

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0244.01 Christy Chase x2008

SENATE BILL 16-002

SENATE SPONSORSHIP

Lundberg,

HOUSE SPONSORSHIP

Sias,

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 CONCERNING THE SUBMISSION TO THE VOTERS OF A BALLOT QUESTION
102 REGARDING WHETHER THE COLORADO HEALTH BENEFIT
103 EXCHANGE CAN IMPOSE A TAX TO SUPPORT ITS OPERATIONS.

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://www.leg.state.co.us/bills summaries>.)

The bill directs the secretary of state to submit to the voters, at the November 2016 statewide election, the question of whether the Colorado health benefit exchange can impose a tax to support its ongoing operations.

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.

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 hereby finds and declares that:

4 (1) Starting in 2015, the Colorado health benefit exchange began
5 assessing what it refers to as an "administrative fee" against all carriers
6 offering health benefit plans through the exchange.

7 (2) The "fee" is authorized under the federal "Patient Protection
8 and Affordable Care Act", which refers to the charge as a "user fee".

9 (3) The "fee" is assessed against the premiums of all health benefit
10 plans offered by those carriers, regardless of whether the plans are sold
11 through the exchange.

12 (4) Given that the "fee" is assessed against the premiums for plans
13 not sold through the exchange, Colorado taxpayers who are not "users"
14 of the exchange are being charged to fund the operations of the exchange.

15 (5) This so-called "fee" appears to be a tax, and in order to impose
16 a new tax on Coloradans, section 20 of article X of the state constitution
17 requires voter approval of the tax.

18 (6) Therefore, the question of whether to approve a tax to support
19 the operations of the Colorado health benefit exchange must be submitted
20 to the voters at the November 2016 election, and, if not approved, the
21 Colorado health benefit exchange can no longer impose this tax.

22 **SECTION 2.** In Colorado Revised Statutes, **add** 10-22-112 and
23 10-22-113 as follows:

24 **10-22-112. Submission of ballot question regarding imposition**
25 **of exchange administrative tax - repeal.** (1) THE SECRETARY OF STATE
26 SHALL SUBMIT A BALLOT QUESTION TO A VOTE OF THE REGISTERED

1 ELECTORS OF THE STATE OF COLORADO AT THE STATEWIDE ELECTION TO
2 BE HELD ON NOVEMBER 8, 2016, FOR THEIR APPROVAL OR REJECTION. FOR
3 PURPOSES OF TITLE 1, C.R.S., THE BALLOT QUESTION IS A PROPOSITION.
4 EACH ELECTOR VOTING AT SAID NOVEMBER ELECTION SHALL CAST A VOTE
5 AS PROVIDED BY LAW EITHER "YES/FOR" OR "NO/AGAINST" ON THE
6 PROPOSITION: "SHALL COLORADO HEALTH BENEFIT EXCHANGE TAXES BE
7 INCREASED BY \$30,321,000 ANNUALLY IN THE FIRST FULL FISCAL YEAR
8 AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY
9 IMPOSING AN EXCHANGE ADMINISTRATIVE TAX OF 3.5% ON ALL HEALTH
10 BENEFIT PLANS SOLD BY CARRIERS THROUGH THE COLORADO HEALTH
11 BENEFIT EXCHANGE, WHICH TAX IS TO BE ASSESSED AS PART OF THE
12 PREMIUM ON ALL HEALTH BENEFIT PLANS SOLD BY THOSE CARRIERS,
13 REGARDLESS OF WHETHER THE HEALTH BENEFIT PLANS ARE SOLD
14 THROUGH THE COLORADO HEALTH BENEFIT EXCHANGE, WITH THE TAX
15 REVENUES BEING USED TO SUPPORT THE ONGOING OPERATIONS OF THE
16 COLORADO HEALTH BENEFIT EXCHANGE?"

17 (2) THE VOTES CAST FOR THE ADOPTION OR REJECTION OF THE
18 QUESTION SUBMITTED PURSUANT TO SUBSECTION (1) OF THIS SECTION
19 SHALL BE CANVASSED AND THE RESULT DETERMINED IN THE MANNER
20 PROVIDED BY LAW FOR THE CANVASSING OF VOTES FOR REPRESENTATIVES
21 IN CONGRESS.

22 (3) (a) THIS SECTION IS REPEALED, EFFECTIVE FEBRUARY 1, 2017,
23 IF THE VOTERS AT THE NOVEMBER 2016 STATEWIDE ELECTION DO NOT
24 APPROVE THE QUESTION DESCRIBED IN SUBSECTION (1) AND THE
25 GOVERNOR ISSUES AN OFFICIAL DECLARATION OF THE VOTE ON THE
26 QUESTION.

27 (b) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE FEBRUARY 1,

1 2017, IF THE VOTERS AT THE NOVEMBER 2016 STATEWIDE ELECTION
2 APPROVE THE QUESTION DESCRIBED IN SUBSECTION (1) AND THE
3 GOVERNOR ISSUES AN OFFICIAL DECLARATION OF THE VOTE ON THE
4 QUESTION.

5 **10-22-113. Exchange prohibited from imposing administrative**
6 **tax.** (1) IF THE VOTERS AT THE NOVEMBER 2016 STATEWIDE ELECTION DO
7 NOT APPROVE THE QUESTION DESCRIBED IN SECTION 10-22-112 (1) AND
8 THE GOVERNOR ISSUES AN OFFICIAL DECLARATION OF THE VOTE ON THE
9 QUESTION, THE COLORADO HEALTH BENEFIT EXCHANGE SHALL NOT
10 IMPOSE AN ADMINISTRATIVE OR USER FEE OR TAX, AS DESCRIBED IN
11 SECTION 1311 (d) (5) (A) OF THE FEDERAL ACT AND 45 CFR SEC. 155.160,
12 ON CARRIERS OFFERING HEALTH BENEFIT PLANS THROUGH THE EXCHANGE.

13 (2) (a) THIS SECTION IS REPEALED, EFFECTIVE FEBRUARY 1, 2017,
14 IF THE VOTERS AT THE NOVEMBER 2016 STATEWIDE ELECTION APPROVE
15 THE QUESTION DESCRIBED IN SUBSECTION (1) AND THE GOVERNOR ISSUES
16 AN OFFICIAL DECLARATION OF THE VOTE ON THE QUESTION.

17 (b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE FEBRUARY 1,
18 2017, IF THE VOTERS AT THE NOVEMBER 2016 STATEWIDE ELECTION DO
19 NOT APPROVE THE QUESTION DESCRIBED IN SUBSECTION (1) AND THE
20 GOVERNOR ISSUES AN OFFICIAL DECLARATION OF THE VOTE ON THE
21 QUESTION.

22 **SECTION 3. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, and safety.