

HB19-1168

## HOUSE FLOOR AMENDMENT

Second Reading BY REPRESENTATIVES McCluskie and Rich

1 Amend the Health and Insurance Committee Report, dated February 27,  
2 2019, page 1, after line 5 insert:

3 "Page 4 of the bill, strike lines 9 through 11.

4 Renumber succeeding subsections accordingly.

5 Page 5 of the bill, strike lines 2 and 3 and substitute:

6 "(6) "HOSPITAL" MEANS A HOSPITAL LICENSED OR CERTIFIED BY  
7 THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO  
8 SECTION 25-1.5-103 (1)(a).

9 (7) "MEDICAID" MEANS FEDERAL INSURANCE OR ASSISTANCE AS  
10 PROVIDED BY TITLE XIX OF THE FEDERAL "SOCIAL SECURITY ACT", AS  
11 AMENDED, AND THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES  
12 4, 5, AND 6 OF TITLE 25.5."

13 Renumber succeeding subsections accordingly.

14 Page 5 of the bill, strike lines 8 through 10.

15 Renumber succeeding subsections accordingly.

16 Page 5 of the bill, line 12, strike "CAP, COINSURANCE RATE, AND FEE  
17 SCHEDULE" and substitute "CAP, AND COINSURANCE RATE".

18 Page 5 of the bill, strike lines 14 through 18.

19 Renumber succeeding subsections accordingly."

20 Page 1 of the committee report, after line 6 insert:

21 "Page 6 of the bill, strike lines 22 through 27.

22 Page 7 of the bill, strike line 1 and substitute:

23 "(f) ASSESS SPECIAL FEES AGAINST HOSPITALS AND, IF APPLICABLE,  
24 CARRIERS FOR THE CONTINUOUS OPERATION OF THE REINSURANCE  
25 PROGRAM, AS PROVIDED IN SECTION 10-16-1108;"

26 Page 7 of the bill, line 3, strike "10-16-1108," and substitute

1 "10-16-1109,".

2 Page 1 of the committee report, strike line 7 and substitute:

3 "Page 7 of the bill, strike lines 10 through 12 and substitute "LAW WITH  
4 ANY FEDERAL PROGRAM AND RULES. THE RULES SHALL BE ADOPTED IN".".

5 Page 1 of the committee report, line 13, strike "10-16-1108," and  
6 substitute "10-16-1109,".

7 Page 2 of the committee report, after line 6 insert:

8 "Page 7 of the bill, line 16, strike "**fee schedule - rules -**".

9 Page 7 of the bill, line 22, strike "10-16-1108." and substitute  
10 "10-16-1109.".

11 Page 8 of the bill, line 13, strike "10-16-1108" and substitute  
12 "10-16-1109".

13 Page 8 of the bill, line 21, strike "YEAR, EACH" and substitute "YEAR:  
14 (A) EACH".

15 Page 8 of the bill, strike lines 23 through 25 and substitute "YEAR;  
16 (B) EACH HOSPITAL THAT IS SUBJECT TO THE SPECIAL FEES  
17 ASSESSED PURSUANT TO SECTION 10-16-1108 SHALL REPORT TO THE  
18 COMMISSIONER THE AMOUNT THE HOSPITAL IS RESPONSIBLE FOR FUNDING  
19 IN THE BENEFIT YEAR; AND

20 (C) IF SPECIAL FEES ARE ASSESSED AGAINST CARRIERS PURSUANT  
21 TO SECTION 10-16-1108 (1)(b), EACH CARRIER THAT IS SUBJECT TO THE  
22 SPECIAL FEES SHALL REPORT TO THE COMMISSIONER ON ITS COLLECTED  
23 ASSESSMENTS IN THAT BENEFIT YEAR.".

24 Page 2 of the committee report, after line 8 insert:

25 "Page 10 of the bill, line 10, strike "FINANCE" and substitute "FUND".

26 Page 12 of the bill, strike lines 19 through 27.

27 Strike page 13 of the bill.

28 Page 14 of the bill, strike lines 1 through 7 and substitute:

29 "(5) IN ORDER TO PROMOTE MORE COST-EFFECTIVE HEALTH CARE  
30 COVERAGE AND TO BE FAIR TO FEDERAL TAXPAYERS BY RESTRAINING

1 GROWTH IN FEDERAL SPENDING COMMITMENTS, THE COMMISSIONER SHALL  
2 REQUIRE EACH ELIGIBLE CARRIER THAT PARTICIPATES IN THE PROGRAM TO  
3 FILE WITH THE COMMISSIONER, BY A DATE AND IN A FORM AND MANNER  
4 SPECIFIED BY THE COMMISSIONER BY RULE, THE CARE MANAGEMENT  
5 PROTOCOLS THE ELIGIBLE CARRIER WILL USE TO MANAGE CLAIMS WITHIN  
6 THE PAYMENT PARAMETERS."

7 Page 15 of the bill, strike lines 14 through 17 and substitute "U.S.C. SEC.  
8 18052 (a)(3) OR ANY OTHER FEDERAL FUNDS THAT ARE MADE AVAILABLE  
9 FOR".

10 Page 15 of the bill, line 18, strike "PROGRAM." and substitute "PROGRAM;  
11 AND

12 (II) SPECIAL FEES ASSESSED AGAINST HOSPITALS AND, IF  
13 APPLICABLE, CARRIERS AS PROVIDED IN SECTION 10-16-1108."

14 Page 16 of the bill, after line 11 insert:

15 **"10-16-1108. Special assessments against hospitals and**  
16 **carriers - rules - enforcement.** (1) (a) (I) FOR THE 2020 BENEFIT YEAR,  
17 THE COMMISSIONER SHALL ASSESS SPECIAL FEES AGAINST HOSPITALS TO  
18 PROVIDE FUNDING FOR THE REINSURANCE PROGRAM. THE COMMISSIONER  
19 SHALL CALCULATE THE FEES BASED ON THE AMOUNT NECESSARY TO  
20 REDUCE CARRIERS' CLAIMS COSTS BY THE AMOUNTS SPECIFIED IN SECTION  
21 10-16-1105 (2)(a), BUT THE COMMISSIONER SHALL SET THE FEES AT AN  
22 AMOUNT TO ENSURE THAT THE TOTAL AMOUNT OF FEES COLLECTED DOES  
23 NOT EXCEED ONE HUNDRED FIFTY MILLION DOLLARS FOR THE 2020  
24 BENEFIT YEAR.

25 (II) FOR THE 2021 BENEFIT YEAR AND EACH BENEFIT YEAR  
26 THEREAFTER, THE COMMISSIONER SHALL DETERMINE THE AMOUNT OF THE  
27 SPECIAL FEES ASSESSED AGAINST HOSPITALS, WHICH SPECIAL FEES MUST  
28 NOT EXCEED ONE HUNDRED FIFTY MILLION DOLLARS PER BENEFIT YEAR,  
29 BASED ON THE CLAIMS SUBMITTED UNDER THE REINSURANCE PROGRAM  
30 AND ADMINISTRATIVE AND OPERATING EXPENSES OF THE PROGRAM IN THE  
31 IMMEDIATELY PRECEDING BENEFIT YEAR, THE EXPECTED ANNUAL GROWTH  
32 IN THE PROGRAM, THE PAYMENT PARAMETERS SET BY THE COMMISSIONER  
33 PURSUANT TO SECTION 10-16-1105 (2) FOR THE APPLICABLE BENEFIT  
34 YEAR, AND OTHER ACTUARIAL CONSIDERATIONS.

35 (III) NOTWITHSTANDING THE LIMITS ON THE SPECIAL FEES  
36 SPECIFIED IN SUBSECTIONS (1)(a)(I) AND (1)(a)(II) OF THIS SECTION:

37 (A) THE TOTAL AMOUNT OF SPECIAL FEES ASSESSED AGAINST  
38 HOSPITALS UNDER THIS SUBSECTION (1)(a) OVER FIVE YEARS MUST NOT  
39 EXCEED FIVE HUNDRED MILLION DOLLARS; AND

40 (B) NO HOSPITAL SYSTEM SHALL BE RESPONSIBLE FOR FUNDING,  
41 ON A YEARLY BASIS, MORE THAN TWENTY-FIVE PERCENT OF THE TOTAL

1 FUNDING REQUIRED FOR THE PROGRAM.

2 (IV) THE COMMISSIONER SHALL USE THE SPECIAL FEES ASSESSED  
3 PURSUANT TO THIS SUBSECTION (1)(a) TO PAY THE ADMINISTRATIVE AND  
4 OPERATING EXPENSES OF THE REINSURANCE PROGRAM, INCLUDING  
5 REINSURANCE PAYMENTS AND EXPENSES OF THE PROGRAM, THE  
6 COMMISSIONER, AND THE DIVISION.

7 (V) THE COMMISSIONER SHALL NOT FUND THE PROGRAM THROUGH  
8 ANY TYPE OF FEE SCHEDULE, RATE SETTING, OR OTHER COST-SAVING  
9 MECHANISM IMPOSED ON HOSPITALS.

10 (b) (I) FOR ANY BENEFIT YEAR STARTING ON OR AFTER JANUARY  
11 1, 2020, IF, AFTER CARRIERS HAVE FILED AND THE COMMISSIONER HAS  
12 APPROVED RATES FOR THE BENEFIT YEAR, THE FEDERAL GOVERNMENT  
13 SUSPENDS THE FEE IMPOSED PURSUANT TO SECTION 9010 OF THE FEDERAL  
14 ACT FOR THAT BENEFIT YEAR, THE COMMISSIONER SHALL ASSESS AGAINST  
15 CARRIERS A SPECIAL FEE OF TWO AND TWO-TENTHS PERCENT OF PREMIUMS  
16 COLLECTED BY CARRIERS, OR A SPECIAL FEE IN AN AMOUNT EQUAL TO THE  
17 AMOUNT OF THE FEE IMPOSED BY THE FEDERAL GOVERNMENT PURSUANT  
18 TO SECTION 9010 OF THE FEDERAL ACT IF THAT FEE AMOUNT IS DIFFERENT  
19 THAN THE AMOUNT SPECIFIED IN THIS SUBSECTION (1)(b)(I), FOR THE  
20 PERIOD THAT CARRIERS COLLECTED THE FEE IMPOSED PURSUANT TO  
21 SECTION 9010 OF THE FEDERAL ACT. THE COMMISSIONER SHALL USE THE  
22 REVENUES GENERATED FROM THE SPECIAL FEES ASSESSED PURSUANT TO  
23 THIS SUBSECTION (1)(b) FOR THE PURPOSES SPECIFIED IN SECTION  
24 10-16-1107 (3) IN ORDER TO DECREASE THE AMOUNT OF SPECIAL FEES  
25 REQUIRED FROM HOSPITALS PURSUANT TO SUBSECTION (1)(a) OF THIS  
26 SECTION BY UP TO THIRTY MILLION DOLLARS PER YEAR, WITH ANY  
27 REMAINING REVENUES USED TO REDUCE PREMIUMS.

28 (II) THIS SUBSECTION (1)(b) DOES NOT APPLY TO PLANS OR  
29 BENEFITS PROVIDED UNDER MEDICARE, MEDICAID, OR THE "CHILDREN'S  
30 BASIC HEALTH PLAN" ESTABLISHED UNDER ARTICLE 8 OF TITLE 25.5.

31 (c) THE COMMISSIONER SHALL TRANSMIT SPECIAL FEES COLLECTED  
32 PURSUANT TO THIS SUBSECTION (1) TO THE STATE TREASURER FOR DEPOSIT  
33 IN THE REINSURANCE PROGRAM CASH FUND CREATED IN SECTION  
34 10-16-1107.

35 (2) THE COMMISSIONER SHALL PROMULGATE RULES TO IMPLEMENT  
36 THIS SECTION, INCLUDING:

37 (a) THE REASONABLE TIME PERIODS FOR THE BILLING AND  
38 COLLECTION OF THE SPECIAL FEES;

39 (b) PROCEDURES FOR EXEMPTING HOSPITALS FROM SPECIAL FEES  
40 IMPOSED PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION, IN WHOLE OR  
41 IN PART, WHICH PROCEDURES MUST INCLUDE, AT A MINIMUM, THE  
42 FOLLOWING PARAMETERS:

43 (I) WHETHER A HOSPITAL HAS FEWER THAN FIFTY LICENSED BEDS;

44 (II) WHETHER A HOSPITAL IS LOCATED IN GEOGRAPHIC RATING  
45 AREA NUMBER FIVE, SEVEN, EIGHT, OR NINE;

1 (III) WHETHER A HOSPITAL IS AFFILIATED WITH A NETWORK OF  
2 HOSPITALS;  
3 (IV) WHETHER A HOSPITAL'S NET INCOME AT YEAR END IN EACH  
4 OF THE PREVIOUS THREE YEARS WAS LESS THAN ZERO BASED ON AUDITED  
5 FINANCIAL STATEMENTS PROVIDED BY THE HOSPITAL;  
6 (V) WHETHER A HOSPITAL IS A CRITICAL ACCESS HOSPITAL;  
7 (VI) WHETHER THE AMOUNT OF UNCOMPENSATED CARE PROVIDED  
8 BY THE HOSPITAL IS DISPROPORTIONATELY HIGHER THAN THE STATEWIDE  
9 AVERAGE; AND  
10 (VII) WHETHER A HOSPITAL'S PROPORTION OF PATIENTS ENROLLED  
11 IN MEDICARE AND MEDICAID IS DISPROPORTIONATELY HIGHER THAN THE  
12 STATEWIDE AVERAGE PROPORTION OF MEDICARE AND MEDICAID PATIENTS  
13 FOR ALL HOSPITALS; AND  
14 (c) DETERMINING THE AMOUNT OF THE ASSESSMENT ON HOSPITALS  
15 IN ACCORDANCE WITH SUBSECTION (1)(a) OF THIS SECTION.  
16 (3) A HOSPITAL SHALL PAY THE SPECIAL FEES IMPOSED PURSUANT  
17 TO SUBSECTION (1)(a) OF THIS SECTION FROM ITS GENERAL REVENUES AND  
18 IS PROHIBITED FROM:  
19 (a) COLLECTING AN ASSESSMENT FROM CONSUMERS AS ANY TYPE  
20 OF SURCHARGE ON ITS FEES;  
21 (b) PASSING THE SPECIAL FEES ON TO CONSUMERS AS ANY TYPE OF  
22 INCREASE TO FEES OR CHARGES FOR SERVICES; OR  
23 (c) OTHERWISE PASSING THE SPECIAL FEE ON TO CONSUMERS IN  
24 ANY MANNER.  
25 (4) IF A HOSPITAL OR CARRIER, IF APPLICABLE, FAILS TO PAY A  
26 SPECIAL FEE TO THE COMMISSIONER IN ACCORDANCE WITH THE TIME  
27 PERIODS ESTABLISHED BY RULE, THE COMMISSIONER MAY USE ALL POWERS  
28 CONFERRED BY THE INSURANCE LAWS OF THIS STATE TO ENFORCE  
29 PAYMENT OF THE SPECIAL FEES."

30 Renumber succeeding C.R.S. sections accordingly.

31 Page 17 of the bill, line 8, strike "FINANCE" and substitute "FUND".

32 Page 17 of the bill, strike line 26 and substitute "10-16-1109".

33 Page 1 of the bill, line 108, strike "PROGRAM AND" and substitute  
34 "PROGRAM,".

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