

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REREVISED

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

LLS NO. 20-1144.02 Christy Chase x2008

SENATE BILL 20-215

SENATE SPONSORSHIP

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Senate Committees

Finance
Appropriations

House Committees

Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO ADDRESS THE AFFORDABILITY OF HEALTH**
102 **INSURANCE FOR COLORADANS PURCHASING COVERAGE ON THE**
103 **INDIVIDUAL MARKET, AND, IN CONNECTION THEREWITH,**
104 **ESTABLISHING AN ENTERPRISE TO ADMINISTER A HEALTH**
105 **INSURANCE AFFORDABILITY FEE ASSESSED ON CERTAIN HEALTH**
106 **INSURERS AND A SPECIAL ASSESSMENT ON HOSPITALS TO FUND**
107 **MEASURES TO REDUCE CONSUMER COSTS FOR INDIVIDUAL**
108 **HEALTH COVERAGE PLANS.**

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

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

HOUSE
Amended 3rd Reading
June 13, 2020

HOUSE
Amended 2nd Reading
June 12, 2020

SENATE
3rd Reading Unamended
June 9, 2020

SENATE
Amended 2nd Reading
June 8, 2020

<http://leg.colorado.gov>.)

The bill establishes the health insurance affordability enterprise, for purposes of section 20 of article X of the state constitution, that is authorized to assess a health insurance affordability fee (insurer fee) on certain health insurers and a special assessment (hospital assessment) on hospitals in order to:

- ! Provide business services to carriers that pay the fee, including services to increase enrollment in health benefit plans offered by carriers across the state; increasing the number of individuals who are able to purchase health benefit plans in the individual market by providing financial support for certain qualifying individuals; funding the reinsurance program that offsets the costs carriers would otherwise pay for covering consumers with high medical costs; improving the stability of the market throughout the state by providing consistent private health care coverage and reducing the movement of individuals between group and individual coverage and from insured to uninsured status; and reducing provider cost shifting from the individual market and the uninsured to the group market; and
- ! Provide business services to hospitals, including increasing hospital revenues by reducing the amount of uncompensated care provided by hospitals; and reducing the need of providers to shift costs of providing uncompensated care to other payers.

The enterprise is to start assessing and collecting the insurer fee in 2021, which fee is based on a percentage of premiums collected by health insurers in the previous calendar year on health benefit plans issued in the state. The hospital assessment is a specified amount assessed and collected in the 2022 and 2023 calendar years. Money collected from the insurer fee and hospital assessment is to be deposited in the health insurance affordability cash fund (fund), which the bill creates. The bill also transfers an amount of premium taxes collected by the state in 2020 or later years that exceeds the amount collected in 2019, but not more than 10% of the enterprise's revenues, to the fund.

The enterprise is required to use the insurer fee, the hospital assessment, and any premium tax revenues or other money available in the fund, in accordance with the allocation specified in the bill, for the following purposes:

- ! To provide funding for the reinsurance program established by House Bill 19-1168;
- ! To provide payments to carriers to increase the affordability of health insurance on the individual market

for Coloradans who receive the premium tax credit available under federal law;

- ! To provide subsidies for state-subsidized individual health coverage plans purchased by qualified low-income individuals who are not eligible for the premium tax credit or public assistance health care programs;
- ! To pay the actual administrative costs of the enterprise and the division of insurance for implementing and administering the bill, limited to 3% of the enterprise's revenues; and
- ! To pay the costs for consumer enrollment, outreach, and education activities regarding health care coverage.

The enterprise is governed by a 9-member board composed of the executive director of the Colorado health benefit exchange and the commissioner of insurance or their designees and 7 members appointed by the governor and representing various aspect of the health care industry and health care consumers.

With regard to the reinsurance program and enterprise established pursuant to House Bill 19-1168, the bill:

- ! Incorporates the reinsurance program enterprise within the health insurance affordability enterprise;
- ! Eliminates funding for the reinsurance program from special assessments on hospitals and health insurers, excess premium tax revenues, and specified transfers from the state general fund and instead allocates a portion of the health insurance affordability enterprise revenues to the reinsurance program annually; and
- ! Extends the reinsurance program, subject to federal approval of a new or extended state innovation waiver to enable the state to operate the reinsurance program and access federal funding for the program.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 12 to article
3 16 of title 10 as follows:

4 **PART 12**

5 **HEALTH INSURANCE AFFORDABILITY ACT**

6 **10-16-1201. Short title.** THE SHORT TITLE OF THIS PART 12 IS THE
7 "HEALTH INSURANCE AFFORDABILITY ACT".

1 **10-16-1202. Legislative declaration.** (1) THE GENERAL
2 ASSEMBLY FINDS AND DECLARES THAT:

3 (a) THE STATE, CARRIERS, AND HOSPITALS SHARE A COMMON
4 COMMITMENT TO ENSURING ALL COLORADANS HAVE ACCESS TO
5 AFFORDABLE HEALTH CARE COVERAGE BECAUSE ACCESS TO COVERAGE
6 IMPROVES HEALTH OUTCOMES AND PROVIDES FINANCIAL SECURITY FOR
7 COLORADANS;

8 (b) HOSPITALS WITHIN THE STATE INCUR THE COSTS OF
9 UNCOMPENSATED CARE TO UNINSURED AND UNDERINSURED POPULATIONS;

10 (c) THE ECONOMIC DOWNTURN DUE TO COVID-19 AND ITS
11 IMPACTS ON GROUP AND INDIVIDUAL HEALTH CARE COVERAGE IN THE
12 STATE CREATES ECONOMIC CHALLENGES FOR CARRIERS FROM THE
13 POTENTIAL LOST REVENUE IF PEOPLE DROP INSURANCE COVERAGE;

14 (d) THIS PART 12 IS ENACTED TO PROVIDE THE FOLLOWING
15 SERVICES AND BENEFITS TO CARRIERS:

16 (I) REDUCING THE NUMBER OF COLORADANS WHO LACK HEALTH
17 CARE COVERAGE BY HELPING COLORADANS TO MAINTAIN CONSISTENT
18 COVERAGE;

19 (II) PROVIDING STABILITY IN THE INSURANCE MARKET;

20 (III) REDUCING THE MOVEMENT OF INDIVIDUALS BETWEEN
21 INSURED AND UNINSURED STATUS;

22 (IV) OFFSETTING THE COSTS CARRIERS WOULD OTHERWISE PAY
23 FOR COVERED PERSONS' HIGH MEDICAL COSTS SO THAT PREMIUMS ARE SET
24 AT MORE AFFORDABLE LEVELS; AND

25 (V) CREATING A HEALTHIER RISK POOL FOR ALL CARRIERS BY
26 ESTABLISHING A PATH FOR CONSISTENT COVERAGE FOR INDIVIDUALS; AND

27 (e) THIS PART 12 IS ENACTED TO PROVIDE THE FOLLOWING

1 SERVICES AND BENEFITS TO HOSPITALS:

2 (I) REDUCING THE AMOUNT OF UNCOMPENSATED CARE PROVIDED
3 BY HOSPITALS; ==

4 (II) REDUCING THE NEED OF PROVIDERS TO SHIFT COSTS OF
5 PROVIDING UNCOMPENSATED CARE TO OTHER PAYERS; AND

6 (III) EXPANDING ACCESS TO HIGH-QUALITY, AFFORDABLE HEALTH
7 CARE FOR LOW-INCOME AND UNINSURED COLORADANS.

8 (2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT,
9 CONSISTENT WITH THE DETERMINATION OF THE COLORADO SUPREME
10 COURT IN *NICHOLL V. E-470 PUBLIC HIGHWAY AUTHORITY*, 896 P.2d 859
11 (COLO. 1995), THE POWER TO IMPOSE TAXES IS INCONSISTENT WITH
12 ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE X OF THE STATE
13 CONSTITUTION, AND THE HEALTH INSURANCE AFFORDABILITY FEES AND
14 SPECIAL ASSESSMENTS CHARGED AND COLLECTED BY THE HEALTH
15 INSURANCE AFFORDABILITY ENTERPRISE ARE FEES, NOT TAXES, BECAUSE
16 THE FEES AND ASSESSMENTS ARE IMPOSED FOR THE SPECIFIC PURPOSE OF
17 ALLOWING THE ENTERPRISE TO DEFRAY THE COSTS OF PROVIDING THE
18 BUSINESS SERVICES SPECIFIED IN SECTION 10-16-1204 (1)(a) TO THE
19 CARRIERS AND HOSPITALS THAT PAY THE FEES AND ASSESSMENTS AND ARE
20 COLLECTED AT RATES THAT ARE REASONABLY CALCULATED BASED ON THE
21 BENEFITS RECEIVED BY THOSE CARRIERS AND HOSPITALS.

22 **10-16-1203. Definitions.** AS USED IN THIS PART 12, UNLESS THE
23 CONTEXT OTHERWISE REQUIRES:

24 (1) "BOARD" MEANS THE HEALTH INSURANCE AFFORDABILITY
25 BOARD CREATED IN SECTION 10-16-1207.

26 (2) "CHILDREN'S BASIC HEALTH PLAN" HAS THE MEANING SET
27 FORTH IN SECTION 25.5-8-103 (2).

1 (3) "ENTERPRISE" MEANS THE COLORADO HEALTH INSURANCE
2 AFFORDABILITY ENTERPRISE CREATED IN SECTION 10-16-1204.

3 (4) "FEDERAL POVERTY LINE" HAS THE SAME MEANING AS
4 "POVERTY LINE", AS DEFINED IN 42 U.S.C. SEC. 9902 (2).

5 (5) "FEE" MEANS THE HEALTH INSURANCE AFFORDABILITY FEE
6 ESTABLISHED AND ASSESSED PURSUANT TO SECTION 10-16-1205.

7 (6) "FUND" MEANS THE HEALTH INSURANCE AFFORDABILITY CASH
8 FUND CREATED IN SECTION 10-16-1206.

9 (7) "HOUSEHOLD INCOME" HAS THE SAME MEANING AS SET FORTH
10 IN 26 U.S.C. SEC. 36B (d)(2) OF THE FEDERAL "INTERNAL REVENUE CODE
11 OF 1986", AS AMENDED.

12 (8) "MEDICAID" MEANS FEDERAL INSURANCE OR ASSISTANCE AS
13 PROVIDED BY TITLE XIX OF THE FEDERAL "SOCIAL SECURITY ACT", AS
14 AMENDED, AND THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES
15 4, 5, AND 6 OF TITLE 25.5.

16 (9) "MEDICARE" MEANS FEDERAL INSURANCE OR ASSISTANCE
17 PROVIDED BY THE "HEALTH INSURANCE FOR THE AGED ACT", TITLE XVIII
18 OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, 42 U.S.C. SEC.
19 1395 ET SEQ.

20 (10) "PREMIUM TAX CREDIT" MEANS THE REFUNDABLE TAX CREDIT
21 AVAILABLE PURSUANT TO THE FEDERAL ACT TO ASSIST CERTAIN
22 INDIVIDUALS IN PURCHASING A HEALTH BENEFIT PLAN ON THE EXCHANGE.

23 (11) "PUBLIC BENEFIT CORPORATION" MEANS A PUBLIC BENEFIT
24 CORPORATION FORMED PURSUANT TO PART 5 OF ARTICLE 101 OF TITLE 7
25 THAT IS ORGANIZED AND OPERATED BY THE EXCHANGE PURSUANT TO
26 SECTION 10-22-106 (3) FOR THE PURPOSE OF ADMINISTERING AND
27 OPERATING A SUBSIDY TO REDUCE THE COSTS OF HEALTH CARE COVERAGE

1 OFFERED UNDER A STATE-SUBSIDIZED INDIVIDUAL HEALTH COVERAGE
2 PLAN.

3 (12) "QUALIFIED INDIVIDUAL" MEANS AN INDIVIDUAL,
4 REGARDLESS OF IMMIGRATION STATUS, WHO:

5 (a) IS A COLORADO RESIDENT;

6 (b) HAS A HOUSEHOLD INCOME OF NOT MORE THAN THREE
7 HUNDRED PERCENT OF THE FEDERAL POVERTY LINE; AND

8 (c) IS NOT ELIGIBLE FOR THE PREMIUM TAX CREDIT, MEDICAID,
9 MEDICARE, OR THE CHILDREN'S BASIC HEALTH PLAN.

10 (13) "REINSURANCE PROGRAM" MEANS THE COLORADO
11 REINSURANCE PROGRAM CREATED IN PART 11 OF THIS ARTICLE 16.

12 (14) "REINSURANCE PROGRAM CASH FUND" MEANS THE
13 REINSURANCE PROGRAM CASH FUND CREATED IN SECTION 10-16-1107.

14 (15) "STATE-SUBSIDIZED INDIVIDUAL HEALTH COVERAGE PLAN"
15 MEANS A SUBSIDIZED INDIVIDUAL HEALTH COVERAGE PLAN OFFERED BY
16 CARRIERS TO QUALIFIED INDIVIDUALS THROUGH THE PUBLIC BENEFIT
17 CORPORATION.

18 **10-16-1204. Health insurance affordability enterprise -**
19 **creation - powers and duties - assess and allocate health insurance**
20 **affordability fee and special assessment.** (1) (a) THERE IS HEREBY
21 CREATED IN THE DIVISION THE COLORADO HEALTH INSURANCE
22 AFFORDABILITY ENTERPRISE. THE ENTERPRISE IS AND OPERATES AS A
23 GOVERNMENT-OWNED BUSINESS WITHIN THE DIVISION FOR THE PURPOSE
24 OF ASSESSING AND COLLECTING THE HEALTH INSURANCE AFFORDABILITY
25 FEE FROM CARRIERS THAT OFFER HEALTH BENEFIT PLANS IN THE STATE
26 AND A SPECIAL ASSESSMENT ON HOSPITALS IN THE STATE AND USING AND
27 ALLOCATING THE FEE AND ASSESSMENT FOR THE PURPOSES SPECIFIED IN

1 THIS PART 12 IN ORDER TO:

2 (I) PROVIDE THE FOLLOWING BUSINESS SERVICES TO CARRIERS
3 THAT PAY THE FEE:

4 (A) OUTREACH AND RELATED WORK TO INCREASE ENROLLMENT
5 IN HEALTH BENEFIT PLANS OFFERED BY CARRIERS ACROSS THE STATE;

6 (B) INCREASING THE NUMBER OF INDIVIDUALS WHO PURCHASE
7 HEALTH BENEFIT PLANS IN THE INDIVIDUAL MARKET BY PROVIDING
8 FINANCIAL SUPPORT TO INDIVIDUALS TO PURCHASE PRIVATE HEALTH
9 INSURANCE COVERAGE;

10 (C) FUNDING THE REINSURANCE PROGRAM THAT OFFSETS THE
11 COSTS CARRIERS WOULD OTHERWISE PAY FOR COVERING CONSUMERS WITH
12 HIGH MEDICAL COSTS;

13 (D) IMPROVING THE STABILITY OF THE MARKET THROUGHOUT THE
14 STATE BY PROVIDING CONSISTENT PRIVATE HEALTH CARE COVERAGE AND
15 REDUCING THE MOVEMENT OF INDIVIDUALS _____ FROM INSURED TO
16 UNINSURED STATUS; AND

17 (E) REDUCING PROVIDER COST SHIFTING FROM THE INDIVIDUAL
18 MARKET AND THE UNINSURED TO THE GROUP MARKET; _____

19 (F) CREATING A HEALTHIER RISK POOL FOR ALL CARRIERS BY
20 ESTABLISHING A PATH FOR CONSISTENT COVERAGE FOR INDIVIDUALS; AND

21 (II) PROVIDE THE FOLLOWING BUSINESS SERVICES TO HOSPITALS:

22 (A) REDUCING THE AMOUNT OF UNCOMPENSATED CARE PROVIDED
23 BY HOSPITALS; _____

24 (B) REDUCING THE NEED OF PROVIDERS TO SHIFT COSTS OF
25 PROVIDING UNCOMPENSATED CARE TO OTHER PAYERS; AND

26 (C) EXPANDING ACCESS TO HIGH-QUALITY, AFFORDABLE HEALTH
27 CARE FOR LOW-INCOME AND UNINSURED COLORADANS.

1 (b) (I) THE ENTERPRISE CONSTITUTES AN ENTERPRISE FOR
2 PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO
3 LONG AS IT RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND
4 RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL REVENUES IN GRANTS, AS
5 DEFINED IN SECTION 24-77-102 (7), FROM ALL COLORADO STATE AND
6 LOCAL GOVERNMENTS COMBINED. SO LONG AS IT CONSTITUTES AN
7 ENTERPRISE PURSUANT TO THIS SECTION, THE ENTERPRISE IS NOT A
8 DISTRICT FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE
9 CONSTITUTION.

10 (II) THE ENTERPRISE IS HEREBY AUTHORIZED TO ISSUE REVENUE
11 BONDS FOR THE EXPENSES OF THE ENTERPRISE, SECURED BY REVENUES OF
12 THE ENTERPRISE.

13 (2) THE ENTERPRISE'S PRIMARY POWERS AND DUTIES ARE:

14 (a) TO ASSESS AND COLLECT THE FEE SPECIFIED IN SECTION
15 10-16-1205 (1)(a)(I);

16 (b) TO ASSESS AND COLLECT THE SPECIAL ASSESSMENT ON
17 HOSPITALS SPECIFIED IN SECTION 10-16-1205 (1)(a)(II);

18 (c) TO ALLOCATE MONEY IN THE FUND IN ACCORDANCE WITH
19 SECTION 10-16-1205 (2);

20 (d) TO ISSUE REVENUE BONDS PAYABLE FROM THE REVENUES OF
21 THE ENTERPRISE;

22 (e) (I) TO ENGAGE THE SERVICES OF THIRD PARTIES SERVING AS
23 CONTRACTORS AND CONSULTANTS, INCLUDING THE DIVISION, FOR
24 PROFESSIONAL AND TECHNICAL ASSISTANCE AND ADVICE AND TO SUPPLY
25 OTHER SERVICES RELATED TO THE CONDUCT OF THE AFFAIRS OF THE
26 ENTERPRISE, WITHOUT REGARD TO THE "PROCUREMENT CODE", ARTICLES
27 101 TO 112 OF TITLE 24. THE ENTERPRISE SHALL ENCOURAGE DIVERSITY

1 IN APPLICATIONS FOR CONTRACTS AND SHALL GENERALLY AVOID USING
2 SINGLE-SOURCE BIDS.

3 (II) THE DIVISION SHALL PROVIDE OFFICE SPACE AND
4 ADMINISTRATIVE STAFF TO THE ENTERPRISE PURSUANT TO A CONTRACT
5 ENTERED INTO UNDER THIS SUBSECTION (2)(e).

6 (f) TO ENGAGE IN OUTREACH AND RELATED EFFORTS TO INCREASE
7 ENROLLMENT IN HEALTH BENEFIT PLANS ACROSS THE STATE; AND

8 (g) TO ADOPT AND AMEND OR REPEAL POLICIES FOR THE
9 REGULATION OF ITS AFFAIRS AND THE CONDUCT OF ITS BUSINESS
10 CONSISTENT WITH THIS PART 12.

11 (3) THE ENTERPRISE SHALL EXERCISE ITS POWERS AND PERFORM
12 ITS DUTIES AS IF THE SAME WERE TRANSFERRED TO THE DIVISION BY A
13 TYPE 2 TRANSFER, AS DEFINED IN SECTION 24-1-105.

14 **10-16-1205. Health insurance affordability fee - special**
15 **assessment on hospitals - allocation of revenues.** (1) (a) (I) STARTING
16 IN THE 2021 CALENDAR YEAR, THE ENTERPRISE SHALL ASSESS AND
17 COLLECT FROM CARRIERS, BY JULY 15 EACH YEAR, A HEALTH INSURANCE
18 AFFORDABILITY FEE. THE FEE AMOUNT IS BASED ON THE FOLLOWING
19 PERCENTAGES OF PREMIUMS COLLECTED BY THE FOLLOWING CARRIERS IN
20 THE IMMEDIATELY PRECEDING CALENDAR YEAR ON HEALTH BENEFIT
21 PLANS ISSUED IN THE STATE:

22 (A) ONE AND FIFTEEN HUNDREDTHS PERCENT OF PREMIUMS
23 COLLECTED BY NONPROFIT CARRIERS; AND

24 (B) TWO AND ONE-TENTH PERCENT OF PREMIUMS COLLECTED BY
25 FOR-PROFIT CARRIERS.

26 (II) FOR THE 2022 AND 2023 CALENDAR YEARS, THE ENTERPRISE
27 SHALL ASSESS AND COLLECT FROM HOSPITALS A SPECIAL ASSESSMENT OF

1 TWENTY MILLION DOLLARS PER YEAR, SUBJECT TO SUBSECTION (5) OF THIS
2 SECTION. THE ENTERPRISE SHALL NOT COLLECT THE SPECIAL ASSESSMENT
3 FOR THE 2022 CALENDAR YEAR BEFORE OCTOBER 1, 2022.

4 (b) THE ENTERPRISE SHALL USE THE FEE, THE SPECIAL ASSESSMENT
5 ON HOSPITALS, AND ANY OTHER MONEY AVAILABLE IN THE FUND AS
6 FOLLOWS, ALLOCATED IN ACCORDANCE WITH SUBSECTION (2) OF THIS
7 SECTION:

8 (I) TO PROVIDE FUNDING FOR THE REINSURANCE PROGRAM;

9 (II) TO PROVIDE PAYMENTS TO CARRIERS TO INCREASE THE
10 AFFORDABILITY OF HEALTH INSURANCE ON THE INDIVIDUAL MARKET FOR
11 COLORADANS WHO RECEIVE THE PREMIUM TAX CREDIT;

12 (III) TO PROVIDE SUBSIDIES FOR STATE-SUBSIDIZED INDIVIDUAL
13 HEALTH COVERAGE PLANS PURCHASED BY QUALIFIED INDIVIDUALS;

14 (IV) TO PAY THE ACTUAL ADMINISTRATIVE COSTS OF THE
15 ENTERPRISE FOR IMPLEMENTING AND ADMINISTERING THIS PART 12,
16 LIMITED TO THREE PERCENT OF THE ENTERPRISE'S REVENUES. ACTUAL
17 ADMINISTRATIVE COSTS INCLUDE THE FOLLOWING:

18 (A) THE ADMINISTRATIVE COSTS OF THE ENTERPRISE, INCLUDING
19 THE COSTS TO IMPLEMENT AND ADMINISTER THE PROGRAMS ESTABLISHED
20 PURSUANT TO THIS PART 12;

21 (B) THE ENTERPRISE'S ACTUAL COSTS RELATED TO
22 IMPLEMENTING AND MAINTAINING THE FEE AND SPECIAL ASSESSMENT ON
23 HOSPITALS, INCLUDING PERSONAL SERVICES AND OPERATING EXPENSES;
24 AND

25 (C) THE COSTS FOR CONDUCTING ANALYSES NECESSARY TO
26 DETERMINE THE PAYMENTS TO BE MADE TO CARRIERS FOR THE PURPOSES
27 DESCRIBED IN SUBSECTION (1)(b)(II) OF THIS SECTION AND THE

1 REQUIREMENTS FOR STATE-SUBSIDIZED INDIVIDUAL HEALTH COVERAGE
2 PLANS OFFERED BY CARRIERS; AND

3 (V) TO PAY THE COSTS FOR CONSUMER ENROLLMENT, OUTREACH,
4 AND EDUCATION ACTIVITIES REGARDING HEALTH CARE COVERAGE,
5 INCLUDING:

6 (A) INCREASING GRANTS TO THE EXCHANGE'S CERTIFIED
7 ASSISTANCE NETWORK;

8 (B) MARKETING FOR THE EXCHANGE;

9 (C) GRANTS TO COMMUNITY-BASED ORGANIZATIONS THAT ARE
10 ABLE TO ASSIST WITH OUTREACH AND ENROLLMENT, PARTICULARLY IN
11 COMMUNITIES THAT FACE THE GREATEST BARRIERS TO ENROLLING IN
12 HEALTH CARE COVERAGE; AND

13 (D) IMPROVING THE CONNECTION BETWEEN UNEMPLOYMENT
14 SERVICES AND ENROLLMENT IN HEALTH CARE COVERAGE.

15 (c) THIS SUBSECTION (1) DOES NOT APPLY TO PLANS OR BENEFITS
16 PROVIDED UNDER MEDICAID, MEDICARE, OR THE CHILDREN'S BASIC
17 HEALTH PLAN.

18 (2) (a) THE ENTERPRISE SHALL TRANSMIT THE FEES AND SPECIAL
19 ASSESSMENTS COLLECTED PURSUANT TO THIS SECTION TO THE STATE
20 TREASURER FOR DEPOSIT IN THE HEALTH INSURANCE AFFORDABILITY CASH
21 FUND CREATED IN SECTION 10-16-1206 AND, EXCEPT AS PROVIDED IN
22 SUBSECTION (4) OF THIS SECTION, SHALL ALLOCATE THE MONEY IN THE
23 FUND IN ACCORDANCE WITH THIS SUBSECTION (2).

24 (b) THE ENTERPRISE SHALL ALLOCATE THE REVENUES COLLECTED
25 IN 2021, AND ANY OTHER MONEY DEPOSITED IN THE FUND IN 2021, AS
26 FOLLOWS:

27 (I) UP TO THREE PERCENT FOR ACTUAL ADMINISTRATIVE COSTS AS

1 SET FORTH IN SUBSECTION (1)(b)(IV) OF THIS SECTION;

2 (II) TO THE REINSURANCE PROGRAM CASH FUND, AN AMOUNT
3 NECESSARY TO FUND THE PAYMENT PARAMETERS OF THE REINSURANCE
4 PROGRAM, AS DETERMINED PURSUANT TO SECTION 10-16-1105 (2), NOT TO
5 EXCEED NINETY MILLION DOLLARS OR, IF THE REVENUES COLLECTED
6 PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION ARE LESS THAN NINETY
7 MILLION DOLLARS, THE AMOUNT COLLECTED; AND

8 (III) OF ANY REMAINING BALANCE IN THE FUND AFTER DEDUCTING
9 THE ALLOCATIONS SPECIFIED IN SUBSECTIONS (2)(b)(I) AND (2)(b)(II) OF
10 THIS SECTION:

11 (A) UP TO ONE PERCENT OF THE TOTAL AMOUNT OF REVENUES
12 COLLECTED OR DEPOSITED INTO THE FUND IN 2021, BUT NOT MORE THAN
13 ONE MILLION FIVE HUNDRED THOUSAND DOLLARS, FOR IMPLEMENTATION
14 COSTS AND CONSUMER ENROLLMENT, OUTREACH, AND EDUCATION
15 ACTIVITIES REGARDING HEALTH CARE COVERAGE AS DESCRIBED IN
16 SUBSECTION (1)(b)(V) OF THIS SECTION; AND

17 (B) THE REMAINING BALANCE TO CARRIERS TO REDUCE THE COSTS
18 OF INDIVIDUAL HEALTH PLANS FOR INDIVIDUALS WHO PURCHASE AN
19 INDIVIDUAL HEALTH BENEFIT PLAN ON THE EXCHANGE AND RECEIVE THE
20 PREMIUM TAX CREDIT.

21
22 (c) THE ENTERPRISE SHALL ALLOCATE THE REVENUES COLLECTED
23 IN 2022, AND ANY OTHER MONEY DEPOSITED IN THE FUND IN 2022, AS
24 FOLLOWS:

25 (I) UP TO THREE PERCENT FOR ACTUAL ADMINISTRATIVE COSTS AS
26 SET FORTH IN SUBSECTION (1)(b)(IV) OF THIS SECTION;

27 (II) TO THE REINSURANCE PROGRAM CASH FUND, EIGHTY-EIGHT

1 MILLION DOLLARS; AND

2 (III) OF THE REMAINING BALANCE IN THE FUND AFTER DEDUCTING
3 THE ALLOCATIONS SPECIFIED IN SUBSECTIONS (2)(c)(I) AND (2)(c)(II) OF
4 THIS SECTION:

5 (A) THIRTY PERCENT TO CARRIERS TO REDUCE THE COSTS OF
6 INDIVIDUAL HEALTH PLANS FOR INDIVIDUALS WHO PURCHASE AN
7 INDIVIDUAL HEALTH BENEFIT PLAN ON THE EXCHANGE AND RECEIVE THE
8 PREMIUM TAX CREDIT; AND

9 (B) SEVENTY PERCENT FOR SUBSIDIES FOR STATE-SUBSIDIZED
10 INDIVIDUAL HEALTH COVERAGE PLANS PURCHASED BY QUALIFIED
11 INDIVIDUALS.

12 (d) (I) THE ENTERPRISE SHALL ALLOCATE THE REVENUES
13 COLLECTED IN 2023 AND EACH YEAR THEREAFTER, AND ANY OTHER
14 MONEY DEPOSITED IN THE FUND IN 2023 AND EACH YEAR THEREAFTER, IN
15 THE FOLLOWING AMOUNTS AND ORDER OF PRIORITY:

16 (A) FIRST, UP TO THREE PERCENT FOR ACTUAL ADMINISTRATIVE
17 COSTS AS SET FORTH IN SUBSECTION (1)(b)(IV) OF THIS SECTION;

18 (B) SECOND, EIGHTEEN MILLION DOLLARS FOR SUBSIDIES FOR
19 STATE-SUBSIDIZED INDIVIDUAL HEALTH COVERAGE PLANS PURCHASED BY
20 QUALIFIED INDIVIDUALS;

21 (C) THIRD, THE AMOUNT REMAINING IN THE FUND, UP TO
22 SEVENTY-THREE PERCENT OF THE TOTAL AMOUNT OF REVENUES
23 COLLECTED OR DEPOSITED INTO THE FUND IN THE APPLICABLE YEAR, BUT
24 NOT TO EXCEED NINETY MILLION DOLLARS, TO THE REINSURANCE
25 PROGRAM CASH FUND; AND

26 (D) FOURTH, TEN PERCENT OF THE TOTAL AMOUNT OF
27 REVENUES COLLECTED OR DEPOSITED INTO THE FUND IN THE APPLICABLE

1 YEAR OR THE AMOUNT REMAINING IN THE FUND, WHICHEVER IS LESS, TO
2 CARRIERS TO REDUCE THE COSTS OF INDIVIDUAL HEALTH PLANS FOR
3 INDIVIDUALS WHO PURCHASE AN INDIVIDUAL HEALTH BENEFIT PLAN ON
4 THE EXCHANGE AND RECEIVE THE PREMIUM TAX CREDIT.

5 (II) IF, AFTER MAKING THE ALLOCATIONS SPECIFIED IN SUBSECTION
6 (2)(d)(I) OF THIS SECTION, THERE IS MONEY REMAINING IN THE FUND IN
7 THE APPLICABLE YEAR, THE ENTERPRISE SHALL ALLOCATE THE REMAINING
8 MONEY FOR SUBSIDIES FOR STATE-SUBSIDIZED INDIVIDUAL HEALTH
9 COVERAGE PLANS PURCHASED BY QUALIFIED INDIVIDUALS.

10 (3) THE ENTERPRISE SHALL DISTRIBUTE THE ALLOCATIONS
11 SPECIFIED IN SUBSECTION (2) OF THIS SECTION IN ACCORDANCE WITH THE
12 REQUIREMENTS DETERMINED BY THE BOARD PURSUANT TO SECTION
13 10-16-1207 (4).

14 (4) IF THE COMMISSIONER, PURSUANT TO SECTION 10-16-1107 (4),
15 NOTIFIES THE BOARD THAT THE REINSURANCE PROGRAM WILL RECEIVE
16 FEDERAL FUNDING PURSUANT TO A FEDERAL REINSURANCE PROGRAM OR
17 OTHER FEDERAL FINANCIAL ASSISTANCE FOR THE REINSURANCE PROGRAM
18 THAT IS IN EXCESS OF FEDERAL PASS-THROUGH FUNDING RECEIVED
19 PURSUANT TO SECTION 10-16-1107 (1)(a)(I), THE ENTERPRISE MAY
20 ELIMINATE OR REDUCE THE AMOUNT OF ENTERPRISE REVENUES
21 ALLOCATED TO THE REINSURANCE PROGRAM PURSUANT TO SUBSECTION
22 (2) OF THIS SECTION BASED ON THE AMOUNT OF FEDERAL FUNDING THE
23 REINSURANCE PROGRAM RECEIVES, AS INDICATED IN THE COMMISSIONER'S
24 NOTICE, AND SHALL REALLOCATE THE PORTION OF THE ENTERPRISE
25 REVENUES NO LONGER ALLOCATED TO THE REINSURANCE PROGRAM TO
26 THE OTHER PURPOSES SPECIFIED IN SUBSECTION (2) OF THIS SECTION IN
27 ACCORDANCE WITH THAT SUBSECTION (2).

1 (5) (a) THE SPECIAL ASSESSMENTS ON HOSPITALS UNDER
2 SUBSECTION (1)(a)(II) OF THIS SECTION MUST COMPLY WITH AND NOT
3 VIOLATE 42 CFR 433.68. IF THE FEDERAL CENTERS FOR MEDICARE AND
4 MEDICAID SERVICES IN THE UNITED STATES DEPARTMENT OF HEALTH AND
5 HUMAN SERVICES INFORMS THE STATE THAT THE STATE WILL NOT BE IN
6 COMPLIANCE WITH 42 CFR 433.68 AS A RESULT OF THE SPECIAL
7 ASSESSMENT ON HOSPITALS PURSUANT TO SUBSECTION (1)(a)(II) OF THIS
8 SECTION, THE ENTERPRISE SHALL REDUCE THE AMOUNT OF THE SPECIAL
9 ASSESSMENT AS NECESSARY TO AVOID ANY REDUCTION IN THE
10 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE COLLECTED
11 PURSUANT TO SECTION 25.5-4-402.4.

12 (b) A HOSPITAL SHALL PAY THE SPECIAL ASSESSMENT IMPOSED
13 PURSUANT TO SUBSECTION (1)(a)(II) OF THIS SECTION FROM ITS GENERAL
14 REVENUES AND IS PROHIBITED FROM:

15 (I) COLLECTING AN ASSESSMENT FROM CONSUMERS AS ANY TYPE
16 OF SURCHARGE ON ITS FEES;

17 (II) PASSING THE SPECIAL ASSESSMENT ON TO CONSUMERS AS ANY
18 TYPE OF INCREASE TO FEES OR CHARGES FOR SERVICES; OR

19 (III) OTHERWISE PASSING THE SPECIAL ASSESSMENT ON TO
20 CONSUMERS IN ANY MANNER.

21 **10-16-1206. Health insurance affordability cash fund -**
22 **creation.** (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
23 HEALTH INSURANCE AFFORDABILITY CASH FUND. THE FUND CONSISTS OF:

24 (a) THE FEES COLLECTED FROM CARRIERS PURSUANT TO SECTION
25 10-16-1205 (1)(a)(I);

26 (b) THE SPECIAL ASSESSMENTS COLLECTED FROM HOSPITALS
27 PURSUANT TO SECTION 10-16-1205 (1)(a)(II);

1 (c) AN AMOUNT OF PREMIUM TAX REVENUES DEPOSITED IN THE
2 FUND PURSUANT TO SECTION 10-3-209 (4)(a)(III), NOT TO EXCEED, IN ANY
3 YEAR, TEN PERCENT OF THE TOTAL AMOUNT THE ENTERPRISE COLLECTS
4 FROM CARRIERS AND HOSPITALS UNDER SECTION 10-16-1205 (1)(a); ==

5 (d) THE REVENUE COLLECTED FROM REVENUE BONDS ISSUED
6 PURSUANT TO SECTION 10-16-1204 (1)(b)(II); AND

7 (e) ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND
8 INVESTMENT OF MONEY IN THE FUND.

9 (2) MONEY IN THE FUND SHALL NOT BE TRANSFERRED TO ANY
10 OTHER FUND, EXCEPT AS PROVIDED IN SECTION 10-16-1205 (2), AND SHALL
11 NOT BE USED FOR ANY PURPOSE OTHER THAN THE PURPOSES SPECIFIED IN
12 THIS PART 12.

13 (3) ALL MONEY IN THE FUND IS CONTINUOUSLY AVAILABLE AND
14 APPROPRIATED TO THE ENTERPRISE TO USE IN ACCORDANCE WITH THIS
15 PART 12.

16 (4) THE FUND IS PART OF THE ENTERPRISE ESTABLISHED PURSUANT
17 TO SECTION 10-16-1204 (1).

18 **10-16-1207. Health insurance affordability board - creation -**
19 **membership - powers and duties - subject to open meetings and**
20 **public records laws - commissioner rules. (1) (a) THERE IS HEREBY**

21 CREATED THE HEALTH INSURANCE AFFORDABILITY BOARD, WHICH BOARD
22 IS RESPONSIBLE FOR GOVERNANCE OF THE ENTERPRISE ESTABLISHED IN
23 THIS PART 12. THE BOARD CONSISTS OF THE FOLLOWING ELEVEN VOTING
24 MEMBERS:

25 (I) THE EXECUTIVE DIRECTOR OF THE EXCHANGE OR THE
26 EXECUTIVE DIRECTOR'S DESIGNEE;

27 (II) THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE; AND

1 (III) NINE MEMBERS APPOINTED BY THE GOVERNOR, WITH THE
2 CONSENT OF THE SENATE, AS FOLLOWS:

3 (A) ONE MEMBER WHO IS EMPLOYED BY A CARRIER;

4 (B) ONE MEMBER WHO IS A REPRESENTATIVE OF A STATEWIDE
5 ASSOCIATION OF HEALTH BENEFIT PLANS;

6 (C) ONE MEMBER REPRESENTING PRIMARY CARE HEALTH CARE
7 PROVIDERS WHO DOES NOT REPRESENT A CARRIER;

8 (D) THREE MEMBERS WHO ARE CONSUMERS OF HEALTH CARE WHO
9 ARE NOT REPRESENTATIVES OR EMPLOYEES OF A HOSPITAL, CARRIER, OR
10 OTHER HEALTH CARE INDUSTRY ENTITY. TO THE EXTENT POSSIBLE, THE
11 GOVERNOR SHALL ENSURE THAT THE CONSUMER MEMBERS OF THE BOARD
12 ARE INDIVIDUALS WHO LACK AFFORDABLE OFFERS OF COVERAGE FROM
13 THEIR EMPLOYERS AND OTHERWISE STRUGGLE TO AFFORD TO PURCHASE
14 HEALTH INSURANCE.

15 (E) ONE MEMBER WHO REPRESENTS A HEALTH CARE ADVOCACY
16 ORGANIZATION; ■

17 (F) ONE MEMBER WHO IS A REPRESENTATIVE OF A BUSINESS THAT
18 PURCHASES OR OTHERWISE PROVIDES HEALTH INSURANCE FOR ITS
19 EMPLOYEES; AND

20 (G) ONE MEMBER WHO REPRESENTS A RURAL, CRITICAL ACCESS,
21 OR INDEPENDENT HOSPITAL.

22 ■

23 (b) TO THE EXTENT POSSIBLE, THE GOVERNOR SHALL ATTEMPT TO
24 APPOINT BOARD MEMBERS WHO REFLECT THE DIVERSITY OF THE STATE
25 WITH REGARD TO RACE, ETHNICITY, IMMIGRATION STATUS, INCOME,
26 WEALTH, ABILITY, AND GEOGRAPHY. ■ IN CONSIDERING GEOGRAPHIC
27 DIVERSITY, THE GOVERNOR SHALL ENSURE AT LEAST ONE MEMBER

1 RESIDES ON THE EASTERN PLAINS AND ONE MEMBER RESIDES ON THE
2 WESTERN SLOPE AND, TO THE EXTENT POSSIBLE, SHALL ATTEMPT TO
3 APPOINT MEMBERS FROM EACH CONGRESSIONAL DISTRICT IN THE STATE.

4 (c) THE GOVERNOR SHALL MAKE INITIAL APPOINTMENTS TO THE
5 BOARD BY OCTOBER 1, 2020.

6 (2) (a) (I) EXCEPT AS PROVIDED IN SUBSECTION (2)(a)(II) OF THIS
7 SECTION, THE TERM OF OFFICE OF THE MEMBERS OF THE BOARD APPOINTED
8 BY THE GOVERNOR IS FOUR YEARS, AND THOSE MEMBERS MAY SERVE NO
9 MORE THAN TWO FOUR-YEAR TERMS.

10 (II) IN ORDER TO ENSURE STAGGERED TERMS OF OFFICE, THE
11 INITIAL TERM OF OFFICE OF THE MEMBERS OF THE BOARD IS:

12 (A) TWO YEARS FOR THE MEMBERS APPOINTED PURSUANT TO
13 SUBSECTIONS (1)(a)(III)(A), (1)(a)(III)(C), AND (1)(a)(III)(F) OF THIS
14 SECTION AND FOR TWO OF THE MEMBERS APPOINTED PURSUANT TO
15 SUBSECTION (1)(a)(III)(D) OF THIS SECTION; AND

16 (B) FOUR YEARS FOR THE MEMBERS APPOINTED PURSUANT TO
17 SUBSECTIONS (1)(a)(III)(B), (1)(a)(III)(E), AND (1)(a)(III)(G) OF THIS
18 SECTION AND FOR ONE OF THE MEMBERS APPOINTED PURSUANT TO
19 SUBSECTION (1)(a)(III)(D) OF THIS SECTION.

20 (b) MEMBERS OF THE BOARD APPOINTED BY THE GOVERNOR SERVE
21 AT THE PLEASURE OF THE GOVERNOR AND MAY BE REMOVED BY THE
22 GOVERNOR.

23 (c) A MEMBER WHO IS APPOINTED TO FILL A VACANCY SHALL
24 SERVE THE REMAINDER OF THE UNEXPIRED TERM OF THE MEMBER WHOSE
25 VACANCY IS BEING FILLED.

26 (d) MEMBERS OF THE BOARD MAY BE REIMBURSED FOR ACTUAL
27 AND NECESSARY EXPENSES, INCLUDING ANY REQUIRED DEPENDENT CARE

1 AND DEPENDENT OR ATTENDANT TRAVEL, FOOD, AND LODGING, WHILE
2 ENGAGED IN THE PERFORMANCE OF OFFICIAL DUTIES OF THE BOARD.

3 (3) THE BOARD SHALL MEET AS OFTEN AS NECESSARY TO CARRY
4 OUT ITS DUTIES PURSUANT TO THIS PART 12.

5 (4) THE BOARD IS AUTHORIZED TO:

6 (a) IMPLEMENT AND ADMINISTER THE ENTERPRISE;

7 (b) ESTABLISH ADMINISTRATIVE AND ACCOUNTING PROCEDURES
8 FOR THE OPERATION OF THE ENTERPRISE;

9 (c) RECOMMEND, FOR APPROVAL AND ESTABLISHMENT BY THE
10 COMMISSIONER BY RULE:

11 (I) THE TIMING AND METHODOLOGY FOR ASSESSING AND
12 COLLECTING THE FEE AND SPECIAL ASSESSMENT, SUBJECT TO SECTION
13 10-16-1205 (1)(a);

14 (II) THE DISTRIBUTION OF ENTERPRISE REVENUES ALLOCATED FOR
15 CARRIER PAYMENTS AND SUBSIDIES IN A MANNER THAT IMPROVES
16 AFFORDABILITY FOR SUBSIDIZED POPULATIONS AND INDIVIDUALS NOT
17 ELIGIBLE FOR THE PREMIUM TAX CREDIT, MEDICAID, MEDICARE, OR THE
18 CHILDREN'S BASIC HEALTH PLAN;

19 (III) THE PAYMENTS AUTHORIZED BY THIS PART 12 TO BE MADE TO
20 CARRIERS TO REDUCE THE COSTS OF INDIVIDUAL HEALTH PLANS FOR
21 INDIVIDUALS WHO PURCHASE AN INDIVIDUAL HEALTH BENEFIT PLAN ON
22 THE EXCHANGE AND RECEIVE THE PREMIUM TAX CREDIT; AND

23 (IV) THE PARAMETERS FOR IMPLEMENTING THE SUBSIDIES FOR
24 STATE-SUBSIDIZED INDIVIDUAL HEALTH COVERAGE PLANS AUTHORIZED BY
25 THIS PART 12, INCLUDING:

26 (A) THE COVERAGE REQUIRED UNDER STATE-SUBSIDIZED
27 INDIVIDUAL HEALTH COVERAGE PLANS, WHICH COVERAGE MUST MAXIMIZE

1 AFFORDABILITY FOR QUALIFIED INDIVIDUALS AND MUST INCLUDE
2 COVERAGE FOR THE LOWEST INCOME GROUP, AS DETERMINED BY THE
3 BOARD, THAT HAS NO PREMIUM AND PROVIDES BENEFITS ACTUARIALLY
4 EQUIVALENT TO NINETY PERCENT OF THE FULL ACTUARIAL VALUE OF THE
5 BENEFITS PROVIDED UNDER THE PLAN; AND

6 (B) THE CRITERIA AND PROCEDURES FOR DETERMINING WHETHER
7 AN INDIVIDUAL IS A QUALIFIED INDIVIDUAL ELIGIBLE TO ENROLL IN A
8 STATE-SUBSIDIZED INDIVIDUAL HEALTH COVERAGE PLAN; AND

9 (d) ESTABLISH BYLAWS, AS APPROPRIATE AND CONSISTENT WITH
10 THIS PART 12, FOR ITS EFFECTIVE OPERATION.

11 (5) THE COMMISSIONER SHALL ADOPT RULES NECESSARY FOR THE
12 ADMINISTRATION AND IMPLEMENTATION OF THIS PART 12. IN ADOPTING
13 THE RULES, THE COMMISSIONER SHALL CONSIDER THE RECOMMENDATIONS
14 OF THE BOARD AND SHALL EXPRESS IN WRITING THE REASONS FOR ANY
15 DEVIATION FROM THE BOARD RECOMMENDATIONS.

16 (6) MEETINGS OF THE BOARD ARE SUBJECT TO THE OPEN MEETINGS
17 PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972", CONTAINED IN
18 PART 4 OF ARTICLE 6 OF TITLE 24. EXCEPT AS OTHERWISE PROVIDED IN THE
19 "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, OR
20 OTHER APPLICABLE STATE OR FEDERAL LAW, RECORDS OF THE BOARD AND
21 THE PROGRAM ARE SUBJECT TO THE "COLORADO OPEN RECORDS ACT".

22 **10-16-1208. Limitation on authority - public option.** NOTHING
23 IN THIS PART 12 AUTHORIZES THE ENTERPRISE, THE BOARD, OR THE
24 COMMISSIONER TO ESTABLISH, ADMINISTER, OPERATE, OR REQUIRE
25 PARTICIPATION BY CARRIERS OR HOSPITALS IN A STATE OR PUBLIC OPTION
26 HEALTH COVERAGE PLAN.

27 **SECTION 2.** In Colorado Revised Statutes, 10-16-107, **add** (8)

1 as follows:

2 **10-16-107. Rate filing regulation - benefits ratio - rules.**

3 (8) (a) THE COMMISSIONER MAY ADOPT RULES DESIGNED TO:

4 (I) MAXIMIZE THE PURCHASING POWER OF EXCHANGE CONSUMERS
5 WHOSE HOUSEHOLD INCOME IS UP TO FOUR HUNDRED PERCENT OF THE
6 FEDERAL POVERTY LINE; AND

7 (II) ASSURE PREMIUM PRICING THAT COMPLIES WITH THE
8 REQUIREMENTS IN THE FEDERAL ACT FOR MODIFIED COMMUNITY RATING.

9 (b) IN ADOPTING THESE RULES, THE COMMISSIONER MAY CONSIDER
10 THE RESULTS OF THE EVALUATION AND STUDY OF THE REINSURANCE
11 PROGRAM CONDUCTED PURSUANT TO SECTION 10-16-1104 (2).

12 **SECTION 3.** In Colorado Revised Statutes, 10-16-1104, **amend**
13 (1)(g); and **repeal** (1)(f) as follows:

14 **10-16-1104. Commissioner powers and duties - rules - study**
15 **and report.** (1) The commissioner has all powers necessary to
16 implement this part 11 and is specifically authorized to:

17 (f) ~~Assess special fees against hospitals and, if applicable, carriers~~
18 ~~for the continuous operation of the reinsurance program, as provided in~~
19 ~~section 10-16-1108;~~

20 (g) IN ACCORDANCE WITH SECTION 10-16-1109, apply for a state
21 innovation waiver OR AN EXTENSION OF A STATE INNOVATION WAIVER;
22 APPLY FOR federal funds; or APPLY FOR both ~~in accordance with section~~
23 ~~10-16-1109~~, A WAIVER OR EXTENSION OF A WAIVER AND FEDERAL FUNDS
24 for the implementation and operation of the reinsurance program;

25 **SECTION 4.** In Colorado Revised Statutes, 10-16-1105, **amend**
26 (1)(a), (1)(b), (1)(c), (1)(e)(I), and (2)(b) introductory portion; and **add**
27 (2)(a.5) as follows:

1 **10-16-1105. Reinsurance program - creation - enterprise**
2 **status - subject to waiver or funding approval - operation - payment**
3 **parameters - calculation of reinsurance payments - eligible carrier**
4 **requests - definition.** (1) (a) There is hereby created in the division the
5 Colorado reinsurance program to provide reinsurance payments to
6 eligible carriers. Implementation and operation of the reinsurance
7 program is contingent upon approval of the A state innovation waiver, AN
8 EXTENSION OF A STATE INNOVATION WAIVER, or A federal funding request
9 submitted by the commissioner in accordance with section 10-16-1109.

10 (b) (I) ~~The reinsurance program constitutes an enterprise for~~
11 ~~purposes of section 20 of article X of the state constitution as long as the~~
12 ~~commissioner, on behalf of the program, retains authority to issue~~
13 ~~revenue bonds and the program receives less than ten percent of its total~~
14 ~~revenues in grants, as defined in section 24-77-102 (7), from all Colorado~~
15 ~~state and local governments combined. So long as it constitutes an~~
16 ~~enterprise pursuant to this section, the program is not a district for~~
17 ~~purposes of section 20 of article X of the state constitution~~ IS PART OF THE
18 COLORADO HEALTH INSURANCE AFFORDABILITY ENTERPRISE ESTABLISHED
19 PURSUANT TO PART 12 OF THIS ARTICLE 16.

20 (II) ~~Subject to approval by the general assembly, either by bill or~~
21 ~~joint resolution, and after approval by the governor pursuant to section 39~~
22 ~~of article V of the state constitution, the commissioner, on behalf of the~~
23 ~~reinsurance program, is hereby authorized to issue revenue bonds for the~~
24 ~~expenses of the program, secured by revenues of the program.~~

25 (c) If the A state innovation waiver, AN EXTENSION OF A STATE
26 INNOVATION WAIVER, or A federal funding request submitted by the
27 commissioner pursuant to section 10-16-1109 is approved, the

1 commissioner shall implement and operate the reinsurance program in
2 accordance with this section.

3 (e) (I) On a quarterly basis during the applicable benefit year,
4 ~~(A)~~ each eligible carrier shall report to the commissioner its
5 claims costs that exceed the attachment point for that benefit year.

6 ~~(B)~~ Each hospital that is subject to the special fees assessed
7 pursuant to section 10-16-1108 shall report to the commissioner the
8 amount the hospital is responsible for funding in the benefit year; and

9 ~~(C)~~ If special fees are assessed against carriers pursuant to section
10 10-16-1108 (1)(b), each carrier that is subject to the special fees shall
11 report to the commissioner on its collected assessments in that benefit
12 year.

13 (2) (a.5) TO THE GREATEST EXTENT POSSIBLE, THE COMMISSIONER
14 SHALL SET THE PAYMENT PARAMETERS FOR THE 2021 BENEFIT YEAR AT
15 AMOUNTS TO MAINTAIN THE TARGETED CLAIMS REDUCTIONS ACHIEVED IN
16 THE 2020 BENEFIT YEAR.

17 (b) For the ~~2021~~ 2022 benefit year AND EACH BENEFIT YEAR
18 THEREAFTER, after a stakeholder process, the commissioner shall establish
19 and publish the payment parameters for that benefit year by March 15
20 ~~2020~~ OF THE IMMEDIATELY PRECEDING CALENDAR YEAR. In setting the
21 payment parameters under this subsection (2)(b), the commissioner shall
22 consider the following factors as they apply in each geographic rating
23 area in the state:

24 **SECTION 5.** In Colorado Revised Statutes, 10-16-1106, **amend**
25 (4) as follows:

26 **10-16-1106. Accounting - reports - audits.** (4) On or before
27 November 1, 2020, and on or before November 1 ~~2021~~ OF EACH YEAR

1 THEREAFTER, the division shall include an update regarding the program
2 in its report to the members of the applicable committees of reference in
3 the senate and house of representatives as required by the "State
4 Measurement for Accountable, Responsive, and Transparent (SMART)
5 Government Act", part 2 of article 7 of title 2.

6 **SECTION 6.** In Colorado Revised Statutes, 10-16-1107, **amend**
7 (1); and **add** (4) as follows:

8 **10-16-1107. Funding for reinsurance program - sources -**
9 **permitted uses - reinsurance program cash fund - calculation of total**
10 **funding for program.** (1) (a) There is hereby created in the state
11 treasury the reinsurance program cash fund REFERRED TO IN THIS SECTION
12 AS THE "FUND", which consists of:

13 (I) Federal pass-through funding granted pursuant to 42 U.S.C.
14 sec. 18052 (a)(3) or any other federal funds that are made available for
15 the reinsurance program;

16 ~~(H) Special fees assessed against hospitals and, if applicable,~~
17 ~~carriers as provided in section 10-16-1108;~~

18 ~~(HH) The following amounts transferred from the general fund to~~
19 ~~the reinsurance program cash fund, but only if House Bill 19-1245 is~~
20 ~~enacted at the first regular session of the seventy-second general assembly~~
21 ~~and becomes law:~~

22 ~~(A) Fifteen million dollars, transferred to the fund on June 30,~~
23 ~~2020; and~~

24 ~~(B) Forty million dollars, transferred to the fund on June 30, 2021;~~

25 ~~(IV) An amount of premium tax revenues deposited in the fund~~
26 ~~pursuant to section 10-3-209 (4)(a)(HH); and~~

27 ~~(V)~~ (II) Any money the general assembly appropriates to the fund

1 for the program; AND

2 (III) ANY AMOUNTS ALLOCATED TO THE FUND PURSUANT TO
3 SECTION 10-16-1205 (2).

4 (b) All money deposited or paid into or TRANSFERRED,
5 ALLOCATED, OR appropriated to the reinsurance program cash fund,
6 including interest or income earned on the investment of money in the
7 fund, is continuously available and appropriated to the division to be
8 expended in accordance with this part 11. Any interest or income earned
9 on the investment of money in the fund shall be credited to the fund.

10 (c) The reinsurance program cash fund is part of the ~~reinsurance~~
11 ~~program enterprise established pursuant to section 10-16-1105 (1)(b)~~
12 COLORADO HEALTH INSURANCE AFFORDABILITY ENTERPRISE ESTABLISHED
13 PURSUANT TO PART 12 OF THIS ARTICLE 16.

14 (4) (a) IF, AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (4), THE
15 UNITED STATES CONGRESS ENACTS AND THE PRESIDENT SIGNS FEDERAL
16 LEGISLATION ESTABLISHING OR THE SECRETARY OF THE UNITED STATES
17 DEPARTMENT OF HEALTH AND HUMAN SERVICES IMPLEMENTS A FEDERAL
18 REINSURANCE PROGRAM THAT PROVIDES FEDERAL FUNDING FOR THE
19 REINSURANCE PROGRAM OR OTHERWISE MAKES ADDITIONAL FEDERAL
20 FUNDS AVAILABLE FOR THE REINSURANCE PROGRAM IN EXCESS OF THE
21 AMOUNT RECEIVED AS FEDERAL PASS-THROUGH FUNDING PURSUANT TO
22 SUBSECTION (1)(a)(I) OF THIS SECTION, THE COMMISSIONER SHALL NOTIFY
23 THE HEALTH INSURANCE AFFORDABILITY BOARD CREATED IN SECTION
24 10-16-1207 OF THE AMOUNT OF FEDERAL FUNDING IN EXCESS OF THE
25 FEDERAL PASS-THROUGH FUNDING THAT WILL BE AVAILABLE FOR THE
26 REINSURANCE PROGRAM AND THE DATE THE FUNDING IS EXPECTED TO BE
27 RECEIVED.

1 (b) IF THE REINSURANCE PROGRAM RECEIVES FEDERAL FUNDING
2 AS DESCRIBED IN THIS SUBSECTION (4) TO MAKE REINSURANCE PAYMENTS
3 TO CARRIERS IN A GIVEN YEAR AFTER THE HEALTH INSURANCE
4 AFFORDABILITY ENTERPRISE HAS ALLOCATED MONEY TO THE
5 REINSURANCE PROGRAM PURSUANT TO SECTION 10-16-1205 (2) FOR THAT
6 YEAR, THE COMMISSIONER SHALL RETURN TO THE ENTERPRISE THE
7 ALLOCATION OR A PORTION OF THE ALLOCATION, AS DETERMINED BY THE
8 ENTERPRISE, BASED ON THE AMOUNT OF FEDERAL FUNDING RECEIVED FOR
9 THAT YEAR.

10 **SECTION 7.** In Colorado Revised Statutes, **repeal** 10-16-1108.

11 **SECTION 8.** In Colorado Revised Statutes, 10-16-1109, **amend**
12 (1)(a) as follows:

13 **10-16-1109. State innovation waiver - federal funding -**
14 **Colorado reinsurance program.** (1) (a) For purposes of implementing
15 and operating the reinsurance program as set forth in this part 11 for plan
16 years starting on or after January 1, ~~2020~~ 2021, the commissioner may
17 apply to the secretary of the United States department of health and
18 human services for:

19 (I) ~~A two-year state innovation waiver~~ In accordance with section
20 1332 of the federal act, codified at 42 U.S.C. sec. 18052, and 45 CFR
21 155.1300:

22 (A) ONE OR MORE EXTENSIONS OF THE INITIAL TWO-YEAR STATE
23 INNOVATION WAIVER RECEIVED BEFORE THE EFFECTIVE DATE OF THIS
24 SUBSECTION (1)(a)(I), AS AMENDED, OF UP TO FIVE YEARS PER EXTENSION;
25 OR

26 (B) A NEW STATE INNOVATION WAIVER OF UP TO FIVE YEARS TO
27 FOLLOW THE INITIAL TWO-YEAR STATE INNOVATION WAIVER APPROVED

1 BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (1)(a)(I), AS AMENDED,
2 AND SUBSEQUENT EXTENSIONS OF ANY NEW STATE INNOVATION WAIVER
3 APPROVED BY THE SECRETARY;

4 (II) Federal funds for the reinsurance program; or

5 (III) A NEW OR EXTENDED state innovation waiver and federal
6 funds.

7 **SECTION 9.** In Colorado Revised Statutes, 10-16-1110, **repeal**
8 (2) as follows:

9 **10-16-1110. Repeal of part - notice to revisor of statutes.**

10 (2) ~~This part 11 is repealed, effective September 1, 2023.~~

11 **SECTION 10.** In Colorado Revised Statutes, 10-3-209, **amend**
12 (4)(a)(III) as follows:

13 **10-3-209. Tax on premiums collected - exemptions - penalties.**

14 (4) (a) The division of insurance shall transmit all taxes, penalties, and
15 fines it collects under this section to the state treasurer for deposit in the
16 general fund; except that the state treasurer shall deposit amounts in the
17 specified cash funds as follows:

18 (III) (A) For the 2020-21 STATE FISCAL YEAR and ~~2021-22~~ EACH
19 state fiscal ~~years~~ YEAR THEREAFTER, in the ~~reinsurance program~~ HEALTH
20 INSURANCE AFFORDABILITY cash fund created in ~~section 10-16-1107~~
21 SECTION 10-16-1206, an amount equal to the amount of premium taxes
22 collected pursuant to this section in the 2020 calendar year OR ANY
23 SUBSEQUENT CALENDAR YEAR that exceeds the amount of premium taxes
24 collected pursuant to this section in the 2019 calendar year, SUBJECT TO
25 SUBSECTION (4)(a)(III)(B) OF THIS SECTION.

26 (B) ~~This subsection (4)(a)(III) is repealed, effective September 1,~~
27 2023 THE AMOUNT OF PREMIUM TAXES DEPOSITED IN THE HEALTH

1 INSURANCE AFFORDABILITY CASH FUND PURSUANT TO THIS SUBSECTION
2 (4)(a)(III) IN ANY GIVEN YEAR SHALL NOT EXCEED TEN PERCENT OF THE
3 AMOUNT OF REVENUES COLLECTED BY THE HEALTH INSURANCE
4 AFFORDABILITY ENTERPRISE PURSUANT TO SECTION 10-16-1205 IN THAT
5 YEAR. THE HEALTH INSURANCE AFFORDABILITY BOARD ESTABLISHED IN
6 SECTION 10-16-1207 SHALL NOTIFY THE TREASURER OF THE MAXIMUM
7 AMOUNT OF PREMIUM TAXES THAT MAY BE DEPOSITED IN THE HEALTH
8 INSURANCE AFFORDABILITY CASH FUND TO COMPLY WITH THIS
9 SUBSECTION (4)(a)(III)(B).

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