

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

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 25-1037.01 Rebecca Bayetti x4348

SENATE BILL 25-270

SENATE SPONSORSHIP

Bridges and Amabile, Coleman, Cutter, Gonzales J., Hinrichsen, Kipp, Michaelson Jenet, Sullivan, Wallace, Winter F.

HOUSE SPONSORSHIP

Bird and Sirota, McCluskie

Senate Committees
Appropriations

House Committees
Appropriations

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.

HOUSE
3rd Reading Unamended
April 10, 2025

HOUSE
Amended 2nd Reading
April 9, 2025

SENATE
3rd Reading Unamended
April 3, 2025

SENATE
Amended 2nd Reading
April 2, 2025

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fee and a new healthcare affordability and sustainability intermediate care facility fee that function similarly to the repealed fees.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), (7.5), 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 SENATE BILL 25-270, ENACTED IN 2025, AND
18 THE ENTERPRISE'S ABILITY TO CHARGE AND COLLECT A NEW HEALTHCARE
19 AFFORDABILITY AND SUSTAINABILITY NURSING FACILITY PROVIDER FEE AS
20 AUTHORIZED BY SUBSECTION (4.5) OF THIS SECTION AND PROVIDE
21 FEE-FUNDED BUSINESS SERVICES TO NURSING FACILITY PROVIDERS THAT
22 REPLACE AND SUPPLEMENT SERVICES PREVIOUSLY FUNDED BY THE
23 NURSING FACILITY PROVIDER FEE DOES NOT CONSTITUTE CREATION OF A
24 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 SENATE BILL 25-270, ENACTED IN
9 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 SENATE BILL 25-270, ENACTED IN
20 2025. FOR PURPOSES OF THE ANNUAL GENERAL APPROPRIATION ACTS FOR
21 THE 2024-25 AND 2025-26 STATE FISCAL YEARS, THE CASH FUNDS
22 APPROPRIATIONS MADE TO THE DEPARTMENT OF HEALTH CARE POLICY
23 AND FINANCING FROM THE HEALTHCARE AFFORDABILITY AND
24 SUSTAINABILITY FEE CASH FUND, AS THE FUND WAS NAMED PRIOR TO THE
25 ENACTMENT OF SENATE BILL 25-270, ENACTED IN 2025, ARE FROM THE
26 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY HOSPITAL PROVIDER
27 FEE CASH FUND, AS RENAMED BY SENATE BILL 25-270, ENACTED IN 2025.

1 (B) THIS SUBSECTION (5)(a)(II) IS REPEALED, EFFECTIVE JULY 1,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

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

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

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

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

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

18 (I)(A) There is created the "ARPA home- and community-based services
19 account" within the HOSPITAL PROVIDER FEE CASH fund, referred to in this
20 subsection (5)(c) as the "ARPA account". Notwithstanding any other
21 provision of this section to the contrary, money in the ARPA account as
22 a result of fund savings and federal matching dollars must be used in
23 accordance with section 9817 of the federal "American Rescue Plan Act
24 of 2021", Pub.L. 117-2, as amended, referred to in this section as
25 "ARPA", to implement or supplement the implementation of home- and
26 community-based services under the medical assistance program pursuant
27 to the provisions of part 18 of article 6 of this title 25.5.

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

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

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

14 **(5.5) Healthcare affordability and sustainability nursing**
15 **facility provider fee cash fund.** (a) ALL HEALTHCARE AFFORDABILITY
16 AND SUSTAINABILITY NURSING PROVIDER FEES COLLECTED PURSUANT TO
17 THIS SECTION BY THE ENTERPRISE MUST BE TRANSMITTED TO THE STATE
18 TREASURER, WHO SHALL CREDIT THE FEE TO THE HEALTHCARE
19 AFFORDABILITY AND SUSTAINABILITY NURSING FACILITY PROVIDER FEE
20 CASH FUND, WHICH FUND IS CREATED. THE STATE TREASURER SHALL
21 CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND
22 INVESTMENT OF MONEY IN THE NURSING FACILITY PROVIDER FEE CASH
23 FUND TO THE NURSING FACILITY PROVIDER FEE CASH FUND. THE STATE
24 TREASURER SHALL INVEST ANY MONEY IN THE NURSING FACILITY
25 PROVIDER FEE CASH FUND NOT EXPENDED FOR THE PURPOSES SPECIFIED IN
26 SUBSECTIONS (4.5)(a) AND (5.5)(b) OF THIS SECTION AS PROVIDED BY LAW.
27 MONEY IN THE NURSING FACILITY PROVIDER FEE CASH FUND SHALL NOT

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

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

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

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

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

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

27 (III) AFTER THE PAYMENT OF THE AMOUNTS DESCRIBED IN

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

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

26 (B) IF THE ENTERPRISE DETERMINES, IN CONSULTATION WITH THE
27 STATE DEPARTMENT, THAT THE CASE-MIX REIMBURSEMENT DESCRIBED IN

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

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

17 **(5.7) Healthcare affordability and sustainability intermediate**
18 **care facility fee cash fund.** (a) ALL HEALTHCARE AFFORDABILITY AND
19 SUSTAINABILITY INTERMEDIATE CARE FACILITY FEES COLLECTED
20 PURSUANT TO THIS SECTION BY THE ENTERPRISE MUST BE TRANSMITTED
21 TO THE STATE TREASURER, WHO SHALL CREDIT THE FEE TO THE
22 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY INTERMEDIATE CARE
23 FACILITY FEE CASH FUND, WHICH FUND IS CREATED. THE STATE
24 TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE
25 DEPOSIT AND INVESTMENT OF MONEY IN THE INTERMEDIATE CARE
26 FACILITY FEE CASH FUND TO THE INTERMEDIATE CARE FACILITY CASH
27 FUND. THE STATE TREASURER SHALL INVEST ANY MONEY IN THE

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

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

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

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

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

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

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

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

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

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

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

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

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

1 conform with section 24-4-103 (8)(a).

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

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

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

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

20 (c.5) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
21 IF, AFTER RECEIPT OF AUTHORIZATION TO RECEIVE FEDERAL MATCHING
22 FUNDS FOR MONEY IN THE NURSING FACILITY PROVIDER FEE CASH FUND,
23 THE AUTHORIZATION IS WITHDRAWN OR CHANGED SO THAT FEDERAL
24 MATCHING FUNDS ARE NO LONGER AVAILABLE, THE ENTERPRISE SHALL
25 CEASE COLLECTING THE NURSING FACILITY PROVIDER FEE AND SHALL
26 REPAY TO THE NURSING FACILITY PROVIDERS ANY MONEY RECEIVED IN
27 THE NURSING FACILITY PROVIDER FEE CASH FUND THAT IS NOT SUBJECT TO

1 FEDERAL MATCHING FUNDS.

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

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

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

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

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

26 (III) To determine changes in the ~~healthcare affordability and~~
27 ~~sustainability~~ HOSPITAL PROVIDER fee that increase the number of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (D) ONE EMPLOYEE OF THE STATE DEPARTMENT;

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

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

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

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

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

27 (IV) THE FACILITY PROVIDER FEE ENTERPRISE SUPPORT BOARD

1 SHALL FULFILL, AT A MINIMUM, THE FOLLOWING DUTIES ON BEHALF OF THE
2 ENTERPRISE:

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

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

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

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

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

26 (F) TO ESTABLISH REQUIREMENTS FOR THE REPORTS THAT
27 NURSING FACILITY PROVIDERS MUST SUBMIT TO THE ENTERPRISE TO

1 ALLOW THE ENTERPRISE TO CALCULATE THE AMOUNT OF THE NURSING
2 FACILITY PROVIDER FEE; AND

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

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

13 (7.5) **Enterprise transparency and reporting.** TO ENSURE
14 TRANSPARENCY AND ACCOUNTABILITY, AND IN ADDITION TO THE REPORT
15 REQUIRED BY SUBSECTION (7)(c) OF THIS SECTION, THE ENTERPRISE
16 SHALL:

17 (a) NO LATER THAN NOVEMBER 1, 2025, AND BY NOVEMBER 1 OF
18 EACH THREE-YEAR PERIOD THEREAFTER, PUBLISH AND POST ON ITS
19 WEBSITE A THREE-YEAR PLAN THAT DETAILS HOW THE ENTERPRISE WILL
20 EXECUTE ITS BUSINESS PURPOSES DURING THE CURRENT STATE FISCAL
21 YEAR AND THE TWO SUBSEQUENT STATE FISCAL YEARS AND THAT
22 ESTIMATES THE AMOUNT OF FUNDING NEEDED TO IMPLEMENT THE PLAN;
23 AND

24 (b) CREATE, MAINTAIN, AND REGULARLY UPDATE ON ITS WEBSITE
25 A PUBLIC ACCOUNTABILITY DASHBOARD THAT PROVIDES, AT A MINIMUM,
26 ACCESSIBLE AND TRANSPARENT SUMMARY INFORMATION REGARDING THE
27 IMPLEMENTATION OF ITS THREE-YEAR PLAN, THE FUNDING STATUS AND

1 PROGRESS TOWARD COMPLETION OF EACH PROJECT THAT IT WHOLLY OR
2 PARTLY FUNDS, AND ITS PER-PROJECT AND TOTAL FUNDING AND
3 EXPENDITURES.

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

6 (a) "CASE-MIX" HAS THE SAME MEANING AS SET FORTH IN SECTION
7 25.5-6-201 (8).

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

10 (c) "COLORADO HEALTHCARE AFFORDABILITY AND
11 SUSTAINABILITY ENTERPRISE" OR "ENTERPRISE" MEANS THE ENTERPRISE
12 CREATED IN SUBSECTION (3) OF THIS SECTION.

13 (d) "FACILITY PROVIDER FEE ENTERPRISE SUPPORT BOARD" MEANS
14 THE FACILITY PROVIDER FEE ENTERPRISE SUPPORT BOARD CREATED IN
15 SUBSECTION (7)(g) OF THIS SECTION.

16 (e) "HEALTHCARE AFFORDABILITY AND SUSTAINABILITY HOSPITAL
17 PROVIDER FEE" OR "HOSPITAL PROVIDER FEE" MEANS THE HEALTHCARE
18 AFFORDABILITY AND SUSTAINABILITY HOSPITAL PROVIDER FEE CHARGED
19 AND COLLECTED AS AUTHORIZED BY SUBSECTION (4) OF THIS SECTION.

20 (f) "HEALTHCARE AFFORDABILITY AND SUSTAINABILITY HOSPITAL
21 PROVIDER FEE CASH FUND" OR "HOSPITAL PROVIDER FEE CASH FUND"
22 MEANS THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY HOSPITAL
23 PROVIDER FEE CASH FUND CREATED IN SUBSECTION (5) OF THIS SECTION.

24 (g) "HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
25 INTERMEDIATE CARE FACILITY FEE" OR "INTERMEDIATE CARE FACILITY
26 FEE" MEANS THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
27 INTERMEDIATE CARE FACILITY FEE FOR INTERMEDIATE CARE FACILITIES

1 FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES CHARGED AND
2 COLLECTED AS AUTHORIZED BY SUBSECTION (4.7) OF THIS SECTION.

3 (h) "HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
4 INTERMEDIATE CARE FACILITY FEE CASH FUND" OR "INTERMEDIATE CARE
5 FACILITY FEE CASH FUND" MEANS THE HEALTHCARE AFFORDABILITY AND
6 SUSTAINABILITY INTERMEDIATE CARE FACILITY FEE CASH FUND CREATED
7 IN SUBSECTION (5.7) OF THIS SECTION.

8 (i) "HEALTHCARE AFFORDABILITY AND SUSTAINABILITY NURSING
9 FACILITY PROVIDER FEE" OR "NURSING FACILITY PROVIDER FEE" MEANS
10 THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY NURSING FACILITY
11 PROVIDER FEE CHARGED AND COLLECTED AS AUTHORIZED BY SUBSECTION
12 (4.5) OF THIS SECTION.

13 (j) "HEALTHCARE AFFORDABILITY AND SUSTAINABILITY NURSING
14 FACILITY PROVIDER FEE CASH FUND" OR "NURSING FACILITY PROVIDER FEE
15 CASH FUND" MEANS THE HEALTHCARE AFFORDABILITY AND
16 SUSTAINABILITY NURSING FACILITY PROVIDER FEE CASH FUND CREATED IN
17 SUBSECTION (5.5) OF THIS SECTION.

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

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

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

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

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

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

5 **25.5-4-402.4. Healthcare affordability and sustainability**
6 **hospital provider fee - healthcare affordability and sustainability**
7 **nursing facility provider fee - healthcare affordability and**
8 **sustainability intermediate care facility fee - Colorado healthcare**
9 **affordability and sustainability enterprise - federal waiver - funds**
10 **created - reports - rules - legislative declaration - repeal.**

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

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

17 (I) Obtains federal matching money and returns both the
18 ~~healthcare affordability and sustainability~~ HOSPITAL PROVIDER fee and the
19 federal matching money to hospitals to increase reimbursement rates to
20 hospitals for providing medical care under the state medical assistance
21 program, including disproportionate share hospital payments pursuant to
22 42 U.S.C. sec. 1396r-4, and to increase the number of individuals covered
23 by public medical assistance; and

24 (4) **Healthcare affordability and sustainability fee.** (a) For the
25 fiscal year commencing July 1, 2017, and for each fiscal year thereafter,
26 the enterprise is authorized to charge and collect a healthcare affordability
27 and sustainability HOSPITAL PROVIDER fee, as described in 42 CFR 433.68

1 (b), on outpatient and inpatient services provided by all licensed or
2 certified hospitals referred to in this section as "hospitals", for the purpose
3 of obtaining federal financial participation under the state medical
4 assistance program as described in this article 4 and articles 5 and 6 of
5 this title 25.5, referred to in this section as the "state medical assistance
6 program", including disproportionate share hospital payments pursuant
7 to 42 U.S.C. sec. 1396r-4. If the amount of ~~healthcare affordability and~~
8 ~~sustainability~~ HOSPITAL PROVIDER fee revenue collected exceeds the
9 federal net patient revenue-based limit on the amount of such fee revenue
10 that may be collected, requiring repayment to the federal government of
11 excess federal matching money received, hospitals that received such
12 excess federal matching money are responsible for repaying the excess
13 federal money and any associated federal penalties to the federal
14 government. The enterprise shall use the ~~healthcare affordability and~~
15 ~~sustainability~~ HOSPITAL PROVIDER fee revenue to:

16 (g) (I) The state board shall promulgate any rules pursuant to the
17 "State Administrative Procedure Act", article 4 of title 24, necessary for
18 the administration and implementation of this section. Prior to submitting
19 any proposed rules concerning the administration or implementation of
20 the ~~healthcare affordability and sustainability~~ HOSPITAL PROVIDER fee to
21 the state board, the enterprise shall consult with the state board on the
22 proposed rules as specified in subsection (7)(d) of this section.

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

25 **25.5-5-103. Mandated programs with special state provisions**
26 **- rules.** (1) This section specifies programs developed by Colorado to
27 meet federal mandates. These programs include but are not limited to:

1 (b) Special provisions relating to nursing facilities, as specified in
2 sections ~~25.5-6-201 to 25.5-6-203, 25.5-6-205, and 25.5-6-206~~ SECTIONS
3 ~~25.5-4-402.4 (4.5) AND (5.5), 25.5-6-201, 25.5-6-202, 25.5-6-205, AND~~
4 ~~25.5-6-206;~~

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

8 **25.5-6-202. Providers - nursing facility provider**
9 **reimbursement - exemption - rules - repeal.** (5) ~~Subject to available~~
10 ~~appropriations and the priority of the uses of the provider fees as~~
11 ~~established in section 25.5-6-203 (2)(b), in addition to the reimbursement~~
12 ~~rate components paid pursuant to subsections (1) to (4) of this section, the~~
13 ~~state department shall make a supplemental medicaid payment based~~
14 ~~upon performance to those nursing facility providers that provide services~~
15 ~~that result in better care and higher quality of life for their residents. The~~
16 ~~state department shall determine the payment amount based upon~~
17 ~~performance measures established in rules adopted by the state board in~~
18 ~~the domains of quality of life, quality of care, and facility management.~~
19 ~~Beginning July 1, 2024, the payment must not be less than twelve percent~~
20 ~~of total provider fee payments and must be adjusted for fiscal years~~
21 ~~2024-25 and 2025-26. No later than July 1, 2026, the payment must not~~
22 ~~be less than fifteen percent of total provider fee payments and must be~~
23 ~~annually adjusted thereafter. During each state fiscal year, the state~~
24 ~~department may discontinue the supplemental medicaid payment~~
25 ~~established pursuant to this subsection (5) to any nursing facility provider~~
26 ~~that fails to comply with the established performance measures during the~~
27 ~~state fiscal year, and the state department may initiate the supplemental~~

1 ~~medicaid payment established pursuant to this subsection (5) to any~~
2 ~~provider that comes into compliance with the established performance~~
3 ~~measures during the state fiscal year.~~

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

10 ~~(a) Who have severe mental health conditions that are classified~~
11 ~~at a level II by the medicaid program's preadmission screening and~~
12 ~~resident review assessment tool. The state department shall compute this~~
13 ~~payment annually as of July 1, 2009, and each July 1 thereafter, and it~~
14 ~~must not be less than two percent of the statewide average per diem rate~~
15 ~~for the combined rate components determined pursuant to subsections (1)~~
16 ~~to (4) of this section. Beginning July 1, 2023, the state department shall~~
17 ~~annually adjust the rate to ensure access to care for residents who have~~
18 ~~severe mental health conditions:~~

19 ~~(b) With severe dementia diseases and related disabilities or~~
20 ~~acquired brain injury. The state department shall calculate the payment~~
21 ~~based upon the resident's cognitive assessment established in rules~~
22 ~~adopted by the state board. 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 one 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 with severe~~

1 ~~dementia diseases and related disabilities or acquired brain injury.~~

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

10 (9) (b) (I) Except for changes in the number of patient days, the
11 state department shall establish the general fund share of the aggregate
12 statewide average of the per diem rate net of patient payment pursuant to
13 subsections (1) to (4) of this section. The state's share of the
14 reimbursement rate components pursuant to subsections (1) to (4) of this
15 section may be funded through the provider fee assessed pursuant to
16 ~~section 25.5-6-203~~ SECTION 25.5-4-402.4 (4.5) and any associated federal
17 funds. Any provider fee used as the state's share and all federal funds
18 must be excluded from the calculation of the general fund share. For the
19 fiscal year commencing July 1, 2009, and for each fiscal year thereafter,
20 the state department shall calculate the general fund share of the
21 aggregate statewide average per diem rate net of patient payment pursuant
22 to subsections (1) to (4) of this section using the rates that were effective
23 on July 1 of that fiscal year; except that:

24 (II) If the aggregate statewide average per diem rate net of patient
25 payment pursuant to subsections (1) to (4) of this section exceeds the
26 general fund share, the amount of the average statewide per diem rate that
27 exceeds the general fund share ~~shall~~ MUST be paid as a supplemental

1 medicaid payment using the provider fee established under ~~section~~
2 ~~25.5-6-203~~ SECTION 25.5-4-402.4 (4.5). Subject to the priority of the uses
3 of the provider fee established under ~~section 25.5-6-203 (2)(b)~~ SECTION
4 25.5-4-402.4 (5.5)(b), if the provider fee is insufficient to fully fund the
5 supplemental medicaid payment, the supplemental medicaid payment
6 ~~shall~~ MUST be reduced to all providers proportionately.

7 (VI) Notwithstanding any other provision of law, for the fiscal
8 year commencing July 1, 2013, and each fiscal year thereafter, the general
9 fund portion of the per diem rate pursuant to subsections (1) to (4) of this
10 section shall be reduced by one and one-half percent. The state
11 department may, but is not required to, increase the supplemental
12 medicaid payment pursuant to ~~subparagraph (II) of this paragraph (b)~~
13 SUBSECTION (9)(b)(II) OF THIS SECTION due to this reduction. ~~except that~~
14 ~~the provider fee shall not exceed the amount specified in section~~
15 ~~25.5-6-203 (1)(a)(II).~~

16 (b.3) (I) ~~For the fiscal year commencing July 1, 2009, and for each~~
17 ~~fiscal year thereafter, if the provider fee established under section~~
18 ~~25.5-6-203 is insufficient to fully fund the supplemental medicaid~~
19 ~~payments established under subsections (5) to (7) of this section, subject~~
20 ~~to the priority of the uses of the provider fee established pursuant to~~
21 ~~section 25.5-6-203 (2)(b), the state department may suspend or reduce the~~
22 ~~supplemental medicaid payment subject to the uses of the provider fee~~
23 ~~established under section 25.5-6-203.~~

24 (H) ~~If it is determined by the state department that the case-mix~~
25 ~~reimbursement includes a factor for nursing facility providers that serve~~
26 ~~residents with severe dementia diseases and related disabilities or~~
27 ~~acquired brain injury, the state department may eliminate the~~

1 supplemental medicaid payment to those providers that serve residents
2 with severe dementia diseases and related disabilities or acquired brain
3 injury.

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

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

12 **25.5-6-203. Nursing facilities - provider fees - federal waiver**
13 **- fund created - rules - repeal.** (1) (a) (I) Beginning with the fiscal year
14 commencing July 1, 2008, and each fiscal year thereafter, the state
15 department shall charge and collect provider fees on health-care items or
16 services provided by nursing facility providers for the purpose of
17 obtaining federal financial participation under the state's medical
18 assistance program as described in articles 4 to 6 of this title. As specified
19 by the priority of the uses of the provider fee in paragraph (b) of
20 subsection (2) of this section, the provider fees shall be used to sustain or
21 increase reimbursement for providing medical care under the state's
22 medical assistance program for nursing facility providers.

23 (II) For the fiscal years commencing July 1, 2009, and July 1,
24 2010, the provider fee shall not exceed seven dollars and fifty cents per
25 nonmedicare-resident day. For the fiscal year commencing July 1, 2011,
26 and each fiscal year thereafter, the provider fee shall not exceed twelve
27 dollars per nonmedicare-resident day plus inflation based on the national

1 skilled nursing facility market basket index as determined by the secretary
2 of the department of health and human services pursuant to 42 U.S.C. sec.
3 1395yy (e)(5) or any successor index.

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

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

16 (c) (I) In accordance with the redistributive method set forth in 42
17 CFR 433.68 (c)(1) and (c)(2), the state department shall seek a waiver
18 from the broad-based provider fees requirement or the uniform provider
19 fees requirement, or both, to exclude nursing facility providers from the
20 provider fee. The state department shall exempt the following nursing
21 facility providers to obtain federal approval and minimize the financial
22 impact on nursing facility providers:

23 (A) A facility operated as a continuing care retirement community
24 that provides a continuum of services by one operational entity providing
25 independent living services, assisted living services, and skilled nursing
26 care on a single, contiguous campus. Assisted living services include an
27 assisted living residence as defined in section 25-27-102 or that provides

1 ~~assisted living services on-site, twenty-four hours per day, seven days per~~
2 ~~week.~~

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

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

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

7 ~~(H) No later than July 1, 2026, the state department shall~~
8 ~~promulgate rules maintaining the exemptions identified in this subsection~~
9 ~~(1)(c) in order to minimize the financial impact on nursing facility~~
10 ~~providers.~~

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

12 ~~(d) The state department may lower the amount of the provider fee~~
13 ~~charged to certain nursing facility providers to meet the requirements of~~
14 ~~42 CFR 433.68 (c) and to obtain federal approval.~~

15 ~~(e) The imposition and collection of a provider fee shall be~~
16 ~~prohibited without the federal government's approval of a state medicaid~~
17 ~~plan amendment authorizing federal financial participation for the~~
18 ~~provider fees. The state department may alter the method prescribed in~~
19 ~~this section to the extent necessary to meet the federal requirements and~~
20 ~~to obtain federal approval.~~

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

25 ~~(g) The state department shall establish a schedule to assess and~~
26 ~~collect the provider fee on a monthly basis. The state board shall establish~~
27 ~~rules so that provider fee payments from a nursing facility provider and~~

1 ~~the state department's supplemental medicaid payments to the nursing~~
2 ~~facility are due as nearly simultaneously as feasible; except that the state~~
3 ~~department's supplemental medicaid payments to the nursing facility shall~~
4 ~~be due no more than fifteen days after the provider fee payment is~~
5 ~~received from the nursing facility. The state department shall require each~~
6 ~~nursing facility provider to report annually its total number of days of care~~
7 ~~provided to nonmedicare residents.~~

8 ~~(h) The state department shall not assess or collect the provider~~
9 ~~fee until state medicaid plan amendments adopting the medicaid~~
10 ~~reimbursement system for the state's class I nursing facility providers,~~
11 ~~pursuant to section 25.5-6-202, including the waiver with respect to the~~
12 ~~provider fees pursuant to this section, have been approved by the federal~~
13 ~~government.~~

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

17 ~~(j) A nursing facility provider shall not include any amount of the~~
18 ~~provider fee as a separate line item in its billing statements.~~

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

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

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

27 **25.5-6-204. Providers - reimbursement - intermediate care**

1 **facility for individuals with intellectual disabilities - reimbursement**
2 **- maximum allowable - repeal.** (1) (c) (I) ~~Beginning in fiscal year~~
3 ~~2013-14, and for each fiscal year thereafter, the state department is~~
4 ~~authorized to charge both privately owned intermediate care facilities for~~
5 ~~individuals with intellectual disabilities and state-operated intermediate~~
6 ~~care facilities for individuals with intellectual disabilities a service fee for~~
7 ~~the purposes of maintaining the quality and continuity of services~~
8 ~~provided by intermediate care facilities for individuals with intellectual~~
9 ~~disabilities. The service fee charged by the state department pursuant to~~
10 ~~this paragraph (c) will be assessed pursuant to rules adopted by the state~~
11 ~~board but must not exceed five percent of the total costs incurred by all~~
12 ~~intermediate care facilities for the fiscal year in which the service fee is~~
13 ~~charged. The state board shall adopt rules consistent with federal law in~~
14 ~~order to implement the provisions of this paragraph (c).~~

15 (II) ~~The moneys collected in each fiscal year pursuant to~~
16 ~~subparagraph (I) of this paragraph (c) shall be transmitted by the state~~
17 ~~department to the state treasurer, who shall credit the same to The service~~
18 ~~fee fund which fund is hereby created and referred to in this paragraph (c)~~
19 SUBSECTION (1)(c) as the "fund". The ~~moneys~~ MONEY in the fund shall be
20 subject to annual appropriation by the general assembly to the state
21 department to be used toward the state match for the federal financial
22 participation to reimburse intermediate care facilities for individuals with
23 intellectual disabilities pursuant to this section. Any unexpended and
24 unencumbered ~~moneys~~ MONEY remaining in the fund at the end of any
25 fiscal year shall remain in the fund and not be credited or transferred to
26 the general fund or any other fund.

27 (III) (A) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION

1 (1)(c) TO THE CONTRARY, ON JUNE 30, 2025, THE STATE TREASURER SHALL
2 TRANSFER THE BALANCE OF THE SERVICE FEE FUND TO THE HEALTHCARE
3 AFFORDABILITY AND SUSTAINABILITY INTERMEDIATE CARE FACILITY FEE
4 CASH FUND CREATED IN SECTION 25.5-4-402.4 (5.7).

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

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

8 **25.5-6-210. Additional supplemental payments - nursing**
9 **facilities - funding methodology - reporting requirement - rules -**
10 **repeal.** (4) (b) For the purposes of federal upper payment limit
11 calculations, the state department shall pursue federal matching funds for
12 payments made pursuant to this section but only after securing federal
13 matching funds for payments outlined in ~~sections 25.5-6-203 (2)~~
14 SECTIONS 25.5-4-402.4 (5.5)(b) and 25.5-6-208.

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

17 **25-3-108. Receivership.** (7) The department of public health and
18 environment shall grant the receiver a license pursuant to section
19 25-3-102 and shall recommend certification for medicaid participation,
20 and the department of health care policy and financing AND THE
21 COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
22 ENTERPRISE shall reimburse the receiver for the long-term health-care
23 facility's medicaid residents pursuant to ~~section~~ SECTIONS 25.5-6-204
24 ~~C.R.S.~~ AND 25.5-4-402.4 (5.7).

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

27 **2-3-119. Audit of healthcare affordability and sustainability**

1 **hospital provider fee - cost shift.** At the discretion of the legislative
2 audit committee, the state auditor shall conduct or cause to be conducted
3 a performance and fiscal audit of the healthcare affordability and
4 sustainability HOSPITAL PROVIDER fee established pursuant to section
5 25.5-4-402.4.

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

8 **7-121-401. General definitions.** As used in articles 121 to 137 of
9 this title 7, unless the context otherwise requires:

10 (33.5) (b) Notwithstanding subsection (33.5)(a) of this section,
11 "residential nonprofit corporation" does not include:

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

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

17 **10-16-1205. Health insurance affordability fee - special**
18 **assessment on hospitals - allocation of revenues.** (5) (a) The special
19 assessments on hospitals under subsection (1)(a)(II) of this section must
20 comply with and not violate 42 CFR 433.68. If the federal centers for
21 medicare and medicaid services in the United States department of health
22 and human services informs the state that the state will not be in
23 compliance with 42 CFR 433.68 as a result of the special assessment on
24 hospitals pursuant to subsection (1)(a)(II) of this section, the enterprise
25 shall reduce the amount of the special assessment as necessary to avoid
26 any reduction in the healthcare affordability and sustainability HOSPITAL
27 PROVIDER fee collected pursuant to section 25.5-4-402.4.

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

3 **25.5-4-402.8. Hospital transparency report and requirements**

4 **- definitions.** (2) (g) (I) If a hospital does not provide all of the
5 information required pursuant to subsection (2)(b) of this section, the
6 state department shall inform the hospital of its noncompliance within
7 sixty days and identify the information that needs to be provided. If a
8 hospital does not comply, the state department shall issue a corrective
9 action plan with a timeline of sixty days required for compliance. If a
10 hospital continues to not comply, the state department may create a
11 mandatory pay-for-reporting compliance measure within the hospital
12 transformation program that is tied to the healthcare affordability and
13 sustainability HOSPITAL PROVIDER fee supplemental payment and is based
14 on compliance with subsection (2)(b) of this section.

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

17 **25.5-5-201. Optional provisions - optional groups - rules.**

18 (1) (o) (II) Notwithstanding the provisions of subsection (1)(o)(I) of this
19 section, if the money in the healthcare affordability and sustainability
20 HOSPITAL PROVIDER fee cash fund established pursuant to section
21 25.5-4-402.4, together with the corresponding federal matching funds, is
22 insufficient to fully fund all of the purposes described in section
23 25.5-4-402.4 (5)(b), after receiving recommendations from the Colorado
24 healthcare affordability and sustainability enterprise established pursuant
25 to section 25.5-4-402.4 (3), for individuals with disabilities who are
26 participating in the medicaid buy-in program established in part 14 of
27 article 6 of this title 25.5, the state board by rule adopted pursuant to the

1 provisions of section 25.5-4-402.4 (6)(b)(III) may reduce the medical
2 benefits offered or the percentage of the federal poverty line to below
3 four hundred fifty percent or may eliminate this eligibility group.

4 (r) (II) Notwithstanding the provisions of subsection (1)(r)(I) of
5 this section, if the money in the healthcare affordability and sustainability
6 HOSPITAL PROVIDER fee cash fund established pursuant to section
7 25.5-4-402.4, together with the corresponding federal matching funds, is
8 insufficient to fully fund all of the purposes described in section
9 25.5-4-402.4 (5)(b), after receiving recommendations from the Colorado
10 healthcare affordability and sustainability enterprise established pursuant
11 to section 25.5-4-402.4 (3), for persons eligible for a medicaid buy-in
12 program established pursuant to section 25.5-5-206, the state board by
13 rule adopted pursuant to the provisions of section 25.5-4-402.4 (6)(b)(III)
14 may reduce the medical benefits offered, or the percentage of the federal
15 poverty line, or may eliminate this eligibility group.

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

18 **25.5-5-204.5. Continuous eligibility - children.**

19 (2) Notwithstanding the provisions of subsection (1) of this section, if the
20 money in the healthcare affordability and sustainability HOSPITAL
21 PROVIDER fee cash fund established pursuant to section 25.5-4-402.4,
22 together with the corresponding federal matching funds, is insufficient to
23 fully fund all of the purposes described in section 25.5-4-402.4 (5)(b),
24 after receiving recommendations from the Colorado healthcare
25 affordability and sustainability enterprise established pursuant to section
26 25.5-4-402.4 (3), the state board by rule adopted pursuant to the
27 provisions of section 25.5-4-402.4 (6)(b)(III) may eliminate the

1 continuous enrollment requirement pursuant to this section.

2 **SECTION 15.** In Colorado Revised Statutes, 25.5-6-1403,
3 **amend** (5)(b) as follows:

4 **25.5-6-1403. Waivers and amendments.** (5) (b) The state
5 department shall not prepare and submit the amendments to the state
6 medical assistance plan pursuant to this subsection (5) if there are
7 insufficient revenues from the healthcare affordability and sustainability
8 HOSPITAL PROVIDER fee cash fund, created in section 25.5-4-402.4, for the
9 administrative expenses associated with preparing and submitting the
10 state plan amendments. If there are insufficient revenues from the
11 healthcare affordability and sustainability HOSPITAL PROVIDER fee cash
12 fund, the state department may accept and expend gifts, grants, or
13 donations for this purpose.

14 **SECTION 16.** In Colorado Revised Statutes, 25.5-8-103, **amend**
15 (4)(a)(II) and (4)(b)(II) as follows:

16 **25.5-8-103. Definitions - rules.** As used in this article 8, unless
17 the context otherwise requires:

18 (4) "Eligible person" means:

19 (a) (II) Notwithstanding the provisions of subsection (4)(a)(I) of
20 this section, if the money in the healthcare affordability and sustainability
21 HOSPITAL PROVIDER fee cash fund established pursuant to section
22 25.5-4-402.4 (5), together with the corresponding federal matching funds,
23 is insufficient to fully fund all of the purposes described in section
24 25.5-4-402.4 (5)(b), after receiving recommendations from the Colorado
25 healthcare affordability and sustainability enterprise established pursuant
26 to section 25.5-4-402.4 (3), for persons less than nineteen years of age,
27 the state board may by rule adopted pursuant to the provisions of section

1 25.5-4-402.4 (6)(b)(III) reduce the percentage of the federal poverty line
2 to below two hundred sixty percent, but the percentage shall not be
3 reduced to below two hundred thirteen percent.

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

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

17 (1) To implement this act, appropriations made in the annual general
18 appropriation act for the 2025-26 state fiscal year to the department of
19 health care policy and financing from the Medicaid nursing facility cash
20 fund created in section 25.5-6-203 (2)(a), C.R.S., are decreased as
21 follows:

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

23	Personal services	\$246,811
24	Health, life, and dental	\$30,953
25	Short-term disability	\$65
26	Paid family and medical leave insurance	\$1,153
27	Unfunded liability amortization equalization	

1	disbursement payments	\$15,605
2	Salary survey	\$6,899
3	Step pay	\$461
4	PERA direct distribution	\$5,026
5	Workers' compensation	\$788
6	Operating expenses	\$13,200
7	Payment to risk management and property funds	\$772
8	Leased space	\$17,191
9	Payments to OIT	\$59,513
10	CORE operations	\$123
11	General professional services and special projects	\$1,250
12	Executive director's office, utilization and quality review	
13	contracts	
14	Professional services contracts	\$36,875
15	Executive director's office, provider audits and services	
16	Professional audit contracts	\$12,420
17	Executive director's office, indirect cost recoveries	
18	Indirect cost assessment	\$12,116
19	Medical services premiums	
20	Medical and long-term care services for Medicaid	
21	eligible individuals	\$62,525,000
22	(2) For the 2025-26 state fiscal year, \$62,986,221 is appropriated	
23	to the department of health care policy and financing. This appropriation	
24	is from the healthcare affordability and sustainability nursing facility	
25	provider fee cash fund created in section 25.5-4-402.4 (5.5)(a), C.R.S. To	
26	implement this act, the department may use this appropriation as follows:	
27	Executive director's office, general administration	

1	Personal services	\$246,811
2	Health, life, and dental	\$30,953
3	Short-term disability	\$65
4	Paid family and medical leave insurance	\$1,153
5	Unfunded liability amortization equalization	
6	disbursement payments	\$15,605
7	Salary survey	\$6,899
8	Step pay	\$461
9	PERA direct distribution	\$5,026
10	Workers' compensation	\$788
11	Operating expenses	\$13,200
12	Payment to risk management and property funds	\$772
13	Leased space	\$17,191
14	Payments to OIT	\$59,513
15	CORE operations	\$123
16	General professional services and special projects	\$1,250
17	Executive director's office, utilization and quality review	
18	contracts	
19	Professional services contracts	\$36,875
20	Executive director's office, provider audits and services	
21	Professional audit contracts	\$12,420
22	Executive director's office, indirect cost recoveries	
23	Indirect cost assessment	\$12,116
24	Medical services premiums	
25	Medical and long-term care services for Medicaid	
26	eligible individuals	\$62,525,000
27	(3) 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 service fee fund created in
 3 section 25.5-6-204 (1)(c)(II), C.R.S., are decreased as follows:

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

5	Personal services	\$36,476
6	Health, life, and dental	\$4,955
7	Short-term disability	\$15
8	Paid family and medical leave insurance	\$169
9	Unfunded liability amortization equalization	
10	disbursement payments	\$2,287
11	Salary survey	\$1,150
12	Step pay	\$67
13	PERA direct distribution	\$737
14	Workers' compensation	\$116
15	Operating expenses	\$1,876
16	Payment to risk management and property funds	\$114
17	Leased space	\$2,371
18	Payments to OIT	\$8,789
19	CORE operations	\$18

20 **Executive director's office, indirect cost recoveries**

21	Indirect cost assessment	\$1,778
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22 **Medical services premiums**

23	Medical and long-term care services for Medicaid	
24	eligible individuals	\$200,460

25 **Transfers to other state department Medicaid-funded programs,**
 26 **human services**

27	Regional centers for people with developmental	
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1	Transfers to other state department Medicaid-funded programs,	
2	human services	
3	Regional centers for people with developmental	
4	disabilities	\$1,888,903

	APPROPRIATION FROM						
	ITEM & SUBTOTAL	TOTAL	GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
	\$	\$	\$	\$	\$	\$	\$
1	<u>½ Of this amount, \$1,062,923,207 shall be from the Healthcare Affordability and Sustainability Fee Cash Fund created in Section 25.5-4-402.4 (5)(a), C.R.S., \$76,010,738 shall be from</u>						
2	<u>recoveries and recoupments, \$58,197,249 \$48,415,351 shall be from the Medicaid Nursing Facility Cash Fund created in Section 25.5-6-203 (2)(a), C.R.S., \$54,010,364 represents public</u>						
3	<u>funds certified as expenditures incurred by public emergency medical transportation providers, \$52,400,466 shall be from the Adult Dental Fund created in Section 25.5-5-207 (4)(a),</u>						
4	<u>C.R.S., \$46,929,200 shall be from the Health Care Expansion Fund created in Section 24-22-117 (2)(a)(I), C.R.S., \$24,736,077 represents public funds certified as expenditures incurred</u>						
5	<u>by public hospitals and agencies that are eligible for federal financial participation under the Medicaid program, \$20,376,822 shall be from the Home- and Community-based Services</u>						
6	<u>Improvement Fund created in Section 25.5-6-1805 (1), C.R.S., \$9,781,898 SHALL BE FROM THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY NURSING FACILITY PROVIDER FEE</u>						
7	<u>CASH FUND CREATED IN SECTION 25.5-4-402.4 (5.5)(a), C.R.S., \$1,491,000 shall be from the Tobacco Tax Cash Fund created in section 24-22-117 (1)(a), C.R.S., and meets the</u>						
8	<u>requirement to appropriate a portion of the revenues collected from the imposition of additional state cigarette and tobacco taxes to the Old Age Pension program for health related</u>						
9	<u>purposes pursuant to Section 21 of Article X of the State Constitution, \$857,151 shall be from the Tobacco Education Programs Fund created in Section 24-22-117 (2)(c)(I), C.R.S.,</u>						
10	<u>\$700,000 shall be from an intergovernmental transfer from Denver Health, \$550,798 shall be from the Breast and Cervical Cancer Prevention and Treatment Fund created in Section</u>						
11	<u>25.5-5-308 (8)(a)(I), C.R.S., \$471,682 shall be from the ARPA Home- and Community-Based Services Account created in Section 25.5-4-402.4 (5)(c)(I)(A), C.R.S., and \$200,460 shall</u>						
12	<u>be from the Service Fee Fund created in Section 25.5-6-204 (1)(c)(II), C.R.S.</u>						
13	<u>¾ Of this amount, \$107,671,715 shall be transferred from the Department of Higher Education from the Fee-for-service Contracts with State Institutions for Speciality Education</u>						
14	<u>Programs line item, \$9,253,841 shall be transferred from the Old Age Pension State Medical Program line item appropriation in the Other Medical Services division of this</u>						
15	<u>department, \$1,505,000 shall be from the Department of Early Childhood from the Home Visiting line item, and \$1,158,174 shall be transferred from Public School Health Services</u>						
16	<u>line item in the Other Medical Services division of this department.</u>						

		APPROPRIATION FROM				
ITEM & SUBTOTAL	TOTAL	GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$

1

2 **(7) TRANSFERS TO OTHER STATE DEPARTMENT MEDICAID-FUNDED PROGRAMS**

3 **(C) Human Services**

4 (6) Office of Adults, Aging and Disability Services

5	<u>Administration</u>	<u>505,357</u>	<u>252,679(M)</u>	<u>252,678</u>
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6 Regional Centers for People7 with Developmental

8	<u>Disabilities</u>	<u>58,276,921</u>	<u>27,249,558(M)</u>	<u>1,888,903^a</u>	<u>29,138,460</u>
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9 Community Services for the

10	<u>Elderly</u>	<u>1,001,800</u>	<u>500,900(M)</u>	<u>500,900</u>
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11 59,784,078

12

13 a. This Of THIS amount \$1,530,432 shall be from the Service Fee Fund created in Section 25.5-6-204 (1)(c)(II), C.R.S., AND \$358,471 SHALL BE FROM THE HEALTHCARE

14 AFFORDABILITY AND SUSTAINABILITY INTERMEDIATE CARE FACILITY CASH FUND CREATED IN SECTION 25.5-4-402.4 (5.7)(a), C.R.S.

15

1 **SECTION 19. Effective date.** This act takes effect May 1, 2025.

2 **SECTION 20. Safety clause.** The general assembly finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, or safety or for appropriations for
5 the support and maintenance of the departments of the state and state
6 institutions.