

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 17-1080.01 Jason Gelender x4330

SENATE BILL 17-267

SENATE SPONSORSHIP

Sonnenberg and Guzman,

HOUSE SPONSORSHIP

Becker K. and Becker J.,

Senate Committees

Finance
Appropriations

House Committees

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.

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 17-267, 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
5 SECTION 3. In Colorado Revised Statutes, 24-75-219, repeal as
6 amended by Senate Bill 17-262 (2)(c); and repeal as added by Senate
7 Bill 17-262 (2)(c.3)(I) and (2)(c.7)(I) as follows:

8 24-75-219. Transfers - transportation - capital construction -
9 definitions. (2) (c) On June 30, 2018, the state treasurer shall transfer
10 seventy-nine million dollars from the general fund to the highway users
11 tax fund.

12 (c.3) On June 30, 2019, the state treasurer shall transfer:

13 (I) One hundred sixty million dollars from the general fund to the
14 highway users tax fund; and

15 (c.7) On June 30, 2020, the state treasurer shall transfer:

16 (I) One hundred sixty million dollars from the general fund to the
17 highway users tax fund; and

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

20 **24-77-103.6. Retention of excess state revenues - general fund**
21 **exempt account - required uses - excess state revenues legislative**
22 **report. (6) As used in this section:**

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

25 (A) If the voters of the state approve a ballot issue to authorize the
26 state to incur multiple-fiscal year obligations at the November 2005
27 statewide election, an amount that is equal to the highest total state

1 ~~revenues for a fiscal year from the period of the 2005-06 fiscal year~~
2 ~~through the 2009-10 fiscal year, adjusted each subsequent fiscal year for~~
3 ~~inflation and the percentage change in state population, plus one hundred~~
4 ~~million dollars, and adjusting such sum for the qualification or~~
5 ~~disqualification of enterprises and debt service changes; or~~

6 (B) ~~If the voters of the state do not approve a ballot issue to~~
7 ~~authorize the state to incur multiple-fiscal year obligations at the~~
8 ~~November 2005 statewide election, FOR EACH FISCAL YEAR UP TO AND~~
9 ~~INCLUDING THE 2016-17 FISCAL YEAR, an amount that is equal to the~~
10 ~~highest total state revenues for a fiscal year from the period of the~~
11 ~~2005-06 fiscal year through the 2009-10 fiscal year, adjusted each~~
12 ~~subsequent fiscal year for inflation, the percentage change in state~~
13 ~~population, the qualification or disqualification of enterprises, and debt~~
14 ~~service changes;~~

15 (C) ~~FOR THE 2017-18 FISCAL YEAR, AN AMOUNT THAT IS EQUAL TO~~
16 ~~THE EXCESS STATE REVENUES CAP FOR THE 2016-17 FISCAL YEAR~~
17 ~~CALCULATED PURSUANT TO SUBSECTION (6)(b)(I)(B) OF THIS SECTION~~
18 ~~LESS SIX HUNDRED SEVENTY MILLION THREE HUNDRED THOUSAND~~
19 ~~DOLLARS, ADJUSTED FOR INFLATION, THE PERCENTAGE CHANGE IN STATE~~
20 ~~POPULATION, THE QUALIFICATION OR DISQUALIFICATION OF ENTERPRISES,~~
21 ~~AND DEBT SERVICE CHANGES; OR~~

22 (D) ~~FOR THE 2018-19 FISCAL YEAR AND EACH SUCCEEDING FISCAL~~
23 ~~YEAR, THE AMOUNT OF THE EXCESS STATE REVENUES CAP FOR THE~~
24 ~~2017-18 FISCAL YEAR CALCULATED PURSUANT TO SUBSECTION~~
25 ~~(6)(b)(I)(C) OF THIS SECTION, ADJUSTED EACH SUBSEQUENT FISCAL YEAR~~
26 ~~FOR INFLATION, THE PERCENTAGE CHANGE IN STATE POPULATION, THE~~
27 ~~QUALIFICATION OR DISQUALIFICATION OF ENTERPRISES, AND DEBT SERVICE~~

1 CHANGES.

2

3 SECTION 5. In Colorado Revised Statutes, add part 13 to article
4 82 of title 24 as follows:

5 24-82-1301. Legislative declaration. (1) THE GENERAL
6 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

7 (a) DUE TO INSUFFICIENT FUNDING, NECESSARY HIGH-PRIORITY
8 STATE HIGHWAY PROJECTS AND STATE CAPITAL CONSTRUCTION PROJECTS,
9 INCLUDING PROJECTS AT STATE INSTITUTIONS OF HIGHER EDUCATION, IN
10 ALL AREAS OF THE STATE HAVE BEEN DELAYED, AND THE STATE HAS ALSO
11 DELAYED CRITICAL CONTROLLED MAINTENANCE AND UPKEEP OF STATE
12 CAPITAL ASSETS:

13 (b) BY ISSUING LEASE-PURCHASE AGREEMENTS USING STATE
14 BUILDINGS AS COLLATERAL AS AUTHORIZED BY THIS PART 13, THE STATE
15 CAN GENERATE SUFFICIENT FUNDS TO ACCELERATE THE COMPLETION OF
16 MANY OF THE NECESSARY HIGH-PRIORITY STATE HIGHWAY PROJECTS AND
17 CAPITAL CONSTRUCTION PROJECTS THAT HAVE BEEN DELAYED AND
18 BETTER MAINTAIN AND PRESERVE EXISTING STATE CAPITAL ASSETS:

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

20 (I) A MAJORITY OF THE ADDITIONAL FUNDING FOR STATE CAPITAL
21 CONSTRUCTION PROJECTS REALIZED FROM ISSUING LEASE-PURCHASE
22 AGREEMENTS BE USED FOR RENOVATION AND RENEWAL PROJECTS; AND

23 (II) MORE OF THE STATE'S EXISTING CAPITAL CONSTRUCTION
24 FUNDING BE DEDICATED TO CONTROLLED MAINTENANCE AND UPKEEP OF
25 STATE CAPITAL ASSETS.

26 24-82-1302. Definitions. AS USED IN THIS PART 13, UNLESS THE
27 CONTEXT OTHERWISE REQUIRES:

1 (1) "ELIGIBLE STATE FACILITY" MEANS ANY FINANCIALLY
2 UNENCUMBERED BUILDING, STRUCTURE, OR FACILITY THAT IS OWNED BY
3 THE STATE, INCLUDING A BUILDING, STRUCTURE, OR FACILITY DETERMINED
4 TO BE ELIGIBLE BY A GOVERNING BOARD OF A STATE INSTITUTION OF
5 HIGHER EDUCATION.

6 (2) "CAPITAL CONSTRUCTION" HAS THE SAME MEANING AS SET
7 FORTH IN SECTION 24-30-1301 (2).

8 (3) "CONTROLLED MAINTENANCE" HAS THE SAME MEANING AS SET
9 FORTH IN SECTION 24-30-1301 (4).

10 (4) "STATE INSTITUTION OF HIGHER EDUCATION" MEANS A STATE
11 INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN SECTION 23-18-102
12 (10), AND THE AURARIA HIGHER EDUCATION CENTER CREATED IN ARTICLE
13 70 OF TITLE 23.

14 **24-82-1303. Lease-purchase agreements for capital**
15 **construction and transportation projects. (1) ON OR BEFORE**
16 **DECEMBER 31, 2017, THE STATE ARCHITECT, THE DIRECTOR OF THE OFFICE**
17 **OF STATE PLANNING AND BUDGETING OR HIS OR HER DESIGNEE, AND THE**
18 **STATE INSTITUTIONS OF HIGHER EDUCATION SHALL IDENTIFY AND PREPARE**
19 **A COLLABORATIVE LIST OF ELIGIBLE STATE FACILITIES THAT CAN BE**
20 **COLLATERALIZED AS PART OF THE LEASE-PURCHASE AGREEMENTS FOR**
21 **CAPITAL CONSTRUCTION AND TRANSPORTATION PROJECTS AUTHORIZED IN**
22 **THIS PART 13. THE TOTAL CURRENT REPLACEMENT VALUE OF THE**
23 **IDENTIFIED BUILDINGS MUST EQUAL AT LEAST ONE BILLION SEVEN**
24 **HUNDRED MILLION DOLLARS.**

25 (2) (a) NOTWITHSTANDING THE PROVISIONS OF SECTIONS
26 24-82-102 (1)(b) AND 24-82-801, AND PURSUANT TO SECTION 24-36-121,
27 NO SOONER THAN JULY 1, 2018, THE STATE, ACTING BY AND THROUGH THE

1 STATE TREASURER, SHALL EXECUTE LEASE-PURCHASE AGREEMENTS EACH
2 FOR NO MORE THAN TWENTY YEARS OF ANNUAL PAYMENTS FOR THE
3 PROJECTS DESCRIBED IN SUBSECTION (5) OF THIS SECTION. A STATE
4 INSTITUTION OF HIGHER EDUCATION MAY EITHER CONTRIBUTE THE FULL
5 AMOUNT OF ITS SHARE OF THE COST OF THE PROJECT, AS DESCRIBED IN
6 SUBSECTION (3) OF THIS SECTION, AT THE COMMENCEMENT OF THE
7 PROJECT OR MAY HAVE ITS SHARE OF THE COST OF THE PROJECT INCLUDED
8 IN THE LEASE-PURCHASE AGREEMENT.

9 (b) THE ANTICIPATED ANNUAL STATE-FUNDED PAYMENTS FOR THE
10 PRINCIPAL AND INTEREST COMPONENTS OF THE AMOUNT PAYABLE UNDER
11 ALL LEASE-PURCHASE AGREEMENTS ENTERED INTO SHALL NOT EXCEED
12 ONE HUNDRED TWENTY-FIVE MILLION DOLLARS.

13 (c) THE STATE, ACTING BY AND THROUGH THE STATE TREASURER,
14 AT THE STATE TREASURER'S SOLE DISCRETION, MAY ENTER INTO ONE OR
15 MORE LEASE-PURCHASE AGREEMENTS AUTHORIZED BY SUBSECTION (2)(a)
16 OF THIS SECTION WITH ANY FOR-PROFIT OR NONPROFIT CORPORATION,
17 TRUST, OR COMMERCIAL BANK AS A TRUSTEE AS THE LESSOR.

18 (d) ANY LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED
19 BY SUBSECTION (2)(a) OF THIS SECTION SHALL PROVIDE THAT ALL OF THE
20 OBLIGATIONS OF THE STATE UNDER THE AGREEMENT ARE SUBJECT TO THE
21 ACTION OF THE GENERAL ASSEMBLY IN ANNUALLY MAKING MONEY
22 AVAILABLE FOR ALL PAYMENTS THEREUNDER. PAYMENTS UNDER ANY
23 LEASE-PURCHASE AGREEMENT MUST BE MADE, SUBJECT TO ANNUAL
24 ALLOCATION PURSUANT TO SECTION 43-1-113 BY THE TRANSPORTATION
25 COMMISSION CREATED IN SECTION 43-1-106 (1) OR SUBJECT TO ANNUAL
26 APPROPRIATION BY THE GENERAL ASSEMBLY, AS APPLICABLE, FROM THE
27 FOLLOWING SOURCES OF MONEY:

1 (I) THE CAPITAL CONSTRUCTION LEASE-PURCHASE AGREEMENT
2 CASH FUND CREATED IN SUBSECTION (3) OF THIS SECTION;

3 (II) AN ANNUAL AMOUNT EQUAL TO THE PERCENTAGE OF THE
4 TOTAL ANNUAL PAYMENTS ATTRIBUTABLE TO THE EXECUTED LEASE
5 PURCHASE AGREEMENTS CREDITED TO THE STATE HIGHWAY FUND AS
6 SPECIFIED IN SUBSECTION (5)(a) OF THIS SECTION, OR ANY LESSER AMOUNT
7 THAT IS SUFFICIENT TO MAKE A FULL PAYMENT, FROM ANY LEGALLY
8 AVAILABLE MONEY UNDER THE CONTROL OF THE TRANSPORTATION
9 COMMISSION; AND

10 (III) THE REMAINDER OF THE AMOUNT NEEDED, IN ADDITION TO
11 THE AMOUNT SPECIFIED IN SUBSECTION (2)(d)(I) OF THIS SECTION, TO
12 MAKE THE FULL PAYMENT FROM THE GENERAL FUND OR ANY OTHER
13 LEGALLY AVAILABLE SOURCE OF MONEY.

14 (e) EACH AGREEMENT MUST ALSO PROVIDE THAT THE
15 OBLIGATIONS OF THE STATE DO NOT CREATE STATE DEBT WITHIN THE
16 MEANING OF ANY PROVISION OF THE STATE CONSTITUTION OR STATE LAW
17 CONCERNING OR LIMITING THE CREATION OF STATE DEBT AND ARE NOT A
18 MULTIPLE FISCAL-YEAR DIRECT OR INDIRECT DEBT OR OTHER FINANCIAL
19 OBLIGATION OF THE STATE WITHIN THE MEANING OF SECTION 20 (4) OF
20 ARTICLE X OF THE STATE CONSTITUTION. IF THE STATE DOES NOT RENEW
21 A LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED BY SUBSECTION
22 (2)(a) OF THIS SECTION, THE SOLE SECURITY AVAILABLE TO THE LESSOR IS
23 THE PROPERTY THAT IS THE SUBJECT OF THE NONRENEWED
24 LEASE-PURCHASE AGREEMENT.

25 (f) A LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED BY
26 SUBSECTION (2)(a) OF THIS SECTION MAY CONTAIN SUCH TERMS,
27 PROVISIONS, AND CONDITIONS AS THE STATE TREASURER, ACTING ON

1 BEHALF OF THE STATE, DEEMS APPROPRIATE, INCLUDING ALL OPTIONAL
2 TERMS; EXCEPT THAT EACH LEASE-PURCHASE AGREEMENT MUST
3 SPECIFICALLY AUTHORIZE THE STATE OR THE GOVERNING BOARD OF THE
4 APPLICABLE STATE INSTITUTION OF HIGHER EDUCATION TO RECEIVE FEE
5 TITLE TO ALL REAL AND PERSONAL PROPERTY THAT IS THE SUBJECT OF THE
6 LEASE-PURCHASE AGREEMENT ON OR BEFORE THE EXPIRATION OF THE
7 TERMS OF THE AGREEMENT.

8 (g) ANY LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED
9 BY SUBSECTION (2)(a) OF THIS SECTION MAY PROVIDE FOR THE ISSUANCE,
10 DISTRIBUTION, AND SALE OF INSTRUMENTS EVIDENCING RIGHTS TO
11 RECEIVE RENTALS AND OTHER PAYMENTS MADE AND TO BE MADE UNDER
12 THE LEASE-PURCHASE AGREEMENT. THE INSTRUMENTS MAY BE ISSUED,
13 DISTRIBUTED, OR SOLD ONLY BY THE LESSOR OR ANY PERSON DESIGNATED
14 BY THE LESSOR AND NOT BY THE STATE. THE INSTRUMENTS DO NOT
15 CREATE A RELATIONSHIP BETWEEN THE PURCHASERS OF THE INSTRUMENTS
16 AND THE STATE OR CREATE ANY OBLIGATION ON THE PART OF THE STATE
17 TO THE PURCHASERS. THE INSTRUMENTS ARE NOT NOTES, BONDS, OR ANY
18 OTHER EVIDENCE OF STATE DEBT WITHIN THE MEANING OF ANY PROVISION
19 OF THE STATE CONSTITUTION OR STATE LAW CONCERNING OR LIMITING
20 THE CREATION OF STATE DEBT AND ARE NOT A MULTIPLE FISCAL-YEAR
21 DIRECT OR INDIRECT DEBT OR OTHER FINANCIAL OBLIGATION OF THE
22 STATE WITHIN THE MEANING OF SECTION 20 (4) OF ARTICLE X OF THE
23 STATE CONSTITUTION.

24 (h) INTEREST PAID UNDER A LEASE-PURCHASE AGREEMENT
25 AUTHORIZED PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION,
26 INCLUDING INTEREST REPRESENTED BY THE INSTRUMENTS, IS EXEMPT
27 FROM COLORADO INCOME TAX.

1 (i) THE STATE, ACTING BY AND THROUGH THE STATE TREASURER
2 AND THE GOVERNING BOARDS OF THE INSTITUTIONS OF HIGHER
3 EDUCATION, IS AUTHORIZED TO ENTER INTO ANCILLARY AGREEMENTS AND
4 INSTRUMENTS THAT ARE NECESSARY OR APPROPRIATE IN CONNECTION
5 WITH A LEASE-PURCHASE AGREEMENT, INCLUDING BUT NOT LIMITED TO
6 DEEDS, GROUND LEASES, SUB-LEASES, EASEMENTS, OR OTHER
7 INSTRUMENTS RELATING TO THE REAL PROPERTY ON WHICH THE FACILITIES
8 ARE LOCATED.

9 (j) THE PROVISIONS OF SECTION 24-30-202 (5)(b) DO NOT APPLY TO
10 A LEASE-PURCHASE AGREEMENT EXECUTED AS REQUIRED BY OR TO ANY
11 ANCILLARY AGREEMENT OR INSTRUMENT ENTERED INTO PURSUANT TO
12 THIS SUBSECTION (2). THE STATE CONTROLLER OR HIS OR HER DESIGNEE
13 SHALL WAIVE ANY PROVISION OF THE FISCAL RULES PROMULGATED
14 PURSUANT TO SECTION 24-30-202 (1) AND (13), THAT THE STATE
15 CONTROLLER FINDS INCOMPATIBLE OR INAPPLICABLE WITH RESPECT TO A
16 LEASE-PURCHASE AGREEMENT OR AN ANCILLARY AGREEMENT OR
17 INSTRUMENT.

18 (3) A STATE INSTITUTION OF HIGHER EDUCATION, BUT NOT THE
19 STATE BOARD FOR COMMUNITY COLLEGES AND OCCUPATIONAL
20 EDUCATION, SHALL TRANSFER TO THE STATE TREASURER TWENTY
21 PERCENT OF THE TOTAL PROJECT COST OF ANY NEW CAPITAL
22 CONSTRUCTION PROJECT THAT RECEIVES FUNDING THROUGH THIS PART 13
23 WITHOUT AN APPROPRIATION FROM THE GENERAL ASSEMBLY. THE STATE
24 TREASURER SHALL CREDIT ANY MONEY RECEIVED PURSUANT TO THIS
25 SUBSECTION (3) TO THE CAPITAL CONSTRUCTION LEASE-PURCHASE
26 AGREEMENT CASH FUND, REFERRED TO IN THIS SUBSECTION (3) AS THE
27 "FUND", WHICH IS HEREBY CREATED IN THE STATE TREASURY. MONEY IN

1 THE FUND IS CONTINUOUSLY APPROPRIATED TO THE STATE TREASURER TO
2 MAKE PAYMENTS ON LEASE-PURCHASE AGREEMENTS EXECUTED AS
3 REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION. ALL INTEREST AND
4 INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEY IN THE
5 FUND IS CREDITED TO THE FUND.

6 (4) (a) BEFORE EXECUTING A LEASE-PURCHASE AGREEMENT
7 REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION, IN ORDER TO PROTECT
8 AGAINST FUTURE INTEREST RATE INCREASES, THE STATE, ACTING BY AND
9 THROUGH THE STATE TREASURER AND AT THE DISCRETION OF THE STATE
10 TREASURER, MAY ENTER INTO AN INTEREST RATE EXCHANGE AGREEMENT
11 PURSUANT TO ARTICLE 59.3 OF TITLE 11. A LEASE-PURCHASE AGREEMENT
12 EXECUTED AS REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION IS A
13 PROPOSED PUBLIC SECURITY FOR THE PURPOSES OF ARTICLE 59.3 OF TITLE
14 11. ANY PAYMENTS MADE BY THE STATE UNDER AN AGREEMENT ENTERED
15 INTO PURSUANT TO THIS SUBSECTION (4) MUST BE MADE SOLELY FROM
16 MONEY MADE AVAILABLE TO THE STATE TREASURER FROM THE EXECUTION
17 OF A LEASE-PURCHASE AGREEMENT, FROM MONEY DESCRIBED IN
18 SUBSECTIONS (2)(d)(I), (2)(d)(II), AND (2)(d)(III) OF THIS SECTION, OR
19 FROM MONEY IN THE CAPITAL CONSTRUCTION LEASE-PURCHASE
20 AGREEMENT CASH FUND CREATED IN SUBSECTION (3) OF THIS SECTION.

21 (b) ANY AGREEMENT ENTERED INTO PURSUANT TO THIS
22 SUBSECTION (4) MUST ALSO PROVIDE THAT THE OBLIGATIONS OF THE
23 STATE DO NOT CREATE STATE DEBT WITHIN THE MEANING OF ANY
24 PROVISION OF THE STATE CONSTITUTION OR STATE LAW CONCERNING OR
25 LIMITING THE CREATION OF STATE DEBT AND ARE NOT A MULTIPLE
26 FISCAL-YEAR DIRECT OR INDIRECT DEBT OR OTHER FINANCIAL OBLIGATION
27 OF THE STATE WITHIN THE MEANING OF SECTION 20 (4) OF ARTICLE X OF

1 THE STATE CONSTITUTION.

2 (c) ANY MONEY RECEIVED BY THE STATE UNDER AN AGREEMENT
3 ENTERED INTO PURSUANT TO THIS SUBSECTION (4) SHALL BE USED TO
4 MAKE PAYMENTS ON LEASE-PURCHASE AGREEMENTS ENTERED INTO
5 PURSUANT TO SUBSECTION (2) OF THIS SECTION OR TO PAY THE COSTS OF
6 THE PROJECT FOR WHICH A LEASE-PURCHASE AGREEMENT WAS EXECUTED.

7 (5) PROCEEDS OF LEASE-PURCHASE AGREEMENTS EXECUTED AS
8 REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION SHALL BE USED AS
9 FOLLOWS:

10 (a) SEVENTY-SIX AND FIVE-TENTHS PERCENT OF THE PROCEEDS
11 SHALL BE CREDITED TO THE STATE HIGHWAY FUND CREATED IN SECTION
12 43-1-219 AND USED BY THE DEPARTMENT OF TRANSPORTATION IN
13 ACCORDANCE WITH SECTION 43-4-206 (1)(b)(V); AND

14 (b) TWENTY-THREE AND FIVE-TENTHS PERCENT OF THE PROCEEDS
15 SHALL BE USED FOR CONTROLLED MAINTENANCE AND CAPITAL
16 CONSTRUCTION PROJECTS IN THE STATE AS FOLLOWS:

17 (I) THIRTEEN MILLION SIX THOUSAND EIGHTY-ONE DOLLARS FOR
18 LEVEL I CONTROLLED MAINTENANCE;

19 (II) SIXTY MILLION SIX HUNDRED THIRTY-SEVEN THOUSAND THREE
20 HUNDRED FIVE DOLLARS FOR LEVEL II CONTROLLED MAINTENANCE;

21 (III) FORTY MILLION TWO HUNDRED NINE THOUSAND FIVE
22 HUNDRED THIRTY-FIVE DOLLARS FOR LEVEL III CONTROLLED
23 MAINTENANCE; AND

24 (IV) THE REMAINDER FOR CAPITAL CONSTRUCTION PROJECTS AS
25 PRIORITIZED BY THE CAPITAL DEVELOPMENT COMMITTEE. THE CAPITAL
26 DEVELOPMENT COMMITTEE SHALL POST THE FINAL PRIORITIZED LIST ON
27 THE COMMITTEE'S WEBSITE AND FORWARD THE LIST TO THE OFFICE OF

1 STATE PLANNING AND BUDGETING, THE STATE INSTITUTIONS OF HIGHER
2 EDUCATION, AND THE STATE TREASURER NO LATER THAN NOVEMBER 1,
3 2017.

4 **SECTION 6.** In Colorado Revised Statutes, 23-1-106, **amend**
5 **(10.2)(a)(I) and (10.2)(a)(II); and add (10.2)(a)(III) as follows:**

6 **23-1-106. Duties and powers of the commission with respect**
7 **to capital construction and long-range planning - legislative**
8 **declaration - definitions.** (10.2) (a) (I) Notwithstanding any law to the
9 contrary AND EXCEPT AS PROVIDED IN SUBSECTION (10.2)(a)(III) OF THIS
10 SECTION, all academic facilities acquired or constructed, or an auxiliary
11 facility repurposed for use as an academic facility, solely from cash funds
12 held by the state institution of higher education and operated and
13 maintained from such cash funds or from state moneys appropriated for
14 such purpose, or both, including, but not limited to, those facilities
15 described in paragraph (b) of subsection (9) SUBSECTION (9)(b) of this
16 section, that did not previously qualify for state controlled maintenance
17 funding will qualify for state controlled maintenance funding, subject to
18 funding approval by the capital development committee and the eligibility
19 guidelines described in section 24-30-1303.9. C.R.S.

20 (II) For purposes of this paragraph (a) SUBSECTION (10.2)(a), the
21 eligibility for state controlled maintenance funding commences on the
22 date of the acceptance of the construction or repurposing of the facility
23 or the closing date of any acquisition. The date of the acceptance of
24 construction or repurposing shall be determined by the office of the state
25 architect.

26 (III) IF AN ACADEMIC FACILITY IS ACQUIRED OR CONSTRUCTED, OR
27 IF AN AUXILIARY FACILITY IS REPURPOSED FOR USE AS AN ACADEMIC

1 FACILITY, SOLELY FROM CASH FUNDS HELD BY THE STATE INSTITUTION OF
2 HIGHER EDUCATION AND OPERATED AND MAINTAINED FROM SUCH CASH
3 FUNDS, THEN AS OF THE DATE OF THE ACCEPTANCE OF CONSTRUCTION OR
4 REPURPOSING THAT OCCURS ON OR AFTER JULY 1, 2018, SUCH FACILITY IS
5 NOT ELIGIBLE FOR CONTROLLED MAINTENANCE FUNDING.

6 **SECTION 7.** In Colorado Revised Statutes, 24-30-1303.9,
7 **amend (7)(a)(II), (7)(a)(III), and (7)(a)(IV); and add (7)(a)(V) as**
8 **follows:**

9 **24-30-1303.9. Eligibility for state controlled maintenance**
10 **funding - legislative declaration. (7) (a) Controlled maintenance funds**
11 **may not be used for:**

12 (II) Auxiliary facilities as defined in section 23-1-106 (10.3);

13 ~~C.R.S.:~~

14 (III) Leasehold interests in real property; or

15 (IV) Any work properly categorized as capital construction; OR

16 (V) FACILITIES DESCRIBED IN SECTION 23-1-106 (10.2)(a)(III).

17 **SECTION 8.** In Colorado Revised Statutes, 25.5-4-301, **amend**
18 **(1)(a)(I) and (1)(a)(II); and add (1)(a)(II.3) as follows:**

19 **25.5-4-301. Recoveries - overpayments - penalties - interest -**
20 **adjustments - liens - review or audit procedures. (1) (a) (I) Except as**
21 **provided in section 25.5-4-302 and subparagraph (II) of this paragraph**
22 **(a), no SUBSECTION (1)(a)(III) OF THIS SECTION, A recipient or estate of the**
23 **recipient shall be IS NOT liable for the cost or the cost remaining after**
24 **payment by medicaid, medicare, or a private insurer of medical benefits**
25 **authorized by Title XIX of the social security act, by this title TITLE 25.5,**
26 **or by rules promulgated by the state board, which FOR benefits are**
27 **rendered to the recipient by a provider of medical services WHO IS**

1 ENROLLED IN THE MEDICAL ASSISTANCE PROGRAM AND authorized to
2 render such THE service in the state of Colorado, except FOR those
3 contributions required pursuant to section 25.5-4-209 (1). However, a
4 recipient may enter into a documented agreement with a provider WHO IS
5 ENROLLED IN THE MEDICAL ASSISTANCE PROGRAM under which the
6 recipient agrees to pay for items or services that are nonreimbursable
7 under the medical assistance program. Under these circumstances, a
8 recipient is liable for the cost of such THOSE services and items.

9 (II) The provisions of subparagraph (I) of this paragraph (a) shall
10 SUBSECTION (1)(a)(I) OF THIS SECTION apply regardless of whether
11 medicaid has actually reimbursed the provider, and regardless of whether
12 the provider is enrolled in the Colorado medical assistance program.

13 (II.3) IF A PROVIDER WHO IS NOT ENROLLED IN THE MEDICAL
14 ASSISTANCE PROGRAM PROVIDES MEDICAL SERVICES TO A RECIPIENT THAT
15 WOULD BE REIMBURSABLE UNDER THE MEDICAL ASSISTANCE PROGRAM IF
16 THE PROVIDER WERE AN ENROLLED PROVIDER, PRIOR TO PROVIDING
17 MEDICAL SERVICES, THE NONENROLLED PROVIDER SHALL ENTER INTO A
18 WRITTEN AGREEMENT WITH THE RECIPIENT. THE AGREEMENT MUST SET
19 FORTH THE SPECIFIC MEDICAL SERVICES PROVIDED, THE USUAL AND
20 CUSTOMARY COST FOR THE SERVICES, THE COST TO THE RECIPIENT FOR
21 THE SERVICES PROVIDED, AND THE TERMS OF PAYMENT BY THE CLIENT.
22 THE AGREEMENT MUST ALSO INCLUDE THE STATEMENT THAT THE
23 RECIPIENT UNDERSTANDS THAT HE OR SHE WOULD NOT BE LIABLE FOR THE
24 COST OF REIMBURSABLE MEDICAL SERVICES IF THE RECIPIENT OBTAINED
25 THE SERVICES FROM AN ENROLLED PROVIDER. THE AGREEMENT MUST BE
26 SIGNED AND DATED BY BOTH THE RECIPIENT AND THE NONENROLLED
27 PROVIDER. UNDER THESE CIRCUMSTANCES, THE RECIPIENT IS LIABLE FOR

1 THE COST OF THE MEDICAL SERVICES.

2 **SECTION 9.** In Colorado Revised Statutes, **add** 25.5-4-402.4 as
3 follows:

4 **25.5-4-402.4. Hospitals - healthcare affordability and**
5 **sustainability fee - legislative declaration - Colorado healthcare**
6 **affordability and sustainability enterprise - federal waiver - fund**
7 **created - rules. (1) Short title.** THE SHORT TITLE OF THIS SECTION IS THE
8 "COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
9 ENTERPRISE ACT OF 2017".

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

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

15 (b) HOSPITALS WITHIN THE STATE INCUR SIGNIFICANT COSTS BY
16 PROVIDING UNCOMPENSATED EMERGENCY DEPARTMENT CARE AND OTHER
17 UNCOMPENSATED MEDICAL SERVICES TO LOW-INCOME AND UNINSURED
18 POPULATIONS;

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

22 (I) PROVIDING A PAYER SOURCE FOR SOME LOW-INCOME AND
23 UNINSURED POPULATIONS WHO MAY OTHERWISE BE CARED FOR IN
24 EMERGENCY DEPARTMENTS AND OTHER SETTINGS IN WHICH
25 UNCOMPENSATED CARE IS PROVIDED;

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

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

3 (IV) REDUCING THE NEED OF HOSPITALS AND OTHER HEALTH CARE
4 PROVIDERS TO SHIFT THE COST OF PROVIDING UNCOMPENSATED CARE TO
5 OTHER PAYERS;

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

8 (VI) PROVIDING THE ADDITIONAL BUSINESS SERVICES SPECIFIED
9 IN SUBSECTION (4)(a)(IV) OF THIS SECTION TO HOSPITALS THAT PAY THE
10 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE CHARGED AND
11 COLLECTED AS AUTHORIZED BY SUBSECTION (4) OF THIS SECTION BY THE
12 COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
13 ENTERPRISE CREATED IN SUBSECTION (3)(a) OF THIS SECTION.

14 (d) THE COLORADO HEALTHCARE AFFORDABILITY AND
15 SUSTAINABILITY ENTERPRISE PROVIDES BUSINESS SERVICES TO HOSPITALS
16 WHEN, IN EXCHANGE FOR PAYMENT OF HEALTHCARE AFFORDABILITY AND
17 SUSTAINABILITY FEES BY HOSPITALS, IT:

18 (I) OBTAINS FEDERAL MATCHING MONEY AND RETURNS BOTH THE
19 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE AND THE FEDERAL
20 MATCHING MONEY TO HOSPITALS TO INCREASE REIMBURSEMENT RATES TO
21 HOSPITALS FOR PROVIDING MEDICAL CARE UNDER THE STATE MEDICAL
22 ASSISTANCE PROGRAM AND THE COLORADO INDIGENT CARE PROGRAM
23 AND TO INCREASE THE NUMBER OF INDIVIDUALS COVERED BY PUBLIC
24 MEDICAL ASSISTANCE; AND

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

27 (e) IT IS NECESSARY, APPROPRIATE, AND IN THE BEST INTEREST OF

1 THE STATE TO ACKNOWLEDGE THAT BY PROVIDING THE BUSINESS
2 SERVICES SPECIFIED IN SUBSECTIONS (2)(d)(I) AND (2)(d)(II) OF THIS
3 SECTION, THE COLORADO HEALTHCARE AFFORDABILITY AND
4 SUSTAINABILITY ENTERPRISE ENGAGES IN AN ACTIVITY CONDUCTED IN THE
5 PURSUIT OF A BENEFIT, GAIN, OR LIVELIHOOD AND THEREFORE OPERATES
6 AS A BUSINESS;

7 (f) CONSISTENT WITH THE DETERMINATION OF THE COLORADO
8 SUPREME COURT IN *NICHOLL V. E-470 PUBLIC HIGHWAY AUTHORITY*, 896
9 P.2d 859 (COLO. 1995), THAT THE POWER TO IMPOSE TAXES IS
10 INCONSISTENT WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE
11 X OF THE STATE CONSTITUTION, IT IS THE CONCLUSION OF THE GENERAL
12 ASSEMBLY THAT THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
13 FEE CHARGED AND COLLECTED BY THE COLORADO HEALTHCARE
14 AFFORDABILITY AND SUSTAINABILITY ENTERPRISE IS A FEE, NOT A TAX,
15 BECAUSE THE FEE IS IMPOSED FOR THE SPECIFIC PURPOSES OF ALLOWING
16 THE ENTERPRISE TO DEFRAY THE COSTS OF PROVIDING THE BUSINESS
17 SERVICES SPECIFIED IN SUBSECTIONS (2)(d)(I) AND (2)(d)(II) OF THIS
18 SECTION TO HOSPITALS THAT PAY THE FEE AND IS COLLECTED AT RATES
19 THAT ARE REASONABLY CALCULATED BASED ON THE BENEFITS RECEIVED
20 BY THOSE HOSPITALS; AND

21 (g) SO LONG AS THE COLORADO HEALTHCARE AFFORDABILITY AND
22 SUSTAINABILITY ENTERPRISE QUALIFIES AS AN ENTERPRISE FOR PURPOSES
23 OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, THE REVENUES
24 FROM THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE
25 CHARGED AND COLLECTED BY THE ENTERPRISE ARE NOT STATE FISCAL
26 YEAR SPENDING, AS DEFINED IN SECTION 24-77-102 (17), OR STATE
27 REVENUES, AS DEFINED IN SECTION 24-77-103.6 (6)(c), AND DO NOT

1 COUNT AGAINST EITHER THE STATE FISCAL YEAR SPENDING LIMIT IMPOSED
2 BY SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR THE EXCESS
3 STATE REVENUES CAP, AS DEFINED IN SECTION 24-77-103.6 (6)(b)(I).

4 (3) (a) THE COLORADO HEALTHCARE AFFORDABILITY AND
5 SUSTAINABILITY ENTERPRISE, REFERRED TO IN THIS SECTION AS THE
6 "ENTERPRISE", IS CREATED. THE ENTERPRISE IS AND OPERATES AS A
7 GOVERNMENT-OWNED BUSINESS WITHIN THE STATE DEPARTMENT FOR THE
8 PURPOSE OF CHARGING AND COLLECTING THE HEALTHCARE
9 AFFORDABILITY AND SUSTAINABILITY FEE, LEVERAGING HEALTHCARE
10 AFFORDABILITY AND SUSTAINABILITY FEE REVENUE TO OBTAIN FEDERAL
11 MATCHING MONEY, AND UTILIZING AND DEPLOYING THE HEALTHCARE
12 AFFORDABILITY AND SUSTAINABILITY FEE REVENUE AND FEDERAL
13 MATCHING MONEY TO PROVIDE THE BUSINESS SERVICES SPECIFIED IN
14 SUBSECTIONS (2)(d)(I) AND (2)(d)(II) OF THIS SECTION TO HOSPITALS THAT
15 PAY THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE.

16 (b) THE ENTERPRISE CONSTITUTES AN ENTERPRISE FOR PURPOSES
17 OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS IT
18 RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND RECEIVES LESS
19 THAN TEN PERCENT OF ITS TOTAL REVENUES IN GRANTS FROM ALL
20 COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. SO LONG AS IT
21 CONSTITUTES AN ENTERPRISE PURSUANT TO THIS SUBSECTION (3)(b), THE
22 ENTERPRISE IS NOT SUBJECT TO ANY PROVISIONS OF SECTION 20 OF
23 ARTICLE X OF THE STATE CONSTITUTION.

24 (c) (I) THE REPEAL OF THE HOSPITAL PROVIDER FEE PROGRAM, AS
25 IT EXISTED PURSUANT TO SECTION 25.5-4-402.3 BEFORE ITS REPEAL,
26 EFFECTIVE JULY 1, 2017, BY SENATE BILL 17-267, ENACTED IN 2017, AND
27 THE CREATION OF THE COLORADO HEALTHCARE AFFORDABILITY AND

1 SUSTAINABILITY ENTERPRISE AS A NEW ENTERPRISE TO CHARGE AND
2 COLLECT A NEW HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE
3 AS AUTHORIZED BY SUBSECTION (4) OF THIS SECTION AND PROVIDE
4 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE-FUNDED BUSINESS
5 SERVICES TO HOSPITALS THAT REPLACE AND SUPPLEMENT SERVICES
6 PREVIOUSLY FUNDED BY HOSPITAL PROVIDER FEES IS THE CREATION OF A
7 NEW GOVERNMENT-OWNED BUSINESS THAT PROVIDES BUSINESS SERVICES
8 TO HOSPITALS AS A NEW ENTERPRISE FOR PURPOSES OF SECTION 20 OF
9 ARTICLE X OF THE STATE CONSTITUTION, DOES NOT CONSTITUTE THE
10 QUALIFICATION OF AN EXISTING GOVERNMENT-OWNED BUSINESS AS AN
11 ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE
12 CONSTITUTION OR SECTION 24-77-103.6 (6)(b)(II), AND, THEREFORE, DOES
13 NOT REQUIRE OR AUTHORIZE ADJUSTMENT OF THE STATE FISCAL YEAR
14 SPENDING LIMIT CALCULATED PURSUANT TO SECTION 20 OF ARTICLE X OF
15 THE STATE CONSTITUTION OR THE EXCESS STATE REVENUES CAP, AS
16 DEFINED IN SECTION 24-77-103.6 (6)(b)(I).

17 (II) NOTWITHSTANDING SUBSECTION (3)(c)(I) OF THIS SECTION,
18 BECAUSE THE REPEAL OF THE HOSPITAL PROVIDER FEE PROGRAM, AS IT
19 EXISTED PURSUANT TO SECTION 25.5-4-402.3 BEFORE ITS REPEAL BY
20 SENATE BILL 17-267, ENACTED IN 2017, WILL ALLOW THE STATE TO SPEND
21 MORE GENERAL FUND MONEY FOR GENERAL GOVERNMENTAL PURPOSES
22 THAN IT WOULD OTHERWISE BE ABLE TO SPEND BELOW THE EXCESS STATE
23 REVENUES CAP, AS DEFINED IN SECTION 24-77-103.6 (6)(b)(I), IT IS
24 APPROPRIATE TO RESTRAIN THE GROWTH OF GOVERNMENT BY LOWERING
25 THE BASE AMOUNT USED TO CALCULATE THE EXCESS STATE REVENUES CAP
26 FOR THE 2017-18 STATE FISCAL YEAR BY SIX HUNDRED SEVENTY MILLION
27 THREE HUNDRED THOUSAND DOLLARS.

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

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

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

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

15 (IV) TO ISSUE REVENUE BONDS PAYABLE FROM THE REVENUES OF
16 THE ENTERPRISE;

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

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

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

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

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

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

24 (A) THE STATE MEDICAL ASSISTANCE PROGRAM; AND

25 (B) THE COLORADO INDIGENT CARE PROGRAM;

26 (II) PROVIDE A BUSINESS SERVICE TO HOSPITALS BY INCREASING
27 THE NUMBER OF INDIVIDUALS COVERED BY PUBLIC MEDICAL ASSISTANCE

1 AND THEREBY REDUCING THE AMOUNT OF UNCOMPENSATED CARE THAT
2 THE HOSPITALS MUST PROVIDE;

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

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

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

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

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

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

27 (E) PROVIDING FUNDING FOR, AND IN COOPERATION WITH THE

1 STATE DEPARTMENT AND HOSPITALS SUPPORTING THE IMPLEMENTATION
2 OF, A HEALTH CARE DELIVERY SYSTEM REFORM INCENTIVE PAYMENTS
3 PROGRAM AS DESCRIBED IN SUBSECTION (8) OF THIS SECTION.

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

15 (I) CONSIDER RECOMMENDATIONS OF THE ENTERPRISE;

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

23 (III) FOR THE 2017-18 FISCAL YEAR, ESTABLISH THE AMOUNT OF
24 THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE SO THAT THE
25 AMOUNT COLLECTED FROM THE FEE IS APPROXIMATELY EQUAL TO THE
26 SUM OF THE AMOUNTS OF THE APPROPRIATIONS SPECIFIED FOR THE FEE IN
27 THE GENERAL APPROPRIATION ACT, SENATE BILL 17-267, ENACTED IN

1 2017, AND ANY OTHER SUPPLEMENTAL APPROPRIATION ACT.

2 (c) (I) IN ACCORDANCE WITH THE REDISTRIBUTIVE METHOD SET
3 FORTH IN 42 CFR 433.68 (e)(1) AND (e)(2), THE ENTERPRISE, ACTING IN
4 CONCERT WITH OR THROUGH AN AGREEMENT WITH THE STATE
5 DEPARTMENT IF REQUIRED BY FEDERAL LAW, MAY SEEK A WAIVER FROM
6 THE BROAD-BASED HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
7 FEE REQUIREMENT OR THE UNIFORM HEALTHCARE AFFORDABILITY AND
8 SUSTAINABILITY FEE REQUIREMENT, OR BOTH. IN ADDITION, THE
9 ENTERPRISE, ACTING IN CONCERT WITH OR THROUGH AN AGREEMENT WITH
10 THE STATE DEPARTMENT IF REQUIRED BY FEDERAL LAW, SHALL SEEK ANY
11 FEDERAL WAIVER NECESSARY TO FUND AND, IN COOPERATION WITH THE
12 STATE DEPARTMENT AND HOSPITALS, SUPPORT THE IMPLEMENTATION OF
13 A HEALTH CARE DELIVERY SYSTEM REFORM INCENTIVE PAYMENTS
14 PROGRAM AS DESCRIBED IN SUBSECTION (8) OF THIS SECTION. SUBJECT TO
15 FEDERAL APPROVAL AND TO MINIMIZE THE FINANCIAL IMPACT ON CERTAIN
16 HOSPITALS, THE ENTERPRISE MAY EXEMPT FROM PAYMENT OF THE
17 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE CERTAIN TYPES OF
18 HOSPITALS, INCLUDING BUT NOT LIMITED TO:

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

21 (B) HOSPITALS THAT ARE LICENSED AS GENERAL HOSPITALS AND
22 CERTIFIED AS LONG-TERM CARE HOSPITALS BY THE DEPARTMENT OF
23 PUBLIC HEALTH AND ENVIRONMENT;

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

27 (D) INPATIENT REHABILITATION FACILITIES; OR

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

2 (e).

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

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

6 (B) A HOSPITAL WITH WHICH THE STATE DEPARTMENT DOES NOT
7 CONTRACT TO PROVIDE SERVICES UNDER THE STATE MEDICAL ASSISTANCE
8 PROGRAM;

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

12 (D) A HOSPITAL THAT MUST BE INCLUDED TO RECEIVE FEDERAL
13 APPROVAL.

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

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

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

24 (C) THE HOSPITAL SERVES A HIGHER PERCENTAGE THAN THE
25 AVERAGE HOSPITAL OF PERSONS COVERED BY THE STATE MEDICAL
26 ASSISTANCE PROGRAM, MEDICARE, OR COMMERCIAL INSURANCE OR
27 PERSONS ENROLLED IN A MANAGED CARE ORGANIZATION;

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

4 (E) IF THE HOSPITAL PAID A REDUCED HEALTHCARE
5 AFFORDABILITY AND SUSTAINABILITY FEE, THE REDUCED FEE WOULD NOT
6 SIGNIFICANTLY AFFECT THE NET BENEFIT TO HOSPITALS PAYING THE
7 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE; OR

8 (F) THE HOSPITAL IS REQUIRED NOT TO PAY A REDUCED
9 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE AS A CONDITION
10 OF FEDERAL APPROVAL.

11 (IV) THE ENTERPRISE MAY CHANGE HOW IT PAYS HOSPITAL
12 REIMBURSEMENT OR QUALITY INCENTIVE PAYMENTS, OR BOTH, IN WHOLE
13 OR IN PART, UNDER THE AUTHORITY OF A FEDERAL WAIVER IF THE TOTAL
14 REIMBURSEMENT TO HOSPITALS IS EQUAL TO OR ABOVE THE FEDERAL
15 UPPER PAYMENT LIMIT CALCULATION UNDER THE WAIVER.

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

19 (e) (I) THE ENTERPRISE SHALL ESTABLISH POLICIES ON THE
20 CALCULATION, ASSESSMENT, AND TIMING OF THE HEALTHCARE
21 AFFORDABILITY AND SUSTAINABILITY FEE. THE ENTERPRISE SHALL ASSESS
22 THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE ON A
23 SCHEDULE TO BE SET BY THE ENTERPRISE BOARD AS PROVIDED IN
24 SUBSECTION (7)(d) OF THIS SECTION. THE PERIODIC HEALTHCARE
25 AFFORDABILITY AND SUSTAINABILITY FEE PAYMENTS FROM A HOSPITAL
26 AND THE ENTERPRISE'S REIMBURSEMENT TO THE HOSPITAL UNDER
27 SUBSECTIONS (5)(b)(I) AND (5)(b)(II) OF THIS SECTION ARE DUE AS

1 NEARLY SIMULTANEOUSLY AS FEASIBLE; EXCEPT THAT THE ENTERPRISE'S
2 REIMBURSEMENT TO THE HOSPITAL IS DUE NO MORE THAN TWO DAYS
3 AFTER THE PERIODIC HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
4 FEE PAYMENT IS RECEIVED FROM THE HOSPITAL. THE HEALTHCARE
5 AFFORDABILITY AND SUSTAINABILITY FEE MUST BE IMPOSED ON EACH
6 HOSPITAL EVEN IF MORE THAN ONE HOSPITAL IS OWNED BY THE SAME
7 ENTITY. THE FEE MUST BE PRORATED AND ADJUSTED FOR THE EXPECTED
8 VOLUME OF SERVICE FOR ANY YEAR IN WHICH A HOSPITAL OPENS OR
9 CLOSES.

10 (II) THE ENTERPRISE IS AUTHORIZED TO REFUND ANY UNUSED
11 PORTION OF THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE.
12 FOR ANY PORTION OF THE HEALTHCARE AFFORDABILITY AND
13 SUSTAINABILITY FEE THAT HAS BEEN COLLECTED BY THE ENTERPRISE BUT
14 FOR WHICH THE ENTERPRISE HAS NOT RECEIVED FEDERAL MATCHING
15 FUNDS, THE ENTERPRISE SHALL REFUND BACK TO THE HOSPITAL THAT PAID
16 THE FEE THE AMOUNT OF THAT PORTION OF THE FEE WITHIN FIVE BUSINESS
17 DAYS AFTER THE FEE IS COLLECTED.

18 (III) THE ENTERPRISE SHALL ESTABLISH REQUIREMENTS FOR THE
19 REPORTS THAT HOSPITALS MUST SUBMIT TO THE ENTERPRISE TO ALLOW
20 THE ENTERPRISE TO CALCULATE THE AMOUNT OF THE HEALTHCARE
21 AFFORDABILITY AND SUSTAINABILITY FEE. NOTWITHSTANDING THE
22 PROVISIONS OF PART 2 OF ARTICLE 72 OF TITLE 24 OR SUBSECTION (7)(f)
23 OF THIS SECTION, INFORMATION PROVIDED TO THE ENTERPRISE PURSUANT
24 TO THIS SECTION IS CONFIDENTIAL AND IS NOT A PUBLIC RECORD.
25 NONETHELESS, THE ENTERPRISE MAY PREPARE AND RELEASE SUMMARIES
26 OF THE REPORTS TO THE PUBLIC.

27 (f) A HOSPITAL SHALL NOT INCLUDE ANY AMOUNT OF THE

1 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE AS A SEPARATE
2 LINE ITEM IN ITS BILLING STATEMENTS.

3 (g) THE STATE BOARD SHALL PROMULGATE ANY RULES PURSUANT
4 TO THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE
5 24, NECESSARY FOR THE ADMINISTRATION AND IMPLEMENTATION OF THIS
6 SECTION. PRIOR TO SUBMITTING ANY PROPOSED RULES CONCERNING THE
7 ADMINISTRATION OR IMPLEMENTATION OF THE HEALTHCARE
8 AFFORDABILITY AND SUSTAINABILITY FEE TO THE STATE BOARD, THE
9 ENTERPRISE SHALL CONSULT WITH THE STATE BOARD ON THE PROPOSED
10 RULES AS SPECIFIED IN SUBSECTION (7)(d) OF THIS SECTION.

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

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

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

24 (I) TO MAXIMIZE THE INPATIENT AND OUTPATIENT HOSPITAL
25 REIMBURSEMENTS TO UP TO THE UPPER PAYMENT LIMITS AS DEFINED IN 42
26 CFR 447.272 AND 42 CFR 447.321;

27 (II) TO INCREASE HOSPITAL REIMBURSEMENTS UNDER THE

1 COLORADO INDIGENT CARE PROGRAM TO UP TO ONE HUNDRED PERCENT
2 OF THE HOSPITAL'S COSTS OF PROVIDING MEDICAL CARE UNDER THE
3 PROGRAM;

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

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

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

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

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

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

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

1 (VI) TOPAY THE ENTERPRISE'S ACTUAL ADMINISTRATIVE COSTS OF
2 IMPLEMENTING AND ADMINISTERING THIS SECTION, INCLUDING BUT NOT
3 LIMITED TO THE FOLLOWING COSTS:

4 (A) ADMINISTRATIVE EXPENSES OF THE ENTERPRISE;

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

9 (C) THE ENTERPRISE'S ACTUAL COSTS FOR THE CHANGES AND
10 UPDATES TO THE MEDICAID MANAGEMENT INFORMATION SYSTEM FOR THE
11 IMPLEMENTATION OF SUBSECTIONS (5)(b)(I) TO (5)(b)(III) OF THIS
12 SECTION;

13 (D) THE ENTERPRISE'S PERSONAL SERVICES AND OPERATING COSTS
14 RELATED TO PERSONNEL, CONSULTING SERVICES, AND FOR REVIEW OF
15 HOSPITAL COSTS NECESSARY TO IMPLEMENT AND ADMINISTER THE
16 INCREASES IN INPATIENT AND OUTPATIENT HOSPITAL PAYMENTS MADE
17 PURSUANT TO SUBSECTION (5)(b)(I) OF THIS SECTION, INCREASES IN THE
18 COLORADO INDIGENT CARE PROGRAM PAYMENTS MADE PURSUANT TO
19 SUBSECTION (5)(b)(II) OF THIS SECTION, AND QUALITY INCENTIVE
20 PAYMENTS MADE PURSUANT TO SUBSECTION (5)(b)(III) OF THIS SECTION;

21 (E) THE ENTERPRISE'S ACTUAL COSTS FOR THE CHANGES AND
22 UPDATES TO THE COLORADO BENEFITS MANAGEMENT SYSTEM AND
23 MEDICAID MANAGEMENT INFORMATION SYSTEM TO IMPLEMENT AND
24 MAINTAIN THE EXPANDED ELIGIBILITY PROVIDED FOR IN SUBSECTIONS
25 (5)(b)(IV) AND (5)(b)(V) OF THIS SECTION;

26 (F) THE ENTERPRISE'S PERSONAL SERVICES AND OPERATING COSTS
27 RELATED TO PERSONNEL NECESSARY TO IMPLEMENT AND ADMINISTER THE

1 EXPANDED ELIGIBILITY FOR PUBLIC MEDICAL ASSISTANCE PROVIDED FOR
2 IN SUBSECTIONS (5)(b)(IV) AND (5)(b)(V) OF THIS SECTION, INCLUDING
3 BUT NOT LIMITED TO ADMINISTRATIVE COSTS ASSOCIATED WITH THE
4 DETERMINATION OF ELIGIBILITY FOR PUBLIC MEDICAL ASSISTANCE BY
5 COUNTY DEPARTMENTS; AND

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

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

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

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

23 (6) **Appropriations.** (a) (I) THE HEALTHCARE AFFORDABILITY
24 AND SUSTAINABILITY FEE IS TO SUPPLEMENT, NOT SUPPLANT, GENERAL
25 FUND APPROPRIATIONS TO SUPPORT HOSPITAL REIMBURSEMENTS.
26 GENERAL FUND APPROPRIATIONS FOR HOSPITAL REIMBURSEMENTS SHALL
27 BE MAINTAINED AT THE LEVEL OF APPROPRIATIONS IN THE MEDICAL

1 SERVICES PREMIUM LINE ITEM MADE FOR THE FISCAL YEAR COMMENCING
2 JULY 1, 2008; EXCEPT THAT GENERAL FUND APPROPRIATIONS FOR
3 HOSPITAL REIMBURSEMENTS MAY BE REDUCED IF AN INDEX OF
4 APPROPRIATIONS TO OTHER PROVIDERS SHOWS THAT GENERAL FUND
5 APPROPRIATIONS ARE REDUCED FOR OTHER PROVIDERS. IF THE INDEX
6 SHOWS THAT GENERAL FUND APPROPRIATIONS ARE REDUCED FOR OTHER
7 PROVIDERS, THE GENERAL FUND APPROPRIATIONS FOR HOSPITAL
8 REIMBURSEMENTS SHALL NOT BE REDUCED BY A GREATER PERCENTAGE
9 THAN THE REDUCTIONS OF APPROPRIATIONS FOR THE OTHER PROVIDERS AS
10 SHOWN BY THE INDEX.

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

23 (III) FOR PURPOSES OF THIS SUBSECTION (6)(a), THE "INDEX OF
24 APPROPRIATIONS TO OTHER PROVIDERS" OR "INDEX" MEANS THE AVERAGE
25 PERCENT CHANGE IN REIMBURSEMENT RATES THROUGH APPROPRIATIONS
26 OR LEGISLATION ENACTED BY THE GENERAL ASSEMBLY TO HOME HEALTH
27 PROVIDERS, PHYSICIAN SERVICES, AND OUTPATIENT PHARMACIES,

1 EXCLUDING DISPENSING FEES. THE STATE BOARD, AFTER CONSULTATION
2 WITH THE ENTERPRISE BOARD, IS AUTHORIZED TO CLARIFY THIS
3 DEFINITION AS NECESSARY BY RULE.

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

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

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

16 (III) (A) IF THE STATE BOARD PROMULGATES RULES THAT EXPAND
17 ELIGIBILITY FOR MEDICAL ASSISTANCE TO BE PAID FOR PURSUANT TO
18 SUBSECTION (5)(b)(IV) OF THIS SECTION, AND THE STATE DEPARTMENT
19 THEREAFTER NOTIFIES THE ENTERPRISE BOARD THAT THE REVENUE
20 AVAILABLE FROM THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
21 FEE AND THE FEDERAL MATCHING FUNDS WILL NOT BE SUFFICIENT TO PAY
22 FOR ALL OR PART OF THE EXPANDED ELIGIBILITY, THE ENTERPRISE BOARD
23 SHALL RECOMMEND TO THE STATE BOARD REDUCTIONS IN MEDICAL
24 BENEFITS OR ELIGIBILITY SO THAT THE REVENUE WILL BE SUFFICIENT TO
25 PAY FOR ALL OF THE REDUCED BENEFITS OR ELIGIBILITY. AFTER RECEIVING
26 THE RECOMMENDATIONS OF THE ENTERPRISE BOARD, THE STATE BOARD
27 SHALL ADOPT RULES PROVIDING FOR REDUCED BENEFITS OR REDUCED

1 ELIGIBILITY FOR WHICH THE REVENUE WILL BE SUFFICIENT AND SHALL
2 FORWARD ANY ADOPTED RULES TO THE JOINT BUDGET COMMITTEE.
3 NOTWITHSTANDING THE PROVISIONS OF SECTION 24-4-103 (8) AND (12),
4 FOLLOWING THE ADOPTION OF RULES PURSUANT TO THIS SUBSECTION
5 (6)(b)(III)(A), THE STATE BOARD SHALL NOT SUBMIT THE RULES TO THE
6 ATTORNEY GENERAL AND SHALL NOT FILE THE RULES WITH THE
7 SECRETARY OF STATE UNTIL THE JOINT BUDGET COMMITTEE APPROVES THE
8 RULES PURSUANT TO SUBSECTION (6)(b)(III)(B) OF THIS SECTION.

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

25 (C) AFTER THE STATE BOARD HAS RECEIVED NOTIFICATION OF THE
26 APPROVAL OF RULES ADOPTED PURSUANT TO SUBSECTION (6)(b)(III)(A)
27 OF THIS SECTION, THE STATE BOARD SHALL SUBMIT THE RULES TO THE

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

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

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

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

1 PERSON WHO IS EMPLOYED BY A HOSPITAL IN AN URBAN AREA;

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

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

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

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

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

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

20 (H) TWO EMPLOYEES OF THE STATE DEPARTMENT.

21 (II) THE INITIAL MEMBERS OF THE ENTERPRISE BOARD ARE THE
22 MEMBERS OF THE HOSPITAL PROVIDER FEE OVERSIGHT AND ADVISORY
23 BOARD THAT WAS CREATED AND EXISTED PURSUANT TO SECTION
24 25.5-4-402.3 (6), PRIOR TO JULY 1, 2017, AND SUCH MEMBERS SHALL
25 SERVE ON AND AFTER JULY 1, 2017, FOR THE REMAINDER OF THE TERMS
26 FOR WHICH THEY WERE APPOINTED AS MEMBERS OF THE ADVISORY BOARD.
27 THE POWERS, DUTIES, AND FUNCTIONS OF THE HOSPITAL PROVIDER FEE

1 OVERSIGHT AND ADVISORY BOARD ARE TRANSFERRED BY A **TYPE 3**
2 TRANSFER, AS DEFINED IN SECTION 24-1-105, TO THE ENTERPRISE, AND
3 THE HOSPITAL PROVIDER FEE OVERSIGHT AND ADVISORY BOARD IS
4 ABOLISHED.

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

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

14 (V) THE GOVERNOR SHALL DESIGNATE A CHAIR FROM AMONG THE
15 MEMBERS OF THE ENTERPRISE BOARD APPOINTED PURSUANT TO
16 SUBSECTIONS (7)(a)(I)(A) TO (7)(a)(I)(G) OF THIS SECTION. THE
17 ENTERPRISE BOARD SHALL ELECT A VICE-CHAIR FROM AMONG ITS
18 MEMBERS.

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

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

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

1 (I) TO DETERMINE THE TIMING AND METHOD BY WHICH THE
2 ENTERPRISE ASSESSES THE HEALTHCARE AFFORDABILITY AND
3 SUSTAINABILITY FEE AND THE AMOUNT OF THE FEE;

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

11 (III) TO DETERMINE CHANGES IN THE HEALTHCARE AFFORDABILITY
12 AND SUSTAINABILITY FEE THAT INCREASE THE NUMBER OF HOSPITALS
13 BENEFITTING FROM THE USES OF THE HEALTHCARE AFFORDABILITY AND
14 SUSTAINABILITY FEE DESCRIBED IN SUBSECTIONS (5)(b)(I) TO (5)(b)(IV)
15 OF THIS SECTION OR THAT MINIMIZE THE NUMBER OF HOSPITALS THAT
16 SUFFER LOSSES AS A RESULT OF PAYING THE HEALTHCARE AFFORDABILITY
17 AND SUSTAINABILITY FEE;

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

23 (V) TO DIRECT AND OVERSEE THE ENTERPRISE IN SEEKING, IN
24 CONCERT WITH OR THROUGH AN AGREEMENT WITH THE STATE
25 DEPARTMENT IF REQUIRED BY FEDERAL LAW, ANY FEDERAL WAIVER
26 NECESSARY TO FUND AND, IN COOPERATION WITH THE STATE DEPARTMENT
27 AND HOSPITALS, SUPPORT THE IMPLEMENTATION OF A HEALTH CARE

1 DELIVERY SYSTEM REFORM INCENTIVE PAYMENTS PROGRAM AS DESCRIBED
2 IN SUBSECTION (8) OF THIS SECTION;

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

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

11 (VIII) TO PREPARE THE REPORTS SPECIFIED IN SUBSECTION (7)(e)
12 OF THIS SECTION;

13 (IX) TO MONITOR THE IMPACT OF THE HEALTHCARE
14 AFFORDABILITY AND SUSTAINABILITY FEE ON THE BROADER HEALTH CARE
15 MARKETPLACE;

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

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

23 (e) ON OR BEFORE JANUARY 15, 2018, AND ON OR BEFORE
24 JANUARY 15 EACH YEAR THEREAFTER, THE ENTERPRISE BOARD SHALL
25 SUBMIT A WRITTEN REPORT TO THE HEALTH AND HUMAN SERVICES
26 COMMITTEE OF THE SENATE AND THE PUBLIC HEALTH CARE AND HUMAN
27 SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY

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

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

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

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

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

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

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

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

27 (A) MEDICAID;

1 (B) MEDICARE; AND

2 (C) ALL OTHER PAYERS; AND

3 (VI) A SUMMARY OF:

4 (A) THE EFFORTS MADE BY THE ENTERPRISE, ACTING IN CONCERT
5 WITH OR THROUGH AN AGREEMENT WITH THE STATE DEPARTMENT IF
6 REQUIRED BY FEDERAL LAW, TO SEEK ANY FEDERAL WAIVER NECESSARY
7 TO FUND AND, IN COOPERATION WITH THE STATE DEPARTMENT AND
8 HOSPITALS, SUPPORT THE IMPLEMENTATION OF A HEALTH CARE DELIVERY
9 SYSTEM REFORM INCENTIVE PAYMENTS PROGRAM AS DESCRIBED IN
10 SUBSECTION (8) OF THIS SECTION; AND

11 (B) THE PROGRESS ACTUALLY MADE BY THE ENTERPRISE, IN
12 COOPERATION WITH THE STATE DEPARTMENT AND HOSPITALS, TOWARDS
13 THE GOAL OF IMPLEMENTING SUCH A PROGRAM.

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

18 (II) FOR PURPOSES OF THE "COLORADO OPEN RECORDS ACT",
19 PART 2 OF ARTICLE 72 OF TITLE 24, AND EXCEPT AS MAY OTHERWISE BE
20 PROVIDED BY FEDERAL LAW OR REGULATION OR STATE LAW, THE RECORDS
21 OF THE ENTERPRISE ARE PUBLIC RECORDS, AS DEFINED IN SECTION
22 24-72-202 (6), REGARDLESS OF WHETHER THE ENTERPRISE RECEIVES LESS
23 THAN TEN PERCENT OF ITS TOTAL ANNUAL REVENUES IN GRANTS, AS
24 DEFINED IN SECTION 24-77-102 (7), FROM ALL COLORADO STATE AND
25 LOCAL GOVERNMENTS COMBINED.

26 (III) THE ENTERPRISE IS A PUBLIC ENTITY FOR PURPOSES OF PART
27 2 OF ARTICLE 57 OF TITLE 11.

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

- 12 (a) INCLUDE AN INITIAL PLANNING PHASE TO:
 - 13 (I) ASSESS NEEDS; AND
 - 14 (II) DEVELOP ACHIEVABLE OUTCOME-BASED METRICS TO BE USED
15 TO MEASURE PROGRESS TOWARDS PROGRAM GOALS, INCLUDING THE
16 GOALS OF HEALTH CARE DELIVERY SYSTEM INTEGRATION, IMPROVED
17 PATIENT OUTCOMES, AND MORE EFFICIENT PROVISION OF CARE; AND
- 18 (b) ADDRESS THE FOLLOWING FOCUS AREAS:
 - 19 (I) CARE COORDINATION AND CARE TRANSITION MANAGEMENT;
 - 20 (II) INTEGRATION OF PHYSICAL AND BEHAVIORAL HEALTH CARE
21 SERVICES;
 - 22 (III) CHRONIC CONDITION MANAGEMENT;
 - 23 (IV) TARGETED POPULATION HEALTH; AND
 - 24 (V) DATA-DRIVEN ACCOUNTABILITY AND OUTCOME
25 MEASUREMENT.

26 **SECTION 10.** In Colorado Revised Statutes, **add** 25.5-4-402.7
27 as follows:

1 **25.5-4-402.7. Unexpended hospital provider fee cash fund -**
2 **creation - transfer from hospital provider fee cash fund - use of fund**
3 **- repeal.** (1) THE UNEXPENDED HOSPITAL PROVIDER FEE CASH FUND,
4 REFERRED TO IN THIS SECTION AS THE "FUND", IS HEREBY CREATED IN THE
5 STATE TREASURY. ON JUNE 30, 2017, THE STATE TREASURER SHALL
6 TRANSFER TO THE FUND ALL MONEY IN THE HOSPITAL PROVIDER FEE CASH
7 FUND CREATED IN SECTION 25.5-4-402.3 (4)(a), AS THAT SECTION EXISTED
8 BEFORE ITS REPEAL BY SENATE BILL 17-267, ENACTED IN 2017. THE STATE
9 TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE
10 DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE GENERAL FUND.
11 MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE STATE
12 DEPARTMENT THROUGH OCTOBER 30, 2018, FOR THE PURPOSE OF PAYING
13 CLAIMS INCURRED BEFORE JULY 1, 2017, THAT WERE PAYABLE PURSUANT
14 TO SECTION 25.5-5-402.3 (4), AS THAT SECTION EXISTED BEFORE ITS
15 REPEAL BY SENATE BILL 17-267, ENACTED IN 2017. THE STATE
16 DEPARTMENT SHALL REFUND ANY MONEY IN THE FUND DERIVED FROM
17 HOSPITAL PROVIDER FEES THAT IS NOT EXPENDED FOR THE PURPOSE OF
18 PAYING CLAIMS TO THE HOSPITALS THAT PAID THE FEES.

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

20 **SECTION 11.** In Colorado Revised Statutes, 24-1-119.5, **add** (9)
21 as follows:

22 **24-1-119.5. Department of health care policy and financing -**
23 **creation.** (9) THE COLORADO HEALTHCARE AFFORDABILITY AND
24 SUSTAINABILITY ENTERPRISE CREATED IN SECTION 25.5-4-402.4 (3) SHALL
25 EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS AS IF THE
26 SAME WERE TRANSFERRED BY A **TYPE 2** TRANSFER, AS DEFINED IN SECTION
27 24-1-105, TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING.

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

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

12 **SECTION 13.** In Colorado Revised Statutes, 2-3-1203, **repeal**
13 (8)(a)(V) as follows:

14 **2-3-1203. Sunset review of advisory committees - legislative**
15 **declaration - definition - repeal.** (8) (a) The following statutory
16 authorizations for the designated advisory committees will repeal on July
17 1, 2019:

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

20 **SECTION 14.** In Colorado Revised Statutes, 24-4-103, **amend**
21 (8)(c)(I) as follows:

22 **24-4-103. Rule-making - procedure - definitions - repeal.**
23 (8) (c) (I) Notwithstanding any other provision of law to the contrary and
24 the provisions of section 24-4-107, all rules adopted or amended on or
25 after January 1, 1993, and before November 1, 1993, ~~shall~~ expire at 11:59
26 p.m. on May 15 of the year following their adoption unless the general
27 assembly by bill acts to postpone the expiration of a specific rule, and

1 commencing with rules adopted or amended on or after November 1,
2 1993, all rules adopted or amended during any one-year period that begins
3 each November 1 and continues through the following October 31 ~~shall~~
4 expire at 11:59 p.m. on the May 15 that follows such one-year period
5 unless the general assembly by bill acts to postpone the expiration of a
6 specific rule; except that a rule adopted pursuant to ~~section 25.5-4-402.3~~
7 ~~(5)(b)(III), C.R.S., shall expire~~ SECTION 25.5-4-402.4 (6)(b)(III) EXPIRES
8 at 11:59 p.m. on the May 15 following the adoption of the rule unless the
9 general assembly acts by bill to postpone the expiration of a specific rule.
10 The general assembly, in its discretion, may postpone such expiration, in
11 which case, the provisions of section 24-4-108 or 24-34-104 ~~shall~~ apply,
12 and the rules ~~shall~~ expire or ~~be~~ ARE subject to review as provided in ~~said~~
13 ~~THOSE~~ sections. The postponement of the expiration of a rule ~~shall~~ DOES
14 not constitute legislative approval of the rule ~~nor be~~ AND IS NOT
15 admissible in any court as evidence of legislative intent. The
16 postponement of the expiration date of a specific rule ~~shall~~ DOES not
17 prohibit any action by the general assembly pursuant to the provisions of
18 ~~paragraph (d) of this subsection (8)~~ SUBSECTION (8)(d) OF THIS SECTION
19 with respect to ~~such~~ THE rule.

20 **SECTION 15.** In Colorado Revised Statutes, 25.5-3-108, **amend**
21 (17) as follows:

22 **25.5-3-108. Responsibility of the department of health care**
23 **policy and financing - provider reimbursement.** (17) Subject to
24 adequate funding BEING made available under ~~section 25.5-4-402.3~~
25 SECTION 25.5-4-402.4, the ~~state department~~ COLORADO HEALTHCARE
26 AFFORDABILITY AND SUSTAINABILITY ENTERPRISE CREATED IN SECTION
27 25.5-4-402.4 (3) shall increase hospital reimbursements up to one

1 hundred percent of hospital costs for providing medical care under the
2 program.

3 **SECTION 16.** In Colorado Revised Statutes, 25.5-4-402, **amend**
4 (3)(a) as follows:

5 **25.5-4-402. Providers - hospital reimbursement - rules.**

6 (3) (a) In addition to the reimbursement rate process described in
7 subsection (1) of this section and subject to adequate funding BEING made
8 available pursuant to ~~section 25.5-4-402.3~~ SECTION 25.5-4-402.4, the ~~state~~
9 ~~department~~ COLORADO HEALTHCARE AFFORDABILITY AND
10 SUSTAINABILITY ENTERPRISE CREATED IN SECTION 25.5-4-402.4 (3) shall
11 pay an additional amount based upon performance to those hospitals that
12 provide services that improve health care outcomes for their patients. ~~This~~
13 ~~amount shall be determined by~~ The state department SHALL DETERMINE
14 THIS AMOUNT based upon nationally recognized performance measures
15 established in rules adopted by the state board. The state quality standards
16 ~~shall~~ MUST be consistent with federal quality standards published by an
17 organization with expertise in health care quality, including but not
18 limited to, the centers for medicare and medicaid services, the agency for
19 healthcare research and quality, or the national quality forum.

20 **SECTION 17.** In Colorado Revised Statutes, 25.5-5-201, **amend**
21 (1)(o)(II) and (1)(r)(II) as follows:

22 **25.5-5-201. Optional provisions - optional groups - repeal.**

23 (1) The federal government allows the state to select optional groups to
24 receive medical assistance. Pursuant to federal law, any person who is
25 eligible for medical assistance under the optional groups specified in this
26 section shall receive both the mandatory services specified in sections
27 25.5-5-102 and 25.5-5-103 and the optional services specified in sections

1 25.5-5-202 and 25.5-5-203. Subject to the availability of federal financial
2 aid funds, the following are the individuals or groups that Colorado has
3 selected as optional groups to receive medical assistance pursuant to this
4 article and articles 4 and 6 of this title:

5 (o) (II) Notwithstanding the provisions of ~~subparagraph (I) of this~~
6 ~~paragraph (o)~~, SUBSECTION (1)(o)(I) OF THIS SECTION, if the moneys in the
7 ~~hospital provider~~ HEALTHCARE AFFORDABILITY AND SUSTAINABILITY fee
8 cash fund established pursuant to ~~section 25.5-4-402.3 (4)~~ SECTION
9 25.5-4-402.4, together with the corresponding federal matching funds, are
10 insufficient to fully fund all of the purposes described in ~~section~~
11 ~~25.5-4-402.3 (4) (b)~~ SECTION 25.5-4-402.4 (5)(b), after receiving
12 recommendations from the ~~hospital provider fee oversight and advisory~~
13 ~~board~~ COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
14 ENTERPRISE established pursuant to ~~section 25.5-4-402.3 (6)~~ SECTION
15 25.5-4-402.4 (3), for individuals with disabilities who are participating in
16 the medicaid buy-in program established in part 14 of article 6 of this title
17 TITLE 25.5, the state board by rule adopted pursuant to the provisions of
18 ~~section 25.5-4-402.3 (5) (b) (II)~~ SECTION 25.5-4-402.4 (6)(b)(III) may
19 reduce the medical benefits offered or the percentage of the federal
20 poverty line to below four hundred fifty percent or may eliminate this
21 eligibility group.

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

1 ~~25.5-4-402.3 (4) (b)~~ SECTION 25.5-4-402.4 (5)(b), after receiving
2 recommendations from the ~~hospital provider fee oversight and advisory~~
3 ~~board~~ COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
4 ENTERPRISE established pursuant to ~~section 25.5-4-402.3 (6)~~ SECTION
5 25.5-4-402.4 (3), for persons eligible for a medicaid buy-in program
6 established pursuant to section 25.5-5-206, 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 medical benefits offered, or the
9 percentage of the federal poverty line, or may eliminate this eligibility
10 group.

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

13 **25.5-5-204.5. Continuous eligibility - children - repeal.**
14 (2) Notwithstanding the provisions of subsection (1) of this section, if the
15 moneys in the ~~hospital provider~~ HEALTHCARE AFFORDABILITY AND
16 SUSTAINABILITY fee cash fund established pursuant to ~~section~~
17 ~~25.5-4-402.3 (4)~~ SECTION 25.5-4-402.4, together with the corresponding
18 federal matching funds, are insufficient to fully fund all of the purposes
19 described in ~~section 25.5-4-402.3 (4) (b)~~ SECTION 25.5-4-402.4 (5)(b),
20 after receiving recommendations from the ~~hospital provider fee oversight~~
21 ~~and advisory board~~ COLORADO HEALTHCARE AFFORDABILITY AND
22 SUSTAINABILITY ENTERPRISE established pursuant to ~~section 25.5-4-402.3~~
23 ~~(6)~~ SECTION 25.5-4-402.4 (3), the state board by rule adopted pursuant to
24 the provisions of ~~section 25.5-4-402.3 (5) (b) (III)~~ SECTION 25.5-4-402.4
25 (6)(b)(III) may eliminate the continuous enrollment requirement pursuant
26 to this section.

27 **SECTION 19.** In Colorado Revised Statutes, **add** 25.5-5-419 as

1 follows:

2 **25.5-5-419. Advancing care for exceptional kids.** WITHIN ONE
3 HUNDRED TWENTY DAYS OF THE ENACTMENT OF THE FEDERAL
4 "ADVANCING CARE FOR EXCEPTIONAL KIDS ACT", THE STATE
5 DEPARTMENT SHALL SEEK ANY FEDERAL WAIVER NECESSARY TO FUND, IN
6 COOPERATION WITH HOSPITALS THAT MEET THE SPECIFIED REQUIREMENTS,
7 THE IMPLEMENTATION OF AN ENHANCED PEDIATRIC HEALTH HOME FOR
8 CHILDREN WITH COMPLEX MEDICAL CONDITIONS. REQUIREMENTS FOR
9 PARTICIPATION BY THE STATE DEPARTMENT, ALONG WITH THE
10 REQUIREMENT OF AN ENHANCED PEDIATRIC HEALTH HOME, ARE
11 STIPULATED BY THE "ADVANCING CARE FOR EXCEPTIONAL KIDS ACT"
12 AND SHALL BE COMPLIED WITH ACCORDINGLY.

13 **SECTION 20.** In Colorado Revised Statutes, 25.5-8-103, **amend**
14 the introductory portion, (4)(a)(II), and (4)(b)(II) as follows:

15 **25.5-8-103. Definitions - repeal.** As used in this ~~article~~ ARTICLE
16 8, unless the context otherwise requires:

17 (4) "Eligible person" means:

18 (a) (II) Notwithstanding the provisions of ~~subparagraph (I) of this~~
19 ~~paragraph (a)~~, SUBSECTION (4)(a)(I) OF THIS SECTION, if the moneys in the
20 ~~hospital provider~~ HEALTHCARE AFFORDABILITY AND SUSTAINABILITY fee
21 cash fund established pursuant to ~~section 25.5-4-402.3 (4)~~ SECTION
22 25.5-4-402.4 (5), together with the corresponding federal matching funds,
23 are insufficient to fully fund all of the purposes described in ~~section~~
24 ~~25.5-4-402.3 (4) (b)~~ SECTION 25.5-4-402.4 (5)(b), after receiving
25 recommendations from the ~~hospital provider fee oversight and advisory~~
26 ~~board~~ COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
27 ENTERPRISE established pursuant to ~~section 25.5-4-402.3 (6)~~ SECTION

1 25.5-4-402.4 (3), for persons less than nineteen years of age, the state
2 board may by rule adopted pursuant to the provisions of ~~section~~
3 ~~25.5-4-402.3 (5) (b) (III)~~ SECTION 25.5-4-402.4 (6)(b)(III) reduce the
4 percentage of the federal poverty line to below two hundred fifty percent,
5 but the percentage shall not be reduced to below two hundred five
6 percent.

7 (b) (II) Notwithstanding the provisions of ~~subparagraph (I) of this~~
8 ~~paragraph (b)~~ SUBSECTION (4)(b)(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 pregnant women, the state board by rule adopted
18 pursuant to the provisions of ~~section 25.5-4-402.3 (5) (b) (III)~~ SECTION
19 25.5-4-402.4 (6)(b)(III) may reduce the percentage of the federal poverty
20 line to below two hundred fifty percent, but the percentage shall not be
21 reduced to below two hundred five percent.

22 **SECTION 21.** In Colorado Revised Statutes, **repeal**
23 25.5-4-402.3.

24 **SECTION 22.** In Colorado Revised Statutes, 43-4-206, **amend**
25 (1) introductory portion, (1)(b) introductory portion, (1)(b)(V), (2)(a)
26 introductory portion, (2)(b), and (3) as follows:

27 **43-4-206. State allocation.** (1) Except as otherwise provided in

1 ~~subsection (2)~~ SUBSECTIONS (1)(a)(V), (2), AND (3) of this section, after
2 paying the costs of the Colorado state patrol and ~~such~~ ANY other costs of
3 the department, exclusive of highway construction, highway
4 improvements, or highway maintenance, ~~as~~ THAT are appropriated by the
5 general assembly, ~~sixty-five percent of the balance of~~ MONEY IN the
6 highway users tax fund shall be paid to the state highway fund and ~~shall~~
7 ~~be~~ expended for the following purposes:

8 (b) Except as otherwise provided in subsection (2) of this section,
9 all ~~moneys~~ MONEY in the state highway fund not required for the creation,
10 maintenance, and application of the highway anticipation or sinking fund
11 and all ~~moneys~~ MONEY in the state highway supplementary fund are
12 available to pay for:

13 (V) The construction, reconstruction, repairs, improvement,
14 planning, supervision, and maintenance of the state highway system and
15 other public highways, including any county and municipal roads and
16 highways, together with the acquisition of rights-of-way and access rights
17 for the same. ANY PROCEEDS OF LEASE-PURCHASE AGREEMENTS
18 EXECUTED AS REQUIRED BY SECTION 24-82-1303 (2)(a) THAT ARE
19 CREDITED TO THE STATE HIGHWAY FUND PURSUANT TO SECTION
20 24-82-1303 (5)(a) SHALL BE USED ONLY FOR QUALIFIED FEDERAL AID
21 HIGHWAY PROJECTS THAT ARE INCLUDED IN THE STRATEGIC
22 TRANSPORTATION PROJECT INVESTMENT PROGRAM OF THE DEPARTMENT
23 OF TRANSPORTATION, WITH AT LEAST TWENTY-FIVE PERCENT OF THE
24 MONEY BEING USED FOR PROJECTS THAT ARE LOCATED IN COUNTIES WITH
25 POPULATIONS OF FIFTY THOUSAND OR LESS AS OF JULY 2015 AS REPORTED
26 BY THE STATE DEMOGRAPHY OFFICE OF THE DEPARTMENT OF LOCAL
27 AFFAIRS.

1 (2) (a) ~~Notwithstanding the provisions of subsection (1) of this~~
2 ~~section, the revenues~~ REVENUE accrued to and transferred to the highway
3 users tax fund pursuant to section 39-26-123 (4)(a) ~~or 24-75-219, C.R.S.,~~
4 or appropriated to the highway users tax fund pursuant to House Bill
5 02-1389, enacted at the second regular session of the sixty-third general
6 assembly, and credited to the state highway fund pursuant to section
7 43-4-205 (6.5) shall be expended by the department of transportation for
8 the implementation of the strategic transportation project investment
9 program: ~~in the following manner:~~

10 (b) Beginning in 1998, the department of transportation shall
11 report annually to the transportation committee of the senate and the
12 transportation and energy committee of the house of representatives
13 concerning the ~~revenues~~ REVENUE expended by the department pursuant
14 to ~~paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION
15 AND, BEGINNING IN 2018, ANY PROCEEDS OF LEASE-PURCHASE
16 AGREEMENTS EXECUTED AS REQUIRED BY SECTION 24-82-1303 (2)(a)
17 THAT ARE CREDITED TO THE STATE HIGHWAY FUND PURSUANT TO SECTION
18 24-82-1303 (5)(a) AND EXPENDED BY THE DEPARTMENT PURSUANT TO
19 SUBSECTION (1)(b)(V) OF THIS SECTION. The DEPARTMENT SHALL PRESENT
20 THE report ~~shall be presented~~ at the joint meeting required under section
21 43-1-113 (9)(a) and THE REPORT shall describe for each fiscal year, if
22 applicable:

23 (I) The projects on which the ~~revenues credited to the state~~
24 ~~highway fund pursuant to paragraph (a) of this subsection (2)~~ REVENUE
25 AND NET PROCEEDS are to be expended, including the estimated cost of
26 each project, the aggregate amount of revenue actually spent on each
27 project, and the amount of revenue allocated for each project in such

1 fiscal year. The department of transportation shall submit a prioritized list
2 of such projects as part of the report.

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

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

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

11 (V) How the ~~revenues~~ REVENUE AND NET PROCEEDS expended
12 under this subsection (2) AND SUBSECTION (1)(b)(V) OF THIS SECTION
13 during ~~such~~ THE fiscal year ~~relate~~ RELATES to the total funding of the
14 FEDERAL AID TRANSPORTATION PROJECTS THAT ARE INCLUDED IN THE
15 strategic transportation project investment program.

16 (3) ~~Notwithstanding the provisions of subsection (1) of this~~
17 ~~section, the revenues~~ THE REVENUE credited to the highway users tax fund
18 pursuant to section 43-4-205 (6.3) shall be expended by the department
19 of transportation only for road safety projects, as defined in section
20 43-4-803 (21); except that the department shall, in furtherance of its duty
21 to supervise state highways and as a consequence in compliance with
22 section 43-4-810, expend ten million dollars per year of the revenues for
23 the planning, designing, engineering, acquisition, installation,
24 construction, repair, reconstruction, maintenance, operation, or
25 administration of transit-related projects, including, but not limited to,
26 designated bicycle or pedestrian lanes of highway and infrastructure
27 needed to integrate different transportation modes within a multimodal

1 transportation system, that enhance the safety of state highways for transit
2 users.

3 **SECTION 23. Effective date.** (1) Except as otherwise provided
4 in this section, sections 4, 9 through 18, 20, and 21 of this act take effect
5 July 1, 2017.

6 (2) (a) Sections 4, 9 through 18, 20, and 21 of this act do not take
7 effect if the centers for medicare and medicaid services determine that the
8 amendments set forth in this act do not comply with federal law.

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

14 **SECTION 24. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, and safety.