

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 17-0401.01 Kristen Forrestal x4217

SENATE BILL 17-003

SENATE SPONSORSHIP

Smallwood,

HOUSE SPONSORSHIP

Neville P.,

Senate Committees

Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE REPEAL OF THE "COLORADO HEALTH BENEFIT**
102 **EXCHANGE ACT", AND, IN CONNECTION THEREWITH, MAKING**
103 **AN APPROPRIATION.**

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>.)

In 2010, pursuant to the enactment of federal law that allowed each state to establish a health benefit exchange option through state law or opt to participate in a national exchange, the general assembly enacted the "Colorado Health Benefit Exchange Act" (act). The act created the state exchange, a board of directors (board) to implement the exchange,

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.*

and a legislative health benefits exchange implementation review committee to make recommendations to the board. The bill repeals the act, effective January 1, 2018, and allows the exchange to continue for one year for the purpose of winding up its affairs. The bill also requires the board, on the last day of the wind-up period, to transfer any unencumbered money that remains in the exchange to the state treasurer, who shall transfer the money to the general fund.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 10-22-113 as
3 follows:

4 **10-22-113. Repeal of article - transfer of funds.** (1) (a) THIS
5 ARTICLE 22 IS REPEALED, EFFECTIVE JANUARY 1, 2018.

6 (b) UPON THE REPEAL OF THIS ARTICLE 22, THE EXCHANGE WILL
7 CONTINUE UNTIL DECEMBER 31, 2018, FOR THE PURPOSE OF WINDING UP
8 ITS AFFAIRS. DURING THE WIND-UP PERIOD, THE REPEAL OF THIS ARTICLE
9 22 DOES NOT LIMIT THE POWERS AND DUTIES OF THE BOARD, COMMITTEE,
10 OR EXCHANGE.

11 (2) ON DECEMBER 31, 2018, THE BOARD SHALL TRANSFER ANY
12 UNENCUMBERED MONEY THAT REMAINS IN THE EXCHANGE TO THE STATE
13 TREASURER, WHO SHALL TRANSFER THE MONEY TO THE GENERAL FUND.

14 **SECTION 2.** In Colorado Revised Statutes, 10-16-102, **repeal**
15 (26) as follows:

16 **10-16-102. Definitions - repeal.** As used in this article, unless the
17 context otherwise requires:

18 (26) ~~"Exchange" means the Colorado health benefit exchange~~
19 ~~created in article 22 of this title.~~

20 **SECTION 3.** In Colorado Revised Statutes, 10-16-105.7, **amend**
21 (3)(a)(II)(C) and (3)(c); and **repeal** (3)(a)(II)(E) as follows:

22 **10-16-105.7. Health benefit plan open enrollment periods -**

1 **special enrollment periods - rules - repeal.** (3) (a) (II) A triggering
2 event occurs when:

3 (C) An individual's enrollment or nonenrollment in a health
4 benefit plan is unintentional, inadvertent, or erroneous and is the result of
5 an error, misrepresentation, or inaction of the carrier OR producer; ~~or~~
6 ~~exchange established pursuant to article 22 of this title;~~

7 (E) ~~The exchange established pursuant to article 22 of this title~~
8 ~~determines an individual to be newly eligible or newly ineligible for the~~
9 ~~federal advance payment tax credit or cost-sharing reductions available~~
10 ~~through the exchange pursuant to federal law;~~

11 (c) The commissioner shall adopt rules in accordance with federal
12 law for the implementation of this section. ~~The commissioner may adopt~~
13 ~~rules to allow individuals enrolled in a health benefit plan through an~~
14 ~~exchange established under article 22 of this title to enroll in or change~~
15 ~~from one health benefit plan to another under circumstances specified in~~
16 ~~the rules.~~

17 **SECTION 4.** In Colorado Revised Statutes, 10-16-107, **amend**
18 (5)(c)(I) and (5)(c)(II) as follows:

19 **10-16-107. Rate filing regulation - benefits ratio - rules.**

20 (5) (c) (I) A carrier shall consider all individuals in all individual health
21 benefit plans, other than grandfathered health benefit plans, offered by the
22 carrier ~~including those individuals who do not enroll in the plans through~~
23 ~~an exchange established under article 22 of this title;~~ to be members of a
24 single risk pool.

25 (II) A carrier shall consider all covered persons in all small
26 employer health benefit plans, other than grandfathered health benefit
27 plans, offered by the carrier ~~including those covered persons who do not~~

1 enroll in the plans through an exchange established under article 22 of
2 this title, to be members of a single risk pool.

3 **SECTION 5.** In Colorado Revised Statutes, 10-16-119, **amend**
4 (3)(a)(IV)(D) and (3)(a)(IV)(E) as follows:

5 **10-16-119. Requirements for excess loss or stop-loss health**
6 **insurance used in conjunction with self-insured employer benefit**
7 **plans under the federal "Employee Retirement Income Security Act"**
8 **- data collection 2013-18 - rules - repeal.** (3) (a) For calendar years
9 2013 through 2018, an insurer that sells excess loss or stop-loss health
10 insurance policies shall file with the commissioner annually, in the form
11 and manner required by the commissioner by rule, information including
12 the following:

13 (IV) The source of prior coverage for the groups specified in
14 subparagraph (I) of this paragraph (a), including:

15 (D) Groups previously fully insured outside the Colorado health
16 benefit exchange, created in article 22 of this title 10 AS IT EXISTED
17 BEFORE ITS REPEAL ON JANUARY 1, 2018; and

18 (E) Groups previously fully insured inside the Colorado health
19 benefit exchange, created in article 22 of this title 10 AS IT EXISTED
20 BEFORE ITS REPEAL ON JANUARY 1, 2018; and

21 **SECTION 6. Appropriation.** (1)(a) For the 2017-18 state fiscal
22 year, \$1,054,469 is appropriated to the department of health care policy
23 and financing for use by the executive director's office. This appropriation
24 consists of \$896,858 from the general fund, \$154,992 from the hospital
25 provider fee cash fund created in section 25.5-4-402.3 (4)(a), C.R.S.,
26 \$2,490 from the old age pension health and medical care fund created in
27 section 25.5-2-101 (2), C.R.S., and \$129 from the children's basic health

1 plan trust created in section 25.5-8-105 (1), C.R.S. To implement this act,
2 the office may use this appropriation as follows:

3 (I) \$49,281 for personal services, which consists of \$35,492
4 general fund and \$13,789 from the hospital provider fee cash fund,
5 which amount is based on an assumption that the division will require an
6 additional 1.6 FTE; and

7 (II) \$10,356 for operating expenses, which consists of \$7,458
8 general fund and \$2,898 from the hospital provider fee cash fund; and

9 (III) \$994,832 for Colorado benefits management systems
10 operating and contract expenses, which consists of \$853,908 general
11 fund, \$138,305 from the hospital provider fee cash fund, \$2,490 from the
12 old age pension health and medical care fund, and \$129 from the
13 children's basic health plan trust.

14 (b) For the 2017-18 state fiscal year, the General Assembly
15 anticipates that the department of health care policy and financing will
16 receive \$1,444,805 in federal funds to implement this act, which amount
17 is included for informational purposes only. The appropriation in
18 subsection (a) of this subsection (1) is based on the assumption that the
19 department will receive this amount of federal funds to be used as
20 follows:

21 (I) \$49,281 for personal services; and

22 (II) \$10,356 for operating expenses; and

23 (III) \$1,385,168 for Colorado benefits management systems
24 operating and contract expenses.

25 (2) For the 2017-18 state fiscal year, \$2,380,000 is appropriated
26 to the office of the governor for use by the office of information
27 technology. This appropriation is from reappropriated funds received

1 from the department of health care policy and financing under subsections
2 (a)(III) and (b)(III) of this subsection (1). To implement this act, the
3 office may use this appropriation to provide information technology
4 services for the department of health care policy and financing.

5 (3) For the 2017-18 state fiscal year, \$36,348 is appropriated to
6 the department of regulatory agencies for use by the division of insurance.
7 This appropriation is from the division of insurance cash fund created in
8 section 10-1-103 (3), C.R.S. To implement this act, the division may use
9 this appropriation as follows:

10 (a) \$31,170 for personal services, which amount is based on an
11 assumption that the division will require an additional 0.5 FTE; and

12 (b) \$5,178 for operating expenses.

13 **SECTION 7. Act subject to petition - effective date.** This act
14 takes effect January 1, 2018; except that, if a referendum petition is filed
15 pursuant to section 1 (3) of article V of the state constitution against this
16 act or an item, section, or part of this act within the ninety-day period
17 after final adjournment of the general assembly, then the act, item,
18 section, or part will not take effect unless approved by the people at the
19 general election to be held in November 2018 and, in such case, will take
20 effect on the date of the official declaration of the vote thereon by the
21 governor.