

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-1144.02 Christy Chase x2008

SENATE BILL 20-215

SENATE SPONSORSHIP

Moreno and Donovan,

HOUSE SPONSORSHIP

Kennedy and McCluskie,

Senate Committees
Finance

House Committees

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.

<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 AND BETWEEN THE INDIVIDUAL MARKET
22 AND THE GROUP MARKET; AND

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

26 (e) THIS PART 12 IS ENACTED TO PROVIDE THE FOLLOWING
27 SERVICES AND BENEFITS TO HOSPITALS:

1 (I) INCREASING HOSPITAL REVENUES BY REDUCING THE AMOUNT
2 OF UNCOMPENSATED CARE PROVIDED BY HOSPITALS; AND

3 (II) REDUCING THE NEED OF PROVIDERS TO SHIFT COSTS OF
4 PROVIDING UNCOMPENSATED CARE TO OTHER PAYERS.

5 **10-16-1203. Definitions.** AS USED IN THIS PART 12, UNLESS THE
6 CONTEXT OTHERWISE REQUIRES:

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

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

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

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

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

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

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

22 (8) "MEDICAID" MEANS FEDERAL INSURANCE OR ASSISTANCE AS
23 PROVIDED BY TITLE XIX OF THE FEDERAL "SOCIAL SECURITY ACT", AS
24 AMENDED, AND THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES
25 4, 5, AND 6 OF TITLE 25.5.

26 (9) "MEDICARE" MEANS FEDERAL INSURANCE OR ASSISTANCE
27 PROVIDED BY THE "HEALTH INSURANCE FOR THE AGED ACT", TITLE XVIII

1 OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, 42 U.S.C. SEC.
2 1395 ET SEQ.

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

6 (11) "PUBLIC BENEFIT CORPORATION" MEANS A PUBLIC BENEFIT
7 CORPORATION FORMED PURSUANT TO PART 5 OF ARTICLE 101 OF TITLE 7
8 THAT IS ORGANIZED AND OPERATED BY THE EXCHANGE PURSUANT TO
9 SECTION 10-22-106 (3) FOR THE PURPOSE OF ADMINISTERING AND
10 OPERATING A SUBSIDY TO REDUCE THE COSTS OF HEALTH CARE COVERAGE
11 OFFERED UNDER A STATE-SUBSIDIZED INDIVIDUAL HEALTH COVERAGE
12 PLAN.

13 (12) "QUALIFIED INDIVIDUAL" MEANS AN INDIVIDUAL,
14 REGARDLESS OF IMMIGRATION STATUS, WHO:

15 (a) HAS A HOUSEHOLD INCOME OF NOT MORE THAN THREE
16 HUNDRED PERCENT OF THE FEDERAL POVERTY LINE; AND

17 (b) IS NOT ELIGIBLE FOR THE PREMIUM TAX CREDIT, MEDICAID,
18 MEDICARE, OR THE CHILDREN'S BASIC HEALTH PLAN.

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

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

23 (15) "STATE-SUBSIDIZED INDIVIDUAL HEALTH COVERAGE PLAN"
24 MEANS A SUBSIDIZED INDIVIDUAL HEALTH COVERAGE PLAN OFFERED BY
25 CARRIERS TO QUALIFIED INDIVIDUALS THROUGH THE PUBLIC BENEFIT
26 CORPORATION.

27 **10-16-1204. Health insurance affordability enterprise -**

1 **creation - powers and duties - assess and allocate health insurance**
2 **affordability fee and special assessment.** (1) (a) THERE IS HEREBY
3 CREATED IN THE DIVISION THE COLORADO HEALTH INSURANCE
4 AFFORDABILITY ENTERPRISE. THE ENTERPRISE IS AND OPERATES AS A
5 GOVERNMENT-OWNED BUSINESS WITHIN THE DIVISION FOR THE PURPOSE
6 OF ASSESSING AND COLLECTING THE HEALTH INSURANCE AFFORDABILITY
7 FEE FROM CARRIERS THAT OFFER HEALTH BENEFIT PLANS IN THE STATE
8 AND A SPECIAL ASSESSMENT ON HOSPITALS IN THE STATE AND USING AND
9 ALLOCATING THE FEE AND ASSESSMENT FOR THE PURPOSES SPECIFIED IN
10 THIS PART 12 IN ORDER TO:

11 (I) PROVIDE THE FOLLOWING BUSINESS SERVICES TO CARRIERS
12 THAT PAY THE FEE:

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

15 (B) INCREASING THE NUMBER OF INDIVIDUALS WHO PURCHASE
16 HEALTH BENEFIT PLANS IN THE INDIVIDUAL MARKET BY PROVIDING
17 FINANCIAL SUPPORT TO INDIVIDUALS TO PURCHASE PRIVATE HEALTH
18 INSURANCE COVERAGE;

19 (C) FUNDING THE REINSURANCE PROGRAM THAT OFFSETS THE
20 COSTS CARRIERS WOULD OTHERWISE PAY FOR COVERING CONSUMERS WITH
21 HIGH MEDICAL COSTS;

22 (D) IMPROVING THE STABILITY OF THE MARKET THROUGHOUT THE
23 STATE BY PROVIDING CONSISTENT PRIVATE HEALTH CARE COVERAGE AND
24 REDUCING THE MOVEMENT OF INDIVIDUALS BETWEEN GROUP AND
25 INDIVIDUAL COVERAGE AND FROM INSURED TO UNINSURED STATUS; AND

26 (E) REDUCING PROVIDER COST SHIFTING FROM THE INDIVIDUAL
27 MARKET AND THE UNINSURED TO THE GROUP MARKET; AND

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

2 (A) INCREASING HOSPITAL REVENUES BY REDUCING THE AMOUNT
3 OF UNCOMPENSATED CARE PROVIDED BY HOSPITALS; AND

4 (B) REDUCING THE NEED OF PROVIDERS TO SHIFT COSTS OF
5 PROVIDING UNCOMPENSATED CARE TO OTHER PAYERS.

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

15 (II) SUBJECT TO APPROVAL BY THE GENERAL ASSEMBLY, EITHER
16 BY BILL OR JOINT RESOLUTION, AND AFTER APPROVAL BY THE GOVERNOR
17 PURSUANT TO SECTION 39 OF ARTICLE V OF THE STATE CONSTITUTION, THE
18 ENTERPRISE IS HEREBY AUTHORIZED TO ISSUE REVENUE BONDS FOR THE
19 EXPENSES OF THE ENTERPRISE, SECURED BY REVENUES OF THE
20 ENTERPRISE.

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

22 (a) TO ASSESS AND COLLECT THE FEE SPECIFIED IN SECTION
23 10-16-1205 (1)(a)(I);

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

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

1 (d) TO ISSUE REVENUE BONDS PAYABLE FROM THE REVENUES OF
2 THE ENTERPRISE;

3 (e) TO ENGAGE THE SERVICES OF THIRD PARTIES SERVING AS
4 CONTRACTORS, CONSULTANTS, AND LEGAL COUNSEL FOR PROFESSIONAL
5 AND TECHNICAL ASSISTANCE AND ADVICE AND TO SUPPLY OTHER
6 SERVICES RELATED TO THE CONDUCT OF THE AFFAIRS OF THE ENTERPRISE;

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

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

12 **10-16-1205. Health insurance affordability fee - special**
13 **assessment on hospitals - allocation of revenues.** (1) (a) (I) STARTING
14 IN THE 2021 CALENDAR YEAR, THE ENTERPRISE SHALL ASSESS AND
15 COLLECT FROM CARRIERS, BY JULY 15 EACH YEAR, A HEALTH INSURANCE
16 AFFORDABILITY FEE. THE FEE AMOUNT IS BASED ON THE FOLLOWING
17 PERCENTAGES OF PREMIUMS COLLECTED BY THE FOLLOWING CARRIERS IN
18 THE IMMEDIATELY PRECEDING CALENDAR YEAR ON HEALTH BENEFIT
19 PLANS ISSUED IN THE STATE:

20 (A) ONE PERCENT OF PREMIUMS COLLECTED BY NONPROFIT
21 CARRIERS; AND

22 (B) TWO AND ONE-HALF PERCENT OF PREMIUMS COLLECTED BY
23 FOR-PROFIT CARRIERS.

24 (II) FOR THE 2022 AND 2023 CALENDAR YEARS, THE ENTERPRISE
25 SHALL ASSESS AND COLLECT FROM HOSPITALS A SPECIAL ASSESSMENT OF
26 TWENTY MILLION DOLLARS PER YEAR, SUBJECT TO SUBSECTION (5) OF THIS
27 SECTION. THE ENTERPRISE SHALL NOT COLLECT THE SPECIAL ASSESSMENT

1 FOR THE 2022 CALENDAR YEAR BEFORE OCTOBER 1, 2022.

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

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

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

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

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

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

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

22 AND

23 (C) THE COSTS FOR CONDUCTING ANALYSES NECESSARY TO
24 DETERMINE THE PAYMENTS TO BE MADE TO CARRIERS FOR THE PURPOSES
25 DESCRIBED IN SUBSECTION (1)(b)(II) OF THIS SECTION AND THE
26 REQUIREMENTS FOR STATE-SUBSIDIZED INDIVIDUAL HEALTH COVERAGE
27 PLANS OFFERED BY CARRIERS; AND

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

4 (A) INCREASING GRANTS TO THE EXCHANGE'S CERTIFIED
5 ASSISTANCE NETWORK;

6 (B) MARKETING FOR THE EXCHANGE;

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

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

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

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

22 (b) THE ENTERPRISE SHALL ALLOCATE THE REVENUES COLLECTED
23 IN 2021, AND ANY OTHER MONEY DEPOSITED IN THE FUND IN 2021, 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, AN AMOUNT

1 NECESSARY TO MEET THE STATE SHARE OF THE REINSURANCE PROGRAM,
2 AS DETERMINED PURSUANT TO SECTION 10-16-1105 (2), NOT TO EXCEED
3 NINETY MILLION DOLLARS OR, IF THE REVENUES COLLECTED PURSUANT TO
4 SUBSECTION (1)(a) OF THIS SECTION ARE LESS THAN NINETY MILLION
5 DOLLARS, THE AMOUNT COLLECTED; AND

6 (III) OF ANY REMAINING BALANCE IN THE FUND AFTER DEDUCTING
7 THE ALLOCATIONS SPECIFIED IN SUBSECTION (2)(b)(I) OF THIS SECTION:

8 (A) UP TO TEN PERCENT OF THE TOTAL AMOUNT OF REVENUES
9 COLLECTED OR DEPOSITED INTO THE FUND IN 2021 TO CARRIERS TO
10 REDUCE THE COSTS OF INDIVIDUAL HEALTH PLANS FOR INDIVIDUALS WHO
11 PURCHASE AN INDIVIDUAL HEALTH BENEFIT PLAN ON THE EXCHANGE AND
12 RECEIVE THE PREMIUM TAX CREDIT; AND

13 (B) THE REMAINING BALANCE FOR IMPLEMENTATION COSTS AND
14 CONSUMER ENROLLMENT, OUTREACH, AND EDUCATION ACTIVITIES
15 REGARDING HEALTH CARE COVERAGE AS DESCRIBED IN SUBSECTION
16 (1)(b)(V) OF THIS SECTION.

17 (c) THE ENTERPRISE SHALL ALLOCATE THE REVENUES COLLECTED
18 IN 2022, AND ANY OTHER MONEY DEPOSITED IN THE FUND IN 2022, AS
19 FOLLOWS:

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

22 (II) TO THE REINSURANCE PROGRAM CASH FUND, NINETY MILLION
23 DOLLARS; AND

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

27 (A) THIRTY PERCENT TO CARRIERS TO REDUCE THE COSTS OF

1 INDIVIDUAL HEALTH PLANS FOR INDIVIDUALS WHO PURCHASE AN
2 INDIVIDUAL HEALTH BENEFIT PLAN ON THE EXCHANGE AND RECEIVE THE
3 PREMIUM TAX CREDIT; AND

4 (B) SEVENTY PERCENT FOR SUBSIDIES FOR STATE-SUBSIDIZED
5 INDIVIDUAL HEALTH COVERAGE PLANS PURCHASED BY QUALIFIED
6 INDIVIDUALS.

7 (d) (I) THE ENTERPRISE SHALL ALLOCATE THE REVENUES
8 COLLECTED IN 2023 AND EACH YEAR THEREAFTER, AND ANY OTHER
9 MONEY DEPOSITED IN THE FUND IN 2023 AND EACH YEAR THEREAFTER, IN
10 THE FOLLOWING AMOUNTS AND ORDER OF PRIORITY:

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

13 (B) SECOND, FIFTEEN MILLION DOLLARS FOR SUBSIDIES FOR
14 STATE-SUBSIDIZED INDIVIDUAL HEALTH COVERAGE PLANS PURCHASED BY
15 QUALIFIED INDIVIDUALS;

16 (C) THIRD, THE AMOUNT REMAINING IN THE FUND, UP TO
17 SEVENTY-FIVE PERCENT OF THE TOTAL AMOUNT OF REVENUES COLLECTED
18 OR DEPOSITED INTO THE FUND IN THE APPLICABLE YEAR, BUT NOT TO
19 EXCEED NINETY MILLION DOLLARS, TO THE REINSURANCE PROGRAM CASH
20 FUND; AND

21 (D) FOURTH, UP TO TEN PERCENT OF THE TOTAL AMOUNT OF
22 REVENUES COLLECTED OR DEPOSITED INTO THE FUND IN THE APPLICABLE
23 YEAR TO CARRIERS TO REDUCE THE COSTS OF INDIVIDUAL HEALTH PLANS
24 FOR INDIVIDUALS WHO PURCHASE AN INDIVIDUAL HEALTH BENEFIT PLAN
25 ON THE EXCHANGE AND RECEIVE THE PREMIUM TAX CREDIT.

26 (II) IF, AFTER MAKING THE ALLOCATIONS SPECIFIED IN SUBSECTION
27 (2)(d)(I) OF THIS SECTION, THERE IS MONEY REMAINING IN THE FUND IN

1 THE APPLICABLE YEAR, THE ENTERPRISE SHALL ALLOCATE THE REMAINING
2 MONEY FOR SUBSIDIES FOR STATE-SUBSIDIZED INDIVIDUAL HEALTH
3 COVERAGE PLANS PURCHASED BY QUALIFIED INDIVIDUALS.

4 (3) THE ENTERPRISE SHALL DISTRIBUTE THE ALLOCATIONS
5 SPECIFIED IN SUBSECTION (2) OF THIS SECTION IN ACCORDANCE WITH THE
6 REQUIREMENTS DETERMINED BY THE BOARD PURSUANT TO SECTION
7 10-16-1207 (4).

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

22 (5) (a) THE SPECIAL ASSESSMENTS ON HOSPITALS UNDER
23 SUBSECTION (1)(a)(II) OF THIS SECTION MUST COMPLY WITH AND NOT
24 VIOLATE 42 CFR 433.68. IF THE FEDERAL CENTERS FOR MEDICARE AND
25 MEDICAID SERVICES IN THE UNITED STATES DEPARTMENT OF HEALTH AND
26 HUMAN SERVICES INFORMS THE STATE THAT THE STATE WILL NOT BE IN
27 COMPLIANCE WITH 42 CFR 433.68 AS A RESULT OF THE SPECIAL

1 ASSESSMENT ON HOSPITALS PURSUANT TO SUBSECTION (1)(a)(II) OF THIS
2 SECTION, THE ENTERPRISE SHALL REDUCE THE AMOUNT OF THE SPECIAL
3 ASSESSMENT AS NECESSARY TO AVOID ANY REDUCTION IN THE
4 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE COLLECTED
5 PURSUANT TO SECTION 25.5-4-402.4.

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

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

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

13 (III) OTHERWISE PASSING THE SPECIAL ASSESSMENT ON TO
14 CONSUMERS IN ANY MANNER.

15 **10-16-1206. Health insurance affordability cash fund -**
16 **creation.** (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
17 HEALTH INSURANCE AFFORDABILITY CASH FUND. THE FUND CONSISTS OF:

18 (a) THE FEES COLLECTED FROM CARRIERS PURSUANT TO SECTION
19 10-16-1205 (1)(a)(I);

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

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

26 (d) ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND
27 INVESTMENT OF MONEY IN THE FUND.

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

5 (3) ALL MONEY IN THE FUND IS CONTINUOUSLY AVAILABLE AND
6 APPROPRIATED TO THE ENTERPRISE TO USE IN ACCORDANCE WITH THIS
7 PART 12.

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

10 **10-16-1207. Health insurance affordability board - creation -**
11 **membership - powers and duties - subject to open meetings and**
12 **public records laws - commissioner rules.** (1) (a) THERE IS HEREBY
13 CREATED THE HEALTH INSURANCE AFFORDABILITY BOARD, WHICH BOARD
14 IS RESPONSIBLE FOR GOVERNANCE OF THE ENTERPRISE ESTABLISHED IN
15 THIS PART 12. THE BOARD CONSISTS OF THE FOLLOWING NINE VOTING
16 MEMBERS:

17 (I) THE EXECUTIVE DIRECTOR OF THE EXCHANGE OR THE
18 EXECUTIVE DIRECTOR'S DESIGNEE;

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

20 (III) SEVEN MEMBERS APPOINTED BY THE GOVERNOR, WITH THE
21 CONSENT OF THE SENATE, AS FOLLOWS:

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

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

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

27 (D) TWO MEMBERS WHO ARE CONSUMERS OF HEALTH CARE WHO

1 ARE NOT REPRESENTATIVES OR EMPLOYEES OF A HOSPITAL, CARRIER, OR
2 OTHER HEALTH CARE INDUSTRY ENTITY. TO THE EXTENT POSSIBLE, THE
3 GOVERNOR SHALL ENSURE THAT THE CONSUMER MEMBERS OF THE BOARD
4 ARE INDIVIDUALS WITH AN ANNUAL HOUSEHOLD INCOME OF LESS THAN
5 FOUR HUNDRED PERCENT OF THE FEDERAL POVERTY LINE, WHO LACK
6 AFFORDABLE OFFERS OF COVERAGE FROM THEIR EMPLOYERS, AND WHO DO
7 NOT QUALIFY FOR PREMIUM TAX CREDITS, MEDICAID, MEDICARE, OR THE
8 CHILDREN'S BASIC HEALTH PLAN.

9 (E) ONE MEMBER WHO REPRESENTS A HEALTH CARE ADVOCACY
10 ORGANIZATION; AND

11 (F) ONE MEMBER WHO IS A REPRESENTATIVE OF A BUSINESS THAT
12 PURCHASES OR OTHERWISE PROVIDES HEALTH INSURANCE FOR ITS
13 EMPLOYEES.

14 (b) THE MEMBERSHIP OF THE BOARD MUST REFLECT THE DIVERSITY
15 OF THE STATE WITH REGARD TO RACE, ETHNICITY, IMMIGRATION STATUS,
16 INCOME, WEALTH, ABILITY, AND GEOGRAPHY.

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

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

23 (A) TWO YEARS FOR THE MEMBERS APPOINTED PURSUANT TO
24 SUBSECTIONS (1)(a)(III)(A), (1)(a)(III)(C), AND (1)(a)(III)(F) OF THIS
25 SECTION AND FOR ONE OF THE MEMBERS APPOINTED PURSUANT TO
26 SUBSECTION (1)(a)(III)(D) OF THIS SECTION; AND

27 (B) FOUR YEARS FOR THE MEMBERS APPOINTED PURSUANT TO

1 SUBSECTIONS (1)(a)(III)(B) AND (1)(a)(III)(E) OF THIS SECTION AND FOR
2 ONE OF THE MEMBERS APPOINTED PURSUANT TO SUBSECTION (1)(a)(III)(D)
3 OF THIS SECTION.

4 (b) MEMBERS OF THE BOARD APPOINTED BY THE GOVERNOR SERVE
5 AT THE PLEASURE OF THE GOVERNOR AND MAY BE REMOVED BY THE
6 GOVERNOR OR FOR CAUSE BY A MAJORITY VOTE OF THE BOARD MEMBERS.

7 (c) A MEMBER WHO IS APPOINTED TO FILL A VACANCY SHALL
8 SERVE THE REMAINDER OF THE UNEXPIRED TERM OF THE MEMBER WHOSE
9 VACANCY IS BEING FILLED.

10 (d) MEMBERS OF THE BOARD MAY BE REIMBURSED FOR ACTUAL
11 AND NECESSARY EXPENSES, INCLUDING ANY REQUIRED DEPENDENT CARE
12 AND DEPENDENT OR ATTENDANT TRAVEL, FOOD, AND LODGING, WHILE
13 ENGAGED IN THE PERFORMANCE OF OFFICIAL DUTIES OF THE BOARD.

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

16 (4) THE BOARD IS AUTHORIZED TO:

17 (a) IMPLEMENT AND ADMINISTER THE ENTERPRISE;

18 (b) ESTABLISH ADMINISTRATIVE AND ACCOUNTING PROCEDURES
19 FOR THE OPERATION OF THE ENTERPRISE;

20 (c) RECOMMEND, FOR APPROVAL AND ESTABLISHMENT BY THE
21 COMMISSIONER BY RULE:

22 (I) THE TIMING AND METHODOLOGY FOR ASSESSING AND
23 COLLECTING THE FEE AND SPECIAL ASSESSMENT, SUBJECT TO SECTION
24 10-16-1205 (1)(a);

25 (II) THE DISTRIBUTION OF ENTERPRISE REVENUES ALLOCATED FOR
26 CARRIER PAYMENTS AND SUBSIDIES IN A MANNER THAT IMPROVES
27 AFFORDABILITY FOR SUBSIDIZED POPULATIONS AND INDIVIDUALS NOT

1 ELIGIBLE FOR THE PREMIUM TAX CREDIT, MEDICAID, MEDICARE, OR THE
2 CHILDREN'S BASIC HEALTH PLAN;

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

7 (IV) THE PARAMETERS FOR IMPLEMENTING THE SUBSIDIES FOR
8 STATE-SUBSIDIZED INDIVIDUAL HEALTH COVERAGE PLANS AUTHORIZED BY
9 THIS PART 12, INCLUDING:

10 (A) THE COVERAGE REQUIRED UNDER STATE-SUBSIDIZED
11 INDIVIDUAL HEALTH COVERAGE PLANS, WHICH COVERAGE MUST MAXIMIZE
12 AFFORDABILITY FOR QUALIFIED INDIVIDUALS AND MUST INCLUDE
13 COVERAGE FOR THE LOWEST INCOME GROUP, AS DETERMINED BY THE
14 BOARD, THAT HAS NO PREMIUM AND PROVIDES BENEFITS ACTUARIALLY
15 EQUIVALENT TO NINETY PERCENT OF THE FULL ACTUARIAL VALUE OF THE
16 BENEFITS PROVIDED UNDER THE PLAN; AND

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

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

22 (5) THE COMMISSIONER SHALL ADOPT RULES NECESSARY FOR THE
23 ADMINISTRATION AND IMPLEMENTATION OF THIS PART 12. IN ADOPTING
24 THE RULES, THE COMMISSIONER SHALL CONSIDER THE RECOMMENDATIONS
25 OF THE BOARD AND SHALL EXPRESS IN WRITING THE REASONS FOR ANY
26 DEVIATION FROM THE BOARD RECOMMENDATIONS.

27 (6) MEETINGS OF THE BOARD ARE SUBJECT TO THE OPEN MEETINGS

1 PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972", CONTAINED IN
2 PART 4 OF ARTICLE 6 OF TITLE 24. EXCEPT AS OTHERWISE PROVIDED IN THE
3 "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, OR
4 OTHER APPLICABLE STATE OR FEDERAL LAW, RECORDS OF THE BOARD AND
5 THE PROGRAM ARE SUBJECT TO THE "COLORADO OPEN RECORDS ACT".

6 **SECTION 2.** In Colorado Revised Statutes, 10-16-107, **add** (8)
7 as follows:

8 **10-16-107. Rate filing regulation - benefits ratio - rules.**

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

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

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

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

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

20 **10-16-1104. Commissioner powers and duties - rules - study**
21 **and report.** (1) The commissioner has all powers necessary to
22 implement this part 11 and is specifically authorized to:

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

26 (g) IN ACCORDANCE WITH SECTION 10-16-1109, apply for a state
27 innovation waiver OR AN EXTENSION OF A STATE INNOVATION WAIVER;

1 APPLY FOR federal funds; or APPLY FOR both ~~in accordance with section~~
2 ~~10-16-1109~~, A WAIVER OR EXTENSION OF A WAIVER AND FEDERAL FUNDS
3 for the implementation and operation of the reinsurance program;

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

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

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

27 (II) ~~Subject to approval by the general assembly, either by bill or~~

1 joint resolution, and after approval by the governor pursuant to section 39
2 of article V of the state constitution, the commissioner, on behalf of the
3 reinsurance program, is hereby authorized to issue revenue bonds for the
4 expenses of the program, secured by revenues of the program.

5 (c) If the state innovation waiver, ANY EXTENSION OF THE WAIVER,
6 or THE federal funding request submitted by the commissioner pursuant
7 to section 10-16-1109 is approved, the commissioner shall implement and
8 operate the reinsurance program in accordance with this section.

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

12 (B) ~~Each hospital that is subject to the special fees assessed~~
13 ~~pursuant to section 10-16-1108 shall report to the commissioner the~~
14 ~~amount the hospital is responsible for funding in the benefit year, and~~

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

19 (2) (a.5) TO THE GREATEST EXTENT POSSIBLE, THE COMMISSIONER
20 SHALL SET THE PAYMENT PARAMETERS FOR THE 2021 BENEFIT YEAR AT
21 AMOUNTS TO MAINTAIN THE TARGETED CLAIMS REDUCTIONS ACHIEVED IN
22 THE 2020 BENEFIT YEAR.

23 (b) For the ~~2021~~ 2022 benefit year AND EACH BENEFIT YEAR
24 THEREAFTER, after a stakeholder process, the commissioner shall establish
25 and publish the payment parameters for that benefit year by March 15
26 ~~2020~~ OF THE IMMEDIATELY PRECEDING CALENDAR YEAR. In setting the
27 payment parameters under this subsection (2)(b), the commissioner shall

1 consider the following factors as they apply in each geographic rating
2 area in the state:

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

5 **10-16-1106. Accounting - reports - audits.** (4) On or before
6 November 1, 2020, and on or before November 1 ~~2021~~ OF EACH YEAR
7 THEREAFTER, the division shall include an update regarding the program
8 in its report to the members of the applicable committees of reference in
9 the senate and house of representatives as required by the "State
10 Measurement for Accountable, Responsive, and Transparent (SMART)
11 Government Act", part 2 of article 7 of title 2.

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

14 **10-16-1107. Funding for reinsurance program - sources -**
15 **permitted uses - reinsurance program cash fund - calculation of total**
16 **funding for program.** (1) (a) There is hereby created in the state
17 treasury the reinsurance program cash fund REFERRED TO IN THIS SECTION
18 AS THE "FUND", which consists of:

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

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

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

1 ~~(A) Fifteen million dollars, transferred to the fund on June 30,~~
2 ~~2020; and~~

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

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

6 ~~(V) (II) Any money the general assembly appropriates to the fund~~
7 ~~for the program; AND~~

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

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

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

20 (4) (a) IF, AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (4), THE
21 UNITED STATES CONGRESS ENACTS AND THE PRESIDENT SIGNS FEDERAL
22 LEGISLATION ESTABLISHING OR THE SECRETARY OF THE UNITED STATES
23 DEPARTMENT OF HEALTH AND HUMAN SERVICES IMPLEMENTS A FEDERAL
24 REINSURANCE PROGRAM THAT PROVIDES FEDERAL FUNDING FOR THE
25 REINSURANCE PROGRAM OR OTHERWISE MAKES ADDITIONAL FEDERAL
26 FUNDS AVAILABLE FOR THE REINSURANCE PROGRAM IN EXCESS OF THE
27 AMOUNT RECEIVED AS FEDERAL PASS-THROUGH FUNDING PURSUANT TO

1 SUBSECTION (1)(a)(I) OF THIS SECTION, THE COMMISSIONER SHALL NOTIFY
2 THE HEALTH INSURANCE AFFORDABILITY BOARD CREATED IN SECTION
3 10-16-1207 OF THE AMOUNT OF FEDERAL FUNDING IN EXCESS OF THE
4 FEDERAL PASS-THROUGH FUNDING THAT WILL BE AVAILABLE FOR THE
5 REINSURANCE PROGRAM AND THE DATE THE FUNDING IS EXPECTED TO BE
6 RECEIVED.

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

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

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

19 **10-16-1109. State innovation waiver - federal funding -**
20 **Colorado reinsurance program.** (1) (a) For purposes of implementing
21 and operating the reinsurance program as set forth in this part 11 for plan
22 years starting on or after January 1, ~~2020~~ 2021, the commissioner may
23 apply to the secretary of the United States department of health and
24 human services for:

25 (I) ~~A two-year state innovation waiver~~ In accordance with section
26 1332 of the federal act, codified at 42 U.S.C. sec. 18052, and 45 CFR
27 155.1300:

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

5 (B) A NEW STATE INNOVATION WAIVER OF UP TO FIVE YEARS TO
6 FOLLOW THE INITIAL TWO-YEAR STATE INNOVATION WAIVER APPROVED
7 BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (1)(a)(I), AS AMENDED,
8 AND SUBSEQUENT EXTENSIONS OF ANY NEW STATE INNOVATION WAIVER
9 APPROVED BY THE SECRETARY;

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

11 (III) A NEW OR EXTENDED state innovation waiver and federal
12 funds.

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

15 **10-16-1110. Repeal of part - notice to revisor of statutes.**
16 (2) ~~This part 11 is repealed, effective September 1, 2023.~~

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

19 **10-3-209. Tax on premiums collected - exemptions - penalties.**

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

24 (III) (A) For the 2020-21 STATE FISCAL YEAR and ~~2021-22~~ EACH
25 state fiscal ~~years~~ YEAR THEREAFTER, in the ~~reinsurance program~~ HEALTH
26 INSURANCE AFFORDABILITY cash fund created in ~~section 10-16-1107~~
27 SECTION 10-16-1206, an amount equal to the amount of premium taxes

1 collected pursuant to this section in the 2020 calendar year OR ANY
2 SUBSEQUENT CALENDAR YEAR that exceeds the amount of premium taxes
3 collected pursuant to this section in the 2019 calendar year, SUBJECT TO
4 SUBSECTION (4)(a)(III)(C) OF THIS SECTION.

5 (B) ~~This subsection (4)(a)(III) is repealed, effective September 1,~~
6 ~~2023.~~

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

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