

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 17-1080.01 Jason Gelender x4330

SENATE BILL 17-267

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SENATE SPONSORSHIP

Sonnenberg and Guzman,

HOUSE SPONSORSHIP

Becker K. and Becker J.,

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Senate Committees

Finance

Appropriations

House Committees

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A BILL FOR AN ACT

101 CONCERNING THE SUSTAINABILITY OF RURAL COLORADO.

Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

school districts.

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

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

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

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

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

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

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

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

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

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

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

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

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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** 22-54-139 as  
3 follows:

4 **22-54-139. Additional funding for rural school districts -**  
5 **diversion of scheduled general fund transfers to highway users tax**  
6 **fund.** (1) FOR THE 2017-18, 2018-19, AND 2019-20 BUDGET YEARS, FOR  
7 THE SOLE PURPOSE OF REDUCING THE FINANCIAL IMPACTS TO RURAL  
8 SCHOOL DISTRICTS, AS DEFINED IN SECTION 22-95-101 (4), AND SMALL  
9 RURAL SCHOOL DISTRICTS, AS DEFINED IN SECTION 22-16-103 (10), FROM  
10 REDUCTIONS IN THE STATE SHARE OF TOTAL PROGRAM FUNDING  
11 RESULTING FROM INCONSISTENT FUNDING BY THE GENERAL ASSEMBLY,  
12 THE FOLLOWING AMOUNTS ARE TRANSFERRED FROM THE GENERAL FUND  
13 TO THE STATE PUBLIC SCHOOL FUND CREATED IN SECTION 22-54-114 (1):

14 (a) ON JULY 1, 2017, SEVENTY-NINE MILLION DOLLARS;

15 (b) ON JULY 1, 2018, ONE HUNDRED SIXTY MILLION DOLLARS; AND

16 (c) ON JULY 1, 2019, ONE HUNDRED SIXTY MILLION DOLLARS.

1           (2) FOR EACH BUDGET YEAR FOR WHICH GENERAL FUND MONEY IS  
2 TRANSFERRED TO THE STATE PUBLIC SCHOOL FUND PURSUANT TO  
3 SUBSECTION (1) OF THIS SECTION, THE DEPARTMENT SHALL EXPEND THE  
4 MONEY TO REIMBURSE RURAL SCHOOL DISTRICTS AND SMALL RURAL  
5 SCHOOL DISTRICTS, PROPORTIONALLY TO THE EXTENT FEASIBLE, FOR  
6 REDUCTIONS IN THE STATE SHARE OF TOTAL PROGRAM FUNDING  
7 RESULTING FROM INCONSISTENT FUNDING BY THE GENERAL ASSEMBLY.

8           (3) THE SOURCE OF FUNDING FOR THE TRANSFERS MADE PURSUANT  
9 TO SUBSECTION (1) OF THIS SECTION IS MONEY REMAINING IN THE  
10 GENERAL FUND THAT WOULD OTHERWISE BE TRANSFERRED TO THE  
11 HIGHWAY USERS TAX FUND PURSUANT TO SECTION 24-75-219 BUT FOR THE  
12 ENACTMENT OF SENATE BILL 17-\_\_\_\_\_, ENACTED IN 2017.

13           **SECTION 2.** In Colorado Revised Statutes, **add** 24-37-305 as  
14 follows:

15           **24-37-305. 2018-19 fiscal year - required reductions in**  
16 **departmental and executive branch budget requests.** (1) FOR THE  
17 2018-19 BUDGET YEAR, EACH PRINCIPAL DEPARTMENT OF STATE  
18 GOVERNMENT, WHEN SUBMITTING ITS BUDGET REQUEST TO THE OFFICE OF  
19 STATE PLANNING AND BUDGETING, SHALL REQUEST A TOTAL BUDGET FOR  
20 THE DEPARTMENT THAT IS AT LEAST TWO PERCENT LOWER THAN ITS  
21 ACTUAL BUDGET FOR THE 2017-18 FISCAL YEAR.

22           (2) THE OFFICE OF STATE PLANNING AND BUDGETING SHALL  
23 STRONGLY CONSIDER THE BUDGET REDUCTION PROPOSALS MADE BY EACH  
24 PRINCIPAL DEPARTMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION  
25 WHEN PREPARING THE ANNUAL EXECUTIVE BUDGET PROPOSALS TO THE  
26 GENERAL ASSEMBLY FOR THE GOVERNOR AS REQUIRED BY SECTION  
27 24-37-302 (1)(g) AND SHALL SEEK TO ENSURE, SUBJECT TO SECTION

1 24-37-303, THAT THE EXECUTIVE BUDGET PROPOSAL FOR EACH  
2 DEPARTMENT IS AT LEAST TWO PERCENT LOWER THAN THE DEPARTMENT'S  
3 ACTUAL BUDGET FOR THE 2017-18 FISCAL YEAR.

4 **SECTION 3.** In Colorado Revised Statutes, 24-75-219, **amend**  
5 (2)(d); and **repeal** (1)(c), (2)(c), (3), and (4) as follows:

6 **24-75-219. Transfers - transportation - capital construction -**  
7 **definitions.** (1) As used in this section, unless the context otherwise  
8 requires:

9 (c) ~~"Funds" means the highway users tax fund and the capital~~  
10 ~~construction fund.~~

11 (2) (c) ~~For each state fiscal year from state fiscal year 2017-18~~  
12 ~~through the state fiscal year 2019-20, the state treasurer shall transfer~~  
13 ~~from the general fund to the:~~

14 (I) ~~Highway users tax fund, an amount equal to two percent of the~~  
15 ~~total general fund revenues for the state fiscal year in which the transfer~~  
16 ~~is made; and~~

17 (H) ~~Capital construction fund, an amount equal to one percent of~~  
18 ~~the total general fund revenues for the state fiscal year in which the~~  
19 ~~transfer is made.~~

20 (d) For each state fiscal year beginning on or after ~~July 1, 2020~~  
21 ~~JULY 1, 2018~~, the general assembly may appropriate or transfer, in its sole  
22 discretion, moneys from the general fund to the highway users tax fund,  
23 the capital construction fund, or both funds.

24 (3) (a) ~~Repealed.~~

25 (b) ~~Except as otherwise set forth in subsection (4) of this section,~~  
26 ~~the transfers required pursuant to paragraph (c) of subsection (2) of this~~  
27 ~~section shall be made as follows:~~

1           ~~(I) On the fifteenth day of the first month of each quarter of each~~  
2           ~~state fiscal year in which the transfers are required, an amount equal to~~  
3           ~~twenty percent of the total amounts that are required to be transferred to~~  
4           ~~the highway users tax fund and the capital construction fund for such state~~  
5           ~~fiscal year, which amounts shall be based on the most recent revenue~~  
6           ~~estimate prepared by legislative council staff that is available at the time~~  
7           ~~of the transfers, shall be transferred to the respective funds.~~

8           ~~(II) On the date during the state fiscal year on which the state~~  
9           ~~controller distributes the comprehensive annual financial report of the~~  
10           ~~state, the state treasurer shall transfer an amount equal to the differences~~  
11           ~~between the actual amounts required to be transferred to the funds and the~~  
12           ~~estimated amounts previously transferred pursuant to subparagraph (I) of~~  
13           ~~this paragraph (b).~~

14           ~~(4) (a) For any state fiscal year for which there are excess state~~  
15           ~~revenues that are required to be refunded pursuant to section 20 of article~~  
16           ~~X of the state constitution, the quarterly and year-end amounts that are~~  
17           ~~required to be transferred to the funds pursuant to paragraph (b) of~~  
18           ~~subsection (3) of this section shall:~~

19           ~~(I) Be reduced by fifty percent, if the amount of the refund is~~  
20           ~~greater than one percent of the general fund revenues for the state fiscal~~  
21           ~~year but less than or equal to three percent of the total general fund~~  
22           ~~revenues for the state fiscal year; and~~

23           ~~(II) Not be made, if the amount of the refund is greater than three~~  
24           ~~percent of the total general fund revenues for the state fiscal year.~~

25           ~~(b) The calculations required pursuant to paragraph (a) of this~~  
26           ~~subsection (4) shall be based on the most recent revenue estimate~~  
27           ~~prepared by the legislative council staff that is available at the time of~~

1 each transfer, except that the last transfer made for each state fiscal year  
2 shall be based on the actual revenues for the state fiscal year.

3 **SECTION 4.** In Colorado Revised Statutes, 24-77-103.6, **amend**  
4 (6)(b)(I) as follows:

5 **24-77-103.6. Retention of excess state revenues - general fund**  
6 **exempt account - required uses - excess state revenues legislative**  
7 **report.** (6) As used in this section:

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

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

18 (B) ~~If the voters of the state do not approve a ballot issue to~~  
19 ~~authorize the state to incur multiple-fiscal year obligations at the~~  
20 ~~November 2005 statewide election; FOR EACH FISCAL YEAR UP TO AND~~  
21 ~~INCLUDING THE 2016-17 FISCAL YEAR, an amount that is equal to the~~  
22 ~~highest total state revenues for a fiscal year from the period of the~~  
23 ~~2005-06 fiscal year through the 2009-10 fiscal year, adjusted each~~  
24 ~~subsequent fiscal year for inflation, the percentage change in state~~  
25 ~~population, the qualification or disqualification of enterprises, and debt~~  
26 ~~service changes;~~

27 (C) FOR THE 2017-18 FISCAL YEAR, AN AMOUNT THAT IS EQUAL TO



1 THE EXCESS STATE REVENUES CAP FOR THE 2016-17 FISCAL YEAR  
2 CALCULATED PURSUANT TO SUBSECTION (6)(b)(I)(B) OF THIS SECTION  
3 LESS SIX HUNDRED SEVENTY MILLION THREE HUNDRED THOUSAND  
4 DOLLARS, ADJUSTED FOR INFLATION, THE PERCENTAGE CHANGE IN STATE  
5 POPULATION, THE QUALIFICATION OR DISQUALIFICATION OF ENTERPRISES,  
6 AND DEBT SERVICE CHANGES; OR

7 (D) FOR THE 2018-19 FISCAL YEAR AND EACH SUCCEEDING FISCAL  
8 YEAR, THE AMOUNT OF THE EXCESS STATE REVENUES CAP FOR THE  
9 2017-18 FISCAL YEAR CALCULATED PURSUANT TO SUBSECTION  
10 (6)(b)(I)(C) OF THIS SECTION, ADJUSTED EACH SUBSEQUENT FISCAL YEAR  
11 FOR INFLATION, THE PERCENTAGE CHANGE IN STATE POPULATION, THE  
12 QUALIFICATION OR DISQUALIFICATION OF ENTERPRISES, AND DEBT SERVICE  
13 CHANGES.

14 **SECTION 5.** In Colorado Revised Statutes, **recreate and**  
15 **reenact, with amendments,** part 11 of article 82 of title 24 as follows:

16 PART 11

17 SALES OF STATE PROPERTY AND LEASE-PURCHASE  
18 AGREEMENTS

19 **24-82-1101. Legislative declaration.** (1) THE GENERAL  
20 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

21 (a) DUE TO INSUFFICIENT FUNDING, NECESSARY HIGH-PRIORITY  
22 STATE HIGHWAY PROJECTS AND STATE CAPITAL CONSTRUCTION PROJECTS,  
23 INCLUDING PROJECTS AT STATE INSTITUTIONS OF HIGHER EDUCATION, IN  
24 ALL AREAS OF THE STATE HAVE BEEN DELAYED, AND THE STATE HAS ALSO  
25 DELAYED CRITICAL CONTROLLED MAINTENANCE AND UPKEEP OF STATE  
26 CAPITAL ASSETS;

27 (b) BY SELLING ELIGIBLE STATE FACILITIES, EXECUTING

1 LEASE-PURCHASE AGREEMENTS FOR THOSE FACILITIES, AND ISSUING  
2 CERTIFICATES OF PARTICIPATION EVIDENCING THE RIGHT TO RECEIVE  
3 LEASE-PURCHASE AGREEMENT PAYMENTS AS AUTHORIZED BY THIS PART  
4 11, THE STATE CAN GENERATE SUFFICIENT FUNDS TO ACCELERATE THE  
5 COMPLETION OF MANY OF THE NECESSARY HIGH-PRIORITY STATE HIGHWAY  
6 PROJECTS AND CAPITAL CONSTRUCTION PROJECTS THAT HAVE BEEN  
7 DELAYED AND BETTER MAINTAIN AND PRESERVE EXISTING STATE CAPITAL  
8 ASSETS;

9 (c) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT:

10 (I) A MAJORITY OF THE ADDITIONAL FUNDING FOR STATE CAPITAL  
11 CONSTRUCTION PROJECTS REALIZED FROM THE SALE OF ELIGIBLE STATE  
12 FACILITIES BE USED FOR RENOVATION AND RENEWAL PROJECTS;

13 (II) MORE OF THE STATE'S EXISTING CAPITAL CONSTRUCTION  
14 FUNDING BE DEDICATED TO CONTROLLED MAINTENANCE AND UPKEEP OF  
15 STATE CAPITAL ASSETS; AND

16 (III) ALL FUTURE COSTS OF CONTROLLED MAINTENANCE FOR ANY  
17 NEW CAPITAL CONSTRUCTION PROJECT AT A STATE INSTITUTION OF HIGHER  
18 EDUCATION THAT IS FUNDED PURSUANT TO THIS PART 11 BE PAID BY THE  
19 STATE INSTITUTION OF HIGHER EDUCATION.

20 **24-82-1102. Definitions.** AS USED IN THIS PART 11, UNLESS THE  
21 CONTEXT OTHERWISE REQUIRES:

22 (1) "ELIGIBLE STATE FACILITY" MEANS ANY FINANCIALLY  
23 UNENCUMBERED BUILDING, STRUCTURE, OR FACILITY THAT IS OWNED BY  
24 THE STATE, INCLUDING STATE-SUPPORTED INSTITUTIONS OF HIGHER  
25 EDUCATION.

26 (2) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF  
27 THE DEPARTMENT OF PERSONNEL.

1           (3) "LEGAL INTEREST" MEANS A FEE SIMPLE OR LEASEHOLD  
2 INTEREST.

3           (4) "LESSOR" MEANS A PERSON OR AN ENTITY THAT PURCHASES A  
4 LEGAL INTEREST IN AN ELIGIBLE STATE FACILITY AND THEN ENTERS INTO  
5 A LEASE-PURCHASE AGREEMENT WITH THE STATE PURSUANT TO THIS PART  
6 11.

7           (5) "PROPERTY SALE AGREEMENT" MEANS ANY WRITTEN  
8 INSTRUMENT PURSUANT TO WHICH THE EXECUTIVE DIRECTOR SELLS A  
9 LEGAL INTEREST IN AN ELIGIBLE STATE FACILITY IN EXCHANGE FOR  
10 MONETARY CONSIDERATION SPECIFIED IN THE INSTRUMENT.

11           **24-82-1103. Sale - lease-purchase agreements.** (1)(a) SUBJECT  
12 TO THE LIMITATIONS SPECIFIED IN SUBSECTIONS (1)(a)(I), (1)(a)(II), (1)(b),  
13 AND (1)(c) OF THIS SECTION, IN ADDITION TO ANY OTHER SALES  
14 OTHERWISE PERMITTED BY STATE LAW, ON OR BEFORE JUNE 30, 2018, THE  
15 EXECUTIVE DIRECTOR, WITH THE APPROVAL OF THE DIRECTOR OF THE  
16 OFFICE OF STATE PLANNING AND BUDGETING, MAY SELL A LEGAL INTEREST  
17 IN ONE OR MORE ELIGIBLE STATE FACILITIES. THE EXECUTIVE DIRECTOR  
18 SHALL NOT SELL A LEGAL INTEREST IN AN ELIGIBLE STATE FACILITY  
19 UNLESS:

20           (I) THE STATE WILL RECEIVE THE PROCEEDS FROM THE PROPERTY  
21 SALE AGREEMENT ON OR BEFORE JUNE 30, 2018; AND

22           (II) AT THE SAME TIME AS THE PROPERTY SALE AGREEMENT IS  
23 EXECUTED, THE STATE LEASES BACK THE SAME FACILITY PURSUANT TO A  
24 LEASE-PURCHASE AGREEMENT EXECUTED IN ACCORDANCE WITH  
25 SUBSECTION (3) OF THIS SECTION.

26           (b) THE MAXIMUM TOTAL AMOUNT OF NET PROCEEDS OF ALL  
27 SALES MADE PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION IS ONE

1 BILLION THREE HUNDRED FIFTY MILLION DOLLARS.

2 (c) IN ADDITION TO THE CONDITIONS SET FORTH IN SUBSECTIONS  
3 (1)(a) AND (1)(b) OF THIS SECTION, BEFORE SELLING A LEGAL INTEREST IN  
4 AN ELIGIBLE STATE FACILITY THAT IS OWNED BY A STATE-SUPPORTED  
5 INSTITUTION OF HIGHER EDUCATION, THE EXECUTIVE DIRECTOR SHALL  
6 ADVISE THE CHAIRPERSON OF THE GOVERNING BODY OF THE INSTITUTION,  
7 OR THE CHAIRPERSON'S DESIGNEE, OF THE SALE AND OBTAIN THE  
8 APPROVAL OF THE CHAIRPERSON, OR THE CHAIRPERSON'S DESIGNEE, FOR  
9 THE SALE.

10 (d) THE EXECUTIVE DIRECTOR, WITH THE APPROVAL OF THE  
11 DIRECTOR OF THE OFFICE OF STATE PLANNING AND BUDGETING AND THE  
12 CAPITAL DEVELOPMENT COMMITTEE OF THE GENERAL ASSEMBLY, MAY  
13 SELL A LEGAL INTEREST IN AN ELIGIBLE STATE FACILITY TO ANY NATURAL  
14 PERSON, PARTNERSHIP, LIMITED PARTNERSHIP, LIMITED PARTNERSHIP  
15 ASSOCIATION, COOPERATIVE, TRUST, LIMITED LIABILITY COMPANY,  
16 ASSOCIATION, FOR-PROFIT OR NONPROFIT CORPORATION, SPECIAL PURPOSE  
17 AUTHORITY, AS DEFINED IN SECTION 24-77-102 (15), OR COMMERCIAL  
18 BANK AS A TRUSTEE.

19 (2)(a) THE NET PROCEEDS RECEIVED BY THE EXECUTIVE DIRECTOR  
20 FROM THE SALE OF A LEGAL INTEREST IN AN ELIGIBLE STATE FACILITY  
21 MUST BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT  
22 THE PROCEEDS AS FOLLOWS:

23 (I) EIGHTY-NINE PERCENT TO THE STATE HIGHWAY FUND CREATED  
24 IN SECTION 43-1-219 FOR EXPENDITURE BY THE DEPARTMENT OF  
25 TRANSPORTATION IN ACCORDANCE WITH SECTION 43-4-206 (1)(b)(V); AND

26 (II) ELEVEN PERCENT TO THE CAPITAL CONSTRUCTION FUND  
27 CREATED IN SECTION 24-75-302 (1)(a) FOR THE PURPOSE OF PROVIDING

1 FUNDING, IN PRIORITY ORDER, FOR THE PROJECTS INCLUDED ON THE LIST  
2 OF FISCAL YEAR 2017-18 STATE-FUNDED CAPITAL BUDGET REQUESTS  
3 SUBMITTED BY THE CAPITAL DEVELOPMENT COMMITTEE OF THE GENERAL  
4 ASSEMBLY TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY  
5 ON FEBRUARY 21, 2017, THAT THE CAPITAL DEVELOPMENT COMMITTEE  
6 PRIORITIZED ON THE LIST AS NUMBERS TWO THROUGH TWELVE AND  
7 FIFTEEN THROUGH TWENTY-NINE AS FOLLOWS:

8 (A) ALL OF THE CAPITAL CONSTRUCTION FUND TOTAL PROJECT  
9 COSTS FOR EACH PROJECT THAT IS NOT FOR A STATE-SUPPORTED  
10 INSTITUTION OF HIGHER EDUCATION SHALL BE FUNDED; AND

11 (B) EIGHTY PERCENT OF THE CAPITAL CONSTRUCTION FUND TOTAL  
12 PROJECT COSTS FOR EACH PROJECT THAT IS FOR A STATE-SUPPORTED  
13 INSTITUTION OF HIGHER EDUCATION SHALL BE FUNDED, AND ANY SUCH  
14 PROJECT THAT IS NEW CONSTRUCTION AND THAT RECEIVES FUNDING IS  
15 INELIGIBLE FOR FUTURE CONTROLLED MAINTENANCE FUNDING FROM THE  
16 CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302 (1)(a).

17 (b) ANY MONEY RECEIVED BY THE STATE FROM THE SALE OF A  
18 LEGAL INTEREST IN AN ELIGIBLE STATE FACILITY IS A PROPERTY SALE AND  
19 IS EXCLUDED FROM STATE FISCAL YEAR SPENDING BY OPERATION OF  
20 SECTION 20 (2)(e) OF ARTICLE X OF THE STATE CONSTITUTION.

21 (3) (a) NOTWITHSTANDING SECTION 24-82-801 (1)(a), THE STATE  
22 TREASURER, PURSUANT TO SECTION 24-36-121, IS AUTHORIZED TO  
23 EXECUTE A LEASE-PURCHASE AGREEMENT ON BEHALF OF THE EXECUTIVE  
24 DIRECTOR FOR UP TO TWENTY YEARS FOR ANY LEGAL INTEREST IN A  
25 PROPERTY THAT THE EXECUTIVE DIRECTOR HAS SOLD PURSUANT TO  
26 SUBSECTION (1) OF THIS SECTION. THE TOTAL MAXIMUM AMOUNT OF  
27 PAYMENTS DUE DURING ANY FISCAL YEAR UNDER THE TERMS OF ALL

1 LEASE-PURCHASE AGREEMENTS EXECUTED PURSUANT TO THIS SUBSECTION  
2 (3)(a) IS ONE HUNDRED MILLION DOLLARS. A LEASE-PURCHASE  
3 AGREEMENT MUST MEET THE REQUIREMENTS OF THE STATE PUBLIC  
4 FINANCING POLICY PROMULGATED PURSUANT TO SECTION 24-36-121 (5),  
5 MUST STATE THAT ALL OF THE OBLIGATIONS OF THE STATE UNDER THE  
6 AGREEMENT ARE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL  
7 ASSEMBLY, AND MUST ALSO STATE THAT SUCH OBLIGATIONS DO NOT  
8 CREATE AN INDEBTEDNESS OF THE STATE WITHIN THE MEANING OF ANY  
9 PROVISION OF THE STATE CONSTITUTION OR THE LAWS OF THE STATE  
10 CONCERNING OR LIMITING THE CREATION OF INDEBTEDNESS BY THE STATE  
11 AND DO NOT CONSTITUTE A MULTIPLE-FISCAL YEAR DIRECT OR INDIRECT  
12 DEBT OR OTHER FINANCIAL OBLIGATION OF THE STATE WITHIN THE  
13 MEANING OF SECTION 20 (4) OF ARTICLE X OF THE STATE CONSTITUTION.  
14 IF THE GENERAL ASSEMBLY DOES NOT MAKE AN APPROPRIATION FOR A  
15 LEASE-PURCHASE AGREEMENT AUTHORIZED BY THIS SUBSECTION (3), THE  
16 SOLE SECURITY AVAILABLE TO THE LESSOR IS THE LEGAL INTEREST IN THE  
17 PROPERTY THAT IS THE SUBJECT OF THE LEASE-PURCHASE AGREEMENT.

18 (b) (I) IF THE STATE TREASURER EXECUTES A LEASE-PURCHASE  
19 AGREEMENT AUTHORIZED BY THIS SUBSECTION (3), THE STATE SHALL,  
20 SUBJECT TO ANNUAL ALLOCATION PURSUANT TO SECTION 43-1-113 BY THE  
21 TRANSPORTATION COMMISSION CREATED IN SECTION 43-1-106 (1) OR  
22 SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY, AS  
23 APPLICABLE, USE THE FOLLOWING SOURCES OF MONEY TO MAKE LEASE  
24 PAYMENTS:

25 (A) FIFTY MILLION DOLLARS ANNUALLY, OR ANY LESSER AMOUNT  
26 THAT IS SUFFICIENT TO MAKE A FULL PAYMENT, FROM ANY LEGALLY  
27 AVAILABLE MONEY UNDER THE CONTROL OF THE TRANSPORTATION

1 COMMISSION; AND

2 (B) THE REMAINDER OF THE AMOUNT NEEDED, IN ADDITION TO THE  
3 AMOUNT SPECIFIED IN SUBSECTION (3)(b)(I)(A) OF THIS SECTION, TO MAKE  
4 THE FULL PAYMENT FROM THE GENERAL FUND OR ANY OTHER LEGALLY  
5 AVAILABLE SOURCE OF MONEY.

6 (II) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT  
7 BECAUSE THE PROCEEDS RECEIVED FROM THE SALE OF A LEGAL INTEREST  
8 IN ONE OR MORE ELIGIBLE STATE FACILITIES AUTHORIZED BY SUBSECTION  
9 (1)(a) OF THIS SECTION THAT ARE CREDITED TO THE STATE HIGHWAY FUND  
10 PURSUANT TO SUBSECTION (2)(a)(I) OF THIS SECTION MUST BE EXPENDED  
11 IN ACCORDANCE WITH SECTION 43-4-206 (1)(b)(V), MONEY ALLOCATED  
12 BY THE TRANSPORTATION COMMISSION TO MAKE LEASE PAYMENTS UNDER  
13 A LEASE-PURCHASE AGREEMENT EXECUTED IN CONNECTION WITH SUCH A  
14 SALE IS EXPENDED FOR THE CONSTRUCTION, MAINTENANCE, AND  
15 SUPERVISION OF THE PUBLIC HIGHWAYS OF THE STATE FOR PURPOSES OF  
16 SECTION 18 OF ARTICLE X OF THE STATE CONSTITUTION.

17 (c) A LEASE-PURCHASE AGREEMENT AUTHORIZED BY THIS  
18 SUBSECTION (3) MAY CONTAIN ANY TERMS, PROVISIONS, AND CONDITIONS  
19 THAT THE STATE TREASURER DEEMS APPROPRIATE, INCLUDING OPTIONAL  
20 TERMS; EXCEPT THAT A LEASE-PURCHASE AGREEMENT SHALL  
21 SPECIFICALLY AUTHORIZE THE STATE TO RECEIVE FEE TITLE OR ALL  
22 REMAINING LEASEHOLD INTERESTS TO ALL REAL PROPERTY THAT IS THE  
23 SUBJECT OF THE LEASE-PURCHASE AGREEMENT ON OR PRIOR TO THE  
24 EXPIRATION OF THE LEASE-PURCHASE AGREEMENT UPON PAYMENT OF ALL  
25 LEASE PAYMENTS AND OTHER AMOUNTS DUE UNDER THE TERMS OF THE  
26 LEASE-PURCHASE AGREEMENT.

27 (d) A LEASE-PURCHASE AGREEMENT AUTHORIZED BY THIS

1 SUBSECTION (3) MAY PROVIDE FOR THE ISSUANCE, DISTRIBUTION, AND  
2 SALE OF INSTRUMENTS BY THE LESSOR EVIDENCING RIGHTS TO RECEIVE  
3 LEASE PAYMENTS AND OTHER PAYMENTS MADE AND TO BE MADE UNDER  
4 THE LEASE-PURCHASE AGREEMENT. IF SUCH INSTRUMENTS ARE ISSUED,  
5 DISTRIBUTED, OR SOLD, THEY MUST BE ISSUED, DISTRIBUTED, OR SOLD BY  
6 THE LESSOR, OR ANY PERSON DESIGNATED BY THE LESSOR, AND NOT BY  
7 THE STATE, AND THEY DO NOT CREATE A RELATIONSHIP BETWEEN THE  
8 PURCHASERS AND THE STATE OR CREATE ANY OBLIGATION ON THE PART  
9 OF THE STATE TO THE PURCHASERS. SUCH INSTRUMENTS ARE NOT NOTES,  
10 BONDS, OR ANY OTHER EVIDENCE OF INDEBTEDNESS OF THE STATE WITHIN  
11 THE MEANING OF ANY PROVISION OF THE STATE CONSTITUTION OR THE  
12 LAWS OF THE STATE CONCERNING OR LIMITING THE CREATION OF  
13 INDEBTEDNESS OF THE STATE AND DO NOT CONSTITUTE A  
14 MULTIPLE-FISCAL YEAR DIRECT OR INDIRECT DEBT OR OTHER FINANCIAL  
15 OBLIGATION OF THE STATE WITHIN THE MEANING OF SECTION 20 (4) OF  
16 ARTICLE X OF THE STATE CONSTITUTION.

17 (e) AMOUNTS REPRESENTING INTEREST PAID UNDER A  
18 LEASE-PURCHASE AGREEMENT AUTHORIZED BY THIS SUBSECTION (3) ARE  
19 EXEMPT FROM STATE INCOME TAX.

20 (f) THE STATE TREASURER MAY ENTER INTO ANY ANCILLARY  
21 AGREEMENT OR INSTRUMENT AS IS DEEMED NECESSARY OR APPROPRIATE  
22 IN CONNECTION WITH A LEASE-PURCHASE AGREEMENT, INCLUDING BUT  
23 NOT LIMITED TO A GROUND LEASE, AN EASEMENT, OR ANY OTHER  
24 AGREEMENT OR INSTRUMENT RELATING TO THE REAL PROPERTY ON WHICH  
25 THE ELIGIBLE STATE FACILITY THAT IS THE SUBJECT OF THE  
26 LEASE-PURCHASE AGREEMENT IS LOCATED.

27 (4) THE PROVISIONS OF SECTION 24-30-202 (5)(b) DO NOT APPLY



1 TO A LEASE-PURCHASE AGREEMENT AUTHORIZED BY SUBSECTION (3) OF  
2 THIS SECTION OR ANY ANCILLARY AGREEMENT OR INSTRUMENT ENTERED  
3 INTO PURSUANT TO SUBSECTION (3)(f) OF THIS SECTION. THE STATE  
4 CONTROLLER MAY WAIVE ANY PROVISION OF THE FISCAL RULES  
5 PROMULGATED PURSUANT TO SECTION 24-30-202 (1) AND (13) THAT THE  
6 STATE CONTROLLER DEEMS TO BE INCOMPATIBLE OR INAPPLICABLE WITH  
7 RESPECT TO SUCH A LEASE-PURCHASE AGREEMENT OR ANCILLARY  
8 AGREEMENT OR INSTRUMENT.

9 **24-82-1104. Repeal of part - repeal of section.** THIS PART 11 IS  
10 REPEALED, EFFECTIVE JULY 1, 2018, UNLESS THE EXECUTIVE DIRECTOR  
11 ENTERS INTO AT LEAST ONE PROPERTY SALE AGREEMENT PURSUANT TO  
12 THIS PART 11 BEFORE THAT DATE. IF THE EXECUTIVE DIRECTOR ENTERS  
13 INTO AT LEAST ONE PROPERTY SALE AGREEMENT PURSUANT TO THIS PART  
14 11, WITHIN TEN DAYS FOLLOWING ITS EXECUTION THE EXECUTIVE  
15 DIRECTOR SHALL NOTIFY THE REVISOR OF STATUTES THAT A PROPERTY  
16 SALE AGREEMENT HAS BEEN EXECUTED AND THIS SECTION IS REPEALED,  
17 EFFECTIVE JULY 1, 2018.

18 **SECTION 6.** In Colorado Revised Statutes, **add** 25.5-4-402.4 as  
19 follows:

20 **25.5-4-402.4. Hospitals - healthcare affordability and**  
21 **sustainability fee - legislative declaration - Colorado healthcare**  
22 **affordability and sustainability enterprise - federal waiver - fund**  
23 **created - rules. (1) Short title.** THE SHORT TITLE OF THIS SECTION IS THE  
24 "COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY  
25 ENTERPRISE ACT OF 2017".

26 (2) **Legislative declaration.** THE GENERAL ASSEMBLY HEREBY  
27 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 SUBSECTION (4)(a)(IV) OF THIS SECTION TO HOSPITALS THAT PAY THE  
26 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE CHARGED AND  
27 COLLECTED AS AUTHORIZED BY SUBSECTION (4) OF THIS SECTION BY THE

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

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

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

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

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

23 (f) CONSISTENT WITH THE DETERMINATION OF THE COLORADO  
24 SUPREME COURT IN *NICHOLL V. E-470 PUBLIC HIGHWAY AUTHORITY*, 896  
25 P.2d 859 (COLO. 1995), THAT THE POWER TO IMPOSE TAXES IS  
26 INCONSISTENT WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE  
27 X OF THE STATE CONSTITUTION, IT IS THE CONCLUSION OF THE GENERAL

1 ASSEMBLY THAT THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY  
2 FEE CHARGED AND COLLECTED BY THE COLORADO HEALTHCARE  
3 AFFORDABILITY AND SUSTAINABILITY ENTERPRISE IS A FEE, NOT A TAX,  
4 BECAUSE THE FEE IS IMPOSED FOR THE SPECIFIC PURPOSES OF ALLOWING  
5 THE ENTERPRISE TO DEFRAY THE COSTS OF PROVIDING THE BUSINESS  
6 SERVICES SPECIFIED IN SUBSECTIONS (2)(d)(I) AND (2)(d)(II) OF THIS  
7 SECTION TO HOSPITALS THAT PAY THE FEE AND IS COLLECTED AT RATES  
8 THAT ARE REASONABLY CALCULATED BASED ON THE BENEFITS RECEIVED  
9 BY THOSE HOSPITALS; AND

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

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

1 AFFORDABILITY AND SUSTAINABILITY FEE REVENUE AND FEDERAL  
2 MATCHING MONEY TO PROVIDE THE BUSINESS SERVICES SPECIFIED IN  
3 SUBSECTIONS (2)(d)(I) AND (2)(d)(II) OF THIS SECTION TO HOSPITALS THAT  
4 PAY THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE.

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

13 (c) (I) THE REPEAL OF THE HOSPITAL PROVIDER FEE PROGRAM, AS  
14 IT EXISTED PURSUANT TO SECTION 25.5-4-402.3 BEFORE ITS REPEAL,  
15 EFFECTIVE JULY 1, 2017, BY SENATE BILL 17 \_\_\_\_\_, ENACTED IN 2017, AND  
16 THE CREATION OF THE COLORADO HEALTHCARE AFFORDABILITY AND  
17 SUSTAINABILITY ENTERPRISE AS A NEW ENTERPRISE TO CHARGE AND  
18 COLLECT A NEW HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE  
19 AS AUTHORIZED BY SUBSECTION (4) OF THIS SECTION AND PROVIDE  
20 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE-FUNDED BUSINESS  
21 SERVICES TO HOSPITALS THAT REPLACE AND SUPPLEMENT SERVICES  
22 PREVIOUSLY FUNDED BY HOSPITAL PROVIDER FEES IS THE CREATION OF A  
23 NEW GOVERNMENT-OWNED BUSINESS THAT PROVIDES BUSINESS SERVICES  
24 TO HOSPITALS AS A NEW ENTERPRISE FOR PURPOSES OF SECTION 20 OF  
25 ARTICLE X OF THE STATE CONSTITUTION, DOES NOT CONSTITUTE THE  
26 QUALIFICATION OF AN EXISTING GOVERNMENT-OWNED BUSINESS AS AN  
27 ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE

1 CONSTITUTION OR SECTION 24-77-103.6 (6)(b)(II), AND, THEREFORE, DOES  
2 NOT 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).

6 (II) NOTWITHSTANDING SUBSECTION (3)(c)(I) OF THIS SECTION,  
7 BECAUSE THE REPEAL OF THE HOSPITAL PROVIDER FEE PROGRAM, AS IT  
8 EXISTED PURSUANT TO SECTION 25.5-4-402.3 BEFORE ITS REPEAL BY  
9 SENATE BILL 17 \_\_\_\_\_, ENACTED IN 2017, WILL ALLOW THE STATE TO  
10 SPEND MORE GENERAL FUND MONEY FOR GENERAL GOVERNMENTAL  
11 PURPOSES THAN IT WOULD OTHERWISE BE ABLE TO SPEND BELOW THE  
12 EXCESS STATE REVENUES CAP, AS DEFINED IN SECTION 24-77-103.6  
13 (6)(b)(I), IT IS APPROPRIATE TO RESTRAIN THE GROWTH OF GOVERNMENT  
14 BY LOWERING THE BASE AMOUNT USED TO CALCULATE THE EXCESS STATE  
15 REVENUES CAP FOR THE 2017-18 STATE FISCAL YEAR BY SIX HUNDRED  
16 SEVENTY MILLION THREE HUNDRED THOUSAND DOLLARS.

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

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

21 (II) TO LEVERAGE HEALTHCARE AFFORDABILITY AND  
22 SUSTAINABILITY FEE REVENUE COLLECTED TO OBTAIN FEDERAL MATCHING  
23 MONEY, WORKING WITH OR THROUGH THE STATE DEPARTMENT AND THE  
24 STATE BOARD TO THE EXTENT REQUIRED BY FEDERAL LAW OR OTHERWISE  
25 NECESSARY;

26 (III) TO EXPEND HEALTHCARE AFFORDABILITY AND  
27 SUSTAINABILITY FEE REVENUE, MATCHING FEDERAL MONEY, AND ANY

1 OTHER MONEY FROM THE HEALTHCARE AFFORDABILITY AND  
2 SUSTAINABILITY FEE CASH FUND AS SPECIFIED IN SUBSECTIONS (4) AND (5)  
3 OF THIS SECTION;

4 (IV) TO ISSUE REVENUE BONDS PAYABLE FROM THE REVENUES OF  
5 THE ENTERPRISE;

6 (V) TO ENTER INTO AGREEMENTS WITH THE STATE DEPARTMENT  
7 TO THE EXTENT NECESSARY TO COLLECT AND EXPEND HEALTHCARE  
8 AFFORDABILITY AND SUSTAINABILITY FEE REVENUE;

9 (VI) TO ENGAGE THE SERVICES OF PRIVATE PERSONS OR ENTITIES  
10 SERVING AS CONTRACTORS, CONSULTANTS, AND LEGAL COUNSEL FOR  
11 PROFESSIONAL AND TECHNICAL ASSISTANCE AND ADVICE AND TO SUPPLY  
12 OTHER SERVICES RELATED TO THE CONDUCT OF THE AFFAIRS OF THE  
13 ENTERPRISE, INCLUDING THE PROVISION OF ADDITIONAL BUSINESS  
14 SERVICES TO HOSPITALS AS SPECIFIED IN SUBSECTION (4)(a)(IV) OF THIS  
15 SECTION, WITHOUT REGARD TO THE PROVISIONS OF THE "PROCUREMENT  
16 CODE", ARTICLES 101 TO 112 OF TITLE 24; AND

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

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

23 (4) **Healthcare affordability and sustainability fee.** (a) FOR THE  
24 FISCAL YEAR COMMENCING JULY 1, 2017, AND FOR EACH FISCAL YEAR  
25 THEREAFTER, THE ENTERPRISE IS AUTHORIZED TO CHARGE AND COLLECT  
26 A HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE, AS DESCRIBED  
27 IN 42 CFR 433.68 (b), ON OUTPATIENT AND INPATIENT SERVICES

1 PROVIDED BY ALL LICENSED OR CERTIFIED HOSPITALS, REFERRED TO IN  
2 THIS SECTION AS "HOSPITALS", FOR THE PURPOSE OF OBTAINING FEDERAL  
3 FINANCIAL PARTICIPATION UNDER THE STATE MEDICAL ASSISTANCE  
4 PROGRAM AS DESCRIBED IN THIS ARTICLE 4 AND ARTICLES 5 AND 6 OF THIS  
5 TITLE 25.5, REFERRED TO IN THIS SECTION AS THE "STATE MEDICAL  
6 ASSISTANCE PROGRAM", AND THE COLORADO INDIGENT CARE PROGRAM  
7 DESCRIBED IN PART 1 OF ARTICLE 3 OF THIS TITLE 25.5, REFERRED TO IN  
8 THIS SECTION AS THE "COLORADO INDIGENT CARE PROGRAM". THE  
9 ENTERPRISE SHALL USE THE HEALTHCARE AFFORDABILITY AND  
10 SUSTAINABILITY FEE REVENUE TO:

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

13 (A) THE STATE MEDICAL ASSISTANCE PROGRAM; AND

14 (B) THE COLORADO INDIGENT CARE PROGRAM;

15 (II) PROVIDE A BUSINESS SERVICE TO HOSPITALS BY INCREASING  
16 THE NUMBER OF INDIVIDUALS COVERED BY PUBLIC MEDICAL ASSISTANCE  
17 AND THEREBY REDUCING THE AMOUNT OF UNCOMPENSATED CARE THAT  
18 THE HOSPITALS MUST PROVIDE;

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

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

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

26 (B) ADVISING HOSPITALS REGARDING POTENTIAL CHANGES TO  
27 FEDERAL AND STATE LAWS AND REGULATIONS THAT GOVERN THE



1 PROVISION OF AND REIMBURSEMENT PAID FOR MEDICAL SERVICES UNDER  
2 THE PROGRAMS ADMINISTERED PURSUANT TO THIS ARTICLE 4 AND  
3 ARTICLES 5 AND 6 OF THIS TITLE 25.5;

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

12 (D) PROVIDING ANY OTHER SERVICES TO HOSPITALS THAT AID  
13 THEM IN EFFICIENTLY AND EFFECTIVELY PARTICIPATING IN THE PROGRAMS  
14 ADMINISTERED PURSUANT TO THIS ARTICLE 4 AND ARTICLES 5 AND 6 OF  
15 THIS TITLE 25.5; AND

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

20 (b) THE ENTERPRISE SHALL RECOMMEND FOR APPROVAL AND  
21 ESTABLISHMENT BY THE STATE BOARD THE AMOUNT OF THE HEALTHCARE  
22 AFFORDABILITY AND SUSTAINABILITY FEE THAT IT INTENDS TO CHARGE  
23 AND COLLECT. THE STATE BOARD MUST ESTABLISH THE FINAL AMOUNT OF  
24 THE FEE BY RULES PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF  
25 TITLE 24. THE STATE BOARD SHALL NOT ESTABLISH ANY AMOUNT THAT  
26 EXCEEDS THE FEDERAL LIMIT FOR SUCH FEES. THE STATE BOARD MAY  
27 DEVIATE FROM THE RECOMMENDATIONS OF THE ENTERPRISE, BUT SHALL

1 EXPRESS IN WRITING THE REASONS FOR ANY DEVIATIONS. IN ESTABLISHING  
2 THE AMOUNT OF THE FEE AND IN PROMULGATING THE RULES GOVERNING  
3 THE FEE, THE STATE BOARD SHALL:

4 (I) CONSIDER RECOMMENDATIONS OF THE ENTERPRISE;

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

12 (III) FOR THE 2017-18 FISCAL YEAR, ESTABLISH THE AMOUNT OF  
13 THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE SO THAT THE  
14 AMOUNT COLLECTED FROM THE FEE IS APPROXIMATELY EQUAL TO THE  
15 SUM OF THE AMOUNTS OF THE APPROPRIATIONS SPECIFIED FOR THE FEE IN  
16 THE GENERAL APPROPRIATION ACT, SENATE BILL 17-\_\_\_\_\_, ENACTED IN  
17 2017, AND ANY OTHER SUPPLEMENTAL APPROPRIATION ACT.

18 (c) (I) IN ACCORDANCE WITH THE REDISTRIBUTIVE METHOD SET  
19 FORTH IN 42 CFR 433.68 (e)(1) AND (e)(2), THE ENTERPRISE, ACTING IN  
20 CONCERT WITH OR THROUGH AN AGREEMENT WITH THE STATE  
21 DEPARTMENT IF REQUIRED BY FEDERAL LAW, MAY SEEK A WAIVER FROM  
22 THE BROAD-BASED HEALTHCARE AFFORDABILITY AND SUSTAINABILITY  
23 FEE REQUIREMENT OR THE UNIFORM HEALTHCARE AFFORDABILITY AND  
24 SUSTAINABILITY FEE REQUIREMENT, OR BOTH. IN ADDITION, THE  
25 ENTERPRISE, ACTING IN CONCERT WITH OR THROUGH AN AGREEMENT WITH  
26 THE STATE DEPARTMENT IF REQUIRED BY FEDERAL LAW, SHALL SEEK ANY  
27 FEDERAL WAIVER NECESSARY TO FUND AND, IN COOPERATION WITH THE

1 STATE DEPARTMENT AND HOSPITALS, SUPPORT THE IMPLEMENTATION OF  
2 A HEALTH CARE DELIVERY SYSTEM REFORM INCENTIVE PAYMENTS  
3 PROGRAM AS DESCRIBED IN SUBSECTION (8) OF THIS SECTION. SUBJECT TO  
4 FEDERAL APPROVAL AND TO MINIMIZE THE FINANCIAL IMPACT ON CERTAIN  
5 HOSPITALS, THE ENTERPRISE MAY EXEMPT FROM PAYMENT OF THE  
6 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE CERTAIN TYPES OF  
7 HOSPITALS, INCLUDING BUT NOT LIMITED TO:

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

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

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

16 (D) INPATIENT REHABILITATION FACILITIES; OR

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

18 (e).

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

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

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

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

1 (D) A HOSPITAL THAT MUST BE INCLUDED TO RECEIVE FEDERAL  
2 APPROVAL.

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

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

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

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

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

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

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

27 (IV) THE ENTERPRISE MAY CHANGE HOW IT PAYS HOSPITAL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 PERCENT TO ONE HUNDRED THIRTY-THREE PERCENT OF THE FEDERAL  
2 POVERTY LINE;

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

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

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

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

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

20 (A) ADMINISTRATIVE EXPENSES OF THE ENTERPRISE;

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

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



1 SECTION;

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

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

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

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

1 NUMBER OF UNINSURED SERVED BY HOSPITALS;

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

6 (VIII) SUBJECT TO ANY NECESSARY FEDERAL WAIVERS BEING  
7 OBTAINED, TO PROVIDE FUNDING FOR A HEALTH CARE DELIVERY SYSTEM  
8 REFORM INCENTIVE PAYMENTS PROGRAM AS DESCRIBED IN SUBSECTION (8)  
9 OF THIS SECTION; AND

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

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

27 (II) IF GENERAL FUND APPROPRIATIONS FOR HOSPITAL

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

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

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

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

25 (II) THE HOSPITAL PROVIDER REIMBURSEMENT AND QUALITY  
26 INCENTIVE PAYMENT INCREASES DESCRIBED IN SUBSECTIONS (5)(b)(I) TO  
27 (5)(b)(III) OF THIS SECTION AND THE COSTS DESCRIBED IN SUBSECTION

1 (5)(b)(VI) OF THIS SECTION SHALL BE FULLY FUNDED USING REVENUE  
2 FROM THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE AND  
3 FEDERAL MATCHING FUNDS BEFORE ANY ELIGIBILITY EXPANSION IS  
4 FUNDED; AND

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

25 (B) THE JOINT BUDGET COMMITTEE SHALL PROMPTLY CONSIDER  
26 ANY RULES ADOPTED BY THE STATE BOARD PURSUANT TO SUBSECTION  
27 (6)(b)(III)(A) OF THIS SECTION. THE JOINT BUDGET COMMITTEE SHALL

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

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

25 (c) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,  
26 IF, AFTER RECEIPT OF AUTHORIZATION TO RECEIVE FEDERAL MATCHING  
27 FUNDS FOR MONEYS IN THE FUND, THE AUTHORIZATION IS WITHDRAWN OR

1 CHANGED SO THAT FEDERAL MATCHING FUNDS ARE NO LONGER  
2 AVAILABLE, THE ENTERPRISE SHALL CEASE COLLECTING THE HEALTHCARE  
3 AFFORDABILITY AND SUSTAINABILITY FEE AND SHALL REPAY TO THE  
4 HOSPITALS ANY MONEYS RECEIVED BY THE FUND THAT ARE NOT SUBJECT  
5 TO FEDERAL MATCHING FUNDS.

6 (7) **Colorado healthcare affordability and sustainability**  
7 **enterprise board.** (a) (I) EXCEPT AS OTHERWISE PROVIDED IN  
8 SUBSECTION (7)(a)(II) OF THIS SECTION, THE ENTERPRISE BOARD CONSISTS  
9 OF THIRTEEN MEMBERS APPOINTED BY THE GOVERNOR, WITH THE ADVICE  
10 AND CONSENT OF THE SENATE, AS FOLLOWS:

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

18 (B) ONE MEMBER WHO IS A REPRESENTATIVE OF A STATEWIDE  
19 ORGANIZATION OF HOSPITALS;

20 (C) ONE MEMBER WHO REPRESENTS A STATEWIDE ORGANIZATION  
21 OF HEALTH INSURANCE CARRIERS OR A HEALTH INSURANCE CARRIER  
22 LICENSED PURSUANT TO TITLE 10 AND WHO IS NOT A REPRESENTATIVE OF  
23 A HOSPITAL;

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

26 (E) ONE MEMBER WHO IS A CONSUMER OF HEALTH CARE AND WHO  
27 IS NOT A REPRESENTATIVE OR AN EMPLOYEE OF A HOSPITAL, HEALTH

1 INSURANCE CARRIER, OR OTHER HEALTH CARE INDUSTRY ENTITY;

2 (F) ONE MEMBER WHO IS A REPRESENTATIVE OF PERSONS WITH  
3 DISABILITIES, WHO IS LIVING WITH A DISABILITY, AND WHO IS NOT A  
4 REPRESENTATIVE OR AN EMPLOYEE OF A HOSPITAL, HEALTH INSURANCE  
5 CARRIER, OR OTHER HEALTH CARE INDUSTRY ENTITY;

6 (G) ONE MEMBER WHO IS A REPRESENTATIVE OF A BUSINESS THAT  
7 PURCHASES OR OTHERWISE PROVIDES HEALTH INSURANCE FOR ITS  
8 EMPLOYEES; AND

9 (H) TWO EMPLOYEES OF THE STATE DEPARTMENT.

10 (II) THE INITIAL MEMBERS OF THE ENTERPRISE BOARD ARE THE  
11 MEMBERS OF THE HOSPITAL PROVIDER FEE OVERSIGHT AND ADVISORY  
12 BOARD THAT WAS CREATED AND EXISTED PURSUANT TO SECTION  
13 25.5-4-402.3 (6), PRIOR TO JULY 1, 2017, AND SUCH MEMBERS SHALL  
14 SERVE ON AND AFTER JULY 1, 2017, FOR THE REMAINDER OF THE TERMS  
15 FOR WHICH THEY WERE APPOINTED AS MEMBERS OF THE ADVISORY BOARD.  
16 THE POWERS, DUTIES, AND FUNCTIONS OF THE HOSPITAL PROVIDER FEE  
17 OVERSIGHT AND ADVISORY BOARD ARE TRANSFERRED BY A **TYPE 3**  
18 TRANSFER, AS DEFINED IN SECTION 24-1-105, TO THE ENTERPRISE, AND  
19 THE HOSPITAL PROVIDER FEE OVERSIGHT AND ADVISORY BOARD IS  
20 ABOLISHED.

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

26 (IV) MEMBERS OF THE ENTERPRISE BOARD SERVE AT THE  
27 PLEASURE OF THE GOVERNOR. ALL TERMS ARE FOR FOUR YEARS. A

1 MEMBER WHO IS APPOINTED TO FILL A VACANCY SHALL SERVE THE  
2 REMAINDER OF THE UNEXPIRED TERM OF THE FORMER MEMBER.

3 (V) THE GOVERNOR SHALL DESIGNATE A CHAIR FROM AMONG THE  
4 MEMBERS OF THE ENTERPRISE BOARD APPOINTED PURSUANT TO  
5 SUBSECTIONS (7)(a)(I)(A) TO (7)(a)(I)(G) OF THIS SECTION. THE  
6 ENTERPRISE BOARD SHALL ELECT A VICE-CHAIR FROM AMONG ITS  
7 MEMBERS.

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

12 (c) THE ENTERPRISE BOARD MAY CONTRACT FOR A GROUP  
13 FACILITATOR TO ASSIST THE MEMBERS OF THE ENTERPRISE BOARD IN  
14 PERFORMING THEIR REQUIRED DUTIES.

15 (d) THE ENTERPRISE BOARD HAS, AT A MINIMUM, THE FOLLOWING  
16 DUTIES:

17 (I) TO DETERMINE THE TIMING AND METHOD BY WHICH THE  
18 ENTERPRISE ASSESSES THE HEALTHCARE AFFORDABILITY AND  
19 SUSTAINABILITY FEE AND THE AMOUNT OF THE FEE;

20 (II) IF REQUESTED BY THE HEALTH AND HUMAN SERVICES  
21 COMMITTEE OF THE SENATE OR THE PUBLIC HEALTH CARE AND HUMAN  
22 SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY  
23 SUCCESSOR COMMITTEES, TO CONSULT WITH THE COMMITTEES ON ANY  
24 LEGISLATION THAT MAY IMPACT THE HEALTHCARE AFFORDABILITY AND  
25 SUSTAINABILITY FEE OR HOSPITAL REIMBURSEMENTS ESTABLISHED  
26 PURSUANT TO THIS SECTION;

27 (III) TO DETERMINE CHANGES IN THE HEALTHCARE AFFORDABILITY



1 AND SUSTAINABILITY FEE THAT INCREASE THE NUMBER OF HOSPITALS  
2 BENEFITTING FROM THE USES OF THE HEALTHCARE AFFORDABILITY AND  
3 SUSTAINABILITY FEE DESCRIBED IN SUBSECTIONS (5)(b)(I) TO (5)(b)(IV)  
4 OF THIS SECTION OR THAT MINIMIZE THE NUMBER OF HOSPITALS THAT  
5 SUFFER LOSSES AS A RESULT OF PAYING THE HEALTHCARE AFFORDABILITY  
6 AND SUSTAINABILITY FEE;

7 (IV) TO RECOMMEND TO THE STATE DEPARTMENT REFORMS OR  
8 CHANGES TO THE INPATIENT HOSPITAL AND OUTPATIENT HOSPITAL  
9 REIMBURSEMENTS AND QUALITY INCENTIVE PAYMENTS MADE UNDER THE  
10 STATE MEDICAL ASSISTANCE PROGRAM TO INCREASE PROVIDER  
11 ACCOUNTABILITY, PERFORMANCE, AND REPORTING;

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

19 (VI) TO RECOMMEND TO THE STATE DEPARTMENT THE SCHEDULE  
20 AND APPROACH TO THE IMPLEMENTATION OF SUBSECTIONS (5)(b)(IV) AND  
21 (5)(b)(V) OF THIS SECTION;

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

27 (VIII) TO PREPARE THE REPORTS SPECIFIED IN SUBSECTION (7)(e)

1 OF THIS SECTION;

2 (IX) TO MONITOR THE IMPACT OF THE HEALTHCARE  
3 AFFORDABILITY AND SUSTAINABILITY FEE ON THE BROADER HEALTH CARE  
4 MARKETPLACE;

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

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

12 (e) ON OR BEFORE JANUARY 15, 2018, AND ON OR BEFORE  
13 JANUARY 15 EACH YEAR THEREAFTER, THE ENTERPRISE BOARD SHALL  
14 SUBMIT A WRITTEN REPORT TO THE HEALTH AND HUMAN SERVICES  
15 COMMITTEE OF THE SENATE AND THE PUBLIC HEALTH CARE AND HUMAN  
16 SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY  
17 SUCCESSOR COMMITTEES, THE JOINT BUDGET COMMITTEE OF THE GENERAL  
18 ASSEMBLY, THE GOVERNOR, AND THE STATE BOARD. THE REPORT SHALL  
19 INCLUDE, BUT NEED NOT BE LIMITED TO:

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

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

26 (III) AN ITEMIZATION OF THE TOTAL AMOUNT OF THE HEALTHCARE  
27 AFFORDABILITY AND SUSTAINABILITY FEE PAID BY EACH HOSPITAL AND

1 ANY PROJECTED REVENUE THAT EACH HOSPITAL IS EXPECTED TO RECEIVE  
2 DUE TO:

3 (A) THE INCREASED REIMBURSEMENTS MADE PURSUANT TO  
4 SUBSECTIONS (5)(b)(I) AND (5)(b)(II) OF THIS SECTION AND THE QUALITY  
5 INCENTIVE PAYMENTS MADE PURSUANT TO SUBSECTION (5)(b)(III) OF THIS  
6 SECTION; AND

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

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

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

- 16 (A) MEDICAID;
- 17 (B) MEDICARE; AND
- 18 (C) ALL OTHER PAYERS; AND

19 (VI) A SUMMARY OF:

20 (A) THE EFFORTS MADE BY THE ENTERPRISE, ACTING IN CONCERT  
21 WITH OR THROUGH AN AGREEMENT WITH THE STATE DEPARTMENT IF  
22 REQUIRED BY FEDERAL LAW, TO SEEK ANY FEDERAL WAIVER NECESSARY  
23 TO FUND AND, IN COOPERATION WITH THE STATE DEPARTMENT AND  
24 HOSPITALS, SUPPORT THE IMPLEMENTATION OF A HEALTH CARE DELIVERY  
25 SYSTEM REFORM INCENTIVE PAYMENTS PROGRAM AS DESCRIBED IN  
26 SUBSECTION (8) OF THIS SECTION; AND

27 (B) THE PROGRESS ACTUALLY MADE BY THE ENTERPRISE, IN

1 COOPERATION WITH THE STATE DEPARTMENT AND HOSPITALS, TOWARDS  
2 THE GOAL OF IMPLEMENTING SUCH A PROGRAM.

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

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

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

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

- 1 (a) INCLUDE AN INITIAL PLANNING PHASE TO:  
2 (I) ASSESS NEEDS; AND  
3 (II) DEVELOP ACHIEVABLE OUTCOME-BASED METRICS TO BE USED  
4 TO MEASURE PROGRESS TOWARDS PROGRAM GOALS, INCLUDING THE  
5 GOALS OF HEALTH CARE DELIVERY SYSTEM INTEGRATION, IMPROVED  
6 PATIENT OUTCOMES, AND MORE EFFICIENT PROVISION OF CARE; AND  
7 (b) ADDRESS THE FOLLOWING FOCUS AREAS:  
8 (I) CARE COORDINATION AND CARE TRANSITION MANAGEMENT;  
9 (II) INTEGRATION OF PHYSICAL AND BEHAVIORAL HEALTH CARE  
10 SERVICES;  
11 (III) CHRONIC CONDITION MANAGEMENT;  
12 (IV) TARGETED POPULATION HEALTH; AND  
13 (V) DATA-DRIVEN ACCOUNTABILITY AND OUTCOME  
14 MEASUREMENT.

15 **SECTION 7.** In Colorado Revised Statutes, **add** 25.5-4-402.7 as  
16 follows:

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

1 DEPARTMENT THROUGH OCTOBER 30, 2018, FOR THE PURPOSE OF PAYING  
2 CLAIMS INCURRED BEFORE JULY 1, 2017, THAT WERE PAYABLE PURSUANT  
3 TO SECTION 25.5-5-402.3 (4), AS THAT SECTION EXISTED BEFORE ITS  
4 REPEAL BY SENATE BILL 17-\_\_\_, ENACTED IN 2017. THE STATE  
5 DEPARTMENT SHALL REFUND ANY MONEY IN THE FUND DERIVED FROM  
6 HOSPITAL PROVIDER FEES THAT IS NOT EXPENDED FOR THE PURPOSE OF  
7 PAYING CLAIMS TO THE HOSPITALS THAT PAID THE FEES.

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

9 **SECTION 8.** In Colorado Revised Statutes, 24-1-119.5, **add** (9)  
10 as follows:

11 **24-1-119.5. Department of health care policy and financing -**  
12 **creation.** (9) THE COLORADO HEALTHCARE AFFORDABILITY AND  
13 SUSTAINABILITY ENTERPRISE CREATED IN SECTION 25.5-4-402.4(3) SHALL  
14 EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS AS IF THE  
15 SAME WERE TRANSFERRED BY A **TYPE 2** TRANSFER, AS DEFINED IN SECTION  
16 24-1-105, TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING.

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

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

1           **SECTION 10.** In Colorado Revised Statutes, 2-3-1203, **repeal**  
2 (8)(a)(V) as follows:

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

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

9           **SECTION 11.** In Colorado Revised Statutes, 24-4-103, **amend**  
10 (8)(c)(I) as follows:

11           **24-4-103. Rule-making - procedure - definitions - repeal.**

12 (8) (c) (I) Notwithstanding any other provision of law to the contrary and  
13 the provisions of section 24-4-107, all rules adopted or amended on or  
14 after January 1, 1993, and before November 1, 1993, ~~shall~~ expire at 11:59  
15 p.m. on May 15 of the year following their adoption unless the general  
16 assembly by bill acts to postpone the expiration of a specific rule, and  
17 commencing with rules adopted or amended on or after November 1,  
18 1993, all rules adopted or amended during any one-year period that begins  
19 each November 1 and continues through the following October 31 ~~shall~~  
20 expire at 11:59 p.m. on the May 15 that follows such one-year period  
21 unless the general assembly by bill acts to postpone the expiration of a  
22 specific rule; except that a rule adopted pursuant to ~~section 25.5-4-402.3~~  
23 ~~(5)(b)(III), C.R.S., shall expire~~ SECTION 25.5-4-402.4 (6)(b)(III) EXPIRES  
24 at 11:59 p.m. on the May 15 following the adoption of the rule unless the  
25 general assembly acts by bill to postpone the expiration of a specific rule.  
26 The general assembly, in its discretion, may postpone such expiration, in  
27 which case, the provisions of section 24-4-108 or 24-34-104 ~~shall~~ apply,

1 and the rules ~~shall~~ expire or ~~be~~ ARE subject to review as provided in ~~said~~  
2 THOSE sections. The postponement of the expiration of a rule ~~shall~~ DOES  
3 not constitute legislative approval of the rule ~~nor be~~ AND IS NOT  
4 admissible in any court as evidence of legislative intent. The  
5 postponement of the expiration date of a specific rule ~~shall~~ DOES not  
6 prohibit any action by the general assembly pursuant to the provisions of  
7 ~~paragraph (d) of this subsection (8)~~ SUBSECTION (8)(d) OF THIS SECTION  
8 with respect to ~~such~~ THE rule.

9           **SECTION 12.** In Colorado Revised Statutes, 25.5-3-108, **amend**  
10 (17) as follows:

11           **25.5-3-108. Responsibility of the department of health care**  
12 **policy and financing - provider reimbursement.** (17) Subject to  
13 adequate funding BEING made available under ~~section 25.5-4-402.3~~  
14 SECTION 25.5-4-402.4, the ~~state department~~ COLORADO HEALTHCARE  
15 AFFORDABILITY AND SUSTAINABILITY ENTERPRISE CREATED IN SECTION  
16 25.5-4-402.4 (3) shall increase hospital reimbursements up to one  
17 hundred percent of hospital costs for providing medical care under the  
18 program.

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

21           **25.5-4-402. Providers - hospital reimbursement - rules.**  
22 (3) (a) In addition to the reimbursement rate process described in  
23 subsection (1) of this section and subject to adequate funding BEING made  
24 available pursuant to ~~section 25.5-4-402.3~~ SECTION 25.5-4-402.4, the ~~state~~  
25 ~~department~~ COLORADO HEALTHCARE AFFORDABILITY AND  
26 SUSTAINABILITY ENTERPRISE CREATED IN SECTION 25.5-4-402.4 (3) shall  
27 pay an additional amount based upon performance to those hospitals that



1 provide services that improve health care outcomes for their patients. ~~This~~  
2 ~~amount shall be determined by~~ The state department SHALL DETERMINE  
3 THIS AMOUNT based upon nationally recognized performance measures  
4 established in rules adopted by the state board. The state quality standards  
5 ~~shall~~ MUST be consistent with federal quality standards published by an  
6 organization with expertise in health care quality, including but not  
7 limited to, the centers for medicare and medicaid services, the agency for  
8 healthcare research and quality, or the national quality forum.

9 **SECTION 14.** In Colorado Revised Statutes, 25.5-5-201, **amend**  
10 (1)(o)(II) and (1)(r)(II) as follows:

11 **25.5-5-201. Optional provisions - optional groups - repeal.**

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

21 (o) (II) Notwithstanding the provisions of ~~subparagraph (I) of this~~  
22 ~~paragraph (o)~~, SUBSECTION (1)(o)(I) OF THIS SECTION, if the moneys in the  
23 ~~hospital provider~~ HEALTHCARE AFFORDABILITY AND SUSTAINABILITY fee  
24 cash fund established pursuant to ~~section 25.5-4-402.3 (4)~~ SECTION  
25 25.5-4-402.4, together with the corresponding federal matching funds, are  
26 insufficient to fully fund all of the purposes described in ~~section~~  
27 ~~25.5-4-402.3 (4) (b)~~ SECTION 25.5-4-402.4 (5)(b), after receiving

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

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

27 **SECTION 15.** In Colorado Revised Statutes, 25.5-5-204.5,

1 **amend** (2) as follows:

2 **25.5-5-204.5. Continuous eligibility - children - repeal.**

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

16 **SECTION 16.** In Colorado Revised Statutes, **add** 25.5-5-419 as  
17 follows:

18 **25.5-5-419. Advancing care of exceptional kids.** WITHIN ONE  
19 HUNDRED TWENTY DAYS OF THE ENACTMENT OF THE FEDERAL  
20 "ADVANCING CARE OF EXCEPTIONAL KIDS ACT", THE STATE DEPARTMENT  
21 SHALL SEEK ANY FEDERAL WAIVER NECESSARY TO FUND, IN COOPERATION  
22 WITH HOSPITALS THAT MEET THE SPECIFIED REQUIREMENTS, THE  
23 IMPLEMENTATION OF AN ENHANCED PEDIATRIC HEALTH HOME FOR  
24 CHILDREN WITH COMPLEX MEDICAL CONDITIONS. REQUIREMENTS FOR  
25 PARTICIPATION BY THE STATE DEPARTMENT, ALONG WITH THE  
26 REQUIREMENT OF AN ENHANCED PEDIATRIC HEALTH HOME, ARE  
27 STIPULATED BY THE "ADVANCING CARE OF EXCEPTIONAL KIDS ACT" AND

1 SHALL BE COMPLIED WITH ACCORDINGLY.

2 **SECTION 17.** In Colorado Revised Statutes, 25.5-8-103, **amend**  
3 the introductory portion, (4)(a)(II), and (4)(b)(II) as follows:

4 **25.5-8-103. Definitions - repeal.** As used in this ~~article~~ ARTICLE  
5 8, unless the context otherwise requires:

6 (4) "Eligible person" means:

7 (a) (II) Notwithstanding the provisions of ~~subparagraph (I) of this~~  
8 ~~paragraph (a)~~, SUBSECTION (4)(a)(I) OF THIS SECTION, if the moneys in the  
9 ~~hospital provider~~ HEALTHCARE AFFORDABILITY AND SUSTAINABILITY fee  
10 cash fund established pursuant to ~~section 25.5-4-402.3 (4)~~ SECTION  
11 25.5-4-402.4 (5), together with the corresponding federal matching funds,  
12 are insufficient to fully fund all of the purposes described in ~~section~~  
13 ~~25.5-4-402.3 (4) (b)~~ SECTION 25.5-4-402.4 (5)(b), after receiving  
14 recommendations from the ~~hospital provider fee oversight and advisory~~  
15 ~~board~~ COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY  
16 ENTERPRISE established pursuant to ~~section 25.5-4-402.3 (6)~~ SECTION  
17 25.5-4-402.4 (3), for persons less than nineteen years of age, the state  
18 board may by rule adopted pursuant to the provisions of ~~section~~  
19 ~~25.5-4-402.3 (5) (b) (III)~~ SECTION 25.5-4-402.4 (6)(b)(III) reduce the  
20 percentage of the federal poverty line to below two hundred fifty percent,  
21 but the percentage shall not be reduced to below two hundred five  
22 percent.

23 (b) (II) Notwithstanding the provisions of ~~subparagraph (I) of this~~  
24 ~~paragraph (b)~~ SUBSECTION (4)(b)(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 pregnant women, the state board by rule adopted  
7 pursuant to the provisions of ~~section 25.5-4-402.3 (5) (b) (III)~~ SECTION  
8 25.5-4-402.4 (6)(b)(III) may reduce the percentage of the federal poverty  
9 line to below two hundred fifty percent, but the percentage shall not be  
10 reduced to below two hundred five percent.

11 **SECTION 18.** In Colorado Revised Statutes, **repeal**  
12 25.5-4-402.3.

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

16 **43-4-206. State allocation.** (1) Except as otherwise provided in  
17 ~~subsection (2)~~ SUBSECTIONS (1)(a)(V), (2), AND (3) of this section, after  
18 paying the costs of the Colorado state patrol and ~~such~~ ANY other costs of  
19 the department, exclusive of highway construction, highway  
20 improvements, or highway maintenance, ~~as~~ THAT are appropriated by the  
21 general assembly, ~~sixty-five percent of the balance of~~ MONEY IN the  
22 highway users tax fund shall be paid to the state highway fund and ~~shall~~  
23 ~~be~~ expended for the following purposes:

24 (b) Except as otherwise provided in subsection (2) of this section,  
25 all ~~moneys~~ MONEY in the state highway fund not required for the creation,  
26 maintenance, and application of the highway anticipation or sinking fund  
27 and all ~~moneys~~ MONEY in the state highway supplementary fund are

1 available to pay for:

2 (V) The construction, reconstruction, repairs, improvement,  
3 planning, supervision, and maintenance of the state highway system and  
4 other public highways, including any county and municipal roads and  
5 highways, together with the acquisition of rights-of-way and access rights  
6 for the same. ANY NET PROCEEDS FROM THE SALE OF A LEGAL INTEREST  
7 IN AN ELIGIBLE STATE FACILITY THAT ARE CREDITED TO THE STATE  
8 HIGHWAY FUND PURSUANT TO SECTION 24-82-1103 (2)(a) SHALL BE USED  
9 ONLY FOR QUALIFIED FEDERAL AID HIGHWAY PROJECTS THAT ARE  
10 INCLUDED IN THE STRATEGIC TRANSPORTATION PROJECT INVESTMENT  
11 PROGRAM OF THE DEPARTMENT OF TRANSPORTATION, WITH AT LEAST  
12 TWENTY-FIVE PERCENT OF THE MONEY BEING USED FOR PROJECTS THAT  
13 ARE LOCATED IN COUNTIES WITH POPULATIONS OF FIFTY THOUSAND OR  
14 LESS AS OF JULY 2015 AS REPORTED BY THE STATE DEMOGRAPHY OFFICE  
15 OF THE DEPARTMENT OF LOCAL AFFAIRS.

16 (2) (a) ~~Notwithstanding the provisions of subsection (1) of this~~  
17 ~~section, the revenues~~ REVENUE accrued to and transferred to the highway  
18 users tax fund pursuant to section 39-26-123 (4)(a) ~~or 24-75-219, C.R.S.,~~  
19 or appropriated to the highway users tax fund pursuant to House Bill  
20 02-1389, enacted at the second regular session of the sixty-third general  
21 assembly, and credited to the state highway fund pursuant to section  
22 43-4-205 (6.5) shall be expended by the department of transportation for  
23 the implementation of the strategic transportation project investment  
24 program: ~~in the following manner:~~

25 (b) Beginning in 1998, the department of transportation shall  
26 report annually to the transportation committee of the senate and the  
27 transportation and energy committee of the house of representatives

1 concerning the ~~revenues~~ REVENUE expended by the department pursuant  
2 to ~~paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION  
3 AND, BEGINNING IN 2018, ANY NET PROCEEDS FROM THE SALE OF A LEGAL  
4 INTEREST IN AN ELIGIBLE STATE FACILITY THAT ARE CREDITED TO THE  
5 STATE HIGHWAY FUND PURSUANT TO SECTION 24-82-1103 (2)(a) AND  
6 EXPENDED BY THE DEPARTMENT PURSUANT TO SUBSECTION (1)(b)(V) OF  
7 THIS SECTION. The DEPARTMENT SHALL PRESENT THE report ~~shall be~~  
8 ~~presented~~ at the joint meeting required under section 43-1-113 (9)(a) and  
9 THE REPORT shall describe for each fiscal year, if applicable:

10 (I) The projects on which the ~~revenues credited to the state~~  
11 ~~highway fund pursuant to paragraph (a) of this subsection (2)~~ REVENUE  
12 AND NET PROCEEDS are to be expended, including the estimated cost of  
13 each project, the aggregate amount of revenue actually spent on each  
14 project, and the amount of revenue allocated for each project in such  
15 fiscal year. The department of transportation shall submit a prioritized list  
16 of such projects as part of the report.

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

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

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

25 (V) How the ~~revenues~~ REVENUE AND NET PROCEEDS expended  
26 under this subsection (2) AND SUBSECTION (1)(b)(V) OF THIS SECTION  
27 during ~~such~~ THE fiscal year ~~relate~~ RELATES to the total funding of the

1 FEDERAL AID TRANSPORTATION PROJECTS THAT ARE INCLUDED IN THE  
2 strategic transportation project investment program.

3 (3) ~~Notwithstanding the provisions of subsection (1) of this~~  
4 ~~section, the revenues~~ THE REVENUE credited to the highway users tax fund  
5 pursuant to section 43-4-205 (6.3) shall be expended by the department  
6 of transportation only for road safety projects, as defined in section  
7 43-4-803 (21); except that the department shall, in furtherance of its duty  
8 to supervise state highways and as a consequence in compliance with  
9 section 43-4-810, expend ten million dollars per year of the revenues for  
10 the planning, designing, engineering, acquisition, installation,  
11 construction, repair, reconstruction, maintenance, operation, or  
12 administration of transit-related projects, including, but not limited to,  
13 designated bicycle or pedestrian lanes of highway and infrastructure  
14 needed to integrate different transportation modes within a multimodal  
15 transportation system, that enhance the safety of state highways for transit  
16 users.

17 **SECTION 20. Effective date.** (1) Except as otherwise provided  
18 in this section, sections 4, 6 through 15, 17, and 18 of this act take effect  
19 July 1, 2017.

20 (2) (a) Sections 4, 6 through 15, 17, and 18 of this act do not take  
21 effect if the centers for medicare and medicaid services determine that the  
22 amendments set forth in this act do not comply with federal law.

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



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