

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0207.01 Richard Sweetman x4333

SENATE BILL 21-085

SENATE SPONSORSHIP

Ginal and Smallwood,

HOUSE SPONSORSHIP

Lontine,

Senate Committees

Finance

House Committees

A BILL FOR AN ACT

101 CONCERNING ACTUARIAL REVIEWS OF PROPOSED LEGISLATION THAT
102 MAY IMPOSE A NEW HEALTH BENEFIT MANDATE ON HEALTH
103 BENEFIT PLANS.

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 requires the division of insurance (division) to retain a contractor on or before November 1, 2021, for the purpose of performing actuarial reviews of proposed legislation that may impose a new health benefit mandate on health benefit plans. The contractor, under the direction of the division, shall conduct an actuarial review of up to 5

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

legislative proposals for each regular legislative session, each at the request of a member of the general assembly. Each actuarial review performed by the contractor must consider the predicted effects of the legislative proposal during the 5 years immediately following the effective date of the proposed legislation, including specifically described considerations.

In preparing a fiscal note for any legislative proposal that may impose a new health benefit mandate on health benefit plans, the legislative service agency charged with preparing the fiscal note shall either:

- Include in the fiscal note information that is produced by the contractor in review of the legislative proposal; or
- If no information is produced by the contractor in review of the legislative proposal, indicate such fact in the fiscal note.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 10-16-154 as
3 follows:

4 **10-16-154. Actuarial reviews of proposed health care**
5 **legislation - division to contract with third party.** (1) (a) ON OR
6 BEFORE NOVEMBER 1, 2021, THE DIVISION SHALL RETAIN BY CONTRACT
7 AN ENTITY THAT HAS EXPERIENCE WITH BOTH HEALTH CARE POLICY AND
8 ACTUARIAL REVIEWS, REFERRED TO WITHIN THIS SECTION AS THE
9 "CONTRACTOR", FOR THE PURPOSE OF PERFORMING ACTUARIAL REVIEWS
10 OF PROPOSED LEGISLATION THAT MAY IMPOSE A NEW HEALTH BENEFIT
11 MANDATE ON HEALTH BENEFIT PLANS. THE CONTRACTOR, UNDER THE
12 DIRECTION OF THE DIVISION, SHALL CONDUCT AN ACTUARIAL REVIEW OF
13 UP TO FIVE SUCH LEGISLATIVE PROPOSALS FOR EACH REGULAR
14 LEGISLATIVE SESSION, EACH AT THE REQUEST OF A MEMBER OF THE
15 GENERAL ASSEMBLY. IF THE DIVISION RECEIVES MORE THAN FIVE SUCH
16 REQUESTS REGARDING LEGISLATIVE PROPOSALS THAT ARE BEING OR WILL
17 BE CONSIDERED DURING A REGULAR LEGISLATIVE SESSION, THE CHAIR OF

1 THE HOUSE OF REPRESENTATIVES HEALTH AND INSURANCE COMMITTEE, OR
2 ANY SUCCESSOR COMMITTEE, IN CONSULTATION WITH THE CHAIR OF THE
3 SENATE HEALTH AND HUMAN SERVICES COMMITTEE, OR ANY SUCCESSOR
4 COMMITTEE, SHALL SELECT WHICH LEGISLATIVE PROPOSALS THE
5 CONTRACTOR SHALL REVIEW.

6 (b) AN ACTUARIAL REVIEW PERFORMED BY THE CONTRACTOR
7 PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION MUST CONSIDER THE
8 PREDICTED EFFECTS OF THE LEGISLATIVE PROPOSAL DURING THE FIVE
9 YEARS IMMEDIATELY FOLLOWING THE EFFECTIVE DATE OF THE PROPOSED
10 LEGISLATION, INCLUDING:

11 (I) AN ESTIMATE OF THE NUMBER OF COLORADO RESIDENTS WHO
12 WILL BE DIRECTLY AFFECTED BY THE PROPOSED LEGISLATION;

13 (II) ESTIMATES OF CHANGES IN THE RATES OF UTILIZATION OF
14 SPECIFIC HEALTH CARE SERVICES THAT MAY RESULT FROM THE PROPOSED
15 LEGISLATION;

16 (III) ESTIMATES CONCERNING ANY CHANGES IN CONSUMER COST
17 SHARING THAT WOULD RESULT FROM THE PROPOSED LEGISLATION;

18 (IV) ESTIMATES OF ANY INCREASES IN PREMIUMS CHARGED TO
19 COVERED PERSONS OR EMPLOYERS FOR HEALTH BENEFIT PLANS OFFERED
20 IN THE INDIVIDUAL, SMALL-GROUP, AND LARGE-GROUP MARKETS THAT
21 WOULD RESULT FROM THE PROPOSED LEGISLATION;

22 (V) AN ESTIMATE OF THE INCREASE IN THE COST OF COVERAGE, IF
23 ANY, IN GROUP BENEFIT PLANS OFFERED UNDER THE "STATE EMPLOYEES
24 GROUP BENEFITS ACT", PART 6 OF ARTICLE 50 OF TITLE 24, THAT WOULD
25 RESULT FROM THE PROPOSED LEGISLATION, REGARDLESS OF WHETHER THE
26 PROPOSED LEGISLATION AMENDS THAT ACT OR APPLIES TO STATE
27 EMPLOYEE GROUP BENEFIT PLANS;

1 (VI) AN ESTIMATE OF THE INCREASE IN EXPENDITURES, IF ANY,
2 FOR MEDICAL ASSISTANCE PROVIDED PURSUANT TO THE "COLORADO
3 MEDICAL ASSISTANCE ACT", ARTICLES 4, 5, AND 6 OF TITLE 25.5, THAT
4 WOULD RESULT FROM THE PROPOSED LEGISLATION, REGARDLESS OF
5 WHETHER THE PROPOSED LEGISLATION AMENDS THAT ACT;

6 (VII) AN ESTIMATE OF THE INCREASE IN COST OF COVERAGE, IF
7 ANY, THAT WOULD RESULT FROM THE PROPOSED LEGISLATION FOR
8 EMPLOYERS WITH FEWER THAN ONE HUNDRED EMPLOYEES, EMPLOYERS
9 WITH AT LEAST ONE HUNDRED EMPLOYEES BUT FEWER THAN FIVE
10 HUNDRED EMPLOYEES, AND EMPLOYERS WITH FIVE HUNDRED OR MORE
11 EMPLOYEES;

12 (VIII) AN ESTIMATE OF THE POTENTIAL LONG-TERM COST SAVINGS
13 ASSOCIATED WITH ANY NEW HEALTH BENEFIT OR SERVICE DESCRIBED IN
14 THE PROPOSED LEGISLATION; AND

15 (IX) IDENTIFICATION OF ANY POTENTIAL HEALTH BENEFITS THAT
16 WOULD RESULT FROM ANY NEW HEALTH BENEFIT OR SERVICE DESCRIBED
17 IN THE PROPOSED LEGISLATION.

18 (c) AN ACTUARIAL REVIEW PERFORMED PURSUANT TO THIS
19 SECTION MUST:

20 (I) INDICATE THE INFORMATION DESCRIBED IN SUBSECTION
21 (1)(b)(IV) OF THIS SECTION IN TERMS OF PERCENTAGE INCREASE AND IN
22 TERMS OF PER-MEMBER, PER-MONTH CHARGES; AND

23 (II) INDICATE THE INFORMATION DESCRIBED IN SUBSECTIONS
24 (1)(b)(V), (1)(b)(VI), (1)(b)(VII), AND (1)(b)(VIII) OF THIS SECTION IN
25 TERMS OF DOLLAR AMOUNTS.

26 (2) IN PERFORMING ACTUARIAL REVIEWS OF PROPOSED
27 LEGISLATION, THE CONTRACTOR SHALL UTILIZE DATA FROM THE

1 ALL-PAYER HEALTH CLAIMS DATABASE DESCRIBED IN SECTION 25.5-1-204.
2 CARRIERS ARE ENCOURAGED TO PROVIDE INFORMATION TO, AND
3 OTHERWISE COOPERATE WITH, THE CONTRACTOR AND THE DIVISION FOR
4 THE PURPOSES OF THIS SECTION.

5 (3) IN PREPARING A FISCAL NOTE, AS DESCRIBED IN SECTION
6 2-2-322, FOR ANY LEGISLATIVE PROPOSAL THAT MAY IMPOSE A NEW
7 HEALTH BENEFIT MANDATE ON HEALTH BENEFIT PLANS, THE LEGISLATIVE
8 SERVICE AGENCY CHARGED WITH PREPARING THE FISCAL NOTE SHALL
9 EITHER:

10 (a) TO THE EXTENT PRACTICABLE, INCLUDE IN THE FISCAL NOTE
11 THE INFORMATION THAT IS PRODUCED BY THE CONTRACTOR IN REVIEW OF
12 THE LEGISLATIVE PROPOSAL PURSUANT TO THIS SECTION AND SUBMITTED
13 TO THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL BY THE
14 DIVISION, INCLUDING AN INDICATION OF HOW THE CONTRACTOR'S REPORT
15 MAY BE OBTAINED IN ITS ENTIRETY; OR

16 (b) IF NO INFORMATION IS PRODUCED BY THE CONTRACTOR IN
17 REVIEW OF THE LEGISLATIVE PROPOSAL PURSUANT TO THIS SECTION,
18 INDICATE SUCH FACT IN THE FISCAL NOTE.

19 **SECTION 2.** In Colorado Revised Statutes, 2-2-322, **add** (5) as
20 follows:

21 **2-2-322. Fiscal notes - repeal.** (5) IN PREPARING A FISCAL NOTE
22 FOR ANY LEGISLATIVE PROPOSAL THAT MAY IMPOSE A NEW HEALTH
23 BENEFIT MANDATE ON HEALTH BENEFIT PLANS, THE LEGISLATIVE SERVICE
24 AGENCY CHARGED WITH PREPARING THE FISCAL NOTE SHALL SATISFY THE
25 REQUIREMENTS OF SECTION 10-16-154 (3).

26 **SECTION 3.** In Colorado Revised Statutes, **repeal** 10-16-103 as
27 follows:

1 **10-16-103. Proposal of mandatory health care coverage**
2 **provisions.** ~~(1) Every person or organization which seeks legislative~~
3 ~~action which would mandate a health coverage or offering of a health~~
4 ~~coverage by an insurance carrier, nonprofit hospital and health care~~
5 ~~service corporation, health maintenance organization, or prepaid dental~~
6 ~~care plan organization as a component of individual or group policies~~
7 ~~shall submit a report to the legislative committee of reference addressing~~
8 ~~both the social and financial impacts of such coverage, including the~~
9 ~~efficacy of the treatment or service proposed.~~

10 ~~(2) Guidelines for assessing the impact of proposed mandated or~~
11 ~~mandatorily offered health coverage to the extent that information is~~
12 ~~available shall include, but not be limited to, the following:~~

13 ~~(a) The social impact of such mandatory coverage, including, but~~
14 ~~not limited to, the following:~~

15 ~~(I) The extent to which the treatment or service is generally~~
16 ~~utilized by a significant portion of the population;~~

17 ~~(II) The extent to which the insurance coverage is already~~
18 ~~generally available to the general population;~~

19 ~~(III) The extent to which the lack of coverage results in persons~~
20 ~~avoiding necessary health care treatments;~~

21 ~~(IV) The extent to which the lack of coverage results in~~
22 ~~unreasonable financial hardship;~~

23 ~~(V) The level of public demand for the treatment or service,~~
24 ~~including the public level of demand for insurance coverage of such~~
25 ~~treatment or service;~~

26 ~~(VI) The level of interest of collective bargaining agents in~~
27 ~~negotiating privately for inclusion of this coverage in group contracts;~~

1 ~~(b) The financial impact of such mandatory coverage, including,~~
2 ~~but not limited to, the following:~~

3 ~~(I) The extent to which the coverage will increase or decrease the~~
4 ~~cost of the treatment or service;~~

5 ~~(II) The extent to which the coverage will increase the appropriate~~
6 ~~use of the treatment or service;~~

7 ~~(III) The extent to which the mandated treatment or service will~~
8 ~~be a substitute for more expensive treatment or coverage;~~

9 ~~(IV) The extent to which the coverage will increase or decrease~~
10 ~~the administrative expenses of insurance companies and the premium and~~
11 ~~administrative expenses of policyholders;~~

12 ~~(V) The impact of this coverage on the total cost of health care in~~
13 ~~Colorado.~~

14 **SECTION 4. Act subject to petition - effective date.** This act
15 takes effect at 12:01 a.m. on the day following the expiration of the
16 ninety-day period after final adjournment of the general assembly; except
17 that, if a referendum petition is filed pursuant to section 1 (3) of article V
18 of the state constitution against this act or an item, section, or part of this
19 act within such period, then the act, item, section, or part will not take
20 effect unless approved by the people at the general election to be held in
21 November 2022 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.