

SB20-215

SENATE FLOOR AMENDMENT

Second Reading

BY SENATOR Rankin

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 **"SECTION 1.** In Colorado Revised Statutes, 10-16-1104, **amend**
4 (1)(f) and (1)(g) as follows:

5 **10-16-1104. Commissioner powers and duties - rules - study**
6 **and report.** (1) The commissioner has all powers necessary to
7 implement this part 11 and is specifically authorized to:

8 (f) Assess special fees against hospitals and ~~if applicable~~, carriers
9 for the continuous operation of the reinsurance program, as provided in
10 section 10-16-1108;

11 (g) IN ACCORDANCE WITH SECTION 10-16-1109, apply for a state
12 innovation waiver OR AN EXTENSION OF A STATE INNOVATION WAIVER;
13 APPLY FOR federal funds; or APPLY FOR both ~~in accordance with section~~
14 ~~10-16-1109~~, A WAIVER OR EXTENSION OF A WAIVER AND FEDERAL FUNDS
15 for the implementation and operation of the reinsurance program;

16 **SECTION 2.** In Colorado Revised Statutes, 10-16-1105, **amend**
17 (1)(a), (1)(c), (1)(e)(I)(C), and (2)(b) introductory portion; and **add**
18 (2)(a.5) as follows:

19 **10-16-1105. Reinsurance program - creation - enterprise**
20 **status - subject to waiver or funding approval - operation - payment**
21 **parameters - calculation of reinsurance payments - eligible carrier**
22 **requests - definition.** (1) (a) There is hereby created in the division the
23 Colorado reinsurance program to provide reinsurance payments to
24 eligible carriers. Implementation and operation of the reinsurance
25 program is contingent upon approval of ~~the~~ A state innovation waiver, AN
26 EXTENSION OF A STATE INNOVATION WAIVER, or A federal funding request
27 submitted by the commissioner in accordance with section 10-16-1109.

28 (c) If ~~the~~ A state innovation waiver, AN EXTENSION OF A STATE
29 INNOVATION WAIVER, or A federal funding request submitted by the
30 commissioner pursuant to section 10-16-1109 is approved, the
31 commissioner shall implement and operate the reinsurance program in
32 accordance with this section.

33 (e) (I) On a quarterly basis during the applicable benefit year:

34 (C) ~~If special fees are assessed against carriers pursuant to section~~
35 ~~10-16-1108 (1)(b)~~; Each carrier that is subject to the special fees
36 ASSESSED PURSUANT TO SECTION 10-16-1108 shall report to the
37 commissioner on its collected assessments in that benefit year.

38 (2) (a.5) TO THE GREATEST EXTENT POSSIBLE, THE COMMISSIONER
39 SHALL SET THE PAYMENT PARAMETERS FOR THE 2021 BENEFIT YEAR AT

1 AMOUNTS SUFFICIENT TO MAINTAIN THE TARGETED CLAIMS REDUCTIONS
2 ACHIEVED IN THE 2020 BENEFIT YEAR.

3 (b) For the ~~2021~~ 2022 benefit year AND EACH BENEFIT YEAR
4 THEREAFTER, after a stakeholder process, the commissioner shall establish
5 and publish the payment parameters for that benefit year by March 15
6 ~~2020~~ OF THE IMMEDIATELY PRECEDING CALENDAR YEAR. In setting the
7 payment parameters under this subsection (2)(b), the commissioner shall
8 consider the following factors as they apply in each geographic rating
9 area in the state:

10 **SECTION 3.** In Colorado Revised Statutes, 10-16-1106, **amend**
11 (4) as follows:

12 **10-16-1106. Accounting - reports - audits.** (4) On or before
13 November 1, 2020, and on or before November 1 ~~2021~~ OF EACH YEAR
14 THEREAFTER, the division shall include an update regarding the program
15 in its report to the members of the applicable committees of reference in
16 the senate and house of representatives as required by the "State
17 Measurement for Accountable, Responsive, and Transparent (SMART)
18 Government Act", part 2 of article 7 of title 2.

19 **SECTION 4.** In Colorado Revised Statutes, 10-16-1107, **amend**
20 (1)(a)(II); and **repeal** (1)(a)(III) as follows:

21 **10-16-1107. Funding for reinsurance program - sources -**
22 **permitted uses - reinsurance program cash fund - calculation of total**
23 **funding for program.** (1) (a) There is hereby created in the state
24 treasury the reinsurance program cash fund, which consists of:

25 (II) Special fees assessed against hospitals and ~~if applicable,~~
26 carriers as provided in section 10-16-1108;

27 (III) ~~The following amounts transferred from the general fund to~~
28 ~~the reinsurance program cash fund, but only if House Bill 19-1245 is~~
29 ~~enacted at the first regular session of the seventy-second general assembly~~
30 ~~and becomes law:~~

31 (A) ~~Fifteen million dollars, transferred to the fund on June 30,~~
32 ~~2020; and~~

33 (B) ~~Forty million dollars, transferred to the fund on June 30, 2021;~~

34 **SECTION 5.** In Colorado Revised Statutes, 10-16-1108, **amend**
35 (1)(a)(I), (1)(b)(I), and (5); and **add** (1)(e) as follows:

36 **10-16-1108. Special assessments against hospitals and carriers**
37 **- rules - enforcement.** (1) (a) (I) ~~For the 2020 and 2021 benefit years, as~~
38 ~~applicable;~~ The commissioner may assess special fees against hospitals
39 IN THE 2022 AND 2023 CALENDAR YEARS IN A TOTAL AMOUNT, FROM ALL
40 HOSPITALS SUBJECT TO THE FEES, OF TWENTY MILLION DOLLARS PER YEAR,
41 subject to the following:

42 (A) Fees assessed against hospitals must comply with and not
43 violate 42 CFR 433.68 and, in any year, must not exceed the lesser of

1 ~~forty~~ TWENTY million dollars or the maximum amount allowed under 42
2 CFR 433.68; and

3 (B) No hospital system shall be responsible for funding, on a
4 yearly basis, more than twenty-five percent of the total funding required
5 for the program; AND

6 (C) THE COMMISSIONER SHALL NOT COLLECT THE SPECIAL FEES
7 FOR THE 2022 CALENDAR YEAR BEFORE OCTOBER 1, 2022.

8 (b) (I) ~~For any benefit year starting on or after January 1, 2020, if,~~
9 ~~after carriers have filed and the commissioner has approved rates for the~~
10 ~~benefit year, the federal government suspends the fee imposed pursuant~~
11 ~~to section 9010 of the federal act for that benefit year~~ STARTING IN THE
12 2021 CALENDAR YEAR, the commissioner shall assess against carriers a
13 special fee of ~~two and two-tenths percent~~ ONE PERCENT of premiums
14 collected by carriers or a special fee in an amount equal to the amount of
15 the fee imposed by the federal government pursuant to section 9010 of the
16 federal act if that fee amount is different than the amount specified in this
17 subsection (1)(b)(I), for the period that carriers collected the fee imposed
18 pursuant to section 9010 of the federal act ON HEALTH BENEFIT PLANS
19 ISSUED IN THE STATE.

20 (e) (I) NOTWITHSTANDING SUBSECTIONS (1)(a) AND (1)(b) OF THIS
21 SECTION, IF, AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (1)(e), THE
22 UNITED STATES CONGRESS ENACTS AND THE PRESIDENT SIGNS FEDERAL
23 LEGISLATION ESTABLISHING OR THE SECRETARY OF THE UNITED STATES
24 DEPARTMENT OF HEALTH AND HUMAN SERVICES IMPLEMENTS A FEDERAL
25 REINSURANCE PROGRAM THAT PROVIDES FEDERAL FUNDING FOR THE
26 REINSURANCE PROGRAM OR OTHERWISE MAKES ADDITIONAL FEDERAL
27 FUNDS AVAILABLE FOR THE REINSURANCE PROGRAM IN EXCESS OF THE
28 AMOUNT RECEIVED AS FEDERAL PASS-THROUGH FUNDING PURSUANT TO
29 SECTION 10-16-1107 (1)(a)(I), THE COMMISSIONER SHALL NOT ASSESS THE
30 SPECIAL FEES AUTHORIZED IN SUBSECTIONS (1)(a) AND (1)(b) OF THIS
31 SECTION OR SHALL REDUCE THE AMOUNT OF SPECIAL FEES ASSESSED
32 PURSUANT TO THOSE SUBSECTIONS BASED ON THE AMOUNT OF FEDERAL
33 FUNDING IN EXCESS OF THE FEDERAL PASS-THROUGH FUNDING THAT WILL
34 BE AVAILABLE FOR THE REINSURANCE PROGRAM.

35 (II) IF THE REINSURANCE PROGRAM RECEIVES FEDERAL FUNDING
36 AS DESCRIBED IN THIS SUBSECTION (1)(e) TO MAKE REINSURANCE
37 PAYMENTS TO CARRIERS IN A GIVEN YEAR AFTER THE COMMISSIONER HAS
38 COLLECTED THE SPECIAL FEES FROM HOSPITALS AND CARRIERS PURSUANT
39 TO SUBSECTIONS (1)(a) AND (1)(b) OF THIS SECTION FOR THAT YEAR, THE
40 COMMISSIONER SHALL RETURN TO THE HOSPITALS AND CARRIERS THE
41 SPECIAL FEES OR A PORTION OF THE SPECIAL FEES BASED ON THE AMOUNT
42 OF FEDERAL FUNDING RECEIVED FOR THAT YEAR.

43 (5) If a hospital or carrier ~~if applicable,~~ fails to pay a special fee

1 to the commissioner in accordance with the time periods established by
2 rule, the commissioner may use all powers conferred by the insurance
3 laws of this state to enforce payment of the special fees.

4 **SECTION 6.** In Colorado Revised Statutes, 10-16-1109, **amend**
5 (1)(a) as follows:

6 **10-16-1109. State innovation waiver - federal funding -**
7 **Colorado reinsurance program.** (1) (a) For purposes of implementing
8 and operating the reinsurance program as set forth in this part 11 for plan
9 years starting on or after January 1, ~~2020~~ 2021, the commissioner may
10 apply to the secretary of the United States department of health and
11 human services for:

12 (I) ~~A two-year state innovation waiver~~ In accordance with section
13 1332 of the federal act, codified at 42 U.S.C. sec. 18052, and 45 CFR
14 155.1300:

15 (A) ONE OR MORE EXTENSIONS OF THE INITIAL TWO-YEAR STATE
16 INNOVATION WAIVER RECEIVED BEFORE THE EFFECTIVE DATE OF THIS
17 SUBSECTION (1)(a)(I), AS AMENDED, OR UP TO FIVE YEARS PER EXTENSION;
18 OR

19 (B) A NEW STATE INNOVATION WAIVER OF UP TO FIVE YEARS TO
20 FOLLOW THE INITIAL TWO-YEAR STATE INNOVATION WAIVER APPROVED
21 BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (1)(a)(I), AS AMENDED,
22 AND SUBSEQUENT EXTENSIONS OF ANY NEW STATE INNOVATION WAIVER
23 APPROVED BY THE SECRETARY;

24 (II) Federal funds for the reinsurance program; or

25 (III) A NEW OR EXTENDED state innovation waiver and federal
26 funds.

27 **SECTION 7.** In Colorado Revised Statutes, 10-16-1110, **amend**
28 (2) as follows:

29 **10-16-1110. Repeal of part - notice to revisor of statutes.**

30 (2) This part 11 is repealed, effective ~~September 1, 2023~~ SEPTEMBER 1,
31 2025.

32 **SECTION 8.** In Colorado Revised Statutes, 10-3-209, **amend**
33 (4)(a)(III) as follows:

34 **10-3-209. Tax on premiums collected - exemptions - penalties.**

35 (4) (a) The division of insurance shall transmit all taxes, penalties, and
36 fines it collects under this section to the state treasurer for deposit in the
37 general fund; except that the state treasurer shall deposit amounts in the
38 specified cash funds as follows:

39 (III) (A) For the 2020-21 STATE FISCAL YEAR and ~~2021-22~~ EACH
40 state fiscal ~~years~~ YEAR THEREAFTER, in the reinsurance program cash fund
41 created in section 10-16-1107, an amount equal to the amount of premium
42 taxes collected pursuant to this section in the 2020 calendar year OR ANY
43 SUBSEQUENT CALENDAR YEAR that exceeds the amount of premium taxes

1 collected pursuant to this section in the 2019 calendar year, SUBJECT TO
2 SUBSECTION (4)(a)(III)(B) OF THIS SECTION.

3 (B) ~~This subsection (4)(a)(III) is repealed, effective September 1,~~
4 ~~2023~~ THE AMOUNT OF PREMIUM TAXES DEPOSITED IN THE REINSURANCE
5 PROGRAM CASH FUND PURSUANT TO THIS SUBSECTION (4)(a)(III) IN ANY
6 GIVEN YEAR SHALL NOT EXCEED TEN PERCENT OF THE AMOUNT OF
7 REVENUES RECEIVED OR COLLECTED BY THE REINSURANCE PROGRAM
8 PURSUANT TO SECTION 10-16-1107 (1)(a)(I) AND (1)(a)(II) IN THAT YEAR.
9 THE COMMISSIONER SHALL NOTIFY THE STATE TREASURER OF THE
10 MAXIMUM AMOUNT OF PREMIUM TAXES THAT MAY BE DEPOSITED IN THE
11 REINSURANCE PROGRAM CASH FUND TO COMPLY WITH THIS SUBSECTION
12 (4)(a)(III)(B)

13 **SECTION 9. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, or safety."

16 Page 1, strike lines 104 through 108 and substitute "AUTHORIZING THE
17 COMMISSIONER OF INSURANCE TO IMPOSE A SPECIAL FEE ON HEALTH
18 INSURERS TO PROVIDE FUNDING FOR THE REINSURANCE PROGRAM
19 THAT OFFSETS THE COSTS HEALTH INSURERS WOULD OTHERWISE PAY
20 FOR COVERING CONSUMERS WITH HIGH MEDICAL COSTS AND ENABLES
21 HEALTH INSURERS TO REDUCE INSURANCE PREMIUMS IN THE
22 INDIVIDUAL MARKET."

** ** ** ** **