

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0197.03 Conrad Imel x2313

SENATE BILL 26-008

SENATE SPONSORSHIP

Michaelson Jenet,

HOUSE SPONSORSHIP

Gilchrist,

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO IMPROVE ACCESS TO MENTAL HEALTH**
102 **SERVICES, AND, IN CONNECTION THEREWITH, CREATING AN**
103 **ENTERPRISE TO IMPOSE A FEE TO FUND MENTAL HEALTH**
104 **SERVICES AND CREATING A PROGRAM TO FACILITATE ACCESS TO**
105 **MENTAL HEALTH SERVICES FOR ADULTS.**

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 establishes the adult mental health services program (program) to facilitate access for adults to mental health services,

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.

including substance use disorder services, and to respond to identified mental health needs. The program reimburses providers for up to 6 mental health sessions with an adult and may provide additional reimbursement, subject to available money. The adult mental health program enterprise (enterprise), created in the bill, creates, operates, and funds the program. The enterprise is required to enter into an agreement with a vendor to create or use an existing website or web-based application as a portal that is available to adults and providers to facilitate the program. The department of human services is required to annually report to the general assembly about the program.

The bill establishes the internet-enabled mental health access grant program (grant program) to award grants to entities that use the internet to facilitate mental health services. The enterprise administers the grant program. The enterprise shall annually report to the health and human services committees of the house of representatives and the senate about the grant program.

The bill creates the mental health services enterprise as a government-owned business within the behavioral health administration for the business purpose of imposing and collecting a surcharge on internet service account holders in Colorado and to use the surcharge revenue to create, operate, and fund the adult mental health services program and internet-enabled mental health access grant program. Each internet service provider shall collect from its account holders located in Colorado the mental health services access surcharge and remit the surcharge to the enterprise.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 6 to article
3 60 of title 27 as follows:

PART 6

MENTAL HEALTH ACCESS AND ENTERPRISE

27-60-601. Short title.

7 THE SHORT TITLE OF THIS PART 6 IS THE "COLORADO MENTAL
8 HEALTH ACCESS ACT".

27-60-602. Legislative declaration.

10 (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

11 (a) MENTAL HEALTH SERVICES PROGRAMS THAT UTILIZE THE

1 INTERNET TO FACILITATE MENTAL HEALTH SERVICES PROVIDE VALUABLE
2 BENEFITS TO INTERNET SERVICE ACCOUNT HOLDERS BY MAKING MENTAL
3 HEALTH SERVICES ACCESSIBLE TO EVERYONE IN THE STATE. COLORADANS'
4 ACCESS TO MENTAL HEALTH SERVICES HAS INCREASED DUE TO THE
5 AVAILABILITY OF TELEHEALTH APPOINTMENTS, WHICH USE THE INTERNET
6 TO CONDUCT VIDEO OR AUDIO APPOINTMENTS. TELEHEALTH ALLOWS A
7 PROVIDER TO ASSESS, DIAGNOSE, CONSULT, TREAT, AND PROVIDE CARE
8 MANAGEMENT SERVICES FOR A PERSON LOCATED AT A DIFFERENT SITE
9 FROM THE PROVIDER. MENTAL HEALTH SERVICE PROGRAMS THAT UTILIZE
10 THE INTERNET, INCLUDING THE ADULT MENTAL HEALTH SERVICES
11 PROGRAM CREATED IN THIS PART 6, WILL PROVIDE VALUABLE BENEFITS
12 AND SERVICES TO INTERNET SERVICE ACCOUNT HOLDERS STATEWIDE
13 WHEN THE MENTAL HEALTH SERVICES ENTERPRISE FUNDS THE PROGRAMS.
14 THE PROGRAMS WILL FACILITATE INCREASED ACCESS TO MENTAL HEALTH
15 SERVICES AVAILABLE FROM ANY JURISDICTION IN COLORADO.

16 (b) BY PROVIDING THE BENEFITS AND SERVICES SPECIFIED IN
17 SUBSECTION (1)(a) OF THIS SECTION, THE MENTAL HEALTH SERVICES
18 ENTERPRISE ENGAGES IN AN ACTIVITY CONDUCTED IN THE PURSUIT OF A
19 BENEFIT, GAIN, OR LIVELIHOOD, AND THEREFORE OPERATES AS A
20 BUSINESS;

21 (c) CONSISTENT WITH THE DETERMINATION OF THE COLORADO
22 SUPREME COURT IN *NICHOLL V. E-470 PUBLIC HIGHWAY AUTHORITY*, 896
23 P.2d 859 (COLO. 1995), THAT THE POWER TO IMPOSE TAXES IS
24 INCONSISTENT WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE
25 X OF THE STATE CONSTITUTION, IT IS THE CONCLUSION OF THE GENERAL
26 ASSEMBLY THAT THE SURCHARGE IMPOSED BY THE ENTERPRISE IS A FEE,
27 NOT A TAX, BECAUSE THE SURCHARGE IS IMPOSED FOR THE SPECIFIC

1 PURPOSE OF ALLOWING THE ENTERPRISE TO DEFRAY THE COSTS OF
2 PROVIDING THE BENEFITS AND SERVICES SPECIFIED IN SUBSECTION (1)(a)
3 OF THIS SECTION TO USERS OF INTERNET SERVICE ACCOUNTS AND THE
4 SURCHARGE IS IMPOSED AT A RATE THAT IS REASONABLY CALCULATED
5 BASED ON THE COST OF THE SERVICES RECEIVED BY USERS OF INTERNET
6 SERVICE ACCOUNTS;

7 (d) SO LONG AS THE MENTAL HEALTH SERVICES ENTERPRISE
8 QUALIFIES AS AN ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X
9 OF THE STATE CONSTITUTION, THE REVENUE FROM THE SURCHARGE
10 IMPOSED BY THE ENTERPRISE IS NOT STATE FISCAL YEAR SPENDING, AS
11 DEFINED IN SECTION 24-77-102 (17), OR STATE REVENUES, AS DEFINED IN
12 SECTION 24-77-103.6 (6)(c), AND DOES NOT COUNT AGAINST EITHER THE
13 STATE FISCAL YEAR SPENDING LIMIT IMPOSED BY SECTION 20 OF ARTICLE
14 X OF THE STATE CONSTITUTION OR THE EXCESS STATE REVENUES CAP, AS
15 DEFINED IN SECTION 24-77-103.6 (6)(b)(I); AND

16 (e) NO OTHER ENTERPRISE CREATED SIMULTANEOUSLY OR WITHIN
17 THE PRECEDING FIVE YEARS SERVES PRIMARILY THE SAME PURPOSE AS THE
18 MENTAL HEALTH SERVICES ENTERPRISE, AND THE MENTAL HEALTH
19 SERVICES ENTERPRISE WILL GENERATE REVENUE FROM SURCHARGES OF
20 LESS THAN ONE HUNDRED MILLION DOLLARS TOTAL IN ITS FIRST FIVE
21 FISCAL YEARS. ACCORDINGLY, THE CREATION OF THE MENTAL HEALTH
22 SERVICES ENTERPRISE DOES NOT REQUIRE VOTER APPROVAL PURSUANT TO
23 SECTION 24-77-108.

24 **27-60-603. Definitions.**

25 AS USED IN THIS PART 6, UNLESS THE CONTEXT OTHERWISE
26 REQUIRES:

27 (1) "ADULT MENTAL HEALTH SERVICES PROGRAM" OR "PROGRAM"

1 MEANS THE PROGRAM CREATED IN SECTION 27-60-604.

2 (2) "BEHAVIORAL HEALTH ADMINISTRATION" OR "BHA" MEANS
3 THE BEHAVIORAL HEALTH ADMINISTRATION ESTABLISHED IN SECTION
4 27-50-102.

5 (3) "ELIGIBLE ADULT" MEANS AN INDIVIDUAL WHO IS NOT A
6 YOUTH, AS DEFINED IN SECTION 27-60-109 (1)(e).

7 (4) "ENTERPRISE" MEANS THE MENTAL HEALTH SERVICES
8 ENTERPRISE CREATED IN SECTION 27-60-606.

9 (5) "GRANT PROGRAM" MEANS THE INTERNET-ENABLED MENTAL
10 HEALTH ACCESS GRANT PROGRAM CREATED IN SECTION 27-60-605.

11 (6) "INTERNET SERVICE ACCOUNT HOLDER" OR "ACCOUNT
12 HOLDER" MEANS A PERSON WHO MAINTAINS AN ACCOUNT WITH AN
13 INTERNET SERVICE PROVIDER TO RECEIVE BROADBAND INTERNET ACCESS
14 SERVICE, AS DEFINED IN SECTION 40-15-209 (4)(a).

15 (7) "INTERNET SERVICE PROVIDER" HAS THE MEANING SET FORTH
16 IN SECTION 40-15-209 (4)(b).

17 (8) "MENTAL HEALTH SERVICE PROVIDER" MEANS A LICENSED
18 PSYCHIATRIST REGULATED PURSUANT TO ARTICLE 240 OF TITLE 12 OR ANY
19 OF THE FOLLOWING LICENSEES, CERTIFIED PROFESSIONALS, OR
20 CANDIDATES REGULATED PURSUANT TO ARTICLE 245 OF TITLE 12: A
21 LICENSED PSYCHOLOGIST OR PSYCHOLOGIST CANDIDATE; LICENSED SOCIAL
22 WORKER, LICENSED CLINICAL SOCIAL WORKER, OR CLINICAL SOCIAL
23 WORKER CANDIDATE; LICENSED MARRIAGE AND FAMILY THERAPIST OR
24 MARRIAGE AND FAMILY THERAPIST CANDIDATE; LICENSED PROFESSIONAL
25 COUNSELOR OR LICENSED PROFESSIONAL COUNSELOR CANDIDATE; OR
26 LICENSED ADDICTION COUNSELOR, CERTIFIED ADDICTION SPECIALIST, OR
27 ADDICTION COUNSELOR CANDIDATE.

4 (10) "PARTICIPANT" MEANS AN INDIVIDUAL WHO PARTICIPATES IN
5 A MENTAL HEALTH SESSION THAT IS REIMBURSED PURSUANT TO THE
6 PROGRAM.

7 (11) "PORTAL" MEANS THE WEBSITE OR WEB-BASED APPLICATION
8 DESCRIBED IN SECTION 27-60-604 (3) THAT FACILITATES THE PROGRAM.

12 (13) "TELEHEALTH" HAS THE SAME MEANING SET FORTH IN
13 SECTION 10-16-123 (4)(e).

14 **27-60-604. Adult mental health services program - created -**
15 **report - rules.**

16 (1) (a) THE ADULT MENTAL HEALTH SERVICES PROGRAM IS
17 ESTABLISHED TO FACILITATE ELIGIBLE ADULTS' ACCESS TO MENTAL
18 HEALTH SERVICES, INCLUDING SUBSTANCE USE DISORDER SERVICES, AND
19 TO RESPOND TO MENTAL HEALTH NEEDS IDENTIFIED IN AN INITIAL MENTAL
20 HEALTH SCREENING CONDUCTED THROUGH THE PORTAL. THE PROGRAM
21 REIMBURSES MENTAL HEALTH SERVICE PROVIDERS FOR UP TO SIX MENTAL
22 HEALTH SESSIONS WITH AN ELIGIBLE ADULT.

23 (b) THE MENTAL HEALTH SERVICES ENTERPRISE SHALL CREATE,
24 OPERATE, AND FUND THE PROGRAM. THE ENTERPRISE SHALL CONSULT
25 WITH THE BHA IN THE CREATION AND OPERATION OF THE PROGRAM.

26 (c) THE PROGRAM MUST REIMBURSE MENTAL HEALTH SERVICE
27 PROVIDERS WHO PARTICIPATE IN THE PROGRAM FOR EACH MENTAL HEALTH

1 SESSION WITH A PARTICIPANT, EITHER IN PERSON OR BY TELEHEALTH, UP
2 TO A MAXIMUM OF SIX SESSIONS PER PARTICIPANT; EXCEPT THAT, SUBJECT
3 TO AVAILABLE MONEY, THE PROGRAM MAY REIMBURSE A PROVIDER FOR
4 ADDITIONAL SESSIONS. TO BE ELIGIBLE FOR REIMBURSEMENT FROM THE
5 PROGRAM, A MENTAL HEALTH SERVICE PROVIDER MUST BE AVAILABLE TO
6 PROVIDE AT LEAST SIX MENTAL HEALTH SESSIONS TO EACH PARTICIPANT
7 THE PROVIDER ACCEPTS AS A CLIENT.

8 (d) A MENTAL HEALTH SERVICE PROVIDER SHALL MAINTAIN CLIENT
9 CONFIDENTIALITY PURSUANT TO STATE OR FEDERAL LAW WITH REGARD TO
10 A CLIENT WHO PARTICIPATES IN A MENTAL HEALTH SESSION WITH THE
11 PROVIDER WHO IS REIMBURSED PURSUANT TO THE PROGRAM.

12 (2) (a) THE ENTERPRISE SHALL:

13 (I) DEVELOP A PROCESS CONSISTENT WITH THE REQUIREMENTS OF
14 THIS SECTION FOR MENTAL HEALTH SERVICE PROVIDERS TO APPLY FOR,
15 AND DEMONSTRATE ELIGIBILITY TO RECEIVE, REIMBURSEMENT FROM THE
16 PROGRAM;

17 (II) DETERMINE A REASONABLE RATE OF REIMBURSEMENT FOR
18 EACH MENTAL HEALTH SESSION PROVIDED PURSUANT TO THE PROGRAM.
19 THE RATE MUST BE THE SAME REGARDLESS OF WHETHER THE
20 APPOINTMENT IS AN IN-PERSON OR TELEHEALTH APPOINTMENT.

21 (III) IMPLEMENT A STATEWIDE PUBLIC AWARENESS AND OUTREACH
22 CAMPAIGN ABOUT THE PROGRAM. THE GENERAL ASSEMBLY ENCOURAGES
23 THE ENTERPRISE TO INVOLVE HEALTH-CARE PROVIDERS, FAITH-BASED
24 ORGANIZATIONS, AND OTHER COMMUNITY-BASED ORGANIZATIONS IN
25 DISSEMINATING INFORMATION ABOUT THE PROGRAM.

26 (b) THE ENTERPRISE MAY ADOPT RULES NECESSARY FOR THE
27 ADMINISTRATION OF THIS SECTION, INCLUDING RULES TO PROTECT THE

1 PRIVACY OF PROGRAM PARTICIPANTS.

2 (3) THE ENTERPRISE SHALL ENTER INTO AN AGREEMENT WITH A
3 VENDOR TO CREATE OR USE AN EXISTING WEBSITE OR WEB-BASED
4 APPLICATION AS A PORTAL THAT IS AVAILABLE TO ELIGIBLE ADULTS,
5 PARTICIPANTS, AND MENTAL HEALTH SERVICE PROVIDERS TO FACILITATE
6 THE PROGRAM. THE PORTAL MUST:

7 (a) SERVE AS A PLATFORM FOR INITIAL MENTAL HEALTH
8 SCREENINGS TO DETERMINE IF AN ELIGIBLE ADULT MAY BENEFIT FROM
9 MENTAL HEALTH SUPPORT;

10 (b) ALLOW MENTAL HEALTH SERVICE PROVIDERS TO REGISTER AND
11 SHARE IN-PERSON OR TELEHEALTH APPOINTMENT AVAILABILITY;

12 (c) WHEN POSSIBLE, CONNECT AN ELIGIBLE ADULT WITH MENTAL
13 HEALTH SERVICE PROVIDERS WHO ACCEPT THE ELIGIBLE ADULT'S
14 INSURANCE OR PAYMENT SOURCE, WHICH MAY COVER THE COSTS OF
15 ONGOING MENTAL HEALTH TREATMENT, IF THE ELIGIBLE ADULT HAS
16 INSURANCE OR A PAYMENT SOURCE; AND

17 (d) ALLOW AN ELIGIBLE ADULT, REGARDLESS OF WHETHER THE
18 ELIGIBLE ADULT HAS INSURANCE OR ANY OTHER PAYMENT SOURCE, TO
19 SCHEDULE TELEHEALTH APPOINTMENTS WITH A MENTAL HEALTH SERVICE
20 PROVIDER. AN IN-PERSON APPOINTMENT MAY BE PROVIDED IF AND WHEN
21 AVAILABLE.

22 (4) (a) ON OR BEFORE JUNE 1, 2028, AND ON OR BEFORE JUNE 1 OF
23 EACH YEAR THEREAFTER, THE VENDOR DESCRIBED IN SUBSECTION (3) OF
24 THIS SECTION SHALL DELIVER TO THE ENTERPRISE ANY OF THE FOLLOWING,
25 COLLECTED DURING THE PRIOR YEAR:

26 (I) INFORMATION ABOUT THE PROGRAM COLLECTED FROM
27 SURVEYS OF PARTICIPANTS AND MENTAL HEALTH SERVICE PROVIDERS;

1 AND

2 (II) DATA FROM EVALUATIONS CONDUCTED BY THE VENDOR
3 ABOUT THE EFFICACY OF THE PROGRAM, INCLUDING WHETHER THE
4 PROGRAM IS SERVING THE MENTAL HEALTH NEEDS OF PARTICIPANTS.

5 (b) ON A SCHEDULE DETERMINED BY THE ENTERPRISE, BUT AT
6 LEAST ANNUALLY, THE ENTERPRISE SHALL CONDUCT A SURVEY OF EACH
7 MENTAL HEALTH SERVICE PROVIDER WHO PARTICIPATES IN THE PROGRAM
8 THAT SOLICITS FEEDBACK ABOUT THE FOLLOWING:

9 (I) THE MET AND UNMET MENTAL HEALTH NEEDS OF THE
10 PARTICIPANTS WHO RECEIVED TREATMENT FROM THE PROVIDER;

11 (II) WHETHER THE PROVIDER MADE REFERRALS FOR PARTICIPANTS
12 FOR ADDITIONAL SERVICES BEYOND WHAT IS PROVIDED PURSUANT TO THE
13 PROGRAM; AND

14 (III) ANY OTHER ELEMENTS OF THE PROGRAM.

15 (c) THE ENTERPRISE SHALL PROVIDE INFORMATION TO THE STATE
16 DEPARTMENT, INCLUDING INFORMATION LEARNED FROM VENDORS AND
17 MENTAL HEALTH SERVICE PROVIDERS PURSUANT TO SUBSECTIONS (4)(a)
18 AND (4)(b) OF THIS SECTION, NECESSARY FOR THE STATE DEPARTMENT TO
19 MAKE ITS REPORT DESCRIBED IN SUBSECTION (5) OF THIS SECTION TO THE
20 HOUSE OF REPRESENTATIVES HEALTH AND HUMAN SERVICES COMMITTEE
21 AND THE SENATE HEALTH AND HUMAN SERVICES COMMITTEE, OR ANY
22 SUCCESSOR COMMITTEE.

23 (d) THIS SUBSECTION (4) DOES NOT AUTHORIZE THE ENTERPRISE,
24 THE STATE DEPARTMENT, THE BHA, A MENTAL HEALTH SERVICE
25 PROVIDER, A VENDOR, OR ANY OTHER PERSON TO VIOLATE APPLICABLE
26 FEDERAL OR STATE PATIENT PRIVACY LAWS.

27 (5) (a) ON OR BEFORE JUNE 30, 2027, AND ON OR BEFORE JUNE 30

1 OF EACH YEAR THEREAFTER, THE STATE DEPARTMENT SHALL REPORT TO
2 THE HOUSE OF REPRESENTATIVES HEALTH AND HUMAN SERVICES
3 COMMITTEE AND THE SENATE HEALTH AND HUMAN SERVICES COMMITTEE,
4 OR THEIR SUCCESSOR COMMITTEES, REGARDING THE NUMBER OF
5 PARTICIPANTS WHO RECEIVED SERVICES UNDER THE PROGRAM, EXCLUDING
6 ANY PERSONALLY IDENTIFIABLE INFORMATION IN ACCORDANCE WITH
7 STATE AND FEDERAL LAW; INFORMATION IN AGGREGATE ABOUT THE
8 SERVICES PROVIDED TO PARTICIPANTS UNDER THE PROGRAM; OTHER
9 RELEVANT INFORMATION REGARDING THE PROGRAM; AND THE
10 INFORMATION REPORTED TO THE ENTERPRISE BY THE VENDOR PURSUANT
11 TO SUBSECTION (4)(a) OF THIS SECTION.

12 (b) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE
13 REQUIREMENT TO SUBMIT THE REPORT REQUIRED IN THIS SUBSECTION (5)
14 CONTINUES INDEFINITELY.

15 **27-60-605. Internet-enabled mental health access grant
16 program - policies, procedures, and guidelines - report.**

17 (1) (a) THE INTERNET-ENABLED MENTAL HEALTH ACCESS GRANT
18 PROGRAM IS CREATED TO AWARD GRANTS TO ENTITIES THAT USE THE
19 INTERNET TO FACILITATE MENTAL HEALTH SERVICES.

20 (b) THE MENTAL HEALTH SERVICES ENTERPRISE SHALL CREATE,
21 OPERATE, AND FUND THE GRANT PROGRAM. THE ENTERPRISE SHALL
22 CONSULT WITH THE BHA IN THE CREATION AND OPERATION OF THE GRANT
23 PROGRAM.

24 (2) TO BE ELIGIBLE FOR A GRANT AWARD, AN ENTITY MUST
25 OPERATE A PROGRAM THAT USES THE INTERNET, INCLUDING A WEBSITE,
26 ONLINE SERVICE, ONLINE APPLICATION, OR MOBILE APPLICATION, TO
27 FACILITATE ACCESS TO OR PROVIDE MENTAL HEALTH SERVICES, INCLUDING

1 SCREENING FOR MENTAL HEALTH NEEDS, FACILITATING PROVIDER
2 REFERRALS, OR HOSTING TELEHEALTH MENTAL HEALTH APPOINTMENTS.
3 AN ENTITY IS NOT REQUIRED TO EXCLUSIVELY USE THE INTERNET TO
4 FACILITATE ACCESS TO OR PROVIDE SERVICES TO BE ELIGIBLE FOR A GRANT
5 AWARD.

6 (3) (a) THE ENTERPRISE SHALL ADOPT, AND POST PUBLICLY ON THE
7 BHA'S WEBSITE, POLICIES, PROCEDURES, AND GUIDELINES FOR THE GRANT
8 PROGRAM THAT INCLUDE, AT A MINIMUM:

9 (I) PROCEDURES AND TIME LINES BY WHICH AN ELIGIBLE RECIPIENT
10 MAY APPLY FOR A GRANT;

11 (II) CRITERIA FOR DETERMINING GRANT ELIGIBILITY AND THE
12 AMOUNT OF GRANT AWARDS; AND

13 (III) REPORTING REQUIREMENTS FOR GRANT RECIPIENTS THAT
14 INCLUDE REPORTING THE USE OF A GRANT AWARD.

15 (b) THE ENTERPRISE SHALL REVIEW GRANT APPLICATIONS AND
16 AWARD GRANTS IN ACCORDANCE WITH THE GRANT PROGRAM'S POLICIES,
17 PROCEDURES, AND GUIDELINES.

18 (4) (a) ON OR BEFORE JANUARY 31, 2028, AND ON OR BEFORE
19 JANUARY 31 OF EACH YEAR THEREAFTER, THE ENTERPRISE SHALL SUBMIT
20 A REPORT TO THE HOUSE OF REPRESENTATIVES HEALTH AND HUMAN
21 SERVICES COMMITTEE AND THE SENATE HEALTH AND HUMAN SERVICES
22 COMMITTEE, OR THEIR SUCCESSOR COMMITTEES, WITH INFORMATION
23 ABOUT THE GRANT PROGRAM'S ACTIVITIES DURING THE PRECEDING YEAR.
24 THE ENTERPRISE SHALL ALSO POST THE ANNUAL REPORT ON THE BHA'S
25 WEBSITE. THE REPORT MUST INCLUDE THE NUMBER AND TOTAL AMOUNT
26 OF GRANTS AWARDED BY THE GRANT PROGRAM, THE RECIPIENT AND
27 AMOUNT OF EACH GRANT AWARDED, AND THE USE OF EACH GRANT

1 AWARD.

2 (b) NOTWITHSTANDING THE REQUIREMENT IN SECTION 24-1-136
3 (11)(a)(I), THE REQUIREMENT TO SUBMIT THE REPORT REQUIRED IN THIS
4 SUBSECTION (4) CONTINUES INDEFINITELY.

5 **27-60-606. Mental health services enterprise - created - board**
6 **- powers and duties - rules and policies - cash fund - repeal.**

7 (1) (a) THERE IS CREATED IN THE BEHAVIORAL HEALTH
8 ADMINISTRATION THE MENTAL HEALTH SERVICES ENTERPRISE. THE
9 ENTERPRISE IS AND OPERATES AS A GOVERNMENT-OWNED BUSINESS
10 WITHIN THE BHA FOR THE BUSINESS PURPOSE OF IMPOSING AND
11 COLLECTING SURCHARGES PURSUANT TO THIS SECTION, AND UTILIZING THE
12 SURCHARGE REVENUE TO CREATE, OPERATE, AND FUND THE ADULT
13 MENTAL HEALTH SERVICES PROGRAM AND THE INTERNET-ENABLED
14 MENTAL HEALTH ACCESS GRANT PROGRAM. THE ENTERPRISE IS A **TYPE 1**
15 ENTITY, AS DEFINED IN SECTION 24-1-105, AND EXERCISES ITS POWER AND
16 PERFORMS ITS DUTIES AND FUNCTIONS UNDER THE BHA.

17 (b) THE ENTERPRISE CONSTITUTES AN ENTERPRISE FOR PURPOSES
18 OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS IT
19 RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND RECEIVES LESS
20 THAN TEN PERCENT OF ITS TOTAL REVENUES IN GRANTS FROM ALL
21 COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. SO LONG AS IT
22 CONSTITUTES AN ENTERPRISE PURSUANT TO THIS SUBSECTION (1), THE
23 ENTERPRISE IS NOT SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE
24 CONSTITUTION.

25 (c) THE ENTERPRISE IS GOVERNED BY A BOARD OF DIRECTORS
26 APPOINTED BY THE GOVERNOR.

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

14 (b) AS REQUIRED BY SECTION 27-60-604, CREATE, OPERATE, AND
15 FUND THE ADULT MENTAL HEALTH SERVICES PROGRAM;

16 (c) AS REQUIRED BY SECTION 27-60-605, CREATE, OPERATE, AND
17 FUND THE INTERNET-ENABLED MENTAL HEALTH ACCESS GRANT PROGRAM;

18 (d) ENTER INTO CONTRACTS NECESSARY FOR PROFESSIONAL AND
19 TECHNICAL ASSISTANCE AND ADVICE AND TO SUPPLY OTHER SERVICES
20 RELATED TO THE CONDUCT OF THE AFFAIRS OF THE ENTERPRISE, WITHOUT
21 REGARD TO THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE
22 24;

23 (e) BY RESOLUTION, AUTHORIZE AND ISSUE REVENUE BONDS THAT
24 ARE PAYABLE ONLY FROM THE MONEY IN THE MENTAL HEALTH SERVICES
25 ENTERPRISE CASH FUND;

26 (f) ADOPT RULES AS NECESSARY TO CARRY OUT THIS PART 6,
27 INCLUDING RULES THAT ESTABLISH SURCHARGE REMITTANCE PROCEDURES

1 THAT ARE CONSISTENT WITH SECTION 27-60-607 (4)(a); AND

2 (g) ADOPT POLICIES FOR THE REGULATION OF ITS AFFAIRS AND THE
3 CONDUCT OF ITS BUSINESS CONSISTENT WITH THIS PART 6.

4 (3) (a) THE ENTERPRISE IS SUBJECT TO THE OPEN MEETINGS
5 PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972", PART 4 OF
6 ARTICLE 6 OF TITLE 24.

7 (b) THE ENTERPRISE IS SUBJECT TO THE "COLORADO OPEN
8 RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24. FOR PURPOSES OF THE
9 "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24,
10 AND EXCEPT AS MAY OTHERWISE BE PROVIDED BY FEDERAL LAW OR
11 REGULATION OR STATE LAW, THE RECORDS OF THE ENTERPRISE ARE PUBLIC
12 RECORDS, AS DEFINED IN SECTION 24-72-202 (6), REGARDLESS OF
13 WHETHER THE ENTERPRISE RECEIVES LESS THAN TEN PERCENT OF ITS
14 TOTAL ANNUAL REVENUE IN GRANTS, AS DEFINED IN SECTION 24-77-102
15 (7), FROM ALL COLORADO STATE AND LOCAL GOVERNMENTS COMBINED.

16 (c) THE ENTERPRISE IS A PUBLIC ENTITY FOR PURPOSES OF THE
17 "SUPPLEMENTAL PUBLIC SECURITIES ACT", PART 2 OF ARTICLE 57 OF
18 TITLE 11.

19 (4) THE BHA SHALL PROVIDE OFFICE SPACE AND ADMINISTRATIVE
20 STAFF TO THE ENTERPRISE PURSUANT TO A CONTRACT ENTERED INTO
21 PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION.

22 (5) (a) THE MENTAL HEALTH SERVICES ENTERPRISE CASH FUND IS
23 CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF MONEY
24 CREDITED TO THE FUND IN ACCORDANCE WITH THIS PART 6; ANY MONEY
25 RECEIVED FROM THE ISSUANCE OF REVENUE BONDS, AS DESCRIBED IN
26 SUBSECTION (2)(d) OF THIS SECTION; AND ANY OTHER MONEY THAT THE
27 GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND.

4 (c) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE
5 ENTERPRISE. THE ENTERPRISE MAY EXPEND MONEY FROM THE FUND FOR
6 THE PURPOSES OF THIS PART 6. IN EACH FISCAL YEAR, THE ENTERPRISE
7 MUST FULLY FUND THE MINIMUM REQUIREMENTS OF THE ADULT MENTAL
8 HEALTH SERVICES PROGRAM SET FORTH IN SECTION 27-60-604 BEFORE
9 EXPENDING MONEY FROM THE FUND FOR THE INTERNET-ENABLED MENTAL
10 HEALTH ACCESS GRANT PROGRAM.

11 (d) (I) SECTION 24-77-108 DOES NOT APPLY TO THE ENTERPRISE
12 BECAUSE THE TOTAL AMOUNT OF MONEY CREDITED OR APPROPRIATED TO
13 THE MENTAL HEALTH SERVICES ENTERPRISE CASH FUND AS THE MENTAL
14 HEALTH SERVICES ACCESS SURCHARGE SHALL NOT EXCEED ONE HUNDRED
15 MILLION DOLLARS IN THE FIRST FIVE FISCAL YEARS OF THE ENTERPRISE'S
16 EXISTENCE.

17 (II) THIS SUBSECTION (5)(d) IS REPEALED, EFFECTIVE JULY 1, 2033.

18 (e) THE BOARD MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS,
19 OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF
20 THIS SECTION, SO LONG AS THE COMBINATION OF GRANTS FROM STATE AND
21 LOCAL GOVERNMENTS IS LESS THAN TEN PERCENT OF THE ENTERPRISE'S
22 TOTAL ANNUAL REVENUE

23 **27-60-607. Remittance of mental health services access**
24 surcharges - incorrect or delinquent reports - penalties -
25 administrative fees - rules.

26 (1) EACH INTERNET SERVICE PROVIDER SHALL COLLECT FROM ITS
27 ACCOUNT HOLDERS THE MENTAL HEALTH SERVICES ACCESS SURCHARGE

1 ESTABLISHED BY THE MENTAL HEALTH SERVICES ENTERPRISE PURSUANT
2 TO SECTION 27-60-606 (2)(a).

3 (2) THE DUTY TO COLLECT AND REMIT THE MENTAL HEALTH
4 SERVICES ACCESS SURCHARGE COMMENCES ON JANUARY 1, 2027. THE
5 MENTAL HEALTH SERVICES ACCESS SURCHARGE MUST BE STATED
6 SEPARATELY ON THE ACCOUNT HOLDER'S BILLING STATEMENT.

7 (3) AN INTERNET SERVICE PROVIDER IS LIABLE ONLY FOR THE
8 MENTAL HEALTH SERVICES ACCESS SURCHARGE COLLECTED PURSUANT TO
9 THIS PART 6 UNTIL IT IS REMITTED TO THE ENTERPRISE. THE AMOUNT
10 REMITTED BY THE INTERNET SERVICE PROVIDER MUST REFLECT THE
11 ACTUAL COLLECTIONS BASED ON THE ACTUAL ACCOUNT HOLDERS BILLED.

12 (4) (a) AN INTERNET SERVICE PROVIDER SHALL REMIT THE
13 COLLECTED SURCHARGES TO THE ENTERPRISE ON A MONTHLY BASIS IN A
14 MANNER ESTABLISHED BY THE ENTERPRISE. THE ENTERPRISE SHALL
15 ESTABLISH REMITTANCE PROCEDURES BY RULE. AN INTERNET SERVICE
16 PROVIDER IS SUBJECT TO THE PENALTIES AND PROCEDURES DESCRIBED IN
17 SUBSECTION (5) OF THIS SECTION FOR THE FAILURE TO COLLECT OR
18 CORRECTLY REMIT A SURCHARGE IN ACCORDANCE WITH THIS SECTION.

19 (b) AN INTERNET SERVICE PROVIDER MAY DEDUCT AND RETAIN
20 ONE PERCENT OF THE SURCHARGES THAT ARE COLLECTED BY THE
21 INTERNET SERVICE PROVIDER FROM ITS ACCOUNT HOLDERS TO COVER THE
22 INTERNET SERVICE PROVIDER'S ADMINISTRATIVE COSTS IN COLLECTING
23 THE SURCHARGE.

24 (c) THE ENTERPRISE SHALL TRANSMIT THE SURCHARGES REMITTED
25 TO THE ENTERPRISE PURSUANT TO THIS SECTION TO THE STATE
26 TREASURER, WHO SHALL CREDIT THE SURCHARGE COLLECTIONS TO THE
27 MENTAL HEALTH SERVICES ENTERPRISE CASH FUND CREATED IN SECTION

1 27-60-606 (5). ANY SURCHARGE TRANSMITTED TO THE STATE TREASURER
2 THAT IS COLLECTED ON BEHALF OF THE MENTAL HEALTH SERVICES
3 ENTERPRISE IS EXCLUDED FROM STATE FISCAL YEAR SPENDING.

4 (5) (a) AN INTERNET SERVICE PROVIDER SHALL MAINTAIN A
5 RECORD OF THE AMOUNT OF EACH MENTAL HEALTH SERVICES ACCESS
6 SURCHARGE COLLECTED FROM EACH ACCOUNT HOLDER FOR A PERIOD OF
7 THREE YEARS AFTER THE TIME THE SURCHARGE WAS COLLECTED. AN
8 INTERNET SERVICE PROVIDER SHALL INCLUDE WITH ITS MONTHLY
9 REMITTANCE TO THE ENTERPRISE A REPORT OF THE SURCHARGES
10 INCLUDED IN THE REMITTANCE.

11 (b) IF AN INTERNET SERVICE PROVIDER FAILS TO TIMELY FILE A
12 REPORT AND REMIT THE MENTAL HEALTH SERVICES ACCESS SURCHARGE
13 AS REQUIRED BY THIS SECTION, OR IF AN INTERNET SERVICE PROVIDER
14 FILES AN INCORRECT REPORT OR FAILS TO REMIT THE CORRECT AMOUNT,
15 THE ENTERPRISE SHALL ESTIMATE THE AMOUNT OF THE REMITTANCE DUE
16 FOR THE PERIOD OR PERIODS FOR WHICH THE INTERNET SERVICE PROVIDER
17 IS DELINQUENT. THE ENTERPRISE SHALL MAKE THE ESTIMATE BASED UPON
18 THE INFORMATION AVAILABLE. THE ENTERPRISE SHALL COMPUTE AND
19 ASSESS A PENALTY EQUAL TO FIFTEEN PERCENT OF THE ESTIMATED
20 DELINQUENT AMOUNT AND SHALL ASSESS INTEREST ON THE DELINQUENT
21 SURCHARGES AT THE RATE OF ONE PERCENT EACH MONTH FROM THE DATE
22 WHEN DUE UNTIL THE DATE PAID.

23 (c) EXCEPT AS PROVIDED IN THIS SECTION AND UNLESS THE TIME
24 IS EXTENDED BY AGREEMENT PURSUANT TO SUBSECTION (5)(d) OF THIS
25 SECTION, THE AMOUNT OF A DELINQUENT REMITTANCE AND THE PENALTY
26 AND INTEREST OWED PURSUANT TO SUBSECTION (5)(b) OF THIS SECTION,
27 OTHER THAN INTEREST ACCRUING THEREAFTER, MUST BE ASSESSED

1 WITHIN THREE YEARS AFTER THE DATE THE INCORRECT REPORT WAS FILED
2 OR THE DELINQUENT REPORT WAS TO BE FILED. THE ENTERPRISE SHALL
3 NOT FILE A NOTICE OF LIEN, ISSUE A DISTRAINT WARRANT, INSTITUTE A
4 SUIT FOR COLLECTION, OR TAKE OTHER ACTION TO COLLECT THE AMOUNT
5 AFTER THE EXPIRATION OF THE APPLICABLE TIME PERIOD UNLESS THE
6 ENTERPRISE ISSUES A NOTICE OF ASSESSMENT FOR THE AMOUNT WITHIN
7 THE APPLICABLE TIME PERIOD.

8 (d) IF, BEFORE THE EXPIRATION OF THE TIME PERIOD PRESCRIBED
9 FOR THE ASSESSMENT OF DELINQUENT AMOUNTS IN SUBSECTION (5)(c) OF
10 THIS SECTION, THE ENTERPRISE AND THE INTERNET SERVICE PROVIDER
11 CONSENT IN WRITING TO AN ASSESSMENT AFTER THE TIME PERIOD, THE
12 AMOUNT CALCULATED IN ACCORDANCE WITH SUBSECTION (5)(b) OF THIS
13 SECTION MAY BE ASSESSED AT ANY TIME PRIOR TO THE EXPIRATION OF THE
14 TIME PERIOD AGREED UPON. THE TIME PERIOD AGREED UPON MAY BE
15 EXTENDED BY SUBSEQUENT AGREEMENTS IN WRITING MADE BEFORE THE
16 EXPIRATION OF THE TIME PERIOD PREVIOUSLY AGREED UPON. THE
17 ENTERPRISE MAY FILE A LIEN AGAINST THE PROPERTY OF THE INTERNET
18 SERVICE PROVIDER FOR UP TO ONE YEAR AFTER THE EXPIRATION OF ANY
19 APPLICABLE TIME PERIOD.

20 (e) THE ENTERPRISE MAY CONDUCT AN AUDIT OF AN INTERNET
21 SERVICE PROVIDER'S BOOKS AND RECORDS CONCERNING THE COLLECTION
22 AND REMITTANCE OF THE SURCHARGES AUTHORIZED BY THIS PART 6. A
23 PUBLIC INSPECTION OF THE AUDIT AND OF DOCUMENTS REVIEWED IN THE
24 AUDIT IS SUBJECT TO SECTION 24-72-204. THE ENTERPRISE IS RESPONSIBLE
25 FOR EXPENSES THE ENTERPRISE MAY INCUR TO CONDUCT THE AUDIT. IN
26 CONNECTION WITH AN AUDIT, AN INTERNET SERVICE PROVIDER SHALL
27 MAKE RELEVANT RECORDS AVAILABLE TO THE AUDITORS AT NO CHARGE.

1 THE ENTERPRISE SHALL ADOPT RULES GOVERNING THE AUDIT AND APPEAL
2 PROCEDURES.

3 (f) THE ENTERPRISE SHALL DEPOSIT ANY PENALTIES OR INTEREST
4 COLLECTED PURSUANT TO THIS SUBSECTION (5) IN THE ADULT MENTAL
5 HEALTH PROGRAM ENTERPRISE CASH FUND.

6 **SECTION 2. Act subject to petition - effective date.** This act
7 takes effect at 12:01 a.m. on the day following the expiration of the
8 ninety-day period after final adjournment of the general assembly (August
9 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a
10 referendum petition is filed pursuant to section 1 (3) of article V of the
11 state constitution against this act or an item, section, or part of this act
12 within such period, then the act, item, section, or part will not take effect
13 unless approved by the people at the general election to be held in
14 November 2026 and, in such case, will take effect on the date of the
15 official declaration of the vote thereon by the governor.