

CHAPTER 201

INSURANCE

SENATE BILL 20-215

BY SENATOR(S) Moreno and Donovan, Bridges, Danielson, Fenberg, Fields, Ginal, Gonzales, Pettersen, Rodriguez, Story; also REPRESENTATIVE(S) Kennedy and McCluskie, Benavidez, Bird, Buckner, Buentello, Caraveo, Coleman, Cutter, Duran, Esgar, Gonzales-Gutierrez, Gray, Herod, Hooton, Jaquez Lewis, Kipp, Lontine, Melton, Michaelson Jenet, Mullica, Roberts, Snyder, Valdez A., Valdez D., Weissman, Woodrow.

AN ACT

CONCERNING MEASURES TO ADDRESS THE AFFORDABILITY OF HEALTH INSURANCE FOR COLORADANS PURCHASING COVERAGE ON THE INDIVIDUAL MARKET, AND, IN CONNECTION THEREWITH, ESTABLISHING AN ENTERPRISE TO ADMINISTER A HEALTH INSURANCE AFFORDABILITY FEE ASSESSED ON CERTAIN HEALTH INSURERS AND A SPECIAL ASSESSMENT ON HOSPITALS TO FUND MEASURES TO REDUCE CONSUMER COSTS FOR INDIVIDUAL HEALTH COVERAGE PLANS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** part 12 to article 16 of title 10 as follows:

PART 12
HEALTH INSURANCE AFFORDABILITY ACT

10-16-1201. Short title. THE SHORT TITLE OF THIS PART 12 IS THE "HEALTH INSURANCE AFFORDABILITY ACT".

10-16-1202. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) THE STATE, CARRIERS, AND HOSPITALS SHARE A COMMON COMMITMENT TO ENSURING ALL COLORADANS HAVE ACCESS TO AFFORDABLE HEALTH CARE COVERAGE BECAUSE ACCESS TO COVERAGE IMPROVES HEALTH OUTCOMES AND PROVIDES FINANCIAL SECURITY FOR COLORADANS;

(b) HOSPITALS WITHIN THE STATE INCUR THE COSTS OF UNCOMPENSATED CARE

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

TO UNINSURED AND UNDERINSURED POPULATIONS;

(c) THE ECONOMIC DOWNTURN DUE TO COVID-19 AND ITS IMPACTS ON GROUP AND INDIVIDUAL HEALTH CARE COVERAGE IN THE STATE CREATES ECONOMIC CHALLENGES FOR CARRIERS FROM THE POTENTIAL LOST REVENUE IF PEOPLE DROP INSURANCE COVERAGE;

(d) THIS PART 12 IS ENACTED TO PROVIDE THE FOLLOWING SERVICES AND BENEFITS TO CARRIERS:

(I) REDUCING THE NUMBER OF COLORADANS WHO LACK HEALTH CARE COVERAGE BY HELPING COLORADANS TO MAINTAIN CONSISTENT COVERAGE;

(II) PROVIDING STABILITY IN THE INSURANCE MARKET;

(III) REDUCING THE MOVEMENT OF INDIVIDUALS BETWEEN INSURED AND UNINSURED STATUS;

(IV) OFFSETTING THE COSTS CARRIERS WOULD OTHERWISE PAY FOR COVERED PERSONS' HIGH MEDICAL COSTS SO THAT PREMIUMS ARE SET AT MORE AFFORDABLE LEVELS; AND

(V) CREATING A HEALTHIER RISK POOL FOR ALL CARRIERS BY ESTABLISHING A PATH FOR CONSISTENT COVERAGE FOR INDIVIDUALS; AND

(e) THIS PART 12 IS ENACTED TO PROVIDE THE FOLLOWING SERVICES AND BENEFITS TO HOSPITALS:

(I) REDUCING THE AMOUNT OF UNCOMPENSATED CARE PROVIDED BY HOSPITALS;

(II) REDUCING THE NEED OF PROVIDERS TO SHIFT COSTS OF PROVIDING UNCOMPENSATED CARE TO OTHER PAYERS; AND

(III) EXPANDING ACCESS TO HIGH-QUALITY, AFFORDABLE HEALTH CARE FOR LOW-INCOME AND UNINSURED COLORADANS.

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT, CONSISTENT WITH THE DETERMINATION OF THE COLORADO SUPREME COURT IN *NICHOLL v. E-470 PUBLIC HIGHWAY AUTHORITY*, 896 P.2d 859 (COLO. 1995), THE POWER TO IMPOSE TAXES IS INCONSISTENT WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, AND THE HEALTH INSURANCE AFFORDABILITY FEES AND SPECIAL ASSESSMENTS CHARGED AND COLLECTED BY THE HEALTH INSURANCE AFFORDABILITY ENTERPRISE ARE FEES, NOT TAXES, BECAUSE THE FEES AND ASSESSMENTS ARE IMPOSED FOR THE SPECIFIC PURPOSE OF ALLOWING THE ENTERPRISE TO DEFRAY THE COSTS OF PROVIDING THE BUSINESS SERVICES SPECIFIED IN SECTION 10-16-1204 (1)(a) TO THE CARRIERS AND HOSPITALS THAT PAY THE FEES AND ASSESSMENTS AND ARE COLLECTED AT RATES THAT ARE REASONABLY CALCULATED BASED ON THE BENEFITS RECEIVED BY THOSE CARRIERS AND HOSPITALS.

10-16-1203. Definitions. AS USED IN THIS PART 12, UNLESS THE CONTEXT

OTHERWISE REQUIRES:

(1) "BOARD" MEANS THE HEALTH INSURANCE AFFORDABILITY BOARD CREATED IN SECTION 10-16-1207.

(2) "CHILDREN'S BASIC HEALTH PLAN" HAS THE MEANING SET FORTH IN SECTION 25.5-8-103 (2).

(3) "ENTERPRISE" MEANS THE COLORADO HEALTH INSURANCE AFFORDABILITY ENTERPRISE CREATED IN SECTION 10-16-1204.

(4) "FEDERAL POVERTY LINE" HAS THE SAME MEANING AS "POVERTY LINE", AS DEFINED IN 42 U.S.C. SEC. 9902 (2).

(5) "FEE" MEANS THE HEALTH INSURANCE AFFORDABILITY FEE ESTABLISHED AND ASSESSED PURSUANT TO SECTION 10-16-1205.

(6) "FUND" MEANS THE HEALTH INSURANCE AFFORDABILITY CASH FUND CREATED IN SECTION 10-16-1206.

(7) "HOUSEHOLD INCOME" HAS THE SAME MEANING AS SET FORTH IN 26 U.S.C. SEC. 36B (d)(2) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED.

(8) "MEDICAID" MEANS FEDERAL INSURANCE OR ASSISTANCE AS PROVIDED BY TITLE XIX OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, AND THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES 4, 5, AND 6 OF TITLE 25.5.

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

(10) "PREMIUM TAX CREDIT" MEANS THE REFUNDABLE TAX CREDIT AVAILABLE PURSUANT TO THE FEDERAL ACT TO ASSIST CERTAIN INDIVIDUALS IN PURCHASING A HEALTH BENEFIT PLAN ON THE EXCHANGE.

(11) "PUBLIC BENEFIT CORPORATION" MEANS A PUBLIC BENEFIT CORPORATION FORMED PURSUANT TO PART 5 OF ARTICLE 101 OF TITLE 7 THAT IS ORGANIZED AND OPERATED BY THE EXCHANGE PURSUANT TO SECTION 10-22-106 (3) FOR THE PURPOSE OF ADMINISTERING AND OPERATING A SUBSIDY TO REDUCE THE COSTS OF HEALTH CARE COVERAGE OFFERED UNDER A STATE-SUBSIDIZED INDIVIDUAL HEALTH COVERAGE PLAN.

(12) "QUALIFIED INDIVIDUAL" MEANS AN INDIVIDUAL, REGARDLESS OF IMMIGRATION STATUS, WHO:

(a) IS A COLORADO RESIDENT;

(b) HAS A HOUSEHOLD INCOME OF NOT MORE THAN THREE HUNDRED PERCENT OF THE FEDERAL POVERTY LINE; AND

(c) IS NOT ELIGIBLE FOR THE PREMIUM TAX CREDIT, MEDICAID, MEDICARE, OR THE CHILDREN'S BASIC HEALTH PLAN.

(13) "REINSURANCE PROGRAM" MEANS THE COLORADO REINSURANCE PROGRAM CREATED IN PART 11 OF THIS ARTICLE 16.

(14) "REINSURANCE PROGRAM CASH FUND" MEANS THE REINSURANCE PROGRAM CASH FUND CREATED IN SECTION 10-16-1107.

(15) "STATE-SUBSIDIZED INDIVIDUAL HEALTH COVERAGE PLAN" MEANS A SUBSIDIZED INDIVIDUAL HEALTH COVERAGE PLAN OFFERED BY CARRIERS TO QUALIFIED INDIVIDUALS THROUGH THE PUBLIC BENEFIT CORPORATION.

10-16-1204. Health insurance affordability enterprise - creation - powers and duties - assess and allocate health insurance affordability fee and special assessment. (1) (a) THERE IS HEREBY CREATED IN THE DIVISION THE COLORADO HEALTH INSURANCE AFFORDABILITY ENTERPRISE. THE ENTERPRISE IS AND OPERATES AS A GOVERNMENT-OWNED BUSINESS WITHIN THE DIVISION FOR THE PURPOSE OF ASSESSING AND COLLECTING THE HEALTH INSURANCE AFFORDABILITY FEE FROM CARRIERS THAT OFFER HEALTH BENEFIT PLANS IN THE STATE AND A SPECIAL ASSESSMENT ON HOSPITALS IN THE STATE AND USING AND ALLOCATING THE FEE AND ASSESSMENT FOR THE PURPOSES SPECIFIED IN THIS PART 12 IN ORDER TO:

(I) PROVIDE THE FOLLOWING BUSINESS SERVICES TO CARRIERS THAT PAY THE FEE:

(A) OUTREACH AND RELATED WORK TO INCREASE ENROLLMENT IN HEALTH BENEFIT PLANS OFFERED BY CARRIERS ACROSS THE STATE;

(B) INCREASING THE NUMBER OF INDIVIDUALS WHO PURCHASE HEALTH BENEFIT PLANS IN THE INDIVIDUAL MARKET BY PROVIDING FINANCIAL SUPPORT TO INDIVIDUALS TO PURCHASE PRIVATE HEALTH INSURANCE COVERAGE;

(C) FUNDING THE REINSURANCE PROGRAM THAT OFFSETS THE COSTS CARRIERS WOULD OTHERWISE PAY FOR COVERING CONSUMERS WITH HIGH MEDICAL COSTS;

(D) IMPROVING THE STABILITY OF THE MARKET THROUGHOUT THE STATE BY PROVIDING CONSISTENT PRIVATE HEALTH CARE COVERAGE AND REDUCING THE MOVEMENT OF INDIVIDUALS FROM INSURED TO UNINSURED STATUS;

(E) REDUCING PROVIDER COST SHIFTING FROM THE INDIVIDUAL MARKET AND THE UNINSURED TO THE GROUP MARKET; AND

(F) CREATING A HEALTHIER RISK POOL FOR ALL CARRIERS BY ESTABLISHING A PATH FOR CONSISTENT COVERAGE FOR INDIVIDUALS; AND

(II) PROVIDE THE FOLLOWING BUSINESS SERVICES TO HOSPITALS:

(A) REDUCING THE AMOUNT OF UNCOMPENSATED CARE PROVIDED BY HOSPITALS;

(B) REDUCING THE NEED OF PROVIDERS TO SHIFT COSTS OF PROVIDING UNCOMPENSATED CARE TO OTHER PAYERS; AND

(C) EXPANDING ACCESS TO HIGH-QUALITY, AFFORDABLE HEALTH CARE FOR LOW-INCOME AND UNINSURED COLORADANS.

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

(II) THE ENTERPRISE IS HEREBY AUTHORIZED TO ISSUE REVENUE BONDS FOR THE EXPENSES OF THE ENTERPRISE, SECURED BY REVENUES OF THE ENTERPRISE.

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

(a) TO ASSESS AND COLLECT THE FEE SPECIFIED IN SECTION 10-16-1205 (1)(a)(I);

(b) TO ASSESS AND COLLECT THE SPECIAL ASSESSMENT ON HOSPITALS SPECIFIED IN SECTION 10-16-1205 (1)(a)(II);

(c) TO ALLOCATE MONEY IN THE FUND IN ACCORDANCE WITH SECTION 10-16-1205 (2);

(d) TO ISSUE REVENUE BONDS PAYABLE FROM THE REVENUES OF THE ENTERPRISE;

(e) (I) TO ENGAGE THE SERVICES OF THIRD PARTIES SERVING AS CONTRACTORS AND CONSULTANTS, INCLUDING THE DIVISION, FOR PROFESSIONAL AND TECHNICAL ASSISTANCE AND ADVICE AND TO SUPPLY OTHER SERVICES RELATED TO THE CONDUCT OF THE AFFAIRS OF THE ENTERPRISE, WITHOUT REGARD TO THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24. THE ENTERPRISE SHALL ENCOURAGE DIVERSITY IN APPLICATIONS FOR CONTRACTS AND SHALL GENERALLY AVOID USING SINGLE-SOURCE BIDS.

(II) THE DIVISION SHALL PROVIDE OFFICE SPACE AND ADMINISTRATIVE STAFF TO THE ENTERPRISE PURSUANT TO A CONTRACT ENTERED INTO UNDER THIS SUBSECTION (2)(e).

(f) TO ENGAGE IN OUTREACH AND RELATED EFFORTS TO INCREASE ENROLLMENT IN HEALTH BENEFIT PLANS ACROSS THE STATE; AND

(g) TO ADOPT AND AMEND OR REPEAL POLICIES FOR THE REGULATION OF ITS AFFAIRS AND THE CONDUCT OF ITS BUSINESS CONSISTENT WITH THIS PART 12.

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

10-16-1205. Health insurance affordability fee - special assessment on hospitals - allocation of revenues. (1) (a) (I) STARTING IN THE 2021 CALENDAR

YEAR, THE ENTERPRISE SHALL ASSESS AND COLLECT FROM CARRIERS, BY JULY 15 EACH YEAR, A HEALTH INSURANCE AFFORDABILITY FEE. THE FEE AMOUNT IS BASED ON THE FOLLOWING PERCENTAGES OF PREMIUMS COLLECTED BY THE FOLLOWING CARRIERS IN THE IMMEDIATELY PRECEDING CALENDAR YEAR ON HEALTH BENEFIT PLANS ISSUED IN THE STATE:

(A) ONE AND FIFTEEN HUNDREDTHS PERCENT OF PREMIUMS COLLECTED BY NONPROFIT CARRIERS; AND

(B) TWO AND ONE-TENTH PERCENT OF PREMIUMS COLLECTED BY FOR-PROFIT CARRIERS.

(II) FOR THE 2022 AND 2023 CALENDAR YEARS, THE ENTERPRISE SHALL ASSESS AND COLLECT FROM HOSPITALS A SPECIAL ASSESSMENT OF TWENTY MILLION DOLLARS PER YEAR, SUBJECT TO SUBSECTION (5) OF THIS SECTION. THE ENTERPRISE SHALL NOT COLLECT THE SPECIAL ASSESSMENT FOR THE 2022 CALENDAR YEAR BEFORE OCTOBER 1, 2022.

(b) THE ENTERPRISE SHALL USE THE FEE, THE SPECIAL ASSESSMENT ON HOSPITALS, AND ANY OTHER MONEY AVAILABLE IN THE FUND AS FOLLOWS, ALLOCATED IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION:

(I) TO PROVIDE FUNDING FOR THE REINSURANCE PROGRAM;

(II) TO PROVIDE PAYMENTS TO CARRIERS TO INCREASE THE AFFORDABILITY OF HEALTH INSURANCE ON THE INDIVIDUAL MARKET FOR COLORADANS WHO RECEIVE THE PREMIUM TAX CREDIT;

(III) TO PROVIDE SUBSIDIES FOR STATE-SUBSIDIZED INDIVIDUAL HEALTH COVERAGE PLANS PURCHASED BY QUALIFIED INDIVIDUALS;

(IV) TO PAY THE ACTUAL ADMINISTRATIVE COSTS OF THE ENTERPRISE FOR IMPLEMENTING AND ADMINISTERING THIS PART 12, LIMITED TO THREE PERCENT OF THE ENTERPRISE'S REVENUES. ACTUAL ADMINISTRATIVE COSTS INCLUDE THE FOLLOWING:

(A) THE ADMINISTRATIVE COSTS OF THE ENTERPRISE, INCLUDING THE COSTS TO IMPLEMENT AND ADMINISTER THE PROGRAMS ESTABLISHED PURSUANT TO THIS PART 12;

(B) THE ENTERPRISE'S ACTUAL COSTS RELATED TO IMPLEMENTING AND MAINTAINING THE FEE AND SPECIAL ASSESSMENT ON HOSPITALS, INCLUDING PERSONAL SERVICES AND OPERATING EXPENSES; AND

(C) THE COSTS FOR CONDUCTING ANALYSES NECESSARY TO DETERMINE THE PAYMENTS TO BE MADE TO CARRIERS FOR THE PURPOSES DESCRIBED IN SUBSECTION (1)(b)(II) OF THIS SECTION AND THE REQUIREMENTS FOR STATE-SUBSIDIZED INDIVIDUAL HEALTH COVERAGE PLANS OFFERED BY CARRIERS; AND

(V) TO PAY THE COSTS FOR CONSUMER ENROLLMENT, OUTREACH, AND EDUCATION ACTIVITIES REGARDING HEALTH CARE COVERAGE, INCLUDING:

(A) INCREASING GRANTS TO THE EXCHANGE'S CERTIFIED ASSISTANCE NETWORK;

(B) MARKETING FOR THE EXCHANGE;

(C) GRANTS TO COMMUNITY-BASED ORGANIZATIONS THAT ARE ABLE TO ASSIST WITH OUTREACH AND ENROLLMENT, PARTICULARLY IN COMMUNITIES THAT FACE THE GREATEST BARRIERS TO ENROLLING IN HEALTH CARE COVERAGE; AND

(D) IMPROVING THE CONNECTION BETWEEN UNEMPLOYMENT SERVICES AND ENROLLMENT IN HEALTH CARE COVERAGE.

(c) THIS SUBSECTION (1) DOES NOT APPLY TO PLANS OR BENEFITS PROVIDED UNDER MEDICAID, MEDICARE, OR THE CHILDREN'S BASIC HEALTH PLAN.

(2) (a) THE ENTERPRISE SHALL TRANSMIT THE FEES AND SPECIAL ASSESSMENTS COLLECTED PURSUANT TO THIS SECTION TO THE STATE TREASURER FOR DEPOSIT IN THE HEALTH INSURANCE AFFORDABILITY CASH FUND CREATED IN SECTION 10-16-1206 AND, EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION, SHALL ALLOCATE THE MONEY IN THE FUND IN ACCORDANCE WITH THIS SUBSECTION (2).

(b) THE ENTERPRISE SHALL ALLOCATE THE REVENUES COLLECTED IN 2021, AND ANY OTHER MONEY DEPOSITED IN THE FUND IN 2021, AS FOLLOWS:

(I) UP TO THREE PERCENT FOR ACTUAL ADMINISTRATIVE COSTS AS SET FORTH IN SUBSECTION (1)(b)(IV) OF THIS SECTION;

(II) TO THE REINSURANCE PROGRAM CASH FUND, AN AMOUNT NECESSARY TO FUND THE PAYMENT PARAMETERS OF THE REINSURANCE PROGRAM, AS DETERMINED PURSUANT TO SECTION 10-16-1105 (2), NOT TO EXCEED NINETY MILLION DOLLARS OR, IF THE REVENUES COLLECTED PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION ARE LESS THAN NINETY MILLION DOLLARS, THE AMOUNT COLLECTED; AND

(III) OF ANY REMAINING BALANCE IN THE FUND AFTER DEDUCTING THE ALLOCATIONS SPECIFIED IN SUBSECTIONS (2)(b)(I) AND (2)(b)(II) OF THIS SECTION:

(A) UP TO ONE PERCENT OF THE TOTAL AMOUNT OF REVENUES COLLECTED OR DEPOSITED INTO THE FUND IN 2021, BUT NOT MORE THAN ONE MILLION FIVE HUNDRED THOUSAND DOLLARS, FOR IMPLEMENTATION COSTS AND CONSUMER ENROLLMENT, OUTREACH, AND EDUCATION ACTIVITIES REGARDING HEALTH CARE COVERAGE AS DESCRIBED IN SUBSECTION (1)(b)(V) OF THIS SECTION; AND

(B) THE REMAINING BALANCE TO CARRIERS TO REDUCE THE COSTS OF INDIVIDUAL HEALTH PLANS FOR INDIVIDUALS WHO PURCHASE AN INDIVIDUAL HEALTH BENEFIT PLAN ON THE EXCHANGE AND RECEIVE THE PREMIUM TAX CREDIT.

(c) THE ENTERPRISE SHALL ALLOCATE THE REVENUES COLLECTED IN 2022, AND ANY OTHER MONEY DEPOSITED IN THE FUND IN 2022, AS FOLLOWS:

(I) UP TO THREE PERCENT FOR ACTUAL ADMINISTRATIVE COSTS AS SET FORTH IN SUBSECTION (1)(b)(IV) OF THIS SECTION;

(II) TO THE REINSURANCE PROGRAM CASH FUND, EIGHTY-EIGHT MILLION DOLLARS; AND

(III) OF THE REMAINING BALANCE IN THE FUND AFTER DEDUCTING THE ALLOCATIONS SPECIFIED IN SUBSECTIONS (2)(c)(I) AND (2)(c)(II) OF THIS SECTION:

(A) THIRTY PERCENT TO CARRIERS TO REDUCE THE COSTS OF INDIVIDUAL HEALTH PLANS FOR INDIVIDUALS WHO PURCHASE AN INDIVIDUAL HEALTH BENEFIT PLAN ON THE EXCHANGE AND RECEIVE THE PREMIUM TAX CREDIT; AND

(B) SEVENTY PERCENT FOR SUBSIDIES FOR STATE-SUBSIDIZED INDIVIDUAL HEALTH COVERAGE PLANS PURCHASED BY QUALIFIED INDIVIDUALS.

(d)(I) THE ENTERPRISE SHALL ALLOCATE THE REVENUES COLLECTED IN 2023 AND EACH YEAR THEREAFTER, AND ANY OTHER MONEY DEPOSITED IN THE FUND IN 2023 AND EACH YEAR THEREAFTER, IN THE FOLLOWING AMOUNTS AND ORDER OF PRIORITY:

(A) FIRST, UP TO THREE PERCENT FOR ACTUAL ADMINISTRATIVE COSTS AS SET FORTH IN SUBSECTION (1)(b)(IV) OF THIS SECTION;

(B) SECOND, EIGHTEEN MILLION DOLLARS FOR SUBSIDIES FOR STATE-SUBSIDIZED INDIVIDUAL HEALTH COVERAGE PLANS PURCHASED BY QUALIFIED INDIVIDUALS;

(C) THIRD, THE AMOUNT REMAINING IN THE FUND, UP TO SEVENTY-THREE PERCENT OF THE TOTAL AMOUNT OF REVENUES COLLECTED OR DEPOSITED INTO THE FUND IN THE APPLICABLE YEAR, BUT NOT TO EXCEED NINETY MILLION DOLLARS, TO THE REINSURANCE PROGRAM CASH FUND; AND

(D) FOURTH, TEN PERCENT OF THE TOTAL AMOUNT OF REVENUES COLLECTED OR DEPOSITED INTO THE FUND IN THE APPLICABLE YEAR OR THE AMOUNT REMAINING IN THE FUND, WHICHEVER IS LESS, TO CARRIERS TO REDUCE THE COSTS OF INDIVIDUAL HEALTH PLANS FOR INDIVIDUALS WHO PURCHASE AN INDIVIDUAL HEALTH BENEFIT PLAN ON THE EXCHANGE AND RECEIVE THE PREMIUM TAX CREDIT.

(II) IF, AFTER MAKING THE ALLOCATIONS SPECIFIED IN SUBSECTION (2)(d)(I) OF THIS SECTION, THERE IS MONEY REMAINING IN THE FUND IN THE APPLICABLE YEAR, THE ENTERPRISE SHALL ALLOCATE THE REMAINING MONEY FOR SUBSIDIES FOR STATE-SUBSIDIZED INDIVIDUAL HEALTH COVERAGE PLANS PURCHASED BY QUALIFIED INDIVIDUALS.

(3) THE ENTERPRISE SHALL DISTRIBUTE THE ALLOCATIONS SPECIFIED IN SUBSECTION (2) OF THIS SECTION IN ACCORDANCE WITH THE REQUIREMENTS DETERMINED BY THE BOARD PURSUANT TO SECTION 10-16-1207 (4).

(4) IF THE COMMISSIONER, PURSUANT TO SECTION 10-16-1107 (4), NOTIFIES THE BOARD THAT THE REINSURANCE PROGRAM WILL RECEIVE FEDERAL FUNDING PURSUANT TO A FEDERAL REINSURANCE PROGRAM OR OTHER FEDERAL FINANCIAL ASSISTANCE FOR THE REINSURANCE PROGRAM THAT IS IN EXCESS OF FEDERAL PASS-THROUGH FUNDING RECEIVED PURSUANT TO SECTION 10-16-1107 (1)(a)(I), THE ENTERPRISE MAY ELIMINATE OR REDUCE THE AMOUNT OF ENTERPRISE REVENUES

ALLOCATED TO THE REINSURANCE PROGRAM PURSUANT TO SUBSECTION (2) OF THIS SECTION BASED ON THE AMOUNT OF FEDERAL FUNDING THE REINSURANCE PROGRAM RECEIVES, AS INDICATED IN THE COMMISSIONER'S NOTICE, AND SHALL REALLOCATE THE PORTION OF THE ENTERPRISE REVENUES NO LONGER ALLOCATED TO THE REINSURANCE PROGRAM TO THE OTHER PURPOSES SPECIFIED IN SUBSECTION (2) OF THIS SECTION IN ACCORDANCE WITH THAT SUBSECTION (2).

(5) (a) THE SPECIAL ASSESSMENTS ON HOSPITALS UNDER SUBSECTION (1)(a)(II) OF THIS SECTION MUST COMPLY WITH AND NOT VIOLATE 42 CFR 433.68. IF THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES IN THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES INFORMS THE STATE THAT THE STATE WILL NOT BE IN COMPLIANCE WITH 42 CFR 433.68 AS A RESULT OF THE SPECIAL ASSESSMENT ON HOSPITALS PURSUANT TO SUBSECTION (1)(a)(II) OF THIS SECTION, THE ENTERPRISE SHALL REDUCE THE AMOUNT OF THE SPECIAL ASSESSMENT AS NECESSARY TO AVOID ANY REDUCTION IN THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE COLLECTED PURSUANT TO SECTION 25.5-4-402.4.

(b) A HOSPITAL SHALL PAY THE SPECIAL ASSESSMENT IMPOSED PURSUANT TO SUBSECTION (1)(a)(II) OF THIS SECTION FROM ITS GENERAL REVENUES AND IS PROHIBITED FROM:

(I) COLLECTING AN ASSESSMENT FROM CONSUMERS AS ANY TYPE OF SURCHARGE ON ITS FEES;

(II) PASSING THE SPECIAL ASSESSMENT ON TO CONSUMERS AS ANY TYPE OF INCREASE TO FEES OR CHARGES FOR SERVICES; OR

(III) OTHERWISE PASSING THE SPECIAL ASSESSMENT ON TO CONSUMERS IN ANY MANNER.

10-16-1206. Health insurance affordability cash fund - creation. (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE HEALTH INSURANCE AFFORDABILITY CASH FUND. THE FUND CONSISTS OF:

(a) THE FEES COLLECTED FROM CARRIERS PURSUANT TO SECTION 10-16-1205 (1)(a)(I);

(b) THE SPECIAL ASSESSMENTS COLLECTED FROM HOSPITALS PURSUANT TO SECTION 10-16-1205 (1)(a)(II);

(c) AN AMOUNT OF PREMIUM TAX REVENUES DEPOSITED IN THE FUND PURSUANT TO SECTION 10-3-209 (4)(a)(III), NOT TO EXCEED, IN ANY YEAR, TEN PERCENT OF THE TOTAL AMOUNT THE ENTERPRISE COLLECTS FROM CARRIERS AND HOSPITALS UNDER SECTION 10-16-1205 (1)(a);

(d) THE REVENUE COLLECTED FROM REVENUE BONDS ISSUED PURSUANT TO SECTION 10-16-1204 (1)(b)(II); AND

(e) ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND.

(2) MONEY IN THE FUND SHALL NOT BE TRANSFERRED TO ANY OTHER FUND, EXCEPT AS PROVIDED IN SECTION 10-16-1205 (2), AND SHALL NOT BE USED FOR ANY PURPOSE OTHER THAN THE PURPOSES SPECIFIED IN THIS PART 12.

(3) ALL MONEY IN THE FUND IS CONTINUOUSLY AVAILABLE AND APPROPRIATED TO THE ENTERPRISE TO USE IN ACCORDANCE WITH THIS PART 12.

(4) THE FUND IS PART OF THE ENTERPRISE ESTABLISHED PURSUANT TO SECTION 10-16-1204 (1).

10-16-1207. Health insurance affordability board - creation - membership - powers and duties - subject to open meetings and public records laws - commissioner rules. (1) (a) THERE IS HEREBY CREATED THE HEALTH INSURANCE AFFORDABILITY BOARD, WHICH BOARD IS RESPONSIBLE FOR GOVERNANCE OF THE ENTERPRISE ESTABLISHED IN THIS PART 12. THE BOARD CONSISTS OF THE FOLLOWING ELEVEN VOTING MEMBERS:

(I) THE EXECUTIVE DIRECTOR OF THE EXCHANGE OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

(II) THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE; AND

(III) NINE MEMBERS APPOINTED BY THE GOVERNOR, WITH THE CONSENT OF THE SENATE, AS FOLLOWS:

(A) ONE MEMBER WHO IS EMPLOYED BY A CARRIER;

(B) ONE MEMBER WHO IS A REPRESENTATIVE OF A STATEWIDE ASSOCIATION OF HEALTH BENEFIT PLANS;

(C) ONE MEMBER REPRESENTING PRIMARY CARE HEALTH CARE PROVIDERS WHO DOES NOT REPRESENT A CARRIER;

(D) THREE MEMBERS WHO ARE CONSUMERS OF HEALTH CARE WHO ARE NOT REPRESENTATIVES OR EMPLOYEES OF A HOSPITAL, CARRIER, OR OTHER HEALTH CARE INDUSTRY ENTITY. TO THE EXTENT POSSIBLE, THE GOVERNOR SHALL ENSURE THAT THE CONSUMER MEMBERS OF THE BOARD ARE INDIVIDUALS WHO LACK AFFORDABLE OFFERS OF COVERAGE FROM THEIR EMPLOYERS AND OTHERWISE STRUGGLE TO AFFORD TO PURCHASE HEALTH INSURANCE.

(E) ONE MEMBER WHO REPRESENTS A HEALTH CARE ADVOCACY ORGANIZATION;

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

(G) ONE MEMBER WHO REPRESENTS A RURAL, CRITICAL ACCESS, OR INDEPENDENT HOSPITAL.

(b) TO THE EXTENT POSSIBLE, THE GOVERNOR SHALL ATTEMPT TO APPOINT BOARD MEMBERS WHO REFLECT THE DIVERSITY OF THE STATE WITH REGARD TO RACE, ETHNICITY, IMMIGRATION STATUS, INCOME, WEALTH, ABILITY, AND GEOGRAPHY. IN

CONSIDERING GEOGRAPHIC DIVERSITY, THE GOVERNOR SHALL ENSURE AT LEAST ONE MEMBER RESIDES ON THE EASTERN PLAINS AND ONE MEMBER RESIDES ON THE WESTERN SLOPE AND, TO THE EXTENT POSSIBLE, SHALL ATTEMPT TO APPOINT MEMBERS FROM EACH CONGRESSIONAL DISTRICT IN THE STATE.

(c) THE GOVERNOR SHALL MAKE INITIAL APPOINTMENTS TO THE BOARD BY OCTOBER 1, 2020.

(2) (a) (I) EXCEPT AS PROVIDED IN SUBSECTION (2)(a)(II) OF THIS SECTION, THE TERM OF OFFICE OF THE MEMBERS OF THE BOARD APPOINTED BY THE GOVERNOR IS FOUR YEARS, AND THOSE MEMBERS MAY SERVE NO MORE THAN TWO FOUR-YEAR TERMS.

(II) IN ORDER TO ENSURE STAGGERED TERMS OF OFFICE, THE INITIAL TERM OF OFFICE OF THE MEMBERS OF THE BOARD IS:

(A) TWO YEARS FOR THE MEMBERS APPOINTED PURSUANT TO SUBSECTIONS (1)(a)(III)(A), (1)(a)(III)(C), AND (1)(a)(III)(F) OF THIS SECTION AND FOR TWO OF THE MEMBERS APPOINTED PURSUANT TO SUBSECTION (1)(a)(III)(D) OF THIS SECTION; AND

(B) FOUR YEARS FOR THE MEMBERS APPOINTED PURSUANT TO SUBSECTIONS (1)(a)(III)(B), (1)(a)(III)(E), AND (1)(a)(III)(G) OF THIS SECTION AND FOR ONE OF THE MEMBERS APPOINTED PURSUANT TO SUBSECTION (1)(a)(III)(D) OF THIS SECTION.

(b) MEMBERS OF THE BOARD APPOINTED BY THE GOVERNOR SERVE AT THE PLEASURE OF THE GOVERNOR AND MAY BE REMOVED BY THE GOVERNOR.

(c) A MEMBER WHO IS APPOINTED TO FILL A VACANCY SHALL SERVE THE REMAINDER OF THE UNEXPIRED TERM OF THE MEMBER WHOSE VACANCY IS BEING FILLED.

(d) MEMBERS OF THE BOARD MAY BE REIMBURSED FOR ACTUAL AND NECESSARY EXPENSES, INCLUDING ANY REQUIRED DEPENDENT CARE AND DEPENDENT OR ATTENDANT TRAVEL, FOOD, AND LODGING, WHILE ENGAGED IN THE PERFORMANCE OF OFFICIAL DUTIES OF THE BOARD.

(3) THE BOARD SHALL MEET AS OFTEN AS NECESSARY TO CARRY OUT ITS DUTIES PURSUANT TO THIS PART 12.

(4) THE BOARD IS AUTHORIZED TO:

(a) IMPLEMENT AND ADMINISTER THE ENTERPRISE;

(b) ESTABLISH ADMINISTRATIVE AND ACCOUNTING PROCEDURES FOR THE OPERATION OF THE ENTERPRISE;

(c) RECOMMEND, FOR APPROVAL AND ESTABLISHMENT BY THE COMMISSIONER BY RULE:

(I) THE TIMING AND METHODOLOGY FOR ASSESSING AND COLLECTING THE FEE

AND SPECIAL ASSESSMENT, SUBJECT TO SECTION 10-16-1205 (1)(a);

(II) THE DISTRIBUTION OF ENTERPRISE REVENUES ALLOCATED FOR CARRIER PAYMENTS AND SUBSIDIES IN A MANNER THAT IMPROVES AFFORDABILITY FOR SUBSIDIZED POPULATIONS AND INDIVIDUALS NOT ELIGIBLE FOR THE PREMIUM TAX CREDIT, MEDICAID, MEDICARE, OR THE CHILDREN'S BASIC HEALTH PLAN;

(III) THE PAYMENTS AUTHORIZED BY THIS PART 12 TO BE MADE TO CARRIERS TO REDUCE THE COSTS OF INDIVIDUAL HEALTH PLANS FOR INDIVIDUALS WHO PURCHASE AN INDIVIDUAL HEALTH BENEFIT PLAN ON THE EXCHANGE AND RECEIVE THE PREMIUM TAX CREDIT; AND

(IV) THE PARAMETERS FOR IMPLEMENTING THE SUBSIDIES FOR STATE-SUBSIDIZED INDIVIDUAL HEALTH COVERAGE PLANS AUTHORIZED BY THIS PART 12, INCLUDING:

(A) THE COVERAGE REQUIRED UNDER STATE-SUBSIDIZED INDIVIDUAL HEALTH COVERAGE PLANS, WHICH COVERAGE MUST MAXIMIZE AFFORDABILITY FOR QUALIFIED INDIVIDUALS AND MUST INCLUDE COVERAGE FOR THE LOWEST INCOME GROUP, AS DETERMINED BY THE BOARD, THAT HAS NO PREMIUM AND PROVIDES BENEFITS ACTUARIALLY EQUIVALENT TO NINETY PERCENT OF THE FULL ACTUARIAL VALUE OF THE BENEFITS PROVIDED UNDER THE PLAN; AND

(B) THE CRITERIA AND PROCEDURES FOR DETERMINING WHETHER AN INDIVIDUAL IS A QUALIFIED INDIVIDUAL ELIGIBLE TO ENROLL IN A STATE-SUBSIDIZED INDIVIDUAL HEALTH COVERAGE PLAN; AND

(d) ESTABLISH BYLAWS, AS APPROPRIATE AND CONSISTENT WITH THIS PART 12, FOR ITS EFFECTIVE OPERATION.

(5) THE COMMISSIONER SHALL ADOPT RULES NECESSARY FOR THE ADMINISTRATION AND IMPLEMENTATION OF THIS PART 12. IN ADOPTING THE RULES, THE COMMISSIONER SHALL CONSIDER THE RECOMMENDATIONS OF THE BOARD AND SHALL EXPRESS IN WRITING THE REASONS FOR ANY DEVIATION FROM THE BOARD RECOMMENDATIONS.

(6) MEETINGS OF THE BOARD ARE SUBJECT TO THE OPEN MEETINGS PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972", CONTAINED IN PART 4 OF ARTICLE 6 OF TITLE 24. EXCEPT AS OTHERWISE PROVIDED IN THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, OR OTHER APPLICABLE STATE OR FEDERAL LAW, RECORDS OF THE BOARD AND THE PROGRAM ARE SUBJECT TO THE "COLORADO OPEN RECORDS ACT".

10-16-1208. Limitation on authority - public option. NOTHING IN THIS PART 12 AUTHORIZES THE ENTERPRISE, THE BOARD, OR THE COMMISSIONER TO ESTABLISH, ADMINISTER, OPERATE, OR REQUIRE PARTICIPATION BY CARRIERS OR HOSPITALS IN A STATE OR PUBLIC OPTION HEALTH COVERAGE PLAN.

SECTION 2. In Colorado Revised Statutes, 10-16-107, **add** (8) as follows:

10-16-107. Rate filing regulation - benefits ratio - rules. (8) (a) THE COMMISSIONER MAY ADOPT RULES DESIGNED TO:

(I) MAXIMIZE THE PURCHASING POWER OF EXCHANGE CONSUMERS WHOSE HOUSEHOLD INCOME IS UP TO FOUR HUNDRED PERCENT OF THE FEDERAL POVERTY LINE; AND

(II) ASSURE PREMIUM PRICING THAT COMPLIES WITH THE REQUIREMENTS IN THE FEDERAL ACT FOR MODIFIED COMMUNITY RATING.

(b) IN ADOPTING THESE RULES, THE COMMISSIONER MAY CONSIDER THE RESULTS OF THE EVALUATION AND STUDY OF THE REINSURANCE PROGRAM CONDUCTED PURSUANT TO SECTION 10-16-1104 (2).

SECTION 3. In Colorado Revised Statutes, 10-16-1104, **amend** (1)(g); and **repeal** (1)(f) as follows:

10-16-1104. Commissioner powers and duties - rules - study and report.

(1) The commissioner has all powers necessary to implement this part 11 and is specifically authorized to:

~~(f) Assess special fees against hospitals and, if applicable, carriers for the continuous operation of the reinsurance program, as provided in section 10-16-1108;~~

(g) IN ACCORDANCE WITH SECTION 10-16-1109, apply for a state innovation waiver OR AN EXTENSION OF A STATE INNOVATION WAIVER; APPLY FOR federal funds; or APPLY FOR ~~both in accordance with section 10-16-1109~~; A WAIVER OR EXTENSION OF A WAIVER AND FEDERAL FUNDS for the implementation and operation of the reinsurance program;

SECTION 4. In Colorado Revised Statutes, 10-16-1105, **amend** (1)(a), (1)(b), (1)(c), (1)(e)(I), and (2)(b) introductory portion; and **add** (2)(a.5) as follows:

10-16-1105. Reinsurance program - creation - enterprise status - subject to waiver or funding approval - operation - payment parameters - calculation of reinsurance payments - eligible carrier requests - definition. (1) (a) There is hereby created in the division the Colorado reinsurance program to provide reinsurance payments to eligible carriers. Implementation and operation of the reinsurance program is contingent upon approval of ~~the~~ A state innovation waiver, AN EXTENSION OF A STATE INNOVATION WAIVER, OR A federal funding request submitted by the commissioner in accordance with section 10-16-1109.

~~(b) (I) The reinsurance program constitutes an enterprise for purposes of section 20 of article X of the state constitution as long as the commissioner, on behalf of the program, retains authority to issue revenue bonds and the program receives less than ten percent of its total revenues in grants, as defined in section 24-77-102 (7), from all Colorado state and local governments combined. So long as it constitutes an enterprise pursuant to this section, the program is not a district for purposes of section 20 of article X of the state constitution IS PART OF THE COLORADO HEALTH INSURANCE AFFORDABILITY ENTERPRISE ESTABLISHED PURSUANT TO PART 12 OF THIS ARTICLE 16.~~

~~(II) Subject to approval by the general assembly, either by bill or joint resolution;~~

~~and after approval by the governor pursuant to section 39 of article V of the state constitution, the commissioner, on behalf of the reinsurance program, is hereby authorized to issue revenue bonds for the expenses of the program, secured by revenues of the program.~~

(c) If ~~the~~ A state innovation waiver, AN EXTENSION OF A STATE INNOVATION WAIVER, or a federal funding request submitted by the commissioner pursuant to section 10-16-1109 is approved, the commissioner shall implement and operate the reinsurance program in accordance with this section.

(e) (I) On a quarterly basis during the applicable benefit year,

~~(A)~~ each eligible carrier shall report to the commissioner its claims costs that exceed the attachment point for that benefit year.

~~(B)~~ Each hospital that is subject to the special fees assessed pursuant to section 10-16-1108 shall report to the commissioner the amount the hospital is responsible for funding in the benefit year; and

~~(C)~~ If special fees are assessed against carriers pursuant to section 10-16-1108 ~~(1)(b)~~, each carrier that is subject to the special fees shall report to the commissioner on its collected assessments in that benefit year.

(2) (a.5) TO THE GREATEST EXTENT POSSIBLE, THE COMMISSIONER SHALL SET THE PAYMENT PARAMETERS FOR THE 2021 BENEFIT YEAR AT AMOUNTS TO MAINTAIN THE TARGETED CLAIMS REDUCTIONS ACHIEVED IN THE 2020 BENEFIT YEAR.

(b) For the ~~2021~~ 2022 benefit year AND EACH BENEFIT YEAR THEREAFTER, after a stakeholder process, the commissioner shall establish and publish the payment parameters for that benefit year by March 15 ~~2020~~ OF THE IMMEDIATELY PRECEDING CALENDAR YEAR. In setting the payment parameters under this subsection (2)(b), the commissioner shall consider the following factors as they apply in each geographic rating area in the state:

SECTION 5. In Colorado Revised Statutes, 10-16-1106, **amend** (4) as follows:

10-16-1106. Accounting - reports - audits. (4) On or before November 1, 2020, and on or before November 1 ~~2021~~ OF EACH YEAR THEREAFTER, the division shall include an update regarding the program in its report to the members of the applicable committees of reference in the senate and house of representatives as required by the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act", part 2 of article 7 of title 2.

SECTION 6. In Colorado Revised Statutes, 10-16-1107, **amend** (1); and **add** (4) as follows:

10-16-1107. Funding for reinsurance program - sources - permitted uses - reinsurance program cash fund - calculation of total funding for program.

(1) (a) There is hereby created in the state treasury the reinsurance program cash fund REFERRED TO IN THIS SECTION AS THE "FUND", which consists of:

(I) Federal pass-through funding granted pursuant to 42 U.S.C. sec. 18052 (a)(3) or any other federal funds that are made available for the reinsurance program;

~~(II) Special fees assessed against hospitals and, if applicable, carriers as provided in section 10-16-1108;~~

~~(III) The following amounts transferred from the general fund to the reinsurance program cash fund, but only if House Bill 19-1245 is enacted at the first regular session of the seventy-second general assembly and becomes law:~~

~~(A) Fifteen million dollars, transferred to the fund on June 30, 2020; and~~

~~(B) Forty million dollars, transferred to the fund on June 30, 2021;~~

~~(IV) An amount of premium tax revenues deposited in the fund pursuant to section 10-3-209 (4)(a)(III); and~~

~~(V) (II) Any money the general assembly appropriates to the fund for the program; AND~~

(III) ANY AMOUNTS ALLOCATED TO THE FUND PURSUANT TO SECTION 10-16-1205 (2).

(b) All money deposited or paid into or TRANSFERRED, ALLOCATED, OR appropriated to the reinsurance program cash fund, including interest or income earned on the investment of money in the fund, is continuously available and appropriated to the division to be expended in accordance with this part 11. Any interest or income earned on the investment of money in the fund shall be credited to the fund.

(c) The reinsurance program cash fund is part of the ~~reinsurance program enterprise established pursuant to section 10-16-1105 (1)(b)~~ COLORADO HEALTH INSURANCE AFFORDABILITY ENTERPRISE ESTABLISHED PURSUANT TO PART 12 OF THIS ARTICLE 16.

(4) (a) IF, AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (4), THE UNITED STATES CONGRESS ENACTS AND THE PRESIDENT SIGNS FEDERAL LEGISLATION ESTABLISHING OR THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES IMPLEMENTS A FEDERAL REINSURANCE PROGRAM THAT PROVIDES FEDERAL FUNDING FOR THE REINSURANCE PROGRAM OR OTHERWISE MAKES ADDITIONAL FEDERAL FUNDS AVAILABLE FOR THE REINSURANCE PROGRAM IN EXCESS OF THE AMOUNT RECEIVED AS FEDERAL PASS-THROUGH FUNDING PURSUANT TO SUBSECTION (1)(a)(I) OF THIS SECTION, THE COMMISSIONER SHALL NOTIFY THE HEALTH INSURANCE AFFORDABILITY BOARD CREATED IN SECTION 10-16-1207 OF THE AMOUNT OF FEDERAL FUNDING IN EXCESS OF THE FEDERAL PASS-THROUGH FUNDING THAT WILL BE AVAILABLE FOR THE REINSURANCE PROGRAM AND THE DATE THE FUNDING IS EXPECTED TO BE RECEIVED.

(b) IF THE REINSURANCE PROGRAM RECEIVES FEDERAL FUNDING AS DESCRIBED IN THIS SUBSECTION (4) TO MAKE REINSURANCE PAYMENTS TO CARRIERS IN A GIVEN YEAR AFTER THE HEALTH INSURANCE AFFORDABILITY ENTERPRISE HAS ALLOCATED

MONEY TO THE REINSURANCE PROGRAM PURSUANT TO SECTION 10-16-1205 (2) FOR THAT YEAR, THE COMMISSIONER SHALL RETURN TO THE ENTERPRISE THE ALLOCATION OR A PORTION OF THE ALLOCATION, AS DETERMINED BY THE ENTERPRISE, BASED ON THE AMOUNT OF FEDERAL FUNDING RECEIVED FOR THAT YEAR.

SECTION 7. In Colorado Revised Statutes, **repeal** 10-16-1108.

SECTION 8. In Colorado Revised Statutes, 10-16-1109, **amend** (1)(a) as follows:

10-16-1109. State innovation waiver - federal funding - Colorado reinsurance program. (1) (a) For purposes of implementing and operating the reinsurance program as set forth in this part 11 for plan years starting on or after January 1, ~~2020~~ 2021, the commissioner may apply to the secretary of the United States department of health and human services for:

(I) ~~A two-year state innovation waiver~~ In accordance with section 1332 of the federal act, codified at 42 U.S.C. sec. 18052, and 45 CFR 155.1300:

(A) ONE OR MORE EXTENSIONS OF THE INITIAL TWO-YEAR STATE INNOVATION WAIVER RECEIVED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (1)(a)(I), AS AMENDED, OF UP TO FIVE YEARS PER EXTENSION; OR

(B) A NEW STATE INNOVATION WAIVER OF UP TO FIVE YEARS TO FOLLOW THE INITIAL TWO-YEAR STATE INNOVATION WAIVER APPROVED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (1)(a)(I), AS AMENDED, AND SUBSEQUENT EXTENSIONS OF ANY NEW STATE INNOVATION WAIVER APPROVED BY THE SECRETARY;

(II) Federal funds for the reinsurance program; or

(III) A NEW OR EXTENDED state innovation waiver and federal funds.

SECTION 9. In Colorado Revised Statutes, 10-16-1110, **repeal** (2) as follows:

10-16-1110. Repeal of part - notice to revisor of statutes. (2) ~~This part 11 is repealed, effective September 1, 2023.~~

SECTION 10. In Colorado Revised Statutes, 10-3-209, **amend** (4)(a)(III) as follows:

10-3-209. Tax on premiums collected - exemptions - penalties. (4) (a) The division of insurance shall transmit all taxes, penalties, and fines it collects under this section to the state treasurer for deposit in the general fund; except that the state treasurer shall deposit amounts in the specified cash funds as follows:

(III) (A) For the 2020-21 STATE FISCAL YEAR and ~~2021-22~~ EACH state fiscal years YEAR THEREAFTER, ~~in the reinsurance program~~ HEALTH INSURANCE AFFORDABILITY cash fund created in ~~section 10-16-1107~~ SECTION 10-16-1206, an amount equal to the amount of premium taxes collected pursuant to this section in the 2020 calendar year OR ANY SUBSEQUENT CALENDAR YEAR that exceeds the amount of premium

taxes collected pursuant to this section in the 2019 calendar year, SUBJECT TO SUBSECTION (4)(a)(III)(B) OF THIS SECTION.

~~(B) This subsection (4)(a)(III) is repealed, effective September 1, 2023~~ THE AMOUNT OF PREMIUM TAXES DEPOSITED IN THE HEALTH INSURANCE AFFORDABILITY CASH FUND PURSUANT TO THIS SUBSECTION (4)(a)(III) IN ANY GIVEN YEAR SHALL NOT EXCEED TEN PERCENT OF THE AMOUNT OF REVENUES COLLECTED BY THE HEALTH INSURANCE AFFORDABILITY ENTERPRISE PURSUANT TO SECTION 10-16-1205 IN THAT YEAR. THE HEALTH INSURANCE AFFORDABILITY BOARD ESTABLISHED IN SECTION 10-16-1207 SHALL NOTIFY THE TREASURER OF THE MAXIMUM AMOUNT OF PREMIUM TAXES THAT MAY BE DEPOSITED IN THE HEALTH INSURANCE AFFORDABILITY CASH FUND TO COMPLY WITH THIS SUBSECTION (4)(a)(III)(B).

SECTION 11. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: June 30, 2020