

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 17-0033.01 Jason Gelender x4330

SENATE BILL 17-057

SENATE SPONSORSHIP

Guzman,

HOUSE SPONSORSHIP

(None),

Senate Committees

Finance

House Committees

A BILL FOR AN ACT

101 CONCERNING THE CREATION OF AN ENTERPRISE THAT IS EXEMPT FROM
102 THE REQUIREMENTS OF SECTION 20 OF ARTICLE X OF THE STATE
103 CONSTITUTION AND RELATED STATUTORY PROVISIONS TO
104 ADMINISTER A FEE-BASED HEALTHCARE AFFORDABILITY AND
105 SUSTAINABILITY PROGRAM FOR HOSPITALS.

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/>.)

The bill creates the Colorado healthcare affordability and sustainability enterprise (enterprise) as a **type 2** agency and

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.

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 state 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; and

! 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 and the existing hospital provider fee oversight and advisory board is abolished, effective July 1, 2017.

The bill specifies that 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.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 25.5-4-402.4 as
3 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;

1 (b) HOSPITALS WITHIN THE STATE INCUR SIGNIFICANT COSTS BY
2 PROVIDING UNCOMPENSATED EMERGENCY DEPARTMENT CARE AND OTHER
3 UNCOMPENSATED MEDICAL SERVICES TO LOW-INCOME AND UNINSURED
4 POPULATIONS;

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

8 (I) PROVIDING A PAYER SOURCE FOR SOME LOW-INCOME AND
9 UNINSURED POPULATIONS WHO MAY OTHERWISE BE CARED FOR IN
10 EMERGENCY DEPARTMENTS AND OTHER SETTINGS IN WHICH
11 UNCOMPENSATED CARE IS PROVIDED;

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

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

16 (IV) REDUCING THE NEED OF HOSPITALS AND OTHER HEALTH CARE
17 PROVIDERS TO SHIFT THE COST OF PROVIDING UNCOMPENSATED CARE TO
18 OTHER PAYERS;

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

21 (VI) PROVIDING THE ADDITIONAL BUSINESS SERVICES SPECIFIED
22 IN SUBSECTION (4)(a)(IV) OF THIS SECTION TO HOSPITALS THAT PAY THE
23 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE CHARGED AND
24 COLLECTED AS AUTHORIZED BY SUBSECTION (4) OF THIS SECTION BY THE
25 COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
26 ENTERPRISE CREATED IN SUBSECTION (3)(a) OF THIS SECTION.

27 (d) THE COLORADO HEALTHCARE AFFORDABILITY AND

1 SUSTAINABILITY ENTERPRISE PROVIDES BUSINESS SERVICES TO HOSPITALS
2 WHEN, IN EXCHANGE FOR PAYMENT OF HEALTHCARE AFFORDABILITY AND
3 SUSTAINABILITY FEES BY HOSPITALS, IT:

4 (I) OBTAINS FEDERAL MATCHING MONEY AND RETURNS BOTH THE
5 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEES AND THE
6 FEDERAL MATCHING MONEY TO HOSPITALS TO INCREASE REIMBURSEMENT
7 RATES TO HOSPITALS FOR PROVIDING MEDICAL CARE UNDER THE STATE
8 MEDICAL ASSISTANCE PROGRAM AND THE COLORADO INDIGENT CARE
9 PROGRAM AND TO INCREASE THE NUMBER OF INDIVIDUALS COVERED BY
10 PUBLIC MEDICAL ASSISTANCE; AND

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

13 (e) IT IS NECESSARY, APPROPRIATE, AND IN THE BEST INTEREST OF
14 THE STATE TO ACKNOWLEDGE THAT BY PROVIDING THE BUSINESS
15 SERVICES SPECIFIED IN SUBSECTIONS (2)(d)(I) AND (2)(d)(II) OF THIS
16 SECTION, THE COLORADO HEALTHCARE AFFORDABILITY AND
17 SUSTAINABILITY ENTERPRISE ENGAGES IN AN ACTIVITY CONDUCTED IN THE
18 PURSUIT OF A BENEFIT, GAIN, OR LIVELIHOOD AND THEREFORE OPERATES
19 AS A BUSINESS;

20 (f) CONSISTENT WITH THE DETERMINATION OF THE COLORADO
21 SUPREME COURT IN *NICHOLL V. E-470 PUBLIC HIGHWAY AUTHORITY*, 896
22 P.2d 859 (COLO. 1995), THAT THE POWER TO IMPOSE TAXES IS
23 INCONSISTENT WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE
24 X OF THE STATE CONSTITUTION, IT IS THE CONCLUSION OF THE GENERAL
25 ASSEMBLY THAT THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
26 FEE CHARGED AND COLLECTED BY THE COLORADO HEALTHCARE
27 AFFORDABILITY AND SUSTAINABILITY ENTERPRISE IS A FEE, NOT A TAX,

1 BECAUSE THE FEE IS IMPOSED FOR THE SPECIFIC PURPOSES OF ALLOWING
2 THE ENTERPRISE TO DEFRAY THE COSTS OF PROVIDING THE BUSINESS
3 SERVICES SPECIFIED IN SUBSECTIONS (2)(d)(I) AND (2)(d)(II) OF THIS
4 SECTION TO HOSPITALS THAT PAY THE FEE AND IS COLLECTED AT RATES
5 THAT ARE REASONABLY CALCULATED BASED ON THE BENEFITS RECEIVED
6 BY THOSE HOSPITALS; AND

7 (g) SO LONG AS THE COLORADO HEALTHCARE AFFORDABILITY AND
8 SUSTAINABILITY ENTERPRISE QUALIFIES AS AN ENTERPRISE FOR PURPOSES
9 OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, THE REVENUES
10 FROM THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE
11 CHARGED AND COLLECTED BY THE ENTERPRISE ARE NOT STATE FISCAL
12 YEAR SPENDING, AS DEFINED IN SECTION 24-77-102 (17), OR STATE
13 REVENUES, AS DEFINED IN SECTION 24-77-103.6 (6)(c), AND DO NOT
14 COUNT AGAINST EITHER THE STATE FISCAL YEAR SPENDING LIMIT IMPOSED
15 BY SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR THE EXCESS
16 STATE REVENUES CAP, AS DEFINED IN SECTION 24-77-103.6 (6)(b)(I)(B).

17 (3) (a) THE COLORADO HEALTHCARE AFFORDABILITY AND
18 SUSTAINABILITY ENTERPRISE, REFERRED TO IN THIS SECTION AS THE
19 "ENTERPRISE", IS CREATED. THE ENTERPRISE IS AND OPERATES AS A
20 GOVERNMENT-OWNED BUSINESS WITHIN THE STATE DEPARTMENT FOR THE
21 PURPOSE OF CHARGING AND COLLECTING THE HEALTHCARE
22 AFFORDABILITY AND SUSTAINABILITY FEE, LEVERAGING HEALTHCARE
23 AFFORDABILITY AND SUSTAINABILITY FEE REVENUE TO OBTAIN FEDERAL
24 MATCHING MONEY, AND UTILIZING AND DEPLOYING THE HEALTHCARE
25 AFFORDABILITY AND SUSTAINABILITY FEE REVENUE AND FEDERAL
26 MATCHING MONEY TO PROVIDE THE BUSINESS SERVICES SPECIFIED IN
27 SUBSECTIONS (2)(d)(I) AND (2)(d)(II) OF THIS SECTION TO HOSPITALS THAT

1 PAY THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE.

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

10 (c) CREATION OF THE COLORADO HEALTHCARE AFFORDABILITY
11 AND SUSTAINABILITY ENTERPRISE AS A NEW ENTERPRISE TO CHARGE AND
12 COLLECT A NEW HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE
13 AS AUTHORIZED BY SUBSECTION (4) OF THIS SECTION AND PROVIDE
14 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE-FUNDED BUSINESS
15 SERVICES TO HOSPITALS IS THE CREATION OF A NEW GOVERNMENT-OWNED
16 BUSINESS THAT PROVIDES BUSINESS SERVICES TO HOSPITALS AS A NEW
17 ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE
18 CONSTITUTION, DOES NOT CONSTITUTE THE QUALIFICATION OF AN
19 EXISTING GOVERNMENT-OWNED BUSINESS AS AN ENTERPRISE FOR
20 PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR
21 SECTION 24-77-103.6 (6)(b)(II), AND, THEREFORE, DOES NOT REQUIRE OR
22 AUTHORIZE ADJUSTMENT OF THE STATE FISCAL YEAR SPENDING LIMIT
23 CALCULATED PURSUANT TO SECTION 20 OF ARTICLE X OF THE STATE
24 CONSTITUTION OR THE EXCESS STATE REVENUES CAP, AS DEFINED IN
25 SECTION 24-77-103.6 (6)(b)(I)(B).

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

27 (I) TO CHARGE AND COLLECT THE HEALTHCARE AFFORDABILITY

1 AND SUSTAINABILITY FEE AS SPECIFIED IN SUBSECTION (4) OF THIS
2 SECTION;

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

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

13 (IV) TO ISSUE REVENUE BONDS PAYABLE FROM THE REVENUES OF
14 THE ENTERPRISE;

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

18 (VI) TO ENGAGE THE SERVICES OF PRIVATE PERSONS OR ENTITIES
19 SERVING AS CONTRACTORS, CONSULTANTS, AND LEGAL COUNSEL FOR
20 PROFESSIONAL AND TECHNICAL ASSISTANCE AND ADVICE AND TO SUPPLY
21 OTHER SERVICES RELATED TO THE CONDUCT OF THE AFFAIRS OF THE
22 ENTERPRISE, INCLUDING THE PROVISION OF ADDITIONAL BUSINESS
23 SERVICES TO HOSPITALS AS SPECIFIED IN SUBSECTION (4)(a)(IV) OF THIS
24 SECTION, WITHOUT REGARD TO THE PROVISIONS OF THE "PROCUREMENT
25 CODE", ARTICLES 101 TO 112 OF TITLE 24; AND

26 (VII) TO ADOPT AND AMEND OR REPEAL POLICIES FOR THE
27 REGULATION OF ITS AFFAIRS AND THE CONDUCT OF ITS BUSINESS

1 CONSISTENT WITH THE PROVISIONS OF THIS SECTION.

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

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

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

22 (A) THE STATE MEDICAL ASSISTANCE PROGRAM; AND

23 (B) THE COLORADO INDIGENT CARE PROGRAM;

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

1 (III) PAY THE ADMINISTRATIVE COSTS TO THE ENTERPRISE IN
2 IMPLEMENTING AND ADMINISTERING THIS SECTION; AND

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

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

8 (B) ADVISING HOSPITALS REGARDING POTENTIAL CHANGES TO
9 FEDERAL AND STATE LAWS AND REGULATIONS THAT GOVERN THE
10 PROVISION OF AND REIMBURSEMENT PAID FOR MEDICAL SERVICES UNDER
11 THE PROGRAMS ADMINISTERED PURSUANT TO THIS ARTICLE 4 AND
12 ARTICLES 5 AND 6 OF THIS TITLE 25.5;

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

21 (D) PROVIDING ANY OTHER SERVICES TO HOSPITALS THAT AID
22 THEM IN EFFICIENTLY AND EFFECTIVELY PARTICIPATING IN THE PROGRAMS
23 ADMINISTERED PURSUANT TO THIS ARTICLE 4 AND ARTICLES 5 AND 6 OF
24 THIS TITLE 25.5.

25 (b) THE ENTERPRISE SHALL RECOMMEND FOR APPROVAL AND
26 ESTABLISHMENT BY THE STATE BOARD THE AMOUNT OF THE HEALTHCARE
27 AFFORDABILITY AND SUSTAINABILITY FEE THAT IT INTENDS TO CHARGE

1 AND COLLECT. THE STATE BOARD MUST ESTABLISH THE FINAL AMOUNT OF
2 THE FEE BY RULES PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF
3 TITLE 24. THE STATE BOARD SHALL NOT ESTABLISH ANY AMOUNT THAT
4 EXCEEDS THE FEDERAL LIMIT FOR SUCH FEES. THE STATE BOARD MAY
5 DEVIATE FROM THE RECOMMENDATIONS OF THE ENTERPRISE, BUT SHALL
6 EXPRESS IN WRITING THE REASONS FOR ANY DEVIATIONS. IN ESTABLISHING
7 THE AMOUNT OF THE FEE AND IN PROMULGATING THE RULES GOVERNING
8 THE FEE, THE STATE BOARD SHALL:

9 (I) CONSIDER RECOMMENDATIONS OF THE ENTERPRISE;

10 (II) ESTABLISH THE AMOUNT OF THE HEALTHCARE AFFORDABILITY
11 AND SUSTAINABILITY FEE SO THAT THE AMOUNT COLLECTED FROM THE FEE
12 AND FEDERAL MATCHING FUNDS ASSOCIATED WITH THE FEE ARE
13 SUFFICIENT TO PAY FOR THE ITEMS DESCRIBED IN SUBSECTION (4)(a) OF
14 THIS SECTION, BUT NOTHING IN THIS SUBSECTION (4)(b)(II) REQUIRES THE
15 STATE BOARD TO INCREASE THE FEE ABOVE THE AMOUNT RECOMMENDED
16 BY THE ENTERPRISE; AND

17 (III) FOR THE 2017-18 FISCAL YEAR, ESTABLISH THE AMOUNT OF
18 THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE SO THAT THE
19 AMOUNT COLLECTED FROM THE FEE IS APPROXIMATELY EQUAL TO THE
20 SUM OF THE AMOUNTS OF THE APPROPRIATIONS SPECIFIED FOR THE FEE IN
21 THE GENERAL APPROPRIATION ACT, SENATE BILL 17-_____, ENACTED IN
22 2017, AND ANY OTHER SUPPLEMENTAL APPROPRIATION ACT.

23 (c) (I) IN ACCORDANCE WITH THE REDISTRIBUTIVE METHOD SET
24 FORTH IN 42 CFR 433.68 (e) (1) AND (e) (2), THE ENTERPRISE, ACTING IN
25 CONCERT WITH OR THROUGH AN AGREEMENT WITH THE STATE
26 DEPARTMENT IF REQUIRED BY FEDERAL LAW, MAY SEEK A WAIVER FROM
27 THE BROAD-BASED HEALTHCARE AFFORDABILITY AND SUSTAINABILITY

1 FEES REQUIREMENT OR THE UNIFORM HEALTHCARE AFFORDABILITY AND
2 SUSTAINABILITY FEES REQUIREMENT, OR BOTH. SUBJECT TO FEDERAL
3 APPROVAL AND TO MINIMIZE THE FINANCIAL IMPACT ON CERTAIN
4 HOSPITALS, THE ENTERPRISE MAY EXEMPT FROM PAYMENT OF THE
5 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE CERTAIN TYPES OF
6 HOSPITALS, INCLUDING BUT NOT LIMITED TO:

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

9 (B) HOSPITALS THAT ARE LICENSED AS GENERAL HOSPITALS AND
10 CERTIFIED AS LONG-TERM CARE HOSPITALS BY THE DEPARTMENT OF
11 PUBLIC HEALTH AND ENVIRONMENT;

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

15 (D) INPATIENT REHABILITATION FACILITIES; OR

16 (E) HOSPITALS SPECIFIED FOR EXEMPTION UNDER 42 CFR 433.68
17 (e).

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

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

21 (B) A HOSPITAL WITH WHICH THE STATE DEPARTMENT DOES NOT
22 CONTRACT TO PROVIDE SERVICES UNDER THE STATE MEDICAL ASSISTANCE
23 PROGRAM;

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

27 (D) A HOSPITAL THAT MUST BE INCLUDED TO RECEIVE FEDERAL

1 APPROVAL.

2 (III) THE ENTERPRISE MAY REDUCE THE AMOUNT OF THE
3 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE FOR CERTAIN
4 HOSPITALS TO OBTAIN FEDERAL APPROVAL AND TO MINIMIZE THE
5 FINANCIAL IMPACT ON CERTAIN HOSPITALS. IN DETERMINING FOR WHICH
6 HOSPITALS THE ENTERPRISE MAY REDUCE THE AMOUNT OF THE
7 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE, THE ENTERPRISE
8 SHALL USE ONE OR MORE OF THE FOLLOWING CRITERIA:

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

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

12 (C) THE HOSPITAL SERVES A HIGHER PERCENTAGE THAN THE
13 AVERAGE HOSPITAL OF PERSONS COVERED BY THE STATE MEDICAL
14 ASSISTANCE PROGRAM, MEDICARE, OR COMMERCIAL INSURANCE OR
15 PERSONS ENROLLED IN A MANAGED CARE ORGANIZATION;

16 (D) THE HOSPITAL DOES NOT CONTRACT WITH THE STATE
17 DEPARTMENT TO PROVIDE SERVICES UNDER THE STATE MEDICAL
18 ASSISTANCE PROGRAM;

19 (E) IF THE HOSPITAL PAID A REDUCED HEALTHCARE
20 AFFORDABILITY AND SUSTAINABILITY FEE, THE REDUCED FEE WOULD NOT
21 SIGNIFICANTLY AFFECT THE NET BENEFIT TO HOSPITALS PAYING THE
22 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE; OR

23 (F) THE HOSPITAL IS REQUIRED NOT TO PAY A REDUCED
24 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE AS A CONDITION
25 OF FEDERAL APPROVAL.

26 (IV) THE ENTERPRISE MAY CHANGE HOW IT PAYS HOSPITAL
27 REIMBURSEMENT OR QUALITY INCENTIVE PAYMENTS, OR BOTH, IN WHOLE

1 OR IN PART, UNDER THE AUTHORITY OF A FEDERAL WAIVER IF THE TOTAL
2 REIMBURSEMENT TO HOSPITALS IS EQUAL TO OR ABOVE THE FEDERAL
3 UPPER PAYMENT LIMIT CALCULATION UNDER THE WAIVER.

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

7 (e) (I) THE ENTERPRISE SHALL ESTABLISH POLICIES ON THE
8 CALCULATION, ASSESSMENT, AND TIMING OF THE HEALTHCARE
9 AFFORDABILITY AND SUSTAINABILITY FEE. THE ENTERPRISE SHALL ASSESS
10 THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE ON A
11 SCHEDULE TO BE SET BY THE ENTERPRISE BOARD AS PROVIDED IN
12 SUBSECTION (7)(d) OF THIS SECTION. THE PERIODIC HEALTHCARE
13 AFFORDABILITY AND SUSTAINABILITY FEE PAYMENTS FROM A HOSPITAL
14 AND THE ENTERPRISE'S REIMBURSEMENT TO THE HOSPITAL UNDER
15 SUBSECTIONS (5)(b)(I) AND (5)(b)(II) OF THIS SECTION ARE DUE AS NEARLY
16 SIMULTANEOUSLY AS FEASIBLE; EXCEPT THAT THE ENTERPRISE'S
17 REIMBURSEMENT TO THE HOSPITAL IS DUE NO MORE THAN TWO DAYS
18 AFTER THE PERIODIC HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
19 FEE PAYMENT IS RECEIVED FROM THE HOSPITAL. THE HEALTHCARE
20 AFFORDABILITY AND SUSTAINABILITY FEE MUST BE IMPOSED ON EACH
21 HOSPITAL EVEN IF MORE THAN ONE HOSPITAL IS OWNED BY THE SAME
22 ENTITY. THE FEE MUST BE PRORATED AND ADJUSTED FOR THE EXPECTED
23 VOLUME OF SERVICE FOR ANY YEAR IN WHICH A HOSPITAL OPENS OR
24 CLOSES.

25 (II) THE ENTERPRISE IS AUTHORIZED TO REFUND ANY UNUSED
26 PORTION OF THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE.
27 FOR ANY PORTION OF THE HEALTHCARE AFFORDABILITY AND

1 SUSTAINABILITY FEE THAT HAS BEEN COLLECTED BY THE ENTERPRISE BUT
2 FOR WHICH THE ENTERPRISE HAS NOT RECEIVED FEDERAL MATCHING
3 FUNDS, THE ENTERPRISE SHALL REFUND BACK TO THE HOSPITAL THAT PAID
4 THE FEE THE AMOUNT OF THAT PORTION OF THE FEE WITHIN FIVE BUSINESS
5 DAYS AFTER THE FEE IS COLLECTED.

6 (III) THE ENTERPRISE SHALL ESTABLISH REQUIREMENTS FOR THE
7 REPORTS THAT HOSPITALS MUST SUBMIT TO THE ENTERPRISE TO ALLOW
8 THE ENTERPRISE TO CALCULATE THE AMOUNT OF THE HEALTHCARE
9 AFFORDABILITY AND SUSTAINABILITY FEE. NOTWITHSTANDING THE
10 PROVISIONS OF PART 2 OF ARTICLE 72 OF TITLE 24 OR SUBSECTION (7)(f)
11 OF THIS SECTION, INFORMATION PROVIDED TO THE ENTERPRISE PURSUANT
12 TO THIS SECTION IS CONFIDENTIAL AND IS NOT A PUBLIC RECORD.
13 NONETHELESS, THE ENTERPRISE MAY PREPARE AND RELEASE SUMMARIES
14 OF THE REPORTS TO THE PUBLIC.

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

18 (g) THE STATE BOARD SHALL PROMULGATE ANY RULES PURSUANT
19 TO THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE
20 24, NECESSARY FOR THE ADMINISTRATION AND IMPLEMENTATION OF THIS
21 SECTION. PRIOR TO SUBMITTING ANY PROPOSED RULES CONCERNING THE
22 ADMINISTRATION OR IMPLEMENTATION OF THE HEALTHCARE
23 AFFORDABILITY AND SUSTAINABILITY FEE TO THE STATE BOARD, THE
24 ENTERPRISE SHALL CONSULT WITH THE STATE BOARD ON THE PROPOSED
25 RULES AS SPECIFIED IN SUBSECTION (7)(d) OF THIS SECTION.

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

27 (a) ALL HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEES

1 COLLECTED PURSUANT TO THIS SECTION BY THE ENTERPRISE MUST BE
2 TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE FEES TO
3 THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE CASH FUND,
4 WHICH FUND IS HEREBY CREATED AND REFERRED TO IN THIS SECTION AS
5 THE "FUND". MONEY IN THE FUND SHALL NOT BE TRANSFERRED TO ANY
6 OTHER FUND AND SHALL NOT BE USED FOR ANY PURPOSE OTHER THAN THE
7 PURPOSES SPECIFIED IN THIS SUBSECTION (5) AND IN SUBSECTION (4) OF
8 THIS SECTION.

9 (b) ALL MONEYS IN THE FUND ARE SUBJECT TO FEDERAL MATCHING
10 AS AUTHORIZED UNDER FEDERAL LAW AND ARE CONTINUOUSLY
11 APPROPRIATED TO THE ENTERPRISE FOR THE FOLLOWING PURPOSES:

12 (I) TO MAXIMIZE THE INPATIENT AND OUTPATIENT HOSPITAL
13 REIMBURSEMENTS TO UP TO THE UPPER PAYMENT LIMITS AS DEFINED IN 42
14 CFR 447.272 AND 42 CFR 447.321;

15 (II) TO INCREASE HOSPITAL REIMBURSEMENTS UNDER THE
16 COLORADO INDIGENT CARE PROGRAM TO UP TO ONE HUNDRED PERCENT
17 OF THE HOSPITAL'S COSTS OF PROVIDING MEDICAL CARE UNDER THE
18 PROGRAM;

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

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

24 (A) INCREASING THE ELIGIBILITY LEVEL FOR PARENTS AND
25 CARETAKER RELATIVES OF CHILDREN WHO ARE ELIGIBLE FOR MEDICAL
26 ASSISTANCE, PURSUANT TO SECTION 25.5-5-201 (1)(m), FROM SIXTY-ONE
27 PERCENT TO ONE HUNDRED THIRTY-THREE PERCENT OF THE FEDERAL

1 POVERTY LINE;

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

5 (C) PROVIDING ELIGIBILITY UNDER THE STATE MEDICAL
6 ASSISTANCE PROGRAM FOR A CHILDLESS ADULT OR AN ADULT WITHOUT A
7 DEPENDENT CHILD IN THE HOME, PURSUANT TO SECTION 25.5-5-201 (1)(p),
8 WHO EARNS UP TO ONE HUNDRED THIRTY-THREE PERCENT OF THE FEDERAL
9 POVERTY LINE;

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

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

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

19 (A) ADMINISTRATIVE EXPENSES OF THE ENTERPRISE;

20 (B) THE ENTERPRISE'S ACTUAL COSTS RELATED TO IMPLEMENTING
21 AND MAINTAINING THE HEALTHCARE AFFORDABILITY AND
22 SUSTAINABILITY FEE, INCLUDING PERSONAL SERVICES, OPERATING, AND
23 CONSULTING EXPENSES;

24 (C) THE ENTERPRISE'S ACTUAL COSTS FOR THE CHANGES AND
25 UPDATES TO THE MEDICAID MANAGEMENT INFORMATION SYSTEM FOR THE
26 IMPLEMENTATION OF SUBSECTIONS (5)(b)(I) TO (5)(b)(III) OF THIS
27 SECTION;

1 (D) THE ENTERPRISE'S PERSONAL SERVICES AND OPERATING COSTS
2 RELATED TO PERSONNEL, CONSULTING SERVICES, AND FOR REVIEW OF
3 HOSPITAL COSTS NECESSARY TO IMPLEMENT AND ADMINISTER THE
4 INCREASES IN INPATIENT AND OUTPATIENT HOSPITAL PAYMENTS MADE
5 PURSUANT TO SUBSECTION (5)(b)(I) OF THIS SECTION, INCREASES IN THE
6 COLORADO INDIGENT CARE PROGRAM PAYMENTS MADE PURSUANT TO
7 SUBSECTION (5)(b)(II) OF THIS SECTION, AND QUALITY INCENTIVE
8 PAYMENTS MADE PURSUANT TO SUBSECTION (5)(b)(III) OF THIS SECTION;

9 (E) THE ENTERPRISE'S ACTUAL COSTS FOR THE CHANGES AND
10 UPDATES TO THE COLORADO BENEFITS MANAGEMENT SYSTEM AND
11 MEDICAID MANAGEMENT INFORMATION SYSTEM TO IMPLEMENT AND
12 MAINTAIN THE EXPANDED ELIGIBILITY PROVIDED FOR IN SUBSECTIONS
13 (5)(b)(IV) AND (5)(b)(V) OF THIS SECTION;

14 (F) THE ENTERPRISE'S PERSONAL SERVICES AND OPERATING COSTS
15 RELATED TO PERSONNEL NECESSARY TO IMPLEMENT AND ADMINISTER THE
16 EXPANDED ELIGIBILITY FOR PUBLIC MEDICAL ASSISTANCE PROVIDED FOR
17 IN SUBSECTIONS (5)(b)(IV) AND (5)(b)(V) OF THIS SECTION, INCLUDING
18 BUT NOT LIMITED TO ADMINISTRATIVE COSTS ASSOCIATED WITH THE
19 DETERMINATION OF ELIGIBILITY FOR PUBLIC MEDICAL ASSISTANCE BY
20 COUNTY DEPARTMENTS;

21 (G) THE ENTERPRISE'S PERSONAL SERVICES, OPERATING, AND
22 SYSTEMS COSTS RELATED TO EXPANDING THE OPPORTUNITY FOR
23 INDIVIDUALS TO APPLY FOR PUBLIC MEDICAL ASSISTANCE DIRECTLY AT
24 HOSPITALS OR THROUGH ANOTHER ENTITY OUTSIDE THE COUNTY
25 DEPARTMENTS, IN CONNECTION WITH SECTION 25.5-4-205, THAT WOULD
26 INCREASE ACCESS TO PUBLIC MEDICAL ASSISTANCE AND REDUCE THE
27 NUMBER OF UNINSURED SERVED BY HOSPITALS;

1 (VII) TO OFFSET THE LOSS OF ANY FEDERAL MATCHING MONEYS
2 DUE TO A DECREASE IN THE CERTIFICATION OF THE PUBLIC EXPENDITURE
3 PROCESS FOR OUTPATIENT HOSPITAL SERVICES FOR MEDICAL SERVICES
4 PREMIUMS THAT WERE IN EFFECT AS OF JULY 1, 2008; AND

5 (VIII) TO PROVIDE ADDITIONAL BUSINESS SERVICES TO HOSPITALS
6 AS SPECIFIED IN SUBSECTION (4)(a)(IV) OF THIS SECTION.

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

22 (II) IF GENERAL FUND APPROPRIATIONS FOR HOSPITAL
23 REIMBURSEMENTS ARE REDUCED BELOW THE LEVEL OF APPROPRIATIONS
24 IN THE MEDICAL SERVICES PREMIUM LINE ITEM MADE FOR THE FISCAL
25 YEAR COMMENCING JULY 1, 2008, THE GENERAL FUND APPROPRIATIONS
26 WILL BE INCREASED BACK TO THE LEVEL OF APPROPRIATIONS IN THE
27 MEDICAL SERVICES PREMIUM LINE ITEM MADE FOR THE FISCAL YEAR

1 COMMENCING JULY 1, 2008, AT THE SAME PERCENTAGE AS THE
2 APPROPRIATIONS FOR OTHER PROVIDERS AS SHOWN BY THE INDEX. THE
3 GENERAL ASSEMBLY IS NOT OBLIGATED TO INCREASE THE GENERAL FUND
4 APPROPRIATIONS BACK TO THE LEVEL OF APPROPRIATIONS IN THE MEDICAL
5 SERVICES PREMIUM LINE ITEM IN A SINGLE FISCAL YEAR AND SUCH
6 INCREASES MAY OCCUR OVER NONCONSECUTIVE FISCAL YEARS.

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

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

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

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

27 (III) (A) IF THE STATE BOARD PROMULGATES RULES THAT EXPAND

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

20 (B) THE JOINT BUDGET COMMITTEE SHALL PROMPTLY CONSIDER
21 ANY RULES ADOPTED BY THE STATE BOARD PURSUANT TO SUBSECTION
22 (6)(b)(III)(A) OF THIS SECTION. THE JOINT BUDGET COMMITTEE SHALL
23 PROMPTLY NOTIFY THE STATE DEPARTMENT, THE STATE BOARD, AND THE
24 ENTERPRISE BOARD OF ANY ACTION ON THE RULES. IF THE JOINT BUDGET
25 COMMITTEE DOES NOT APPROVE THE RULES, THE JOINT BUDGET
26 COMMITTEE SHALL RECOMMEND A REDUCTION IN BENEFITS OR ELIGIBILITY
27 SO THAT THE REVENUE FROM THE HEALTHCARE AFFORDABILITY AND

1 SUSTAINABILITY FEE AND THE MATCHING FEDERAL FUNDS WILL BE
2 SUFFICIENT TO PAY FOR THE REDUCED BENEFITS OR ELIGIBILITY. AFTER
3 APPROVING THE RULES PURSUANT TO THIS SUBSECTION (6)(b)(III)(B), THE
4 JOINT BUDGET COMMITTEE SHALL REQUEST THAT THE COMMITTEE ON
5 LEGAL SERVICES, CREATED PURSUANT TO SECTION 2-3-501, EXTEND THE
6 RULES AS PROVIDED FOR IN SECTION 24-4-103 (8) UNLESS THE COMMITTEE
7 ON LEGAL SERVICES FINDS AFTER REVIEW THAT THE RULES DO NOT
8 CONFORM WITH SECTION 24-4-103 (8)(a).

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

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

1 **(7) Colorado healthcare affordability and sustainability**

2 **enterprise board.** (a) (I) EXCEPT AS OTHERWISE PROVIDED IN
3 SUBSECTION (7)(a)(II) OF THIS SECTION, THE ENTERPRISE BOARD CONSISTS
4 OF THIRTEEN MEMBERS APPOINTED BY THE GOVERNOR, WITH THE ADVICE
5 AND CONSENT OF THE SENATE, AS FOLLOWS:

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

13 (B) ONE MEMBER WHO IS A REPRESENTATIVE OF A STATEWIDE
14 ORGANIZATION OF HOSPITALS;

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

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

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

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

1 (G) ONE MEMBER WHO IS A REPRESENTATIVE OF A BUSINESS THAT
2 PURCHASES OR OTHERWISE PROVIDES HEALTH INSURANCE FOR ITS
3 EMPLOYEES; AND

4 (H) TWO EMPLOYEES OF THE STATE DEPARTMENT.

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

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

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

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

1 MEMBERS.

2 (b) MEMBERS OF THE ENTERPRISE BOARD SERVE WITHOUT
3 COMPENSATION BUT MUST BE REIMBURSED FROM MONEYS IN THE FUND
4 FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE
5 OF THEIR DUTIES PURSUANT TO THIS SECTION.

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

9 (d) THE ENTERPRISE BOARD HAS, AT A MINIMUM, THE FOLLOWING
10 DUTIES:

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

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

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

27 (IV) TO RECOMMEND TO THE STATE DEPARTMENT REFORMS OR

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

5 (V) TO RECOMMEND TO THE STATE DEPARTMENT THE SCHEDULE
6 AND APPROACH TO THE IMPLEMENTATION OF SUBSECTIONS (5)(b)(IV) AND
7 (5)(b)(V) OF THIS SECTION;

8 (VI) IF MONEYS IN THE FUND ARE INSUFFICIENT TO FULLY FUND
9 ALL OF THE PURPOSES SPECIFIED IN SUBSECTION (5)(b) OF THIS SECTION,
10 TO RECOMMEND TO THE STATE BOARD CHANGES TO THE EXPANDED
11 ELIGIBILITY PROVISIONS DESCRIBED IN SUBSECTION (5)(b)(IV) OF THIS
12 SECTION;

13 (VII) TO PREPARE THE REPORTS SPECIFIED IN SUBSECTION (7)(e)
14 OF THIS SECTION;

15 (VIII) TO MONITOR THE IMPACT OF THE HEALTHCARE
16 AFFORDABILITY AND SUSTAINABILITY FEE ON THE BROADER HEALTH CARE
17 MARKETPLACE;

18 (IX) TO ESTABLISH REQUIREMENTS FOR THE REPORTS THAT
19 HOSPITALS MUST SUBMIT TO THE ENTERPRISE TO ALLOW THE ENTERPRISE
20 TO CALCULATE THE AMOUNT OF THE HEALTHCARE AFFORDABILITY AND
21 SUSTAINABILITY FEE; AND

22 (X) TO PERFORM ANY OTHER DUTIES REQUIRED TO FULFILL THE
23 ENTERPRISE BOARD'S CHARGE OR THOSE ASSIGNED TO IT BY THE STATE
24 BOARD OR THE EXECUTIVE DIRECTOR.

25 (e) ON OR BEFORE JANUARY 15, 2018, AND ON OR BEFORE
26 JANUARY 15 EACH YEAR THEREAFTER, THE ENTERPRISE BOARD SHALL
27 SUBMIT A WRITTEN REPORT TO THE HEALTH AND HUMAN SERVICES

1 COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR
2 ANY SUCCESSOR COMMITTEES, THE JOINT BUDGET COMMITTEE OF THE
3 GENERAL ASSEMBLY, THE GOVERNOR, AND THE STATE BOARD. THE
4 REPORT SHALL INCLUDE, BUT NEED NOT BE LIMITED TO:

5 (I) THE RECOMMENDATIONS MADE TO THE STATE BOARD
6 PURSUANT TO THIS SECTION;

7 (II) A DESCRIPTION OF THE FORMULA FOR HOW THE HEALTHCARE
8 AFFORDABILITY AND SUSTAINABILITY FEE IS CALCULATED AND THE
9 PROCESS BY WHICH THE HEALTHCARE AFFORDABILITY AND
10 SUSTAINABILITY FEE IS ASSESSED AND COLLECTED;

11 (III) AN ITEMIZATION OF THE TOTAL AMOUNT OF THE HEALTHCARE
12 AFFORDABILITY AND SUSTAINABILITY FEE PAID BY EACH HOSPITAL AND
13 ANY PROJECTED REVENUE THAT EACH HOSPITAL IS EXPECTED TO RECEIVE
14 DUE TO:

15 (A) THE INCREASED REIMBURSEMENTS MADE PURSUANT TO
16 SUBSECTIONS (5)(b)(I) AND (5)(b)(II) OF THIS SECTION AND THE QUALITY
17 INCENTIVE PAYMENTS MADE PURSUANT TO SUBSECTION (5)(b)(III) OF THIS
18 SECTION; AND

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

21 (IV) AN ITEMIZATION OF THE COSTS INCURRED BY THE ENTERPRISE
22 IN IMPLEMENTING AND ADMINISTERING THE HEALTHCARE AFFORDABILITY
23 AND SUSTAINABILITY FEE; AND

24 (V) ESTIMATES OF THE DIFFERENCES BETWEEN THE COST OF CARE
25 PROVIDED AND THE PAYMENT RECEIVED BY HOSPITALS ON A PER-PATIENT
26 BASIS, AGGREGATED FOR ALL HOSPITALS, FOR PATIENTS COVERED BY EACH
27 OF THE FOLLOWING:

- 1 (A) MEDICAID;
- 2 (B) MEDICARE; AND
- 3 (C) ALL OTHER PAYERS.

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

8 (II) FOR PURPOSES OF THE "COLORADO OPEN RECORDS ACT",
9 PART 2 OF ARTICLE 72 OF TITLE 24, AND EXCEPT AS MAY OTHERWISE BE
10 PROVIDED BY FEDERAL LAW OR REGULATION OR STATE LAW, THE RECORDS
11 OF THE ENTERPRISE ARE PUBLIC RECORDS, AS DEFINED IN SECTION
12 24-72-202 (6), REGARDLESS OF WHETHER THE ENTERPRISE RECEIVES LESS
13 THAN TEN PERCENT OF ITS TOTAL ANNUAL REVENUES IN GRANTS, AS
14 DEFINED IN SECTION 24-77-102 (7), FROM ALL COLORADO STATE AND
15 LOCAL GOVERNMENTS COMBINED.

16 (III) THE ENTERPRISE IS A PUBLIC ENTITY FOR PURPOSES OF PART
17 2 OF ARTICLE 57 OF TITLE 11.

18 **SECTION 2.** In Colorado Revised Statutes, **add** 25.5-4-402.7 as
19 follows:

20 **25.5-4-402.7. Unexpended hospital provider fee cash fund -**
21 **creation - transfer from hospital provider fee cash fund - use of fund**
22 **- repeal.** (1) THE UNEXPENDED HOSPITAL PROVIDER FEE CASH FUND,
23 REFERRED TO IN THIS SECTION AS THE "FUND", IS HEREBY CREATED IN THE
24 STATE TREASURY. ON JUNE 30, 2017, THE STATE TREASURER SHALL
25 TRANSFER TO THE FUND ALL MONEY IN THE HOSPITAL PROVIDER FEE CASH
26 FUND CREATED IN SECTION 25.5-4-402.3 (4)(a), AS THAT SECTION EXISTED
27 BEFORE ITS REPEAL BY SENATE BILL 17-____, ENACTED IN 2017. THE STATE

1 TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE
2 DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE GENERAL FUND.
3 MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE STATE
4 DEPARTMENT THROUGH OCTOBER 30, 2018, FOR THE PURPOSE OF PAYING
5 CLAIMS INCURRED BEFORE JULY 1, 2017, THAT WERE PAYABLE PURSUANT
6 TO SECTION 25.5-5-402.3 (4), AS THAT SECTION EXISTED BEFORE ITS
7 REPEAL BY SENATE BILL 17-___, ENACTED IN 2017. THE STATE
8 DEPARTMENT SHALL REFUND ANY MONEY IN THE FUND DERIVED FROM
9 HOSPITAL PROVIDER FEES THAT IS NOT EXPENDED FOR THE PURPOSE OF
10 PAYING CLAIMS TO THE HOSPITALS THAT PAID THE FEES.

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

12 **SECTION 3.** In Colorado Revised Statutes, 24-1-119.5, **add** (9)
13 as follows:

14 **24-1-119.5. Department of health care policy and financing -**
15 **creation.** (9) THE COLORADO HEALTHCARE AFFORDABILITY AND
16 SUSTAINABILITY ENTERPRISE CREATED IN SECTION 25.5-4-402.4(3) SHALL
17 EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS AS IF THE
18 SAME WERE TRANSFERRED BY A **TYPE 2** TRANSFER, AS DEFINED IN SECTION
19 24-1-105, TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING.

20 **SECTION 4.** In Colorado Revised Statutes, **amend** 2-3-119 as
21 follows:

22 **2-3-119. Audit of healthcare affordability and sustainability**
23 **fee - cost shift.** ~~Starting with the second full state fiscal year following~~
24 ~~the receipt of the notice from the executive director of the department of~~
25 ~~health care policy and financing pursuant to section 25.5-4-402.3 (7),~~
26 ~~C.R.S., and thereafter~~ At the discretion of the legislative audit committee,
27 the state auditor shall conduct or cause to be conducted a performance

1 and fiscal audit of the ~~hospital provider~~ HEALTHCARE AFFORDABILITY AND
2 SUSTAINABILITY fee established pursuant to ~~section 25.5-4-402.3, C.R.S.~~
3 SECTION 25.5-4-402.4.

4 **SECTION 5.** In Colorado Revised Statutes, 2-3-1203, **repeal**
5 (8)(a)(V) as follows:

6 **2-3-1203. Sunset review of advisory committees - legislative**
7 **declaration - definition - repeal.** (8) (a) The following statutory
8 authorizations for the designated advisory committees will repeal on July
9 1, 2019:

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

12 **SECTION 6.** In Colorado Revised Statutes, 24-4-103, **amend**
13 (8)(c)(I) as follows:

14 **24-4-103. Rule-making - procedure - definitions - repeal.**
15 (8) (c) (I) Notwithstanding any other provision of law to the contrary and
16 the provisions of section 24-4-107, all rules adopted or amended on or
17 after January 1, 1993, and before November 1, 1993, ~~shall~~ expire at 11:59
18 p.m. on May 15 of the year following their adoption unless the general
19 assembly by bill acts to postpone the expiration of a specific rule, and
20 commencing with rules adopted or amended on or after November 1,
21 1993, all rules adopted or amended during any one-year period that begins
22 each November 1 and continues through the following October 31 ~~shall~~
23 expire at 11:59 p.m. on the May 15 that follows such one-year period
24 unless the general assembly by bill acts to postpone the expiration of a
25 specific rule; except that a rule adopted pursuant to ~~section 25.5-4-402.3~~
26 ~~(5)(b)(III), C.R.S., shall expire~~ SECTION 25.5-4-402.4 (6)(b)(III) EXPIRES
27 at 11:59 p.m. on the May 15 following the adoption of the rule unless the

1 general assembly acts by bill to postpone the expiration of a specific rule.
2 The general assembly, in its discretion, may postpone such expiration, in
3 which case, the provisions of section 24-4-108 or 24-34-104 shall apply,
4 and the rules shall expire or be ARE subject to review as provided in said
5 THOSE sections. The postponement of the expiration of a rule shall DOES
6 not constitute legislative approval of the rule nor be AND IS NOT
7 admissible in any court as evidence of legislative intent. The
8 postponement of the expiration date of a specific rule shall DOES not
9 prohibit any action by the general assembly pursuant to the provisions of
10 paragraph (d) of this subsection (8) SUBSECTION (8)(d) OF THIS SECTION
11 with respect to such THE rule.

12 SECTION 7. In Colorado Revised Statutes, 25.5-3-108, amend
13 (17) as follows:

14 25.5-3-108. Responsibility of the department of health care
15 policy and financing - provider reimbursement. (17) Subject to
16 adequate funding BEING made available under section 25.5-4-402.3
17 SECTION 25.5-4-402.4, the state department COLORADO HEALTHCARE
18 AFFORDABILITY AND SUSTAINABILITY ENTERPRISE CREATED IN SECTION
19 25.5-4-402.4 (3) shall increase hospital reimbursements up to one
20 hundred percent of hospital costs for providing medical care under the
21 program.

22 SECTION 8. In Colorado Revised Statutes, 25.5-4-402, amend
23 (3)(a) as follows:

24 25.5-4-402. Providers - hospital reimbursement - rules.
25 (3) (a) In addition to the reimbursement rate process described in
26 subsection (1) of this section and subject to adequate funding BEING made
27 available pursuant to section 25.5-4-402.3 SECTION 25.5-4-402.4, the state

1 ~~department~~ COLORADO HEALTHCARE AFFORDABILITY AND
2 SUSTAINABILITY ENTERPRISE CREATED IN SECTION 25.5-4-402.4 (3) shall
3 pay an additional amount based upon performance to those hospitals that
4 provide services that improve health care outcomes for their patients. ~~This~~
5 ~~amount shall be determined by~~ The state department SHALL DETERMINE
6 THIS AMOUNT based upon nationally recognized performance measures
7 established in rules adopted by the state board. The state quality standards
8 ~~shall~~ MUST be consistent with federal quality standards published by an
9 organization with expertise in health care quality, including but not
10 limited to, the centers for medicare and medicaid services, the agency for
11 healthcare research and quality, or the national quality forum.

12 **SECTION 9.** In Colorado Revised Statutes, 25.5-5-201, **amend**
13 (1)(o)(II) and (1)(r)(II) as follows:

14 **25.5-5-201. Optional provisions - optional groups - repeal.**

15 (1) The federal government allows the state to select optional groups to
16 receive medical assistance. Pursuant to federal law, any person who is
17 eligible for medical assistance under the optional groups specified in this
18 section shall receive both the mandatory services specified in sections
19 25.5-5-102 and 25.5-5-103 and the optional services specified in sections
20 25.5-5-202 and 25.5-5-203. Subject to the availability of federal financial
21 aid funds, the following are the individuals or groups that Colorado has
22 selected as optional groups to receive medical assistance pursuant to this
23 article and articles 4 and 6 of this title:

24 (o) (II) Notwithstanding the provisions of ~~subparagraph (I) of this~~
25 ~~paragraph (o)~~, SUBSECTION (1)(o)(I) OF THIS SECTION, if the moneys in the
26 ~~hospital provider~~ HEALTHCARE AFFORDABILITY AND SUSTAINABILITY fee
27 cash fund established pursuant to ~~section 25.5-4-402.3 (4)~~ SECTION

1 25.5-4-402.4, together with the corresponding federal matching funds, are
2 insufficient to fully fund all of the purposes described in ~~section~~
3 ~~25.5-4-402.3 (4) (b)~~ SECTION 25.5-4-402.4 (5)(b), after receiving
4 recommendations from the ~~hospital provider fee oversight and advisory~~
5 ~~board~~ COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
6 ENTERPRISE established pursuant to ~~section 25.5-4-402.3 (6)~~ SECTION
7 25.5-4-402.4 (3), for individuals with disabilities who are participating in
8 the medicaid buy-in program established in part 14 of article 6 of this
9 title, the state board by rule adopted pursuant to the provisions of ~~section~~
10 ~~25.5-4-402.3 (5) (b) (HH)~~ SECTION 25.5-4-402.4 (6)(b)(III) may reduce the
11 medical benefits offered or the percentage of the federal poverty line to
12 below four hundred fifty percent or may eliminate this eligibility group.

13 (r) (II) Notwithstanding the provisions of ~~subparagraph (I) of this~~
14 ~~paragraph (r)~~, SUBSECTION (1)(r)(I) OF THIS SECTION, if the moneys in the
15 ~~hospital provider~~ HEALTHCARE AFFORDABILITY AND SUSTAINABILITY fee
16 cash fund established pursuant to ~~section 25.5-4-402.3 (4)~~ SECTION
17 25.5-4-402.4, together with the corresponding federal matching funds, are
18 insufficient to fully fund all of the purposes described in ~~section~~
19 ~~25.5-4-402.3 (4) (b)~~ SECTION 25.5-4-402.4 (5)(b), after receiving
20 recommendations from the ~~hospital provider fee oversight and advisory~~
21 ~~board~~ COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
22 ENTERPRISE established pursuant to ~~section 25.5-4-402.3 (6)~~ SECTION
23 25.5-4-402.4 (3), for persons eligible for a medicaid buy-in program
24 established pursuant to section 25.5-5-206, the state board by rule adopted
25 pursuant to the provisions of ~~section 25.5-4-402.3 (5) (b) (HH)~~ SECTION
26 25.5-4-402.4 (6)(b)(III) may reduce the medical benefits offered, or the
27 percentage of the federal poverty line, or may eliminate this eligibility

1 group.

2 **SECTION 10.** In Colorado Revised Statutes, 25.5-5-204.5,
3 **amend** (2) as follows:

4 **25.5-5-204.5. Continuous eligibility - children - repeal.**

5 (2) Notwithstanding the provisions of subsection (1) of this section, if the
6 moneys in the ~~hospital provider~~ HEALTHCARE AFFORDABILITY AND
7 SUSTAINABILITY fee cash fund established pursuant to ~~section~~
8 ~~25.5-4-402.3 (4)~~ SECTION 25.5-4-402.4, together with the corresponding
9 federal matching funds, are insufficient to fully fund all of the purposes
10 described in ~~section 25.5-4-402.3 (4) (b)~~ SECTION 25.5-4-402.4 (5)(b),
11 after receiving recommendations from the ~~hospital provider fee oversight~~
12 ~~and advisory board~~ COLORADO HEALTHCARE AFFORDABILITY AND
13 SUSTAINABILITY ENTERPRISE established pursuant to ~~section 25.5-4-402.3~~
14 ~~(6)~~ SECTION 25.5-4-402.4 (3), the state board by rule adopted pursuant to
15 the provisions of ~~section 25.5-4-402.3 (5) (b) (HH)~~ SECTION 25.5-4-402.4
16 (6)(b)(III) may eliminate the continuous enrollment requirement pursuant
17 to this section.

18 **SECTION 11.** In Colorado Revised Statutes, 25.5-8-103, **amend**
19 (4)(a)(II) and (4)(b)(II) as follows:

20 **25.5-8-103. Definitions - repeal.** As used in this article, unless
21 the context otherwise requires:

22 (4) "Eligible person" means:

23 (a) (II) Notwithstanding the provisions of ~~subparagraph (I) of this~~
24 ~~paragraph (a)~~, SUBSECTION (4)(a)(I) OF THIS SECTION, if the moneys in the
25 ~~hospital provider~~ HEALTHCARE AFFORDABILITY AND SUSTAINABILITY fee
26 cash fund established pursuant to ~~section 25.5-4-402.3 (4)~~ SECTION
27 25.5-4-402.4 (5), together with the corresponding federal matching funds,

1 are insufficient to fully fund all of the purposes described in ~~section~~
2 ~~25.5-4-402.3 (4) (b)~~ SECTION 25.5-4-402.4 (5)(b), after receiving
3 recommendations from the ~~hospital provider fee oversight and advisory~~
4 ~~board~~ COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
5 ENTERPRISE established pursuant to ~~section 25.5-4-402.3 (6)~~ SECTION
6 25.5-4-402.4 (3), for persons less than nineteen years of age, the state
7 board may by rule adopted pursuant to the provisions of ~~section~~
8 ~~25.5-4-402.3 (5) (b) (III)~~ SECTION 25.5-4-402.4 (6)(b)(III) reduce the
9 percentage of the federal poverty line to below two hundred fifty percent,
10 but the percentage shall not be reduced to below two hundred five
11 percent.

12 (b) (II) Notwithstanding the provisions of ~~subparagraph (I) of this~~
13 ~~paragraph (b)~~, SUBSECTION (4)(b)(I) OF THIS SECTION, if the moneys in the
14 ~~hospital provider~~ HEALTHCARE AFFORDABILITY AND SUSTAINABILITY fee
15 cash fund established pursuant to ~~section 25.5-4-402.3 (4)~~ SECTION
16 25.5-4-402.4 (5), together with the corresponding federal matching funds,
17 are insufficient to fully fund all of the purposes described in ~~section~~
18 ~~25.5-4-402.3 (4) (b)~~ SECTION 25.5-4-402.4 (5)(b), after receiving
19 recommendations from the ~~hospital provider fee oversight and advisory~~
20 ~~board~~ COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
21 ENTERPRISE established pursuant to ~~section 25.5-4-402.3 (6)~~ SECTION
22 25.5-4-402.4 (3), for pregnant women, the state board by rule adopted
23 pursuant to the provisions of ~~section 25.5-4-402.3 (5) (b) (III)~~ SECTION
24 25.5-4-402.4 (6)(b)(III) may reduce the percentage of the federal poverty
25 line to below two hundred fifty percent, but the percentage shall not be
26 reduced to below two hundred five percent.

27 **SECTION 12.** In Colorado Revised Statutes, **repeal**

1 25.5-4-402.3.

2 **SECTION 13. Effective date.** (1) Except as otherwise provided
3 in this section, this act takes effect July 1, 2017.

4 (2) (a) This act does not take effect if the centers for medicare and
5 medicaid services determine that the amendments set forth in this act do
6 not comply with federal law.

7 (b) If the centers for medicare and medicaid services make the
8 determination described in subsection (2)(a) of this section, the executive
9 director of the department of health care policy and financing shall, no
10 later than June 1, 2017, notify the revisor of statutes in writing of that
11 determination.

12 **SECTION 14. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, and safety.