

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

PREAMENDED

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

LLS NO. 21-0207.01 Richard Sweetman x4333

SENATE BILL 21-085

SENATE SPONSORSHIP

Ginal and Smallwood,

HOUSE SPONSORSHIP

Lontine,

Senate Committees

Finance
Appropriations

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 - definition - rules**
6 **- repeal.** (1) (a) ON OR BEFORE NOVEMBER 1, 2021, THE DIVISION SHALL
7 RETAIN BY CONTRACT AN ACTUARY THAT HAS EXPERIENCE WITH HEALTH
8 CARE POLICY, EQUITY, AND ACTUARIAL REVIEWS, REFERRED TO WITHIN
9 THIS SECTION AS THE "CONTRACTOR", FOR THE PURPOSE OF PERFORMING
10 ACTUARIAL REVIEWS OF PROPOSED LEGISLATION THAT MAY IMPOSE A NEW
11 HEALTH BENEFIT MANDATE ON HEALTH BENEFIT PLANS OR REDUCE OR
12 ELIMINATE MANDATED COVERAGE UNDER HEALTH BENEFIT PLANS. THE
13 CONTRACTOR, UNDER THE DIRECTION OF THE DIVISION, SHALL CONDUCT
14 AN ACTUARIAL REVIEW OF UP TO FIVE SUCH LEGISLATIVE PROPOSALS FOR
15 EACH REGULAR LEGISLATIVE SESSION, EACH AT THE REQUEST OF A
16 MEMBER OF THE GENERAL ASSEMBLY WHO IS PROPOSING THE
17 LEGISLATION; EXCEPT THAT THE CONTRACTOR SHALL NOT CONDUCT AN

1 ACTUARIAL REVIEW OF A LEGISLATIVE PROPOSAL UNLESS THE REQUEST
2 FOR THE ACTUARIAL REVIEW IS APPROVED BY THE PRESIDENT OF THE
3 SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES. IF THE
4 DIVISION RECEIVES MORE THAN FIVE SUCH REQUESTS REGARDING
5 LEGISLATIVE PROPOSALS THAT ARE BEING OR WILL BE CONSIDERED
6 DURING A REGULAR LEGISLATIVE SESSION, THE CHAIR OF THE HOUSE OF
7 REPRESENTATIVES HEALTH AND INSURANCE COMMITTEE, OR ANY
8 SUCCESSOR COMMITTEE, IN CONSULTATION WITH THE CHAIR OF THE
9 SENATE HEALTH AND HUMAN SERVICES COMMITTEE, OR ANY SUCCESSOR
10 COMMITTEE, SHALL SELECT WHICH LEGISLATIVE PROPOSALS THE
11 CONTRACTOR SHALL REVIEW.

12 (b) A MEMBER OF THE GENERAL ASSEMBLY WHO REQUESTS AN
13 ACTUARIAL REVIEW OF PROPOSED LEGISLATION SHALL SUBMIT THE
14 REQUEST TO THE DIVISION BEFORE SEPTEMBER 1 OF THE YEAR PRECEDING
15 THE REGULAR LEGISLATIVE SESSION FOR WHICH THE LEGISLATION IS
16 PROPOSED.

17 (c) AN ACTUARIAL REVIEW PERFORMED BY THE CONTRACTOR
18 PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION MUST CONSIDER THE
19 PREDICTED EFFECTS OF THE LEGISLATIVE PROPOSAL DURING THE FIVE
20 YEARS IMMEDIATELY FOLLOWING THE EFFECTIVE DATE OF THE PROPOSED
21 LEGISLATION, INCLUDING:

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

24 (II) ESTIMATES OF CHANGES IN THE RATES OF UTILIZATION OF
25 SPECIFIC HEALTH CARE SERVICES THAT MAY RESULT FROM THE PROPOSED
26 LEGISLATION;

27 (III) ESTIMATES CONCERNING ANY CHANGES IN CONSUMER COST

1 SHARING THAT WOULD RESULT FROM THE PROPOSED LEGISLATION,
2 INCLUDING INFORMATION CONCERNING WHO WOULD BENEFIT FROM THE
3 CHANGES, WHICH INFORMATION, IF AVAILABLE, MUST BE DISAGGREGATED,
4 AT A MINIMUM, BY RACE, ETHNICITY, SEX, GENDER, AND AGE;

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

9 (V) AN ESTIMATE OF THE INCREASE OR DECREASE IN THE COST OF
10 COVERAGE, IF ANY, IN GROUP BENEFIT PLANS OFFERED UNDER THE "STATE
11 EMPLOYEES GROUP BENEFITS ACT", PART 6 OF ARTICLE 50 OF TITLE 24,
12 THAT WOULD RESULT FROM THE PROPOSED LEGISLATION, REGARDLESS OF
13 WHETHER THE PROPOSED LEGISLATION AMENDS THAT ACT OR APPLIES TO
14 STATE EMPLOYEE GROUP BENEFIT PLANS;

15 ==
16 (VI) AN ESTIMATE OF THE POTENTIAL LONG-TERM COST SAVINGS
17 ASSOCIATED WITH ANY NEW HEALTH BENEFIT OR SERVICE DESCRIBED IN
18 THE PROPOSED LEGISLATION; ==

19 (VII) IDENTIFICATION OF ANY POTENTIAL HEALTH BENEFITS THAT
20 WOULD RESULT FROM ANY NEW HEALTH BENEFIT OR SERVICE DESCRIBED
21 IN THE PROPOSED LEGISLATION, INCLUDING INFORMATION CONCERNING
22 WHO WOULD BENEFIT FROM THE CHANGES, WHICH INFORMATION, IF
23 AVAILABLE, MUST BE DISAGGREGATED, AT A MINIMUM, BY RACE,
24 ETHNICITY, SEX, GENDER, AND AGE;

25 (VIII) INFORMATION, IF AVAILABLE, CONCERNING ANY
26 DISPROPORTIONATE EFFECTS THAT THE PROPOSED LEGISLATION MAY HAVE
27 ON CONSUMERS AS A RESULT OF THEIR RACE, ETHNICITY, SEX, GENDER, OR

1 AGE; AND

2 (IX) AN ESTIMATE OF THE OUT-OF-POCKET HEALTH CARE SAVINGS
3 ASSOCIATED WITH ANY NEW HEALTH BENEFIT OR SERVICE DESCRIBED IN
4 THE PROPOSED LEGISLATION, INCLUDING INFORMATION CONCERNING WHO
5 WOULD BENEFIT FROM THE CHANGES, WHICH INFORMATION, IF AVAILABLE,
6 MUST BE DISAGGREGATED, AT A MINIMUM, BY RACE, ETHNICITY, SEX,
7 GENDER, AND AGE.

8 (c) AN ACTUARIAL REVIEW PERFORMED PURSUANT TO THIS
9 SECTION MUST:

10 (I) INDICATE THE INFORMATION DESCRIBED IN SUBSECTION
11 (1)(c)(IV) OF THIS SECTION IN TERMS OF PERCENTAGE INCREASE AND IN
12 TERMS OF PER-MEMBER, PER-MONTH CHARGES; AND

13 (II) INDICATE THE INFORMATION DESCRIBED IN SUBSECTIONS
14 (1)(c)(V) AND (1)(c)(VI) OF THIS SECTION IN TERMS OF DOLLAR AMOUNTS.

15 (2) IN PERFORMING ACTUARIAL REVIEWS OF PROPOSED
16 LEGISLATION, THE CONTRACTOR SHALL UTILIZE DATA FROM THE
17 ALL-PAYER HEALTH CLAIMS DATABASE DESCRIBED IN SECTION 25.5-1-204.
18 CARRIERS ARE ENCOURAGED TO PROVIDE INFORMATION TO, AND
19 OTHERWISE COOPERATE WITH, THE CONTRACTOR AND THE DIVISION FOR
20 THE PURPOSES OF THIS SECTION.

21 (3) A REQUEST FOR AN ACTUARIAL REVIEW BY A MEMBER OF THE
22 GENERAL ASSEMBLY AND ANY INFORMATION SUBMITTED TO THE
23 CONTRACTOR FOR THE PURPOSE OF COMPLETING AN ACTUARIAL REVIEW
24 PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION IS WORK PRODUCT, AS
25 DEFINED IN SECTION 24-72-202 (6.5).

26 (4) AS USED IN THIS SECTION, "HEALTH BENEFIT PLAN" EXCLUDES
27 PLANS AND BENEFITS PROVIDED PURSUANT TO MEDICAID OR THE

1 "CHILDREN'S BASIC HEALTH PLAN ACT", ARTICLE 8 OF TITLE 25.5.

2 (5) THE COMMISSIONER MAY PROMULGATE RULES AS NECESSARY
3 FOR THE IMPLEMENTATION OF THIS SECTION.

4 **SECTION 2.** In Colorado Revised Statutes, **repeal** 10-16-103 as
5 follows:

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

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

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

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

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

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

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

1 ~~(V) The level of public demand for the treatment or service,~~
2 ~~including the public level of demand for insurance coverage of such~~
3 ~~treatment or service;~~

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

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

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

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

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

14 ~~(IV) The extent to which the coverage will increase or decrease~~
15 ~~the administrative expenses of insurance companies and the premium and~~
16 ~~administrative expenses of policyholders;~~

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

19 **SECTION 3.** In Colorado Revised Statutes, 10-16-102, add
20 (32)(d) as follows:

21 **10-16-102. Definitions.** As used in this article 16, unless the
22 context otherwise requires:

23 (32) (d) SOLELY WITH RESPECT TO SECTION 10-16-154, "HEALTH
24 BENEFIT PLAN" EXCLUDES PLANS AND BENEFITS PROVIDED PURSUANT TO
25 MEDICAID OR THE "CHILDREN'S BASIC HEALTH PLAN ACT", ARTICLE 8 OF
26 TITLE 25.5.

27 **SECTION 4.** Act subject to petition - effective date. This act

1 takes effect at 12:01 a.m. on the day following the expiration of the
2 ninety-day period after final adjournment of the general assembly; except
3 that, if a referendum petition is filed pursuant to section 1 (3) of article V
4 of the state constitution against this act or an item, section, or part of this
5 act within such period, then the act, item, section, or part will not take
6 effect unless approved by the people at the general election to be held in
7 November 2022 and, in such case, will take effect on the date of the
8 official declaration of the vote thereon by the governor.