

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 18-0769.01 Christy Chase x2008

HOUSE BILL 18-1392

HOUSE SPONSORSHIP

Kennedy and Rankin, Hamner, Esgar, Ginal, Lontine, McLachlan, Michaelson Jenet,
Roberts, Valdez

SENATE SPONSORSHIP

Coram and Donovan, Aguilar

House Committees

Health, Insurance, & Environment
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE COLORADO REINSURANCE**
102 **PROGRAM TO PROVIDE REINSURANCE PAYMENTS TO HEALTH**
103 **INSURERS TO AID IN PAYING HIGH-COST INSURANCE CLAIMS,**
104 **AND, IN CONNECTION THEREWITH, AUTHORIZING THE**
105 **COMMISSIONER OF INSURANCE TO SEEK APPROVAL FROM THE**
106 **FEDERAL GOVERNMENT TO WAIVE APPLICABLE FEDERAL**
107 **REQUIREMENTS, PROVIDE FEDERAL FUNDS, OR BOTH TO ENABLE**
108 **THE STATE TO IMPLEMENT THE REINSURANCE PROGRAM AND**
109 **MAKING THE PROGRAM CONTINGENT UPON WAIVER OR FUNDING**
110 **APPROVAL.**

Bill Summary

(Note: This summary applies to this bill as introduced and does

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 (3) "COINSURANCE RATE" MEANS THE RATE SET BY THE
2 COMMISSIONER PURSUANT TO SECTION 10-16-1104 (2) AT WHICH THE
3 REINSURANCE PROGRAM WILL REIMBURSE AN ELIGIBLE CARRIER FOR
4 CLAIMS INCURRED FOR A COVERED PERSON'S COVERED BENEFITS IN A
5 BENEFIT YEAR, WHICH CLAIMS EXCEED THE ATTACHMENT POINT BUT ARE
6 BELOW THE REINSURANCE CAP.

7 (4) "COMMISSIONER" MEANS THE COMMISSIONER OF INSURANCE,
8 THE COMMISSIONER'S DEPUTIES, OR THE DIVISION OF INSURANCE, AS
9 APPROPRIATE.

10 (5) "ELIGIBLE CARRIER" MEANS A CARRIER THAT:

11 (a) OFFERS INDIVIDUAL HEALTH BENEFIT PLANS THAT ARE
12 COMPLIANT WITH THE FEDERAL ACT; AND

13 (b) INCURS CLAIMS COSTS FOR A COVERED PERSON'S COVERED
14 BENEFITS IN THE APPLICABLE BENEFIT YEAR.

15 (6) "PAYMENT PARAMETERS" MEANS THE ATTACHMENT POINT,
16 REINSURANCE CAP, AND COINSURANCE RATE FOR THE REINSURANCE
17 PROGRAM.

18 (7) "REINSURANCE CAP" MEANS THE AMOUNT SET BY THE
19 COMMISSIONER PURSUANT TO SECTION 10-16-1104 (2) FOR CLAIMS COSTS
20 INCURRED BY AN ELIGIBLE CARRIER FOR A COVERED PERSON'S COVERED
21 BENEFITS, ABOVE WHICH THE CLAIMS COSTS FOR BENEFITS ARE NO LONGER
22 ELIGIBLE FOR REINSURANCE PAYMENTS.

23 (8) "REINSURANCE PAYMENT" MEANS AN AMOUNT PAID TO AN
24 ELIGIBLE CARRIER UNDER THE REINSURANCE PROGRAM.

25 (9) "REINSURANCE PROGRAM" OR "PROGRAM" MEANS THE
26 COLORADO REINSURANCE PROGRAM ESTABLISHED UNDER SECTION
27 10-16-1104.

1 (10) "STATE INNOVATION WAIVER" MEANS A WAIVER OF ONE OR
2 MORE REQUIREMENTS OF THE FEDERAL ACT AUTHORIZED BY SECTION 1332
3 OF THE FEDERAL ACT, CODIFIED IN 42 U.S.C. SEC. 18052, AND APPLICABLE
4 FEDERAL REGULATIONS.

5 **10-16-1103. Commissioner powers and duties - rules.** (1) THE
6 COMMISSIONER HAS ALL POWERS NECESSARY TO IMPLEMENT THIS PART 11
7 AND IS SPECIFICALLY AUTHORIZED TO:

8 (a) ENTER INTO CONTRACTS AS NECESSARY OR PROPER TO CARRY
9 OUT THE PROVISIONS AND PURPOSES OF THIS PART 11, INCLUDING
10 CONTRACTS FOR THE ADMINISTRATION OF THE REINSURANCE PROGRAM
11 AND WITH APPROPRIATE ADMINISTRATIVE STAFF, CONSULTANTS, AND
12 LEGAL COUNSEL;

13 (b) TAKE LEGAL ACTION AS NECESSARY TO AVOID THE PAYMENT
14 OF IMPROPER CLAIMS UNDER THE REINSURANCE PROGRAM;

15 (c) ESTABLISH ADMINISTRATIVE AND ACCOUNTING PROCEDURES
16 FOR THE OPERATION OF THE REINSURANCE PROGRAM;

17 (d) ESTABLISH PROCEDURES AND STANDARDS FOR CARRIERS TO
18 SUBMIT CLAIMS UNDER THE REINSURANCE PROGRAM;

19 (e) ESTABLISH OR ADJUST THE PAYMENT PARAMETERS IN
20 ACCORDANCE WITH SECTION 10-16-1104 (2) FOR EACH BENEFIT YEAR;

21 (f) ASSESS SPECIAL FEES AGAINST INSURERS FOR THE CONTINUOUS
22 OPERATION OF THE REINSURANCE PROGRAM, AS PROVIDED IN SECTION
23 10-16-1107;

24 (g) APPLY FOR A STATE INNOVATION WAIVER, FEDERAL FUNDS, OR
25 BOTH, IN ACCORDANCE WITH SECTION 10-16-1108, FOR THE
26 IMPLEMENTATION AND OPERATION OF THE REINSURANCE PROGRAM;

27 (h) APPLY FOR, ACCEPT, ADMINISTER, AND EXPEND GIFTS, GRANTS,

1 AND DONATIONS AND ANY FEDERAL FUNDS THAT MAY BECOME AVAILABLE
2 FOR THE OPERATION OF THE REINSURANCE PROGRAM; AND

3 (i) ADOPT RULES AS NECESSARY TO IMPLEMENT, ADMINISTER, AND
4 ENFORCE THIS PART 11, INCLUDING RULES NECESSARY TO ALIGN STATE
5 LAW WITH ANY FEDERAL PROGRAM.

6 **10-16-1104. Reinsurance program - creation - enterprise**
7 **status - subject to waiver or funding approval - operation - payment**
8 **parameters - calculation of reinsurance payments - eligible carrier**

9 **requests - definition.** (1) (a) THERE IS HEREBY CREATED IN THE DIVISION
10 THE COLORADO REINSURANCE PROGRAM TO PROVIDE REINSURANCE
11 PAYMENTS TO ELIGIBLE CARRIERS. IMPLEMENTATION AND OPERATION OF
12 THE REINSURANCE PROGRAM IS CONTINGENT UPON APPROVAL OF THE
13 STATE INNOVATION WAIVER OR FEDERAL FUNDING REQUEST SUBMITTED
14 BY THE COMMISSIONER IN ACCORDANCE WITH SECTION 10-16-1108.

15 (b) (I) THE REINSURANCE PROGRAM CONSTITUTES AN ENTERPRISE
16 FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION
17 AS LONG AS THE COMMISSIONER, ON BEHALF OF THE PROGRAM, RETAINS
18 AUTHORITY TO ISSUE REVENUE BONDS AND THE PROGRAM RECEIVES LESS
19 THAN TEN PERCENT OF ITS TOTAL REVENUES IN GRANTS, AS DEFINED IN
20 SECTION 24-77-102 (7), FROM ALL COLORADO STATE AND LOCAL
21 GOVERNMENTS COMBINED. SO LONG AS IT CONSTITUTES AN ENTERPRISE
22 PURSUANT TO THIS SECTION, THE PROGRAM IS NOT A DISTRICT FOR
23 PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

24 (II) SUBJECT TO APPROVAL BY THE GENERAL ASSEMBLY, EITHER
25 BY BILL OR JOINT RESOLUTION, AND AFTER APPROVAL BY THE GOVERNOR
26 PURSUANT TO SECTION 39 OF ARTICLE V OF THE STATE CONSTITUTION, THE
27 COMMISSIONER, ON BEHALF OF THE REINSURANCE PROGRAM, IS HEREBY

1 AUTHORIZED TO ISSUE REVENUE BONDS FOR THE EXPENSES OF THE
2 PROGRAM, SECURED BY REVENUES OF THE PROGRAM.

3 (c) IF THE STATE INNOVATION WAIVER OR FEDERAL FUNDING
4 REQUEST SUBMITTED BY THE COMMISSIONER PURSUANT TO SECTION
5 10-16-1108 IS APPROVED, THE COMMISSIONER SHALL IMPLEMENT AND
6 OPERATE THE REINSURANCE PROGRAM IN ACCORDANCE WITH THIS
7 SECTION.

8 (d) THE COMMISSIONER SHALL COLLECT OR ACCESS DATA FROM AN
9 ELIGIBLE CARRIER AS NECESSARY TO DETERMINE REINSURANCE
10 PAYMENTS, ACCORDING TO THE DATA REQUIREMENTS UNDER SUBSECTION
11 (3)(c) OF THIS SECTION.

12 (e) (I) ON A QUARTERLY BASIS DURING THE APPLICABLE BENEFIT
13 YEAR:

14 (A) EACH ELIGIBLE CARRIER SHALL REPORT TO THE COMMISSIONER
15 ITS CLAIMS COSTS THAT EXCEED THE ATTACHMENT POINT FOR THAT
16 BENEFIT YEAR; AND

17 (B) EACH INSURER THAT IS SUBJECT TO THE SPECIAL FEES
18 ASSESSED UNDER SECTION 10-16-1107 SHALL REPORT TO THE
19 COMMISSIONER ON ITS COLLECTED ASSESSMENTS IN THAT BENEFIT YEAR.

20 (II) FOR EACH APPLICABLE BENEFIT YEAR, THE COMMISSIONER
21 SHALL NOTIFY ELIGIBLE CARRIERS OF REINSURANCE PAYMENTS TO BE
22 MADE FOR THE APPLICABLE BENEFIT YEAR NO LATER THAN JUNE 30 OF THE
23 YEAR FOLLOWING THE APPLICABLE BENEFIT YEAR. BY AUGUST 15 OF THE
24 YEAR FOLLOWING THE APPLICABLE BENEFIT YEAR, THE COMMISSIONER
25 SHALL DISBURSE ALL APPLICABLE REINSURANCE PAYMENTS TO AN
26 ELIGIBLE CARRIER.

27 (2) (a) FOR PURPOSES OF DETERMINING ELIGIBILITY FOR AND

1 CALCULATING REINSURANCE PAYMENTS UNDER THE REINSURANCE
2 PROGRAM FOR THE 2019 BENEFIT YEAR, THE COMMISSIONER SHALL SET
3 THE ATTACHMENT POINT, COINSURANCE RATE, AND REINSURANCE CAP AT
4 AMOUNTS TO ACHIEVE:

5 (I) A ■ REDUCTION IN CLAIMS COSTS OF BETWEEN THIRTY AND
6 THIRTY-FIVE PERCENT IN GEOGRAPHIC RATING REGIONS IN THE STATE IN
7 WHICH THE AVERAGE PREMIUM FOR THE SECOND-LOWEST-COST SILVER
8 LEVEL INDIVIDUAL HEALTH BENEFIT PLAN IS AT LEAST ONE HUNDRED TEN
9 PERCENT OF THE STATEWIDE AVERAGE PREMIUM FOR THAT SAME LEVEL
10 PLAN;

11 (II) A REDUCTION IN CLAIMS COSTS OF BETWEEN TWENTY AND
12 TWENTY-FIVE PERCENT IN GEOGRAPHIC RATING REGIONS IN THE STATE IN
13 WHICH THE AVERAGE PREMIUM FOR THE SECOND-LOWEST-COST SILVER
14 LEVEL INDIVIDUAL HEALTH BENEFIT PLAN IS MORE THAN NINETY-FIVE
15 PERCENT BUT LESS THAN ONE HUNDRED TEN PERCENT OF THE STATEWIDE
16 AVERAGE PREMIUM FOR THAT SAME LEVEL PLAN; AND

17 (III) A ■ REDUCTION IN CLAIMS COSTS OF BETWEEN FIFTEEN AND
18 TWENTY PERCENT IN ALL OTHER GEOGRAPHIC RATING REGIONS IN THE
19 STATE.

20 (b) FOR THE 2020 BENEFIT YEAR AND EACH BENEFIT YEAR
21 THEREAFTER, THE COMMISSIONER SHALL ESTABLISH, AFTER A
22 STAKEHOLDER PROCESS, AND PUBLISH THE PAYMENT PARAMETERS FOR
23 THE APPLICABLE BENEFIT YEAR BY MARCH 15 OF THE YEAR IMMEDIATELY
24 PRECEDING THE APPLICABLE BENEFIT YEAR. IN SETTING THE PAYMENT
25 PARAMETERS UNDER THIS SUBSECTION (2)(b), THE COMMISSIONER SHALL
26 CONSIDER THE FOLLOWING FACTORS AS THEY APPLY IN EACH GEOGRAPHIC
27 RATING REGION IN THE STATE:

1 (I) PARTICIPATION AND COMPETITION BY CARRIERS IN THE
2 INDIVIDUAL MARKET;

3 (II) ENROLLMENT AND MORBIDITY IN THE INDIVIDUAL MARKET;

4 (III) PARTICIPATION AND COMPETITION BY PROVIDERS; AND

5 (IV) RATES IN THE INDIVIDUAL MARKET.

6 (c) IF THE AMOUNT OF MONEY FROM FUNDING SOURCES SPECIFIED
7 IN SECTION 10-16-1106 IS ANTICIPATED TO BE INADEQUATE TO FULLY
8 FUND THE APPROVED PAYMENT PARAMETERS, THE COMMISSIONER SHALL
9 ESTABLISH NEW PAYMENT PARAMETERS WITHIN THE AVAILABLE FUNDS.
10 THE COMMISSIONER SHALL ALLOW AN ELIGIBLE CARRIER TO REVISE AN
11 APPLICABLE RATE FILING FOR THE NEXT BENEFIT YEAR BASED ON THE
12 FINAL PAYMENT PARAMETERS ESTABLISHED PURSUANT TO THIS
13 SUBSECTION (2)(c) AND ON ACTUAL REINSURANCE PAYMENTS RECEIVED
14 BY THE ELIGIBLE CARRIER.

15 (3) (a) A CARRIER THAT MEETS THE REQUIREMENTS OF THIS
16 SUBSECTION (3) AND SUBSECTION (4) OF THIS SECTION IS ELIGIBLE TO
17 REQUEST REINSURANCE PAYMENTS FROM THE REINSURANCE PROGRAM.

18 (b) AN ELIGIBLE CARRIER MUST MAKE REQUESTS FOR
19 REINSURANCE PAYMENTS IN ACCORDANCE WITH THE REQUIREMENTS
20 ESTABLISHED BY THE COMMISSIONER.

21 (c) BY APRIL 30 OF THE YEAR FOLLOWING THE BENEFIT YEAR FOR
22 WHICH REINSURANCE PAYMENTS ARE REQUESTED, AN ELIGIBLE CARRIER
23 MUST PROVIDE THE COMMISSIONER WITH ACCESS TO THE DATA WITHIN THE
24 DEDICATED DATA ENVIRONMENT ESTABLISHED BY THE ELIGIBLE CARRIER
25 UNDER THE FEDERAL RISK ADJUSTMENT PROGRAM UNDER 42 U.S.C. SEC.
26 18063. ELIGIBLE CARRIERS MUST SUBMIT AN ATTESTATION TO THE
27 COMMISSIONER ASSERTING COMPLIANCE WITH THE DEDICATED DATA

1 ENVIRONMENTS, DATA REQUIREMENTS, ESTABLISHMENT AND USAGE OF
2 MASKED ENROLLEE IDENTIFICATION NUMBERS, AND DATA SUBMISSION
3 DEADLINES.

4 (d) AN ELIGIBLE CARRIER SHALL MAINTAIN DOCUMENTS AND
5 RECORDS SUFFICIENT TO SUBSTANTIATE THE REQUESTS FOR REINSURANCE
6 PAYMENTS MADE PURSUANT TO THIS SECTION FOR AT LEAST SIX YEARS.
7 AN ELIGIBLE CARRIER SHALL ALSO MAKE THOSE DOCUMENTS AND
8 RECORDS AVAILABLE UPON REQUEST FROM THE COMMISSIONER FOR
9 PURPOSES OF VERIFICATION, INVESTIGATION, AUDIT, OR OTHER REVIEW OF
10 REINSURANCE PAYMENT REQUESTS.

11 (e) THE COMMISSIONER MAY HAVE AN ELIGIBLE CARRIER AUDITED
12 TO ASSESS THE CARRIER'S COMPLIANCE WITH THIS SECTION. THE ELIGIBLE
13 CARRIER SHALL ENSURE THAT ITS CONTRACTORS, SUBCONTRACTORS, AND
14 AGENTS COOPERATE WITH ANY AUDIT UNDER THIS SECTION.

15 (4) (a) (I) THE COMMISSIONER SHALL CALCULATE EACH
16 REINSURANCE PAYMENT BASED ON AN ELIGIBLE CARRIER'S INCURRED
17 CLAIMS COSTS FOR A COVERED PERSON'S COVERED BENEFITS IN THE
18 APPLICABLE BENEFIT YEAR. IF THE CLAIMS COSTS DO NOT EXCEED THE
19 ATTACHMENT POINT FOR THE APPLICABLE BENEFIT YEAR, THE CARRIER IS
20 NOT ELIGIBLE FOR A REINSURANCE PAYMENT.

21 (II) IF THE CLAIMS COSTS EXCEED THE ATTACHMENT POINT FOR
22 THE APPLICABLE BENEFIT YEAR, THE COMMISSIONER SHALL CALCULATE
23 THE REINSURANCE PAYMENT AS THE PRODUCT OF THE COINSURANCE RATE
24 AND THE ELIGIBLE CARRIER'S CLAIMS COSTS UP TO THE REINSURANCE CAP.

25 (b) A CARRIER IS INELIGIBLE FOR REINSURANCE PAYMENTS FOR
26 CLAIMS COSTS FOR A COVERED PERSON'S COVERED BENEFITS IN THE
27 APPLICABLE BENEFIT YEAR THAT EXCEED THE REINSURANCE CAP.

1 (c) THE COMMISSIONER SHALL ENSURE THAT REINSURANCE
2 PAYMENTS MADE TO ELIGIBLE CARRIERS DO NOT EXCEED THE TOTAL
3 AMOUNT PAID BY THE ELIGIBLE CARRIER FOR ANY ELIGIBLE CLAIM.
4 "TOTAL AMOUNT PAID BY THE ELIGIBLE CARRIER FOR ANY ELIGIBLE
5 CLAIM" MEANS THE AMOUNT PAID BY THE ELIGIBLE CARRIER BASED ON
6 THE ALLOWED AMOUNT LESS ANY DEDUCTIBLE, COINSURANCE, OR
7 COPAYMENT, AS OF THE TIME THE DATA ARE SUBMITTED OR MADE
8 ACCESSIBLE UNDER SUBSECTION (3)(c) OF THIS SECTION.

9 (d) AN ELIGIBLE CARRIER MAY REQUEST THAT THE COMMISSIONER
10 RECONSIDER A DECISION ON THE CARRIER'S REQUEST FOR REINSURANCE
11 PAYMENTS WITHIN THIRTY DAYS AFTER NOTICE OF THE COMMISSIONER'S
12 DECISION. A FINAL ACTION OR ORDER OF THE COMMISSIONER UNDER THIS
13 SUBSECTION (4)(d) IS SUBJECT TO JUDICIAL REVIEW IN ACCORDANCE WITH
14 SECTION 24-4-106.

15 **10-16-1105. Accounting - reports - audits.** (1) THE
16 COMMISSIONER SHALL MAINTAIN AN ACCOUNTING FOR EACH BENEFIT
17 YEAR OF ALL:

18 (a) MONEY APPROPRIATED FOR REINSURANCE PAYMENTS AND
19 ADMINISTRATIVE AND OPERATIONAL EXPENSES;

20 (b) REQUESTS FOR REINSURANCE PAYMENTS RECEIVED FROM
21 ELIGIBLE CARRIERS;

22 (c) REINSURANCE PAYMENTS MADE TO ELIGIBLE CARRIERS; AND

23 (d) ADMINISTRATIVE AND OPERATIONAL EXPENSES INCURRED FOR
24 THE REINSURANCE PROGRAM.

25 (2) BY NOVEMBER 1 OF THE YEAR FOLLOWING THE APPLICABLE
26 BENEFIT YEAR OR SIXTY CALENDAR DAYS AFTER THE FINAL DISBURSEMENT
27 OF REINSURANCE PAYMENTS FOR THE APPLICABLE BENEFIT YEAR,

1 WHICHEVER IS LATER, THE COMMISSIONER SHALL MAKE AVAILABLE TO
2 THE PUBLIC A REPORT SUMMARIZING THE REINSURANCE PROGRAM'S
3 OPERATIONS FOR EACH BENEFIT YEAR. THE COMMISSIONER SHALL POST
4 THE REPORT ON THE DIVISION'S WEBSITE.

5 (3) THE REINSURANCE PROGRAM IS SUBJECT TO AUDIT BY THE
6 STATE AUDITOR. THE COMMISSIONER SHALL ENSURE THAT ITS
7 CONTRACTORS, SUBCONTRACTORS, AND AGENTS COOPERATE WITH THE
8 AUDIT.

9 **10-16-1106. Funding for reinsurance program - sources -**
10 **permitted uses - reinsurance program cash fund - calculation of total**
11 **funding for program. (1) (a) THERE IS HEREBY CREATED IN THE STATE**

12 TREASURY THE REINSURANCE PROGRAM CASH FUND, WHICH CONSISTS OF:

13 (I) FEDERAL PASS-THROUGH FUNDING GRANTED PURSUANT TO 42
14 U.S.C. SEC. 18052 (a)(3) OR ANY OTHER FEDERAL FUNDS THAT ARE MADE
15 AVAILABLE FOR THE REINSURANCE PROGRAM;

16 (II) SPECIAL FEES ASSESSED AGAINST INSURERS AS PROVIDED IN
17 SECTION 10-16-1107; AND

18 (III) ANY MONEY ACCEPTED THROUGH GIFTS, GRANTS, OR
19 DONATIONS FOR OPERATION, RESERVES, AND SUSTAINABILITY OF THE
20 REINSURANCE PROGRAM.

21 (b) ALL MONEY DEPOSITED OR PAID INTO THE REINSURANCE
22 PROGRAM CASH FUND, INCLUDING INTEREST OR INCOME EARNED ON THE
23 INVESTMENT OF MONEY IN THE FUND, IS CONTINUOUSLY AVAILABLE AND
24 APPROPRIATED TO THE DIVISION TO BE EXPENDED IN ACCORDANCE WITH
25 THIS PART 11. ANY INTEREST OR INCOME EARNED ON THE INVESTMENT OF
26 MONEY IN THE FUND SHALL BE CREDITED TO THE FUND.

27 (c) THE REINSURANCE PROGRAM CASH FUND IS PART OF THE

1 REINSURANCE PROGRAM ENTERPRISE ESTABLISHED PURSUANT TO SECTION
2 10-16-1104 (1)(b).

3 (2) THE COMMISSIONER MAY EXPEND MONEY RECEIVED FROM THE
4 SOURCES SPECIFIED IN SUBSECTION (1) OF THIS SECTION FOR:

5 (a) REINSURANCE PAYMENTS UNDER THE REINSURANCE PROGRAM;
6 AND

7 (b) ADMINISTRATIVE AND OPERATING EXPENSES OF THE
8 REINSURANCE PROGRAM, THE COMMISSIONER, AND THE DIVISION UNDER
9 THIS PART 11.

10 **10-16-1107. Special assessments against insurers - rules -**

11 **definition.** (1) (a) (I) FOR THE 2019 BENEFIT YEAR, THE COMMISSIONER
12 SHALL ASSESS SPECIAL FEES AGAINST INSURERS TO PROVIDE FUNDING FOR
13 THE REINSURANCE PROGRAM. THE COMMISSIONER SHALL CALCULATE THE
14 FEES BASED ON THE AMOUNT NECESSARY TO REDUCE CARRIERS' CLAIMS
15 COSTS BY THE AMOUNTS SPECIFIED IN SECTION 10-16-1104 (2), BUT THE
16 COMMISSIONER SHALL SET THE FEES AT AN AMOUNT THAT DOES NOT
17 EXCEED TWO PERCENT OF PREMIUMS COLLECTED BY INSURERS DESCRIBED
18 IN SUBSECTION (5)(a) OF THIS SECTION AND EIGHT PERCENT OF PREMIUMS
19 COLLECTED BY INSURERS DESCRIBED IN SUBSECTION (5)(b) OF THIS
20 SECTION.

21 (II) FOR THE 2020 BENEFIT YEAR AND EACH BENEFIT YEAR
22 THEREAFTER, THE COMMISSIONER SHALL DETERMINE THE AMOUNT OF THE
23 SPECIAL FEES ASSESSED AGAINST INSURERS, WHICH SPECIAL FEES MUST
24 NOT EXCEED THE AMOUNTS SPECIFIED IN SUBSECTION (1)(a)(I) OF THIS
25 SECTION, BASED ON THE CLAIMS SUBMITTED UNDER THE REINSURANCE
26 PROGRAM AND ADMINISTRATIVE AND OPERATING EXPENSES OF THE
27 PROGRAM IN THE IMMEDIATELY PRECEDING BENEFIT YEAR, THE EXPECTED

1 ANNUAL GROWTH IN THE PROGRAM, THE PAYMENT PARAMETERS SET BY
2 THE COMMISSIONER PURSUANT TO SECTION 10-16-1104 (2) FOR THE
3 APPLICABLE BENEFIT YEAR, AND OTHER ACTUARIAL CONSIDERATIONS.

4 (b) THE COMMISSIONER SHALL USE THE SPECIAL FEES ASSESSED
5 PURSUANT TO THIS SECTION TO PAY THE ADMINISTRATIVE AND OPERATING
6 EXPENSES OF THE REINSURANCE PROGRAM, INCLUDING REINSURANCE
7 PAYMENTS AND EXPENSES OF THE PROGRAM, THE COMMISSIONER, AND THE
8 DIVISION.

9 (c) THE COMMISSIONER SHALL TRANSMIT SPECIAL FEES COLLECTED
10 PURSUANT TO THIS SECTION TO THE STATE TREASURER FOR DEPOSIT IN THE
11 REINSURANCE PROGRAM CASH FUND CREATED IN SECTION 10-16-1106.

12 (2) THE COMMISSIONER SHALL PROMULGATE RULES TO IMPLEMENT
13 THIS SECTION, INCLUDING:

14 (a) THE REASONABLE TIME PERIODS FOR THE BILLING AND
15 COLLECTION OF THE SPECIAL FEES;

16 (b) ANY PROCEDURES FOR THE APPROVAL OF DEFERRAL OR
17 ABATEMENT OF SPECIAL FEES, IN WHOLE OR IN PART; AND

18 (c) DETERMINING THE ASSESSMENT AMOUNT IN ACCORDANCE
19 WITH SUBSECTION (1)(a) OF THIS SECTION.

20 (3) AMOUNTS ASSESSED AGAINST INSURERS TO BE PAID TO THE
21 COMMISSIONER PURSUANT TO THIS SECTION ARE NOT CONSIDERED
22 PREMIUMS FOR ANY PURPOSE, INCLUDING THE COMPUTATION OF GROSS
23 PREMIUM TAX OR AGENTS' COMMISSIONS.

24 (4) IF AN INSURER FAILS TO PAY A SPECIAL FEE TO THE
25 COMMISSIONER IN ACCORDANCE WITH THE TIME PERIODS ESTABLISHED BY
26 RULE, THE COMMISSIONER MAY USE ALL POWERS CONFERRED BY THE
27 INSURANCE LAWS OF THIS STATE TO ENFORCE PAYMENT OF THE SPECIAL

1 FEES.

2 (5) AS USED IN THIS SECTION, "INSURER" MEANS AN ENTITY THAT:

3 (a) PROVIDES GROUP OR INDIVIDUAL HEALTH BENEFIT PLANS
4 SUBJECT TO STATE INSURANCE REGULATION IN THIS STATE, EXCLUDING
5 PLANS OR BENEFITS PROVIDED UNDER THE MEDICAL ASSISTANCE PROGRAM
6 ESTABLISHED UNDER ARTICLES 4, 5, AND 6 OF TITLE 25.5 OR THE
7 CHILDREN'S BASIC HEALTH PLAN ESTABLISHED UNDER ARTICLE 8 OF TITLE
8 25.5; OR

9 (b) DIRECTLY OR INDIRECTLY PROVIDES STOP-LOSS OR EXCESS
10 LOSS INSURANCE TO A SELF-INSURED GROUP HEALTH PLAN, INCLUDING A
11 PROPERTY AND CASUALTY INSURANCE COMPANY.

12 **10-16-1108. State innovation waiver - federal funding -**

13 **Colorado reinsurance program.** (1) (a) FOR PURPOSES OF
14 IMPLEMENTING AND OPERATING THE COLORADO REINSURANCE PROGRAM
15 AS SET FORTH IN THIS PART 11 FOR PLAN YEARS STARTING ON OR AFTER
16 JANUARY 1, 2019, THE COMMISSIONER MAY APPLY TO THE SECRETARY OF
17 THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR:

18 (I) A FIVE-YEAR STATE INNOVATION WAIVER IN ACCORDANCE
19 WITH SECTION 1332 OF THE FEDERAL ACT, CODIFIED AT 42 U.S.C. SEC.
20 18052, AND 45 CFR 155;

21 (II) FEDERAL FUNDS FOR THE COLORADO REINSURANCE PROGRAM;
22 OR

23 (III) A STATE INNOVATION WAIVER AND FEDERAL FUNDS.

24 (b) AN APPLICATION FOR A STATE INNOVATION WAIVER OR FOR
25 FEDERAL FUNDS MUST CLEARLY STATE THAT OPERATION OF THE
26 COLORADO REINSURANCE PROGRAM IS CONTINGENT ON APPROVAL OF THE
27 WAIVER OR FUNDING REQUEST.

1 (c) THE COMMISSIONER SHALL ENSURE THAT A WAIVER
2 APPLICATION SUBMITTED PURSUANT TO THIS SECTION COMPLIES WITH THE
3 REQUIREMENTS SPECIFIED IN SECTION 1332 OF THE FEDERAL ACT,
4 CODIFIED AT 42 U.S.C. SEC. 18052, AND 45 CFR 155.1308.

5 (d) THE COMMISSIONER SHALL INCLUDE IN A WAIVER APPLICATION
6 A REQUEST FOR A PASS-THROUGH OF FEDERAL FUNDING IN ACCORDANCE
7 WITH SECTION 1332 (a)(3) OF THE FEDERAL ACT, 42 U.S.C. SEC. 18052
8 (a)(3), TO ALLOW THE STATE TO OBTAIN AND USE, FOR PURPOSES OF
9 HELPING FINANCE THE COLORADO REINSURANCE PROGRAM, ANY FEDERAL
10 FUNDS THAT WOULD, ABSENT THE WAIVER, BE USED TO PAY ADVANCE
11 PAYMENT TAX CREDITS AND COST-SHARING REDUCTIONS AUTHORIZED
12 UNDER THE FEDERAL ACT.

13 (2) THE COMMISSIONER SHALL NOTIFY THE FOLLOWING IN WRITING
14 OF ANY FEDERAL ACTIONS REGARDING THE WAIVER OR FUNDING REQUEST:

15 (a) THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY;

16 (b) THE SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES OR
17 ANY SUCCESSOR COMMITTEE; AND

18 (c) THE HOUSE OF REPRESENTATIVES COMMITTEES ON HEALTH,
19 INSURANCE, AND ENVIRONMENT AND PUBLIC HEALTH CARE AND HUMAN
20 SERVICES OR ANY SUCCESSOR COMMITTEES.

21 **10-16-1109. Repeal of part - notice to revisor of statutes.** THIS
22 PART 11 WILL BE REPEALED IF THE SECRETARY OF THE UNITED STATES
23 DEPARTMENT OF HEALTH AND HUMAN SERVICES DENIES THE WAIVER OR
24 FUNDING REQUESTED UNDER SECTION 10-16-1108. THE COMMISSIONER OF
25 INSURANCE SHALL NOTIFY THE REVISOR OF STATUTES IN WRITING IF THE
26 CONDITION SPECIFIED IN THIS SECTION OCCURS BY E-MAILING THE NOTICE
27 TO REVISOROFSTATUTES.GA@STATE.CO.US. THIS PART 11 IS REPEALED,

1 EFFECTIVE UPON THE DATE IDENTIFIED IN THE NOTICE THAT THE WAIVER
2 OR FUNDING WAS DENIED OR, IF THE NOTICE DOES NOT SPECIFY THAT
3 DATE, UPON THE DATE OF THE NOTICE TO THE REVISOR OF STATUTES.

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