AND STAFF,
12 TECHNOLOGY, AND TRANSPORTATION, AS FOLLOWS:

13 (a) FIFTY-FIVE PERCENT OF THE MONEY IS ALLOCATED TO LARGE
14 RURAL DISTRICTS AND DISTRIBUTED TO EACH LARGE RURAL DISTRICT IN
15 AN AMOUNT EQUAL TO THE PER PUPIL DISTRIBUTION AMOUNT MULTIPLIED
16 BY THE LARGE RURAL DISTRICT'S FUNDED PUPIL COUNT FOR THE PRIOR
17 BUDGET YEAR FOR PROPORTIONAL APPORTIONMENT TO EVERY SCHOOL IN
18 THE DISTRICT BASED ON THE NUMBER OF STUDENTS ENROLLED IN EACH
19 SCHOOL FOR THE PRIOR BUDGET YEAR; AND

20 (b) FORTY-FIVE PERCENT OF THE MONEY IS ALLOCATED TO SMALL
21 RURAL SCHOOL DISTRICTS AND DISTRIBUTED TO EACH SMALL RURAL
22 DISTRICT IN AN AMOUNT EQUAL TO THE PER PUPIL DISTRIBUTION AMOUNT
23 MULTIPLIED BY THE SMALL RURAL DISTRICT'S FUNDED PUPIL COUNT FOR
24 THE PRIOR BUDGET YEAR FOR PROPORTIONAL APPORTIONMENT TO EVERY
25 SCHOOL IN THE DISTRICT BASED ON THE NUMBER OF STUDENTS ENROLLED
26 IN EACH SCHOOL FOR THE PRIOR BUDGET YEAR.

27 (3) FOR THE 2018-19 BUDGET YEAR AND FOR EACH BUDGET YEAR

1 THEREAFTER, ALL OF THE GROSS RETAIL MARIJUANA SALES TAX PROCEEDS
2 TRANSFERRED FROM THE GENERAL FUND TO THE STATE PUBLIC SCHOOL
3 FUND CREATED IN SECTION 22-54-114 (1) AS REQUIRED BY SECTION
4 39-28.8-203 (1)(b)(I.5)(B) IS APPROPRIATED FROM THE STATE PUBLIC
5 SCHOOL FUND TO THE DEPARTMENT TO MEET THE STATE'S SHARE OF THE
6 TOTAL PROGRAM OF ALL DISTRICTS AND FUNDING FOR INSTITUTE CHARTER
7 SCHOOLS.

8 SECTION 5. In Colorado Revised Statutes, 23-1-106, amend
9 (10.2)(a) as follows:

10 23-1-106. Duties and powers of the commission with respect
11 to capital construction and long-range planning - legislative
12 declaration - definitions. (10.2) (a) (I) Notwithstanding any law to the
13 contrary AND EXCEPT AS PROVIDED IN SUBSECTION (10.2)(a)(III) OF THIS
14 SECTION, all academic facilities acquired or constructed, or an auxiliary
15 facility repurposed for use as an academic facility, solely from cash funds
16 held by the state institution of higher education and operated and
17 maintained from such cash funds or from state moneys MONEY
18 appropriated for such purpose, or both, including, but not limited to, those
19 facilities described in paragraph (b) of subsection (9) SUBSECTION (9)(b)
20 of this section, that did not previously qualify for state controlled
21 maintenance funding will qualify for state controlled maintenance
22 funding, subject to funding approval by the capital development
23 committee and the eligibility guidelines described in section
24 24-30-1303.9. C.R.S.

25 (II) For purposes of this paragraph (a) SUBSECTION (10.2)(a), the
26 eligibility for state controlled maintenance funding commences on the
27 date of the acceptance of the construction or repurposing of the facility

1 or the closing date of any acquisition. The date of the acceptance of
2 construction or repurposing shall be determined by the office of the state
3 architect.

4 (III) IF AN ACADEMIC FACILITY IS ACQUIRED OR CONSTRUCTED, OR
5 IF AN AUXILIARY FACILITY IS REPURPOSED FOR USE AS AN ACADEMIC
6 FACILITY, SOLELY FROM CASH FUNDS HELD BY THE STATE INSTITUTION OF
7 HIGHER EDUCATION AND OPERATED AND MAINTAINED FROM SUCH CASH
8 FUNDS, THEN AS OF THE DATE OF THE ACCEPTANCE OF CONSTRUCTION OR
9 REPURPOSING THAT OCCURS ON OR AFTER JULY 1, 2018, THE FACILITY IS
10 NOT ELIGIBLE FOR CONTROLLED MAINTENANCE FUNDING.

11 **SECTION 6.** In Colorado Revised Statutes, 24-1-119.5, **add** (9)
12 as follows:

13 **24-1-119.5. Department of health care policy and financing -**
14 **creation.** (9) THE COLORADO HEALTHCARE AFFORDABILITY AND
15 SUSTAINABILITY ENTERPRISE CREATED IN SECTION 25.5-4-402.4(3) SHALL
16 EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS AS IF THE
17 SAME WERE TRANSFERRED BY A **TYPE 2** TRANSFER, AS DEFINED IN SECTION
18 24-1-105, TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING.

19 **SECTION 7.** In Colorado Revised Statutes, 24-4-103, **amend**
20 (8)(c)(I) as follows:

21 **24-4-103. Rule-making - procedure - definitions - repeal.**
22 (8) (c) (I) Notwithstanding any other provision of law to the contrary and
23 the provisions of section 24-4-107, all rules adopted or amended on or
24 after January 1, 1993, and before November 1, 1993, shall expire at 11:59
25 p.m. on May 15 of the year following their adoption unless the general
26 assembly by bill acts to postpone the expiration of a specific rule, and
27 commencing with rules adopted or amended on or after November 1,

1 1993, all rules adopted or amended during any one-year period that begins
2 each November 1 and continues through the following October 31 shall
3 expire at 11:59 p.m. on the May 15 that follows such one-year period
4 unless the general assembly by bill acts to postpone the expiration of a
5 specific rule; except that a rule adopted pursuant to section 25.5-4-402.3
6 (5)(b)(III), C.R.S., shall expire SECTION 25.5-4-402.4 (6)(b)(III) EXPIRES
7 at 11:59 p.m. on the May 15 following the adoption of the rule unless the
8 general assembly acts by bill to postpone the expiration of a specific rule.
9 The general assembly, in its discretion, may postpone such expiration, in
10 which case, the provisions of section 24-4-108 or 24-34-104 shall apply,
11 and the rules shall expire or be ARE subject to review as provided in said
12 THOSE sections. The postponement of the expiration of a rule shall DOES
13 not constitute legislative approval of the rule nor be AND IS NOT
14 admissible in any court as evidence of legislative intent. The
15 postponement of the expiration date of a specific rule shall DOES not
16 prohibit any action by the general assembly pursuant to the provisions of
17 paragraph (d) of this subsection (8) SUBSECTION (8)(d) OF THIS SECTION
18 with respect to such THE rule.

19 SECTION 8. In Colorado Revised Statutes, 24-30-1303.9,
20 amend (7)(a)(II), (7)(a)(III), and (7)(a)(IV); and add (7)(a)(V) as
21 follows:

22 24-30-1303.9. Eligibility for state controlled maintenance
23 funding - legislative declaration. (7) (a) Controlled maintenance funds
24 may not be used for:

25 (II) Auxiliary facilities as defined in section 23-1-106 (10.3);

26 C.R.S.:

27 (III) Leasehold interests in real property; or

1 (IV) Any work properly categorized as capital construction; OR
2 (V) FACILITIES DESCRIBED IN SECTION 23-1-106 (10.2)(a)(III).

3 **SECTION 9.** In Colorado Revised Statutes, **add 24-37-305** as
4 follows:

5 **24-37-305. 2018-19 fiscal year - required reductions in**
6 **departmental and executive branch budget requests. (1) (a) EXCEPT**
7 **AS OTHERWISE PROVIDED IN SUBSECTION (1)(b) OF THIS SECTION, FOR THE**
8 **2018-19 BUDGET YEAR, EACH PRINCIPAL DEPARTMENT OF STATE**
9 **GOVERNMENT THAT SUBMITS A BUDGET REQUEST TO THE OFFICE OF STATE**
10 **PLANNING AND BUDGETING SHALL REQUEST, WHEN SUBMITTING THE**
11 **BUDGET REQUEST, A TOTAL BUDGET FOR THE DEPARTMENT THAT IS AT**
12 **LEAST TWO PERCENT LOWER THAN ITS ACTUAL BUDGET FOR THE 2017-18**
13 **FISCAL YEAR.**

14 (b) THE REQUIREMENT SPECIFIED IN SUBSECTION (1)(a) OF THIS
15 SECTION DOES NOT APPLY TO THE DEPARTMENT OF EDUCATION CREATED
16 IN SECTION 24-1-115 (1) OR THE DEPARTMENT OF TRANSPORTATION
17 CREATED IN SECTION 24-1-128.7 (1).

18 (2) THE OFFICE OF STATE PLANNING AND BUDGETING SHALL
19 STRONGLY CONSIDER THE BUDGET REDUCTION PROPOSALS MADE BY EACH
20 PRINCIPAL DEPARTMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION
21 WHEN PREPARING THE ANNUAL EXECUTIVE BUDGET PROPOSALS TO THE
22 GENERAL ASSEMBLY FOR THE GOVERNOR AS REQUIRED BY SECTION
23 24-37-302 (1)(g) AND SHALL SEEK TO ENSURE, SUBJECT TO SECTION
24 24-37-303, THAT THE EXECUTIVE BUDGET PROPOSAL FOR EACH
25 DEPARTMENT IS AT LEAST TWO PERCENT LOWER THAN THE DEPARTMENT'S
26 ACTUAL BUDGET FOR THE 2017-18 FISCAL YEAR.

27 **SECTION 10.** In Colorado Revised Statutes, **24-75-219, repeal**

1 as added by Senate Bill 17-262 (2)(c.3)(I) and (2)(c.7)(I) as follows:

2 24-75-219. Transfers - transportation - capital construction -
3 definitions. (2)(c.3) On June 30, 2019, the state treasurer shall transfer:

4 (I) One hundred sixty million dollars from the general fund to the
5 highway users tax fund; and

6 (c.7) On June 30, 2020, the state treasurer shall transfer:

7 (I) One hundred sixty million dollars from the general fund to the
8 highway users tax fund; and

9 SECTION 11. In Colorado Revised Statutes, 24-77-103.6,
10 amend (6)(b)(I) as follows:

11 24-77-103.6. Retention of excess state revenues - general fund
12 exempt account - required uses - excess state revenues legislative
13 report. (6) As used in this section:

14 (b) (I) "Excess state revenues cap" for a given fiscal year means:
15 either of the following:

16 (A) If the voters of the state approve a ballot issue to authorize the
17 state to incur multiple-fiscal year obligations at the November 2005
18 statewide election, an amount that is equal to the highest total state
19 revenues for a fiscal year from the period of the 2005-06 fiscal year
20 through the 2009-10 fiscal year, adjusted each subsequent fiscal year for
21 inflation and the percentage change in state population, plus one hundred
22 million dollars, and adjusting such sum for the qualification or
23 disqualification of enterprises and debt service changes; or

24 (B) If the voters of the state do not approve a ballot issue to
25 authorize the state to incur multiple-fiscal year obligations at the
26 November 2005 statewide election; FOR EACH FISCAL YEAR UP TO AND
27 INCLUDING THE 2016-17 FISCAL YEAR, an amount that is equal to the

1 highest total state revenues for a fiscal year from the period of the
2 2005-06 fiscal year through the 2009-10 fiscal year, adjusted each
3 subsequent fiscal year for inflation, the percentage change in state
4 population, the qualification or disqualification of enterprises, and debt
5 service changes;

6 (C) FOR THE 2017-18 FISCAL YEAR, AN AMOUNT THAT IS EQUAL TO
7 THE EXCESS STATE REVENUES CAP FOR THE 2016-17 FISCAL YEAR
8 CALCULATED PURSUANT TO SUBSECTION (6)(b)(I)(B) OF THIS SECTION,
9 ADJUSTED FOR INFLATION, THE PERCENTAGE CHANGE IN STATE
10 POPULATION, THE QUALIFICATION OR DISQUALIFICATION OF ENTERPRISES,
11 AND DEBT SERVICE CHANGES, LESS TWO HUNDRED MILLION DOLLARS; AND

12 (D) FOR THE 2018-19 FISCAL YEAR AND EACH SUCCEEDING FISCAL
13 YEAR, THE AMOUNT OF THE EXCESS STATE REVENUES CAP FOR THE
14 2017-18 FISCAL YEAR CALCULATED PURSUANT TO SUBSECTION
15 (6)(b)(I)(C) OF THIS SECTION, ADJUSTED EACH SUBSEQUENT FISCAL YEAR
16 FOR INFLATION, THE PERCENTAGE CHANGE IN STATE POPULATION, THE
17 QUALIFICATION OR DISQUALIFICATION OF ENTERPRISES, AND DEBT SERVICE
18 CHANGES.

19 **SECTION 12.** In Colorado Revised Statutes, **add** part 13 to
20 article 82 of title 24 as follows:

21 **PART 13**

22 **LEASE-PURCHASE AGREEMENTS FOR STATE PROPERTY**

23 **24-82-1301. Legislative declaration.** (1) **THE GENERAL**
24 **ASSEMBLY HEREBY FINDS AND DECLARES THAT:**

25 (a) **DUE TO INSUFFICIENT FUNDING, NECESSARY HIGH-PRIORITY**
26 **STATE HIGHWAY PROJECTS AND STATE CAPITAL CONSTRUCTION PROJECTS,**
27 **INCLUDING PROJECTS AT STATE INSTITUTIONS OF HIGHER EDUCATION, IN**

1 ALL AREAS OF THE STATE HAVE BEEN DELAYED, AND THE STATE HAS ALSO
2 DELAYED CRITICAL CONTROLLED MAINTENANCE AND UPKEEP OF STATE
3 CAPITAL ASSETS:

4 (b) BY ISSUING LEASE-PURCHASE AGREEMENTS USING STATE
5 BUILDINGS AS COLLATERAL AS AUTHORIZED BY THIS PART 13, THE STATE
6 CAN GENERATE SUFFICIENT FUNDS TO ACCELERATE THE COMPLETION OF
7 MANY OF THE NECESSARY HIGH-PRIORITY STATE HIGHWAY PROJECTS AND
8 CAPITAL CONSTRUCTION PROJECTS THAT HAVE BEEN DELAYED AND
9 BETTER MAINTAIN AND PRESERVE EXISTING STATE CAPITAL ASSETS:

10 (c) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT A MAJORITY
11 OF THE ADDITIONAL FUNDING FOR STATE CAPITAL CONSTRUCTION
12 PROJECTS REALIZED FROM ISSUING LEASE-PURCHASE AGREEMENTS BE
13 USED FOR CONTROLLED MAINTENANCE AND UPKEEP OF STATE CAPITAL
14 ASSETS.

15 **24-82-1302. Definitions.** AS USED IN THIS PART 13, UNLESS THE
16 CONTEXT OTHERWISE REQUIRES:

17 (1) "CAPITAL CONSTRUCTION" HAS THE SAME MEANING AS SET
18 FORTH IN SECTION 24-30-1301 (2).

19 (2) "CONTROLLED MAINTENANCE" HAS THE SAME MEANING AS SET
20 FORTH IN SECTION 24-30-1301 (4).

21 (3) "ELIGIBLE STATE FACILITY" MEANS ANY FINANCIALLY
22 UNENCUMBERED BUILDING, STRUCTURE, OR FACILITY THAT IS OWNED BY
23 THE STATE, INCLUDING A BUILDING, STRUCTURE, OR FACILITY DETERMINED
24 TO BE ELIGIBLE BY A GOVERNING BOARD OF A STATE INSTITUTION OF
25 HIGHER EDUCATION, AND DOES NOT INCLUDE ANY BUILDING, STRUCTURE,
26 OR FACILITY THAT IS PART OF THE STATE EMERGENCY RESERVE FOR ANY
27 STATE FISCAL YEAR AS DESIGNATED IN THE ANNUAL GENERAL

1 APPROPRIATION ACT.

2 (4) "STATE INSTITUTION OF HIGHER EDUCATION" MEANS A STATE
3 INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN SECTION 23-18-102
4 (10), AND THE AURARIA HIGHER EDUCATION CENTER CREATED IN ARTICLE
5 70 OF TITLE 23.

6 **24-82-1303. Lease-purchase agreements for capital**
7 **construction and transportation projects. (1) ON OR BEFORE**
8 **DECEMBER 31, 2017, THE STATE ARCHITECT, THE DIRECTOR OF THE OFFICE**
9 **OF STATE PLANNING AND BUDGETING OR HIS OR HER DESIGNEE, AND THE**
10 **STATE INSTITUTIONS OF HIGHER EDUCATION SHALL IDENTIFY AND PREPARE**
11 **A COLLABORATIVE LIST OF ELIGIBLE STATE FACILITIES THAT CAN BE**
12 **COLLATERALIZED AS PART OF THE LEASE-PURCHASE AGREEMENTS FOR**
13 **CAPITAL CONSTRUCTION AND TRANSPORTATION PROJECTS AUTHORIZED IN**
14 **THIS PART 13. THE TOTAL CURRENT REPLACEMENT VALUE OF THE**
15 **IDENTIFIED BUILDINGS MUST EQUAL AT LEAST TWO BILLION DOLLARS.**

16 (2) (a) NOTWITHSTANDING THE PROVISIONS OF SECTIONS
17 24-82-102 (1)(b) AND 24-82-801, AND PURSUANT TO SECTION 24-36-121,
18 NO SOONER THAN JULY 1, 2018, THE STATE, ACTING BY AND THROUGH THE
19 STATE TREASURER, SHALL EXECUTE LEASE-PURCHASE AGREEMENTS, EACH
20 FOR NO MORE THAN TWENTY YEARS OF ANNUAL PAYMENTS, FOR THE
21 PROJECTS DESCRIBED IN SUBSECTION (4) OF THIS SECTION. THE STATE
22 SHALL EXECUTE THE LEASE-PURCHASE AGREEMENTS ONLY IN
23 ACCORDANCE WITH THE FOLLOWING SCHEDULE:

24 (I) DURING THE 2018-19 STATE FISCAL YEAR, THE STATE SHALL
25 EXECUTE LEASE-PURCHASE AGREEMENTS IN AN AMOUNT UP TO FIVE
26 HUNDRED MILLION DOLLARS;

27 (II) DURING THE 2019-20 STATE FISCAL YEAR, THE STATE SHALL

1 EXECUTE LEASE-PURCHASE AGREEMENTS IN AN AMOUNT UP TO FIVE
2 HUNDRED MILLION DOLLARS;

3 (III) DURING THE 2020-21 STATE FISCAL YEAR, THE STATE SHALL
4 EXECUTE LEASE-PURCHASE AGREEMENTS IN AN AMOUNT UP TO FIVE
5 HUNDRED MILLION DOLLARS; AND

6 (IV) DURING THE 2021-22 FISCAL YEAR, THE STATE SHALL
7 EXECUTE LEASE-PURCHASE AGREEMENTS IN AN AMOUNT UP TO FIVE
8 HUNDRED MILLION DOLLARS.

9 (b) THE ANTICIPATED ANNUAL STATE-FUNDED PAYMENTS FOR THE
10 PRINCIPAL AND INTEREST COMPONENTS OF THE AMOUNT PAYABLE UNDER
11 ALL LEASE-PURCHASE AGREEMENTS ENTERED INTO PURSUANT TO
12 SUBSECTION (2)(a) OF THIS SECTION SHALL NOT EXCEED ONE HUNDRED
13 FIFTY MILLION DOLLARS.

14 (c) THE STATE, ACTING BY AND THROUGH THE STATE TREASURER,
15 AT THE STATE TREASURER'S SOLE DISCRETION, MAY ENTER INTO ONE OR
16 MORE LEASE-PURCHASE AGREEMENTS AUTHORIZED BY SUBSECTION (2)(a)
17 OF THIS SECTION WITH ANY FOR-PROFIT OR NONPROFIT CORPORATION,
18 TRUST, OR COMMERCIAL BANK AS A TRUSTEE AS THE LESSOR.

19 (d) ANY LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED
20 BY SUBSECTION (2)(a) OF THIS SECTION SHALL PROVIDE THAT ALL OF THE
21 OBLIGATIONS OF THE STATE UNDER THE AGREEMENT ARE SUBJECT TO THE
22 ACTION OF THE GENERAL ASSEMBLY IN ANNUALLY MAKING MONEY
23 AVAILABLE FOR ALL PAYMENTS THEREUNDER. PAYMENTS UNDER ANY
24 LEASE-PURCHASE AGREEMENT MUST BE MADE, SUBJECT TO ANNUAL
25 ALLOCATION PURSUANT TO SECTION 43-1-113 BY THE TRANSPORTATION
26 COMMISSION CREATED IN SECTION 43-1-106 (1) OR SUBJECT TO ANNUAL
27 APPROPRIATION BY THE GENERAL ASSEMBLY, AS APPLICABLE, FROM THE

1 FOLLOWING SOURCES OF MONEY:

2 (I) FIRST, NINE MILLION DOLLARS ANNUALLY, OR ANY LESSER
3 AMOUNT THAT IS SUFFICIENT TO MAKE EACH FULL PAYMENT DUE, SHALL
4 BE PAID FROM THE GENERAL FUND OR ANY OTHER LEGALLY AVAILABLE
5 SOURCE OF MONEY FOR THE PURPOSE OF FULLY FUNDING THE CONTROLLED
6 MAINTENANCE AND CAPITAL CONSTRUCTION PROJECTS IN THE STATE TO
7 BE FUNDED WITH THE PROCEEDS OF LEASE-PURCHASE AGREEMENTS AS
8 SPECIFIED IN SUBSECTION (4)(a) OF THIS SECTION;

9 (II) NEXT, FIFTY MILLION DOLLARS ANNUALLY, OR ANY LESSER
10 AMOUNT THAT IS SUFFICIENT TO MAKE EACH FULL PAYMENT DUE, SHALL
11 BE PAID FROM ANY LEGALLY AVAILABLE MONEY UNDER THE CONTROL OF
12 THE TRANSPORTATION COMMISSION SOLELY FOR THE PURPOSE OF
13 ALLOWING THE CONSTRUCTION, SUPERVISION, AND MAINTENANCE OF
14 STATE HIGHWAYS TO BE FUNDED WITH THE PROCEEDS OF LEASE-PURCHASE
15 AGREEMENTS AS SPECIFIED IN SUBSECTION (4)(b) OF THIS SECTION AND
16 SECTION 43-4-206 (1)(b)(V); AND

17 (III) THE REMAINDER OF THE AMOUNT NEEDED, IN ADDITION TO
18 THE AMOUNTS SPECIFIED IN SUBSECTIONS (2)(d)(I) AND (2)(d)(II) OF THIS
19 SECTION, TO MAKE EACH FULL PAYMENT DUE SHALL BE PAID FROM THE
20 GENERAL FUND OR ANY OTHER LEGALLY AVAILABLE SOURCE OF MONEY.

21 (e) EACH AGREEMENT MUST ALSO PROVIDE THAT THE
22 OBLIGATIONS OF THE STATE DO NOT CREATE STATE DEBT WITHIN THE
23 MEANING OF ANY PROVISION OF THE STATE CONSTITUTION OR STATE LAW
24 CONCERNING OR LIMITING THE CREATION OF STATE DEBT AND ARE NOT A
25 MULTIPLE FISCAL-YEAR DIRECT OR INDIRECT DEBT OR OTHER FINANCIAL
26 OBLIGATION OF THE STATE WITHIN THE MEANING OF SECTION 20 (4) OF
27 ARTICLE X OF THE STATE CONSTITUTION. IF THE STATE DOES NOT RENEW

1 A LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED BY SUBSECTION
2 (2)(a) OF THIS SECTION, THE SOLE SECURITY AVAILABLE TO THE LESSOR IS
3 THE PROPERTY THAT IS THE SUBJECT OF THE NONRENEWED
4 LEASE-PURCHASE AGREEMENT.

5 (f) A LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED BY
6 SUBSECTION (2)(a) OF THIS SECTION MAY CONTAIN SUCH TERMS,
7 PROVISIONS, AND CONDITIONS AS THE STATE TREASURER, ACTING ON
8 BEHALF OF THE STATE, DEEMS APPROPRIATE, INCLUDING ALL OPTIONAL
9 TERMS; EXCEPT THAT EACH LEASE-PURCHASE AGREEMENT MUST
10 SPECIFICALLY AUTHORIZE THE STATE OR THE GOVERNING BOARD OF THE
11 APPLICABLE STATE INSTITUTION OF HIGHER EDUCATION TO RECEIVE FEE
12 TITLE TO ALL REAL AND PERSONAL PROPERTY THAT IS THE SUBJECT OF THE
13 LEASE-PURCHASE AGREEMENT ON OR BEFORE THE EXPIRATION OF THE
14 TERMS OF THE AGREEMENT.

15 (g) ANY LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED
16 BY SUBSECTION (2)(a) OF THIS SECTION MAY PROVIDE FOR THE ISSUANCE,
17 DISTRIBUTION, AND SALE OF INSTRUMENTS EVIDENCING RIGHTS TO
18 RECEIVE RENTALS AND OTHER PAYMENTS MADE AND TO BE MADE UNDER
19 THE LEASE-PURCHASE AGREEMENT. THE INSTRUMENTS MAY BE ISSUED,
20 DISTRIBUTED, OR SOLD ONLY BY THE LESSOR OR ANY PERSON DESIGNATED
21 BY THE LESSOR AND NOT BY THE STATE. THE INSTRUMENTS DO NOT
22 CREATE A RELATIONSHIP BETWEEN THE PURCHASERS OF THE INSTRUMENTS
23 AND THE STATE OR CREATE ANY OBLIGATION ON THE PART OF THE STATE
24 TO THE PURCHASERS. THE INSTRUMENTS ARE NOT NOTES, BONDS, OR ANY
25 OTHER EVIDENCE OF STATE DEBT WITHIN THE MEANING OF ANY PROVISION
26 OF THE STATE CONSTITUTION OR STATE LAW CONCERNING OR LIMITING
27 THE CREATION OF STATE DEBT AND ARE NOT A MULTIPLE FISCAL-YEAR

1 DIRECT OR INDIRECT DEBT OR OTHER FINANCIAL OBLIGATION OF THE
2 STATE WITHIN THE MEANING OF SECTION 20 (4) OF ARTICLE X OF THE
3 STATE CONSTITUTION.

4 (h) INTEREST PAID UNDER A LEASE-PURCHASE AGREEMENT
5 AUTHORIZED PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION,
6 INCLUDING INTEREST REPRESENTED BY THE INSTRUMENTS, IS EXEMPT
7 FROM COLORADO INCOME TAX.

8 (i) THE STATE, ACTING BY AND THROUGH THE STATE TREASURER
9 AND THE GOVERNING BOARDS OF THE INSTITUTIONS OF HIGHER
10 EDUCATION, IS AUTHORIZED TO ENTER INTO ANCILLARY AGREEMENTS AND
11 INSTRUMENTS THAT ARE NECESSARY OR APPROPRIATE IN CONNECTION
12 WITH A LEASE-PURCHASE AGREEMENT, INCLUDING BUT NOT LIMITED TO
13 DEEDS, GROUND LEASES, SUB-LEASES, EASEMENTS, OR OTHER
14 INSTRUMENTS RELATING TO THE REAL PROPERTY ON WHICH THE FACILITIES
15 ARE LOCATED.

16 (j) THE PROVISIONS OF SECTION 24-30-202 (5)(b) DO NOT APPLY TO
17 A LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED BY OR TO ANY
18 ANCILLARY AGREEMENT OR INSTRUMENT ENTERED INTO PURSUANT TO
19 THIS SUBSECTION (2). THE STATE CONTROLLER OR HIS OR HER DESIGNEE
20 SHALL WAIVE ANY PROVISION OF THE FISCAL RULES PROMULGATED
21 PURSUANT TO SECTION 24-30-202 (1) AND (13), THAT THE STATE
22 CONTROLLER FINDS INCOMPATIBLE OR INAPPLICABLE WITH RESPECT TO A
23 LEASE-PURCHASE AGREEMENT OR AN ANCILLARY AGREEMENT OR
24 INSTRUMENT.

25 (3) (a) BEFORE EXECUTING A LEASE-PURCHASE AGREEMENT
26 REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION, IN ORDER TO PROTECT
27 AGAINST FUTURE INTEREST RATE INCREASES, THE STATE, ACTING BY AND

1 THROUGH THE STATE TREASURER AND AT THE DISCRETION OF THE STATE
2 TREASURER, MAY ENTER INTO AN INTEREST RATE EXCHANGE AGREEMENT
3 PURSUANT TO ARTICLE 59.3 OF TITLE 11. A LEASE-PURCHASE AGREEMENT
4 EXECUTED AS REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION IS A
5 PROPOSED PUBLIC SECURITY FOR THE PURPOSES OF ARTICLE 59.3 OF TITLE
6 11. ANY PAYMENTS MADE BY THE STATE UNDER AN AGREEMENT ENTERED
7 INTO PURSUANT TO THIS SUBSECTION (3) MUST BE MADE SOLELY FROM
8 MONEY MADE AVAILABLE TO THE STATE TREASURER FROM THE EXECUTION
9 OF A LEASE-PURCHASE AGREEMENT OR FROM MONEY DESCRIBED IN
10 SUBSECTIONS (2)(d)(I) AND (2)(d)(II) OF THIS SECTION.

11 (b) ANY AGREEMENT ENTERED INTO PURSUANT TO THIS
12 SUBSECTION (3) MUST ALSO PROVIDE THAT THE OBLIGATIONS OF THE
13 STATE DO NOT CREATE STATE DEBT WITHIN THE MEANING OF ANY
14 PROVISION OF THE STATE CONSTITUTION OR STATE LAW CONCERNING OR
15 LIMITING THE CREATION OF STATE DEBT AND ARE NOT A MULTIPLE
16 FISCAL-YEAR DIRECT OR INDIRECT DEBT OR OTHER FINANCIAL OBLIGATION
17 OF THE STATE WITHIN THE MEANING OF SECTION 20 (4) OF ARTICLE X OF
18 THE STATE CONSTITUTION.

19 (c) ANY MONEY RECEIVED BY THE STATE UNDER AN AGREEMENT
20 ENTERED INTO PURSUANT TO THIS SUBSECTION (3) SHALL BE USED TO
21 MAKE PAYMENTS ON LEASE-PURCHASE AGREEMENTS ENTERED INTO
22 PURSUANT TO SUBSECTION (2) OF THIS SECTION OR TO PAY THE COSTS OF
23 THE PROJECT FOR WHICH A LEASE-PURCHASE AGREEMENT WAS EXECUTED.

24 (4) PROCEEDS OF LEASE-PURCHASE AGREEMENTS EXECUTED AS
25 REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION SHALL BE USED AS
26 FOLLOWS:

27 (a) (I) THE FIRST ONE HUNDRED TWENTY MILLION DOLLARS OF

1 THE PROCEEDS OF LEASE-PURCHASE AGREEMENTS ISSUED DURING THE
2 2018-19 STATE FISCAL YEAR SHALL BE USED FOR CONTROLLED
3 MAINTENANCE AND CAPITAL CONSTRUCTION PROJECTS IN THE STATE AS
4 FOLLOWS:

5 (A) THIRTEEN MILLION SIX THOUSAND EIGHTY-ONE DOLLARS FOR
6 LEVEL I CONTROLLED MAINTENANCE;

7 (B) SIXTY MILLION SIX HUNDRED THIRTY-SEVEN THOUSAND THREE
8 HUNDRED FIVE DOLLARS FOR LEVEL II CONTROLLED MAINTENANCE;

9 (C) FORTY MILLION TWO HUNDRED NINE THOUSAND FIVE HUNDRED
10 THIRTY-FIVE DOLLARS FOR LEVEL III CONTROLLED MAINTENANCE; AND

11 (D) THE REMAINDER FOR CAPITAL CONSTRUCTION PROJECTS AS
12 PRIORITIZED BY THE CAPITAL DEVELOPMENT COMMITTEE.

13 (II) THE CAPITAL DEVELOPMENT COMMITTEE SHALL POST THE LIST
14 OF SPECIFIC CONTROLLED MAINTENANCE PROJECTS AND THE COST OF EACH
15 PROJECT FUNDED PURSUANT TO SUBSECTION (4)(a)(I)(A), (4)(a)(I)(B), OR
16 (4)(a)(I)(C) OF THIS SECTION ON ITS OFFICIAL WEBSITE NO LATER THAN
17 MAY 11, 2017.

18 (b) THE REMAINDER OF THE PROCEEDS SHALL BE CREDITED TO THE
19 STATE HIGHWAY FUND CREATED IN SECTION 43-1-219 AND USED BY THE
20 DEPARTMENT OF TRANSPORTATION IN ACCORDANCE WITH SECTION
21 43-4-206 (1)(b)(V).

22 **SECTION 13.** In Colorado Revised Statutes, 25.5-3-108, **amend**
23 **(17) as follows:**

24 **25.5-3-108. Responsibility of the department of health care**
25 **policy and financing - provider reimbursement. (17) Subject to**
26 **adequate funding BEING made available under section 25.5-4-402.3**

1 SECTION 25.5-4-402.4, the state department COLORADO HEALTHCARE
2 AFFORDABILITY AND SUSTAINABILITY ENTERPRISE CREATED IN SECTION
3 25.5-4-402.4 (3) shall increase hospital reimbursements up to one
4 hundred percent of hospital costs for providing medical care under the
5 program.

6 **SECTION 14.** In Colorado Revised Statutes, 25.5-4-209, amend
7 (1)(b); and add (1)(c) and (1)(d) as follows:

8 **25.5-4-209. Payments by third parties - copayments by**
9 **recipients - review - appeal - children's waiting list reduction fund.**

10 (1) (b) Subject to any limitations imposed by Title XIX AND THE
11 REQUIREMENTS SET FORTH IN SUBSECTION (1)(c) OF THIS SECTION, a
12 recipient shall be required to MUST pay at the time of service a portion of
13 the cost of any medical benefit rendered to the recipient or to the
14 recipient's dependents pursuant to this article ARTICLE 4 or article 5 or 6
15 of this title TITLE 25.5, as determined by rule RULES of the state
16 department.

17 (c) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1)(c)(II)
18 OF THIS SECTION, ON AND AFTER JANUARY 1, 2018, FOR PHARMACY AND
19 FOR HOSPITAL OUTPATIENT SERVICES, INCLUDING URGENT CARE CENTERS
20 AND FACILITIES AND EMERGENCY SERVICES, THE RULES OF THE STATE
21 DEPARTMENT REQUIRED BY SUBSECTION (1)(b) OF THIS SECTION MUST
22 REQUIRE THE RECIPIENT TO PAY:

23 (A) FOR PHARMACY, AT LEAST DOUBLE THE AVERAGE AMOUNT
24 PAID BY RECIPIENTS IN STATE FISCAL YEAR 2015-16; OR

25 (B) FOR HOSPITAL OUTPATIENT SERVICES, AT LEAST DOUBLE THE
26 AMOUNT REQUIRED TO BE PAID AS SPECIFIED IN THE RULES AS OF JANUARY
27 1, 2017.

1 (II) FOR BOTH PHARMACY AND HOSPITAL OUTPATIENT SERVICES,
2 THE AMOUNT REQUIRED TO BE PAID BY THE RECIPIENT SHALL NOT EXCEED
3 ANY SPECIFIED MAXIMUM DOLLAR AMOUNT ALLOWED BY FEDERAL LAW OR
4 REGULATIONS AS OF JANUARY 1, 2017.

5 (d) THE STATE DEPARTMENT SHALL EVALUATE OPTIONS TO
6 EXEMPT INDIVIDUALS WHO ARE QUALIFIED FOR INSTITUTIONAL CARE BUT
7 ARE INSTEAD ENROLLED IN HOME- AND COMMUNITY-BASED SERVICE
8 WAIVERS FROM THE INCREASED PAYMENT REQUIREMENTS SPECIFIED IN
9 SUBSECTION (1)(c) OF THIS SECTION.

10 **SECTION 15.** In Colorado Revised Statutes, 25.5-4-402, **amend**
11 **(3)(a)** as follows:

12 **25.5-4-402. Providers - hospital reimbursement - rules.**

13 (3) (a) In addition to the reimbursement rate process described in
14 subsection (1) of this section and subject to adequate funding BEING made
15 available pursuant to ~~section 25.5-4-402.3~~ SECTION 25.5-4-402.4, the state
16 department COLORADO HEALTHCARE AFFORDABILITY AND
17 SUSTAINABILITY ENTERPRISE CREATED IN SECTION 25.5-4-402.4 (3) shall
18 pay an additional amount based upon performance to those hospitals that
19 provide services that improve health care outcomes for their patients. This
20 amount shall be determined by The state department SHALL DETERMINE
21 THIS AMOUNT based upon nationally recognized performance measures
22 established in rules adopted by the state board. The state quality standards
23 shall MUST be consistent with federal quality standards published by an
24 organization with expertise in health care quality, including but not
25 limited to, the centers for medicare and medicaid services, the agency for
26 healthcare research and quality, or the national quality forum.

27 **SECTION 16.** In Colorado Revised Statutes, **repeal as amended**

1 by Senate Bill 17-256 25.5-4-402.3.

2 SECTION 17. In Colorado Revised Statutes, add 25.5-4-402.4
3 as follows:

4 25.5-4-402.4. Hospitals - healthcare affordability and
5 sustainability fee - legislative declaration - Colorado healthcare
6 affordability and sustainability enterprise - federal waiver - fund
7 created - rules. (1) Short title. THE SHORT TITLE OF THIS SECTION IS THE
8 "COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
9 ENTERPRISE ACT OF 2017".

10 (2) Legislative declaration. THE GENERAL ASSEMBLY HEREBY
11 FINDS AND DECLARES THAT:

12 (a) THE STATE AND THE PROVIDERS OF PUBLICLY FUNDED MEDICAL
13 SERVICES, AND HOSPITALS IN PARTICULAR, SHARE A COMMON
14 COMMITMENT TO COMPREHENSIVE HEALTH CARE REFORM;

15 (b) HOSPITALS WITHIN THE STATE INCUR SIGNIFICANT COSTS BY
16 PROVIDING UNCOMPENSATED EMERGENCY DEPARTMENT CARE AND OTHER
17 UNCOMPENSATED MEDICAL SERVICES TO LOW-INCOME AND UNINSURED
18 POPULATIONS;

19 (c) THIS SECTION IS ENACTED AS PART OF A COMPREHENSIVE
20 HEALTH CARE REFORM AND IS INTENDED TO PROVIDE THE FOLLOWING
21 SERVICES AND BENEFITS TO HOSPITALS AND INDIVIDUALS:

22 (I) PROVIDING A PAYER SOURCE FOR SOME LOW-INCOME AND
23 UNINSURED POPULATIONS WHO MAY OTHERWISE BE CARED FOR IN
24 EMERGENCY DEPARTMENTS AND OTHER SETTINGS IN WHICH
25 UNCOMPENSATED CARE IS PROVIDED;

26 (II) REDUCING THE UNDERPAYMENT TO COLORADO HOSPITALS
27 PARTICIPATING IN PUBLICLY FUNDED HEALTH INSURANCE PROGRAMS;

1 (III) REDUCING THE NUMBER OF PERSONS IN COLORADO WHO ARE
2 WITHOUT HEALTH CARE BENEFITS;

3 (IV) REDUCING THE NEED OF HOSPITALS AND OTHER HEALTH CARE
4 PROVIDERS TO SHIFT THE COST OF PROVIDING UNCOMPENSATED CARE TO
5 OTHER PAYERS;

6 (V) EXPANDING ACCESS TO HIGH-QUALITY, AFFORDABLE HEALTH
7 CARE FOR LOW-INCOME AND UNINSURED POPULATIONS; AND

8 (VI) PROVIDING THE ADDITIONAL BUSINESS SERVICES SPECIFIED
9 IN SUBSECTION (4)(a)(IV) OF THIS SECTION TO HOSPITALS THAT PAY THE
10 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE CHARGED AND
11 COLLECTED AS AUTHORIZED BY SUBSECTION (4) OF THIS SECTION BY THE
12 COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
13 ENTERPRISE CREATED IN SUBSECTION (3)(a) OF THIS SECTION;

14 (d) THE COLORADO HEALTHCARE AFFORDABILITY AND
15 SUSTAINABILITY ENTERPRISE PROVIDES BUSINESS SERVICES TO HOSPITALS
16 WHEN, IN EXCHANGE FOR PAYMENT OF HEALTHCARE AFFORDABILITY AND
17 SUSTAINABILITY FEES BY HOSPITALS, IT:

18 (I) OBTAINS FEDERAL MATCHING MONEY AND RETURNS BOTH THE
19 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE AND THE FEDERAL
20 MATCHING MONEY TO HOSPITALS TO INCREASE REIMBURSEMENT RATES TO
21 HOSPITALS FOR PROVIDING MEDICAL CARE UNDER THE STATE MEDICAL
22 ASSISTANCE PROGRAM AND THE COLORADO INDIGENT CARE PROGRAM
23 AND TO INCREASE THE NUMBER OF INDIVIDUALS COVERED BY PUBLIC
24 MEDICAL ASSISTANCE; AND

25 (II) PROVIDES ADDITIONAL BUSINESS SERVICES TO HOSPITALS AS
26 SPECIFIED IN SUBSECTION (4)(a)(IV) OF THIS SECTION;

27 (e) IT IS NECESSARY, APPROPRIATE, AND IN THE BEST INTEREST OF

1 THE STATE TO ACKNOWLEDGE THAT BY PROVIDING THE BUSINESS
2 SERVICES SPECIFIED IN SUBSECTIONS (2)(d)(I) AND (2)(d)(II) OF THIS
3 SECTION, THE COLORADO HEALTHCARE AFFORDABILITY AND
4 SUSTAINABILITY ENTERPRISE ENGAGES IN AN ACTIVITY CONDUCTED IN THE
5 PURSUIT OF A BENEFIT, GAIN, OR LIVELIHOOD AND THEREFORE OPERATES
6 AS A BUSINESS;

7 (f) CONSISTENT WITH THE DETERMINATION OF THE COLORADO
8 SUPREME COURT IN *NICHOLL V. E-470 PUBLIC HIGHWAY AUTHORITY*, 896
9 P.2d 859 (COLO. 1995), THAT THE POWER TO IMPOSE TAXES IS
10 INCONSISTENT WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE
11 X OF THE STATE CONSTITUTION, IT IS THE CONCLUSION OF THE GENERAL
12 ASSEMBLY THAT THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
13 FEE CHARGED AND COLLECTED BY THE COLORADO HEALTHCARE
14 AFFORDABILITY AND SUSTAINABILITY ENTERPRISE IS A FEE, NOT A TAX,
15 BECAUSE THE FEE IS IMPOSED FOR THE SPECIFIC PURPOSES OF ALLOWING
16 THE ENTERPRISE TO DEFRAY THE COSTS OF PROVIDING THE BUSINESS
17 SERVICES SPECIFIED IN SUBSECTIONS (2)(d)(I) AND (2)(d)(II) OF THIS
18 SECTION TO HOSPITALS THAT PAY THE FEE AND IS COLLECTED AT RATES
19 THAT ARE REASONABLY CALCULATED BASED ON THE BENEFITS RECEIVED
20 BY THOSE HOSPITALS; AND

21 (g) SO LONG AS THE COLORADO HEALTHCARE AFFORDABILITY AND
22 SUSTAINABILITY ENTERPRISE QUALIFIES AS AN ENTERPRISE FOR PURPOSES
23 OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, THE REVENUES
24 FROM THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE
25 CHARGED AND COLLECTED BY THE ENTERPRISE ARE NOT STATE FISCAL
26 YEAR SPENDING, AS DEFINED IN SECTION 24-77-102 (17), OR STATE
27 REVENUES, AS DEFINED IN SECTION 24-77-103.6 (6)(c), AND DO NOT

1 COUNT AGAINST EITHER THE STATE FISCAL YEAR SPENDING LIMIT IMPOSED
2 BY SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR THE EXCESS
3 STATE REVENUES CAP, AS DEFINED IN SECTION 24-77-103.6 (6)(b)(I).

4 (3) (a) THE COLORADO HEALTHCARE AFFORDABILITY AND
5 SUSTAINABILITY ENTERPRISE, REFERRED TO IN THIS SECTION AS THE
6 "ENTERPRISE", IS CREATED. THE ENTERPRISE IS AND OPERATES AS A
7 GOVERNMENT-OWNED BUSINESS WITHIN THE STATE DEPARTMENT FOR THE
8 PURPOSE OF CHARGING AND COLLECTING THE HEALTHCARE
9 AFFORDABILITY AND SUSTAINABILITY FEE, LEVERAGING HEALTHCARE
10 AFFORDABILITY AND SUSTAINABILITY FEE REVENUE TO OBTAIN FEDERAL
11 MATCHING MONEY, AND UTILIZING AND DEPLOYING THE HEALTHCARE
12 AFFORDABILITY AND SUSTAINABILITY FEE REVENUE AND FEDERAL
13 MATCHING MONEY TO PROVIDE THE BUSINESS SERVICES SPECIFIED IN
14 SUBSECTIONS (2)(d)(I) AND (2)(d)(II) OF THIS SECTION TO HOSPITALS THAT
15 PAY THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE.

16 (b) THE ENTERPRISE CONSTITUTES AN ENTERPRISE FOR PURPOSES
17 OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS IT
18 RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND RECEIVES LESS
19 THAN TEN PERCENT OF ITS TOTAL REVENUES IN GRANTS FROM ALL
20 COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. SO LONG AS IT
21 CONSTITUTES AN ENTERPRISE PURSUANT TO THIS SUBSECTION (3)(b), THE
22 ENTERPRISE IS NOT SUBJECT TO ANY PROVISIONS OF SECTION 20 OF
23 ARTICLE X OF THE STATE CONSTITUTION.

24 (c) (I) THE REPEAL OF THE HOSPITAL PROVIDER FEE PROGRAM, AS
25 IT EXISTED PURSUANT TO SECTION 25.5-4-402.3 BEFORE ITS REPEAL,
26 EFFECTIVE JULY 1, 2017, BY SENATE BILL 17-267, ENACTED IN 2017, AND
27 THE CREATION OF THE COLORADO HEALTHCARE AFFORDABILITY AND

1 SUSTAINABILITY ENTERPRISE AS A NEW ENTERPRISE TO CHARGE AND
2 COLLECT A NEW HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE
3 AS AUTHORIZED BY SUBSECTION (4) OF THIS SECTION AND PROVIDE
4 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE-FUNDED BUSINESS
5 SERVICES TO HOSPITALS THAT REPLACE AND SUPPLEMENT SERVICES
6 PREVIOUSLY FUNDED BY HOSPITAL PROVIDER FEES IS THE CREATION OF A
7 NEW GOVERNMENT-OWNED BUSINESS THAT PROVIDES BUSINESS SERVICES
8 TO HOSPITALS AS A NEW ENTERPRISE FOR PURPOSES OF SECTION 20 OF
9 ARTICLE X OF THE STATE CONSTITUTION, DOES NOT CONSTITUTE THE
10 QUALIFICATION OF AN EXISTING GOVERNMENT-OWNED BUSINESS AS AN
11 ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE
12 CONSTITUTION OR SECTION 24-77-103.6 (6)(b)(II), AND, THEREFORE, DOES
13 NOT REQUIRE OR AUTHORIZE ADJUSTMENT OF THE STATE FISCAL YEAR
14 SPENDING LIMIT CALCULATED PURSUANT TO SECTION 20 OF ARTICLE X OF
15 THE STATE CONSTITUTION OR THE EXCESS STATE REVENUES CAP, AS
16 DEFINED IN SECTION 24-77-103.6 (6)(b)(I).

17 (II) NOTWITHSTANDING SUBSECTION (3)(c)(I) OF THIS SECTION,
18 BECAUSE THE REPEAL OF THE HOSPITAL PROVIDER FEE PROGRAM, AS IT
19 EXISTED PURSUANT TO SECTION 25.5-4-402.3 BEFORE ITS REPEAL BY
20 SENATE BILL 17-267, ENACTED IN 2017, WILL ALLOW THE STATE TO SPEND
21 MORE GENERAL FUND MONEY FOR GENERAL GOVERNMENTAL PURPOSES
22 THAN IT WOULD OTHERWISE BE ABLE TO SPEND BELOW THE EXCESS STATE
23 REVENUES CAP, AS DEFINED IN SECTION 24-77-103.6 (6)(b)(I), IT IS
24 APPROPRIATE TO RESTRAIN THE GROWTH OF GOVERNMENT BY LOWERING
25 THE BASE AMOUNT USED TO CALCULATE THE EXCESS STATE REVENUES CAP
26 FOR THE 2017-18 STATE FISCAL YEAR BY TWO HUNDRED MILLION
27 DOLLARS.

1 (d) THE ENTERPRISE'S PRIMARY POWERS AND DUTIES ARE:

2 (I) TO CHARGE AND COLLECT THE HEALTHCARE AFFORDABILITY
3 AND SUSTAINABILITY FEE AS SPECIFIED IN SUBSECTION (4) OF THIS
4 SECTION;

5 (II) TO LEVERAGE HEALTHCARE AFFORDABILITY AND
6 SUSTAINABILITY FEE REVENUE COLLECTED TO OBTAIN FEDERAL MATCHING
7 MONEY, WORKING WITH OR THROUGH THE STATE DEPARTMENT AND THE
8 STATE BOARD TO THE EXTENT REQUIRED BY FEDERAL LAW OR OTHERWISE
9 NECESSARY;

10 (III) TO EXPEND HEALTHCARE AFFORDABILITY AND
11 SUSTAINABILITY FEE REVENUE, MATCHING FEDERAL MONEY, AND ANY
12 OTHER MONEY FROM THE HEALTHCARE AFFORDABILITY AND
13 SUSTAINABILITY FEE CASH FUND AS SPECIFIED IN SUBSECTIONS (4) AND (5)
14 OF THIS SECTION;

15 (IV) TO ISSUE REVENUE BONDS PAYABLE FROM THE REVENUES OF
16 THE ENTERPRISE;

17 (V) TO ENTER INTO AGREEMENTS WITH THE STATE DEPARTMENT
18 TO THE EXTENT NECESSARY TO COLLECT AND EXPEND HEALTHCARE
19 AFFORDABILITY AND SUSTAINABILITY FEE REVENUE;

20 (VI) TO ENGAGE THE SERVICES OF PRIVATE PERSONS OR ENTITIES
21 SERVING AS CONTRACTORS, CONSULTANTS, AND LEGAL COUNSEL FOR
22 PROFESSIONAL AND TECHNICAL ASSISTANCE AND ADVICE AND TO SUPPLY
23 OTHER SERVICES RELATED TO THE CONDUCT OF THE AFFAIRS OF THE
24 ENTERPRISE, INCLUDING THE PROVISION OF ADDITIONAL BUSINESS
25 SERVICES TO HOSPITALS AS SPECIFIED IN SUBSECTION (4)(a)(IV) OF THIS
26 SECTION; AND

27 (VII) TO ADOPT AND AMEND OR REPEAL POLICIES FOR THE

1 REGULATION OF ITS AFFAIRS AND THE CONDUCT OF ITS BUSINESS
2 CONSISTENT WITH THE PROVISIONS OF THIS SECTION.

3 (e) THE ENTERPRISE SHALL EXERCISE ITS POWERS AND PERFORM
4 ITS DUTIES AS IF THE SAME WERE TRANSFERRED TO THE STATE
5 DEPARTMENT BY A TYPE 2 TRANSFER, AS DEFINED IN SECTION 24-1-105.

6 (4) Healthcare affordability and sustainability fee. (a) FOR THE
7 FISCAL YEAR COMMENCING JULY 1, 2017, AND FOR EACH FISCAL YEAR
8 THEREAFTER, THE ENTERPRISE IS AUTHORIZED TO CHARGE AND COLLECT
9 A HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE, AS DESCRIBED
10 IN 42 CFR 433.68 (b), ON OUTPATIENT AND INPATIENT SERVICES
11 PROVIDED BY ALL LICENSED OR CERTIFIED HOSPITALS, REFERRED TO IN
12 THIS SECTION AS "HOSPITALS", FOR THE PURPOSE OF OBTAINING FEDERAL
13 FINANCIAL PARTICIPATION UNDER THE STATE MEDICAL ASSISTANCE
14 PROGRAM AS DESCRIBED IN THIS ARTICLE 4 AND ARTICLES 5 AND 6 OF THIS
15 TITLE 25.5, REFERRED TO IN THIS SECTION AS THE "STATE MEDICAL
16 ASSISTANCE PROGRAM", AND THE COLORADO INDIGENT CARE PROGRAM
17 DESCRIBED IN PART 1 OF ARTICLE 3 OF THIS TITLE 25.5, REFERRED TO IN
18 THIS SECTION AS THE "COLORADO INDIGENT CARE PROGRAM". THE
19 ENTERPRISE SHALL USE THE HEALTHCARE AFFORDABILITY AND
20 SUSTAINABILITY FEE REVENUE TO:

21 (I) PROVIDE A BUSINESS SERVICE TO HOSPITALS BY INCREASING
22 REIMBURSEMENT TO HOSPITALS FOR PROVIDING MEDICAL CARE UNDER:

23 (A) THE STATE MEDICAL ASSISTANCE PROGRAM; AND

24 (B) THE COLORADO INDIGENT CARE PROGRAM;

25 (II) PROVIDE A BUSINESS SERVICE TO HOSPITALS BY INCREASING
26 THE NUMBER OF INDIVIDUALS COVERED BY PUBLIC MEDICAL ASSISTANCE
27 AND THEREBY REDUCING THE AMOUNT OF UNCOMPENSATED CARE THAT

1 THE HOSPITALS MUST PROVIDE:

2 (III) PAY THE ADMINISTRATIVE COSTS TO THE ENTERPRISE IN
3 IMPLEMENTING AND ADMINISTERING THIS SECTION SUBJECT TO THE
4 LIMITATION THAT ADMINISTRATIVE COSTS OF THE ENTERPRISE ARE
5 LIMITED TO THREE PERCENT OF THE ENTERPRISE'S EXPENDITURES BASED
6 ON A METHODOLOGY APPROVED BY THE OFFICE OF STATE PLANNING AND
7 BUDGETING AND THE STAFF OF THE JOINT BUDGET COMMITTEE OF THE
8 GENERAL ASSEMBLY; AND

9 (IV) PROVIDE OR CONTRACT FOR OR ARRANGE THE PROVISION OF
10 ADDITIONAL BUSINESS SERVICES TO HOSPITALS BY:

11 (A) CONSULTING WITH HOSPITALS TO HELP THEM IMPROVE BOTH
12 COST EFFICIENCY AND PATIENT SAFETY IN PROVIDING MEDICAL SERVICES
13 AND THE CLINICAL EFFECTIVENESS OF THOSE SERVICES;

14 (B) ADVISING HOSPITALS REGARDING POTENTIAL CHANGES TO
15 FEDERAL AND STATE LAWS AND REGULATIONS THAT GOVERN THE
16 PROVISION OF AND REIMBURSEMENT PAID FOR MEDICAL SERVICES UNDER
17 THE PROGRAMS ADMINISTERED PURSUANT TO THIS ARTICLE 4 AND
18 ARTICLES 5 AND 6 OF THIS TITLE 25.5;

19 (C) PROVIDING COORDINATED SERVICES TO HOSPITALS TO HELP
20 THEM ADAPT AND TRANSITION TO ANY NEW OR MODIFIED PERFORMANCE
21 TRACKING AND PAYMENT SYSTEMS FOR THE PROGRAMS ADMINISTERED
22 PURSUANT TO THIS ARTICLE 4 AND ARTICLES 5 AND 6 OF THIS TITLE 25.5,
23 WHICH MAY INCLUDE DATA SHARING, TELEHEALTH COORDINATION AND
24 SUPPORT, ESTABLISHMENT OF PERFORMANCE METRICS, BENCHMARKING TO
25 SUCH METRICS, AND CLINICAL AND ADMINISTRATIVE PROCESS CONSULTING
26 AND OTHER APPROPRIATE SERVICES;

27 (D) PROVIDING ANY OTHER SERVICES TO HOSPITALS THAT AID

1 THEM IN EFFICIENTLY AND EFFECTIVELY PARTICIPATING IN THE PROGRAMS
2 ADMINISTERED PURSUANT TO THIS ARTICLE 4 AND ARTICLES 5 AND 6 OF
3 THIS TITLE 25.5; AND

4 (E) PROVIDING FUNDING FOR, AND IN COOPERATION WITH THE
5 STATE DEPARTMENT AND HOSPITALS SUPPORTING THE IMPLEMENTATION
6 OF, A HEALTH CARE DELIVERY SYSTEM REFORM INCENTIVE PAYMENTS
7 PROGRAM AS DESCRIBED IN SUBSECTION (8) OF THIS SECTION.

8 (b) THE ENTERPRISE SHALL RECOMMEND FOR APPROVAL AND
9 ESTABLISHMENT BY THE STATE BOARD THE AMOUNT OF THE HEALTHCARE
10 AFFORDABILITY AND SUSTAINABILITY FEE THAT IT INTENDS TO CHARGE
11 AND COLLECT. THE STATE BOARD MUST ESTABLISH THE FINAL AMOUNT OF
12 THE FEE BY RULES PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF
13 TITLE 24. THE STATE BOARD SHALL NOT ESTABLISH ANY AMOUNT THAT
14 EXCEEDS THE FEDERAL LIMIT FOR SUCH FEES. THE STATE BOARD MAY
15 DEVIATE FROM THE RECOMMENDATIONS OF THE ENTERPRISE, BUT SHALL
16 EXPRESS IN WRITING THE REASONS FOR ANY DEVIATIONS. IN ESTABLISHING
17 THE AMOUNT OF THE FEE AND IN PROMULGATING THE RULES GOVERNING
18 THE FEE, THE STATE BOARD SHALL:

19 (I) CONSIDER RECOMMENDATIONS OF THE ENTERPRISE;

20 (II) ESTABLISH THE AMOUNT OF THE HEALTHCARE AFFORDABILITY
21 AND SUSTAINABILITY FEE SO THAT THE AMOUNT COLLECTED FROM THE FEE
22 AND FEDERAL MATCHING FUNDS ASSOCIATED WITH THE FEE ARE
23 SUFFICIENT TO PAY FOR THE ITEMS DESCRIBED IN SUBSECTION (4)(a) OF
24 THIS SECTION, BUT NOTHING IN THIS SUBSECTION (4)(b)(II) REQUIRES THE
25 STATE BOARD TO INCREASE THE FEE ABOVE THE AMOUNT RECOMMENDED
26 BY THE ENTERPRISE; AND

27 (III) FOR THE 2017-18 FISCAL YEAR, ESTABLISH THE AMOUNT OF

1 THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE SO THAT THE
2 AMOUNT COLLECTED FROM THE FEE IS APPROXIMATELY EQUAL TO THE
3 SUM OF THE AMOUNTS OF THE APPROPRIATIONS SPECIFIED FOR THE FEE IN
4 THE GENERAL APPROPRIATION ACT, SENATE BILL 17-254, ENACTED IN
5 2017, AND ANY OTHER SUPPLEMENTAL APPROPRIATION ACT.

6 (c) (I) IN ACCORDANCE WITH THE REDISTRIBUTIVE METHOD SET
7 FORTH IN 42 CFR 433.68 (e)(1) AND (e)(2), THE ENTERPRISE, ACTING IN
8 CONCERT WITH OR THROUGH AN AGREEMENT WITH THE STATE
9 DEPARTMENT IF REQUIRED BY FEDERAL LAW, MAY SEEK A WAIVER FROM
10 THE BROAD-BASED HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
11 FEE REQUIREMENT OR THE UNIFORM HEALTHCARE AFFORDABILITY AND
12 SUSTAINABILITY FEE REQUIREMENT, OR BOTH. IN ADDITION, THE
13 ENTERPRISE, ACTING IN CONCERT WITH OR THROUGH AN AGREEMENT WITH
14 THE STATE DEPARTMENT IF REQUIRED BY FEDERAL LAW, SHALL SEEK ANY
15 FEDERAL WAIVER NECESSARY TO FUND AND, IN COOPERATION WITH THE
16 STATE DEPARTMENT AND HOSPITALS, SUPPORT THE IMPLEMENTATION OF
17 A HEALTH CARE DELIVERY SYSTEM REFORM INCENTIVE PAYMENTS
18 PROGRAM AS DESCRIBED IN SUBSECTION (8) OF THIS SECTION. SUBJECT TO
19 FEDERAL APPROVAL AND TO MINIMIZE THE FINANCIAL IMPACT ON CERTAIN
20 HOSPITALS, THE ENTERPRISE MAY EXEMPT FROM PAYMENT OF THE
21 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE CERTAIN TYPES OF
22 HOSPITALS, INCLUDING BUT NOT LIMITED TO:

23 (A) PSYCHIATRIC HOSPITALS, AS LICENSED BY THE DEPARTMENT
24 OF PUBLIC HEALTH AND ENVIRONMENT;

25 (B) HOSPITALS THAT ARE LICENSED AS GENERAL HOSPITALS AND
26 CERTIFIED AS LONG-TERM CARE HOSPITALS BY THE DEPARTMENT OF
27 PUBLIC HEALTH AND ENVIRONMENT;

1 (C) CRITICAL ACCESS HOSPITALS THAT ARE LICENSED AS GENERAL
2 HOSPITALS AND ARE CERTIFIED BY THE DEPARTMENT OF PUBLIC HEALTH
3 AND ENVIRONMENT UNDER 42 CFR PART 485, SUBPART F;

4 (D) INPATIENT REHABILITATION FACILITIES; OR

5 (E) HOSPITALS SPECIFIED FOR EXEMPTION UNDER 42 CFR 433.68

6 (e).

7 (II) IN DETERMINING WHETHER A HOSPITAL MAY BE EXCLUDED,
8 THE ENTERPRISE SHALL USE ONE OR MORE OF THE FOLLOWING CRITERIA:

9 (A) A HOSPITAL THAT IS LOCATED IN A RURAL AREA;

10 (B) A HOSPITAL WITH WHICH THE STATE DEPARTMENT DOES NOT
11 CONTRACT TO PROVIDE SERVICES UNDER THE STATE MEDICAL ASSISTANCE
12 PROGRAM;

13 (C) A HOSPITAL WHOSE INCLUSION OR EXCLUSION WOULD NOT
14 SIGNIFICANTLY AFFECT THE NET BENEFIT TO HOSPITALS PAYING THE
15 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE; OR

16 (D) A HOSPITAL THAT MUST BE INCLUDED TO RECEIVE FEDERAL
17 APPROVAL.

18 (III) THE ENTERPRISE MAY REDUCE THE AMOUNT OF THE
19 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE FOR CERTAIN
20 HOSPITALS TO OBTAIN FEDERAL APPROVAL AND TO MINIMIZE THE
21 FINANCIAL IMPACT ON CERTAIN HOSPITALS. IN DETERMINING FOR WHICH
22 HOSPITALS THE ENTERPRISE MAY REDUCE THE AMOUNT OF THE
23 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE, THE ENTERPRISE
24 SHALL USE ONE OR MORE OF THE FOLLOWING CRITERIA:

25 (A) THE HOSPITAL IS A TYPE OF HOSPITAL DESCRIBED IN
26 SUBSECTION (4)(c)(I) OF THIS SECTION;

27 (B) THE HOSPITAL IS LOCATED IN A RURAL AREA;

1 (C) THE HOSPITAL SERVES A HIGHER PERCENTAGE THAN THE
2 AVERAGE HOSPITAL OF PERSONS COVERED BY THE STATE MEDICAL
3 ASSISTANCE PROGRAM, MEDICARE, OR COMMERCIAL INSURANCE OR
4 PERSONS ENROLLED IN A MANAGED CARE ORGANIZATION;

5 (D) THE HOSPITAL DOES NOT CONTRACT WITH THE STATE
6 DEPARTMENT TO PROVIDE SERVICES UNDER THE STATE MEDICAL
7 ASSISTANCE PROGRAM;

8 (E) IF THE HOSPITAL PAID A REDUCED HEALTHCARE
9 AFFORDABILITY AND SUSTAINABILITY FEE, THE REDUCED FEE WOULD NOT
10 SIGNIFICANTLY AFFECT THE NET BENEFIT TO HOSPITALS PAYING THE
11 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE; OR

12 (F) THE HOSPITAL IS REQUIRED NOT TO PAY A REDUCED
13 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE AS A CONDITION
14 OF FEDERAL APPROVAL.

15 (IV) THE ENTERPRISE MAY CHANGE HOW IT PAYS HOSPITAL
16 REIMBURSEMENT OR QUALITY INCENTIVE PAYMENTS, OR BOTH, IN WHOLE
17 OR IN PART, UNDER THE AUTHORITY OF A FEDERAL WAIVER IF THE TOTAL
18 REIMBURSEMENT TO HOSPITALS IS EQUAL TO OR ABOVE THE FEDERAL
19 UPPER PAYMENT LIMIT CALCULATION UNDER THE WAIVER.

20 (d) THE ENTERPRISE MAY ALTER THE PROCESS PRESCRIBED IN THIS
21 SUBSECTION (4) TO THE EXTENT NECESSARY TO MEET THE FEDERAL
22 REQUIREMENTS AND TO OBTAIN FEDERAL APPROVAL.

23 (e) (I) THE ENTERPRISE SHALL ESTABLISH POLICIES ON THE
24 CALCULATION, ASSESSMENT, AND TIMING OF THE HEALTHCARE
25 AFFORDABILITY AND SUSTAINABILITY FEE. THE ENTERPRISE SHALL ASSESS
26 THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE ON A
27 SCHEDULE TO BE SET BY THE ENTERPRISE BOARD AS PROVIDED IN

1 SUBSECTION (7)(d) OF THIS SECTION. THE PERIODIC HEALTHCARE
2 AFFORDABILITY AND SUSTAINABILITY FEE PAYMENTS FROM A HOSPITAL
3 AND THE ENTERPRISE'S REIMBURSEMENT TO THE HOSPITAL UNDER
4 SUBSECTIONS (5)(b)(I) AND (5)(b)(II) OF THIS SECTION ARE DUE AS
5 NEARLY SIMULTANEOUSLY AS FEASIBLE; EXCEPT THAT THE ENTERPRISE'S
6 REIMBURSEMENT TO THE HOSPITAL IS DUE NO MORE THAN TWO DAYS
7 AFTER THE PERIODIC HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
8 FEE PAYMENT IS RECEIVED FROM THE HOSPITAL. THE HEALTHCARE
9 AFFORDABILITY AND SUSTAINABILITY FEE MUST BE IMPOSED ON EACH
10 HOSPITAL EVEN IF MORE THAN ONE HOSPITAL IS OWNED BY THE SAME
11 ENTITY. THE FEE MUST BE PRORATED AND ADJUSTED FOR THE EXPECTED
12 VOLUME OF SERVICE FOR ANY YEAR IN WHICH A HOSPITAL OPENS OR
13 CLOSES.

14 (II) THE ENTERPRISE IS AUTHORIZED TO REFUND ANY UNUSED
15 PORTION OF THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE.
16 FOR ANY PORTION OF THE HEALTHCARE AFFORDABILITY AND
17 SUSTAINABILITY FEE THAT HAS BEEN COLLECTED BY THE ENTERPRISE BUT
18 FOR WHICH THE ENTERPRISE HAS NOT RECEIVED FEDERAL MATCHING
19 FUNDS, THE ENTERPRISE SHALL REFUND BACK TO THE HOSPITAL THAT PAID
20 THE FEE THE AMOUNT OF THAT PORTION OF THE FEE WITHIN FIVE BUSINESS
21 DAYS AFTER THE FEE IS COLLECTED.

22 (III) THE ENTERPRISE SHALL ESTABLISH REQUIREMENTS FOR THE
23 REPORTS THAT HOSPITALS MUST SUBMIT TO THE ENTERPRISE TO ALLOW
24 THE ENTERPRISE TO CALCULATE THE AMOUNT OF THE HEALTHCARE
25 AFFORDABILITY AND SUSTAINABILITY FEE. NOTWITHSTANDING THE
26 PROVISIONS OF PART 2 OF ARTICLE 72 OF TITLE 24 OR SUBSECTION (7)(f)
27 OF THIS SECTION, INFORMATION PROVIDED TO THE ENTERPRISE PURSUANT

1 TO THIS SECTION IS CONFIDENTIAL AND IS NOT A PUBLIC RECORD.
2 NONETHELESS, THE ENTERPRISE MAY PREPARE AND RELEASE SUMMARIES
3 OF THE REPORTS TO THE PUBLIC.

4 (f) A HOSPITAL SHALL NOT INCLUDE ANY AMOUNT OF THE
5 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE AS A SEPARATE
6 LINE ITEM IN ITS BILLING STATEMENTS.

7 (g) THE STATE BOARD SHALL PROMULGATE ANY RULES PURSUANT
8 TO THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE
9 24, NECESSARY FOR THE ADMINISTRATION AND IMPLEMENTATION OF THIS
10 SECTION. PRIOR TO SUBMITTING ANY PROPOSED RULES CONCERNING THE
11 ADMINISTRATION OR IMPLEMENTATION OF THE HEALTHCARE
12 AFFORDABILITY AND SUSTAINABILITY FEE TO THE STATE BOARD, THE
13 ENTERPRISE SHALL CONSULT WITH THE STATE BOARD ON THE PROPOSED
14 RULES AS SPECIFIED IN SUBSECTION (7)(d) OF THIS SECTION.

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

16 (a) ANY HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE
17 COLLECTED PURSUANT TO THIS SECTION BY THE ENTERPRISE MUST BE
18 TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE FEE TO
19 THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE CASH FUND,
20 WHICH FUND IS HEREBY CREATED AND REFERRED TO IN THIS SECTION AS
21 THE "FUND". THE STATE TREASURER SHALL CREDIT ALL INTEREST AND
22 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
23 FUND TO THE FUND. THE STATE TREASURER SHALL INVEST ANY MONEY IN
24 THE FUND NOT EXPENDED FOR THE PURPOSES SPECIFIED IN SUBSECTION
25 (5)(b) OF THIS SECTION AS PROVIDED BY LAW. MONEY IN THE FUND SHALL
26 NOT BE TRANSFERRED TO ANY OTHER FUND AND SHALL NOT BE USED FOR
27 ANY PURPOSE OTHER THAN THE PURPOSES SPECIFIED IN THIS SUBSECTION

1 (5) AND IN SUBSECTION (4) OF THIS SECTION.

2 (b) ALL MONEY IN THE FUND IS SUBJECT TO FEDERAL MATCHING AS
3 AUTHORIZED UNDER FEDERAL LAW AND IS CONTINUOUSLY APPROPRIATED
4 TO THE ENTERPRISE FOR THE FOLLOWING PURPOSES:

5 (I) TO MAXIMIZE THE INPATIENT AND OUTPATIENT HOSPITAL
6 REIMBURSEMENTS TO UP TO THE UPPER PAYMENT LIMITS AS DEFINED IN 42
7 CFR 447.272 AND 42 CFR 447.321;

8 (II) TO INCREASE HOSPITAL REIMBURSEMENTS UNDER THE
9 COLORADO INDIGENT CARE PROGRAM TO UP TO ONE HUNDRED PERCENT
10 OF THE HOSPITAL'S COSTS OF PROVIDING MEDICAL CARE UNDER THE
11 PROGRAM;

12 (III) TO PAY THE QUALITY INCENTIVE PAYMENTS PROVIDED IN
13 SECTION 25.5-4-402 (3);

14 (IV) SUBJECT TO AVAILABLE REVENUE FROM THE HEALTHCARE
15 AFFORDABILITY AND SUSTAINABILITY FEE AND FEDERAL MATCHING
16 FUNDS, TO EXPAND ELIGIBILITY FOR PUBLIC MEDICAL ASSISTANCE BY:

17 (A) INCREASING THE ELIGIBILITY LEVEL FOR PARENTS AND
18 CARETAKER RELATIVES OF CHILDREN WHO ARE ELIGIBLE FOR MEDICAL
19 ASSISTANCE, PURSUANT TO SECTION 25.5-5-201 (1)(m), FROM SIXTY-ONE
20 PERCENT TO ONE HUNDRED THIRTY-THREE PERCENT OF THE FEDERAL
21 POVERTY LINE;

22 (B) INCREASING THE ELIGIBILITY LEVEL FOR CHILDREN AND
23 PREGNANT WOMEN UNDER THE CHILDREN'S BASIC HEALTH PLAN TO UP TO
24 TWO HUNDRED FIFTY PERCENT OF THE FEDERAL POVERTY LINE;

25 (C) PROVIDING ELIGIBILITY UNDER THE STATE MEDICAL
26 ASSISTANCE PROGRAM FOR A CHILDLESS ADULT OR AN ADULT WITHOUT A
27 DEPENDENT CHILD IN THE HOME, PURSUANT TO SECTION 25.5-5-201 (1)(p).

1 WHO EARNS UP TO ONE HUNDRED THIRTY-THREE PERCENT OF THE FEDERAL
2 POVERTY LINE; AND

3 (D) PROVIDING A BUY-IN PROGRAM IN THE STATE MEDICAL
4 ASSISTANCE PROGRAM FOR DISABLED ADULTS AND CHILDREN WHOSE
5 FAMILIES HAVE INCOME OF UP TO FOUR HUNDRED FIFTY PERCENT OF THE
6 FEDERAL POVERTY LINE;

7 (V) TO PROVIDE CONTINUOUS ELIGIBILITY FOR TWELVE MONTHS
8 FOR CHILDREN ENROLLED IN THE STATE MEDICAL ASSISTANCE PROGRAM;

9 (VI) TO PAY THE ENTERPRISE'S ACTUAL ADMINISTRATIVE COSTS OF
10 IMPLEMENTING AND ADMINISTERING THIS SECTION, INCLUDING BUT NOT
11 LIMITED TO THE FOLLOWING COSTS:

12 (A) ADMINISTRATIVE EXPENSES OF THE ENTERPRISE;

13 (B) THE ENTERPRISE'S ACTUAL COSTS RELATED TO IMPLEMENTING
14 AND MAINTAINING THE HEALTHCARE AFFORDABILITY AND
15 SUSTAINABILITY FEE, INCLUDING PERSONAL SERVICES, OPERATING, AND
16 CONSULTING EXPENSES;

17 (C) THE ENTERPRISE'S ACTUAL COSTS FOR THE CHANGES AND
18 UPDATES TO THE MEDICAID MANAGEMENT INFORMATION SYSTEM FOR THE
19 IMPLEMENTATION OF SUBSECTIONS (5)(b)(I) TO (5)(b)(III) OF THIS
20 SECTION;

21 (D) THE ENTERPRISE'S PERSONAL SERVICES AND OPERATING COSTS
22 RELATED TO PERSONNEL, CONSULTING SERVICES, AND FOR REVIEW OF
23 HOSPITAL COSTS NECESSARY TO IMPLEMENT AND ADMINISTER THE
24 INCREASES IN INPATIENT AND OUTPATIENT HOSPITAL PAYMENTS MADE
25 PURSUANT TO SUBSECTION (5)(b)(I) OF THIS SECTION, INCREASES IN THE
26 COLORADO INDIGENT CARE PROGRAM PAYMENTS MADE PURSUANT TO
27 SUBSECTION (5)(b)(II) OF THIS SECTION, AND QUALITY INCENTIVE

1 PAYMENTS MADE PURSUANT TO SUBSECTION (5)(b)(III) OF THIS SECTION;

2 (E) THE ENTERPRISE'S ACTUAL COSTS FOR THE CHANGES AND
3 UPDATES TO THE COLORADO BENEFITS MANAGEMENT SYSTEM AND
4 MEDICAID MANAGEMENT INFORMATION SYSTEM TO IMPLEMENT AND
5 MAINTAIN THE EXPANDED ELIGIBILITY PROVIDED FOR IN SUBSECTIONS
6 (5)(b)(IV) AND (5)(b)(V) OF THIS SECTION;

7 (F) THE ENTERPRISE'S PERSONAL SERVICES AND OPERATING COSTS
8 RELATED TO PERSONNEL NECESSARY TO IMPLEMENT AND ADMINISTER THE
9 EXPANDED ELIGIBILITY FOR PUBLIC MEDICAL ASSISTANCE PROVIDED FOR
10 IN SUBSECTIONS (5)(b)(IV) AND (5)(b)(V) OF THIS SECTION, INCLUDING
11 BUT NOT LIMITED TO ADMINISTRATIVE COSTS ASSOCIATED WITH THE
12 DETERMINATION OF ELIGIBILITY FOR PUBLIC MEDICAL ASSISTANCE BY
13 COUNTY DEPARTMENTS; AND

14 (G) THE ENTERPRISE'S PERSONAL SERVICES, OPERATING, AND
15 SYSTEMS COSTS RELATED TO EXPANDING THE OPPORTUNITY FOR
16 INDIVIDUALS TO APPLY FOR PUBLIC MEDICAL ASSISTANCE DIRECTLY AT
17 HOSPITALS OR THROUGH ANOTHER ENTITY OUTSIDE THE COUNTY
18 DEPARTMENTS, IN CONNECTION WITH SECTION 25.5-4-205, THAT WOULD
19 INCREASE ACCESS TO PUBLIC MEDICAL ASSISTANCE AND REDUCE THE
20 NUMBER OF UNINSURED SERVED BY HOSPITALS;

21 (VII) TO OFFSET THE LOSS OF ANY FEDERAL MATCHING MONEY
22 DUE TO A DECREASE IN THE CERTIFICATION OF THE PUBLIC EXPENDITURE
23 PROCESS FOR OUTPATIENT HOSPITAL SERVICES FOR MEDICAL SERVICES
24 PREMIUMS THAT WERE IN EFFECT AS OF JULY 1, 2008;

25 (VIII) SUBJECT TO ANY NECESSARY FEDERAL WAIVERS BEING
26 OBTAINED, TO PROVIDE FUNDING FOR A HEALTH CARE DELIVERY SYSTEM
27 REFORM INCENTIVE PAYMENTS PROGRAM AS DESCRIBED IN SUBSECTION (8)

1 OF THIS SECTION; AND

2 (IX) TO PROVIDE ADDITIONAL BUSINESS SERVICES TO HOSPITALS
3 AS SPECIFIED IN SUBSECTION (4)(a)(IV) OF THIS SECTION.

4 (6) Appropriations. (a) (I) THE HEALTHCARE AFFORDABILITY
5 AND SUSTAINABILITY FEE IS TO SUPPLEMENT, NOT SUPPLANT, GENERAL
6 FUND APPROPRIATIONS TO SUPPORT HOSPITAL REIMBURSEMENTS.
7 GENERAL FUND APPROPRIATIONS FOR HOSPITAL REIMBURSEMENTS SHALL
8 BE MAINTAINED AT THE LEVEL OF APPROPRIATIONS IN THE MEDICAL
9 SERVICES PREMIUM LINE ITEM MADE FOR THE FISCAL YEAR COMMENCING
10 JULY 1, 2008; EXCEPT THAT GENERAL FUND APPROPRIATIONS FOR
11 HOSPITAL REIMBURSEMENTS MAY BE REDUCED IF AN INDEX OF
12 APPROPRIATIONS TO OTHER PROVIDERS SHOWS THAT GENERAL FUND
13 APPROPRIATIONS ARE REDUCED FOR OTHER PROVIDERS. IF THE INDEX
14 SHOWS THAT GENERAL FUND APPROPRIATIONS ARE REDUCED FOR OTHER
15 PROVIDERS, THE GENERAL FUND APPROPRIATIONS FOR HOSPITAL
16 REIMBURSEMENTS SHALL NOT BE REDUCED BY A GREATER PERCENTAGE
17 THAN THE REDUCTIONS OF APPROPRIATIONS FOR THE OTHER PROVIDERS AS
18 SHOWN BY THE INDEX.

19 (II) IF GENERAL FUND APPROPRIATIONS FOR HOSPITAL
20 REIMBURSEMENTS ARE REDUCED BELOW THE LEVEL OF APPROPRIATIONS
21 IN THE MEDICAL SERVICES PREMIUM LINE ITEM MADE FOR THE FISCAL
22 YEAR COMMENCING JULY 1, 2008, THE GENERAL FUND APPROPRIATIONS
23 WILL BE INCREASED BACK TO THE LEVEL OF APPROPRIATIONS IN THE
24 MEDICAL SERVICES PREMIUM LINE ITEM MADE FOR THE FISCAL YEAR
25 COMMENCING JULY 1, 2008, AT THE SAME PERCENTAGE AS THE
26 APPROPRIATIONS FOR OTHER PROVIDERS AS SHOWN BY THE INDEX. THE
27 GENERAL ASSEMBLY IS NOT OBLIGATED TO INCREASE THE GENERAL FUND

1 APPROPRIATIONS BACK TO THE LEVEL OF APPROPRIATIONS IN THE MEDICAL
2 SERVICES PREMIUM LINE ITEM IN A SINGLE FISCAL YEAR AND SUCH
3 INCREASES MAY OCCUR OVER NONCONSECUTIVE FISCAL YEARS.

4 (III) FOR PURPOSES OF THIS SUBSECTION (6)(a), THE "INDEX OF
5 APPROPRIATIONS TO OTHER PROVIDERS" OR "INDEX" MEANS THE AVERAGE
6 PERCENT CHANGE IN REIMBURSEMENT RATES THROUGH APPROPRIATIONS
7 OR LEGISLATION ENACTED BY THE GENERAL ASSEMBLY TO HOME HEALTH
8 PROVIDERS, PHYSICIAN SERVICES, AND OUTPATIENT PHARMACIES,
9 EXCLUDING DISPENSING FEES. THE STATE BOARD, AFTER CONSULTATION
10 WITH THE ENTERPRISE BOARD, IS AUTHORIZED TO CLARIFY THIS
11 DEFINITION AS NECESSARY BY RULE.

12 (b) IF THE REVENUE FROM THE HEALTHCARE AFFORDABILITY AND
13 SUSTAINABILITY FEE IS INSUFFICIENT TO FULLY FUND ALL OF THE
14 PURPOSES DESCRIBED IN SUBSECTION (5)(b) OF THIS SECTION:

15 (I) THE GENERAL ASSEMBLY IS NOT OBLIGATED TO APPROPRIATE
16 GENERAL FUND REVENUES TO FUND SUCH PURPOSES;

17 (II) THE HOSPITAL PROVIDER REIMBURSEMENT AND QUALITY
18 INCENTIVE PAYMENT INCREASES DESCRIBED IN SUBSECTIONS (5)(b)(I) TO
19 (5)(b)(III) OF THIS SECTION AND THE COSTS DESCRIBED IN SUBSECTION
20 (5)(b)(VI) OF THIS SECTION SHALL BE FULLY FUNDED USING REVENUE
21 FROM THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE AND
22 FEDERAL MATCHING FUNDS BEFORE ANY ELIGIBILITY EXPANSION IS
23 FUNDED; AND

24 (III) (A) IF THE STATE BOARD PROMULGATES RULES THAT EXPAND
25 ELIGIBILITY FOR MEDICAL ASSISTANCE TO BE PAID FOR PURSUANT TO
26 SUBSECTION (5)(b)(IV) OF THIS SECTION, AND THE STATE DEPARTMENT
27 THEREAFTER NOTIFIES THE ENTERPRISE BOARD THAT THE REVENUE

1 AVAILABLE FROM THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
2 FEE AND THE FEDERAL MATCHING FUNDS WILL NOT BE SUFFICIENT TO PAY
3 FOR ALL OR PART OF THE EXPANDED ELIGIBILITY, THE ENTERPRISE BOARD
4 SHALL RECOMMEND TO THE STATE BOARD REDUCTIONS IN MEDICAL
5 BENEFITS OR ELIGIBILITY SO THAT THE REVENUE WILL BE SUFFICIENT TO
6 PAY FOR ALL OF THE REDUCED BENEFITS OR ELIGIBILITY. AFTER RECEIVING
7 THE RECOMMENDATIONS OF THE ENTERPRISE BOARD, THE STATE BOARD
8 SHALL ADOPT RULES PROVIDING FOR REDUCED BENEFITS OR REDUCED
9 ELIGIBILITY FOR WHICH THE REVENUE WILL BE SUFFICIENT AND SHALL
10 FORWARD ANY ADOPTED RULES TO THE JOINT BUDGET COMMITTEE.
11 NOTWITHSTANDING THE PROVISIONS OF SECTION 24-4-103 (8) AND (12),
12 FOLLOWING THE ADOPTION OF RULES PURSUANT TO THIS SUBSECTION
13 (6)(b)(III)(A), THE STATE BOARD SHALL NOT SUBMIT THE RULES TO THE
14 ATTORNEY GENERAL AND SHALL NOT FILE THE RULES WITH THE
15 SECRETARY OF STATE UNTIL THE JOINT BUDGET COMMITTEE APPROVES THE
16 RULES PURSUANT TO SUBSECTION (6)(b)(III)(B) OF THIS SECTION.

17 (B) THE JOINT BUDGET COMMITTEE SHALL PROMPTLY CONSIDER
18 ANY RULES ADOPTED BY THE STATE BOARD PURSUANT TO SUBSECTION
19 (6)(b)(III)(A) OF THIS SECTION. THE JOINT BUDGET COMMITTEE SHALL
20 PROMPTLY NOTIFY THE STATE DEPARTMENT, THE STATE BOARD, AND THE
21 ENTERPRISE BOARD OF ANY ACTION ON THE RULES. IF THE JOINT BUDGET
22 COMMITTEE DOES NOT APPROVE THE RULES, THE JOINT BUDGET
23 COMMITTEE SHALL RECOMMEND A REDUCTION IN BENEFITS OR ELIGIBILITY
24 SO THAT THE REVENUE FROM THE HEALTHCARE AFFORDABILITY AND
25 SUSTAINABILITY FEE AND THE MATCHING FEDERAL FUNDS WILL BE
26 SUFFICIENT TO PAY FOR THE REDUCED BENEFITS OR ELIGIBILITY. AFTER
27 APPROVING THE RULES PURSUANT TO THIS SUBSECTION (6)(b)(III)(B), THE

1 JOINT BUDGET COMMITTEE SHALL REQUEST THAT THE COMMITTEE ON
2 LEGAL SERVICES, CREATED PURSUANT TO SECTION 2-3-501, EXTEND THE
3 RULES AS PROVIDED FOR IN SECTION 24-4-103 (8) UNLESS THE COMMITTEE
4 ON LEGAL SERVICES FINDS AFTER REVIEW THAT THE RULES DO NOT
5 CONFORM WITH SECTION 24-4-103 (8)(a).

6 (C) AFTER THE STATE BOARD HAS RECEIVED NOTIFICATION OF THE
7 APPROVAL OF RULES ADOPTED PURSUANT TO SUBSECTION (6)(b)(III)(A)
8 OF THIS SECTION, THE STATE BOARD SHALL SUBMIT THE RULES TO THE
9 ATTORNEY GENERAL PURSUANT TO SECTION 24-4-103 (8)(b) AND SHALL
10 FILE THE RULES AND THE OPINION OF THE ATTORNEY GENERAL WITH THE
11 SECRETARY OF STATE PURSUANT TO SECTION 24-4-103 (12) AND WITH THE
12 OFFICE OF LEGISLATIVE LEGAL SERVICES. PURSUANT TO SECTION 24-4-103
13 (5), THE RULES ARE EFFECTIVE TWENTY DAYS AFTER PUBLICATION OF THE
14 RULES AND ARE ONLY EFFECTIVE UNTIL THE FOLLOWING MAY 15 UNLESS
15 THE RULES ARE EXTENDED PURSUANT TO A BILL ENACTED PURSUANT TO
16 SECTION 24-4-103 (8).

17 (c) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
18 IF, AFTER RECEIPT OF AUTHORIZATION TO RECEIVE FEDERAL MATCHING
19 FUNDS FOR MONEY IN THE FUND, THE AUTHORIZATION IS WITHDRAWN OR
20 CHANGED SO THAT FEDERAL MATCHING FUNDS ARE NO LONGER
21 AVAILABLE, THE ENTERPRISE SHALL CEASE COLLECTING THE HEALTHCARE
22 AFFORDABILITY AND SUSTAINABILITY FEE AND SHALL REPAY TO THE
23 HOSPITALS ANY MONEY RECEIVED BY THE FUND THAT IS NOT SUBJECT TO
24 FEDERAL MATCHING FUNDS.

25 (7) **Colorado healthcare affordability and sustainability**
26 **enterprise board.** (a) (I) EXCEPT AS OTHERWISE PROVIDED IN
27 SUBSECTION (7)(a)(II) OF THIS SECTION, THE ENTERPRISE BOARD CONSISTS

1 OF THIRTEEN MEMBERS APPOINTED BY THE GOVERNOR, WITH THE ADVICE
2 AND CONSENT OF THE SENATE, AS FOLLOWS:

3 (A) FIVE MEMBERS WHO ARE EMPLOYED BY HOSPITALS IN
4 COLORADO, INCLUDING AT LEAST ONE PERSON WHO IS EMPLOYED BY A
5 HOSPITAL IN A RURAL AREA, ONE PERSON WHO IS EMPLOYED BY A
6 SAFETY-NET HOSPITAL FOR WHICH THE PERCENT OF MEDICAID-ELIGIBLE
7 INPATIENT DAYS RELATIVE TO ITS TOTAL INPATIENT DAYS IS EQUAL TO OR
8 GREATER THAN ONE STANDARD DEVIATION ABOVE THE MEAN, AND ONE
9 PERSON WHO IS EMPLOYED BY A HOSPITAL IN AN URBAN AREA;

10 (B) ONE MEMBER WHO IS A REPRESENTATIVE OF A STATEWIDE
11 ORGANIZATION OF HOSPITALS;

12 (C) ONE MEMBER WHO REPRESENTS A STATEWIDE ORGANIZATION
13 OF HEALTH INSURANCE CARRIERS OR A HEALTH INSURANCE CARRIER
14 LICENSED PURSUANT TO TITLE 10 AND WHO IS NOT A REPRESENTATIVE OF
15 A HOSPITAL;

16 (D) ONE MEMBER OF THE HEALTH CARE INDUSTRY WHO DOES NOT
17 REPRESENT A HOSPITAL OR A HEALTH INSURANCE CARRIER;

18 (E) ONE MEMBER WHO IS A CONSUMER OF HEALTH CARE AND WHO
19 IS NOT A REPRESENTATIVE OR AN EMPLOYEE OF A HOSPITAL, HEALTH
20 INSURANCE CARRIER, OR OTHER HEALTH CARE INDUSTRY ENTITY;

21 (F) ONE MEMBER WHO IS A REPRESENTATIVE OF PERSONS WITH
22 DISABILITIES, WHO IS LIVING WITH A DISABILITY, AND WHO IS NOT A
23 REPRESENTATIVE OR AN EMPLOYEE OF A HOSPITAL, HEALTH INSURANCE
24 CARRIER, OR OTHER HEALTH CARE INDUSTRY ENTITY;

25 (G) ONE MEMBER WHO IS A REPRESENTATIVE OF A BUSINESS THAT
26 PURCHASES OR OTHERWISE PROVIDES HEALTH INSURANCE FOR ITS
27 EMPLOYEES; AND

1 (H) TWO EMPLOYEES OF THE STATE DEPARTMENT.

2 (II) THE INITIAL MEMBERS OF THE ENTERPRISE BOARD ARE THE
3 MEMBERS OF THE HOSPITAL PROVIDER FEE OVERSIGHT AND ADVISORY
4 BOARD THAT WAS CREATED AND EXISTED PURSUANT TO SECTION
5 25.5-4-402.3 (6), PRIOR TO JULY 1, 2017, AND SUCH MEMBERS SHALL
6 SERVE ON AND AFTER JULY 1, 2017, FOR THE REMAINDER OF THE TERMS
7 FOR WHICH THEY WERE APPOINTED AS MEMBERS OF THE ADVISORY BOARD.
8 THE POWERS, DUTIES, AND FUNCTIONS OF THE HOSPITAL PROVIDER FEE
9 OVERSIGHT AND ADVISORY BOARD ARE TRANSFERRED BY A **TYPE 3**
10 TRANSFER, AS DEFINED IN SECTION 24-1-105, TO THE ENTERPRISE, AND
11 THE HOSPITAL PROVIDER FEE OVERSIGHT AND ADVISORY BOARD IS
12 ABOLISHED.

13 (III) THE GOVERNOR SHALL CONSULT WITH REPRESENTATIVES OF
14 A STATEWIDE ORGANIZATION OF HOSPITALS IN MAKING THE
15 APPOINTMENTS PURSUANT TO SUBSECTIONS (7)(a)(I)(A) AND (7)(a)(I)(B)
16 OF THIS SECTION. NO MORE THAN SIX MEMBERS OF THE ENTERPRISE BOARD
17 MAY BE MEMBERS OF THE SAME POLITICAL PARTY.

18 (IV) MEMBERS OF THE ENTERPRISE BOARD SERVE AT THE
19 PLEASURE OF THE GOVERNOR. ALL TERMS ARE FOR FOUR YEARS. A
20 MEMBER WHO IS APPOINTED TO FILL A VACANCY SHALL SERVE THE
21 REMAINDER OF THE UNEXPIRED TERM OF THE FORMER MEMBER.

22 (V) THE GOVERNOR SHALL DESIGNATE A CHAIR FROM AMONG THE
23 MEMBERS OF THE ENTERPRISE BOARD APPOINTED PURSUANT TO
24 SUBSECTIONS (7)(a)(I)(A) TO (7)(a)(I)(G) OF THIS SECTION. THE
25 ENTERPRISE BOARD SHALL ELECT A VICE-CHAIR FROM AMONG ITS
26 MEMBERS.

27 (b) MEMBERS OF THE ENTERPRISE BOARD SERVE WITHOUT

1 COMPENSATION BUT MUST BE REIMBURSED FROM MONEY IN THE FUND FOR
2 ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF
3 THEIR DUTIES PURSUANT TO THIS SECTION.

4 (c) THE ENTERPRISE BOARD MAY CONTRACT FOR A GROUP
5 FACILITATOR TO ASSIST THE MEMBERS OF THE ENTERPRISE BOARD IN
6 PERFORMING THEIR REQUIRED DUTIES.

7 (d) THE ENTERPRISE BOARD HAS, AT A MINIMUM, THE FOLLOWING
8 DUTIES:

9 (I) TO DETERMINE THE TIMING AND METHOD BY WHICH THE
10 ENTERPRISE ASSESSES THE HEALTHCARE AFFORDABILITY AND
11 SUSTAINABILITY FEE AND THE AMOUNT OF THE FEE;

12 (II) IF REQUESTED BY THE HEALTH AND HUMAN SERVICES
13 COMMITTEE OF THE SENATE OR THE PUBLIC HEALTH CARE AND HUMAN
14 SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY
15 SUCCESSOR COMMITTEES, TO CONSULT WITH THE COMMITTEES ON ANY
16 LEGISLATION THAT MAY IMPACT THE HEALTHCARE AFFORDABILITY AND
17 SUSTAINABILITY FEE OR HOSPITAL REIMBURSEMENTS ESTABLISHED
18 PURSUANT TO THIS SECTION;

19 (III) TO DETERMINE CHANGES IN THE HEALTHCARE AFFORDABILITY
20 AND SUSTAINABILITY FEE THAT INCREASE THE NUMBER OF HOSPITALS
21 BENEFITTING FROM THE USES OF THE HEALTHCARE AFFORDABILITY AND
22 SUSTAINABILITY FEE DESCRIBED IN SUBSECTIONS (5)(b)(I) TO (5)(b)(IV)
23 OF THIS SECTION OR THAT MINIMIZE THE NUMBER OF HOSPITALS THAT
24 SUFFER LOSSES AS A RESULT OF PAYING THE HEALTHCARE AFFORDABILITY
25 AND SUSTAINABILITY FEE;

26 (IV) TO RECOMMEND TO THE STATE DEPARTMENT REFORMS OR
27 CHANGES TO THE INPATIENT HOSPITAL AND OUTPATIENT HOSPITAL

1 REIMBURSEMENTS AND QUALITY INCENTIVE PAYMENTS MADE UNDER THE
2 STATE MEDICAL ASSISTANCE PROGRAM TO INCREASE PROVIDER
3 ACCOUNTABILITY, PERFORMANCE, AND REPORTING;

4 (V) TO DIRECT AND OVERSEE THE ENTERPRISE IN SEEKING, IN
5 CONCERT WITH OR THROUGH AN AGREEMENT WITH THE STATE
6 DEPARTMENT IF REQUIRED BY FEDERAL LAW, ANY FEDERAL WAIVER
7 NECESSARY TO FUND AND, IN COOPERATION WITH THE STATE DEPARTMENT
8 AND HOSPITALS, SUPPORT THE IMPLEMENTATION OF A HEALTH CARE
9 DELIVERY SYSTEM REFORM INCENTIVE PAYMENTS PROGRAM AS DESCRIBED
10 IN SUBSECTION (8) OF THIS SECTION;

11 (VI) TO RECOMMEND TO THE STATE DEPARTMENT THE SCHEDULE
12 AND APPROACH TO THE IMPLEMENTATION OF SUBSECTIONS (5)(b)(IV) AND
13 (5)(b)(V) OF THIS SECTION;

14 (VII) IF MONEY IN THE FUND IS INSUFFICIENT TO FULLY FUND ALL
15 OF THE PURPOSES SPECIFIED IN SUBSECTION (5)(b) OF THIS SECTION, TO
16 RECOMMEND TO THE STATE BOARD CHANGES TO THE EXPANDED
17 ELIGIBILITY PROVISIONS DESCRIBED IN SUBSECTION (5)(b)(IV) OF THIS
18 SECTION;

19 (VIII) TO PREPARE THE REPORTS SPECIFIED IN SUBSECTION (7)(e)
20 OF THIS SECTION;

21 (IX) TO MONITOR THE IMPACT OF THE HEALTHCARE
22 AFFORDABILITY AND SUSTAINABILITY FEE ON THE BROADER HEALTHCARE
23 MARKETPLACE;

24 (X) TO ESTABLISH REQUIREMENTS FOR THE REPORTS THAT
25 HOSPITALS MUST SUBMIT TO THE ENTERPRISE TO ALLOW THE ENTERPRISE
26 TO CALCULATE THE AMOUNT OF THE HEALTHCARE AFFORDABILITY AND
27 SUSTAINABILITY FEE; AND

1 (XI) TO PERFORM ANY OTHER DUTIES REQUIRED TO FULFILL THE
2 ENTERPRISE BOARD'S CHARGE OR THOSE ASSIGNED TO IT BY THE STATE
3 BOARD OR THE EXECUTIVE DIRECTOR.

4 (e) ON OR BEFORE JANUARY 15, 2018, AND ON OR BEFORE
5 JANUARY 15 EACH YEAR THEREAFTER, THE ENTERPRISE BOARD SHALL
6 SUBMIT A WRITTEN REPORT TO THE HEALTH AND HUMAN SERVICES
7 COMMITTEE OF THE SENATE AND THE PUBLIC HEALTH CARE AND HUMAN
8 SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY
9 SUCCESSOR COMMITTEES, THE JOINT BUDGET COMMITTEE OF THE GENERAL
10 ASSEMBLY, THE GOVERNOR, AND THE STATE BOARD. THE REPORT SHALL
11 INCLUDE, BUT NEED NOT BE LIMITED TO:

12 (I) THE RECOMMENDATIONS MADE TO THE STATE BOARD
13 PURSUANT TO THIS SECTION;

14 (II) A DESCRIPTION OF THE FORMULA FOR HOW THE HEALTHCARE
15 AFFORDABILITY AND SUSTAINABILITY FEE IS CALCULATED AND THE
16 PROCESS BY WHICH THE HEALTHCARE AFFORDABILITY AND
17 SUSTAINABILITY FEE IS ASSESSED AND COLLECTED;

18 (III) AN ITEMIZATION OF THE TOTAL AMOUNT OF THE HEALTHCARE
19 AFFORDABILITY AND SUSTAINABILITY FEE PAID BY EACH HOSPITAL AND
20 ANY PROJECTED REVENUE THAT EACH HOSPITAL IS EXPECTED TO RECEIVE
21 DUE TO:

22 (A) THE INCREASED REIMBURSEMENTS MADE PURSUANT TO
23 SUBSECTIONS (5)(b)(I) AND (5)(b)(II) OF THIS SECTION AND THE QUALITY
24 INCENTIVE PAYMENTS MADE PURSUANT TO SUBSECTION (5)(b)(III) OF THIS
25 SECTION; AND

26 (B) THE INCREASED ELIGIBILITY DESCRIBED IN SUBSECTIONS
27 (5)(b)(IV) AND (5)(b)(V) OF THIS SECTION;

1 (IV) AN ITEMIZATION OF THE COSTS INCURRED BY THE ENTERPRISE
2 IN IMPLEMENTING AND ADMINISTERING THE HEALTHCARE AFFORDABILITY
3 AND SUSTAINABILITY FEE;

4 (V) ESTIMATES OF THE DIFFERENCES BETWEEN THE COST OF CARE
5 PROVIDED AND THE PAYMENT RECEIVED BY HOSPITALS ON A PER-PATIENT
6 BASIS, AGGREGATED FOR ALL HOSPITALS, FOR PATIENTS COVERED BY EACH
7 OF THE FOLLOWING:

8 (A) MEDICAID;

9 (B) MEDICARE; AND

10 (C) ALL OTHER PAYERS; AND

11 (VI) A SUMMARY OF:

12 (A) THE EFFORTS MADE BY THE ENTERPRISE, ACTING IN CONCERT
13 WITH OR THROUGH AN AGREEMENT WITH THE STATE DEPARTMENT IF
14 REQUIRED BY FEDERAL LAW, TO SEEK ANY FEDERAL WAIVER NECESSARY
15 TO FUND AND, IN COOPERATION WITH THE STATE DEPARTMENT AND
16 HOSPITALS, SUPPORT THE IMPLEMENTATION OF A HEALTH CARE DELIVERY
17 SYSTEM REFORM INCENTIVE PAYMENTS PROGRAM AS DESCRIBED IN
18 SUBSECTION (8) OF THIS SECTION; AND

19 (B) THE PROGRESS ACTUALLY MADE BY THE ENTERPRISE, IN
20 COOPERATION WITH THE STATE DEPARTMENT AND HOSPITALS, TOWARDS
21 THE GOAL OF IMPLEMENTING SUCH A PROGRAM.

22 (f) (I) THE ENTERPRISE IS SUBJECT TO THE OPEN MEETINGS
23 PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972", CONTAINED IN
24 PART 4 OF ARTICLE 6 OF TITLE 24, AND THE "COLORADO OPEN RECORDS
25 ACT", PART 2 OF ARTICLE 72 OF TITLE 24.

26 (II) FOR PURPOSES OF THE "COLORADO OPEN RECORDS ACT",
27 PART 2 OF ARTICLE 72 OF TITLE 24, AND EXCEPT AS MAY OTHERWISE BE

1 PROVIDED BY FEDERAL LAW OR REGULATION OR STATE LAW, THE RECORDS
2 OF THE ENTERPRISE ARE PUBLIC RECORDS, AS DEFINED IN SECTION
3 24-72-202 (6), REGARDLESS OF WHETHER THE ENTERPRISE RECEIVES LESS
4 THAN TEN PERCENT OF ITS TOTAL ANNUAL REVENUES IN GRANTS, AS
5 DEFINED IN SECTION 24-77-102 (7), FROM ALL COLORADO STATE AND
6 LOCAL GOVERNMENTS COMBINED.

7 (III) THE ENTERPRISE IS A PUBLIC ENTITY FOR PURPOSES OF PART
8 2 OF ARTICLE 57 OF TITLE 11.

9 (8) **Health care delivery system reform incentive payments**
10 **program - funding and implementation.** THE ENTERPRISE, ACTING IN
11 CONCERT WITH OR THROUGH AN AGREEMENT WITH THE STATE
12 DEPARTMENT IF REQUIRED BY FEDERAL LAW, SHALL SEEK ANY FEDERAL
13 WAIVER NECESSARY TO FUND AND, IN COOPERATION WITH THE STATE
14 DEPARTMENT AND HOSPITALS, SUPPORT THE IMPLEMENTATION, NO
15 EARLIER THAN OCTOBER 1, 2019, OF A HEALTH CARE DELIVERY SYSTEM
16 REFORM INCENTIVE PAYMENTS PROGRAM THAT WILL IMPROVE HEALTH
17 CARE ACCESS AND OUTCOMES FOR INDIVIDUALS SERVED BY THE STATE
18 DEPARTMENT WHILE EFFICIENTLY UTILIZING AVAILABLE FINANCIAL
19 RESOURCES. SUCH A PROGRAM MUST, AT A MINIMUM:

20 (a) INCLUDE AN INITIAL PLANNING PHASE TO:
21 (I) ASSESS NEEDS; AND
22 (II) DEVELOP ACHIEVABLE OUTCOME-BASED METRICS TO BE USED
23 TO MEASURE PROGRESS TOWARDS PROGRAM GOALS, INCLUDING THE
24 GOALS OF HEALTH CARE DELIVERY SYSTEM INTEGRATION, IMPROVED
25 PATIENT OUTCOMES, AND MORE EFFICIENT PROVISION OF CARE; AND

26 (b) ADDRESS THE FOLLOWING FOCUS AREAS:
27 (I) CARE COORDINATION AND CARE TRANSITION MANAGEMENT;

- 1 (II) INTEGRATION OF PHYSICAL AND BEHAVIORAL HEALTH CARE
- 2 SERVICES;
- 3 (III) CHRONIC CONDITION MANAGEMENT;
- 4 (IV) TARGETED POPULATION HEALTH; AND
- 5 (V) DATA-DRIVEN ACCOUNTABILITY AND OUTCOME
- 6 MEASUREMENT.

7 **SECTION 18.** In Colorado Revised Statutes, **add 25.5-4-402.7**

8 as follows:

9 **25.5-4-402.7. Unexpended hospital provider fee cash fund -**

10 **creation - transfer from hospital provider fee cash fund - use of fund**

11 **- repeal.** (1) THE UNEXPENDED HOSPITAL PROVIDER FEE CASH FUND,

12 REFERRED TO IN THIS SECTION AS THE "FUND", IS HEREBY CREATED IN THE

13 STATE TREASURY. ON JUNE 30, 2017, THE STATE TREASURER SHALL

14 TRANSFER TO THE FUND ALL MONEY IN THE HOSPITAL PROVIDER FEE CASH

15 FUND CREATED IN SECTION 25.5-4-402.3 (4)(a), AS THAT SECTION EXISTED

16 BEFORE ITS REPEAL BY SENATE BILL 17-267, ENACTED IN 2017. THE STATE

17 TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE

18 DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE GENERAL FUND.

19 MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE STATE

20 DEPARTMENT THROUGH OCTOBER 30, 2018, FOR THE PURPOSE OF PAYING

21 CLAIMS INCURRED BEFORE JULY 1, 2017, THAT WERE PAYABLE PURSUANT

22 TO SECTION 25.5-5-402.3 (4), AS THAT SECTION EXISTED BEFORE ITS

23 REPEAL BY SENATE BILL 17-267, ENACTED IN 2017. THE STATE

24 DEPARTMENT SHALL REFUND ANY MONEY IN THE FUND DERIVED FROM

25 HOSPITAL PROVIDER FEES THAT IS NOT EXPENDED FOR THE PURPOSE OF

26 PAYING CLAIMS TO THE HOSPITALS THAT PAID THE FEES.

27 (2) THIS SECTION IS REPEALED, EFFECTIVE NOVEMBER 1, 2018.

1 **SECTION 19.** In Colorado Revised Statutes, 25.5-5-201, **amend**
2 (1)(o)(II) and (1)(r)(II) as follows:

3 **25.5-5-201. Optional provisions - optional groups - repeal.**

4 (1) The federal government allows the state to select optional groups to
5 receive medical assistance. Pursuant to federal law, any person who is
6 eligible for medical assistance under the optional groups specified in this
7 section shall receive both the mandatory services specified in sections
8 25.5-5-102 and 25.5-5-103 and the optional services specified in sections
9 25.5-5-202 and 25.5-5-203. Subject to the availability of federal financial
10 aid funds, the following are the individuals or groups that Colorado has
11 selected as optional groups to receive medical assistance pursuant to this
12 article and articles 4 and 6 of this title TITLE 25.5:

13 (o) (II) Notwithstanding the provisions of subparagraph (I) of this
14 paragraph (o), SUBSECTION (1)(o)(I) OF THIS SECTION, if the moneys
15 MONEY in the hospital provider HEALTHCARE AFFORDABILITY AND
16 SUSTAINABILITY fee cash fund established pursuant to section
17 25.5-4-402.3 (4) SECTION 25.5-4-402.4, together with the corresponding
18 federal matching funds, are IS insufficient to fully fund all of the purposes
19 described in section 25.5-4-402.3 (4) (b) SECTION 25.5-4-402.4 (5)(b),
20 after receiving recommendations from the hospital provider fee oversight
21 and advisory board COLORADO HEALTHCARE AFFORDABILITY AND
22 SUSTAINABILITY ENTERPRISE established pursuant to section 25.5-4-402.3
23 (6) SECTION 25.5-4-402.4 (3), for individuals with disabilities who are
24 participating in the medicaid buy-in program established in part 14 of
25 article 6 of this title TITLE 25.5, the state board by rule adopted pursuant
26 to the provisions of section 25.5-4-402.3 (5) (b) (III) SECTION
27 25.5-4-402.4 (6)(b)(III) may reduce the medical benefits offered or the

1 percentage of the federal poverty line to below four hundred fifty percent
2 or may eliminate this eligibility group.

3 (r) (II) Notwithstanding the provisions of subparagraph (I) of this
4 paragraph (r), SUBSECTION (1)(r)(I) OF THIS SECTION, if the moneys
5 MONEY in the hospital provider HEALTHCARE AFFORDABILITY AND
6 SUSTAINABILITY fee cash fund established pursuant to section
7 25.5-4-402.3 (4) SECTION 25.5-4-402.4, together with the corresponding
8 federal matching funds, are IS insufficient to fully fund all of the purposes
9 described in section 25.5-4-402.3 (4) (b) SECTION 25.5-4-402.4 (5)(b),
10 after receiving recommendations from the hospital provider fee oversight
11 and advisory board COLORADO HEALTHCARE AFFORDABILITY AND
12 SUSTAINABILITY ENTERPRISE established pursuant to section 25.5-4-402.3
13 (6) SECTION 25.5-4-402.4 (3), for persons eligible for a medicaid buy-in
14 program established pursuant to section 25.5-5-206, the state board by
15 rule adopted pursuant to the provisions of section 25.5-4-402.3 (5) (b)
16 (HH) SECTION 25.5-4-402.4 (6)(b)(III) may reduce the medical benefits
17 offered, or the percentage of the federal poverty line, or may eliminate
18 this eligibility group.

19 SECTION 20. In Colorado Revised Statutes, 25.5-5-204.5,
20 amend (2) as follows:

21 25.5-5-204.5. Continuous eligibility - children - repeal.
22 (2) Notwithstanding the provisions of subsection (1) of this section, if the
23 moneys MONEY in the hospital provider HEALTHCARE AFFORDABILITY
24 AND SUSTAINABILITY fee cash fund established pursuant to section
25 25.5-4-402.3 (4) SECTION 25.5-4-402.4, together with the corresponding
26 federal matching funds, are IS insufficient to fully fund all of the purposes
27 described in section 25.5-4-402.3 (4) (b) SECTION 25.5-4-402.4 (5)(b),

1 after receiving recommendations from the hospital provider fee oversight
2 and advisory board COLORADO HEALTHCARE AFFORDABILITY AND
3 SUSTAINABILITY ENTERPRISE established pursuant to section 25.5-4-402.3
4 (6) SECTION 25.5-4-402.4 (3), the state board by rule adopted pursuant to
5 the provisions of section 25.5-4-402.3 (5) (b) (HH) SECTION 25.5-4-402.4
6 (6)(b)(III) may eliminate the continuous enrollment requirement pursuant
7 to this section.

8 **SECTION 21.** In Colorado Revised Statutes, add 25.5-5-419 as
9 follows:

10 **25.5-5-419. Advancing care for exceptional kids.** WITHIN ONE
11 HUNDRED TWENTY DAYS OF THE ENACTMENT OF THE FEDERAL
12 "ADVANCING CARE FOR EXCEPTIONAL KIDS ACT", SUBJECT TO
13 AVAILABLE APPROPRIATIONS, THE STATE DEPARTMENT SHALL SEEK ANY
14 FEDERAL APPROVAL NECESSARY TO FUND, IN COOPERATION WITH
15 HOSPITALS THAT MEET THE SPECIFIED REQUIREMENTS, THE
16 IMPLEMENTATION OF AN ENHANCED PEDIATRIC HEALTH HOME FOR
17 CHILDREN WITH COMPLEX MEDICAL CONDITIONS. REQUIREMENTS FOR
18 PARTICIPATION BY THE STATE DEPARTMENT, ALONG WITH THE
19 REQUIREMENT OF AN ENHANCED PEDIATRIC HEALTH HOME, ARE
20 STIPULATED BY THE "ADVANCING CARE FOR EXCEPTIONAL KIDS ACT"
21 AND SHALL BE COMPLIED WITH ACCORDINGLY.

22 **SECTION 22.** In Colorado Revised Statutes, 25.5-8-103, amend
23 the introductory portion, (4)(a)(II), and (4)(b)(II) as follows:

24 **25.5-8-103. Definitions - repeal.** As used in this article ARTICLE
25 8, unless the context otherwise requires:

26 (4) "Eligible person" means:

27 (a) (II) Notwithstanding the provisions of subparagraph (I) of this

1 paragraph (a), SUBSECTION (4)(a)(I) OF THIS SECTION, if the moneys
2 MONEY in the hospital provider HEALTHCARE AFFORDABILITY AND
3 SUSTAINABILITY fee cash fund established pursuant to section
4 25.5-4-402.3 (4) SECTION 25.5-4-402.4 (5), together with the
5 corresponding federal matching funds, are IS insufficient to fully fund all
6 of the purposes described in section 25.5-4-402.3 (4) (b) SECTION
7 25.5-4-402.4 (5)(b), after receiving recommendations from the hospital
8 provider fee oversight and advisory board COLORADO HEALTHCARE
9 AFFORDABILITY AND SUSTAINABILITY ENTERPRISE established pursuant to
10 section 25.5-4-402.3 (6) SECTION 25.5-4-402.4 (3), for persons less than
11 nineteen years of age, the state board may by rule adopted pursuant to the
12 provisions of section 25.5-4-402.3 (5) (b) (HH) SECTION 25.5-4-402.4
13 (6)(b)(III) reduce the percentage of the federal poverty line to below two
14 hundred fifty percent, but the percentage shall not be reduced to below
15 two hundred five percent.

16 (b) (II) Notwithstanding the provisions of subparagraph (I) of this
17 paragraph (b) SUBSECTION (4)(b)(I) OF THIS SECTION, if the moneys
18 MONEY in the hospital provider HEALTHCARE AFFORDABILITY AND
19 SUSTAINABILITY fee cash fund established pursuant to section
20 25.5-4-402.3 (4) SECTION 25.5-4-402.4 (5), together with the
21 corresponding federal matching funds, are IS insufficient to fully fund all
22 of the purposes described in section 25.5-4-402.3 (4) (b) SECTION
23 25.5-4-402.4 (5)(b), after receiving recommendations from the hospital
24 provider fee oversight and advisory board COLORADO HEALTHCARE
25 AFFORDABILITY AND SUSTAINABILITY ENTERPRISE established pursuant to
26 section 25.5-4-402.3 (6) SECTION 25.5-4-402.4 (3), for pregnant women,
27 the state board by rule adopted pursuant to the provisions of section

1 25.5-4-402.3 (5)(b)(HH) SECTION 25.5-4-402.4 (6)(b)(III) may reduce the
2 percentage of the federal poverty line to below two hundred fifty percent,
3 but the percentage shall not be reduced to below two hundred five
4 percent.

5 SECTION 23. In Colorado Revised Statutes, 29-2-105, amend
6 (1) introductory portion and (1)(d)(I) introductory portion; and add
7 (1)(d)(I)(O) as follows:

8 29-2-105. Contents of sales tax ordinances and proposals -
9 repeal. (1) The sales tax ordinance or proposal of any incorporated town,
10 city, or county adopted pursuant to this article shall be imposed on the
11 sale of tangible personal property at retail or the furnishing of services,
12 as provided in paragraph (d) of this subsection (1) SUBSECTION (1)(d) OF
13 THIS SECTION. Any countywide or incorporated town or city sales tax
14 ordinance or proposal shall include the following provisions:

15 (d) (I) A provision that the sale of tangible personal property and
16 services taxable pursuant to this article shall be the same as the sale of
17 tangible personal property and services taxable pursuant to section
18 39-26-104, C.R.S., except as otherwise provided in this paragraph (d)
19 SUBSECTION (1)(d). The sale of tangible personal property and services
20 taxable pursuant to this article shall be subject to the same sales tax
21 exemptions as those specified in part 7 of article 26 of title 39 C.R.S.;
22 except that the sale of the following may be exempted from a town, city,
23 or county sales tax only by the express inclusion of the exemption either
24 at the time of adoption of the initial sales tax ordinance or resolution or
25 by amendment thereto:

26 (O) THE EXEMPTION FOR RETAIL SALES OF MARIJUANA UPON
27 WHICH THE RETAIL MARIJUANA SALES TAX IS IMPOSED PURSUANT TO

1 SECTION 39-28.8-202 AS SPECIFIED IN SECTION 39-26-729.

2 SECTION 24. In Colorado Revised Statutes, add 39-3-209 as
3 follows:

4 39-3-209. State expenditure for property tax exemptions -
5 mechanism for refunding of excess state revenue - legislative
6 declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES
7 THAT:

8 (a) ALTHOUGH THE EXEMPTIONS ALLOWED BY THIS PART 2 ARE
9 EXEMPTIONS FROM LOCAL GOVERNMENT PROPERTY TAXES, THE STATE
10 MUST REIMBURSE LOCAL GOVERNMENTS FOR THE NET AMOUNT OF
11 PROPERTY TAX REVENUES LOST AS A RESULT OF THE EXEMPTIONS AND
12 THEREFORE BEARS THE FULL COST OF THE EXEMPTIONS;

13 (b) SECTION 3.5 OF ARTICLE X OF THE STATE CONSTITUTION
14 AUTHORIZES THE GENERAL ASSEMBLY TO RAISE OR LOWER THE MAXIMUM
15 AMOUNT OF ACTUAL VALUE OF RESIDENTIAL REAL PROPERTY OF WHICH
16 FIFTY PERCENT IS EXEMPT PURSUANT TO THIS PART 2;

17 (c) IN ORDER TO ELIMINATE THE COST OF THE EXEMPTION AND
18 FUND OTHER STATE NEEDS, THE GENERAL ASSEMBLY, AS AUTHORIZED BY
19 SECTION 3.5 OF ARTICLE X OF THE STATE CONSTITUTION, HAS AT TIMES
20 TEMPORARILY SUSPENDED THE EXEMPTION FOR QUALIFYING SENIORS
21 ALLOWED BY THIS PART 2 BY LOWERING TO ZERO THE MAXIMUM AMOUNT
22 OF ACTUAL VALUE OF RESIDENTIAL REAL PROPERTY OF WHICH FIFTY
23 PERCENT IS EXEMPT;

24 (d) THE GENERAL ASSEMBLY INTENDS TO ALLOW SENIORS TO
25 RELY ON PREDICTABLE AND SUSTAINABLE EXEMPTIONS BY FULLY FUNDING
26 THE PROPERTY TAX EXEMPTION FOR QUALIFYING SENIORS IN THE FUTURE,
27 AND IT IS MORE LIKELY TO BE ABLE TO DO SO IF THE COST OF THE

1 EXEMPTION, WHICH EXCLUSIVELY BENEFITS TAXPAYERS WHO RESIDE IN
2 COLORADO, CONSTITUTES A REFUND OF EXCESS STATE REVENUES FOR
3 STATE FISCAL YEARS FOR WHICH SUCH REFUNDS ARE REQUIRED; AND

4 (e) SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION
5 AUTHORIZES THE STATE TO USE ANY REASONABLE METHOD TO MAKE
6 REQUIRED REFUNDS OF EXCESS STATE REVENUES, AND THE PAYMENT BY
7 THE STATE OF REIMBURSEMENT TO LOCAL GOVERNMENTS FOR THE NET
8 AMOUNT OF PROPERTY TAX REVENUES LOST AS A RESULT OF THE
9 PROPERTY TAX EXEMPTIONS ALLOWED BY THIS PART 2, WHICH
10 EXEMPTIONS DIRECTLY REDUCE THE TAX LIABILITY OF TAXPAYING
11 COLORADO RESIDENTS THROUGHOUT THE STATE, IS A REASONABLE
12 METHOD OF MAKING SUCH REFUNDS.

13 (2) FOR ANY STATE FISCAL YEAR COMMENCING ON OR AFTER JULY
14 1, 2017, FOR WHICH STATE REVENUES, AS DEFINED IN SECTION 24-77-103.6
15 (6)(c), EXCEED THE EXCESS STATE REVENUES CAP, AS DEFINED IN SECTION
16 24-77-103.6 (6)(b)(I)(C) OR (6)(b)(I)(D), AND ARE REQUIRED TO BE
17 REFUNDED IN ACCORDANCE WITH SECTION 20 OF ARTICLE X OF THE STATE
18 CONSTITUTION, THE LESSER OF ALL REIMBURSEMENT PAID BY THE STATE
19 TREASURER TO EACH TREASURER AS REQUIRED BY SECTION 39-3-207 (4)
20 FOR THE PROPERTY TAX YEAR THAT COMMENCED DURING THE STATE
21 FISCAL YEAR OR AN AMOUNT OF SUCH REIMBURSEMENT EQUAL TO THE
22 AMOUNT OF EXCESS STATE REVENUES FOR THE STATE FISCAL YEAR THAT
23 ARE REQUIRED TO BE REFUNDED IS A REFUND OF SUCH EXCESS STATE
24 REVENUES.

25 **SECTION 25. In Colorado Revised Statutes, 39-22-327, amend**
26 **(3)(a) introductory portion and (6) as follows:**

27 **39-22-537. Credit for personal property taxes paid - legislative**

1 **declaration - definitions - repeal.** (3) (a) For any income tax year
2 commencing on or after January 1, 2015, but prior to January 1, 2020
3 JANUARY 1, 2019, a taxpayer who qualifies under paragraph (b) of this
4 subsection (3) SUBSECTION (3)(b) OF THIS SECTION is allowed a credit
5 against the tax imposed by this article ARTICLE 22 that is equal to a
6 percentage of the property taxes paid for personal property in Colorado
7 during the income tax year. For a given income tax year, a taxpayer's
8 percentage is equal to one hundred percent minus the sum of the
9 taxpayer's federal marginal income tax rate for the year and the state
10 income tax rate for the year; except that the percentage is equal to one
11 hundred percent for an organization that:

12 (6) This section is repealed, effective July 1, 2022 JULY 1, 2021.

13 **SECTION 26.** In Colorado Revised Statutes, add 39-22-537.5 as
14 follows:

15 **39-22-537.5 Credit for personal property taxes paid -**
16 **legislative declaration - definitions - repeal.** (1) THE GENERAL
17 ASSEMBLY DECLARES THAT THE PURPOSE OF THE TAX EXPENDITURE IN
18 THIS SECTION IS TO MINIMIZE THE NEGATIVE IMPACT OF THE BUSINESS
19 PERSONAL PROPERTY TAX ON BUSINESSES.

20 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
21 REQUIRES:

22 (a) "PROPERTY TAX" MEANS THE AD VALOREM TAX IMPOSED
23 PURSUANT TO SECTION 3 OF ARTICLE X OF THE STATE CONSTITUTION BUT
24 DOES NOT INCLUDE PUBLIC UTILITIES ASSESSED PURSUANT TO SECTION
25 39-4-102, AND DOES NOT INCLUDE THE GRADUATED ANNUAL SPECIFIC
26 OWNERSHIP TAX IMPOSED PURSUANT TO SECTION 6 OF ARTICLE X OF THE
27 STATE CONSTITUTION.

1 (b) "TAXPAYER" INCLUDES AN ORGANIZATION EXEMPT FROM
2 FEDERAL TAXATION PURSUANT TO SECTION 501 (c) OF THE INTERNAL
3 REVENUE CODE.

4 (3) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
5 JANUARY 1, 2019, A TAXPAYER IS ALLOWED A CREDIT AGAINST THE TAX
6 IMPOSED BY THIS ARTICLE 22 EQUAL TO THE PROPERTY TAX PAID IN
7 COLORADO DURING THE INCOME TAX YEAR ON UP TO EIGHTEEN THOUSAND
8 DOLLARS OF THE TOTAL ACTUAL VALUE OF THE TAXPAYER'S PERSONAL
9 PROPERTY.

10 (b) A TAXPAYER MAY NOT CLAIM A TAX CREDIT UNDER THIS
11 SECTION FOR THE PAYMENT OF DELINQUENT PROPERTY TAXES THAT WERE
12 OWED FOR A PRIOR PROPERTY TAX YEAR.

13 (c) THE AMOUNT OF THE CREDIT UNDER THIS SECTION THAT
14 EXCEEDS THE TAXPAYER'S INCOME TAXES DUE IS REFUNDED TO THE
15 TAXPAYER.

16 (4) TO CLAIM A CREDIT UNDER THIS SECTION, A TAXPAYER MUST
17 SUBMIT TO THE DEPARTMENT OF REVENUE A COPY OF A PROPERTY TAX
18 STATEMENT DESCRIBED IN SECTION 39-10-103 FOR ALL OF THE
19 TAXPAYER'S PERSONAL PROPERTY FOR THE PROPERTY TAX YEAR FOR
20 WHICH THE CREDIT IS CLAIMED.

21 **SECTION 27.** In Colorado Revised Statutes, 39-22-627, **amend**
22 **(1)(b), (3), and (6); and repeal (9) as follows:**

23 **39-22-627. Temporary adjustment of rate of income tax -**
24 **refund of excess state revenues - authority of executive director.**

25 **(1) (b) In order for the provisions of paragraph (a) of this subsection (1)**
26 **SUBSECTION (1)(a) OF THIS SECTION to take effect, the amount of state**
27 **revenues required to be refunded for the specified state fiscal year shall**

1 MUST exceed the total of the adjusted amount set forth in section
2 39-22-123 (4) (c), OF REIMBURSEMENT FOR PROPERTY TAX REVENUES
3 LOST AS A RESULT OF THE PROPERTY TAX EXEMPTIONS ALLOWED BY PART
4 2 OF ARTICLE 3 OF THIS TITLE 39 PAID BY THE STATE TREASURER TO EACH
5 COUNTY TREASURER AS REQUIRED BY SECTION 39-3-207 (4) FOR THE
6 PROPERTY TAX YEAR THAT COMMENCED DURING THE SPECIFIED STATE
7 FISCAL YEAR plus the estimated amount by which state revenues would be
8 decreased as the result of a reduction in the state income tax rate from
9 four and sixty-three one-hundredths percent to four and one-half percent
10 of federal taxable income, as determined pursuant to this section.

11 (3) If one or more ballot questions are submitted to the voters at
12 a statewide election to be held in November of any given calendar year
13 that seek authorization for the state to retain and spend all or any portion
14 of the amount of excess state revenues for the state fiscal year ending
15 during said calendar year, the executive director shall not reduce the state
16 income tax rate until the results of said election are known so that the
17 state income tax rate may be reduced only if, after the results of said
18 election, the amount of excess state revenues required to be refunded for
19 the state fiscal year exceeds the total of the adjusted amount set forth in
20 section 39-22-123 (4)(c), OF REIMBURSEMENT FOR PROPERTY TAX
21 REVENUES LOST AS A RESULT OF THE PROPERTY TAX EXEMPTIONS
22 ALLOWED BY PART 2 OF ARTICLE 3 OF THIS TITLE 39 PAID BY THE STATE
23 TREASURER TO EACH COUNTY TREASURER AS REQUIRED BY SECTION
24 39-3-207 (4) FOR THE PROPERTY TAX YEAR THAT COMMENCED DURING
25 THE SPECIFIED STATE FISCAL YEAR plus the estimated amount by which
26 state revenues would be decreased as a result of a reduction in the state
27 income tax rate from four and sixty-three one-hundredths percent to four

1 and one-half percent of federal taxable income pursuant to this section.

2 (6) If, based on the financial report prepared by the controller in
3 accordance with section 24-77-106.5, C.R.S., the controller certifies that
4 the amount of the state revenues for any state fiscal year commencing on
5 or after ~~July 1, 2010~~ JULY 1, 2017, exceeds the limitation on state fiscal
6 year spending imposed by section 20 (7)(a) of article X of the state
7 constitution for that state fiscal year and exceeds the amount of excess
8 state revenues that the voters statewide have authorized the state to retain
9 and spend for that state fiscal year by less than the total of the adjusted
10 amount set forth in section 39-22-123 (4)(c), OF REIMBURSEMENT FOR
11 PROPERTY TAX REVENUES LOST AS A RESULT OF THE PROPERTY TAX
12 EXEMPTIONS ALLOWED BY PART 2 OF ARTICLE 3 OF THIS TITLE 39 PAID BY
13 THE STATE TREASURER TO EACH COUNTY TREASURER AS REQUIRED BY
14 SECTION 39-3-207 (4) FOR THE PROPERTY TAX YEAR THAT COMMENCED
15 DURING THE SPECIFIED STATE FISCAL YEAR plus the estimated amount by
16 which state revenues would be decreased as the result of a reduction in
17 the state income tax rate from four and sixty-three one-hundredths percent
18 to four and one-half percent of federal taxable income as calculated by the
19 executive director pursuant to subsection (2) of this section, then the
20 reduction in the state income tax rate allowed pursuant to subsection (1)
21 of this section shall not be allowed for the income tax year commencing
22 during the calendar year in which the state fiscal year ended.

23 (9) If, by operation of section 39-22-123 (6), excess state revenues
24 are no longer refunded through an earned income tax credit, the total of
25 the adjusted amount set forth in section 39-22-123 (4)(c) is not added to
26 the estimated amount by which state revenues would be decreased as the
27 result of a reduction in the state income tax rate for purposes of the

1 calculations set forth in paragraph (b) of subsection (1) and subsections
2 (3) and (6) of this section.

3 **SECTION 28.** In Colorado Revised Statutes, **add 39-26-729** as
4 follows:

5 **39-26-729. Retail sales of marijuana.** ON AND AFTER JULY 1,
6 2017, ALL RETAIL SALES OF MARIJUANA UPON WHICH THE RETAIL
7 MARIJUANA SALES TAX IS IMPOSED PURSUANT TO SECTION 39-28.8-202
8 ARE EXEMPT FROM TAXATION UNDER PART 1 OF THIS ARTICLE 26.

9 **SECTION 29.** In Colorado Revised Statutes, 39-28.8-202,
10 amend (1)(a)(I) as follows:

11 **39-28.8-202. Retail marijuana sales tax.** (1) (a) (I) In addition
12 to the tax imposed pursuant to part 1 of article 26 of this title TITLE 39 and
13 the sales tax imposed by a local government pursuant to title 29, 30, 31,
14 or 32, but except as otherwise set forth in subparagraphs (II) and (III) of
15 this paragraph (a) SUBSECTIONS (1)(a)(II) AND (1)(a)(III) OF THIS SECTION,
16 beginning January 1, 2014, and through June 30, 2017 AND THROUGH
17 JUNE 30, 2017, there is imposed upon all sales of retail marijuana and
18 retail marijuana products by a retailer a tax at the rate of ten percent of the
19 amount of the sale. and beginning July 1, 2017, there is imposed upon all
20 sales of retail marijuana and retail marijuana products by a retailer a tax
21 at the rate of eight percent of the amount of the sale. BEGINNING JULY 1,
22 2017, THERE IS IMPOSED UPON ALL SALES OF RETAIL MARIJUANA AND
23 RETAIL MARIJUANA PRODUCTS BY A RETAILER A TAX AT THE RATE OF
24 FIFTEEN PERCENT OF THE AMOUNT OF THE SALE. The tax imposed by this
25 section is computed in accordance with schedules or forms prescribed by
26 the executive director of the department; except that a retail marijuana
27 store is not allowed to retain any portion of the retail marijuana sales tax

1 collected pursuant to this part 2 to cover the expenses of collecting and
2 remitting the tax and except that the department of revenue may require
3 a retailer to make returns and remit the tax described in this part 2 by
4 electronic means.

5 **SECTION 30.** In Colorado Revised Statutes, 39-28.8-203,
6 **amend** (1) introductory portion, (1)(a)(I), and (1)(b)(I); **repeal** (1)(a)(I.5);
7 **and add** (1)(b)(I.3) and (1)(b)(I.5) as follows:

8 **39-28.8-203. Disposition of collections - definitions.** (1) The
9 proceeds of all ~~moneys~~ MONEY collected from the retail marijuana sales
10 tax are ~~INITIALLY~~ credited to the old age pension fund created in section
11 1 of article XXIV of the state constitution in accordance with paragraphs
12 (a) and (f) of section 2 of article XXIV of the state constitution AND
13 THEREAFTER ARE TRANSFERRED TO THE GENERAL FUND IN ACCORDANCE
14 WITH SECTION 7 OF ARTICLE XXIV OF THE STATE CONSTITUTION. For each
15 fiscal year in which a tax is collected pursuant to this part 2, an amount
16 shall be appropriated or distributed from the general fund as follows:

17 (a) (I) ~~Except as otherwise set forth in subparagraph (I.5) of this~~
18 ~~paragraph (a)~~ BEFORE JULY 1, 2017, an amount equal to fifteen percent
19 of the gross retail marijuana sales tax ~~revenues~~ REVENUE collected by the
20 department is apportioned to local governments. ON AND AFTER JULY 1,
21 2017, AN AMOUNT EQUAL TO TEN PERCENT OF THE GROSS RETAIL
22 MARIJUANA SALES TAX REVENUE COLLECTED BY THE DEPARTMENT IS
23 APPORTIONED TO LOCAL GOVERNMENTS. The city or town share is
24 apportioned according to the percentage that retail marijuana sales tax
25 ~~revenues~~ REVENUE collected by the department within the boundaries of
26 the city or town bear to the total retail marijuana sales tax ~~revenues~~
27 REVENUE collected by the department. The county share is apportioned

1 according to the percentage that retail marijuana sales tax revenues
2 REVENUE collected by the department in the unincorporated area of the
3 county bear to total retail marijuana sales tax revenues REVENUE
4 collected by the department.

5 (I.5) If the ballot issue is placed on the November 3, 2015, ballot
6 and a majority of the electors voting thereon vote "No/Against", then
7 beginning January 1, 2016, the amount that would otherwise be
8 distributed to a local government through subparagraph (I) of this
9 paragraph (a) is halved until the total reduction that results from this
10 subparagraph (I.5) is greater than or equal to the amount that was
11 distributed to the local government under this paragraph (a) for the fiscal
12 year 2014-15. Thereafter, the local government receives the full
13 apportioned amount required by subparagraph (I) of this paragraph (a).
14 The reduction in a local government's distribution does not increase the
15 amount apportioned to other local governments.

16 (b) (I) UNTIL JULY 1, 2017, the state treasurer shall transfer from
17 the general fund to the marijuana tax cash fund an amount equal to
18 eighty-five percent of the gross retail marijuana sales tax revenues
19 REVENUE collected by the department.

20 (I.3) ON AND AFTER JULY 1, 2017, BUT BEFORE JULY 1, 2018, OF
21 THE NINETY PERCENT OF THE GROSS RETAIL MARIJUANA SALES TAX
22 REVENUE IN THE GENERAL FUND REMAINING AFTER THE ALLOCATION TO
23 LOCAL GOVERNMENTS REQUIRED BY SUBSECTION (1)(a)(I) OF THIS SECTION
24 IS MADE, THE STATE TREASURER SHALL RETAIN TWENTY-EIGHT AND
25 FIFTEEN ONE-HUNDREDTHS PERCENT LESS THIRTY MILLION DOLLARS IN
26 THE GENERAL FUND FOR USE FOR ANY LAWFUL PURPOSE AND SHALL
27 TRANSFER FROM THE GENERAL FUND:

1 (A) SEVENTY-ONE AND EIGHTY-FIVE ONE-HUNDREDTHS PERCENT
2 TO THE MARIJUANA TAX CASH FUND; AND

3 (B) THIRTY MILLION DOLLARS TO THE STATE PUBLIC SCHOOL FUND
4 CREATED IN SECTION 22-54-114 (1) FOR USE AS SPECIFIED IN SECTION
5 22-54-139 (2).

6 (I.5) ON AND AFTER JULY 1, 2018, OF THE NINETY PERCENT OF THE
7 GROSS RETAIL MARIJUANA SALES TAX REVENUE IN THE GENERAL FUND
8 REMAINING AFTER THE ALLOCATION TO LOCAL GOVERNMENTS REQUIRED
9 BY SUBSECTION (1)(a)(I) OF THIS SECTION IS MADE, THE STATE TREASURER
10 SHALL RETAIN FIFTEEN AND FIFTY-SIX ONE-HUNDREDTHS PERCENT IN THE
11 GENERAL FUND FOR USE FOR ANY LAWFUL PURPOSE AND SHALL TRANSFER
12 FROM THE GENERAL FUND:

13 (A) SEVENTY-ONE AND EIGHTY-FIVE ONE-HUNDREDTHS PERCENT
14 TO THE MARIJUANA TAX CASH FUND; AND

15 (B) TWELVE AND FIFTY-NINE ONE-HUNDREDTHS PERCENT TO THE
16 STATE PUBLIC SCHOOL FUND CREATED IN SECTION 22-54-114 (1) FOR USE
17 AS SPECIFIED IN SECTION 22-54-139 (3).

18 **SECTION 31.** In Colorado Revised Statutes, 43-4-206, **amend**
19 (1) introductory portion, (1)(b) introductory portion, (1)(b)(V), (2)(a)
20 introductory portion, (2)(b), and (3) as follows:

21 **43-4-206. State allocation.** (1) Except as otherwise provided in
22 subsection (2) SUBSECTIONS (1)(a)(V), (2), AND (3) of this section, after
23 paying the costs of the Colorado state patrol and ~~such~~ ANY other costs of
24 the department, exclusive of highway construction, highway
25 improvements, or highway maintenance, as THAT are appropriated by the
26 general assembly, ~~sixty-five percent of the balance of~~ MONEY IN the
27 highway users tax fund shall be paid to the state highway fund and ~~shall~~

1 be expended for the following purposes:

2 (b) Except as otherwise provided in subsection (2) of this section,
3 all moneys MONEY in the state highway fund not required for the creation,
4 maintenance, and application of the highway anticipation or sinking fund
5 and all moneys MONEY in the state highway supplementary fund are
6 available to pay for:

7 (V) The construction, reconstruction, repairs, improvement,
8 planning, supervision, and maintenance of the state highway system and
9 other public highways, including any county and municipal roads and
10 highways, together with the acquisition of rights-of-way and access rights
11 for the same. ANY PROCEEDS OF LEASE-PURCHASE AGREEMENTS
12 EXECUTED AS REQUIRED BY SECTION 24-82-1303 (2)(a) THAT ARE
13 CREDITED TO THE STATE HIGHWAY FUND PURSUANT TO SECTION
14 24-82-1303 (4)(b) SHALL BE USED ONLY FOR QUALIFIED FEDERAL AID
15 HIGHWAY PROJECTS THAT ARE INCLUDED IN THE STRATEGIC
16 TRANSPORTATION PROJECT INVESTMENT PROGRAM OF THE DEPARTMENT
17 OF TRANSPORTATION AND THAT ARE DESIGNATED FOR TIER 1 FUNDING AS
18 TEN-YEAR DEVELOPMENT PROGRAM PROJECTS ON THE DEPARTMENT'S
19 DEVELOPMENT PROGRAM PROJECT LIST, WITH AT LEAST TWENTY-FIVE
20 PERCENT OF THE MONEY BEING USED FOR PROJECTS THAT ARE LOCATED IN
21 COUNTIES WITH POPULATIONS OF FIFTY THOUSAND OR LESS AS OF JULY
22 2015 AS REPORTED BY THE STATE DEMOGRAPHY OFFICE OF THE
23 DEPARTMENT OF LOCAL AFFAIRS. NO MORE THAN NINETY PERCENT OF THE
24 PROCEEDS SHALL BE EXPENDED FOR HIGHWAY PURPOSES OR
25 HIGHWAY-RELATED CAPITAL IMPROVEMENTS, AND AT LEAST TEN PERCENT
26 OF THE PROCEEDS SHALL BE EXPENDED FOR TRANSIT PURPOSES OR FOR
27 TRANSIT-RELATED CAPITAL IMPROVEMENTS.

1 (2) (a) Notwithstanding the provisions of subsection (1) of this
2 section, the revenues REVENUE accrued to and transferred to the highway
3 users tax fund pursuant to section 39-26-123 (4)(a) or 24-75-219, C.R.S.,
4 or appropriated to the highway users tax fund pursuant to House Bill
5 02-1389, enacted at the second regular session of the sixty-third general
6 assembly, and credited to the state highway fund pursuant to section
7 43-4-205 (6.5) shall be expended by the department of transportation for
8 the implementation of the strategic transportation project investment
9 program: in the following manner:

10 (b) Beginning in 1998, the department of transportation shall
11 report annually to the transportation committee of the senate and the
12 transportation and energy committee of the house of representatives
13 concerning the revenues REVENUE expended by the department pursuant
14 to paragraph (a) of this subsection (2) SUBSECTION (2)(a) OF THIS SECTION
15 AND, BEGINNING IN 2018, ANY PROCEEDS OF LEASE-PURCHASE
16 AGREEMENTS EXECUTED AS REQUIRED BY SECTION 24-82-1303 (2)(a)
17 THAT ARE CREDITED TO THE STATE HIGHWAY FUND PURSUANT TO SECTION
18 24-82-1303 (4)(b) AND EXPENDED BY THE DEPARTMENT PURSUANT TO
19 SUBSECTION (1)(b)(V) OF THIS SECTION. THE DEPARTMENT SHALL PRESENT
20 the report shall be presented at the joint meeting required under section
21 43-1-113 (9)(a) and THE REPORT shall describe for each fiscal year, if
22 applicable:

23 (I) The projects on which the revenues credited to the state
24 highway fund pursuant to paragraph (a) of this subsection (2) REVENUE
25 AND NET PROCEEDS are to be expended, including the estimated cost of
26 each project, the aggregate amount of revenue actually spent on each
27 project, and the amount of revenue allocated for each project in such

1 fiscal year. The department of transportation shall submit a prioritized list
2 of such projects as part of the report.

3 (II) The status of such projects that the department has undertaken
4 in any previous fiscal year;

5 (III) The projected amount AMOUNTS of revenue AND NET
6 PROCEEDS that the department expects to receive under this subsection (2)
7 AND SUBSECTION (1)(b)(V) OF THIS SECTION during such THE fiscal year;

8 (IV) The amount of revenue AND NET PROCEEDS that the
9 department has already received under this subsection (2) AND
10 SUBSECTION (1)(b)(V) OF THIS SECTION during such THE fiscal year; and

11 (V) How the revenues REVENUE AND NET PROCEEDS expended
12 under this subsection (2) AND SUBSECTION (1)(b)(V) OF THIS SECTION
13 during such THE fiscal year relate RELATES to the total funding of the
14 FEDERAL AID TRANSPORTATION PROJECTS THAT ARE INCLUDED IN THE
15 strategic transportation project investment program.

16 (3) Notwithstanding the provisions of subsection (1) of this
17 section, the revenues THE REVENUE credited to the highway users tax fund
18 pursuant to section 43-4-205 (6.3) shall be expended by the department
19 of transportation only for road safety projects, as defined in section
20 43-4-803 (21); except that the department shall, in furtherance of its duty
21 to supervise state highways and as a consequence in compliance with
22 section 43-4-810, expend ten million dollars per year of the revenues for
23 the planning, designing, engineering, acquisition, installation,
24 construction, repair, reconstruction, maintenance, operation, or
25 administration of transit-related projects, including, but not limited to,
26 designated bicycle or pedestrian lanes of highway and infrastructure
27 needed to integrate different transportation modes within a multimodal

1 transportation system, that enhance the safety of state highways for transit
2 users.

3 **SECTION 32. Appropriation - adjustments to 2017 long bill.**

4 (1) To implement this act, the general fund appropriations made in the
5 annual general appropriation act for the 2017-18 state fiscal year to the
6 department of health care policy and financing are decreased by \$320,035
7 for medical services premiums.

8 (2) To implement this act, cash funds appropriations made in the
9 annual general appropriation act for the 2017-18 state fiscal year from the
10 hospital provider fee cash fund, created in section 25.5-4-402.3 (4)(a),
11 C.R.S., to the department of health care policy and financing are
12 decreased by \$597,380,996 as follows:

<u>Executive director's office, general administration</u>	
<u>Personal services</u>	<u>\$2,480,099</u>
<u>Health, life, and dental</u>	<u>\$278,894</u>
<u>Short-term disability</u>	<u>\$3,870</u>
<u>S.B. 04-257 amortization equalization disbursement</u>	<u>\$107,750</u>
<u>S.B. 06-235 supplemental amortization</u>	
<u>equalization disbursement</u>	<u>\$107,748</u>
<u>Salary survey</u>	<u>\$26,618</u>
<u>Merit pay</u>	<u>\$13,447</u>
<u>Operating expenses</u>	<u>\$57,372</u>
<u>Legal services</u>	<u>\$123,811</u>
<u>Administrative law judge services</u>	<u>\$72,169</u>
<u>Leased space</u>	<u>\$247,365</u>
<u>Payments to OIT</u>	<u>\$378,109</u>
<u>CORE operations</u>	<u>\$148,145</u>

1	<u>General professional services and special projects</u>	<u>\$1,202,500</u>
2	<u>Executive director's office, information technology</u>	
3	<u>contracts and projects</u>	
4	<u>Medicaid management information system</u>	
5	<u>maintenance and projects</u>	<u>\$3,794,276</u>
6	<u>Medicaid management information system</u>	
7	<u>reprocurement contracts</u>	<u>\$708,606</u>
8	<u>Colorado benefits management systems, operating</u>	
9	<u>and contract expenses</u>	<u>\$3,450,954</u>
10	<u>Colorado benefits management systems, health care</u>	
11	<u>and economic security staff development center</u>	<u>\$95,832</u>
12	<u>Executive director's office, eligibility determinations and</u>	
13	<u>client services</u>	
14	<u>Medical identification cards</u>	<u>\$43,200</u>
15	<u>Contracts for special eligibility determinations</u>	<u>\$4,338,468</u>
16	<u>Hospital provider fee county administration</u>	<u>\$4,945,446</u>
17	<u>Medical assistance sites</u>	<u>\$402,984</u>
18	<u>Customer outreach</u>	<u>\$336,621</u>
19	<u>Centralized eligibility vendor contract project</u>	<u>\$1,745,342</u>
20	<u>Executive director's office, utilization and quality review</u>	
21	<u>contracts</u>	
22	<u>Professional services contracts</u>	<u>\$372,339</u>
23	<u>Executive director's office, provider audits and services</u>	
24	<u>Professional audit contracts</u>	<u>\$250,000</u>
25	<u>Executive director's office, indirect cost recoveries</u>	
26	<u>Indirect cost assessment</u>	<u>\$218,771</u>
27	<u>Medical services premiums</u>	

1	<u>Medical and long-term care services for</u>	
2	<u> medicaid eligible individuals</u>	<u>\$380,854,898</u>
3	<u>Behavioral health community programs</u>	
4	<u> Behavioral health capitation payments</u>	<u>\$25,785,121</u>
5	<u> Behavioral health fee-for-service payments</u>	<u>\$373,007</u>
6	<u>Office of community living</u>	
7	<u> Support level administration</u>	<u>\$221</u>
8	<u> Adult supported living services</u>	<u>\$133,235</u>
9	<u> Case management</u>	<u>\$28,272</u>
10	<u>Indigent care program</u>	
11	<u> Safety net provider payments</u>	<u>\$155,648,093</u>
12	<u> Children's basic health plan administration</u>	<u>\$2,416</u>
13	<u> Children's basic health plan medical and</u>	
14	<u> dental costs</u>	<u>\$8,604,997</u>
15	<u>(3) For the 2017-18 state fiscal year, \$861,416,161 is appropriated</u>	
16	<u>to the department of health care policy and financing. This appropriation</u>	
17	<u>is from the healthcare affordability and sustainability fee cash fund</u>	
18	<u>created in section 25.5-4-402.4 (5), C.R.S. To implement this act, the</u>	
19	<u>department may use this appropriation as follows:</u>	
20	<u>Executive director's office, general administration</u>	
21	<u> Personal services</u>	<u>\$2,480,099</u>
22	<u> Health, life, and dental</u>	<u>\$278,894</u>
23	<u> Short-term disability</u>	<u>\$3,870</u>
24	<u> S.B. 04-257 amortization equalization disbursement</u>	<u>\$107,750</u>
25	<u> S.B. 06-235 supplemental amortization</u>	
26	<u> equalization disbursement</u>	<u>\$107,748</u>
27	<u> Salary survey</u>	<u>\$26,618</u>

1	<u>Merit pay</u>	<u>\$13,447</u>
2	<u>Operating expenses</u>	<u>\$57,372</u>
3	<u>Legal services</u>	<u>\$123,811</u>
4	<u>Administrative law judge services</u>	<u>\$72,169</u>
5	<u>Leased space</u>	<u>\$247,365</u>
6	<u>Payments to OIT</u>	<u>\$378,109</u>
7	<u>CORE operations</u>	<u>\$148,145</u>
8	<u>General professional services and special projects</u>	<u>\$1,202,500</u>
9	<u>Executive director's office, information technology</u>	
10	<u>Contracts and projects</u>	
11	<u>Medicaid management information system</u>	
12	<u> maintenance and projects</u>	<u>\$3,794,276</u>
13	<u>Medicaid management information system</u>	
14	<u> reprocurement contracts</u>	<u>\$708,606</u>
15	<u>Colorado benefits management systems, operating</u>	
16	<u> and contract expenses</u>	<u>\$3,450,954</u>
17	<u>Colorado benefits management systems, health care</u>	
18	<u> and economic security staff development center</u>	<u>\$95,832</u>
19	<u>Executive director's office, eligibility determinations and</u>	
20	<u> client services</u>	
21	<u>Medical identification cards</u>	<u>\$43,200</u>
22	<u>Contracts for special eligibility determinations</u>	<u>\$4,338,468</u>
23	<u>Hospital provider fee county administration</u>	<u>\$4,945,446</u>
24	<u>Medical assistance sites</u>	<u>\$402,984</u>
25	<u>Customer outreach</u>	<u>\$336,621</u>
26	<u>Centralized eligibility vendor contract project</u>	<u>\$1,745,342</u>
27	<u>Executive director's office, utilization and quality review</u>	

1	<u>contracts</u>	
2	<u>Professional services contracts</u>	<u>\$372,339</u>
3	<u>Executive director's office, provider audits and services</u>	
4	<u>Professional audit contracts</u>	<u>\$250,000</u>
5	<u>Executive director's office, indirect cost recoveries</u>	
6	<u>Indirect cost assessment</u>	<u>\$218,771</u>
7	<u>Medical services premiums</u>	
8	<u>Medical and long-term care services for</u>	
9	<u>medicaid eligible individuals</u>	<u>\$644,809,063</u>
10	<u>Behavioral health community programs</u>	
11	<u>Behavioral health capitation payments</u>	<u>\$25,785,121</u>
12	<u>Behavioral health fee-for-service payments</u>	<u>\$373,007</u>
13	<u>Office of community living</u>	
14	<u>Support level administration</u>	<u>\$221</u>
15	<u>Adult supported living services</u>	<u>\$133,235</u>
16	<u>Case management</u>	<u>\$28,272</u>
17	<u>Indigent care program</u>	
18	<u>Safety net provider payments</u>	<u>\$155,648,093</u>
19	<u>Children's basic health plan administration</u>	<u>\$2,416</u>
20	<u>Children's basic health plan medical and</u>	
21	<u>dental costs</u>	<u>\$8,604,997</u>

22 (4) For the 2017-18 state fiscal year, the general assembly
23 anticipates that the department of health care policy and financing will
24 receive \$262,665,969 in federal funds to implement this act. The
25 appropriation in subsection (2) of this section is based on the assumption
26 that the department will receive this amount of federal funds to be used
27 for medical services premiums.

1 **SECTION 33. Appropriation.** For the 2016-17 state fiscal year,
2 \$3,750 is appropriated to the department of revenue. This appropriation
3 is from the general fund. To implement this act, the department may use
4 this appropriation for tax administration IT system (GenTax) support.

5 **SECTION 34. Effective date.** (1) Except as otherwise provided
6 in this section, this act takes effect upon passage.

7 (2) Sections 2, 3, 6, 7, 11, 13, 15 through 20, 22, and 32 of this act
8 take effect July 1, 2017.

9 (3) (a) Sections 2, 3, 6, 7, 11, 13, 15 through 20, 22, and 32 of this
10 act do not take effect if the centers for medicare and medicaid services
11 determine that the amendments set forth in sections 2, 3, 6, 7, 11, 13, 15
12 through 20, 22, and 32 act do not comply with federal law.

13 (b) If the centers for medicare and medicaid services make the
14 determination described in subsection (3)(a) of this section, the executive
15 director of the department of health care policy and financing shall, no
16 later than June 1, 2017, notify the revisor of statutes in writing of that
17 determination by e-mailing the notice to revisorofstatutes.ga@state.co.us.

18 **SECTION 35. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, and safety.