

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

PREAMENDED

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

LLS NO. 19-0513.02 Christy Chase x2008

HOUSE BILL 19-1168

HOUSE SPONSORSHIP

McCluskie and Rich, Buckner, Esgar, Kennedy, McLachlan, Roberts, Soper

SENATE SPONSORSHIP

Donovan and Rankin,

House Committees

Health & Insurance
Appropriations

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, REQUEST FEDERAL FUNDS, OR BOTH, TO**
108 **ENABLE THE STATE TO IMPLEMENT THE PROGRAM AND MAKING**
109 **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 WHERE PREMIUMS ARE CONSIDERABLY HIGHER THAN IN METROPOLITAN
2 AREAS OF THE STATE AND THERE IS A LACK OF COMPETITION AMONG
3 HEALTH CARE PROVIDERS AND CARRIERS;

4 (d) BECAUSE OF THE FINANCIAL BURDEN HIGH-COST HEALTH
5 INSURANCE PLACES ON CONSUMERS IN RURAL AREAS, A CONSIDERABLE
6 NUMBER OF THESE COST-BURDENED CONSUMERS MAY NOT PURCHASE
7 HEALTH INSURANCE, EXACERBATING THE PROBLEMS OF FEW CARRIERS,
8 FEW PLAN OPTIONS, AND HIGH HEALTH INSURANCE COSTS IN RURAL
9 REGIONS, AS WELL AS INCREASING THE NUMBER OF UNINSURED
10 COLORADANS; AND

11 (e) COLORADO HAS HISTORICALLY BEEN A NATIONAL LEADER IN
12 HEALTH CARE INNOVATION, AND IT IS IMPORTANT TO USE THAT
13 INNOVATIVE SPIRIT TO ADDRESS THE RISING COSTS OF HEALTH CARE IN THE
14 STATE BY DIRECTING THE COMMISSIONER OF INSURANCE TO CREATE A
15 REINSURANCE PROGRAM THAT WILL:

16 (I) MAKE PRIVATE HEALTH INSURANCE IN THE INDIVIDUAL
17 MARKET MORE ACCESSIBLE AND AFFORDABLE;

18 (II) ENCOURAGE PARTICIPATION AND COMPETITION BY CARRIERS
19 THROUGHOUT THE STATE, BUT PARTICULARLY IN RURAL AREAS OF THE
20 STATE, IN ORDER TO GIVE CONSUMERS THE ABILITY TO SEEK VALUE IN
21 HEALTH INSURANCE COVERAGE;

22 (III) DECREASE COSTS OF CARE, LEADING TO LOWER PREMIUMS
23 AND RESTRAINING, IF NOT DECREASING, THE GROWTH IN FEDERAL
24 SPENDING COMMITMENTS IN THE INDIVIDUAL MARKET; AND

25 (IV) SUPPORT AND EMPOWER, AND INCREASE ACCESS TO
26 AFFORDABLE, HIGH-VALUE HEALTH INSURANCE FOR, CONSUMERS WHO ARE
27 INELIGIBLE FOR PREMIUM TAX CREDIT SUBSIDIES WHILE MINIMIZING ANY

1 POTENTIAL NEGATIVE EFFECTS ON ACCESS TO AFFORDABLE, HIGH-VALUE
2 INSURANCE FOR CONSUMERS WHO ARE ELIGIBLE FOR PREMIUM TAX CREDIT
3 SUBSIDIES AND COST SHARING REDUCTIONS.

4 **10-16-1103. Definitions.** AS USED IN THIS PART 11, UNLESS THE
5 CONTEXT OTHERWISE REQUIRES:

6 (1) "ATTACHMENT POINT" MEANS THE AMOUNT SET BY THE
7 COMMISSIONER PURSUANT TO SECTION 10-16-1105 (2) FOR CLAIMS COSTS
8 INCURRED BY AN ELIGIBLE CARRIER FOR A COVERED PERSON'S COVERED
9 BENEFITS IN A BENEFIT YEAR, ABOVE WHICH THE CLAIMS COSTS FOR
10 BENEFITS ARE ELIGIBLE FOR REINSURANCE PAYMENTS UNDER THE
11 REINSURANCE PROGRAM.

12 (2) "BEHAVIORAL HEALTH CARE SERVICES" MEANS SERVICES FOR
13 THE PREVENTION, DIAGNOSIS, AND TREATMENT OF, AND THE RECOVERY
14 FROM, BEHAVIORAL, MENTAL HEALTH, OR SUBSTANCE USE DISORDERS.

15 (3) "BENEFIT YEAR" MEANS THE CALENDAR YEAR FOR WHICH AN
16 ELIGIBLE CARRIER PROVIDES COVERAGE THROUGH AN INDIVIDUAL HEALTH
17 BENEFIT PLAN.

18 (4) "COINSURANCE RATE" MEANS THE RATE SET BY THE
19 COMMISSIONER PURSUANT TO SECTION 10-16-1105 (2) AT WHICH THE
20 REINSURANCE PROGRAM WILL REIMBURSE AN ELIGIBLE CARRIER FOR
21 CLAIMS INCURRED FOR A COVERED PERSON'S COVERED BENEFITS IN A
22 BENEFIT YEAR, WHICH CLAIMS EXCEED THE ATTACHMENT POINT BUT ARE
23 BELOW THE REINSURANCE CAP.

24 (5) "COMMISSIONER" MEANS THE COMMISSIONER OF INSURANCE,
25 THE COMMISSIONER'S DEPUTIES, OR THE DIVISION OF INSURANCE, AS
26 APPROPRIATE.

27 (6) "ELIGIBLE CARRIER" MEANS A CARRIER THAT:

1 (a) OFFERS INDIVIDUAL HEALTH BENEFIT PLANS THAT COMPLY
2 WITH THE FEDERAL ACT; AND

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

5 (7) "FEE SCHEDULE" MEANS THE FEE SCHEDULE ESTABLISHED BY
6 THE COMMISSIONER PURSUANT TO SECTION 10-16-1105 (5).

7 (8) "MEDICARE" MEANS FEDERAL INSURANCE OR ASSISTANCE
8 PROVIDED BY THE "HEALTH INSURANCE FOR THE AGED ACT", TITLE XVIII
9 OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, 42 U.S.C. SEC.
10 1395 ET SEQ.

11 (9) "MEDICARE REIMBURSEMENT RATES" MEANS THE SCHEDULE
12 OF REIMBURSEMENT RATES FOR PARTICULAR HEALTH CARE SERVICES
13 PROVIDED UNDER MEDICARE.

14 (10) "PAYMENT PARAMETERS" MEANS THE ATTACHMENT POINT,
15 REINSURANCE CAP, COINSURANCE RATE, AND FEE SCHEDULE FOR THE
16 REINSURANCE PROGRAM.

17 (11) "PRIMARY CARE SERVICES" MEANS HEALTH SERVICES
18 REGARDING FAMILY MEDICINE, GENERAL PRACTICE, GENERAL INTERNAL
19 MEDICINE, PEDIATRICS, GENERAL OBSTETRICS AND GYNECOLOGY, ORAL
20 HEALTH, OR MENTAL HEALTH THAT ARE PROVIDED BY HEALTH CARE
21 PROFESSIONALS.

22 (12) "REINSURANCE CAP" MEANS THE AMOUNT SET BY THE
23 COMMISSIONER PURSUANT TO SECTION 10-16-1105 (2) FOR CLAIMS COSTS
24 INCURRED BY AN ELIGIBLE CARRIER FOR A COVERED PERSON'S COVERED
25 BENEFITS, ABOVE WHICH AMOUNT THE CLAIMS COSTS FOR BENEFITS ARE
26 NO LONGER ELIGIBLE FOR REINSURANCE PAYMENTS.

27 (13) "REINSURANCE PAYMENT" MEANS AN AMOUNT PAID TO AN

1 ELIGIBLE CARRIER UNDER THE REINSURANCE PROGRAM.

2 (14) "REINSURANCE PROGRAM" OR "PROGRAM" MEANS THE
3 COLORADO REINSURANCE PROGRAM ESTABLISHED UNDER SECTION
4 10-16-1105.

5 (15) "STATE INNOVATION WAIVER" MEANS A WAIVER OF ONE OR
6 MORE REQUIREMENTS OF THE FEDERAL ACT AUTHORIZED BY SECTION 1332
7 OF THE FEDERAL ACT, CODIFIED IN 42 U.S.C. SEC. 18052, AND APPLICABLE
8 FEDERAL REGULATIONS.

9 **10-16-1104. Commissioner powers and duties - rules - study**
10 **and report.** (1) THE COMMISSIONER HAS ALL POWERS NECESSARY TO
11 IMPLEMENT THIS PART 11 AND IS SPECIFICALLY AUTHORIZED TO:

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

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

19 (c) ESTABLISH ADMINISTRATIVE AND ACCOUNTING PROCEDURES
20 FOR THE OPERATION OF THE REINSURANCE PROGRAM;

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

23 (e) ESTABLISH OR ADJUST THE PAYMENT PARAMETERS IN
24 ACCORDANCE WITH SECTION 10-16-1105 (2) FOR EACH BENEFIT YEAR;

25 (f) ESTABLISH A FEE SCHEDULE, IN ACCORDANCE WITH SECTION
26 10-16-1105 (5), SETTING THE AMOUNT THAT PROVIDERS WILL BE
27 REIMBURSED FOR SERVICES PROVIDED TO COVERED PERSONS WHOSE

1 CLAIMS COSTS FOR COVERED BENEFITS IN THE APPLICABLE BENEFIT YEAR
2 EXCEED THE APPLICABLE ATTACHMENT POINT AND FOR WHICH AN
3 ELIGIBLE CARRIER SUBMITS A CLAIM FOR REINSURANCE PAYMENTS UNDER
4 THE PROGRAM;

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

8 (h) APPLY FOR, ACCEPT, ADMINISTER, AND EXPEND GIFTS, GRANTS,
9 AND DONATIONS AND ANY FEDERAL FUNDS THAT MAY BECOME AVAILABLE
10 FOR THE REINSURANCE PROGRAM; AND

11 (i) ADOPT RULES AS NECESSARY TO IMPLEMENT, ADMINISTER, AND
12 ENFORCE THIS PART 11, INCLUDING RULES NECESSARY TO ALIGN STATE
13 LAW WITH ANY FEDERAL PROGRAM AND RULES AS SPECIFIED IN SECTION
14 10-16-1105 (5)(d) TO EXCLUDE CERTAIN HOSPITALS FROM THE FEE
15 SCHEDULE. THE RULES SHALL BE ADOPTED IN ACCORDANCE WITH THE
16 "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24,
17 INCLUDING THE REQUIREMENT TO ESTABLISH A REPRESENTATIVE GROUP
18 OF PARTICIPANTS PURSUANT TO SECTION 24-4-103 (2).

19 (2) IF THE REINSURANCE PROGRAM IS APPROVED PURSUANT TO
20 SECTION 10-16-1108, THE COMMISSIONER, DURING IMPLEMENTATION OF
21 THE PROGRAM, SHALL EVALUATE THE EFFECT OF THE PROGRAM ON ACCESS
22 TO AFFORDABLE, HIGH-VALUE HEALTH INSURANCE FOR CONSUMERS WHO
23 ARE ELIGIBLE FOR PREMIUM TAX CREDIT SUBSIDIES AND COST SHARING
24 REDUCTIONS AND MINIMIZE ANY POTENTIAL NEGATIVE EFFECTS ON THOSE
25 CONSUMERS. WITHIN ONE HUNDRED TWENTY DAYS FOLLOWING THE END
26 OF THE SECOND FULL YEAR OF OPERATION OF THE PROGRAM, THE
27 COMMISSIONER SHALL COMPLETE A STUDY OF AND ISSUE A REPORT ON THE

1 EFFECTS OF THE PROGRAM ON ACCESS TO AFFORDABLE, HIGH-VALUE
2 HEALTH INSURANCE FOR CONSUMERS WHO ARE ELIGIBLE FOR PREMIUM
3 TAX CREDIT SUBSIDIES AND COST SHARING REDUCTIONS. THE
4 COMMISSIONER SHALL POST THE REPORT ON THE DIVISION'S WEBSITE AND
5 SUBMIT THE REPORT TO THE GOVERNOR, THE SENATE COMMITTEE ON
6 HEALTH AND HUMAN SERVICES OR ITS SUCCESSOR COMMITTEE, AND THE
7 HOUSE OF REPRESENTATIVES HEALTH AND INSURANCE COMMITTEE OR ITS
8 SUCCESSOR COMMITTEE.

9 **10-16-1105. Reinsurance program - creation - enterprise**
10 **status - subject to waiver or funding approval - operation - payment**
11 **parameters - calculation of reinsurance payments - eligible carrier**
12 **requests - fee schedule - rules - definition.** (1) (a) THERE IS HEREBY
13 CREATED IN THE DIVISION THE COLORADO REINSURANCE PROGRAM TO
14 PROVIDE REINSURANCE PAYMENTS TO ELIGIBLE CARRIERS.
15 IMPLEMENTATION AND OPERATION OF THE REINSURANCE PROGRAM IS
16 CONTINGENT UPON APPROVAL OF THE STATE INNOVATION WAIVER OR
17 FEDERAL FUNDING REQUEST SUBMITTED BY THE COMMISSIONER IN
18 ACCORDANCE WITH SECTION 10-16-1108.

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

1 (II) SUBJECT TO APPROVAL BY THE GENERAL ASSEMBLY, EITHER
2 BY BILL OR JOINT RESOLUTION, AND AFTER APPROVAL BY THE GOVERNOR
3 PURSUANT TO SECTION 39 OF ARTICLE V OF THE STATE CONSTITUTION, THE
4 COMMISSIONER, ON BEHALF OF THE REINSURANCE PROGRAM, IS HEREBY
5 AUTHORIZED TO ISSUE REVENUE BONDS FOR THE EXPENSES OF THE
6 PROGRAM, SECURED BY REVENUES OF THE PROGRAM.

7 (c) IF THE STATE INNOVATION WAIVER OR FEDERAL FUNDING
8 REQUEST SUBMITTED BY THE COMMISSIONER PURSUANT TO SECTION
9 10-16-1108 IS APPROVED, THE COMMISSIONER SHALL IMPLEMENT AND
10 OPERATE THE REINSURANCE PROGRAM IN ACCORDANCE WITH THIS
11 SECTION.

12 (d) THE COMMISSIONER SHALL COLLECT OR ACCESS DATA FROM
13 EACH ELIGIBLE CARRIER AS NECESSARY TO DETERMINE REINSURANCE
14 PAYMENTS, ACCORDING TO THE DATA REQUIREMENTS UNDER SUBSECTION
15 (3)(c) OF THIS SECTION.

16 (e) (I) ON A QUARTERLY BASIS DURING THE APPLICABLE BENEFIT
17 YEAR, EACH ELIGIBLE CARRIER SHALL REPORT TO THE COMMISSIONER ITS
18 CLAIMS COSTS THAT EXCEED THE ATTACHMENT POINT FOR THAT BENEFIT
19 YEAR AND SHALL ATTEST TO THE COMMISSIONER THAT THE CARRIER PAID
20 CLAIMS ABOVE THE ATTACHMENT POINT AT THE RATES SPECIFIED IN THE
21 FEE SCHEDULE.

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

1 ELIGIBLE CARRIER.

2 (2) (a) FOR PURPOSES OF DETERMINING ELIGIBILITY FOR AND
3 CALCULATING REINSURANCE PAYMENTS UNDER THE REINSURANCE
4 PROGRAM FOR THE 2020 BENEFIT YEAR IN ORDER TO MAKE PRIVATE
5 HEALTH INSURANCE COVERAGE MORE ACCESSIBLE AND AFFORDABLE AND
6 ENCOURAGE INCREASED CARRIER PARTICIPATION IN RURAL PARTS OF THE
7 STATE, THE COMMISSIONER SHALL SET THE PAYMENT PARAMETERS AT
8 AMOUNTS TO ACHIEVE:

9 (I) A REDUCTION IN CLAIMS COSTS OF BETWEEN THIRTY AND
10 THIRTY-FIVE PERCENT IN GEOGRAPHIC RATING AREA NUMBERS FIVE AND
11 NINE;

12 (II) A REDUCTION IN CLAIMS COSTS OF BETWEEN TWENTY AND
13 TWENTY-FIVE PERCENT IN GEOGRAPHIC RATING AREA NUMBERS FOUR, SIX,
14 SEVEN, AND EIGHT; AND

15 (III) A REDUCTION IN CLAIMS COSTS OF BETWEEN FIFTEEN AND
16 TWENTY PERCENT IN GEOGRAPHIC RATING AREA NUMBERS ONE, TWO, AND
17 THREE.

18 (b) FOR THE 2021 BENEFIT YEAR AND EACH BENEFIT YEAR
19 THEREAFTER, AFTER A STAKEHOLDER PROCESS, THE COMMISSIONER SHALL
20 ESTABLISH AND PUBLISH THE PAYMENT PARAMETERS FOR THE APPLICABLE
21 BENEFIT YEAR BY MARCH 15 OF THE YEAR IMMEDIATELY PRECEDING THE
22 APPLICABLE BENEFIT YEAR. IN SETTING THE PAYMENT PARAMETERS
23 UNDER THIS SUBSECTION (2)(b), THE COMMISSIONER SHALL CONSIDER THE
24 FOLLOWING FACTORS AS THEY APPLY IN EACH GEOGRAPHIC RATING AREA
25 IN THE STATE:

26 (I) PARTICIPATION AND COMPETITION BY CARRIERS IN THE
27 INDIVIDUAL MARKET;

1 (II) ENROLLMENT ACROSS ALL INCOME LEVELS AND MORBIDITY IN
2 THE INDIVIDUAL MARKET;

3 (III) PARTICIPATION AND COMPETITION BY PROVIDERS; AND

4 (IV) RATES IN THE INDIVIDUAL MARKET.

5 (c) IF THE AMOUNT OF MONEY FROM FUNDING SOURCES SPECIFIED
6 IN SECTION 10-16-1107 IS ANTICIPATED TO BE INADEQUATE TO FULLY
7 FINANCE THE APPROVED PAYMENT PARAMETERS, THE COMMISSIONER
8 SHALL ESTABLISH NEW PAYMENT PARAMETERS WITHIN THE AVAILABLE
9 MONEY. THE COMMISSIONER SHALL ALLOW AN ELIGIBLE CARRIER TO
10 REVISE AN APPLICABLE RATE FILING FOR THE NEXT BENEFIT YEAR BASED
11 ON THE FINAL PAYMENT PARAMETERS ESTABLISHED PURSUANT TO THIS
12 SUBSECTION (2)(c) AND ON ACTUAL REINSURANCE PAYMENTS RECEIVED
13 BY THE ELIGIBLE CARRIER.

14 (3) (a) AN ELIGIBLE CARRIER THAT MEETS THE REQUIREMENTS OF
15 THIS SUBSECTION (3) AND SUBSECTION (4) OF THIS SECTION MAY REQUEST
16 REINSURANCE PAYMENTS FROM THE REINSURANCE PROGRAM.

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

20 (c) TO RECEIVE REINSURANCE PAYMENTS THROUGH THE
21 REINSURANCE PROGRAM, AN ELIGIBLE CARRIER MUST, BY APRIL 30 OF THE
22 YEAR FOLLOWING THE BENEFIT YEAR FOR WHICH REINSURANCE PAYMENTS
23 ARE REQUESTED:

24 (I) PROVIDE THE COMMISSIONER WITH ACCESS TO THE DATA
25 WITHIN THE DEDICATED DATA ENVIRONMENT ESTABLISHED BY THE
26 ELIGIBLE CARRIER UNDER THE FEDERAL RISK ADJUSTMENT PROGRAM
27 UNDER 42 U.S.C. SEC. 18063; AND

1 (II) SUBMIT TO THE COMMISSIONER AN ATTESTATION THAT THE
2 CARRIER HAS COMPLIED WITH THE DEDICATED DATA ENVIRONMENTS,
3 DATA REQUIREMENTS, ESTABLISHMENT AND USAGE OF MASKED ENROLLEE
4 IDENTIFICATION NUMBERS, AND DATA SUBMISSION DEADLINES.

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

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

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

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

26 (b) A CARRIER IS INELIGIBLE FOR REINSURANCE PAYMENTS FOR
27 CLAIMS COSTS FOR A COVERED PERSON'S COVERED BENEFITS IN THE

1 APPLICABLE BENEFIT YEAR THAT EXCEED THE REINSURANCE CAP.

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

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

16 (5) (a) IN ORDER TO PROMOTE MORE COST-EFFECTIVE HEALTH
17 CARE COVERAGE AND TO BE FAIR TO FEDERAL TAXPAYERS BY
18 RESTRAINING GROWTH IN FEDERAL SPENDING COMMITMENTS, THE
19 COMMISSIONER, BY RULE, SHALL ESTABLISH A FEE SCHEDULE BASED ON A
20 PERCENTAGE OF MEDICARE REIMBURSEMENT RATES THAT, ALONG WITH
21 THE FEDERAL PASS-THROUGH FUNDING DESCRIBED IN SECTION 10-16-1107
22 (1)(a)(I), WILL REDUCE CLAIMS COSTS AS SPECIFIED IN SUBSECTION (2) OF
23 THIS SECTION. THE FEE SCHEDULE MUST SPECIFY THE REIMBURSEMENT
24 AMOUNT FOR A PROVIDER THAT PROVIDES SERVICES TO A COVERED
25 PERSON WHOSE CLAIMS COSTS FOR COVERED BENEFITS IN THE APPLICABLE
26 BENEFIT YEAR EXCEED THE APPLICABLE ATTACHMENT POINT AND FOR
27 WHICH AN ELIGIBLE CARRIER SUBMITS A CLAIM FOR A REINSURANCE

1 PAYMENT UNDER THIS SECTION. FOR CLAIMS COSTS FOR A COVERED
2 PERSON THAT EXCEED THE ATTACHMENT POINT, AN ELIGIBLE CARRIER
3 SHALL ADJUST ITS PAYMENTS TO PROVIDERS FOR THOSE CLAIMS IN EXCESS
4 OF THE ATTACHMENT POINT BASED ON THE FEE SCHEDULE ESTABLISHED
5 UNDER THIS SUBSECTION (5). THE COMMISSIONER MAY INCLUDE IN THE
6 FEE SCHEDULE THE REIMBURSEMENT AMOUNT TO BE PAID FOR ANY
7 SERVICES NOT INCLUDED IN THE SCHEDULE OF MEDICARE REIMBURSEMENT
8 RATES. THE COMMISSIONER SHALL ANNUALLY REVIEW AND ADJUST THE
9 FEE SCHEDULE IN ORDER TO ACHIEVE THE PURPOSES SPECIFIED IN THIS
10 SUBSECTION (5) AND SUBSECTION (2) OF THIS SECTION.

11 (b) (I) A HEALTH CARE PROVIDER, HEALTH CARE FACILITY,
12 EMERGENCY SERVICE PROVIDER, OR OTHER PERSON PROVIDING HEALTH
13 CARE SERVICES TO A COVERED PERSON FOR WHOM AN ELIGIBLE CARRIER
14 HAS SUBMITTED A CLAIM FOR REINSURANCE PAYMENTS UNDER THIS
15 SECTION SHALL NOT CONTRACT WITH OR OTHERWISE DEMAND PAYMENT
16 FROM THE COVERED PERSON OR THE REINSURANCE PROGRAM FOR
17 AMOUNTS THAT EXCEED THE APPLICABLE FEE ON THE FEE SCHEDULE
18 ESTABLISHED PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION. ANY
19 DEMAND FOR PAYMENT OF CHARGES THAT EXCEED THE APPLICABLE FEE
20 ON THE FEE SCHEDULE IS UNLAWFUL, VOID, AND UNENFORCEABLE AS A
21 DEBT.

22 (II) NOTHING IN THIS SUBSECTION (5)(b) PRECLUDES A HEALTH
23 CARE PROVIDER, HEALTH CARE FACILITY, EMERGENCY SERVICE PROVIDER,
24 OR OTHER PERSON PROVIDING HEALTH CARE SERVICES TO A COVERED
25 PERSON FROM BILLING OR CHARGING A COVERED PERSON FOR APPLICABLE
26 COINSURANCE, DEDUCTIBLE, OR COPAYMENT AMOUNTS.

27 (c) THIS SUBSECTION (5) DOES NOT APPLY TO ANY PRIMARY CARE

1 SERVICES OR BEHAVIORAL HEALTH CARE SERVICES.

2 (d) THE COMMISSIONER SHALL ESTABLISH PARAMETERS, BY RULE,
3 FOR EXEMPTING HOSPITALS THAT WILL BE AFFECTED IN AN
4 UNSUSTAINABLE WAY BY THE REQUIREMENTS OF THIS SUBSECTION (5).

5 **10-16-1106. Accounting - reports - audits.** (1) THE
6 COMMISSIONER SHALL MAINTAIN AN ACCOUNTING FOR EACH BENEFIT
7 YEAR OF ALL:

8 (a) MONEY APPROPRIATED FOR REINSURANCE PAYMENTS AND
9 ADMINISTRATIVE AND OPERATIONAL EXPENSES;

10 (b) REQUESTS FOR REINSURANCE PAYMENTS RECEIVED FROM
11 ELIGIBLE CARRIERS;

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

13 (d) ADMINISTRATIVE AND OPERATIONAL EXPENSES INCURRED FOR
14 THE REINSURANCE PROGRAM.

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

22 (3) THE REINSURANCE PROGRAM IS SUBJECT TO AUDIT BY THE
23 STATE AUDITOR. THE COMMISSIONER SHALL ENSURE THAT ALL OF THE
24 REINSURANCE PROGRAM'S CONTRACTORS, SUBCONTRACTORS, AND AGENTS
25 COOPERATE WITH THE AUDIT.

26 (4) ON OR BEFORE NOVEMBER 1, 2020, AND ON OR BEFORE
27 NOVEMBER 1 EACH YEAR THEREAFTER, THE DIVISION SHALL INCLUDE AN

1 UPDATE REGARDING THE PROGRAM IN ITS REPORT TO THE MEMBERS OF THE
2 APPLICABLE COMMITTEES OF REFERENCE IN THE SENATE AND HOUSE OF
3 REPRESENTATIVES AS REQUIRED BY THE "STATE MEASUREMENT FOR
4 ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART)
5 GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF TITLE 2.

6 **10-16-1107. Funding for reinsurance program - sources -**
7 **permitted uses - reinsurance program cash fund - calculation of total**
8 **funding for program.** (1) (a) THERE IS HEREBY CREATED IN THE STATE
9 TREASURY THE REINSURANCE PROGRAM CASH FUND, WHICH CONSISTS OF:

10 (I) FEDERAL PASS-THROUGH FUNDING GRANTED PURSUANT TO 42
11 U.S.C. SEC. 18052 (a)(3) THAT IS REALIZED FROM THE PREMIUM
12 REDUCTION PRODUCED BY THE REDUCTION IN COSTS OF CARE RESULTING
13 FROM THE FEE SCHEDULE; AND

14 (II) ANY OTHER FEDERAL FUNDS THAT ARE MADE AVAILABLE FOR
15 THE REINSURANCE PROGRAM.

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

22 (c) THE REINSURANCE PROGRAM CASH FUND IS PART OF THE
23 REINSURANCE PROGRAM ENTERPRISE ESTABLISHED PURSUANT TO SECTION
24 10-16-1105 (1)(b).

25 (2) THE COMMISSIONER MAY SEEK, ACCEPT, AND EXPEND GIFTS,
26 GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE
27 OPERATION, RESERVES, AND SUSTAINABILITY OF THE REINSURANCE

1 PROGRAM.

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

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

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

9 **10-16-1108. State innovation waiver - federal funding -**

10 **Colorado reinsurance program.** (1) (a) FOR PURPOSES OF
11 IMPLEMENTING AND OPERATING THE REINSURANCE PROGRAM AS SET
12 FORTH IN THIS PART 11 FOR PLAN YEARS STARTING ON OR AFTER JANUARY
13 1, 2020, THE COMMISSIONER MAY APPLY TO THE SECRETARY OF THE
14 UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR:

15 (I) A FIVE-YEAR STATE INNOVATION WAIVER IN ACCORDANCE
16 WITH SECTION 1332 OF THE FEDERAL ACT, CODIFIED AT 42 U.S.C. SEC.
17 18052, AND 45 CFR 155.1300;

18 (II) FEDERAL FUNDS FOR THE REINSURANCE PROGRAM; OR

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

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

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

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

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

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

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

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

17 **10-16-1109. Repeal of part - notice to revisor of statutes.**

18 (1) (a) THE COMMISSIONER SHALL NOTIFY THE REVISOR OF STATUTES IN
19 WRITING, BY E-MAIL SENT TO REVISOROFSTATUTES.GA@STATE.CO.US,
20 UPON RECEIPT FROM THE SECRETARY OF THE UNITED STATES
21 DEPARTMENT OF HEALTH AND HUMAN SERVICES OF NOTICE OF APPROVAL
22 OR DENIAL OF THE WAIVER OR FUNDING REQUESTED UNDER SECTION
23 10-16-1108.

24 (b) (I) IF THE NOTICE FROM THE COMMISSIONER STATES THAT THE
25 WAIVER OR FUNDING WAS DENIED, THIS PART 11 IS REPEALED, EFFECTIVE
26 UPON THE DATE IDENTIFIED IN THE NOTICE THAT THE WAIVER OR FUNDING
27 WAS DENIED OR, IF THE NOTICE DOES NOT SPECIFY THAT DATE, UPON THE

1 DATE OF THE NOTICE OF DENIAL TO THE REVISOR OF STATUTES.

2 (II) IF THE NOTICE FROM THE COMMISSIONER STATES THAT THE
3 WAIVER OR FUNDING WAS APPROVED, THIS SUBSECTION (1) IS REPEALED,
4 EFFECTIVE UPON THE DATE IDENTIFIED IN THE NOTICE THAT THE WAIVER
5 OR FUNDING WAS APPROVED OR, IF THE NOTICE DOES NOT SPECIFY THAT
6 DATE, UPON THE DATE OF THE NOTICE OF APPROVAL TO THE REVISOR OF
7 STATUTES.

8 (2) THIS PART 11 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2024.
9 BEFORE THE REPEAL, THIS PART 11 IS SCHEDULED FOR REVIEW IN
10 ACCORDANCE WITH SECTION 24-34-104.

11 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, **add**
12 (25)(a)(XX) as follows:

13 **24-34-104. General assembly review of regulatory agencies**
14 **and functions for repeal, continuation, or reestablishment - legislative**
15 **declaration - repeal.** (25) (a) The following agencies, functions, or both,
16 are scheduled for repeal on September 1, 2024:

17 (XX) THE COLORADO REINSURANCE PROGRAM AUTHORIZED
18 UNDER PART 11 OF ARTICLE 16 OF TITLE 10.

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