

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

LLS NO. 16-0236.04 Jason Gelender x4330

**HOUSE BILL 16-1420**

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**HOUSE SPONSORSHIP**

**Hullinghorst,**

**SENATE SPONSORSHIP**

**Crowder,**

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**House Committees**  
Appropriations

**Senate Committees**

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**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, AND, IN**  
106            **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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**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://www.leg.state.co.us/billsummaries>.)*

The bill creates the Colorado healthcare affordability 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.*

HOUSE  
3rd Reading Unamended  
April 29, 2016

HOUSE  
Amended 2nd Reading  
April 28, 2016

sustainability enterprise (enterprise) as a **type 2** agency and government-owned business within the department of health care policy and financing (HCPF) for the purpose of participating in the implementation and administration of a state Colorado healthcare affordability and sustainability program (program) on and after July 1, 2016, 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, 2016.

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.

In order to compensate for a proposed reduction in the amount of the fiscal year 2016-17 long bill appropriation of revenue from fees collected by HCPF from hospitals and federal matching money, the bill appropriates \$146,693,573 in healthcare affordability and sustainability fees and federal funds to the enterprise for fiscal year 2016-17.

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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 2016".

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

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

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

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

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

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

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

19 (IV) REDUCING THE NEED OF HOSPITALS AND OTHER HEALTH CARE  
20 PROVIDERS TO SHIFT THE COST OF PROVIDING UNCOMPENSATED CARE TO  
21 OTHER PAYERS;

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

24 (VI) PROVIDING THE ADDITIONAL BUSINESS SERVICES SPECIFIED  
25 IN SUBPARAGRAPH (IV) OF PARAGRAPH (a) OF SUBSECTION (4) OF THIS  
26 SECTION TO HOSPITALS THAT PAY THE HEALTHCARE AFFORDABILITY AND  
27 SUSTAINABILITY FEE CHARGED AND COLLECTED AS AUTHORIZED BY

1 SUBSECTION (4) OF THIS SECTION BY THE COLORADO HEALTHCARE  
2 AFFORDABILITY AND SUSTAINABILITY ENTERPRISE CREATED IN  
3 PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION.

4 (d) THE COLORADO HEALTHCARE AFFORDABILITY AND  
5 SUSTAINABILITY ENTERPRISE PROVIDES BUSINESS SERVICES TO HOSPITALS  
6 WHEN, IN EXCHANGE FOR PAYMENT OF HEALTHCARE AFFORDABILITY AND  
7 SUSTAINABILITY FEES BY HOSPITALS, IT:

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

15 (II) PROVIDES ADDITIONAL BUSINESS SERVICES TO HOSPITALS AS  
16 SPECIFIED IN SUBPARAGRAPH (IV) OF PARAGRAPH (a) OF SUBSECTION (4)  
17 OF THIS SECTION;

18 (e) IT IS NECESSARY, APPROPRIATE, AND IN THE BEST INTEREST OF  
19 THE STATE TO ACKNOWLEDGE THAT BY PROVIDING THE BUSINESS  
20 SERVICES SPECIFIED IN SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (d) OF  
21 THIS SUBSECTION (2) THE COLORADO HEALTHCARE AFFORDABILITY AND  
22 SUSTAINABILITY ENTERPRISE ENGAGES IN AN ACTIVITY CONDUCTED IN THE  
23 PURSUIT OF A BENEFIT, GAIN, OR LIVELIHOOD AND THEREFORE OPERATES  
24 AS A BUSINESS;

25 (f) CONSISTENT WITH THE DETERMINATION OF THE COLORADO  
26 SUPREME COURT IN *NICHOLL V. E-470 PUBLIC HIGHWAY AUTHORITY*, 896  
27 P.2d 859 (COLO. 1995), THAT THE POWER TO IMPOSE TAXES IS

1 INCONSISTENT WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE  
2 X OF THE STATE CONSTITUTION, IT IS THE CONCLUSION OF THE GENERAL  
3 ASSEMBLY THAT THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY  
4 FEE CHARGED AND COLLECTED BY THE COLORADO HEALTHCARE  
5 AFFORDABILITY AND SUSTAINABILITY ENTERPRISE IS A FEE, NOT A TAX,  
6 BECAUSE THE FEE IS IMPOSED FOR THE SPECIFIC PURPOSES OF ALLOWING  
7 THE ENTERPRISE TO DEFRAY THE COSTS OF PROVIDING THE BUSINESS  
8 SERVICES SPECIFIED IN SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (d) OF  
9 THIS SUBSECTION (2) TO HOSPITALS THAT PAY THE FEE AND IS COLLECTED  
10 AT RATES THAT ARE REASONABLY CALCULATED BASED ON THE BENEFITS  
11 RECEIVED BY THOSE HOSPITALS; AND

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

23 (3) (a) THE COLORADO HEALTHCARE AFFORDABILITY AND  
24 SUSTAINABILITY ENTERPRISE, REFERRED TO IN THIS SECTION AS THE  
25 "ENTERPRISE", IS CREATED. THE ENTERPRISE IS AND OPERATES AS A  
26 GOVERNMENT-OWNED BUSINESS WITHIN THE STATE DEPARTMENT FOR THE  
27 PURPOSE OF CHARGING AND COLLECTING THE HEALTHCARE

1 AFFORDABILITY AND SUSTAINABILITY FEE, LEVERAGING HEALTHCARE  
2 AFFORDABILITY AND SUSTAINABILITY FEE REVENUE TO OBTAIN FEDERAL  
3 MATCHING MONEY, AND UTILIZING AND DEPLOYING THE HEALTHCARE  
4 AFFORDABILITY AND SUSTAINABILITY FEE REVENUE AND FEDERAL  
5 MATCHING MONEY TO PROVIDE THE BUSINESS SERVICES SPECIFIED IN  
6 SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (d) OF SUBSECTION (2) OF  
7 THIS SECTION TO HOSPITALS THAT PAY THE HEALTHCARE AFFORDABILITY  
8 AND SUSTAINABILITY FEE.

9 (b) THE ENTERPRISE CONSTITUTES AN ENTERPRISE FOR PURPOSES  
10 OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS IT  
11 RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND RECEIVES LESS  
12 THAN TEN PERCENT OF ITS TOTAL REVENUES IN GRANTS FROM ALL  
13 COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. SO LONG AS IT  
14 CONSTITUTES AN ENTERPRISE PURSUANT TO THIS PARAGRAPH (b), THE  
15 ENTERPRISE IS NOT SUBJECT TO ANY PROVISIONS OF SECTION 20 OF  
16 ARTICLE X OF THE STATE CONSTITUTION.

17 (c) CREATION OF THE COLORADO HEALTHCARE AFFORDABILITY  
18 AND SUSTAINABILITY ENTERPRISE AS A NEW ENTERPRISE TO CHARGE AND  
19 COLLECT A NEW HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE  
20 AS AUTHORIZED BY SUBSECTION (4) OF THIS SECTION AND PROVIDE  
21 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE-FUNDED BUSINESS  
22 SERVICES TO HOSPITALS IS THE CREATION OF A NEW GOVERNMENT-OWNED  
23 BUSINESS THAT PROVIDES BUSINESS SERVICES TO HOSPITALS AS A NEW  
24 ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE  
25 CONSTITUTION, DOES NOT CONSTITUTE THE QUALIFICATION OF AN  
26 EXISTING GOVERNMENT-OWNED BUSINESS AS AN ENTERPRISE FOR  
27 PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR

1 SECTION 24-77-103.6 (6) (b) (II), C.R.S., AND, THEREFORE, DOES NOT  
2 REQUIRE OR AUTHORIZE ADJUSTMENT OF THE STATE FISCAL YEAR  
3 SPENDING LIMIT CALCULATED PURSUANT TO SECTION 20 OF ARTICLE X OF  
4 THE STATE CONSTITUTION OR THE EXCESS STATE REVENUES CAP, AS  
5 DEFINED IN SECTION 24-77-103.6 (6) (b) (I) (B), C.R.S.

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

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

10 (II) TO LEVERAGE HEALTHCARE AFFORDABILITY AND  
11 SUSTAINABILITY FEE REVENUE COLLECTED TO OBTAIN FEDERAL MATCHING  
12 MONEY, WORKING WITH OR THROUGH THE STATE DEPARTMENT AND THE  
13 STATE BOARD TO THE EXTENT REQUIRED BY FEDERAL LAW OR OTHERWISE  
14 NECESSARY;

15 (III) TO EXPEND HEALTHCARE AFFORDABILITY AND  
16 SUSTAINABILITY FEE REVENUE, MATCHING FEDERAL MONEY, AND ANY  
17 OTHER MONEY FROM THE HEALTHCARE AFFORDABILITY AND  
18 SUSTAINABILITY FEE CASH FUND AS SPECIFIED IN SUBSECTIONS (4) AND (5)  
19 OF THIS SECTION;

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

22 (V) TO ENTER INTO AGREEMENTS WITH THE STATE DEPARTMENT  
23 TO THE EXTENT NECESSARY TO COLLECT AND EXPEND HEALTHCARE  
24 AFFORDABILITY AND SUSTAINABILITY FEE REVENUE;

25 (VI) TO ENGAGE THE SERVICES OF PRIVATE PERSONS OR ENTITIES  
26 SERVING AS CONTRACTORS, CONSULTANTS, AND LEGAL COUNSEL FOR  
27 PROFESSIONAL AND TECHNICAL ASSISTANCE AND ADVICE AND TO SUPPLY



1 OTHER SERVICES RELATED TO THE CONDUCT OF THE AFFAIRS OF THE  
2 ENTERPRISE, INCLUDING THE PROVISION OF ADDITIONAL BUSINESS  
3 SERVICES TO HOSPITALS AS SPECIFIED IN SUBPARAGRAPH (IV) OF  
4 PARAGRAPH (b) OF SUBSECTION (4) OF THIS SECTION; AND

5 (VII) TO ADOPT AND AMEND OR REPEAL POLICIES FOR THE  
6 REGULATION OF ITS AFFAIRS AND THE CONDUCT OF ITS BUSINESS  
7 CONSISTENT WITH THE PROVISIONS OF THIS SECTION.

8 (e) THE ENTERPRISE SHALL EXERCISE ITS POWERS AND PERFORM  
9 ITS DUTIES AS IF THE SAME WERE TRANSFERRED TO THE STATE  
10 DEPARTMENT BY A **TYPE 2** TRANSFER, AS DEFINED IN SECTION 24-1-105,  
11 C.R.S.

12 (4) **Healthcare affordability and sustainability fee.** (a) FOR THE  
13 FISCAL YEAR COMMENCING JULY 1, 2016, AND FOR EACH FISCAL YEAR  
14 THEREAFTER, THE ENTERPRISE IS AUTHORIZED TO CHARGE AND COLLECT  
15 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEES, AS DESCRIBED  
16 IN 42 CFR 433.68 (b), ON OUTPATIENT AND INPATIENT SERVICES  
17 PROVIDED BY ALL LICENSED OR CERTIFIED HOSPITALS, REFERRED TO IN  
18 THIS SECTION AS "HOSPITALS", FOR THE PURPOSE OF OBTAINING FEDERAL  
19 FINANCIAL PARTICIPATION UNDER THE STATE MEDICAL ASSISTANCE  
20 PROGRAM AS DESCRIBED IN THIS ARTICLE AND ARTICLES 5 AND 6 OF THIS  
21 TITLE, REFERRED TO IN THIS SECTION AS THE "STATE MEDICAL ASSISTANCE  
22 PROGRAM", AND THE COLORADO INDIGENT CARE PROGRAM DESCRIBED IN  
23 PART 1 OF ARTICLE 3 OF THIS TITLE, REFERRED TO IN THIS SECTION AS THE  
24 "COLORADO INDIGENT CARE PROGRAM". THE HEALTHCARE  
25 AFFORDABILITY AND SUSTAINABILITY FEES SHALL BE USED BY THE  
26 ENTERPRISE TO:

27 (I) PROVIDE A BUSINESS SERVICE TO HOSPITALS BY INCREASING

1 REIMBURSEMENT TO HOSPITALS FOR PROVIDING MEDICAL CARE UNDER:

2 (A) THE STATE MEDICAL ASSISTANCE PROGRAM; AND

3 (B) THE COLORADO INDIGENT CARE PROGRAM;

4 (II) PROVIDE A BUSINESS SERVICE TO HOSPITALS BY INCREASING  
5 THE NUMBER OF INDIVIDUALS COVERED BY PUBLIC MEDICAL ASSISTANCE  
6 AND THEREBY REDUCING THE AMOUNT OF UNCOMPENSATED CARE THAT  
7 THE HOSPITALS MUST PROVIDE;

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

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

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

15 (B) ADVISING HOSPITALS REGARDING POTENTIAL CHANGES TO  
16 FEDERAL AND STATE LAWS AND REGULATIONS THAT GOVERN THE  
17 PROVISION OF AND REIMBURSEMENT PAID FOR MEDICAL SERVICES UNDER  
18 THE PROGRAMS ADMINISTERED PURSUANT TO THIS ARTICLE AND ARTICLES  
19 5 AND 6 OF THIS TITLE;

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

1 (D) PROVIDING ANY OTHER SERVICES TO HOSPITALS THAT AID  
2 THEM IN EFFICIENTLY AND EFFECTIVELY PARTICIPATING IN THE PROGRAMS  
3 ADMINISTERED PURSUANT TO THIS ARTICLE AND ARTICLES 5 AND 6 OF THIS  
4 TITLE.

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

16 (I) CONSIDER RECOMMENDATIONS OF THE ENTERPRISE;

17 (II) ESTABLISH THE AMOUNT OF THE HEALTHCARE AFFORDABILITY  
18 AND SUSTAINABILITY FEE SO THAT THE AMOUNT COLLECTED FROM THE FEE  
19 AND FEDERAL MATCHING FUNDS ASSOCIATED WITH THE FEE ARE  
20 SUFFICIENT TO PAY FOR THE ITEMS DESCRIBED IN PARAGRAPH (a) OF THIS  
21 SUBSECTION (4), BUT NOTHING IN THIS SUBPARAGRAPH (II) SHALL REQUIRE  
22 THE STATE BOARD TO INCREASE THE FEE ABOVE THE AMOUNT  
23 RECOMMENDED BY THE ENTERPRISE; AND

24 (III) FOR THE 2016-17 FISCAL YEAR, ESTABLISH THE AMOUNT OF  
25 THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE SO THAT THE  
26 AMOUNT COLLECTED FROM THE FEE IS APPROXIMATELY EQUAL TO THE  
27 SUM OF THE AMOUNTS OF THE APPROPRIATIONS SPECIFIED FOR THE FEE IN

1 HOUSE BILLS 16-1405 AND 16-1420, BOTH ENACTED IN 2016, AND ANY  
2 OTHER SUPPLEMENTAL APPROPRIATION ACT.

3 (c) (I) IN ACCORDANCE WITH THE REDISTRIBUTIVE METHOD SET  
4 FORTH IN 42 CFR 433.68 (e) (1) AND (e) (2), THE ENTERPRISE, ACTING IN  
5 CONCERT WITH OR THROUGH AN AGREEMENT WITH THE STATE  
6 DEPARTMENT IF REQUIRED BY FEDERAL LAW, MAY SEEK A WAIVER FROM  
7 THE BROAD-BASED HEALTHCARE AFFORDABILITY AND SUSTAINABILITY  
8 FEES REQUIREMENT OR THE UNIFORM HEALTHCARE AFFORDABILITY AND  
9 SUSTAINABILITY FEES REQUIREMENT, OR BOTH. SUBJECT TO FEDERAL  
10 APPROVAL AND TO MINIMIZE THE FINANCIAL IMPACT ON CERTAIN  
11 HOSPITALS, THE ENTERPRISE MAY EXEMPT FROM PAYMENT OF THE  
12 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE CERTAIN TYPES OF  
13 HOSPITALS, INCLUDING BUT NOT LIMITED TO:

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

16 (B) HOSPITALS THAT ARE LICENSED AS GENERAL HOSPITALS AND  
17 CERTIFIED AS LONG-TERM CARE HOSPITALS BY THE DEPARTMENT OF  
18 PUBLIC HEALTH AND ENVIRONMENT;

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

22 (D) INPATIENT REHABILITATION FACILITIES; OR

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

24 (e).

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

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

1 (B) A HOSPITAL WITH WHICH THE STATE DEPARTMENT DOES NOT  
2 CONTRACT TO PROVIDE SERVICES UNDER THE STATE MEDICAL ASSISTANCE  
3 PROGRAM;

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

7 (D) A HOSPITAL THAT MUST BE INCLUDED TO RECEIVE FEDERAL  
8 APPROVAL.

9 (III) THE ENTERPRISE MAY REDUCE THE AMOUNT OF THE  
10 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE FOR CERTAIN  
11 HOSPITALS TO OBTAIN FEDERAL APPROVAL AND TO MINIMIZE THE  
12 FINANCIAL IMPACT ON CERTAIN HOSPITALS. IN DETERMINING FOR WHICH  
13 HOSPITALS THE ENTERPRISE MAY REDUCE THE AMOUNT OF THE  
14 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE, THE ENTERPRISE  
15 SHALL USE ONE OR MORE OF THE FOLLOWING CRITERIA:

16 (A) THE HOSPITAL IS A TYPE OF HOSPITAL DESCRIBED IN  
17 SUBPARAGRAPH (I) OF THIS PARAGRAPH (c);

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

19 (C) THE HOSPITAL SERVES A HIGHER PERCENTAGE THAN THE  
20 AVERAGE HOSPITAL OF PERSONS COVERED BY THE STATE MEDICAL  
21 ASSISTANCE PROGRAM, MEDICARE, OR COMMERCIAL INSURANCE OR  
22 PERSONS ENROLLED IN A MANAGED CARE ORGANIZATION;

23 (D) THE HOSPITAL DOES NOT CONTRACT WITH THE STATE  
24 DEPARTMENT TO PROVIDE SERVICES UNDER THE STATE MEDICAL  
25 ASSISTANCE PROGRAM;

26 (E) IF THE HOSPITAL PAID A REDUCED HEALTHCARE  
27 AFFORDABILITY AND SUSTAINABILITY FEE, THE REDUCED FEE WOULD NOT

1 SIGNIFICANTLY AFFECT THE NET BENEFIT TO HOSPITALS PAYING THE  
2 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE; OR

3 (F) THE HOSPITAL IS REQUIRED NOT TO PAY A REDUCED  
4 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE AS A CONDITION  
5 OF FEDERAL APPROVAL.

6 (IV) THE ENTERPRISE MAY CHANGE HOW IT PAYS HOSPITAL  
7 REIMBURSEMENT OR QUALITY INCENTIVE PAYMENTS, OR BOTH, IN WHOLE  
8 OR IN PART, UNDER THE AUTHORITY OF A FEDERAL WAIVER IF THE TOTAL  
9 REIMBURSEMENT TO HOSPITALS IS EQUAL TO OR ABOVE THE FEDERAL  
10 UPPER PAYMENT LIMIT CALCULATION UNDER THE WAIVER.

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

14 (e) (I) THE ENTERPRISE SHALL ESTABLISH POLICIES ON THE  
15 CALCULATION, ASSESSMENT, AND TIMING OF THE HEALTHCARE  
16 AFFORDABILITY AND SUSTAINABILITY FEE. THE ENTERPRISE SHALL ASSESS  
17 THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE ON A  
18 SCHEDULE TO BE SET BY THE ENTERPRISE BOARD AS PROVIDED IN  
19 PARAGRAPH (d) OF SUBSECTION (7) OF THIS SECTION. THE PERIODIC  
20 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE PAYMENTS FROM  
21 A HOSPITAL AND THE ENTERPRISE'S REIMBURSEMENT TO THE HOSPITAL  
22 UNDER SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (b) OF SUBSECTION  
23 (5) OF THIS SECTION ARE DUE AS NEARLY SIMULTANEOUSLY AS FEASIBLE;  
24 EXCEPT THAT THE ENTERPRISE'S REIMBURSEMENT TO THE HOSPITAL SHALL  
25 BE DUE NO MORE THAN TWO DAYS AFTER THE PERIODIC HEALTHCARE  
26 AFFORDABILITY AND SUSTAINABILITY FEE PAYMENT IS RECEIVED FROM  
27 THE HOSPITAL. THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY

1 FEE SHALL BE IMPOSED ON EACH HOSPITAL EVEN IF MORE THAN ONE  
2 HOSPITAL IS OWNED BY THE SAME ENTITY. THE FEE SHALL BE PRORATED  
3 AND ADJUSTED FOR THE EXPECTED VOLUME OF SERVICE FOR ANY YEAR IN  
4 WHICH A HOSPITAL OPENS OR CLOSES.

5 (II) [REDACTED] THE ENTERPRISE IS AUTHORIZED TO REFUND ANY UNUSED  
6 PORTION OF THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE.  
7 FOR ANY PORTION OF THE HEALTHCARE AFFORDABILITY AND  
8 SUSTAINABILITY FEE THAT HAS BEEN COLLECTED BY THE ENTERPRISE BUT  
9 FOR WHICH THE ENTERPRISE HAS NOT RECEIVED FEDERAL MATCHING  
10 FUNDS, THE ENTERPRISE SHALL REFUND BACK TO THE HOSPITAL THAT PAID  
11 THE FEE THE AMOUNT OF THAT PORTION OF THE FEE WITHIN FIVE BUSINESS  
12 DAYS AFTER THE FEE IS COLLECTED.

13 [REDACTED]  
14 (III) THE ENTERPRISE SHALL ESTABLISH REQUIREMENTS FOR THE  
15 REPORTS THAT HOSPITALS MUST SUBMIT TO THE ENTERPRISE TO ALLOW  
16 THE ENTERPRISE TO CALCULATE THE AMOUNT OF THE HEALTHCARE  
17 AFFORDABILITY AND SUSTAINABILITY FEE. NOTWITHSTANDING THE  
18 PROVISIONS OF PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S., OR PARAGRAPH  
19 (f) OF SUBSECTION (7) OF THIS SECTION, INFORMATION PROVIDED TO THE  
20 ENTERPRISE PURSUANT TO THIS SECTION IS CONFIDENTIAL AND IS NOT A  
21 PUBLIC RECORD. NONETHELESS, THE ENTERPRISE MAY PREPARE AND  
22 RELEASE SUMMARIES OF THE REPORTS TO THE PUBLIC.

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

26 (g) THE STATE BOARD SHALL PROMULGATE ANY RULES PURSUANT  
27 TO THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE

1 24, C.R.S., NECESSARY FOR THE ADMINISTRATION AND IMPLEMENTATION  
2 OF THIS SECTION. PRIOR TO SUBMITTING ANY PROPOSED RULES  
3 CONCERNING THE ADMINISTRATION OR IMPLEMENTATION OF THE  
4 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE TO THE STATE  
5 BOARD, THE ENTERPRISE SHALL CONSULT WITH THE STATE BOARD ON THE  
6 PROPOSED RULES AS SPECIFIED IN PARAGRAPH (d) OF SUBSECTION (7) OF  
7 THIS SECTION.

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

9 (a) ALL HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEES  
10 COLLECTED PURSUANT TO THIS SECTION BY THE ENTERPRISE SHALL BE  
11 TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE FEES TO  
12 THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE CASH FUND,  
13 WHICH FUND IS HEREBY CREATED AND REFERRED TO IN THIS SECTION AS  
14 THE "FUND". MONEY IN THE FUND SHALL NOT BE TRANSFERRED TO ANY  
15 OTHER FUND AND SHALL NOT BE USED FOR ANY PURPOSE OTHER THAN THE  
16 PURPOSES SPECIFIED IN THIS SUBSECTION (5) AND SUBSECTION (4) OF THIS  
17 SECTION.

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

21 (I) TO MAXIMIZE THE INPATIENT AND OUTPATIENT HOSPITAL  
22 REIMBURSEMENTS TO UP TO THE UPPER PAYMENT LIMITS AS DEFINED IN 42  
23 CFR 447.272 AND 42 CFR 447.321;

24 (II) TO INCREASE HOSPITAL REIMBURSEMENTS UNDER THE  
25 COLORADO INDIGENT CARE PROGRAM TO UP TO ONE HUNDRED PERCENT  
26 OF THE HOSPITAL'S COSTS OF PROVIDING MEDICAL CARE UNDER THE  
27 PROGRAM;



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

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

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

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

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

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

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

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

1 (A) ADMINISTRATIVE EXPENSES OF THE ENTERPRISE;

2 (B) THE ENTERPRISE'S ACTUAL COSTS RELATED TO IMPLEMENTING  
3 AND MAINTAINING THE HEALTHCARE AFFORDABILITY AND  
4 SUSTAINABILITY FEE, INCLUDING PERSONAL SERVICES, OPERATING, AND  
5 CONSULTING EXPENSES;

6 (C) THE ENTERPRISE'S ACTUAL COSTS FOR THE CHANGES AND  
7 UPDATES TO THE MEDICAID MANAGEMENT INFORMATION SYSTEM FOR THE  
8 IMPLEMENTATION OF SUBPARAGRAPHS (I) TO (III) OF THIS PARAGRAPH (b);

9 (D) THE ENTERPRISE'S PERSONAL SERVICES AND OPERATING COSTS  
10 RELATED TO PERSONNEL, CONSULTING SERVICES, AND FOR REVIEW OF  
11 HOSPITAL COSTS NECESSARY TO IMPLEMENT AND ADMINISTER THE  
12 INCREASES IN INPATIENT AND OUTPATIENT HOSPITAL PAYMENTS MADE  
13 PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), INCREASES IN  
14 THE COLORADO INDIGENT CARE PROGRAM PAYMENTS MADE PURSUANT TO  
15 SUBPARAGRAPH (II) OF THIS PARAGRAPH (b), AND QUALITY INCENTIVE  
16 PAYMENTS MADE PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH  
17 (b);

18 (E) THE ENTERPRISE'S ACTUAL COSTS FOR THE CHANGES AND  
19 UPDATES TO THE COLORADO BENEFITS MANAGEMENT SYSTEM AND  
20 MEDICAID MANAGEMENT INFORMATION SYSTEM TO IMPLEMENT AND  
21 MAINTAIN THE EXPANDED ELIGIBILITY PROVIDED FOR IN SUBPARAGRAPHS  
22 (IV) AND (V) OF THIS PARAGRAPH (b);

23 (F) THE ENTERPRISE'S PERSONAL SERVICES AND OPERATING COSTS  
24 RELATED TO PERSONNEL NECESSARY TO IMPLEMENT AND ADMINISTER THE  
25 EXPANDED ELIGIBILITY FOR PUBLIC MEDICAL ASSISTANCE PROVIDED FOR  
26 IN SUBPARAGRAPHS (IV) AND (V) OF THIS PARAGRAPH (b), INCLUDING BUT  
27 NOT LIMITED TO ADMINISTRATIVE COSTS ASSOCIATED WITH THE

1 DETERMINATION OF ELIGIBILITY FOR PUBLIC MEDICAL ASSISTANCE BY  
2 COUNTY DEPARTMENTS;

3 (G) THE ENTERPRISE'S PERSONAL SERVICES, OPERATING, AND  
4 SYSTEMS COSTS RELATED TO EXPANDING THE OPPORTUNITY FOR  
5 INDIVIDUALS TO APPLY FOR PUBLIC MEDICAL ASSISTANCE DIRECTLY AT  
6 HOSPITALS OR THROUGH ANOTHER ENTITY OUTSIDE THE COUNTY  
7 DEPARTMENTS, IN CONNECTION WITH SECTION 25.5-4-205, THAT WOULD  
8 INCREASE ACCESS TO PUBLIC MEDICAL ASSISTANCE AND REDUCE THE  
9 NUMBER OF UNINSURED SERVED BY HOSPITALS; █

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

14 (VIII) TO PROVIDE ADDITIONAL BUSINESS SERVICES TO HOSPITALS  
15 AS SPECIFIED IN SUBPARAGRAPH (V) OF PARAGRAPH (a) OF SUBSECTION (4)  
16 OF THIS SECTION.

17 (6) **Appropriations.** (a) (I) THE HEALTHCARE AFFORDABILITY  
18 AND SUSTAINABILITY FEE IS TO SUPPLEMENT, NOT SUPPLANT, GENERAL  
19 FUND APPROPRIATIONS TO SUPPORT HOSPITAL █ REIMBURSEMENTS.  
20 GENERAL FUND APPROPRIATIONS FOR HOSPITAL REIMBURSEMENTS SHALL  
21 BE MAINTAINED AT THE LEVEL OF APPROPRIATIONS IN THE MEDICAL  
22 SERVICES PREMIUM LINE ITEM MADE FOR THE FISCAL YEAR COMMENCING  
23 JULY 1, 2008; EXCEPT THAT GENERAL FUND APPROPRIATIONS FOR  
24 HOSPITAL REIMBURSEMENTS MAY BE REDUCED IF AN INDEX OF  
25 APPROPRIATIONS TO OTHER PROVIDERS SHOWS THAT GENERAL FUND  
26 APPROPRIATIONS ARE REDUCED FOR OTHER PROVIDERS. IF THE INDEX  
27 SHOWS THAT GENERAL FUND APPROPRIATIONS ARE REDUCED FOR OTHER

1 PROVIDERS, THE GENERAL FUND APPROPRIATIONS FOR HOSPITAL  
2 REIMBURSEMENTS SHALL NOT BE REDUCED BY A GREATER PERCENTAGE  
3 THAN THE REDUCTIONS OF APPROPRIATIONS FOR THE OTHER PROVIDERS AS  
4 SHOWN BY THE INDEX.

5 (II) IF GENERAL FUND APPROPRIATIONS FOR HOSPITAL  
6 REIMBURSEMENTS ARE REDUCED BELOW THE LEVEL OF APPROPRIATIONS  
7 IN THE MEDICAL SERVICES PREMIUM LINE ITEM MADE FOR THE FISCAL  
8 YEAR COMMENCING JULY 1, 2008, THE GENERAL FUND APPROPRIATIONS  
9 WILL BE INCREASED BACK TO THE LEVEL OF APPROPRIATIONS IN THE  
10 MEDICAL SERVICES PREMIUM LINE ITEM MADE FOR THE FISCAL YEAR  
11 COMMENCING JULY 1, 2008, AT THE SAME PERCENTAGE AS THE  
12 APPROPRIATIONS FOR OTHER PROVIDERS AS SHOWN BY THE INDEX. THE  
13 GENERAL ASSEMBLY IS NOT OBLIGATED TO INCREASE THE GENERAL FUND  
14 APPROPRIATIONS BACK TO THE LEVEL OF APPROPRIATIONS IN THE MEDICAL  
15 SERVICES PREMIUM LINE ITEM IN A SINGLE FISCAL YEAR AND SUCH  
16 INCREASES MAY OCCUR OVER NONCONSECUTIVE FISCAL YEARS.

17 (III) FOR PURPOSES OF THIS PARAGRAPH (a), THE "INDEX OF  
18 APPROPRIATIONS TO OTHER PROVIDERS" OR "INDEX" MEANS THE AVERAGE  
19 PERCENT CHANGE IN REIMBURSEMENT RATES THROUGH APPROPRIATIONS  
20 OR LEGISLATION ENACTED BY THE GENERAL ASSEMBLY TO HOME HEALTH  
21 PROVIDERS, PHYSICIAN SERVICES, AND OUTPATIENT PHARMACIES,  
22 EXCLUDING DISPENSING FEES. THE STATE BOARD, AFTER CONSULTATION  
23 WITH THE ENTERPRISE BOARD, IS AUTHORIZED TO CLARIFY THIS  
24 DEFINITION AS NECESSARY BY RULE.

25 (b) IF THE REVENUE FROM THE HEALTHCARE AFFORDABILITY AND  
26 SUSTAINABILITY FEE IS INSUFFICIENT TO FULLY FUND ALL OF THE  
27 PURPOSES DESCRIBED IN PARAGRAPH (b) OF SUBSECTION (5) OF THIS

1 SECTION:

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

4 (II) THE HOSPITAL PROVIDER REIMBURSEMENT AND QUALITY  
5 INCENTIVE PAYMENT INCREASES DESCRIBED IN SUBPARAGRAPHS (I) TO  
6 (III) OF PARAGRAPH (b) OF SUBSECTION (5) OF THIS SECTION AND THE  
7 COSTS DESCRIBED IN SUBPARAGRAPH (VI) OF PARAGRAPH (b) OF  
8 SUBSECTION (5) OF THIS SECTION SHALL BE FULLY FUNDED USING REVENUE  
9 FROM THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE AND  
10 FEDERAL MATCHING FUNDS BEFORE ANY ELIGIBILITY EXPANSION IS  
11 FUNDED; AND

12 (III) (A) IF THE STATE BOARD PROMULGATES RULES THAT EXPAND  
13 ELIGIBILITY FOR MEDICAL ASSISTANCE TO BE PAID FOR PURSUANT TO  
14 SUBPARAGRAPH (IV) OF PARAGRAPH (b) OF SUBSECTION (5) OF THIS  
15 SECTION, AND THE STATE DEPARTMENT THEREAFTER NOTIFIES THE  
16 ENTERPRISE BOARD THAT THE REVENUE AVAILABLE FROM THE  
17 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE AND THE FEDERAL  
18 MATCHING FUNDS WILL NOT BE SUFFICIENT TO PAY FOR ALL OR PART OF  
19 THE EXPANDED ELIGIBILITY, THE ENTERPRISE BOARD SHALL RECOMMEND  
20 TO THE STATE BOARD REDUCTIONS IN MEDICAL BENEFITS OR ELIGIBILITY  
21 SO THAT THE REVENUE WILL BE SUFFICIENT TO PAY FOR ALL OF THE  
22 REDUCED BENEFITS OR ELIGIBILITY. AFTER RECEIVING THE  
23 RECOMMENDATIONS OF THE ENTERPRISE BOARD, THE STATE BOARD SHALL  
24 ADOPT RULES PROVIDING FOR REDUCED BENEFITS OR REDUCED ELIGIBILITY  
25 FOR WHICH THE REVENUE WILL BE SUFFICIENT AND SHALL FORWARD ANY  
26 ADOPTED RULES TO THE JOINT BUDGET COMMITTEE. NOTWITHSTANDING  
27 THE PROVISIONS OF SECTION 24-4-103 (8) AND (12), C.R.S., FOLLOWING

1 THE ADOPTION OF RULES PURSUANT TO THIS SUB-SUBPARAGRAPH (A), THE  
2 STATE BOARD SHALL NOT SUBMIT THE RULES TO THE ATTORNEY GENERAL  
3 AND SHALL NOT FILE THE RULES WITH THE SECRETARY OF STATE UNTIL  
4 THE JOINT BUDGET COMMITTEE APPROVES THE RULES PURSUANT TO  
5 SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (III).

6 (B) THE JOINT BUDGET COMMITTEE SHALL PROMPTLY CONSIDER  
7 ANY RULES ADOPTED BY THE STATE BOARD PURSUANT TO  
8 SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (III). THE JOINT BUDGET  
9 COMMITTEE SHALL PROMPTLY NOTIFY THE STATE DEPARTMENT, THE  
10 STATE BOARD, AND THE ENTERPRISE BOARD OF ANY ACTION ON THE  
11 RULES. IF THE JOINT BUDGET COMMITTEE DOES NOT APPROVE THE RULES,  
12 THE JOINT BUDGET COMMITTEE SHALL RECOMMEND A REDUCTION IN  
13 BENEFITS OR ELIGIBILITY SO THAT THE REVENUE FROM THE HEALTHCARE  
14 AFFORDABILITY AND SUSTAINABILITY FEE AND THE MATCHING FEDERAL  
15 FUNDS WILL BE SUFFICIENT TO PAY FOR THE REDUCED BENEFITS OR  
16 ELIGIBILITY. AFTER APPROVING THE RULES PURSUANT TO THIS  
17 SUB-SUBPARAGRAPH (B), THE JOINT BUDGET COMMITTEE SHALL REQUEST  
18 THAT THE COMMITTEE ON LEGAL SERVICES, CREATED PURSUANT TO  
19 SECTION 2-3-501, C.R.S., EXTEND THE RULES AS PROVIDED FOR IN  
20 SECTION 24-4-103 (8), C.R.S., UNLESS THE COMMITTEE ON LEGAL  
21 SERVICES FINDS AFTER REVIEW THAT THE RULES DO NOT CONFORM WITH  
22 SECTION 24-4-103 (8) (a), C.R.S.

23 (C) AFTER THE STATE BOARD HAS RECEIVED NOTIFICATION OF THE  
24 APPROVAL OF RULES ADOPTED PURSUANT TO SUB-SUBPARAGRAPH (A) OF  
25 THIS SUBPARAGRAPH (III), THE STATE BOARD SHALL SUBMIT THE RULES TO  
26 THE ATTORNEY GENERAL PURSUANT TO SECTION 24-4-103 (8) (b), C.R.S.,  
27 AND SHALL FILE THE RULES AND THE OPINION OF THE ATTORNEY GENERAL

1 WITH THE SECRETARY OF STATE PURSUANT TO SECTION 24-4-103 (12),  
2 C.R.S., AND WITH THE OFFICE OF LEGISLATIVE LEGAL SERVICES.  
3 PURSUANT TO SECTION 24-4-103 (5), C.R.S., THE RULES SHALL BE  
4 EFFECTIVE TWENTY DAYS AFTER PUBLICATION OF THE RULES AND SHALL  
5 ONLY BE EFFECTIVE UNTIL THE FOLLOWING MAY 15 UNLESS THE RULES  
6 ARE EXTENDED PURSUANT TO A BILL ENACTED PURSUANT TO SECTION  
7 24-4-103 (8), C.R.S.

8 (c) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,  
9 IF, AFTER RECEIPT OF AUTHORIZATION TO RECEIVE FEDERAL MATCHING  
10 FUNDS FOR MONEYS IN THE FUND, THE AUTHORIZATION IS WITHDRAWN OR  
11 CHANGED SO THAT FEDERAL MATCHING FUNDS ARE NO LONGER  
12 AVAILABLE, THE ENTERPRISE SHALL CEASE COLLECTING THE HEALTHCARE  
13 AFFORDABILITY AND SUSTAINABILITY FEE AND SHALL REPAY TO THE  
14 HOSPITALS ANY MONEYS RECEIVED BY THE FUND THAT ARE NOT SUBJECT  
15 TO FEDERAL MATCHING FUNDS.

16 (7) **Colorado healthcare affordability and sustainability**  
17 **enterprise board.** (a) (I) EXCEPT AS OTHERWISE PROVIDED IN  
18 SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), THE ENTERPRISE BOARD  
19 CONSISTS OF THIRTEEN MEMBERS APPOINTED BY THE GOVERNOR, WITH  
20 THE ADVICE AND CONSENT OF THE SENATE, AS FOLLOWS:

21 (A) FIVE MEMBERS WHO ARE EMPLOYED BY HOSPITALS IN  
22 COLORADO, INCLUDING AT LEAST ONE PERSON WHO IS EMPLOYED BY A  
23 HOSPITAL IN A RURAL AREA, ONE PERSON WHO IS EMPLOYED BY A  
24 SAFETY-NET HOSPITAL FOR WHICH THE PERCENT OF MEDICAID-ELIGIBLE  
25 INPATIENT DAYS RELATIVE TO ITS TOTAL INPATIENT DAYS SHALL BE EQUAL  
26 TO OR GREATER THAN ONE STANDARD DEVIATION ABOVE THE MEAN, AND  
27 ONE PERSON WHO IS EMPLOYED BY A HOSPITAL IN AN URBAN AREA;

1 (B) ONE MEMBER WHO IS A REPRESENTATIVE OF A STATEWIDE  
2 ORGANIZATION OF HOSPITALS;

3 (C) ONE MEMBER WHO REPRESENTS A STATEWIDE ORGANIZATION  
4 OF HEALTH INSURANCE CARRIERS OR A HEALTH INSURANCE CARRIER  
5 LICENSED PURSUANT TO TITLE 10, C.R.S., AND WHO IS NOT A  
6 REPRESENTATIVE OF A HOSPITAL;

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

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

12 (F) ONE MEMBER WHO IS A REPRESENTATIVE OF PERSONS WITH  
13 DISABILITIES, WHO IS LIVING WITH A DISABILITY, AND WHO IS NOT A  
14 REPRESENTATIVE OR AN EMPLOYEE OF A HOSPITAL, HEALTH INSURANCE  
15 CARRIER, OR OTHER HEALTH CARE INDUSTRY ENTITY;

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

19 (H) TWO EMPLOYEES OF THE STATE DEPARTMENT.

20 (II) THE INITIAL MEMBERS OF THE ENTERPRISE BOARD ARE THE  
21 MEMBERS OF THE HOSPITAL PROVIDER FEE OVERSIGHT AND ADVISORY  
22 BOARD THAT WAS CREATED AND EXISTED PURSUANT TO THIS SUBSECTION  
23 (7) PRIOR TO JULY 1, 2016, AND SUCH MEMBERS SHALL SERVE ON AND  
24 AFTER JULY 1, 2016, FOR THE REMAINDER OF THE TERMS FOR WHICH THEY  
25 WERE APPOINTED AS MEMBERS OF THE ADVISORY BOARD. THE POWERS,  
26 DUTIES, AND FUNCTIONS OF THE HOSPITAL PROVIDER FEE OVERSIGHT AND  
27 ADVISORY BOARD ARE TRANSFERRED BY A **TYPE 3** TRANSFER, AS DEFINED



1 IN SECTION 24-1-105, C.R.S., TO THE ENTERPRISE, AND THE HOSPITAL  
2 PROVIDER FEE OVERSIGHT AND ADVISORY BOARD IS ABOLISHED.

3 (III) THE GOVERNOR SHALL CONSULT WITH REPRESENTATIVES OF  
4 A STATEWIDE ORGANIZATION OF HOSPITALS IN MAKING THE  
5 APPOINTMENTS PURSUANT TO SUB-SUBPARAGRAPHS (A) AND (B) OF  
6 SUBPARAGRAPH (I) OF THIS PARAGRAPH (a). NO MORE THAN SIX MEMBERS  
7 OF THE ENTERPRISE BOARD MAY BE MEMBERS OF THE SAME POLITICAL  
8 PARTY.

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

13 (V) THE GOVERNOR SHALL DESIGNATE A CHAIR FROM AMONG THE  
14 MEMBERS OF THE ENTERPRISE BOARD APPOINTED PURSUANT TO  
15 SUB-SUBPARAGRAPHS (A) TO (G) OF SUBPARAGRAPH (I) OF THIS  
16 PARAGRAPH (a). THE ENTERPRISE BOARD SHALL ELECT A VICE-CHAIR  
17 FROM AMONG ITS MEMBERS.

18 (b) MEMBERS OF THE ENTERPRISE BOARD SERVE WITHOUT  
19 COMPENSATION BUT SHALL BE REIMBURSED FROM MONEYS IN THE FUND  
20 FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE  
21 OF THEIR DUTIES PURSUANT TO THIS SECTION.

22 (c) THE ENTERPRISE BOARD MAY CONTRACT FOR A GROUP  
23 FACILITATOR TO ASSIST THE MEMBERS OF THE ENTERPRISE BOARD IN  
24 PERFORMING THEIR REQUIRED DUTIES.

25 (d) THE ENTERPRISE BOARD HAS, AT A MINIMUM, THE FOLLOWING  
26 DUTIES:

27 (I) TO DETERMINE THE TIMING AND METHOD BY WHICH THE

1 ENTERPRISE ASSESSES THE HEALTHCARE AFFORDABILITY AND  
2 SUSTAINABILITY FEE AND THE AMOUNT OF THE FEE;

3 (II) IF REQUESTED BY THE HEALTH AND HUMAN SERVICES  
4 COMMITTEES OF THE SENATE OR HOUSE OF REPRESENTATIVES, OR ANY  
5 SUCCESSOR COMMITTEES, TO CONSULT WITH THE COMMITTEES ON ANY  
6 LEGISLATION THAT MAY IMPACT THE HEALTHCARE AFFORDABILITY AND  
7 SUSTAINABILITY FEE OR HOSPITAL REIMBURSEMENTS ESTABLISHED  
8 PURSUANT TO THIS SECTION;

9 (III) TO DETERMINE CHANGES IN THE HEALTHCARE AFFORDABILITY  
10 AND SUSTAINABILITY FEE THAT INCREASE THE NUMBER OF HOSPITALS  
11 BENEFITING FROM THE USES OF THE HEALTHCARE AFFORDABILITY AND  
12 SUSTAINABILITY FEE DESCRIBED IN SUBPARAGRAPHS (I) TO (V) OF  
13 PARAGRAPH (b) OF SUBSECTION (5) OF THIS SECTION OR THAT MINIMIZE  
14 THE NUMBER OF HOSPITALS THAT SUFFER LOSSES AS A RESULT OF PAYING  
15 THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE;

16 (IV) TO RECOMMEND TO THE STATE DEPARTMENT REFORMS OR  
17 CHANGES TO THE INPATIENT HOSPITAL AND OUTPATIENT HOSPITAL  
18 REIMBURSEMENTS AND QUALITY INCENTIVE PAYMENTS MADE UNDER THE  
19 STATE MEDICAL ASSISTANCE PROGRAM TO INCREASE PROVIDER  
20 ACCOUNTABILITY, PERFORMANCE, AND REPORTING;

21 (V) TO RECOMMEND TO THE STATE DEPARTMENT THE SCHEDULE  
22 AND APPROACH TO THE IMPLEMENTATION OF SUBPARAGRAPHS (IV) AND  
23 (V) OF PARAGRAPH (b) OF SUBSECTION (5) OF THIS SECTION;

24 (VI) IF MONEYS IN THE FUND ARE INSUFFICIENT TO FULLY FUND  
25 ALL OF THE PURPOSES SPECIFIED IN PARAGRAPH (b) OF SUBSECTION (5) OF  
26 THIS SECTION, TO RECOMMEND TO THE STATE BOARD CHANGES TO THE  
27 EXPANDED ELIGIBILITY PROVISIONS DESCRIBED IN SUBPARAGRAPH (IV) OF

1 PARAGRAPH (b) OF SUBSECTION (5) OF THIS SECTION;

2 (VII) TO PREPARE THE REPORTS SPECIFIED IN PARAGRAPH (e) OF  
3 THIS SUBSECTION (7);

4 (VIII) TO MONITOR THE IMPACT OF THE HEALTHCARE  
5 AFFORDABILITY AND SUSTAINABILITY FEE ON THE BROADER HEALTH CARE  
6 MARKETPLACE;

7 (IX) TO ESTABLISH REQUIREMENTS FOR THE REPORTS THAT  
8 HOSPITALS MUST SUBMIT TO THE ENTERPRISE TO ALLOW THE ENTERPRISE  
9 TO CALCULATE THE AMOUNT OF THE HEALTHCARE AFFORDABILITY AND  
10 SUSTAINABILITY FEE; AND

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

14 (e) ON OR BEFORE JANUARY 15, 2017, AND ON OR BEFORE  
15 JANUARY 15 EACH YEAR THEREAFTER, THE ENTERPRISE BOARD SHALL  
16 SUBMIT A WRITTEN REPORT TO THE HEALTH AND HUMAN SERVICES  
17 COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR  
18 ANY SUCCESSOR COMMITTEES, THE JOINT BUDGET COMMITTEE OF THE  
19 GENERAL ASSEMBLY, THE GOVERNOR, AND THE STATE BOARD. THE  
20 REPORT SHALL INCLUDE, BUT NEED NOT BE LIMITED TO:

21 (I) THE RECOMMENDATIONS MADE TO THE STATE BOARD  
22 PURSUANT TO THIS SECTION;

23 (II) A DESCRIPTION OF THE FORMULA FOR HOW THE HEALTHCARE  
24 AFFORDABILITY AND SUSTAINABILITY FEE IS CALCULATED AND THE  
25 PROCESS BY WHICH THE HEALTHCARE AFFORDABILITY AND  
26 SUSTAINABILITY FEE IS ASSESSED AND COLLECTED;

27 (III) AN ITEMIZATION OF THE TOTAL AMOUNT OF THE HEALTHCARE

1 AFFORDABILITY AND SUSTAINABILITY FEE PAID BY EACH HOSPITAL AND  
2 ANY PROJECTED REVENUE THAT EACH HOSPITAL IS EXPECTED TO RECEIVE  
3 DUE TO:

4 (A) THE INCREASED REIMBURSEMENTS MADE PURSUANT TO  
5 SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (b) OF SUBSECTION (5) OF  
6 THIS SECTION AND THE QUALITY INCENTIVE PAYMENTS MADE PURSUANT  
7 TO SUBPARAGRAPH (III) OF PARAGRAPH (b) OF SUBSECTION (5) OF THIS  
8 SECTION; AND

9 (B) THE INCREASED ELIGIBILITY DESCRIBED IN SUBPARAGRAPHS  
10 (IV) AND (V) OF PARAGRAPH (b) OF SUBSECTION (5) OF THIS SECTION;

11 (IV) AN ITEMIZATION OF THE COSTS INCURRED BY THE ENTERPRISE  
12 IN IMPLEMENTING AND ADMINISTERING THE HEALTHCARE AFFORDABILITY  
13 AND SUSTAINABILITY FEE; AND

14 (V) ESTIMATES OF THE DIFFERENCES BETWEEN THE COST OF CARE  
15 PROVIDED AND THE PAYMENT RECEIVED BY HOSPITALS ON A PER-PATIENT  
16 BASIS, AGGREGATED FOR ALL HOSPITALS, FOR PATIENTS COVERED BY EACH  
17 OF THE FOLLOWING:

18 (A) MEDICAID;

19 (B) MEDICARE; AND

20 (C) ALL OTHER PAYERS.

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

25 (II) FOR PURPOSES OF THE "COLORADO OPEN RECORDS ACT",  
26 PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S., AND EXCEPT AS MAY  
27 OTHERWISE BE PROVIDED BY FEDERAL LAW OR REGULATION OR STATE

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

6 (III) THE ENTERPRISE IS A PUBLIC ENTITY FOR PURPOSES OF PART  
7 2 OF ARTICLE 57 OF TITLE 11, C.R.S.

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

10 **25.5-4-402.7. Unexpended hospital provider fee cash fund -**  
11 **creation - transfer from hospital provider fee cash fund - use of fund**  
12 **- repeal.** (1) THE UNEXPENDED HOSPITAL PROVIDER FEE CASH FUND,  
13 REFERRED TO IN THIS SECTION AS THE "FUND", IS HEREBY CREATED IN THE  
14 STATE TREASURY. ON JUNE 30, 2016, THE STATE TREASURER SHALL  
15 TRANSFER TO THE FUND ALL MONEY IN THE HOSPITAL PROVIDER FEE CASH  
16 FUND CREATED IN SECTION 25.5-4-402.3 (4) (a), AS THAT SECTION EXISTED  
17 BEFORE ITS REPEAL BY HOUSE BILL 16-1420, ENACTED IN 2016. THE  
18 STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED  
19 FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE  
20 GENERAL FUND. MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO  
21 THE STATE DEPARTMENT THROUGH OCTOBER 30, 2017, FOR THE PURPOSE  
22 OF PAYING CLAIMS INCURRED BEFORE JULY 1, 2016, THAT WERE PAYABLE  
23 PURSUANT TO SECTION 25.5-5-402.3 (4), AS THAT SECTION EXISTED  
24 BEFORE ITS REPEAL BY HOUSE BILL 16-1420, ENACTED IN 2016. THE  
25 STATE DEPARTMENT SHALL REFUND ANY MONEY IN THE FUND DERIVED  
26 FROM HOSPITAL PROVIDER FEES THAT IS NOT EXPENDED FOR THE PURPOSE  
27 OF PAYING CLAIMS TO THE HOSPITALS THAT PAID THE FEES.

1 (2) THIS SECTION IS REPEALED, EFFECTIVE NOVEMBER 1, 2017.

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

4 24-1-119.5. Department of health care policy and financing -  
5 creation. (9) THE COLORADO HEALTHCARE AFFORDABILITY AND  
6 SUSTAINABILITY ENTERPRISE CREATED IN SECTION 25.5-4-402.4 (3),  
7 C.R.S., SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND  
8 FUNCTIONS AS IF THE SAME WERE TRANSFERRED BY A TYPE 2 TRANSFER,  
9 AS DEFINED IN SECTION 24-1-105, TO THE DEPARTMENT OF HEALTH CARE  
10 POLICY AND FINANCING.

11 SECTION 4. In Colorado Revised Statutes, amend 2-3-119 as  
12 follows:

13 2-3-119. Audit of healthcare affordability and sustainability  
14 fee - cost shift. ~~Starting with the second full state fiscal year following~~  
15 ~~the receipt of the notice from the executive director of the department of~~  
16 ~~health care policy and financing pursuant to section 25.5-4-402.3 (7),~~  
17 ~~C.R.S., and thereafter~~ At the discretion of the legislative audit committee,  
18 the state auditor shall conduct or cause to be conducted a performance  
19 and fiscal audit of the ~~hospital provider~~ HEALTHCARE AFFORDABILITY AND  
20 SUSTAINABILITY fee established pursuant to ~~section 25.5-4-402.3~~ SECTION  
21 25.5-4-402.4, C.R.S.

22 SECTION 5. In Colorado Revised Statutes, 2-3-1203, repeal (3)  
23 (ff) (V) as follows:

24 2-3-1203. Sunset review of advisory committees. (3) The  
25 following dates are the dates on which the statutory authorization for the  
26 designated advisory committee is scheduled for repeal:

27 (ff) July 1, 2019:

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

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

5           **24-4-103. Rule-making - procedure - definitions - repeal.**

6 (8) (c) (I) Notwithstanding any other provision of law to the contrary and  
7 the provisions of section 24-4-107, all rules adopted or amended on or  
8 after January 1, 1993, and before November 1, 1993, shall expire at 11:59  
9 p.m. on May 15 of the year following their adoption unless the general  
10 assembly by bill acts to postpone the expiration of a specific rule, and  
11 commencing with rules adopted or amended on or after November 1,  
12 1993, all rules adopted or amended during any one-year period that begins  
13 each November 1 and continues through the following October 31 shall  
14 expire at 11:59 p.m. on the May 15 that follows such one-year period  
15 unless the general assembly by bill acts to postpone the expiration of a  
16 specific rule; except that a rule adopted pursuant to ~~section 25.5-4-402.3~~  
17 ~~(5) (b) (II)~~ SECTION 25.5-4-402.4 (6) (b) (III), C.R.S., shall expire at  
18 11:59 p.m. on the May 15 following the adoption of the rule unless the  
19 general assembly acts by bill to postpone the expiration of a specific rule.  
20 The general assembly, in its discretion, may postpone such expiration, in  
21 which case, the provisions of section 24-4-108 or 24-34-104 shall apply,  
22 and the rules shall expire or be subject to review as provided in said  
23 sections. The postponement of the expiration of a rule shall not constitute  
24 legislative approval of the rule nor be admissible in any court as evidence  
25 of legislative intent. The postponement of the expiration date of a specific  
26 rule shall not prohibit any action by the general assembly pursuant to the  
27 provisions of paragraph (d) of this subsection (8) with respect to such

1 rule.

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

4 **25.5-3-108. Responsibility of the department of health care**  
5 **policy and financing - provider reimbursement.** (17) Subject to  
6 adequate funding BEING made available under ~~section 25.5-4-402.3~~  
7 SECTION 25.5-4-402.4, the ~~state department~~ COLORADO HEALTHCARE  
8 AFFORDABILITY AND SUSTAINABILITY ENTERPRISE CREATED IN SECTION  
9 25.5-4-402.4 (3) shall increase hospital reimbursements up to one  
10 hundred percent of hospital costs for providing medical care under the  
11 program.

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

14 **25.5-4-402. Providers - hospital reimbursement - rules.**  
15 (3) (a) In addition to the reimbursement rate process described in  
16 subsection (1) of this section and subject to adequate funding BEING made  
17 available pursuant to ~~section 25.5-4-402.3~~ SECTION 25.5-4-402.4, the ~~state~~  
18 ~~department~~ COLORADO HEALTHCARE AFFORDABILITY AND  
19 SUSTAINABILITY ENTERPRISE CREATED IN SECTION 25.5-4-402.4 (3) shall  
20 pay an additional amount based upon performance to those hospitals that  
21 provide services that improve health care outcomes for their patients. This  
22 amount shall be determined by the state department based upon nationally  
23 recognized performance measures established in rules adopted by the  
24 state board. The state quality standards shall be consistent with federal  
25 quality standards published by an organization with expertise in health  
26 care quality, including but not limited to, the centers for medicare and  
27 medicaid services, the agency for healthcare research and quality, or the



1 national quality forum.

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

4 **25.5-5-201. Optional provisions - optional groups - repeal.**

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

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

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

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

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

20 **25.5-5-204.5. Continuous eligibility - children - repeal.**  
21 (2) Notwithstanding the provisions of subsection (1) of this section, if the  
22 moneys in the ~~hospital provider~~ HEALTHCARE AFFORDABILITY AND  
23 SUSTAINABILITY fee cash fund established pursuant to ~~section~~  
24 ~~25.5-4-402.3 (4)~~ SECTION 25.5-4-402.4, together with the corresponding  
25 federal matching funds, are insufficient to fully fund all of the purposes  
26 described in ~~section 25.5-4-402.3 (4) (b)~~ SECTION 25.5-4-402.4 (5) (b),  
27 after receiving recommendations from the ~~hospital provider fee oversight~~

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

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

9 **25.5-8-103. Definitions - repeal.** As used in this article, unless  
10 the context otherwise requires:

11 (4) "Eligible person" means:

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

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

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

15 **SECTION 12.** In Colorado Revised Statutes, **repeal**  
16 25.5-4-402.3.

17 **SECTION 13. Appropriation.** (1) For the 2016-17 state fiscal  
18 year, \$73,149,728 is appropriated to the department of health care policy  
19 and financing for use by the Colorado healthcare affordability and  
20 sustainability enterprise to supplement reimbursement to hospitals in  
21 accordance with the purposes specified in section 25.5-4-402.4 (5) (b),  
22 C.R.S. This appropriation is from the healthcare affordability and  
23 sustainability fee cash fund created in section 25.5-4-402.4 (5), C.R.S.  
24 The Colorado healthcare affordability and sustainability enterprise may  
25 use this appropriation to implement this act.

26 (2) For the 2016-17 state fiscal year, the general assembly  
27 anticipates that the department of health care policy and financing will

1 receive \$73,543,845 in federal funds for the Colorado healthcare  
2 affordability and sustainability enterprise for use by the enterprise to  
3 supplement reimbursement to hospitals in accordance with the purposes  
4 specified in section 25.5-4-402.4 (5) (b), C.R.S. The appropriation in  
5 subsection (1) of this section is based on the assumption that the  
6 department will receive this amount of federal funds, which is included  
7 for informational purposes only.

8 **SECTION 14. Effective date.** (1) Except as otherwise provided  
9 in this section, this act takes effect July 1, 2016.

10 (2) Section 25.5-4-402.7, Colorado Revised Statutes, as enacted  
11 in section 2 of this act, takes effect June 30, 2016.

12 (3) (a) This act does not take effect if the centers for medicare and  
13 medicaid services determine that the amendments set forth in this act do  
14 not comply with federal law.

15 (b) If the centers for medicare and medicaid services make the  
16 determination described in paragraph (a) of this subsection (3), the  
17 executive director of the department of health care policy and financing  
18 shall, no later than June 1, 2016, notify the revisor of statutes in writing  
19 of that determination.

20 **SECTION 15. Safety clause.** The general assembly hereby finds,  
21 determines, and declares that this act is necessary for the immediate  
22 preservation of the public peace, health, and safety.