

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 16-0084.01 Jason Gelender x4330

HOUSE BILL 16-1435

HOUSE SPONSORSHIP

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House Committees
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Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF AN EMPLOYMENT-RELATED PUBLIC**
102 **BENEFITS ENTERPRISE AS A GOVERNMENT-OWNED BUSINESS FOR**
103 **THE PURPOSE OF PROVIDING BUSINESS SERVICES THAT BENEFIT**
104 **COVERED EMPLOYERS BY IMPROVING PUBLICLY SUBSIDIZED**
105 **HEALTH CARE PROGRAM SERVICES FOR LOW-WAGE EMPLOYEES**
106 **AND THEIR FAMILIES, AND, IN CONNECTION THEREWITH,**
107 **AUTHORIZING THE ENTERPRISE TO FUND THE BUSINESS**
108 **SERVICES THAT IT PROVIDES BY IMPOSING, COLLECTING, AND**
109 **DISTRIBUTING AN EMPLOYMENT-RELATED PUBLIC BENEFITS FEE**
110 **ON COVERED EMPLOYERS, AND MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

(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://www.leg.state.co.us/billsummaries>.)

The bill, known as the "Corporate Responsibility Act", creates the employment-related public benefits enterprise (enterprise) as a government-owned business and **type 1** agency within the department of health care policy and financing (HCPF). The enterprise has the business purpose of improving the health of the pool of workers for low-wage employment and their families and thereby benefitting low-wage employers by giving them access to a healthier pool of workers. The board of directors of the enterprise (board) consists of 7 members appointed by the governor: 2 who are representatives of employers; 2 who are representatives of organized labor; one who is employed and is receiving assistance under a state-subsidized health care assistance program; one who represents a nonprofit organization that provides health care services to low-income individuals; and one who represents a nonprofit organization that advocates in support of health care services for low-income individuals. Various powers of the enterprise are specified.

On and after January 1, 2017, the enterprise must impose an employment-related public benefits fee (fee) based on a per-hour worked basis for each employee of a low-wage employer that employs 250 or more employees in Colorado, but a low-wage employer may credit health care expenditures to or on behalf of a low-wage employee against the public benefits fee for each low-wage employee's hours. The enterprise must set the fee in an amount that is reasonably calculated to reflect the benefit received by such employers from the provision of state-subsidized health care program assistance to low-wage employees in the state and the costs to the state of providing that assistance but is neither less than 25 cents nor more than one dollar per hour worked. So long as the enterprise meets the constitutional requirements for enterprise status under the taxpayer's bill of rights, fee revenue does not count against the state fiscal year spending limit.

The employment-related public benefits fee fund (fund) is created in the state treasury, and all fee revenue and interest and income derived from the deposit and investment of the fund is credited to the fund. The enterprise may expend money from the fund to support and improve health care services provided to individuals who are eligible to receive services under the "Colorado Medical Assistance Act" and to defray its administrative expenses in implementing and administering provisions of the bill. It is prohibited to transfer money in the fund to any other state fund or department or agency of state government.

Employers are prohibited from taking various specified actions,

including the discharge of low-wage employees during a specified period following the implementation of the fee, for the purpose of avoiding or reducing their liability for the fee. Employers are prohibited from retaliating against employees for whistleblowing or taking various other specified actions relating to implementation or enforcement of the bill, such retaliation is defined as an unfair employment practice, and an employee retaliated against may file a complaint with the Colorado civil rights division. The attorney general and district attorneys are concurrently responsible for the enforcement of the "Corporate Responsibility Act".

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 1 of title 25.5 as follows:

PART 6

CORPORATE RESPONSIBILITY ACT

25.5-1-601. Short title. THE SHORT TITLE OF THIS PART 6 IS THE
"CORPORATE RESPONSIBILITY ACT".

8 **25.5-1-602. Legislative declaration.** (1) THE GENERAL
9 ASSEMBLY HEREBY FINDS AND DECLARES THAT IT IS THE POLICY OF THIS
10 STATE:

15 (b) BECAUSE THE STATE INCURS SIGNIFICANT COSTS RELATED TO
16 LABOR PRACTICES THAT ARE SUBSTANTIALLY MORE LIKELY TO LEAVE
17 EMPLOYEES IN NEED OF STATE-SUBSIDIZED HEALTH CARE, TO ENSURE
18 THAT THOSE EMPLOYERS THAT TEND TO ENJOY THE AGGREGATE BENEFITS
19 OF THE PROVISION OF PUBLICLY SUBSIDIZED HEALTH CARE ASSISTANCE
20 PROGRAM SERVICES TO WORKING FAMILIES CONTRIBUTE A FAIR PORTION

1 OF THE COSTS OF ADMINISTERING, IMPROVING, AND EXPANDING THOSE
2 PROGRAMS.

3 (2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

4 (a) IN EXCHANGE FOR PAYMENT OF THE EMPLOYMENT-RELATED
5 PUBLIC BENEFITS FEE AS REQUIRED BY THIS PART 6, THE EMPLOYERS
6 PAYING THE FEE RECEIVE A BUSINESS SERVICE PROVIDED BY A
7 GOVERNMENT-OWNED BUSINESS, THE EMPLOYMENT-RELATED PUBLIC
8 BENEFITS ENTERPRISE CREATED IN SECTION 25.5-1-604 (1) (a), IN THE
9 FORM OF THE BENEFITS OF AN EMPLOYMENT POOL COMPRISED OF
10 WORKERS WHO ARE MORE LIKELY TO:

11 (I) PERFORM THEIR EMPLOYMENT DUTIES WITHOUT IMPAIRMENT
12 FROM HEALTH-RELATED ISSUES; AND

13 (II) REQUIRE FEWER SICK DAYS DUE TO PERSONAL AND FAMILY
14 HEALTH-RELATED ISSUES;

15 (b) IT IS NECESSARY, APPROPRIATE, AND IN THE BEST INTEREST OF
16 THE STATE TO CREATE THE EMPLOYMENT-RELATED PUBLIC BENEFITS
17 ENTERPRISE AS A GOVERNMENT-OWNED BUSINESS WITHIN THE
18 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING AND TO
19 AUTHORIZE THE ENTERPRISE TO IMPOSE, COLLECT, AND DISTRIBUTE THE
20 FEE; AND

21 (c) SO LONG AS THE ENTERPRISE RETAINS AUTHORITY TO ISSUE
22 REVENUE BONDS AND RECEIVES LESS THAN TEN PERCENT OF ITS ANNUAL
23 REVENUE IN GRANTS FROM ALL COLORADO STATE AND LOCAL
24 GOVERNMENTS COMBINED, IT IS NOT SUBJECT TO ANY PROVISIONS OF
25 SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AND ITS REVENUES
26 ARE NOT INCLUDED IN STATE FISCAL YEAR SPENDING, AS DEFINED IN
27 SECTION 24-77-102 (17), C.R.S.

1 **25.5-1-603. Definitions.** AS USED IN THIS PART 6, UNLESS THE
2 CONTEXT OTHERWISE REQUIRES:

3 (1) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE
4 EMPLOYMENT-RELATED PUBLIC BENEFITS ENTERPRISE.

5 (2) "COVERED EMPLOYER" MEANS:

6 (a) THE STATE, EACH COUNTY, CITY AND COUNTY, CITY, TOWN,
7 AND IRRIGATION AND SCHOOL DISTRICT OF THE STATE, AND ANY PUBLIC
8 INSTITUTIONS OR ADMINISTRATIVE BOARD THEREOF THAT HAS TWO
9 HUNDRED FIFTY OR MORE EMPLOYEES EMPLOYED IN COLORADO, SOME OR
10 ALL OF WHOM ARE LOW-WAGE EMPLOYEES; AND

11 (b) EVERY PERSON, ASSOCIATION OF PERSONS, FIRM, OR PRIVATE
12 CORPORATION, INCLUDING ANY PUBLIC SERVICE CORPORATION, MANAGER,
13 PERSONAL REPRESENTATIVE, ASSIGNEE, TRUSTEE, AND RECEIVER, WHO
14 HAS TWO HUNDRED FIFTY OR MORE INDIVIDUALS REGULARLY ENGAGED IN
15 THE SAME BUSINESS OR EMPLOYMENT IN COLORADO, SOME OR ALL OF
16 WHOM ARE LOW-WAGE EMPLOYEES, IN SERVICE UNDER ANY EXPRESSED OR
17 IMPLIED CONTRACT OF HIRE.

18 (3) "EMPLOY" MEANS TO SUFFER OR PERMIT TO WORK BUT DOES
19 NOT INCLUDE VOLUNTARY OR DONATED SERVICES PERFORMED FOR NO
20 COMPENSATION OR WITHOUT EXPECTATION OR CONTEMPLATION OF
21 COMPENSATION AS THE ADEQUATE CONSIDERATION FOR THE SERVICES
22 PERFORMED FOR A PUBLIC EMPLOYER, FOR A RELIGIOUS, CHARITABLE,
23 EDUCATIONAL, PUBLIC SERVICE, OR SIMILAR NONPROFIT CORPORATION,
24 ORGANIZATION, OR INSTITUTION FOR COMMUNITY SERVICE OR FOR
25 RELIGIOUS OR HUMANITARIAN REASONS, OR FOR SERVICES PERFORMED BY
26 GENERAL OR PUBLIC ASSISTANCE RECIPIENTS AS PART OF ANY WORK
27 TRAINING PROGRAM ADMINISTERED UNDER STATE OR FEDERAL

1 ASSISTANCE LAWS.

2 (4) "EMPLOYEE" HAS THE SAME MEANING AS IN SECTION 8-1-101
3 (6), C.R.S.

4 [REDACTED]

5 (5) "EMPLOYMENT-RELATED PUBLIC BENEFITS FEE" OR "FEE"
6 MEANS THE FEE IMPOSED BY THE EMPLOYMENT-RELATED PUBLIC BENEFITS
7 ENTERPRISE PURSUANT TO SECTION 25.5-1-605 (1).

8 (6) "ENTERPRISE" MEANS THE EMPLOYMENT-RELATED PUBLIC
9 BENEFITS ENTERPRISE CREATED IN SECTION 25.5-1-604 (1) (a).

10 (7) "FUND" MEANS THE EMPLOYMENT-RELATED PUBLIC BENEFITS
11 FEE FUND CREATED IN SECTION 25.5-1-605 (2).

12 (8) "LOW WAGE" MEANS A REGULAR RATE OF PAY THAT IS:

13 (a) LESS THAN TWELVE DOLLARS PER HOUR FOR THE CALENDAR
14 YEAR 2018; AND

15 (b) LESS THAN TWELVE DOLLARS PER HOUR ANNUALLY ADJUSTED
16 FOR INFLATION AS MEASURED BY THE CONSUMER PRICE INDEX FOR ALL
17 URBAN CONSUMERS FOR THE DENVER-BOULDER-GREELEY, COLORADO
18 METROPOLITAN AREA FOR CALENDAR YEAR 2019 AND FOR EACH
19 CALENDAR YEAR THEREAFTER.

20 (9) "LOW-WAGE EMPLOYEE" MEANS AN EMPLOYEE WHO EARNS A
21 REGULAR RATE OF PAY [REDACTED] THAT IS A LOW WAGE; EXCEPT THAT
22 "LOW-WAGE EMPLOYEE" DOES NOT INCLUDE AN EMPLOYEE WHO IS BEING
23 PAID FOR HIS OR HER PARTICIPATION IN AN INTERNSHIP PROGRAM OR A
24 PRE-APPRENTICESHIP PROGRAM IF:

25 (a) THE PROGRAM IS SPONSORED BY, COORDINATED WITH, OR
26 OTHERWISE FORMALLY RECOGNIZED BY THE FEDERAL GOVERNMENT OR
27 THE GOVERNMENT OF THIS STATE;

(b) THE PARTICIPATION OF THE EMPLOYEE IN THE PROGRAM IS INTENDED TO BE TEMPORARY IN NATURE; AND

(c) UPON SUCCESSFUL COMPLETION OF THE PROGRAM, THE EMPLOYEE IS EXPECTED TO OBTAIN FULL-TIME EMPLOYMENT IN AN OCCUPATION IDENTIFIED AS A TOP JOB IN THE ANNUAL COLORADO TALENT REPORT PREPARED BY THE STATE WORKFORCE DEVELOPMENT COUNCIL PURSUANT TO SECTION 24-46.3-103 (3), C.R.S.

8 **25.5-1-604. Employment-related public benefits enterprise -**

9 **creation - board - powers and duties.** (1) (a) THE

10 EMPLOYMENT-RELATED PUBLIC BENEFITS ENTERPRISE IS HEREBY CREATED

11 AS A GOVERNMENT-OWNED BUSINESS WITHIN THE STATE DEPARTMENT.

12 THE ENTERPRISE SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES

13 AS IF THE SAME WERE TRANSFERRED TO THE STATE DEPARTMENT BY A

14 **TYPE 1** TRANSFER, AS DEFINED IN SECTION 24-1-105, C.R.S.

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

23 (c) (I) THE BUSINESS PURPOSE OF THE ENTERPRISE IS TO IMPROVE
24 THE HEALTH OF THE POOL OF WORKERS FOR LOW-WAGE EMPLOYMENT AND
25 THEIR FAMILIES AND THEREBY BENEFIT COVERED EMPLOYERS BY GIVING
26 THEM ACCESS TO A POOL OF WORKERS WHO ARE MORE LIKELY TO:

27 (A) PERFORM THEIR EMPLOYMENT DUTIES WITHOUT IMPAIRMENT

1 FROM HEALTH-RELATED ISSUES; AND

2 (B) REQUIRE FEWER SICK DAYS DUE TO PERSONAL AND FAMILY
3 HEALTH-RELATED ISSUES.

4 (II) TO ALLOW THE ENTERPRISE TO ACCOMPLISH ITS BUSINESS
5 PURPOSE AND FULLY EXERCISE ITS POWERS AND DUTIES THROUGH ITS
6 BOARD, THE ENTERPRISE:

7 (A) SHALL IMPOSE AN EMPLOYMENT-RELATED PUBLIC BENEFITS
8 FEE AS AUTHORIZED IN SECTION 25.5-1-605 (1); AND

9 (B) MAY ISSUE REVENUE BONDS PAYABLE FROM THE REVENUES
10 AND OTHER AVAILABLE MONEYS OF THE ENTERPRISE PLEDGED FOR THEIR
11 REPAYMENT. THE ENTERPRISE MAY ISSUE REVENUE BONDS PURSUANT TO
12 A RESOLUTION OF THE ENTERPRISE BOARD. ENTERPRISE REVENUE BONDS
13 ARE PAYABLE SOLELY FROM MONEYS IN THE EMPLOYMENT-RELATED
14 PUBLIC BENEFITS FEE FUND, DO NOT CREATE AN INDEBTEDNESS OF THE
15 STATE WITHIN THE MEANING OF ANY PROVISION OF THE STATE
16 CONSTITUTION OR THE LAWS OF THE STATE OF COLORADO CONCERNING OR
17 LIMITING THE CREATION OF INDEBTEDNESS BY THE STATE OF COLORADO,
18 AND DO NOT CONSTITUTE A MULTIPLE FISCAL-YEAR DIRECT OR INDIRECT
19 DEBT OR OTHER FINANCIAL OBLIGATION OF THE STATE WITHIN THE
20 MEANING OF SECTION 20 (4) OF ARTICLE X OF THE STATE CONSTITUTION.

21 (2) (a) THE BOARD OF DIRECTORS OF THE ENTERPRISE CONSISTS OF
22 SEVEN MEMBERS APPOINTED BY THE GOVERNOR, WHO SHALL MAKE INITIAL
23 APPOINTMENTS NO LATER THAN SEPTEMBER 1, 2016, AS FOLLOWS:

24 (I) TWO REPRESENTATIVES OF EMPLOYERS IN THIS STATE;

25 (II) TWO REPRESENTATIVES OF ORGANIZED LABOR;

26 (III) ONE INDIVIDUAL WHO IS EMPLOYED AND IS RECEIVING
27 ASSISTANCE UNDER A STATE-SUBSIDIZED HEALTH CARE ASSISTANCE

1 PROGRAM;

2 (IV) ONE MEMBER WHO REPRESENTS A NONPROFIT ORGANIZATION
3 THAT PROVIDES HEALTH CARE SERVICES TO LOW-INCOME INDIVIDUALS;
4 AND

5 (V) ONE MEMBER WHO REPRESENTS A NONPROFIT ORGANIZATION
6 THAT ADVOCATES IN SUPPORT OF HEALTH CARE SERVICES FOR
7 LOW-INCOME INDIVIDUALS.

8 (b) THE MEMBERS OF THE BOARD APPOINTED BY THE GOVERNOR
9 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) SERVE FOUR-YEAR
10 TERMS; EXCEPT THAT ONE OF THE MEMBERS INITIALLY APPOINTED
11 PURSUANT TO SUBPARAGRAPH (I) OF SAID PARAGRAPH (a), ONE OF THE
12 MEMBERS INITIALLY APPOINTED PURSUANT TO SUBPARAGRAPH (II) OF SAID
13 PARAGRAPH (a), AND THE MEMBER INITIALLY APPOINTED PURSUANT TO
14 SUBPARAGRAPH (IV) OF SAID PARAGRAPH (a) SHALL SERVE TWO-YEAR
15 TERMS.

16 (c) MEMBERS OF THE BOARD SERVE WITHOUT COMPENSATION BUT
17 ARE ENTITLED TO REIMBURSEMENT OF ACTUAL AND NECESSARY EXPENSES
18 INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

19 (3) IN ADDITION TO ANY OTHER POWERS AND DUTIES SPECIFIED IN
20 LAW, THE BOARD HAS THE FOLLOWING POWERS AND DUTIES:

21 (a) TO ADVISE THE STATE DEPARTMENT, THE DEPARTMENT OF
22 HUMAN SERVICES, AND THE DEPARTMENT OF LABOR AND EMPLOYMENT
23 WITH RESPECT TO MATTERS RELATED TO THE IMPLEMENTATION OF THIS
24 PART 6, PUBLIC ASSISTANCE UTILIZATION BY EMPLOYED COLORADANS,
25 AND RELIANCE OF LARGE BUSINESSES ON STATE-SUBSIDIZED HEALTH CARE
26 PROGRAMS;

27 (b) TO STUDY AND MONITOR THE CAUSE OF, EFFECTS OF, AND

1 SOLUTIONS FOR COVERED EMPLOYERS PAYING LOW WAGES TO WORKING
2 COLORADANS AND THE IMPACT OF THOSE LOW WAGES ON WORKING
3 COLORADANS' NEED TO UTILIZE STATE-SUBSIDIZED HEALTH CARE
4 PROGRAMS;

5 (c) TO IDENTIFY THE BENEFITS RECEIVED BY COVERED EMPLOYERS
6 FROM THE PROVISION OF STATE-SUBSIDIZED HEALTH CARE PROGRAM
7 SERVICES TO THE COLORADO WORK FORCE;

8 (d) TO MAKE RECOMMENDATIONS FOR LEGISLATION AND AGENCY
9 PROPOSALS AND ACTIONS;

10 (e) TO FOSTER COMMUNICATION BETWEEN WORKING COLORADANS
11 WHO PROVIDE OR RECEIVE STATE-SUBSIDIZED HEALTH CARE PROGRAM
12 SERVICES, EMPLOYERS, AND STATE AGENCIES FOR THE PURPOSE OF
13 IMPROVING THE QUALITY OF STATE-SUBSIDIZED HEALTH CARE PROGRAMS
14 THAT SERVE LOWER-INCOME COLORADANS;

15 (f) TO ADVISE THE EXECUTIVE DIRECTOR AND OTHER INTERESTED
16 STATE AGENCIES AND OFFICIALS REGARDING POLICIES AND PROCEDURES
17 RELATED TO STATE-SUBSIDIZED HEALTH CARE PROGRAM UTILIZATION BY
18 EMPLOYED COLORADANS AND THE IMPACT OF PUBLIC ASSISTANCE
19 PROGRAMS ON WORK FORCE QUALITY AND STABILITY;

20 (g) TO PREPARE AND MAKE PUBLICLY AVAILABLE ON THE WEBSITE
21 OF THE STATE DEPARTMENT AN ANNUAL REPORT;

22 (h) SUBJECT TO THE REQUIREMENTS AND LIMITATIONS OF SECTION
23 25.5-1-605, TO ESTABLISH, IMPOSE, COLLECT, DEPOSIT TO THE
24 EMPLOYMENT-RELATED PUBLIC BENEFITS FEE FUND, AND EXPEND FROM
25 THE FUND, EMPLOYMENT-RELATED PUBLIC BENEFITS FEES;

26 (i) TO UNILATERALLY REQUIRE OR WORK IN CONJUNCTION WITH
27 THE DEPARTMENT OF LABOR AND EMPLOYMENT TO REQUIRE COVERED

1 EMPLOYERS TO FURNISH ANY INFORMATION AND REPORTS NEEDED FOR
2 THE IMPLEMENTATION AND ENFORCEMENT OF THIS PART 6;

3 (j) TO ENTER INTO AGREEMENTS WITH THE STATE DEPARTMENT TO
4 THE EXTENT NECESSARY TO COLLECT AND EXPEND EMPLOYMENT-RELATED
5 PUBLIC BENEFIT FEE REVENUE;

6 (k) TO LEVERAGE EMPLOYMENT-RELATED BENEFITS FEES TO
7 OBTAIN FEDERAL MATCHING MONEY OR OTHERWISE USE SUCH FEES TO
8 SUPPORT AND IMPROVE MEDICAL ASSISTANCE PROVIDED UNDER THE
9 "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES 4 TO 6 OF THIS TITLE,
10 WORKING WITH OR THROUGH THE STATE DEPARTMENT AND THE STATE
11 BOARD TO THE EXTENT REQUIRED BY FEDERAL LAW OR OTHERWISE
12 NECESSARY;

13 (l) TO PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF
14 TITLE 24, C.R.S., TO ESTABLISH THE AMOUNT OF THE FEE TO BE IMPOSED
15 PURSUANT TO SECTION 25.5-1-605 AND THE ADMINISTRATIVE PROCESS BY
16 WHICH IT WILL IMPOSE AND COLLECT THE FEE;

17 (m) TO ENGAGE THE SERVICES OF PRIVATE CONSULTANTS AND
18 LEGAL COUNSEL FOR PROFESSIONAL AND TECHNICAL ASSISTANCE, ADVICE,
19 AND OTHER SERVICES IN CONDUCTING ITS AFFAIRS; AND

20 (n) TO ADOPT AND AMEND OR REPEAL POLICIES FOR THE
21 REGULATION OF ITS AFFAIRS AND THE CONDUCT OF ITS BUSINESS
22 CONSISTENT WITH THIS PART 6 AND TO EXERCISE SUCH OTHER POWERS
23 AND DUTIES AS ARE NECESSARY AND PROPER FOR THE IMPLEMENTATION
24 OF THIS PART 6.

25 **25.5-1-605. Employment-related public benefits fee - fund**
26 **created.** (1) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF
27 THIS SUBSECTION (1), ON AND AFTER JANUARY 1, 2018, THE

1 EMPLOYMENT-RELATED PUBLIC BENEFITS ENTERPRISE SHALL IMPOSE AN
2 EMPLOYMENT-RELATED PUBLIC BENEFITS FEE ON A PER LOW-WAGE
3 EMPLOYEE HOUR WORKED BASIS ON EACH COVERED EMPLOYER. THE
4 ENTERPRISE SHALL SET THE FEE IN AN AMOUNT THAT IS REASONABLY
5 CALCULATED TO REFLECT THE BENEFIT RECEIVED BY SUCH EMPLOYERS
6 FROM THE PROVISION OF STATE-SUBSIDIZED HEALTH CARE PROGRAM
7 ASSISTANCE TO LOW-WAGE EMPLOYEES IN THE STATE AND THE COST OF
8 PROVIDING THAT ASSISTANCE AND IS NEITHER LESS THAN TWENTY-FIVE
9 CENTS NOR MORE THAN ONE DOLLAR PER HOUR WORKED BY EACH
10 LOW-WAGE EMPLOYEE WHO IS EMPLOYED BY ~~A~~ COVERED EMPLOYER. A
11 ~~COVERED~~ EMPLOYER SHALL PAY THE FEE PURSUANT TO THE
12 ADMINISTRATIVE PROCESS ESTABLISHED BY THE ENTERPRISE BY RULE
13 PURSUANT TO SECTION 25.5-1-604.

14 (b) A ~~COVERED~~ EMPLOYER MAY CREDIT HEALTH CARE
15 EXPENDITURES TO OR ON BEHALF OF A LOW-WAGE EMPLOYEE AGAINST
16 THE PUBLIC BENEFITS FEE FOR EACH LOW-WAGE EMPLOYEE'S HOURS.

17 (2) THE EMPLOYMENT-RELATED PUBLIC BENEFITS ENTERPRISE
18 SHALL DEPOSIT ALL FEE REVENUES INTO THE EMPLOYMENT-RELATED
19 PUBLIC BENEFITS FEE FUND, WHICH IS CREATED IN THE STATE TREASURY.
20 ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT
21 OF THE FUND IS CREDITED TO THE FUND. ALL MONEY IN THE FUND
22 REMAINS IN THE FUND UNTIL EXPENDED BY THE ENTERPRISE. ~~SUBJECT TO~~
23 ANNUAL APPROPRIATION BY THE ENTERPRISE, THE ENTERPRISE MAY
24 EXPEND MONEY FROM THE FUND TO SUPPORT AND IMPROVE HEALTH CARE
25 SERVICES PROVIDED TO INDIVIDUALS WHO ARE ELIGIBLE TO RECEIVE
26 SERVICES UNDER THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES
27 4 TO 6 OF THIS TITLE, AND TO DEFRAY ITS ADMINISTRATIVE EXPENSES IN

1 IMPLEMENTING AND ADMINISTERING THIS PART 6.

2 **25.5-1-606. Employer compliance requirements.** (1) A

3 COVERED EMPLOYER OR AGENT OF A COVERED EMPLOYER IS PROHIBITED

4 FROM WILLFULLY REFUSING TO PAY THE FEE OR OTHERWISE FAILING:

5 (a) TO PAY THE FULL AMOUNT OF ANY FEES IMPOSED ON THE
6 COVERED EMPLOYER; OR

7 (b) TO FURNISH ANY REPORT OR INFORMATION REQUIRED BY THE
8 ENTERPRISE OR THE DEPARTMENT OF LABOR AND EMPLOYMENT IN ORDER
9 TO IMPLEMENT AND ENFORCE THIS PART 6.

10 (2) A COVERED EMPLOYER SHALL NOT DEDUCT ALL OR ANY
11 PORTION OF THE FEES IMPOSED ON THE COVERED EMPLOYER FROM THE
12 WAGES OR SALARY OF A LOW-WAGE EMPLOYEE OR ANY OTHER EMPLOYEE.

13 (3) NO COVERED EMPLOYER OR OTHER PERSON SHALL WILLFULLY
14 MAKE A FALSE STATEMENT OR MISREPRESENTATION IN ORDER TO LOWER
15 OR ELIMINATE THE FEES.

16 (4) A COVERED EMPLOYER MAY NOT, DIRECTLY OR THROUGH ANY
17 OFFICER, AGENT, EMPLOYEE, OR FRANCHISEE, DISCHARGE A LOW-WAGE
18 EMPLOYEE WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS
19 SUBSECTION (4), ABSENT GOOD CAUSE, TO AVOID PAYING THE FEES. ANY
20 ADVERSE ACTION RESULTING IN THE DISCHARGE OF A LOW-WAGE
21 EMPLOYEE RAISES A REBUTTABLE PRESUMPTION THAT THE ADVERSE
22 ACTION WAS TAKEN TO AVOID PAYING THE FEES.

23 **25.5-1-607. Retaliation against employees prohibited.** (1) AN
24 EMPLOYER OR AGENT OF AN EMPLOYER IS PROHIBITED FROM DISCHARGING
25 AN EMPLOYEE OR OTHERWISE DISCRIMINATING AGAINST AN EMPLOYEE
26 WITH RESPECT TO THE EMPLOYEE'S COMPENSATION, TERMS, CONDITIONS,
27 OR PRIVILEGES OF EMPLOYMENT BECAUSE THE EMPLOYEE OR ANY PERSON

1 ACTING PURSUANT TO A REQUEST OF THE EMPLOYEE:

2 (a) PROVIDED INFORMATION RELATING TO A POTENTIAL VIOLATION
3 OF THIS PART 6 TO THE ENTERPRISE, THE STATE DEPARTMENT, THE
4 DEPARTMENT OF LABOR AND EMPLOYMENT, OR ANY OTHER PERSON;

5 (b) SERVES OR HAS SERVED AS A MEMBER OF THE BOARD;

6 (c) COMMUNICATED OR COOPERATED WITH A STATE AGENCY OR
7 THE ENTERPRISE;

8 (d) REQUESTED THAT THE ENTERPRISE, THE STATE DEPARTMENT,
9 THE DEPARTMENT OF LABOR AND EMPLOYMENT, OR ANY OTHER STATE
10 AGENCY OR PERSON INVESTIGATE AN ALLEGED VIOLATION OF THIS PART
11 6;

12 (e) CAUSED ANY PROCEEDINGS TO BE INSTITUTED PURSUANT TO
13 THIS PART 6; OR

14 (f) TESTIFIED OR IS SCHEDULED TO TESTIFY IN A PROCEEDING OR
15 HEARING RELATING TO A VIOLATION OF THIS PART 6.

16 (2) A VIOLATION OF THIS SECTION IS AN UNFAIR EMPLOYMENT
17 PRACTICE, AS DEFINED IN SECTION 24-34-401 (8), C.R.S.

18 (3) AN EMPLOYEE ALLEGING TO HAVE BEEN RETALIATED AGAINST
19 MAY, WITHIN NINETY DAYS AFTER HAVING REASONABLE CAUSE TO
20 BELIEVE THAT THE VIOLATION HAS OCCURRED, FILE A COMPLAINT WITH
21 THE COLORADO CIVIL RIGHTS DIVISION CREATED IN SECTION 24-34-302,
22 C.R.S., WHICH SHALL PROCESS THE COMPLAINT AS SPECIFIED IN PARTS 3
23 AND 4 OF ARTICLE 34 OF TITLE 24, C.R.S.

24 (4) THE PROTECTION PROVIDED BY THIS SECTION APPLIES TO ANY
25 PERSON WHO MISTAKENLY, BUT IN GOOD FAITH, ALLEGES A VIOLATION OF
26 ANY PROVISION OF THIS PART 6.

27 **25.5-1-608. Attorney general and district attorneys**

1 **concurrently responsible for enforcement.** THE ATTORNEY GENERAL
2 AND THE DISTRICT ATTORNEYS OF THE SEVERAL JUDICIAL DISTRICTS OF
3 THE STATE ARE CONCURRENTLY RESPONSIBLE FOR THE ENFORCEMENT OF
4 THIS PART 6. UNTIL THE COLORADO SUPREME COURT ADOPTS A VENUE
5 PROVISION RELATING TO THIS ARTICLE, ACTIONS INSTITUTED PURSUANT TO
6 THIS ARTICLE MAY BE BROUGHT IN THE COUNTY WHERE AN ALLEGED
7 VIOLATION OF THIS PART 6 OCCURRED OR WHERE ANY PORTION OF A
8 TRANSACTION INVOLVING AN ALLEGED VIOLATION OF THIS PART 6
9 OCCURRED, OR IN THE COUNTY WHERE THE PRINCIPAL PLACE OF BUSINESS
10 OF ANY DEFENDANT IS LOCATED, OR IN THE COUNTY IN WHICH ANY
11 DEFENDANT RESIDES.

12 **SECTION 2.** In Colorado Revised Statutes, 24-1-119.5, **add** (9)
13 as follows:

14 **24-1-119.5. Department of health care policy and financing -**
15 **creation.** (9) THE EMPLOYMENT-RELATED PUBLIC BENEFITS ENTERPRISE
16 SHALL EXERCISE ITS POWERS AND PERFORM THE DUTIES AND FUNCTIONS
17 SPECIFIED BY PART 6 OF ARTICLE 1 OF TITLE 25.5, C.R.S., UNDER THE
18 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING AND THE
19 EXECUTIVE DIRECTOR THEREOF AS IF THE SAME WERE TRANSFERRED TO
20 THE DEPARTMENT BY A **TYPE 1** TRANSFER.

21 **SECTION 3. Appropriation.** (1) For the 2016-17 state fiscal
22 year, \$831,684 is appropriated to the department of health care policy and
23 financing for use by the employment-related public benefits enterprise.
24 This appropriation is from the general fund. To implement this act, the
25 enterprise may use this appropriation as follows:

26 (a) \$201,009 for personal services, which amount is based on an
27 assumption that the office will require an additional 2.8 FTE;

12 **SECTION 4. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, and safety.