

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

INTRODUCED

LLS NO. 25-1037.01 Rebecca Bayetti x4348

SENATE BILL 25-270

SENATE SPONSORSHIP

Bridges and Amabile,

HOUSE SPONSORSHIP

Bird and Sirota,

Senate Committees
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING NURSING FACILITY FEES COLLECTED BY THE COLORADO**
102 **HEALTHCARE AFFORDABILITY AND SUSTAINABILITY**
103 **ENTERPRISE, AND, IN CONNECTION THEREWITH, AUTHORIZING**
104 **THE ENTERPRISE TO PROVIDE ADDITIONAL SERVICES TO**
105 **NURSING FACILITIES IN EXCHANGE FOR THE FEES COLLECTED**
106 **AND MAKING AND REDUCING APPROPRIATIONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill repeals the existing nursing facility provider fee and

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

intermediate care facility service fee, effective May 1, 2025, and provides that, beginning on May 1, 2025, and for each state fiscal year thereafter, the Colorado healthcare affordability and sustainability enterprise (CHASE) within the department of health care policy and financing will charge and collect a new healthcare affordability and sustainability nursing facility provider fee and a new healthcare affordability and sustainability intermediate care facility fee that function similarly to the repealed fees. The bill creates a facility provider fee enterprise support board within CHASE for the purpose of supporting the existing enterprise with the implementation of the healthcare affordability and sustainability nursing facility provider fee and the healthcare affordability and sustainability intermediate care facility fee. In exchange for payment of the healthcare affordability and sustainability nursing facility provider fee, CHASE will provide certain business services to nursing facility providers to sustain or increase reimbursement rates and make supplemental medicaid payments to nursing facility providers. In exchange for payment of the healthcare affordability and sustainability intermediate care facility fee, CHASE will provide certain business services to intermediate care facility providers for individuals with intellectual disabilities for the purposes of maintaining the quality and continuity of services provided by intermediate care facilities for individuals with intellectual disabilities. Because CHASE is an enterprise for purposes of the Taxpayer's Bill of Rights, its revenue does not count against the state fiscal year spending limit.

The bill also makes conforming amendments and, for clarity, renames the existing healthcare affordability and sustainability fee and healthcare affordability and sustainability fund to be the healthcare affordability and sustainability hospital provider fee and the healthcare affordability and sustainability hospital provider fee cash fund.

1 *Be it enacted by the General Assembly of the State of Colorado:*
2 **SECTION 1.** In Colorado Revised Statutes, 25.5-4-402.4, **amend**
3 (2) introductory portion, (2)(a), (2)(c) introductory portion, (2)(c)(V),
4 (2)(c)(VI), (2)(d) introductory portion, (2)(e), (2)(f), (2)(g), (3)(a),
5 (3)(c)(I), (3)(d)(I), (3)(d)(II), (3)(d)(III), (3)(d)(V), (4)(b) introductory
6 portion, (4)(b)(II), (4)(b)(III), (4)(c)(I) introductory portion, (4)(c)(II)(C),
7 (4)(c)(III) introductory portion, (4)(c)(III)(E), (4)(c)(III)(F), (4)(e), (4)(f),
8 (5)(a), (5)(b) introductory portion, (5)(b)(IV) introductory portion,

1 (5)(b)(VI)(B), (5)(c)(I)(A), (5)(c)(II)(C), (5)(c)(III), (5)(c)(V), (6)(a)(I),
2 (6)(b) introductory portion, (6)(b)(II), (6)(b)(III)(A), (6)(b)(III)(B), (6)(c),
3 (7)(b), (7)(d)(I), (7)(d)(II), (7)(d)(III), (7)(d)(IX), (7)(d)(X), (7)(e)
4 introductory portion, (7)(e)(II), (7)(e)(III) introductory portion, and
5 (7)(e)(IV); **amend as they exist until July 1, 2025**, (2)(d)(I), (4)(a)
6 introductory portion, and (4)(g); and **add** (2)(c)(V.5), (2)(c)(V.7),
7 (2)(d.5), (2)(d.7), (3)(c)(III), (3)(c)(IV), (4.5), (4.7), (5.5), (5.7),
8 (6)(a)(IV), (6)(a)(V), (6)(b.5), (6)(c.5), (6)(c.7), (7)(e)(II.5), (7)(e)(II.7),
9 (7)(e)(III.5), (7)(e)(III.7), (7)(g), and (9) as follows:

10 **25.5-4-402.4. Healthcare affordability and sustainability**
11 **hospital provider fee - healthcare affordability and sustainability**
12 **nursing facility provider fee - healthcare affordability and**
13 **sustainability intermediate care facility fee - Colorado healthcare**
14 **affordability and sustainability enterprise - federal waiver - funds**
15 **created - reports - rules - legislative declaration - repeal.**
16 **(2) Legislative declaration.** The general assembly ~~hereby~~ finds and
17 declares that:

18 (a) The state and the providers of publicly funded medical
19 services, and hospitals, NURSING FACILITY PROVIDERS, AND INTERMEDIATE
20 CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES in
21 particular, share a common commitment to comprehensive health-care
22 reform;

23 (c) This section is enacted as part of a comprehensive health-care
24 reform and is intended to provide the following services and benefits to
25 hospitals, NURSING FACILITY PROVIDERS, INTERMEDIATE CARE FACILITIES
26 FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES, and individuals:

27 (V) Expanding access to high-quality, affordable health care for

1 low-income and uninsured populations; and

2 (V.5) SUSTAINING OR INCREASING THE REIMBURSEMENT FOR
3 PROVIDING MEDICAL CARE UNDER THE STATE'S MEDICAL ASSISTANCE
4 PROGRAM FOR NURSING FACILITY PROVIDERS AND MAKING SUPPLEMENTAL
5 MEDICAID PAYMENTS TO NURSING FACILITY PROVIDERS;

6 (V.7) MAINTAINING THE QUALITY AND CONTINUITY OF SERVICES
7 PROVIDED BY INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH
8 INTELLECTUAL DISABILITIES; AND

9 (VI) Providing the additional business services specified in
10 subsection (4)(a)(IV) of this section to hospitals that pay the healthcare
11 affordability and sustainability HOSPITAL PROVIDER fee charged and
12 collected as authorized by subsection (4) of this section by the Colorado
13 healthcare affordability and sustainability enterprise created in subsection
14 (3)(a) of this section;

15 (d) The Colorado healthcare affordability and sustainability
16 enterprise provides business services to hospitals when, in exchange for
17 payment of healthcare affordability and sustainability HOSPITAL PROVIDER
18 fees by hospitals, it:

19 (I) Obtains federal matching money and returns both the
20 ~~healthcare affordability and sustainability~~ HOSPITAL PROVIDER fee and the
21 federal matching money to hospitals to increase reimbursement rates to
22 hospitals for providing medical care under the state medical assistance
23 program and the Colorado indigent care program and to increase the
24 number of individuals covered by public medical assistance; and

25 (d.5) THE COLORADO HEALTHCARE AFFORDABILITY AND
26 SUSTAINABILITY ENTERPRISE PROVIDES BUSINESS SERVICES TO NURSING
27 FACILITY PROVIDERS WHEN, IN EXCHANGE FOR PAYMENT OF NURSING

1 FACILITY PROVIDER FEES, IT OBTAINS FEDERAL MATCHING MONEY AND
2 RETURNS BOTH THE NURSING FACILITY PROVIDER FEE AND THE FEDERAL
3 MATCHING MONEY TO NURSING FACILITY PROVIDERS TO SUSTAIN OR
4 INCREASE REIMBURSEMENT RATES AND MAKE SUPPLEMENTAL MEDICAID
5 PAYMENTS TO NURSING FACILITY PROVIDERS;

6 (d.7) THE COLORADO HEALTHCARE AFFORDABILITY AND
7 SUSTAINABILITY ENTERPRISE PROVIDES BUSINESS SERVICES TO
8 INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL
9 DISABILITIES WHEN, IN EXCHANGE FOR PAYMENT OF INTERMEDIATE CARE
10 FACILITY FEES, IT OBTAINS FEDERAL MATCHING MONEY AND RETURNS
11 BOTH THE INTERMEDIATE CARE FACILITY FEE AND THE FEDERAL
12 MATCHING MONEY TO INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS
13 WITH INTELLECTUAL DISABILITIES TO SUSTAIN OR INCREASE
14 REIMBURSEMENT RATES AND MAKE SUPPLEMENTAL MEDICAID PAYMENTS
15 TO SUCH INTERMEDIATE CARE FACILITIES;

16 (e) It is necessary, appropriate, and in the best interest of the state
17 to acknowledge that by providing the business services specified in
18 ~~subsections (2)(d)(I) and (2)(d)(H)~~ SUBSECTIONS (2)(d) TO (2)(d.7) of this
19 section, the Colorado healthcare affordability and sustainability enterprise
20 engages in an activity conducted in the pursuit of a benefit, gain, or
21 livelihood and therefore operates as a business;

22 (f) Consistent with the determination of the Colorado supreme
23 court in *Nicholl v. E-470 Public Highway Authority*, 896 P.2d 859 (Colo.
24 1995), that the power to impose taxes is inconsistent with enterprise status
25 under section 20 of article X of the state constitution, it is the conclusion
26 of the general assembly that the healthcare affordability and sustainability
27 HOSPITAL PROVIDER fee, THE HEALTHCARE AFFORDABILITY AND

1 SUSTAINABILITY NURSING FACILITY PROVIDER FEE, AND THE HEALTHCARE
2 AFFORDABILITY AND SUSTAINABILITY INTERMEDIATE CARE FACILITY FEE
3 charged and collected by the Colorado healthcare affordability and
4 sustainability enterprise ~~is a fee~~ ARE FEES, not ~~a tax~~ TAXES, because the
5 ~~fee is~~ FEES ARE imposed for the specific purposes of allowing the
6 enterprise to defray the costs of providing the business services specified
7 in ~~subsections (2)(d)(I) and (2)(d)(II)~~ SUBSECTIONS (2)(d) TO (2)(d.7) of
8 this section to hospitals, NURSING FACILITY PROVIDERS, AND
9 INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL
10 DISABILITIES that pay the ~~fee~~ FEES and ~~is~~ ARE collected at rates that are
11 reasonably calculated based on the benefits received by those hospitals,
12 NURSING FACILITY PROVIDERS, AND INTERMEDIATE CARE FACILITIES; and

13 (g) So long as the Colorado healthcare affordability and
14 sustainability enterprise qualifies as an enterprise for purposes of section
15 20 of article X of the state constitution, the revenues from the ~~healthcare~~
16 ~~affordability and sustainability fee~~ FEES charged and collected by the
17 enterprise are not state fiscal year spending, as defined in section
18 24-77-102 (17), or state revenues, as defined in section 24-77-103.6
19 (6)(c), and do not count against either the state fiscal year spending limit
20 imposed by section 20 of article X of the state constitution or the excess
21 state revenues cap, as defined in section 24-77-103.6 (6)(b)(I).

22 (3) **Colorado healthcare affordability and sustainability**
23 **enterprise.** (a) The Colorado healthcare affordability and sustainability
24 enterprise ~~referred to in this section as the "enterprise"~~, is created. The
25 enterprise is and operates as a government-owned business within the
26 state department for the purpose of:

27 (I) Charging and collecting:

1 (A) The ~~healthcare affordability and sustainability~~ HOSPITAL
2 PROVIDER fee;

3 (B) THE NURSING FACILITY PROVIDER FEE; AND

4 (C) THE INTERMEDIATE CARE FACILITY FEE;

5 (II) Leveraging ~~healthcare affordability and sustainability~~
6 REVENUE FROM THE HOSPITAL PROVIDER fee, ~~revenue~~ THE NURSING
7 FACILITY PROVIDER FEE, AND THE INTERMEDIATE CARE FACILITY FEE to
8 obtain federal matching money; and

9 (III) Utilizing and deploying:

10 (A) The ~~healthcare affordability and sustainability~~ HOSPITAL
11 PROVIDER fee revenue and federal matching money to provide the
12 business services specified in subsections (2)(d)(I) and (2)(d)(II) of this
13 section to hospitals that pay the healthcare affordability and sustainability
14 fee;

15 (B) THE NURSING FACILITY PROVIDER FEE REVENUE AND ANY
16 FEDERAL MATCHING MONEY TO PROVIDE THE BUSINESS SERVICES
17 SPECIFIED IN SUBSECTION (2)(d.5) OF THIS SECTION TO NURSING FACILITY
18 PROVIDERS THAT PAY THE NURSING FACILITY PROVIDER FEE; AND

19 (C) THE INTERMEDIATE CARE FACILITY FEE REVENUE AND ANY
20 FEDERAL MATCHING MONEY TO PROVIDE THE BUSINESS SERVICES
21 SPECIFIED IN SUBSECTION (2)(d.7) OF THIS SECTION TO INTERMEDIATE
22 CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES THAT
23 PAY THE INTERMEDIATE CARE FACILITY FEE.

24 (c) (I) The repeal of the hospital provider fee program, as it
25 existed pursuant to section 25.5-4-402.3 before its repeal, effective July
26 1, 2017, by Senate Bill 17-267, enacted in 2017, and the creation of the
27 Colorado healthcare affordability and sustainability enterprise as a new

1 enterprise to charge and collect a new healthcare affordability and
2 sustainability HOSPITAL PROVIDER fee as authorized by subsection (4) of
3 this section and provide ~~healthcare affordability and sustainability~~
4 fee-funded business services to hospitals that replace and supplement
5 services previously funded by THE REPEALED hospital provider fees is the
6 creation of a new government-owned business that provides business
7 services to hospitals as a new enterprise for purposes of section 20 of
8 article X of the state constitution, does not constitute the qualification of
9 an existing government-owned business as an enterprise for purposes of
10 section 20 of article X of the state constitution or section 24-77-103.6
11 (6)(b)(II), and, therefore, does not require or authorize adjustment of the
12 state fiscal year spending limit calculated pursuant to section 20 of article
13 X of the state constitution or the excess state revenues cap, as defined in
14 section 24-77-103.6 (6)(b)(I).

15 (III) THE REPEAL OF THE NURSING FACILITY PROVIDER FEE
16 PROGRAM, AS IT EXISTED IN SECTION 25.5-6-203 (1) BEFORE ITS REPEAL,
17 EFFECTIVE MAY 1, 2025, BY THIS SENATE BILL 25-____, ENACTED IN 2025,
18 AND THE ENTERPRISE'S ABILITY TO CHARGE AND COLLECT A NEW
19 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY NURSING FACILITY
20 PROVIDER FEE AS AUTHORIZED BY SUBSECTION (4.5) OF THIS SECTION AND
21 PROVIDE FEE-FUNDED BUSINESS SERVICES TO NURSING FACILITY
22 PROVIDERS THAT REPLACE AND SUPPLEMENT SERVICES PREVIOUSLY
23 FUNDED BY THE NURSING FACILITY PROVIDER FEE DOES NOT CONSTITUTE
24 CREATION OF A NEW ENTERPRISE OR THE QUALIFICATION OF AN EXISTING
25 GOVERNMENT-OWNED BUSINESS AS AN ENTERPRISE FOR PURPOSES OF
26 SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, SECTION
27 24-77-103.6 (6)(b)(II), OR SECTION 24-77-108, AND, THEREFORE, DOES

1 NOT REQUIRE OR AUTHORIZE ADJUSTMENT OF THE STATE FISCAL YEAR
2 SPENDING LIMIT CALCULATED PURSUANT TO SECTION 20 OF ARTICLE X OF
3 THE STATE CONSTITUTION OR THE EXCESS STATE REVENUES CAP, AS
4 DEFINED IN SECTION 24-77-103.6 (6)(b)(I), AND DOES NOT REQUIRE VOTER
5 APPROVAL.

6 (IV) THE REPEAL OF THE INTERMEDIATE CARE FACILITY SERVICE
7 FEE PROGRAM, AS IT EXISTED IN SECTION 25.5-6-204 (1)(c)(I) BEFORE ITS
8 REPEAL, EFFECTIVE MAY 1, 2025, BY THIS SENATE BILL 25-____, ENACTED
9 IN 2025, AND THE ENTERPRISE'S ABILITY TO CHARGE AND COLLECT A NEW
10 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY INTERMEDIATE CARE
11 FACILITY FEE AS AUTHORIZED BY SUBSECTION (4.7) OF THIS SECTION AND
12 PROVIDE FEE-FUNDED BUSINESS SERVICES TO INTERMEDIATE CARE
13 FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES THAT
14 REPLACE AND SUPPLEMENT SERVICES PREVIOUSLY FUNDED BY THE
15 INTERMEDIATE CARE FACILITY SERVICE FEE DOES NOT CONSTITUTE
16 CREATION OF A NEW ENTERPRISE OR THE QUALIFICATION OF AN EXISTING
17 GOVERNMENT-OWNED BUSINESS AS AN ENTERPRISE FOR PURPOSES OF
18 SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, SECTION
19 24-77-103.6 (6)(b)(II), OR SECTION 24-77-108, AND, THEREFORE, DOES
20 NOT REQUIRE OR AUTHORIZE ADJUSTMENT OF THE STATE FISCAL YEAR
21 SPENDING LIMIT CALCULATED PURSUANT TO SECTION 20 OF ARTICLE X OF
22 THE STATE CONSTITUTION OR THE EXCESS STATE REVENUES CAP, AS
23 DEFINED IN SECTION 24-77-103.6 (6)(b)(I), AND DOES NOT REQUIRE VOTER
24 APPROVAL.

25 (d) The enterprise's primary powers and duties are:

26 (I) To charge and collect:

27 (A) ~~The healthcare affordability and sustainability~~ HOSPITAL

1 PROVIDER fee as specified in subsection (4) of this section;

2 (B) THE NURSING FACILITY PROVIDER FEE AS SPECIFIED IN

3 SUBSECTION (4.5) OF THIS SECTION; AND

4 (C) THE INTERMEDIATE CARE FACILITY FEE AS SPECIFIED IN

5 SUBSECTION (4.7) OF THIS SECTION;

6 (II) To leverage ~~healthcare affordability and sustainability~~

7 REVENUE FROM THE HOSPITAL PROVIDER fee, ~~revenue collected~~ THE

8 NURSING FACILITY PROVIDER FEE, AND THE INTERMEDIATE CARE FACILITY

9 FEE to obtain federal matching money, working with or through the state

10 department and the state board to the extent required by federal law or

11 otherwise necessary;

12 (III) To expend:

13 (A) ~~healthcare affordability and sustainability~~ HOSPITAL PROVIDER

14 fee revenue, matching federal money, and any other money from the

15 ~~healthcare affordability and sustainability~~ HOSPITAL PROVIDER fee cash

16 fund as specified in subsections (4) and (5) of this section;

17 (B) NURSING FACILITY PROVIDER FEE REVENUE, MATCHING

18 FEDERAL MONEY, AND ANY OTHER MONEY FROM THE NURSING FACILITY

19 PROVIDER FEE CASH FUND AS SPECIFIED IN SUBSECTION (5.5) OF THIS

20 SECTION; AND

21 (C) INTERMEDIATE CARE FACILITY FEE REVENUE, MATCHING

22 FEDERAL MONEY, AND ANY OTHER MONEY FROM THE INTERMEDIATE CARE

23 FACILITY FEE CASH FUND AS SPECIFIED IN SUBSECTION (5.7) OF THIS

24 SECTION;

25 (V) To enter into agreements with the state department to the

26 extent necessary to collect and expend ~~healthcare affordability and~~

27 ~~sustainability~~ REVENUE FROM THE HOSPITAL PROVIDER fee, ~~revenue~~ THE

1 NURSING FACILITY PROVIDER FEE, AND THE INTERMEDIATE CARE FACILITY
2 FEE;

3 (4) **Healthcare affordability and sustainability hospital**
4 **provider fee.** (a) For the fiscal year commencing July 1, 2017, and for
5 each fiscal year thereafter, the enterprise is authorized to charge and
6 collect a healthcare affordability and sustainability HOSPITAL PROVIDER
7 fee, as described in 42 CFR 433.68 (b), on outpatient and inpatient
8 services provided by all licensed or certified hospitals ~~referred to in this~~
9 ~~section as "hospitals"~~, for the purpose of obtaining federal financial
10 participation under the state medical assistance program as described in
11 this article 4 and articles 5 and 6 of this title 25.5 ~~referred to in this~~
12 ~~section as the "state medical assistance program"~~, and the Colorado
13 indigent care program described in part 1 of article 3 of this title 25.5,
14 referred to in this section as the "Colorado indigent care program". If the
15 amount of ~~healthcare affordability and sustainability~~ HOSPITAL PROVIDER
16 fee revenue collected exceeds the federal net patient revenue-based limit
17 on the amount of such fee revenue that may be collected, requiring
18 repayment to the federal government of excess federal matching money
19 received, hospitals that received such excess federal matching money
20 shall be responsible for repaying the excess federal money and any
21 associated federal penalties to the federal government. The enterprise
22 shall use the ~~healthcare affordability and sustainability~~ HOSPITAL
23 PROVIDER fee revenue to:

24 (b) The enterprise shall recommend for approval and
25 establishment by the state board the amount of the ~~healthcare affordability~~
26 ~~and sustainability~~ HOSPITAL PROVIDER fee that it intends to charge and
27 collect. The state board must establish the final amount of the fee by rules

1 promulgated in accordance with article 4 of title 24. The state board shall
2 not establish any amount that exceeds the federal limit for such fees. The
3 state board may deviate from the recommendations of the enterprise, but
4 shall express in writing the reasons for any deviations. In establishing the
5 amount of the fee and in promulgating the rules governing the fee, the
6 state board shall:

7 (II) Establish the amount of the ~~healthcare affordability and~~
8 ~~sustainability~~ HOSPITAL PROVIDER fee so that the amount collected from
9 the fee and federal matching funds associated with the fee are sufficient
10 to pay for the items described in subsection (4)(a) of this section, but
11 nothing in this subsection (4)(b)(II) requires the state board to increase
12 the fee above the amount recommended by the enterprise; and

13 (III) For the 2017-18 fiscal year, establish the amount of the
14 ~~healthcare affordability and sustainability~~ HOSPITAL PROVIDER fee so that
15 the amount collected from the fee is approximately equal to the sum of
16 the amounts of the appropriations specified for the fee in the general
17 appropriation act, Senate Bill 17-254, enacted in 2017, and any other
18 supplemental appropriation act.

19 (c) (I) In accordance with the redistributive method set forth in 42
20 CFR 433.68 (e)(1) and (e)(2), the enterprise, acting in concert with or
21 through an agreement with the state department if required by federal law,
22 may seek a waiver from the broad-based ~~healthcare affordability and~~
23 ~~sustainability~~ HOSPITAL PROVIDER fee requirement or the uniform
24 ~~healthcare affordability and sustainability~~ HOSPITAL PROVIDER fee
25 requirement, or both. In addition, the enterprise, acting in concert with or
26 through an agreement with the state department if required by federal law,
27 shall seek any federal waiver necessary to fund and, in cooperation with

1 the state department and hospitals, support the implementation of a
2 health-care delivery system reform incentive payments program as
3 described in subsection (8) of this section. Subject to federal approval and
4 to minimize the financial impact on certain hospitals, the enterprise may
5 exempt from payment of the ~~healthcare affordability and sustainability~~
6 HOSPITAL PROVIDER fee certain types of hospitals, including but not
7 limited to:

8 (II) In determining whether a hospital may be excluded, the
9 enterprise shall use one or more of the following criteria:

10 (C) A hospital whose inclusion or exclusion would not
11 significantly affect the net benefit to hospitals paying the ~~healthcare~~
12 ~~affordability and sustainability~~ HOSPITAL PROVIDER fee; or

13 (III) The enterprise may reduce the amount of the ~~healthcare~~
14 ~~affordability and sustainability~~ HOSPITAL PROVIDER fee for certain
15 hospitals to obtain federal approval and to minimize the financial impact
16 on certain hospitals. In determining for which hospitals the enterprise may
17 reduce the amount of the ~~healthcare affordability and sustainability~~
18 HOSPITAL PROVIDER fee, the enterprise shall use one or more of the
19 following criteria:

20 (E) If the hospital paid a reduced ~~healthcare affordability and~~
21 ~~sustainability~~ HOSPITAL PROVIDER fee, the reduced fee would not
22 significantly affect the net benefit to hospitals paying the ~~healthcare~~
23 ~~affordability and sustainability~~ fee; or

24 (F) The hospital is required not to pay a reduced ~~healthcare~~
25 ~~affordability and sustainability~~ HOSPITAL PROVIDER fee as a condition of
26 federal approval.

27 (e) (I) The enterprise shall establish policies on the calculation,

1 assessment, and timing of the ~~healthcare affordability and sustainability~~
2 HOSPITAL PROVIDER fee. The enterprise shall assess the ~~healthcare~~
3 ~~affordability and sustainability~~ HOSPITAL PROVIDER fee on a schedule to
4 be set by the enterprise board as provided in subsection (7)(d) of this
5 section. The periodic ~~healthcare affordability and sustainability~~ HOSPITAL
6 PROVIDER fee payments from a hospital and the enterprise's
7 reimbursement to the hospital under subsections (5)(b)(I) and (5)(b)(II)
8 of this section are due as nearly simultaneously as feasible; except that the
9 enterprise's reimbursement to the hospital is due no more than two days
10 after the periodic ~~healthcare affordability and sustainability~~ HOSPITAL
11 PROVIDER fee payment is received from the hospital. The ~~healthcare~~
12 ~~affordability and sustainability~~ HOSPITAL PROVIDER fee must be imposed
13 on each hospital even if more than one hospital is owned by the same
14 entity. The fee must be prorated and adjusted for the expected volume of
15 service for any year in which a hospital opens or closes.

16 (II) The enterprise is authorized to refund any unused portion of
17 the ~~healthcare affordability and sustainability~~ HOSPITAL PROVIDER fee. For
18 any portion of the ~~healthcare affordability and sustainability~~ HOSPITAL
19 PROVIDER fee that has been collected by the enterprise but for which the
20 enterprise has not received federal matching funds, the enterprise shall
21 refund back to the hospital that paid the fee the amount of that portion of
22 the fee within five business days after the fee is collected.

23 (III) The enterprise shall establish requirements for the reports that
24 hospitals must submit to the enterprise to allow the enterprise to calculate
25 the amount of the ~~healthcare affordability and sustainability~~ HOSPITAL
26 PROVIDER fee. Notwithstanding the provisions of part 2 of article 72 of
27 title 24 or subsection (7)(f) of this section, information provided to the

1 enterprise pursuant to this section is confidential and is not a public
2 record. Nonetheless, the enterprise may prepare and release summaries of
3 the reports to the public.

4 (f) A hospital shall not include any amount of the ~~healthcare~~
5 ~~affordability and sustainability~~ HOSPITAL PROVIDER fee as a separate line
6 item in its billing statements.

7 (g) The state board shall promulgate any rules pursuant to the
8 "State Administrative Procedure Act", article 4 of title 24, necessary for
9 the administration and implementation of this section. Prior to submitting
10 any proposed rules concerning the administration or implementation of
11 the ~~healthcare affordability and sustainability~~ HOSPITAL PROVIDER fee to
12 the state board, the enterprise shall consult with the state board on the
13 proposed rules as specified in subsection (7)(d) of this section.

14 **(4.5) Healthcare affordability and sustainability nursing**
15 **facility provider fee.** (a) BEGINNING ON MAY 1, 2025, THE ENTERPRISE
16 IS AUTHORIZED TO CHARGE AND COLLECT A HEALTHCARE AFFORDABILITY
17 AND SUSTAINABILITY NURSING FACILITY PROVIDER FEE ON HEALTH-CARE
18 ITEMS OR SERVICES PROVIDED BY NURSING FACILITY PROVIDERS FOR THE
19 PURPOSE OF OBTAINING FEDERAL FINANCIAL PARTICIPATION UNDER THE
20 STATE MEDICAL ASSISTANCE PROGRAM AS DESCRIBED IN THIS ARTICLE 4
21 AND ARTICLES 5 AND 6 OF THIS TITLE 25.5. THE ENTERPRISE SHALL USE
22 THE NURSING FACILITY PROVIDER FEE REVENUE TO PROVIDE A BUSINESS
23 SERVICE TO NURSING FACILITY PROVIDERS BY SUSTAINING OR INCREASING
24 REIMBURSEMENT FOR PROVIDING MEDICAL CARE UNDER THE STATE
25 MEDICAL ASSISTANCE PROGRAM FOR NURSING FACILITY PROVIDERS AND
26 MAKING SUPPLEMENTAL MEDICAID PAYMENTS TO NURSING FACILITY
27 PROVIDERS, AS SPECIFIED BY THE PRIORITY OF THE USES OF THE NURSING

1 FACILITY PROVIDER FEE REVENUE SET FORTH IN SUBSECTION (5.5)(b) OF
2 THIS SECTION.

3 (b) THE ENTERPRISE SHALL RECOMMEND FOR APPROVAL AND
4 ESTABLISHMENT BY THE STATE BOARD THE AMOUNT OF THE NURSING
5 FACILITY PROVIDER FEE THAT IT INTENDS TO CHARGE AND COLLECT. THE
6 STATE BOARD MUST ESTABLISH THE FINAL AMOUNT OF THE FEE BY RULE.
7 THE STATE BOARD SHALL NOT ESTABLISH ANY AMOUNT THAT EXCEEDS
8 THE FEDERAL LIMIT FOR SUCH FEES. THE STATE BOARD MAY DEVIATE
9 FROM THE RECOMMENDATIONS OF THE ENTERPRISE, BUT SHALL EXPRESS
10 IN WRITING THE REASONS FOR ANY DEVIATIONS. IN ESTABLISHING THE
11 AMOUNT OF THE FEE AND IN PROMULGATING THE RULES GOVERNING THE
12 FEE, THE STATE BOARD SHALL:

13 (I) CONSIDER RECOMMENDATIONS OF THE ENTERPRISE; AND

14 (II) ESTABLISH THE AMOUNT OF THE NURSING FACILITY PROVIDER
15 FEE SO THAT THE AMOUNT COLLECTED FROM THE FEE AND FEDERAL
16 MATCHING FUNDS ASSOCIATED WITH THE FEE ARE SUFFICIENT TO PAY FOR
17 THE ITEMS DESCRIBED IN SUBSECTION (4.5)(a) OF THIS SECTION, BUT
18 NOTHING IN THIS SUBSECTION (4.5)(b)(II) REQUIRES THE STATE BOARD TO
19 INCREASE THE FEE ABOVE THE AMOUNT RECOMMENDED BY THE
20 ENTERPRISE.

21 (c) THE ENTERPRISE SHALL NOT CHARGE OR COLLECT THE NURSING
22 FACILITY PROVIDER FEE IN THE ABSENCE OF THE FEDERAL GOVERNMENT'S
23 APPROVAL OF A STATE MEDICAID PLAN AMENDMENT AUTHORIZING
24 FEDERAL FINANCIAL PARTICIPATION FOR THE NURSING FACILITY PROVIDER
25 FEE. THE ENTERPRISE MAY ALTER THE PROCESS PRESCRIBED IN THIS
26 SUBSECTION (4.5) TO THE EXTENT NECESSARY TO MEET FEDERAL
27 REQUIREMENTS AND TO OBTAIN FEDERAL APPROVAL. THE ENTERPRISE

1 MAY LOWER THE AMOUNT OF THE NURSING FACILITY PROVIDER FEE
2 CHARGED TO CERTAIN NURSING FACILITY PROVIDERS TO MEET THE
3 REQUIREMENTS OF 42 CFR 433.68 (e) AND TO OBTAIN FEDERAL
4 APPROVAL.

5 (d) (I) IN ACCORDANCE WITH THE REDISTRIBUTIVE METHOD SET
6 FORTH IN 42 CFR 433.68 (e)(1) AND (e)(2), THE ENTERPRISE, ACTING IN
7 CONCERT WITH OR THROUGH AN AGREEMENT WITH THE STATE
8 DEPARTMENT IF REQUIRED BY FEDERAL LAW, MAY SEEK A WAIVER FROM
9 THE BROAD-BASED NURSING FACILITY PROVIDER FEE REQUIREMENT OR
10 THE UNIFORM NURSING FACILITY PROVIDER FEE REQUIREMENT, OR BOTH.

11 (II) SUBJECT TO FEDERAL APPROVAL AND TO MINIMIZE THE
12 FINANCIAL IMPACT ON CERTAIN NURSING FACILITY PROVIDERS, THE
13 ENTERPRISE MAY EXEMPT FROM PAYMENT OF THE NURSING FACILITY
14 PROVIDER FEE CERTAIN TYPES OF NURSING PROVIDER FACILITIES,
15 INCLUDING BUT NOT LIMITED TO:

16 (A) A FACILITY OPERATED AS A CONTINUING CARE RETIREMENT
17 COMMUNITY THAT PROVIDES A CONTINUUM OF SERVICES BY ONE
18 OPERATIONAL ENTITY PROVIDING INDEPENDENT LIVING SERVICES,
19 ASSISTED LIVING SERVICES, AND SKILLED NURSING CARE ON A SINGLE,
20 CONTIGUOUS CAMPUS. ASSISTED LIVING SERVICES INCLUDE AN ASSISTED
21 LIVING RESIDENCE AS DEFINED IN SECTION 25-27-102 OR A FACILITY THAT
22 PROVIDES ASSISTED LIVING SERVICES ON-SITE, TWENTY-FOUR HOURS PER
23 DAY, SEVEN DAYS PER WEEK.

24 (B) A SKILLED NURSING FACILITY OWNED AND OPERATED BY THE
25 STATE;

26 (C) A NURSING FACILITY THAT IS A DISTINCT PART OF A FACILITY
27 THAT IS LICENSED AS A GENERAL ACUTE CARE HOSPITAL; AND

1 (D) A FACILITY THAT HAS FORTY-FIVE OR FEWER LICENSED BEDS.

2 (e) (I) THE ENTERPRISE SHALL ESTABLISH POLICIES ON THE
3 CALCULATION, ASSESSMENT, AND TIMING OF THE NURSING FACILITY
4 PROVIDER FEE. THE ENTERPRISE SHALL ASSESS THE NURSING FACILITY
5 PROVIDER FEE ON A MONTHLY BASIS. THE NURSING FACILITY PROVIDER
6 FEE PAYMENTS FROM A NURSING FACILITY PROVIDER AND THE
7 ENTERPRISE'S REIMBURSEMENT AND SUPPLEMENTAL PAYMENTS TO THE
8 NURSING FACILITY PROVIDER UNDER SUBSECTION (5.5)(b) OF THIS SECTION
9 ARE DUE AS NEARLY SIMULTANEOUSLY AS FEASIBLE; EXCEPT THAT THE
10 ENTERPRISE'S REIMBURSEMENT AND SUPPLEMENTAL PAYMENTS TO THE
11 NURSING FACILITY PROVIDER ARE DUE NO MORE THAN FIFTEEN DAYS
12 AFTER THE NURSING FACILITY PROVIDER FEE PAYMENT IS RECEIVED FROM
13 THE NURSING FACILITY PROVIDER.

14 (II) THE ENTERPRISE SHALL ESTABLISH REQUIREMENTS FOR THE
15 REPORTS THAT NURSING FACILITY PROVIDERS MUST SUBMIT TO THE
16 ENTERPRISE TO ALLOW THE ENTERPRISE TO CALCULATE THE AMOUNT OF
17 THE NURSING FACILITY PROVIDER FEE, INCLUDING A REQUIREMENT THAT
18 EACH NURSING FACILITY PROVIDER REPORT ANNUALLY ITS TOTAL NUMBER
19 OF DAYS OF CARE PROVIDED TO NONMEDICARE RESIDENTS.
20 NOTWITHSTANDING PART 2 OF ARTICLE 72 OF TITLE 24 OR SUBSECTION
21 (7)(f) OF THIS SECTION, INFORMATION PROVIDED TO THE ENTERPRISE
22 PURSUANT TO THIS SUBSECTION (4.5)(e)(II) IS CONFIDENTIAL AND IS NOT
23 A PUBLIC RECORD. NONETHELESS, THE ENTERPRISE MAY PREPARE AND
24 RELEASE SUMMARIES OF THE REPORTS TO THE PUBLIC.

25 (f) A NURSING FACILITY PROVIDER SHALL NOT INCLUDE ANY
26 AMOUNT OF THE NURSING FACILITY PROVIDER FEE AS A SEPARATE LINE
27 ITEM IN ITS BILLING STATEMENTS.

1 (g) (I) THE STATE BOARD SHALL ADOPT ANY RULES PURSUANT TO
2 THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24,
3 NECESSARY FOR THE ADMINISTRATION AND IMPLEMENTATION OF THIS
4 SECTION. PRIOR TO SUBMITTING ANY PROPOSED RULES CONCERNING THE
5 ADMINISTRATION OR IMPLEMENTATION OF THE NURSING FACILITY
6 PROVIDER FEE TO THE STATE BOARD, THE ENTERPRISE SHALL CONSULT
7 WITH THE STATE BOARD ON THE PROPOSED RULES AS SPECIFIED IN
8 SUBSECTION (7)(g) OF THIS SECTION.

9 (4.7) **Healthcare affordability and sustainability intermediate**
10 **care facility fee.** (a) BEGINNING ON MAY 1, 2025, THE ENTERPRISE IS
11 AUTHORIZED TO CHARGE AND COLLECT A HEALTHCARE AFFORDABILITY
12 AND SUSTAINABILITY INTERMEDIATE CARE FACILITY FEE ON BOTH
13 PRIVATELY OWNED AND STATE-OPERATED INTERMEDIATE CARE FACILITIES
14 FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES FOR THE PURPOSE OF
15 MAINTAINING THE QUALITY AND CONTINUITY OF SERVICES PROVIDED BY
16 INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL
17 DISABILITIES. THE ENTERPRISE SHALL USE THE INTERMEDIATE CARE
18 FACILITY FEE REVENUE TO PROVIDE A BUSINESS SERVICE TO SUCH
19 INTERMEDIATE CARE FACILITIES BY SUSTAINING OR INCREASING
20 REIMBURSEMENT TO SUCH FACILITIES, AS SPECIFIED IN SUBSECTION
21 (5.7)(b) OF THIS SECTION.

22 (b) THE ENTERPRISE SHALL RECOMMEND FOR APPROVAL AND
23 ESTABLISHMENT BY THE STATE BOARD THE AMOUNT OF THE
24 INTERMEDIATE CARE FACILITY FEE THAT IT INTENDS TO CHARGE AND
25 COLLECT, WHICH MUST NOT EXCEED FIVE PERCENT OF THE TOTAL COSTS
26 INCURRED BY ALL INTERMEDIATE CARE FACILITIES FOR THE FISCAL YEAR
27 IN WHICH THE FEE IS CHARGED. THE STATE BOARD MUST ESTABLISH THE

1 FINAL AMOUNT OF THE FEE BY RULE. THE STATE BOARD SHALL NOT
2 ESTABLISH ANY AMOUNT THAT EXCEEDS THE FEDERAL LIMIT FOR SUCH
3 FEES. THE STATE BOARD MAY DEVIATE FROM THE RECOMMENDATIONS OF
4 THE ENTERPRISE, BUT SHALL EXPRESS IN WRITING THE REASONS FOR ANY
5 DEVIATIONS.

6 (c) THE ENTERPRISE MAY ALTER THE PROCESS PRESCRIBED IN THIS
7 SUBSECTION (4.7) TO THE EXTENT NECESSARY TO MEET FEDERAL
8 REQUIREMENTS.

9 (d) (I) THE ENTERPRISE SHALL ESTABLISH POLICIES ON THE
10 CALCULATION, ASSESSMENT, AND TIMING OF THE INTERMEDIATE CARE
11 FACILITY FEE.

12 (II) THE ENTERPRISE SHALL ESTABLISH REQUIREMENTS FOR THE
13 REPORTS THAT INTERMEDIATE CARE FACILITIES MUST SUBMIT TO THE
14 ENTERPRISE TO ALLOW THE ENTERPRISE TO CALCULATE THE AMOUNT OF
15 THE INTERMEDIATE CARE FACILITY FEE. NOTWITHSTANDING PART 2 OF
16 ARTICLE 72 OF TITLE 24 OR SUBSECTION (7)(f) OF THIS SECTION,
17 INFORMATION PROVIDED TO THE ENTERPRISE PURSUANT TO THIS
18 SUBSECTION (4.7)(d)(II) IS CONFIDENTIAL AND IS NOT A PUBLIC RECORD.
19 NONETHELESS, THE ENTERPRISE MAY PREPARE AND RELEASE SUMMARIES
20 OF THE REPORTS TO THE PUBLIC.

21 (e) THE STATE BOARD SHALL ADOPT ANY RULES PURSUANT TO THE
22 "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24,
23 NECESSARY FOR THE ADMINISTRATION AND IMPLEMENTATION OF THIS
24 SECTION. PRIOR TO SUBMITTING ANY PROPOSED RULES CONCERNING THE
25 ADMINISTRATION OR IMPLEMENTATION OF THE INTERMEDIATE CARE
26 FACILITY FEE TO THE STATE BOARD, THE ENTERPRISE SHALL CONSULT
27 WITH THE STATE BOARD ON THE PROPOSED RULES AS SPECIFIED IN

1 SUBSECTION (7)(g) OF THIS SECTION.

2 (5) **Healthcare affordability and sustainability hospital**
3 **provider fee cash fund.** (a) (I) Any healthcare affordability and
4 sustainability HOSPITAL PROVIDER fee collected pursuant to this section
5 by the enterprise must be transmitted to the state treasurer, who shall
6 credit the fee to the healthcare affordability and sustainability HOSPITAL
7 PROVIDER fee cash fund, which fund is hereby created. ~~and referred to in~~
8 ~~this section as the "fund".~~ The state treasurer shall credit all interest and
9 income derived from the deposit and investment of money in the
10 HOSPITAL PROVIDER FEE CASH fund to the fund. The state treasurer shall
11 invest any money in the HOSPITAL PROVIDER FEE CASH fund not expended
12 for the purposes specified in subsection (5)(b) of this section as provided
13 by law. Money in the HOSPITAL PROVIDER FEE CASH fund shall not be
14 transferred to any other fund and shall not be used for any purpose other
15 than the purposes specified in this subsection (5) and in subsection (4) of
16 this section.

17 (II) (A) THE FUND CREATED IN THIS SUBSECTION (5)(a) WAS
18 RENAMED AS THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
19 HOSPITAL PROVIDER FEE CASH FUND IN THIS SENATE BILL 25-____,
20 ENACTED IN 2025. FOR PURPOSES OF THE ANNUAL GENERAL
21 APPROPRIATION ACTS FOR THE 2024-25 AND 2025-26 STATE FISCAL YEARS,
22 THE CASH FUNDS APPROPRIATIONS MADE TO THE DEPARTMENT OF HEALTH
23 CARE POLICY AND FINANCING FROM THE HEALTHCARE AFFORDABILITY
24 AND SUSTAINABILITY FEE CASH FUND, AS THE FUND WAS NAMED PRIOR TO
25 THE ENACTMENT OF THIS SENATE BILL 25-____, ENACTED IN 2025, ARE
26 FROM THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY HOSPITAL
27 PROVIDER FEE CASH FUND, AS RENAMED BY THIS SENATE BILL 25-____,

1 ENACTED IN 2025.

2 (B) THIS SUBSECTION (5)(a)(II) IS REPEALED, EFFECTIVE JULY 1,
3 2027.

4 (b) All money in the HOSPITAL PROVIDER FEE CASH fund is subject
5 to federal matching as authorized under federal law and, subject to annual
6 appropriation by the general assembly, shall be expended by the
7 enterprise for the following purposes:

8 (IV) Subject to available revenue from the ~~healthcare affordability~~
9 ~~and sustainability~~ HOSPITAL PROVIDER fee and federal matching funds, to
10 expand eligibility for public medical assistance by:

11 (VI) To pay the enterprise's actual administrative costs of
12 implementing and administering this section, including but not limited to
13 the following costs:

14 (B) The enterprise's actual costs related to implementing and
15 maintaining the ~~healthcare affordability and sustainability~~ HOSPITAL
16 PROVIDER fee, including personal services, operating, and consulting
17 expenses;

18 (c) **ARPA home- and community-based services account.**

19 (I) (A) There is created the "ARPA home- and community-based services
20 account" within the HOSPITAL PROVIDER FEE CASH fund, referred to in this
21 subsection (5)(c) as the "ARPA account". Notwithstanding any other
22 provision of this section to the contrary, money in the ARPA account as
23 a result of fund savings and federal matching dollars must be used in
24 accordance with section 9817 of the federal "American Rescue Plan Act
25 of 2021", Pub.L. 117-2, as amended, referred to in this section as
26 "ARPA", to implement or supplement the implementation of home- and
27 community-based services under the medical assistance program pursuant

1 to the provisions of part 18 of article 6 of this title 25.5.

2 (II) (C) If the fund savings due to the enhanced federal match
3 under ARPA is less than the amount transferred to the ARPA account
4 under subsection (5)(c)(II)(A) of this section, then the state department
5 shall notify the state treasurer of the amount by which the transfer
6 exceeds the savings. The state treasurer shall transfer this amount from
7 the ARPA account to the HOSPITAL PROVIDER FEE CASH fund.

8 (III) The state treasurer shall credit all interest and income derived
9 from the money in the ARPA account to the HOSPITAL PROVIDER FEE
10 CASH fund.

11 (V) Money in the ARPA account remains in the ARPA account
12 until the end of the spending period authorized under ARPA, at which
13 time money remaining in the ARPA account becomes part of the
14 HOSPITAL PROVIDER FEE CASH fund.

15 **(5.5) Healthcare affordability and sustainability nursing**
16 **facility provider fee cash fund.** (a) ALL HEALTHCARE AFFORDABILITY
17 AND SUSTAINABILITY NURSING PROVIDER FEES COLLECTED PURSUANT TO
18 THIS SECTION BY THE ENTERPRISE MUST BE TRANSMITTED TO THE STATE
19 TREASURER, WHO SHALL CREDIT THE FEE TO THE HEALTHCARE
20 AFFORDABILITY AND SUSTAINABILITY NURSING FACILITY PROVIDER FEE
21 CASH FUND, WHICH FUND IS CREATED. THE STATE TREASURER SHALL
22 CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND
23 INVESTMENT OF MONEY IN THE NURSING FACILITY PROVIDER FEE CASH
24 FUND TO THE NURSING FACILITY PROVIDER FEE CASH FUND. THE STATE
25 TREASURER SHALL INVEST ANY MONEY IN THE NURSING FACILITY
26 PROVIDER FEE CASH FUND NOT EXPENDED FOR THE PURPOSES SPECIFIED IN
27 SUBSECTIONS (4.5)(a) AND (5.5)(b) OF THIS SECTION AS PROVIDED BY LAW.

1 MONEY IN THE NURSING FACILITY PROVIDER FEE CASH FUND SHALL NOT
2 BE TRANSFERRED TO ANY OTHER FUND AND SHALL NOT BE USED FOR ANY
3 PURPOSE OTHER THAN THE PURPOSES SPECIFIED IN THIS SUBSECTION (5.5)
4 AND IN SUBSECTION (4.5)(a) OF THIS SECTION.

5 (b) ALL MONEY IN THE NURSING FACILITY PROVIDER FEE CASH
6 FUND IS SUBJECT TO FEDERAL MATCHING AS AUTHORIZED UNDER FEDERAL
7 LAW AND, SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
8 ASSEMBLY, MUST BE EXPENDED BY THE ENTERPRISE FOR THE FOLLOWING
9 PURPOSES:

10 (I) (A) TO PAY THE ADMINISTRATIVE COSTS OF IMPLEMENTING
11 THIS SUBSECTION (5.5) AND SUBSECTION (4.5) OF THIS SECTION;

12 (B) TO SATISFY SETTLEMENTS OR JUDGMENTS RESULTING FROM
13 NURSING FACILITY PROVIDER REIMBURSEMENT APPEALS; AND

14 (C) TO PAY A NURSING FACILITY PROVIDER A SUPPLEMENTAL
15 MEDICAID PAYMENT FOR CARE AND SERVICES RENDERED TO MEDICAID
16 RESIDENTS TO OFFSET PAYMENT OF THE NURSING FACILITY PROVIDER FEE.
17 THE ENTERPRISE, IN CONSULTATION WITH THE STATE DEPARTMENT, SHALL
18 COMPUTE THIS PAYMENT ANNUALLY, BEGINNING ON MAY 1, 2025, AND
19 EACH JULY 1 THEREAFTER.

20 (II) AFTER THE PAYMENT OF THE AMOUNTS DESCRIBED IN
21 SUBSECTION (5.5)(b)(I) OF THIS SECTION, TO PAY THE SUPPLEMENTAL
22 MEDICAID PAYMENTS FOR ACUITY OR CASE-MIX OF RESIDENTS
23 ESTABLISHED UNDER SECTION 25.5-6-202 (2), PRIOR TO ITS REPEAL ON
24 JULY 1, 2026, OR AS PROVIDED IN THE RULES ADOPTED BY THE STATE
25 BOARD PURSUANT TO SECTION 25.5-6-202 (10) AND (14)(a), IN
26 CONSULTATION WITH THE ENTERPRISE AS PROVIDED IN SUBSECTION
27 (7)(g)(IV) OF THIS SECTION;

1 (III) AFTER THE PAYMENT OF THE AMOUNTS DESCRIBED IN
2 SUBSECTIONS (5.5)(b)(I) AND (5.5)(b)(II) OF THIS SECTION, TO PAY
3 SUPPLEMENTAL MEDICAID PAYMENTS BASED UPON PERFORMANCE TO
4 THOSE NURSING FACILITY PROVIDERS THAT PROVIDE SERVICES THAT
5 RESULT IN BETTER CARE AND HIGHER QUALITY OF LIFE FOR THEIR
6 RESIDENTS. THE ENTERPRISE, IN CONSULTATION WITH THE STATE BOARD,
7 SHALL DETERMINE THE PAYMENT AMOUNT BASED UPON PERFORMANCE
8 MEASURES ESTABLISHED IN RULES ADOPTED BY THE STATE BOARD IN THE
9 DOMAINS OF QUALITY OF LIFE, QUALITY OF CARE, AND FACILITY
10 MANAGEMENT. DURING EACH STATE FISCAL YEAR, THE ENTERPRISE MAY
11 DISCONTINUE THE SUPPLEMENTAL MEDICAID PAYMENT ESTABLISHED
12 PURSUANT TO THIS SUBSECTION (5.5)(b)(III) TO ANY NURSING FACILITY
13 PROVIDER THAT FAILS TO COMPLY WITH THE ESTABLISHED PERFORMANCE
14 MEASURES DURING THE STATE FISCAL YEAR, AND THE ENTERPRISE MAY
15 INITIATE THE SUPPLEMENTAL MEDICAID PAYMENT ESTABLISHED PURSUANT
16 TO THIS SUBSECTION (5.5)(b)(III) TO ANY NURSING FACILITY PROVIDER
17 THAT COMES INTO COMPLIANCE WITH THE ESTABLISHED PERFORMANCE
18 MEASURES DURING THE STATE FISCAL YEAR.

19 (IV) (A) AFTER THE PAYMENT OF THE AMOUNTS DESCRIBED IN
20 SUBSECTIONS (5.5)(b)(I) TO (5.5)(b)(III) OF THIS SECTION, TO PAY THE
21 SUPPLEMENTAL MEDICAID PAYMENTS TO NURSING FACILITY PROVIDERS
22 THAT SERVE RESIDENTS WHO HAVE MODERATE TO VERY SEVERE MENTAL
23 HEALTH CONDITIONS, DEMENTIA DISEASES AND RELATED DISABILITIES, OR
24 ACQUIRED BRAIN INJURY. THE ENTERPRISE, IN CONSULTATION WITH THE
25 STATE DEPARTMENT, SHALL COMPUTE THIS PAYMENT ANNUALLY,
26 BEGINNING ON MAY 1, 2025, AND EACH JULY 1 THEREAFTER.

27 (B) IF THE ENTERPRISE DETERMINES, IN CONSULTATION WITH THE

1 STATE DEPARTMENT, THAT THE CASE-MIX REIMBURSEMENT DESCRIBED IN
2 SUBSECTION (5.5)(b)(II) OF THIS SECTION INCLUDES A FACTOR FOR
3 NURSING FACILITY PROVIDERS THAT SERVE RESIDENTS WITH SEVERE
4 DEMENTIA DISEASES AND RELATED DISABILITIES OR ACQUIRED BRAIN
5 INJURY, THE ENTERPRISE MAY ELIMINATE THIS SUPPLEMENTAL MEDICAID
6 PAYMENT TO THOSE NURSING FACILITY PROVIDERS THAT SERVE RESIDENTS
7 WITH SEVERE DEMENTIA DISEASES AND RELATED DISABILITIES OR
8 ACQUIRED BRAIN INJURY.

9 (V) AFTER THE PAYMENT OF THE AMOUNTS DESCRIBED IN
10 SUBSECTIONS (5.5)(b)(I) TO (5.5)(b)(IV) OF THIS SECTION, TO PAY THE
11 SUPPLEMENTAL MEDICAID PAYMENTS FOR THE AMOUNT OF THE
12 AGGREGATE STATEWIDE AVERAGE PER DIEM RATE OF PATIENT PAYMENT
13 ESTABLISHED UNDER SECTION 25.5-6-202 (9), PRIOR TO ITS REPEAL ON
14 JULY 1, 2026, OR AS PROVIDED IN THE RULES ADOPTED BY THE STATE
15 BOARD PURSUANT TO SECTION 25.5-6-202 (10) AND (14)(a), IN
16 CONSULTATION WITH THE ENTERPRISE AS PROVIDED IN SUBSECTION
17 (7)(g)(IV) OF THIS SECTION.

18 (5.7) **Healthcare affordability and sustainability intermediate**
19 **care facility fee cash fund.** (a) ALL HEALTHCARE AFFORDABILITY AND
20 SUSTAINABILITY INTERMEDIATE CARE FACILITY FEES COLLECTED
21 PURSUANT TO THIS SECTION BY THE ENTERPRISE MUST BE TRANSMITTED
22 TO THE STATE TREASURER, WHO SHALL CREDIT THE FEE TO THE
23 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY INTERMEDIATE CARE
24 FACILITY FEE CASH FUND, WHICH FUND IS CREATED. THE STATE
25 TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE
26 DEPOSIT AND INVESTMENT OF MONEY IN THE INTERMEDIATE CARE
27 FACILITY FEE CASH FUND TO THE INTERMEDIATE CARE FACILITY CASH

1 FUND. THE STATE TREASURER SHALL INVEST ANY MONEY IN THE
2 INTERMEDIATE CARE FACILITY FEE CASH FUND NOT EXPENDED FOR THE
3 PURPOSES SPECIFIED IN SUBSECTIONS (4.7)(a) AND (5.7)(b) OF THIS
4 SECTION AS PROVIDED BY LAW. MONEY IN THE INTERMEDIATE CARE
5 FACILITY FEE CASH FUND SHALL NOT BE TRANSFERRED TO ANY OTHER
6 FUND AND SHALL NOT BE USED FOR ANY PURPOSE OTHER THAN THE
7 PURPOSES SPECIFIED IN THIS SUBSECTION (5.7) AND IN SUBSECTION (4.7)(a)
8 OF THIS SECTION.

9 (b) ALL MONEY IN THE INTERMEDIATE CARE FACILITY FEE CASH
10 FUND IS SUBJECT TO FEDERAL MATCHING AS AUTHORIZED UNDER FEDERAL
11 LAW AND, SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
12 ASSEMBLY, MUST BE EXPENDED BY THE ENTERPRISE FOR THE FOLLOWING
13 PURPOSES:

14 (I) TO PAY THE ADMINISTRATIVE COSTS OF IMPLEMENTING THIS
15 SUBSECTION (5.7) AND SUBSECTION (4.7) OF THIS SECTION; AND

16 (II) TO SUPPLEMENT REIMBURSEMENTS TO INTERMEDIATE CARE
17 FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES AS
18 PROVIDED IN SECTION 25.5-6-204. THE ENTERPRISE, IN CONSULTATION
19 WITH THE STATE DEPARTMENT, SHALL COMPUTE THIS PAYMENT
20 ANNUALLY, BEGINNING ON MAY 1, 2025, AND EACH JULY 1 THEREAFTER.

21 (6) **Appropriations.** (a) (I) Except as otherwise provided in
22 subsection (6)(b)(I.5) or (6)(b)(I.7) of this section, the ~~healthcare~~
23 ~~affordability and sustainability~~ HOSPITAL PROVIDER fee is to supplement,
24 not supplant, general fund appropriations to support hospital
25 reimbursements. General fund appropriations for hospital reimbursements
26 shall be maintained at the level of appropriations in the medical services
27 premium line item made for the fiscal year commencing July 1, 2008;

1 except that general fund appropriations for hospital reimbursements may
2 be reduced if an index of appropriations to other providers shows that
3 general fund appropriations are reduced for other providers. If the index
4 shows that general fund appropriations are reduced for other providers,
5 the general fund appropriations for hospital reimbursements shall not be
6 reduced by a greater percentage than the reductions of appropriations for
7 the other providers as shown by the index.

8 (IV) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5.5)(b)(V)
9 OF THIS SECTION, THE NURSING FACILITY PROVIDER FEE IS TO SUPPLEMENT,
10 NOT SUPPLANT, GENERAL FUND APPROPRIATIONS TO SUPPORT NURSING
11 FACILITY PROVIDER REIMBURSEMENTS.

12 (V) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5.7)(b)(II)
13 OF THIS SECTION, THE INTERMEDIATE CARE FACILITY FEE IS TO
14 SUPPLEMENT, NOT SUPPLANT, GENERAL FUND APPROPRIATIONS TO
15 SUPPORT INTERMEDIATE CARE FACILITY REIMBURSEMENTS.

16 (b) If the revenue from the ~~healthcare affordability and~~
17 ~~sustainability~~ HOSPITAL PROVIDER fee is insufficient to fully fund all of
18 the purposes described in subsection (5)(b) of this section:

19 (II) The hospital provider reimbursement and quality incentive
20 payment increases described in subsections (5)(b)(I) to (5)(b)(III) of this
21 section and the costs described in subsection (5)(b)(VI) of this section
22 shall be fully funded using revenue from the ~~healthcare affordability and~~
23 ~~sustainability~~ HOSPITAL PROVIDER fee and federal matching funds before
24 any eligibility expansion is funded; and

25 (III) (A) If the state board promulgates rules that expand eligibility
26 for medical assistance to be paid for pursuant to subsection (5)(b)(IV) of
27 this section, and the state department thereafter notifies the enterprise

1 board that the revenue available from the ~~healthcare affordability and~~
2 ~~sustainability~~ HOSPITAL PROVIDER fee and the federal matching funds will
3 not be sufficient to pay for all or part of the expanded eligibility, the
4 enterprise board shall recommend to the state board reductions in medical
5 benefits or eligibility so that the revenue will be sufficient to pay for all
6 of the reduced benefits or eligibility. After receiving the
7 recommendations of the enterprise board, the state board shall adopt rules
8 providing for reduced benefits or reduced eligibility for which the
9 revenue will be sufficient and shall forward any adopted rules to the joint
10 budget committee. Notwithstanding the provisions of section 24-4-103
11 (8) and (12), following the adoption of rules pursuant to this subsection
12 (6)(b)(III)(A), the state board shall not submit the rules to the attorney
13 general and shall not file the rules with the secretary of state until the joint
14 budget committee approves the rules pursuant to subsection (6)(b)(III)(B)
15 of this section.

16 (B) The joint budget committee shall promptly consider any rules
17 adopted by the state board pursuant to subsection (6)(b)(III)(A) of this
18 section. The joint budget committee shall promptly notify the state
19 department, the state board, and the enterprise board of any action on the
20 rules. If the joint budget committee does not approve the rules, the joint
21 budget committee shall recommend a reduction in benefits or eligibility
22 so that the revenue from the ~~healthcare affordability and sustainability~~
23 HOSPITAL PROVIDER fee and the matching federal funds will be sufficient
24 to pay for the reduced benefits or eligibility. After approving the rules
25 pursuant to this subsection (6)(b)(III)(B), the joint budget committee shall
26 request that the committee on legal services, created pursuant to section
27 2-3-501, extend the rules as provided for in section 24-4-103 (8) unless

1 the committee on legal services finds after review that the rules do not
2 conform with section 24-4-103 (8)(a).

3 (b.5) IF THE REVENUE FROM THE NURSING FACILITY PROVIDER FEE
4 IS INSUFFICIENT TO FULLY FUND ALL OF THE PURPOSES DESCRIBED IN
5 SUBSECTION (5.5)(b) OF THIS SECTION:

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

8 (II) SUBJECT TO THE PRIORITY OF THE USES FOR THE NURSING
9 FACILITY PROVIDER FEE AS PROVIDED IN SUBSECTION (5.5)(b) OF THIS
10 SECTION, THE ENTERPRISE, IN CONSULTATION WITH THE STATE
11 DEPARTMENT, MAY SUSPEND OR REDUCE ANY SUPPLEMENTAL MEDICAID
12 PAYMENT.

13 (c) Notwithstanding any other provision of this section, if, after
14 receipt of authorization to receive federal matching funds for money in
15 the HOSPITAL PROVIDER FEE CASH fund, the authorization is withdrawn or
16 changed so that federal matching funds are no longer available, the
17 enterprise shall cease collecting the ~~healthcare affordability and~~
18 ~~sustainability~~ HOSPITAL PROVIDER fee and shall repay to the hospitals any
19 money received by the HOSPITAL PROVIDER FEE CASH fund that is not
20 subject to federal matching funds.

21 (c.5) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
22 IF, AFTER RECEIPT OF AUTHORIZATION TO RECEIVE FEDERAL MATCHING
23 FUNDS FOR MONEY IN THE NURSING FACILITY PROVIDER FEE CASH FUND,
24 THE AUTHORIZATION IS WITHDRAWN OR CHANGED SO THAT FEDERAL
25 MATCHING FUNDS ARE NO LONGER AVAILABLE, THE ENTERPRISE SHALL
26 CEASE COLLECTING THE NURSING FACILITY PROVIDER FEE AND SHALL
27 REPAY TO THE NURSING FACILITY PROVIDERS ANY MONEY RECEIVED IN

1 THE NURSING FACILITY PROVIDER FEE CASH FUND THAT IS NOT SUBJECT TO
2 FEDERAL MATCHING FUNDS.

3 (c.7) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
4 IF, AFTER RECEIPT OF AUTHORIZATION TO RECEIVE FEDERAL MATCHING
5 FUNDS FOR MONEY IN THE INTERMEDIATE CARE FACILITY FEE CASH FUND,
6 THE AUTHORIZATION IS WITHDRAWN OR CHANGED SO THAT FEDERAL
7 MATCHING FUNDS ARE NO LONGER AVAILABLE, THE ENTERPRISE SHALL
8 CEASE COLLECTING THE INTERMEDIATE CARE FACILITY FEE AND SHALL
9 REPAY TO THE INTERMEDIATE CARE FACILITIES ANY MONEY RECEIVED IN
10 THE INTERMEDIATE CARE FACILITY FEE CASH FUND THAT IS NOT SUBJECT
11 TO FEDERAL MATCHING FUNDS.

12 (7) **Colorado healthcare affordability and sustainability**
13 **enterprise board.** (b) Members of the enterprise board serve without
14 compensation but must be reimbursed from money in the HOSPITAL
15 PROVIDER FEE CASH fund for actual and necessary expenses incurred in
16 the performance of their duties pursuant to this section.

17 (d) The enterprise board has, at a minimum, the following duties:

18 (I) To determine the timing and method by which the enterprise
19 assesses the ~~healthcare affordability and sustainability~~ HOSPITAL
20 PROVIDER fee and the amount of the fee;

21 (II) If requested by the health and human services committee of
22 the senate or the ~~public health care~~ and human services committee of the
23 house of representatives, or any successor committees, to consult with the
24 committees on any legislation that may impact the ~~healthcare affordability~~
25 ~~and sustainability fee~~ FEES, PAYMENTS, or ~~hospital~~ reimbursements
26 established pursuant to this section;

27 (III) To determine changes in the ~~healthcare affordability and~~

1 ~~sustainability~~ HOSPITAL PROVIDER fee that increase the number of
2 hospitals benefitting from the uses of the ~~healthcare affordability and~~
3 ~~sustainability~~ fee described in subsections (5)(b)(I) to (5)(b)(IV) of this
4 section or that minimize the number of hospitals that suffer losses as a
5 result of paying the ~~healthcare affordability and sustainability~~ HOSPITAL
6 PROVIDER fee;

7 (IX) To monitor the impact of the ~~healthcare affordability and~~
8 ~~sustainability~~ HOSPITAL PROVIDER fee, THE NURSING FACILITY PROVIDER
9 FEE, AND THE INTERMEDIATE CARE FACILITY FEE on the broader
10 health-care marketplace;

11 (X) To establish requirements for the reports that hospitals must
12 submit to the enterprise to allow the enterprise to calculate the amount of
13 the ~~healthcare affordability and sustainability~~ HOSPITAL PROVIDER fee;
14 and

15 (e) On or before January 15, 2018, and on or before January 15
16 each year thereafter, the enterprise board shall submit a written report to
17 the health and human services committee of the senate and the ~~public~~
18 ~~health care~~ and human services committee of the house of representatives,
19 or any successor committees, the joint budget committee of the general
20 assembly, the governor, and the state board. The report shall include, but
21 need not be limited to:

22 (II) A description of the formula for how the ~~healthcare~~
23 ~~affordability and sustainability~~ HOSPITAL PROVIDER fee is calculated and
24 the process by which the ~~healthcare affordability and sustainability~~ fee is
25 assessed and collected;

26 (II.5) A DESCRIPTION OF THE FORMULA FOR HOW THE NURSING
27 FACILITY PROVIDER FEE IS CALCULATED AND THE PROCESS BY WHICH THE

1 FEE IS ASSESSED AND COLLECTED;

2 (II.7) A DESCRIPTION OF THE FORMULA FOR HOW THE
3 INTERMEDIATE CARE FACILITY FEE IS CALCULATED AND THE PROCESS BY
4 WHICH THE FEE IS ASSESSED AND COLLECTED;

5 (III) An itemization of the total amount of the ~~healthcare~~
6 ~~affordability and sustainability~~ HOSPITAL PROVIDER fee paid by each
7 hospital and any projected revenue that each hospital is expected to
8 receive due to:

9 (III.5) AN ITEMIZATION OF THE TOTAL AMOUNT OF THE NURSING
10 FACILITY PROVIDER FEE PAID BY EACH NURSING FACILITY PROVIDER AND
11 ANY PROJECTED REVENUE THAT EACH NURSING FACILITY PROVIDER IS
12 EXPECTED TO RECEIVE DUE TO INCREASED REIMBURSEMENTS AND
13 SUPPLEMENTAL PAYMENTS MADE PURSUANT TO SUBSECTION (5.5)(b) OF
14 THIS SECTION;

15 (III.7) AN ITEMIZATION OF THE TOTAL AMOUNT OF THE
16 INTERMEDIATE CARE FACILITY FEE PAID BY EACH INTERMEDIATE CARE
17 FACILITY FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES AND ANY
18 PROJECTED REVENUE THAT EACH INTERMEDIATE CARE FACILITY IS
19 EXPECTED TO RECEIVE DUE TO INCREASED REIMBURSEMENTS MADE
20 PURSUANT TO SUBSECTION (5.7)(b) OF THIS SECTION;

21 (IV) An itemization of the costs incurred by the enterprise in
22 implementing and administering the ~~healthcare affordability and~~
23 ~~sustainability~~ HOSPITAL PROVIDER fee, THE NURSING FACILITY PROVIDER
24 FEE, AND THE INTERMEDIATE CARE FACILITY FEE;

25 (g) (I) THE FACILITY PROVIDER FEE ENTERPRISE SUPPORT BOARD
26 IS CREATED WITHIN THE ENTERPRISE FOR THE PURPOSE OF SUPPORTING THE
27 ENTERPRISE BOARD WITH THE IMPLEMENTATION OF THE NURSING FACILITY

1 PROVIDER FEE AND THE INTERMEDIATE CARE FACILITY FEE. THE FACILITY
2 PROVIDER FEE ENTERPRISE SUPPORT BOARD CONSISTS OF EIGHT MEMBERS
3 APPOINTED BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE
4 SENATE, AS FOLLOWS:

5 (A) TWO MEMBERS WHO ARE REPRESENTATIVES OF NURSING
6 FACILITY ASSOCIATIONS;

7 (B) TWO MEMBERS WHO ARE REPRESENTATIVES OF NURSING
8 FACILITIES, WITH ONE MEMBER REPRESENTING A RURAL NURSING
9 FACILITY;

10 (C) ONE MEMBER WHO IS A RESIDENT OF A LONG-TERM CARE
11 FACILITY OR A CONSUMER OF LONG-TERM CARE SERVICES, OR A FAMILY
12 MEMBER OR GUARDIAN REPRESENTING SUCH RESIDENT OR CONSUMER;

13 (D) ONE EMPLOYEE OF THE STATE DEPARTMENT;

14 (E) ONE EMPLOYEE OF THE DEPARTMENT OF HUMAN SERVICES
15 CREATED IN SECTION 24-1-120; AND

16 (F) ONE EMPLOYEE OF THE DEPARTMENT OF PUBLIC HEALTH AND
17 ENVIRONMENT CREATED IN SECTION 25-1-102.

18 (II) (A) MEMBERS OF THE FACILITY PROVIDER FEE ENTERPRISE
19 SUPPORT BOARD SERVE AT THE PLEASURE OF THE GOVERNOR. ALL TERMS
20 ARE FOR FOUR YEARS. A MEMBER WHO IS APPOINTED TO FILL A VACANCY
21 SHALL SERVE THE REMAINDER OF THE UNEXPIRED TERM OF THE FORMER
22 MEMBER.

23 (B) THE GOVERNOR SHALL MAKE THE INITIAL APPOINTMENTS TO
24 THE FACILITY PROVIDER FEE ENTERPRISE SUPPORT BOARD AS SOON AS
25 PRACTICAL FOLLOWING MAY 1, 2025.

26 (III) THE FACILITY PROVIDER FEE ENTERPRISE SUPPORT BOARD
27 SHALL ELECT A CHAIR AND A VICE-CHAIR FROM AMONG ITS MEMBERS.

1 (IV) THE FACILITY PROVIDER FEE ENTERPRISE SUPPORT BOARD
2 SHALL FULFILL, AT A MINIMUM, THE FOLLOWING DUTIES ON BEHALF OF THE
3 ENTERPRISE:

4 (A) TO DETERMINE THE TIMING AND METHOD BY WHICH THE
5 ENTERPRISE ASSESSES THE NURSING FACILITY PROVIDER FEE AND THE
6 INTERMEDIATE CARE FACILITY FEE AND THE AMOUNTS OF THE FEES;

7 (B) TO DETERMINE CHANGES IN THE NURSING FACILITY PROVIDER
8 FEE THAT INCREASE THE NUMBER OF NURSING FACILITY PROVIDERS
9 BENEFITTING FROM THE USES OF THE FEE DESCRIBED IN SUBSECTION
10 (5.5)(b) OF THIS SECTION OR THAT MINIMIZE THE NUMBER OF NURSING
11 FACILITY PROVIDERS THAT SUFFER LOSSES AS A RESULT OF PAYING THE
12 NURSING FACILITY PROVIDER FEE;

13 (C) TO DETERMINE CHANGES IN THE INTERMEDIATE CARE FACILITY
14 FEE THAT INCREASE THE NUMBER OF INTERMEDIATE CARE FACILITIES FOR
15 INDIVIDUALS WITH INTELLECTUAL DISABILITIES THAT BENEFIT FROM THE
16 USES OF THE FEE DESCRIBED IN SUBSECTION (5.7)(b) OF THIS SECTION OR
17 THAT MINIMIZE THE NUMBER OF INTERMEDIATE CARE FACILITIES FOR
18 INDIVIDUALS WITH INTELLECTUAL DISABILITIES THAT SUFFER LOSSES AS
19 A RESULT OF PAYING THE NURSING FACILITY PROVIDER FEE;

20 (D) TO CONSULT WITH THE STATE BOARD ON THE RULES
21 REGARDING PAYMENTS TO NURSING FACILITY PROVIDERS THAT IT ADOPTS
22 PURSUANT TO SECTION 25.5-6-202 (10) AND (14)(a);

23 (E) TO CONSULT WITH THE STATE BOARD AND THE STATE
24 DEPARTMENT ON THE RULES, PRICE SCHEDULES, AND ALLOWANCES
25 REGARDING REIMBURSEMENT AND PAYMENTS TO INTERMEDIATE CARE
26 FACILITIES THAT THEY ADOPT PURSUANT TO SECTION 25.5-6-204;

27 (F) TO ESTABLISH REQUIREMENTS FOR THE REPORTS THAT

1 NURSING FACILITY PROVIDERS MUST SUBMIT TO THE ENTERPRISE TO
2 ALLOW THE ENTERPRISE TO CALCULATE THE AMOUNT OF THE NURSING
3 FACILITY PROVIDER FEE; AND

4 (G) TO ESTABLISH REQUIREMENTS FOR THE REPORTS THAT
5 INTERMEDIATE CARE FACILITIES MUST SUBMIT TO THE ENTERPRISE TO
6 ALLOW THE ENTERPRISE TO CALCULATE THE AMOUNT OF THE
7 INTERMEDIATE CARE FACILITY FEE.

8 (V) MEMBERS OF THE FACILITY PROVIDER FEE ENTERPRISE
9 SUPPORT BOARD SERVE WITHOUT COMPENSATION BUT MUST BE
10 REIMBURSED FROM MONEY IN THE NURSING FACILITY PROVIDER FEE CASH
11 FUND OR THE INTERMEDIATE CARE FACILITY FEE CASH FUND FOR ACTUAL
12 AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR
13 DUTIES PURSUANT TO THIS SECTION.

14 (9) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT
15 OTHERWISE REQUIRES:

16 (a) "CASE-MIX" HAS THE SAME MEANING AS SET FORTH IN SECTION
17 25.5-6-201 (8).

18 (b) "CASE-MIX REIMBURSEMENT" HAS THE SAME MEANING AS SET
19 FORTH IN SECTION 25.5-6-201 (12).

20 (c) "COLORADO HEALTHCARE AFFORDABILITY AND
21 SUSTAINABILITY ENTERPRISE" OR "ENTERPRISE" MEANS THE ENTERPRISE
22 CREATED IN SUBSECTION (3) OF THIS SECTION.

23 (d) "FACILITY PROVIDER FEE ENTERPRISE SUPPORT BOARD" MEANS
24 THE FACILITY PROVIDER FEE ENTERPRISE SUPPORT BOARD CREATED IN
25 SUBSECTION (7)(g) OF THIS SECTION.

26 (e) "HEALTHCARE AFFORDABILITY AND SUSTAINABILITY HOSPITAL
27 PROVIDER FEE" OR "HOSPITAL PROVIDER FEE" MEANS THE HEALTHCARE

1 AFFORDABILITY AND SUSTAINABILITY HOSPITAL PROVIDER FEE CHARGED
2 AND COLLECTED AS AUTHORIZED BY SUBSECTION (4) OF THIS SECTION.

3 (f) "HEALTHCARE AFFORDABILITY AND SUSTAINABILITY HOSPITAL
4 PROVIDER FEE CASH FUND" OR "HOSPITAL PROVIDER FEE CASH FUND"
5 MEANS THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY HOSPITAL
6 PROVIDER FEE CASH FUND CREATED IN SUBSECTION (5) OF THIS SECTION.

7 (g) "HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
8 INTERMEDIATE CARE FACILITY FEE" OR "INTERMEDIATE CARE FACILITY
9 FEE" MEANS THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
10 INTERMEDIATE CARE FACILITY FEE FOR INTERMEDIATE CARE FACILITIES
11 FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES CHARGED AND
12 COLLECTED AS AUTHORIZED BY SUBSECTION (4.7) OF THIS SECTION.

13 (h) "HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
14 INTERMEDIATE CARE FACILITY FEE CASH FUND" OR "INTERMEDIATE CARE
15 FACILITY FEE CASH FUND" MEANS THE HEALTHCARE AFFORDABILITY AND
16 SUSTAINABILITY INTERMEDIATE CARE FACILITY FEE CASH FUND CREATED
17 IN SUBSECTION (5.7) OF THIS SECTION.

18 (i) "HEALTHCARE AFFORDABILITY AND SUSTAINABILITY NURSING
19 FACILITY PROVIDER FEE" OR "NURSING FACILITY PROVIDER FEE" MEANS
20 THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY NURSING FACILITY
21 PROVIDER FEE CHARGED AND COLLECTED AS AUTHORIZED BY SUBSECTION
22 (4.5) OF THIS SECTION.

23 (j) "HEALTHCARE AFFORDABILITY AND SUSTAINABILITY NURSING
24 FACILITY PROVIDER FEE CASH FUND" OR "NURSING FACILITY PROVIDER FEE
25 CASH FUND" MEANS THE HEALTHCARE AFFORDABILITY AND
26 SUSTAINABILITY NURSING FACILITY PROVIDER FEE CASH FUND CREATED IN
27 SUBSECTION (5.5) OF THIS SECTION.

1 (k) "HOSPITAL" MEANS A LICENSED OR CERTIFIED HOSPITAL.

2 (l) "NURSING FACILITY PROVIDER" HAS THE SAME MEANING AS SET
3 FORTH IN SECTION 25.5-6-201 (25).

4 (m) "STATE MEDICAL ASSISTANCE PROGRAM" MEANS THE
5 PROGRAM DESCRIBED IN THIS ARTICLE 4 AND ARTICLES 5 AND 6 OF THIS
6 TITLE 25.5.

7 (n) "STATEWIDE AVERAGE PER DIEM RATE" HAS THE SAME
8 MEANING AS SET FORTH IN SECTION 25.5-6-201 (35).

9 (o) "SUPPLEMENTAL MEDICAID PAYMENT" HAS THE SAME MEANING
10 AS SET FORTH IN SECTION 25.5-6-201 (36).

11 **SECTION 2.** In Colorado Revised Statutes, 25.5-4-402.4, **amend**
12 (2) introductory portion and (2)(d) introductory portion; and **amend as**
13 **they will become effective July 1, 2025,** (2)(d)(I), (4)(a) introductory
14 portion, and (4)(g)(I) as follows:

15 **25.5-4-402.4. Healthcare affordability and sustainability**
16 **hospital provider fee - healthcare affordability and sustainability**
17 **nursing facility provider fee - healthcare affordability and**
18 **sustainability intermediate care facility fee - Colorado healthcare**
19 **affordability and sustainability enterprise - federal waiver - funds**
20 **created - reports - rules - legislative declaration - repeal.**

21 (2) **Legislative declaration.** The general assembly ~~hereby~~ finds and
22 declares that:

23 (d) The Colorado healthcare affordability and sustainability
24 enterprise provides business services to hospitals when, in exchange for
25 payment of healthcare affordability and sustainability HOSPITAL PROVIDER
26 fees by hospitals, it:

27 (I) Obtains federal matching money and returns both the

1 ~~healthcare affordability and sustainability~~ HOSPITAL PROVIDER fee and the
2 federal matching money to hospitals to increase reimbursement rates to
3 hospitals for providing medical care under the state medical assistance
4 program, including disproportionate share hospital payments pursuant to
5 42 U.S.C. sec. 1396r-4, and to increase the number of individuals covered
6 by public medical assistance; and

7 (4) **Healthcare affordability and sustainability fee.** (a) For the
8 fiscal year commencing July 1, 2017, and for each fiscal year thereafter,
9 the enterprise is authorized to charge and collect a healthcare affordability
10 and sustainability HOSPITAL PROVIDER fee, as described in 42 CFR 433.68
11 (b), on outpatient and inpatient services provided by all licensed or
12 certified hospitals ~~referred to in this section as "hospitals"~~, for the purpose
13 of obtaining federal financial participation under the state medical
14 assistance program as described in this article 4 and articles 5 and 6 of
15 this title 25.5, ~~referred to in this section as the "state medical assistance~~
16 ~~program"~~, including disproportionate share hospital payments pursuant
17 to 42 U.S.C. sec. 1396r-4. If the amount of ~~healthcare affordability and~~
18 ~~sustainability~~ HOSPITAL PROVIDER fee revenue collected exceeds the
19 federal net patient revenue-based limit on the amount of such fee revenue
20 that may be collected, requiring repayment to the federal government of
21 excess federal matching money received, hospitals that received such
22 excess federal matching money are responsible for repaying the excess
23 federal money and any associated federal penalties to the federal
24 government. The enterprise shall use the ~~healthcare affordability and~~
25 ~~sustainability~~ HOSPITAL PROVIDER fee revenue to:

26 (g) (I) The state board shall promulgate any rules pursuant to the
27 "State Administrative Procedure Act", article 4 of title 24, necessary for

1 the administration and implementation of this section. Prior to submitting
2 any proposed rules concerning the administration or implementation of
3 the ~~healthcare affordability and sustainability~~ HOSPITAL PROVIDER fee to
4 the state board, the enterprise shall consult with the state board on the
5 proposed rules as specified in subsection (7)(d) of this section.

6 **SECTION 3.** In Colorado Revised Statutes, 25.5-5-103, **amend**
7 (1)(b) as follows:

8 **25.5-5-103. Mandated programs with special state provisions**
9 **- rules.** (1) This section specifies programs developed by Colorado to
10 meet federal mandates. These programs include but are not limited to:

11 (b) Special provisions relating to nursing facilities, as specified in
12 ~~sections 25.5-6-201 to 25.5-6-203, 25.5-6-205, and 25.5-6-206~~ SECTIONS
13 25.5-4-402.4 (4.5) AND (5.5), 25.5-6-201, 25.5-6-202, 25.5-6-205, AND
14 25.5-6-206;

15 **SECTION 4.** In Colorado Revised Statutes, 25.5-6-202, **amend**
16 (9)(b)(I) introductory portion, (9)(b)(II), and (9)(b)(VI); and **repeal** (5),
17 (6), (7), (9)(b.3), and (9)(d) as follows:

18 **25.5-6-202. Providers - nursing facility provider**
19 **reimbursement - exemption - rules - repeal.** (5) ~~Subject to available~~
20 ~~appropriations and the priority of the uses of the provider fees as~~
21 ~~established in section 25.5-6-203 (2)(b), in addition to the reimbursement~~
22 ~~rate components paid pursuant to subsections (1) to (4) of this section, the~~
23 ~~state department shall make a supplemental medicaid payment based~~
24 ~~upon performance to those nursing facility providers that provide services~~
25 ~~that result in better care and higher quality of life for their residents. The~~
26 ~~state department shall determine the payment amount based upon~~
27 ~~performance measures established in rules adopted by the state board in~~

1 the domains of quality of life, quality of care, and facility management.
2 Beginning July 1, 2024, the payment must not be less than twelve percent
3 of total provider fee payments and must be adjusted for fiscal years
4 2024-25 and 2025-26. No later than July 1, 2026, the payment must not
5 be less than fifteen percent of total provider fee payments and must be
6 annually adjusted thereafter. During each state fiscal year, the state
7 department may discontinue the supplemental medicaid payment
8 established pursuant to this subsection (5) to any nursing facility provider
9 that fails to comply with the established performance measures during the
10 state fiscal year, and the state department may initiate the supplemental
11 medicaid payment established pursuant to this subsection (5) to any
12 provider that comes into compliance with the established performance
13 measures during the state fiscal year.

14 (6) Subject to available appropriations and the priority of the uses
15 of the provider fees as established in section 25.5-6-203 (2)(b), in
16 addition to the reimbursement rate components paid pursuant to
17 subsections (1) to (5) of this section, the state department shall make a
18 supplemental medicaid payment to nursing facility providers that serve
19 residents:

20 (a) Who have severe mental health conditions that are classified
21 at a level II by the medicaid program's preadmission screening and
22 resident review assessment tool. The state department shall compute this
23 payment annually as of July 1, 2009, and each July 1 thereafter, and it
24 must not be less than two percent of the statewide average per diem rate
25 for the combined rate components determined pursuant to subsections (1)
26 to (4) of this section. Beginning July 1, 2023, the state department shall
27 annually adjust the rate to ensure access to care for residents who have

1 ~~severe mental health conditions.~~

2 ~~(b) With severe dementia diseases and related disabilities or~~
3 ~~acquired brain injury. The state department shall calculate the payment~~
4 ~~based upon the resident's cognitive assessment established in rules~~
5 ~~adopted by the state board. The state department shall compute this~~
6 ~~payment annually as of July 1, 2009, and each July 1 thereafter, and it~~
7 ~~must not be less than one percent of the statewide average per diem rate~~
8 ~~for the combined rate components determined pursuant to subsections (1)~~
9 ~~to (4) of this section. Beginning July 1, 2023, the state department shall~~
10 ~~annually adjust the rate to ensure access to care for residents with severe~~
11 ~~dementia diseases and related disabilities or acquired brain injury.~~

12 ~~(7) Subject to available moneys and the priority of the uses of the~~
13 ~~provider fees as established in section 25.5-6-203 (2)(b), in addition to the~~
14 ~~reimbursement rate components paid pursuant to subsections (1) to (6) of~~
15 ~~this section, the state department shall pay a nursing facility provider a~~
16 ~~supplemental medicaid payment for care and services rendered to~~
17 ~~medicaid residents to offset payment of the provider fee assessed under~~
18 ~~the provisions of section 25.5-6-203. The state department shall compute~~
19 ~~this payment annually, as of July 1, 2009, and each July 1 thereafter.~~

20 (9) (b) (I) Except for changes in the number of patient days, the
21 state department shall establish the general fund share of the aggregate
22 statewide average of the per diem rate net of patient payment pursuant to
23 subsections (1) to (4) of this section. The state's share of the
24 reimbursement rate components pursuant to subsections (1) to (4) of this
25 section may be funded through the provider fee assessed pursuant to
26 ~~section 25.5-6-203~~ SECTION 25.5-4-402.4 (4.5) and any associated federal
27 funds. Any provider fee used as the state's share and all federal funds

1 must be excluded from the calculation of the general fund share. For the
2 fiscal year commencing July 1, 2009, and for each fiscal year thereafter,
3 the state department shall calculate the general fund share of the
4 aggregate statewide average per diem rate net of patient payment pursuant
5 to subsections (1) to (4) of this section using the rates that were effective
6 on July 1 of that fiscal year; except that:

7 (II) If the aggregate statewide average per diem rate net of patient
8 payment pursuant to subsections (1) to (4) of this section exceeds the
9 general fund share, the amount of the average statewide per diem rate that
10 exceeds the general fund share ~~shall~~ MUST be paid as a supplemental
11 medicaid payment using the provider fee established under ~~section~~
12 ~~25.5-6-203~~ SECTION 25.5-4-402.4 (4.5). Subject to the priority of the uses
13 of the provider fee established under ~~section 25.5-6-203 (2)(b)~~ SECTION
14 25.5-4-402.4 (5.5)(b), if the provider fee is insufficient to fully fund the
15 supplemental medicaid payment, the supplemental medicaid payment
16 ~~shall~~ MUST be reduced to all providers proportionately.

17 (VI) Notwithstanding any other provision of law, for the fiscal
18 year commencing July 1, 2013, and each fiscal year thereafter, the general
19 fund portion of the per diem rate pursuant to subsections (1) to (4) of this
20 section shall be reduced by one and one-half percent. The state
21 department may, but is not required to, increase the supplemental
22 medicaid payment pursuant to ~~subparagraph (II) of this paragraph (b)~~
23 SUBSECTION (9)(b)(II) OF THIS SECTION due to this reduction. ~~except that~~
24 ~~the provider fee shall not exceed the amount specified in section~~
25 ~~25.5-6-203 (1)(a)(II).~~

26 (b.3) (I) ~~For the fiscal year commencing July 1, 2009, and for each~~
27 ~~fiscal year thereafter, if the provider fee established under section~~

1 ~~25.5-6-203 is insufficient to fully fund the supplemental medicaid~~
2 ~~payments established under subsections (5) to (7) of this section, subject~~
3 ~~to the priority of the uses of the provider fee established pursuant to~~
4 ~~section 25.5-6-203 (2)(b), the state department may suspend or reduce the~~
5 ~~supplemental medicaid payment subject to the uses of the provider fee~~
6 ~~established under section 25.5-6-203.~~

7 ~~(H) If it is determined by the state department that the case-mix~~
8 ~~reimbursement includes a factor for nursing facility providers that serve~~
9 ~~residents with severe dementia diseases and related disabilities or~~
10 ~~acquired brain injury, the state department may eliminate the~~
11 ~~supplemental medicaid payment to those providers that serve residents~~
12 ~~with severe dementia diseases and related disabilities or acquired brain~~
13 ~~injury.~~

14 ~~(d) The reimbursement rate components pursuant to subsections~~
15 ~~(5) to (7) of this section shall be funded entirely through the provider fee~~
16 ~~assessed pursuant to the provisions of section 25.5-6-203 and any~~
17 ~~associated federal funds. No general fund moneys shall be used to pay for~~
18 ~~the reimbursement rate components established pursuant to subsections~~
19 ~~(5) to (7) of this section.~~

20 **SECTION 5.** In Colorado Revised Statutes, 25.5-6-203, **repeal**
21 ~~(1); and add (2)(a.5) and (3) as follows:~~

22 **25.5-6-203. Nursing facilities - provider fees - federal waiver**
23 ~~- fund created - rules - repeal. (1) (a)(i) Beginning with the fiscal year~~
24 ~~commencing July 1, 2008, and each fiscal year thereafter, the state~~
25 ~~department shall charge and collect provider fees on health-care items or~~
26 ~~services provided by nursing facility providers for the purpose of~~
27 ~~obtaining federal financial participation under the state's medical~~

1 assistance program as described in articles 4 to 6 of this title. As specified
2 by the priority of the uses of the provider fee in paragraph (b) of
3 subsection (2) of this section, the provider fees shall be used to sustain or
4 increase reimbursement for providing medical care under the state's
5 medical assistance program for nursing facility providers.

6 (H) For the fiscal years commencing July 1, 2009, and July 1,
7 2010, the provider fee shall not exceed seven dollars and fifty cents per
8 nonmedicare-resident day. For the fiscal year commencing July 1, 2011,
9 and each fiscal year thereafter, the provider fee shall not exceed twelve
10 dollars per nonmedicare-resident day plus inflation based on the national
11 skilled nursing facility market basket index as determined by the secretary
12 of the department of health and human services pursuant to 42 U.S.C. sec.
13 1395yy (c)(5) or any successor index.

14 (HH) In calculating the amount of the provider fee portion of the
15 supplemental medicaid payments established under section 25.5-6-202
16 (5), the state department may include an additional amount of up to five
17 percent of the provider fee portion of said supplemental medicaid
18 payments to initiate the payment to any provider who complies with the
19 established performance measures during the state fiscal year.

20 (b) The provider fees shall be charged on a nonmedicare-resident
21 day basis and shall be based upon the aggregate gross or net revenue, as
22 prescribed by the state department, of all nursing facility providers subject
23 to the provider fee. The state department may exempt revenue categories
24 from the gross or net revenue calculation and the collection of the
25 provider fee from nursing facility providers, as authorized by federal law.

26 (c) (I) In accordance with the redistributive method set forth in 42
27 CFR 433.68 (c)(1) and (c)(2), the state department shall seek a waiver

1 from the broad-based provider fees requirement or the uniform provider
2 fees requirement, or both, to exclude nursing facility providers from the
3 provider fee. The state department shall exempt the following nursing
4 facility providers to obtain federal approval and minimize the financial
5 impact on nursing facility providers:

6 (A) A facility operated as a continuing care retirement community
7 that provides a continuum of services by one operational entity providing
8 independent living services, assisted living services, and skilled nursing
9 care on a single, contiguous campus. Assisted living services include an
10 assisted living residence as defined in section 25-27-102 or that provides
11 assisted living services on-site, twenty-four hours per day, seven days per
12 week.

13 (B) A skilled nursing facility owned and operated by the state;

14 (C) A nursing facility that is a distinct part of a facility that is
15 licensed as a general acute care hospital; and

16 (D) A facility that has forty-five or fewer licensed beds.

17 (H) No later than July 1, 2026, the state department shall
18 promulgate rules maintaining the exemptions identified in this subsection
19 (1)(c) in order to minimize the financial impact on nursing facility
20 providers.

21 (HH) This subsection (1)(c) is repealed, effective July 1, 2028.

22 (d) The state department may lower the amount of the provider fee
23 charged to certain nursing facility providers to meet the requirements of
24 42 CFR 433.68 (c) and to obtain federal approval.

25 (e) The imposition and collection of a provider fee shall be
26 prohibited without the federal government's approval of a state medicaid
27 plan amendment authorizing federal financial participation for the

1 provider fees. The state department may alter the method prescribed in
2 this section to the extent necessary to meet the federal requirements and
3 to obtain federal approval.

4 (f) If the provider fee required by this subsection (1) is not
5 approved by the federal government, notwithstanding any other provision
6 of this section, the state department shall not implement the assessment
7 or collection of the provider fee from nursing facility providers.

8 (g) The state department shall establish a schedule to assess and
9 collect the provider fee on a monthly basis. The state board shall establish
10 rules so that provider fee payments from a nursing facility provider and
11 the state department's supplemental medicaid payments to the nursing
12 facility are due as nearly simultaneously as feasible; except that the state
13 department's supplemental medicaid payments to the nursing facility shall
14 be due no more than fifteen days after the provider fee payment is
15 received from the nursing facility. The state department shall require each
16 nursing facility provider to report annually its total number of days of care
17 provided to nonmedicare residents.

18 (h) The state department shall not assess or collect the provider
19 fee until state medicaid plan amendments adopting the medicaid
20 reimbursement system for the state's class I nursing facility providers,
21 pursuant to section 25.5-6-202, including the waiver with respect to the
22 provider fees pursuant to this section, have been approved by the federal
23 government.

24 (i) The state board shall promulgate any rules pursuant to the
25 "State Administrative Procedure Act", article 4 of title 24, C.R.S.,
26 necessary for the administration and implementation of this section.

27 (j) A nursing facility provider shall not include any amount of the

1 ~~provider fee as a separate line item in its billing statements.~~

2 (2) (a.5) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION
3 (2) TO THE CONTRARY, ON JUNE 30, 2025, THE STATE TREASURER SHALL
4 TRANSFER THE BALANCE OF THE FUND TO THE HEALTHCARE
5 AFFORDABILITY AND SUSTAINABILITY NURSING FACILITY PROVIDER FEE
6 CASH FUND CREATED IN SECTION 25.5-4-402.4 (5.5).

7 (3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2025.

8 **SECTION 6.** In Colorado Revised Statutes, 25.5-6-204, **amend**
9 (1)(c) as follows:

10 **25.5-6-204. Providers - reimbursement - intermediate care**
11 **facility for individuals with intellectual disabilities - reimbursement**
12 **- maximum allowable - repeal.** (1) (c) ~~(I) Beginning in fiscal year~~
13 ~~2013-14, and for each fiscal year thereafter, the state department is~~
14 ~~authorized to charge both privately owned intermediate care facilities for~~
15 ~~individuals with intellectual disabilities and state-operated intermediate~~
16 ~~care facilities for individuals with intellectual disabilities a service fee for~~
17 ~~the purposes of maintaining the quality and continuity of services~~
18 ~~provided by intermediate care facilities for individuals with intellectual~~
19 ~~disabilities. The service fee charged by the state department pursuant to~~
20 ~~this paragraph (c) will be assessed pursuant to rules adopted by the state~~
21 ~~board but must not exceed five percent of the total costs incurred by all~~
22 ~~intermediate care facilities for the fiscal year in which the service fee is~~
23 ~~charged. The state board shall adopt rules consistent with federal law in~~
24 ~~order to implement the provisions of this paragraph (c).~~

25 (II) ~~The moneys collected in each fiscal year pursuant to~~
26 ~~subparagraph (I) of this paragraph (c) shall be transmitted by the state~~
27 ~~department to the state treasurer, who shall credit the same to~~ The service

1 fee fund ~~which fund~~ is hereby created and referred to in this ~~paragraph (c)~~
2 SUBSECTION (1)(c) as the "fund". The ~~moneys~~ MONEY in the fund shall be
3 subject to annual appropriation by the general assembly to the state
4 department to be used toward the state match for the federal financial
5 participation to reimburse intermediate care facilities for individuals with
6 intellectual disabilities pursuant to this section. Any unexpended and
7 unencumbered ~~moneys~~ MONEY remaining in the fund at the end of any
8 fiscal year shall remain in the fund and not be credited or transferred to
9 the general fund or any other fund.

10 (III) (A) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION
11 (1)(c) TO THE CONTRARY, ON JUNE 30, 2025, THE STATE TREASURER SHALL
12 TRANSFER THE BALANCE OF THE SERVICE FEE FUND TO THE HEALTHCARE
13 AFFORDABILITY AND SUSTAINABILITY INTERMEDIATE CARE FACILITY FEE
14 CASH FUND CREATED IN SECTION 25.5-4-402.4 (5.7).

15 (B) THIS SUBSECTION (1)(c) IS REPEALED, EFFECTIVE JULY 1, 2025.

16 **SECTION 7.** In Colorado Revised Statutes, 25.5-6-210, **amend**
17 (4)(b) as follows:

18 **25.5-6-210. Additional supplemental payments - nursing**
19 **facilities - funding methodology - reporting requirement - rules -**
20 **repeal.** (4) (b) For the purposes of federal upper payment limit
21 calculations, the state department shall pursue federal matching funds for
22 payments made pursuant to this section but only after securing federal
23 matching funds for payments outlined in ~~sections 25.5-6-203 (2)~~
24 SECTIONS 25.5-4-402.4 (5.5)(b) and 25.5-6-208.

25 **SECTION 8.** In Colorado Revised Statutes, 25-3-108, **amend** (7)
26 as follows:

27 **25-3-108. Receivership.** (7) The department of public health and

1 environment shall grant the receiver a license pursuant to section
2 25-3-102 and shall recommend certification for medicaid participation,
3 and the department of health care policy and financing AND THE
4 COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
5 ENTERPRISE shall reimburse the receiver for the long-term health-care
6 facility's medicaid residents pursuant to ~~section~~ SECTIONS 25.5-6-204
7 ~~C.R.S.~~ AND 25.5-4-402.4 (5.7).

8 **SECTION 9.** In Colorado Revised Statutes, **amend** 2-3-119 as
9 follows:

10 **2-3-119. Audit of healthcare affordability and sustainability**
11 **hospital provider fee - cost shift.** At the discretion of the legislative
12 audit committee, the state auditor shall conduct or cause to be conducted
13 a performance and fiscal audit of the healthcare affordability and
14 sustainability HOSPITAL PROVIDER fee established pursuant to section
15 25.5-4-402.4.

16 **SECTION 10.** In Colorado Revised Statutes, 7-121-401, **amend**
17 (33.5)(b)(V) as follows:

18 **7-121-401. General definitions.** As used in articles 121 to 137 of
19 this title 7, unless the context otherwise requires:

20 (33.5) (b) Notwithstanding subsection (33.5)(a) of this section,
21 "residential nonprofit corporation" does not include:

22 (V) A continuing care retirement community, as described in
23 ~~section 25.5-6-203, C.R.S.~~ SECTION 25.5-4-402.4 (4.5)(d)(II)(A), operated
24 by an entity that is licensed or otherwise subject to state regulation.

25 **SECTION 11.** In Colorado Revised Statutes, 10-16-1205, **amend**
26 (5)(a) as follows:

27 **10-16-1205. Health insurance affordability fee - special**

1 **assessment on hospitals - allocation of revenues.** (5) (a) The special
2 assessments on hospitals under subsection (1)(a)(II) of this section must
3 comply with and not violate 42 CFR 433.68. If the federal centers for
4 medicare and medicaid services in the United States department of health
5 and human services informs the state that the state will not be in
6 compliance with 42 CFR 433.68 as a result of the special assessment on
7 hospitals pursuant to subsection (1)(a)(II) of this section, the enterprise
8 shall reduce the amount of the special assessment as necessary to avoid
9 any reduction in the healthcare affordability and sustainability HOSPITAL
10 PROVIDER fee collected pursuant to section 25.5-4-402.4.

11 **SECTION 12.** In Colorado Revised Statutes, 25.5-4-402.8,
12 **amend** (2)(g)(I) as follows:

13 **25.5-4-402.8. Hospital transparency report and requirements**
14 **- definitions.** (2) (g) (I) If a hospital does not provide all of the
15 information required pursuant to subsection (2)(b) of this section, the
16 state department shall inform the hospital of its noncompliance within
17 sixty days and identify the information that needs to be provided. If a
18 hospital does not comply, the state department shall issue a corrective
19 action plan with a timeline of sixty days required for compliance. If a
20 hospital continues to not comply, the state department may create a
21 mandatory pay-for-reporting compliance measure within the hospital
22 transformation program that is tied to the healthcare affordability and
23 sustainability HOSPITAL PROVIDER fee supplemental payment and is based
24 on compliance with subsection (2)(b) of this section.

25 **SECTION 13.** In Colorado Revised Statutes, 25.5-5-201, **amend**
26 (1)(o)(II) and (1)(r)(II) as follows:

27 **25.5-5-201. Optional provisions - optional groups - rules.**

1 (1) (o) (II) Notwithstanding the provisions of subsection (1)(o)(I) of this
2 section, if the money in the healthcare affordability and sustainability
3 HOSPITAL PROVIDER fee cash fund established pursuant to section
4 25.5-4-402.4, together with the corresponding federal matching funds, is
5 insufficient to fully fund all of the purposes described in section
6 25.5-4-402.4 (5)(b), after receiving recommendations from the Colorado
7 healthcare affordability and sustainability enterprise established pursuant
8 to section 25.5-4-402.4 (3), for individuals with disabilities who are
9 participating in the medicaid buy-in program established in part 14 of
10 article 6 of this title 25.5, the state board by rule adopted pursuant to the
11 provisions of section 25.5-4-402.4 (6)(b)(III) may reduce the medical
12 benefits offered or the percentage of the federal poverty line to below
13 four hundred fifty percent or may eliminate this eligibility group.

14 (r) (II) Notwithstanding the provisions of subsection (1)(r)(I) of
15 this section, if the money in the healthcare affordability and sustainability
16 HOSPITAL PROVIDER fee cash fund established pursuant to section
17 25.5-4-402.4, together with the corresponding federal matching funds, is
18 insufficient to fully fund all of the purposes described in section
19 25.5-4-402.4 (5)(b), after receiving recommendations from the Colorado
20 healthcare affordability and sustainability enterprise established pursuant
21 to section 25.5-4-402.4 (3), for persons eligible for a medicaid buy-in
22 program established pursuant to section 25.5-5-206, the state board by
23 rule adopted pursuant to the provisions of section 25.5-4-402.4 (6)(b)(III)
24 may reduce the medical benefits offered, or the percentage of the federal
25 poverty line, or may eliminate this eligibility group.

26 **SECTION 14.** In Colorado Revised Statutes, 25.5-5-204.5,
27 **amend** (2) as follows:

1 (4) "Eligible person" means:

2 (a) (II) Notwithstanding the provisions of subsection (4)(a)(I) of
3 this section, if the money in the healthcare affordability and sustainability
4 HOSPITAL PROVIDER fee cash fund established pursuant to section
5 25.5-4-402.4 (5), together with the corresponding federal matching funds,
6 is insufficient to fully fund all of the purposes described in section
7 25.5-4-402.4 (5)(b), after receiving recommendations from the Colorado
8 healthcare affordability and sustainability enterprise established pursuant
9 to section 25.5-4-402.4 (3), for persons less than nineteen years of age,
10 the state board may by rule adopted pursuant to the provisions of section
11 25.5-4-402.4 (6)(b)(III) reduce the percentage of the federal poverty line
12 to below two hundred sixty percent, but the percentage shall not be
13 reduced to below two hundred thirteen percent.

14 (b) (II) Notwithstanding the provisions of subsection (4)(b)(I) of
15 this section, if the money in the healthcare affordability and sustainability
16 HOSPITAL PROVIDER fee cash fund established pursuant to section
17 25.5-4-402.4 (5), together with the corresponding federal matching funds,
18 is insufficient to fully fund all of the purposes described in section
19 25.5-4-402.4 (5)(b), after receiving recommendations from the Colorado
20 healthcare affordability and sustainability enterprise established pursuant
21 to section 25.5-4-402.4 (3), for pregnant women, the state board by rule
22 adopted pursuant to the provisions of section 25.5-4-402.4 (6)(b)(III) may
23 reduce the percentage of the federal poverty line to below two hundred
24 sixty percent, but the percentage shall not be reduced to below two
25 hundred thirteen percent.

26 **SECTION 17. Appropriation - adjustments to 2025 long bill.**

27 (1) To implement this act, appropriations made in the annual general

1 appropriation act for the 2025-26 state fiscal year to the department of
2 health care policy and financing from the Medicaid nursing facility cash
3 fund created in section 25.5-6-203 (2)(a), C.R.S., are decreased as
4 follows:

5 **Executive director's office, general administration**

6	Personal services	\$246,811
7	Health, life, and dental	\$30,953
8	Short-term disability	\$65
9	Paid family and medical leave insurance	\$1,153
10	Unfunded liability amortization equalization	
11	disbursement payments	\$15,605
12	Salary survey	\$6,899
13	Step pay	\$461
14	PERA direct distribution	\$5,026
15	Workers' compensation	\$788
16	Operating expenses	\$13,200
17	Payment to risk management and property funds	\$772
18	Leased space	\$17,191
19	Payments to OIT	\$59,513
20	CORE operations	\$123
21	General professional services and special projects	\$1,250

22 **Executive director's office, utilization and quality review**

23 **contracts**

24	Professional services contracts	\$36,875
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25 **Executive director's office, provider audits and services**

26	Professional audit contracts	\$12,420
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27 **Executive director's office, indirect cost recoveries**

1	Indirect cost assessment	\$12,116
2	Medical services premiums	
3	Medical and long-term care services for Medicaid	
4	eligible individuals	\$62,525,000
5	(2) For the 2025-26 state fiscal year, \$62,986,221 is appropriated	
6	to the department of health care policy and financing. This appropriation	
7	is from the healthcare affordability and sustainability nursing facility	
8	provider fee cash fund created in section 25.5-4-402.4 (5.5)(a), C.R.S. To	
9	implement this act, the department may use this appropriation as follows:	
10	Executive director's office, general administration	
11	Personal services	\$246,811
12	Health, life, and dental	\$30,953
13	Short-term disability	\$65
14	Paid family and medical leave insurance	\$1,153
15	Unfunded liability amortization equalization	
16	disbursement payments	\$15,605
17	Salary survey	\$6,899
18	Step pay	\$461
19	PERA direct distribution	\$5,026
20	Workers' compensation	\$788
21	Operating expenses	\$13,200
22	Payment to risk management and property funds	\$772
23	Leased space	\$17,191
24	Payments to OIT	\$59,513
25	CORE operations	\$123
26	General professional services and special projects	\$1,250
27	Executive director's office, utilization and quality review	

1	contracts	
2	Professional services contracts	\$36,875
3	Executive director's office, provider audits and services	
4	Professional audit contracts	\$12,420
5	Executive director's office, indirect cost recoveries	
6	Indirect cost assessment	\$12,116
7	Medical services premiums	
8	Medical and long-term care services for Medicaid	
9	eligible individuals	\$62,525,000
10	(3) To implement this act, appropriations made in the annual general	
11	appropriation act for the 2025-26 state fiscal year to the department of	
12	health care policy and financing from the service fee fund created in	
13	section 25.5-6-204 (1)(c)(II), C.R.S., are decreased as follows:	
14	Executive director's office, general administration	
15	Personal services	\$36,476
16	Health, life, and dental	\$4,955
17	Short-term disability	\$15
18	Paid family and medical leave insurance	\$169
19	Unfunded liability amortization equalization	
20	disbursement payments	\$2,287
21	Salary survey	\$1,150
22	Step pay	\$67
23	PERA direct distribution	\$737
24	Workers' compensation	\$116
25	Operating expenses	\$1,876
26	Payment to risk management and property funds	\$114
27	Leased space	\$2,371

1	Payments to OIT	\$8,789
2	CORE operations	\$18
3	Executive director's office, indirect cost recoveries	
4	Indirect cost assessment	\$1,778
5	Medical services premiums	
6	Medical and long-term care services for Medicaid	
7	eligible individuals	\$200,460
8	Transfers to other state department Medicaid-funded programs,	
9	 human services	
10	Regional centers for people with developmental	
11	disabilities	\$1,888,903
12	(4) For the 2025-26 state fiscal year, \$2,150,281 is appropriated to the	
13	department of health care policy and financing. This appropriation is from	
14	the healthcare affordability and sustainability intermediate care facility	
15	fee cash fund created in section 25.5-4-402.4 (5.7)(a), C.R.S. To	
16	implement this act, the department may use this appropriation as follows:	
17	Executive director's office, general administration	
18	Personal services	\$36,476
19	Health, life, and dental	\$4,955
20	Short-term disability	\$15
21	Paid family and medical leave insurance	\$169
22	Unfunded liability amortization equalization	
23	disbursement payments	\$2,287
24	Salary survey	\$1,150
25	Step pay	\$67
26	PERA direct distribution	\$737
27	Workers' compensation	\$116

1	Operating expenses	\$1,876
2	Payment to risk management and property funds	\$114
3	Leased space	\$2,371
4	Payments to OIT	\$8,789
5	CORE operations	\$18
6	Executive director's office, indirect cost recoveries	
7	Indirect cost assessment	\$1,778
8	Medical services premiums	
9	Medical and long-term care services for Medicaid	
10	eligible individuals	\$200,460
11	Transfers to other state department Medicaid-funded programs,	
12	 human services	
13	Regional centers for people with developmental	
14	disabilities	\$1,888,903
15	SECTION 18. Effective date. This act takes effect May 1, 2025.	
16	SECTION 19. Safety clause. The general assembly finds,	
17	determines, and declares that this act is necessary for the immediate	
18	preservation of the public peace, health, or safety or for appropriations for	
19	the support and maintenance of the departments of the state and state	
20	institutions.	