

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

**ENGROSSED**

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

LLS NO. 18-0769.01 Christy Chase x2008

**HOUSE BILL 18-1392**

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**HOUSE SPONSORSHIP**

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

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**Coram and Donovan,** Aguilar

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**House Committees**

Health, Insurance, & Environment  
Finance  
Appropriations

**Senate Committees**

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**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**  
109               **MAKING THE PROGRAM CONTINGENT UPON WAIVER OR FUNDING**  
110               **APPROVAL, AND MAKING AN APPROPRIATION.**

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**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.*

HOUSE  
Amended 2nd Reading  
April 27, 2018



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 REGION NUMBERS FIVE  
7 AND NINE;

8 (II) A REDUCTION IN CLAIMS COSTS OF BETWEEN TWENTY AND  
9 TWENTY-FIVE PERCENT IN GEOGRAPHIC RATING REGION NUMBERS FOUR,  
10 SIX, SEVEN, AND EIGHT; AND

11 (III) A REDUCTION IN CLAIMS COSTS OF BETWEEN FIFTEEN AND  
12 TWENTY PERCENT IN GEOGRAPHIC RATING REGION NUMBERS ONE, TWO,  
13 AND THREE.

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

22 (I) PARTICIPATION AND COMPETITION BY CARRIERS IN THE  
23 INDIVIDUAL MARKET;

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

25 (III) PARTICIPATION AND COMPETITION BY PROVIDERS; AND

26 (IV) RATES IN THE INDIVIDUAL MARKET.

27 (c) IF THE AMOUNT OF MONEY FROM FUNDING SOURCES SPECIFIED

1 IN SECTION 10-16-1106 IS ANTICIPATED TO BE INADEQUATE TO FULLY  
2 FUND THE APPROVED PAYMENT PARAMETERS, THE COMMISSIONER SHALL  
3 ESTABLISH NEW PAYMENT PARAMETERS WITHIN THE AVAILABLE FUNDS.  
4 THE COMMISSIONER SHALL ALLOW AN ELIGIBLE CARRIER TO REVISE AN  
5 APPLICABLE RATE FILING FOR THE NEXT BENEFIT YEAR BASED ON THE  
6 FINAL PAYMENT PARAMETERS ESTABLISHED PURSUANT TO THIS  
7 SUBSECTION (2)(c) AND ON ACTUAL REINSURANCE PAYMENTS RECEIVED  
8 BY THE ELIGIBLE CARRIER.

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

12 (b) AN ELIGIBLE CARRIER MUST MAKE REQUESTS FOR  
13 REINSURANCE PAYMENTS IN ACCORDANCE WITH THE REQUIREMENTS  
14 ESTABLISHED BY THE COMMISSIONER.

15 (c) BY APRIL 30 OF THE YEAR FOLLOWING THE BENEFIT YEAR FOR  
16 WHICH REINSURANCE PAYMENTS ARE REQUESTED, AN ELIGIBLE CARRIER  
17 MUST PROVIDE THE COMMISSIONER WITH ACCESS TO THE DATA WITHIN THE  
18 DEDICATED DATA ENVIRONMENT ESTABLISHED BY THE ELIGIBLE CARRIER  
19 UNDER THE FEDERAL RISK ADJUSTMENT PROGRAM UNDER 42 U.S.C. SEC.  
20 18063. ELIGIBLE CARRIERS MUST SUBMIT AN ATTESTATION TO THE  
21 COMMISSIONER ASSERTING COMPLIANCE WITH THE DEDICATED DATA  
22 ENVIRONMENTS, DATA REQUIREMENTS, ESTABLISHMENT AND USAGE OF  
23 MASKED ENROLLEE IDENTIFICATION NUMBERS, AND DATA SUBMISSION  
24 DEADLINES.

25 (d) AN ELIGIBLE CARRIER SHALL MAINTAIN DOCUMENTS AND  
26 RECORDS SUFFICIENT TO SUBSTANTIATE THE REQUESTS FOR REINSURANCE  
27 PAYMENTS MADE PURSUANT TO THIS SECTION FOR AT LEAST SIX YEARS.

1 AN ELIGIBLE CARRIER SHALL ALSO MAKE THOSE DOCUMENTS AND  
2 RECORDS AVAILABLE UPON REQUEST FROM THE COMMISSIONER FOR  
3 PURPOSES OF VERIFICATION, INVESTIGATION, AUDIT, OR OTHER REVIEW OF  
4 REINSURANCE PAYMENT REQUESTS.

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

9 (4) (a) (I) THE COMMISSIONER SHALL CALCULATE EACH  
10 REINSURANCE PAYMENT BASED ON AN ELIGIBLE CARRIER'S INCURRED  
11 CLAIMS COSTS FOR A COVERED PERSON'S COVERED BENEFITS IN THE  
12 APPLICABLE BENEFIT YEAR. IF THE CLAIMS COSTS DO NOT EXCEED THE  
13 ATTACHMENT POINT FOR THE APPLICABLE BENEFIT YEAR, THE CARRIER IS  
14 NOT ELIGIBLE FOR A REINSURANCE PAYMENT.

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

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

22 (c) THE COMMISSIONER SHALL ENSURE THAT REINSURANCE  
23 PAYMENTS MADE TO ELIGIBLE CARRIERS DO NOT EXCEED THE TOTAL  
24 AMOUNT PAID BY THE ELIGIBLE CARRIER FOR ANY ELIGIBLE CLAIM.  
25 "TOTAL AMOUNT PAID BY THE ELIGIBLE CARRIER FOR ANY ELIGIBLE  
26 CLAIM" MEANS THE AMOUNT PAID BY THE ELIGIBLE CARRIER BASED ON  
27 THE ALLOWED AMOUNT LESS ANY DEDUCTIBLE, COINSURANCE, OR

1 COPAYMENT, AS OF THE TIME THE DATA ARE SUBMITTED OR MADE  
2 ACCESSIBLE UNDER SUBSECTION (3)(c) OF THIS SECTION.

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

9 **10-16-1105. Accounting - reports - audits.** (1) THE  
10 COMMISSIONER SHALL MAINTAIN AN ACCOUNTING FOR EACH BENEFIT  
11 YEAR OF ALL:

12 (a) MONEY APPROPRIATED FOR REINSURANCE PAYMENTS AND  
13 ADMINISTRATIVE AND OPERATIONAL EXPENSES;

14 (b) REQUESTS FOR REINSURANCE PAYMENTS RECEIVED FROM  
15 ELIGIBLE CARRIERS;

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

17 (d) ADMINISTRATIVE AND OPERATIONAL EXPENSES INCURRED FOR  
18 THE REINSURANCE PROGRAM.

19 (2) BY NOVEMBER 1 OF THE YEAR FOLLOWING THE APPLICABLE  
20 BENEFIT YEAR OR SIXTY CALENDAR DAYS AFTER THE FINAL DISBURSEMENT  
21 OF REINSURANCE PAYMENTS FOR THE APPLICABLE BENEFIT YEAR,  
22 WHICHEVER IS LATER, THE COMMISSIONER SHALL MAKE AVAILABLE TO  
23 THE PUBLIC A REPORT SUMMARIZING THE REINSURANCE PROGRAM'S  
24 OPERATIONS FOR EACH BENEFIT YEAR. THE COMMISSIONER SHALL POST  
25 THE REPORT ON THE DIVISION'S WEBSITE.

26 (3) THE REINSURANCE PROGRAM IS SUBJECT TO AUDIT BY THE  
27 STATE AUDITOR. THE COMMISSIONER SHALL ENSURE THAT ITS

1 CONTRACTORS, SUBCONTRACTORS, AND AGENTS COOPERATE WITH THE  
2 AUDIT.

3 (4) ON OR BEFORE NOVEMBER 1, 2019, AND ON OR BEFORE  
4 NOVEMBER 1 EACH YEAR THEREAFTER, THE DIVISION SHALL INCLUDE AN  
5 UPDATE REGARDING THE PROGRAM IN ITS REPORT TO THE MEMBERS OF THE  
6 APPLICABLE COMMITTEES OF REFERENCE IN THE SENATE AND HOUSE OF  
7 REPRESENTATIVES AS REQUIRED BY THE "STATE MEASUREMENT FOR  
8 ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART)  
9 GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF TITLE 2.

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

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

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

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

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

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

1 (c) THE REINSURANCE PROGRAM CASH FUND IS PART OF THE  
2 REINSURANCE PROGRAM ENTERPRISE ESTABLISHED PURSUANT TO SECTION  
3 10-16-1104 (1)(b).

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

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

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

11 **10-16-1107. Special assessments against insurers - rules -**

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

19 (II) FOR THE 2020 BENEFIT YEAR AND EACH BENEFIT YEAR  
20 THEREAFTER, THE COMMISSIONER SHALL DETERMINE THE AMOUNT OF THE  
21 SPECIAL FEES ASSESSED AGAINST INSURERS, WHICH SPECIAL FEES MUST  
22 NOT EXCEED THE AMOUNTS SPECIFIED IN SUBSECTION (1)(a)(I) OF THIS  
23 SECTION, BASED ON THE CLAIMS SUBMITTED UNDER THE REINSURANCE  
24 PROGRAM AND ADMINISTRATIVE AND OPERATING EXPENSES OF THE  
25 PROGRAM IN THE IMMEDIATELY PRECEDING BENEFIT YEAR, THE EXPECTED  
26 ANNUAL GROWTH IN THE PROGRAM, THE PAYMENT PARAMETERS SET BY  
27 THE COMMISSIONER PURSUANT TO SECTION 10-16-1104 (2) FOR THE

1 APPLICABLE BENEFIT YEAR, AND OTHER ACTUARIAL CONSIDERATIONS.

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

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

10 (2) THE COMMISSIONER SHALL PROMULGATE RULES TO IMPLEMENT  
11 THIS SECTION, INCLUDING:

12 (a) THE REASONABLE TIME PERIODS FOR THE BILLING AND  
13 COLLECTION OF THE SPECIAL FEES;

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

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

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

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

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

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

7 **10-16-1108. State innovation waiver - federal funding -**  
8 **Colorado reinsurance program.** (1) (a) FOR PURPOSES OF  
9 IMPLEMENTING AND OPERATING THE COLORADO REINSURANCE PROGRAM  
10 AS SET FORTH IN THIS PART 11 FOR PLAN YEARS STARTING ON OR AFTER  
11 JANUARY 1, 2019, THE COMMISSIONER MAY APPLY TO THE SECRETARY OF  
12 THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR:

13 (I) A FIVE-YEAR STATE INNOVATION WAIVER IN ACCORDANCE  
14 WITH SECTION 1332 OF THE FEDERAL ACT, CODIFIED AT 42 U.S.C. SEC.  
15 18052, AND 45 CFR 155;

16 (II) FEDERAL FUNDS FOR THE COLORADO REINSURANCE PROGRAM;  
17 OR

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

19 (b) AN APPLICATION FOR A STATE INNOVATION WAIVER OR FOR  
20 FEDERAL FUNDS MUST CLEARLY STATE THAT OPERATION OF THE  
21 COLORADO REINSURANCE PROGRAM IS CONTINGENT ON APPROVAL OF THE  
22 WAIVER OR FUNDING REQUEST.

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

27 (d) THE COMMISSIONER SHALL INCLUDE IN A WAIVER APPLICATION

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

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

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

11 (b) THE SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES OR  
12 ANY SUCCESSOR COMMITTEE; AND

13 (c) THE HOUSE OF REPRESENTATIVES COMMITTEES ON HEALTH,  
14 INSURANCE, AND ENVIRONMENT AND PUBLIC HEALTH CARE AND HUMAN  
15 SERVICES OR ANY SUCCESSOR COMMITTEES.

16 **10-16-1109. Repeal of part - notice to revisor of statutes.**

17 (1) THIS PART 11 WILL BE REPEALED IF THE SECRETARY OF THE UNITED  
18 STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES DENIES THE  
19 WAIVER OR FUNDING REQUESTED UNDER SECTION 10-16-1108. THE  
20 COMMISSIONER OF INSURANCE SHALL NOTIFY THE REVISOR OF STATUTES  
21 IN WRITING IF THE CONDITION SPECIFIED IN THIS SECTION OCCURS BY  
22 E-MAILING THE NOTICE TO REVISOROFSTATUTES.GA@STATE.CO.US. THIS  
23 PART 11 IS REPEALED, EFFECTIVE UPON THE DATE IDENTIFIED IN THE  
24 NOTICE THAT THE WAIVER OR FUNDING WAS DENIED OR, IF THE NOTICE  
25 DOES NOT SPECIFY THAT DATE, UPON THE DATE OF THE NOTICE TO THE  
26 REVISOR OF STATUTES.

27 (2) THIS PART 11 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2023.

1 BEFORE ITS REPEAL, THIS PART 11 IS SCHEDULED FOR REVIEW IN  
2 ACCORDANCE WITH SECTION 24-34-104.

3 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, add  
4 (24)(a)(V) as follows:

5 **24-34-104. General assembly review of regulatory agencies**  
6 **and functions for repeal, continuation, or reestablishment - legislative**  
7 **declaration - repeal.** (24) (a) The following agencies, functions, or both,  
8 are scheduled for repeal on September 1, 2023:

9 (V) THE REINSURANCE PROGRAM AUTHORIZED UNDER PART 11 OF  
10 ARTICLE 16 OF TITLE 10.

11 **SECTION 3. Appropriation.** (1) For the 2018-19 state fiscal  
12 year, \$15,000 is appropriated to the department of regulatory agencies for  
13 use by the division of insurance. This appropriation is from the division  
14 of insurance cash fund created in section 10-1-103 (3), C.R.S. To  
15 implement this act, the division may use this appropriation for personal  
16 services.

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