

SENATE COMMITTEE OF REFERENCE REPORT

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Chair of Committee

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Date

February 23, 2022

Committee on Finance.

After consideration on the merits, the Committee recommends the following:

SB22-040 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

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

3 "SECTION 1. In Colorado Revised Statutes, add 10-16-155 as  
4 follows:

5 **10-16-155. Actuarial reviews of proposed health-care**  
6 **legislation - division to contract with third parties - required**  
7 **considerations - confidentiality - repeal.** (1) ON OR BEFORE NOVEMBER  
8 1, 2022, THE DIVISION SHALL RETAIN BY CONTRACT ONE OR MORE ENTITIES  
9 THAT HAVE EXPERIENCE IN ACTUARIAL REVIEWS, HEALTH-CARE POLICY,  
10 AND HEALTH EQUITY, REFERRED TO IN THIS SECTION AS THE  
11 "CONTRACTORS", FOR THE PURPOSE OF PERFORMING ACTUARIAL REVIEWS  
12 OF LEGISLATIVE PROPOSALS THAT MAY IMPOSE A NEW HEALTH BENEFIT  
13 COVERAGE MANDATE ON HEALTH BENEFIT PLANS OR REDUCE OR  
14 ELIMINATE COVERAGE MANDATED UNDER HEALTH BENEFIT PLANS,  
15 REFERRED TO IN THIS SECTION AS "LEGISLATIVE PROPOSALS". AT LEAST  
16 ONE OF THE CONTRACTORS MUST BE AN ACTUARY OR AN ACTUARIAL FIRM.  
17 THE CONTRACTORS, UNDER THE DIRECTION OF THE DIVISION, SHALL  
18 CONDUCT ACTUARIAL REVIEWS OF UP TO SIX LEGISLATIVE PROPOSALS,  
19 REGARDLESS OF THE NUMBER OF LEGISLATIVE PROPOSALS THAT ARE  
20 REQUESTED FOR EACH REGULAR LEGISLATIVE SESSION BY MEMBERS OF  
21 THE GENERAL ASSEMBLY.

22 (2) BEFORE SEPTEMBER 1, 2022, THE DIVISION SHALL CONVENE A  
23 MEETING TO OBTAIN INPUT AND RECOMMENDATIONS FROM  
24 STAKEHOLDERS, INCLUDING REPRESENTATIVES OF THE HEALTH-CARE  
25 INDUSTRY, CONSUMER ADVOCATES, AND OTHER INTERESTED INDIVIDUALS,  
26 CONCERNING THE METHODOLOGY FOR CONDUCTING THE ANALYSIS  
27 DESCRIBED IN SUBSECTION (4) OF THIS SECTION.

1           (3) (a) A MEMBER OF THE GENERAL ASSEMBLY WHO REQUESTS AN  
2 ACTUARIAL REVIEW OF A LEGISLATIVE PROPOSAL SHALL SUBMIT THE  
3 REQUEST TO THE DIVISION NO LATER THAN SEPTEMBER 1 OF THE YEAR  
4 PRECEDING THE REGULAR LEGISLATIVE SESSION IN WHICH THE  
5 LEGISLATIVE PROPOSAL WILL BE PROPOSED.

6           (b) FOR EACH REGULAR LEGISLATIVE SESSION:

7           (I) UP TO TWO MEMBERS OF THE MAJORITY PARTY OF THE HOUSE  
8 OF REPRESENTATIVES MAY SUBMIT A REQUEST FOR AN ACTUARIAL  
9 REVIEW. IF MORE THAN TWO REQUESTS ARE SUBMITTED, THE DIVISION  
10 SHALL NOTIFY THE MAJORITY LEADER OF THE HOUSE OF  
11 REPRESENTATIVES, WHO SHALL SELECT THE TWO PROPOSALS THAT THE  
12 CONTRACTORS REVIEW.

13           (II) ONE MEMBER OF THE MINORITY PARTY OF THE HOUSE OF  
14 REPRESENTATIVES MAY SUBMIT UP TO ONE REQUEST FOR AN ACTUARIAL  
15 REVIEW. IF MORE THAN ONE REQUEST IS SUBMITTED, THE DIVISION SHALL  
16 NOTIFY THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES, WHO  
17 SHALL SELECT THE PROPOSAL THAT THE CONTRACTORS REVIEW.

18           (III) UP TO TWO MEMBERS OF THE MAJORITY PARTY OF THE  
19 SENATE MAY SUBMIT A REQUEST FOR AN ACTUARIAL REVIEW. IF MORE  
20 THAN TWO REQUESTS ARE SUBMITTED, THE DIVISION SHALL NOTIFY THE  
21 MAJORITY LEADER OF THE SENATE, WHO SHALL SELECT THE TWO  
22 PROPOSALS THAT THE CONTRACTORS REVIEW.

23           (IV) ONE MEMBER OF THE MINORITY PARTY OF THE SENATE MAY  
24 SUBMIT UP TO ONE REQUEST FOR AN ACTUARIAL REVIEW. IF MORE THAN  
25 ONE REQUEST IS SUBMITTED, THE DIVISION SHALL NOTIFY THE MINORITY  
26 LEADER OF THE SENATE, WHO SHALL SELECT THE PROPOSAL THAT THE  
27 CONTRACTORS REVIEW.

28           (c) ON OR BEFORE EACH SEPTEMBER 15, THE MAJORITY AND  
29 MINORITY LEADERS OF THE HOUSE OF REPRESENTATIVES AND THE SENATE  
30 SHALL NOTIFY THE DIVISION, AS MAY BE NECESSARY AS DESCRIBED IN THIS  
31 SUBSECTION (3), OF THE LEGISLATIVE PROPOSALS SUBJECT TO REVIEW  
32 UNDER SUBSECTION (1) OF THIS SECTION.

33           (4) AN ACTUARIAL REVIEW PERFORMED BY THE CONTRACTORS  
34 PURSUANT TO THIS SECTION MUST CONSIDER THE PREDICTED EFFECTS OF  
35 THE LEGISLATIVE PROPOSAL DURING THE FIVE AND TEN YEARS  
36 IMMEDIATELY FOLLOWING THE EFFECTIVE DATE OF THE LEGISLATIVE  
37 PROPOSAL, OR DURING ANOTHER TIME PERIOD FOLLOWING THE EFFECTIVE  
38 DATE OF THE LEGISLATIVE PROPOSAL IF SUCH CONSIDERATION IS MORE  
39 ACTUARIALLY FEASIBLE, INCLUDING:

40           (a) AN ESTIMATE OF THE NUMBER OF COLORADO RESIDENTS WHO  
41 WILL BE DIRECTLY AFFECTED BY THE LEGISLATIVE PROPOSAL;

42           (b) ESTIMATES OF CHANGES IN THE RATES OF UTILIZATION OF  
43 SPECIFIC HEALTH-CARE SERVICES THAT MAY RESULT FROM THE

1 LEGISLATIVE PROPOSAL;

2 (c) ESTIMATES CONCERNING ANY CHANGES IN CONSUMER COST  
3 SHARING THAT WOULD RESULT FROM THE LEGISLATIVE PROPOSAL;

4 (d) ESTIMATES OF ANY INCREASES OR DECREASES IN PREMIUMS  
5 CHARGED TO COVERED PERSONS OR EMPLOYERS FOR HEALTH BENEFIT  
6 PLANS OFFERED IN THE INDIVIDUAL, SMALL GROUP, AND LARGE GROUP  
7 MARKETS THAT WOULD RESULT FROM THE LEGISLATIVE PROPOSAL;

8 (e) AN ESTIMATE OF THE OUT-OF-POCKET HEALTH-CARE COST  
9 CHANGES ASSOCIATED WITH THE LEGISLATIVE PROPOSAL;

10 (f) AN ESTIMATE OF THE POTENTIAL LONG-TERM HEALTH-CARE  
11 COST CHANGES ASSOCIATED WITH THE LEGISLATIVE PROPOSAL;

12 (g) IDENTIFICATION OF ANY POTENTIAL HEALTH BENEFITS FOR  
13 INDIVIDUALS OR COMMUNITIES THAT WOULD RESULT FROM THE  
14 LEGISLATIVE PROPOSAL; AND

15 (h) TO THE EXTENT PRACTICABLE, THE SOCIAL AND ECONOMIC  
16 IMPACTS OF THE LEGISLATIVE PROPOSAL.

17 (5) AN ACTUARIAL REVIEW PERFORMED PURSUANT TO THIS  
18 SECTION MUST:

19 (a) PRESENT THE INFORMATION DESCRIBED IN SUBSECTION (4)(d)  
20 OF THIS SECTION IN TERMS OF PERCENTAGE INCREASE OR DECREASE AND  
21 IN TERMS OF PER-MEMBER, PER-MONTH CHARGES;

22 (b) PRESENT THE INFORMATION DESCRIBED IN SUBSECTION (4)(e)  
23 OF THIS SECTION IN TERMS OF DOLLAR AMOUNTS;

24 (c) PROVIDE, IF AVAILABLE, INFORMATION CONCERNING WHO  
25 WOULD BENEFIT FROM ANY COST CHANGES AND HEALTH BENEFITS FROM  
26 THE LEGISLATIVE PROPOSAL, AS IDENTIFIED IN SUBSECTIONS (4)(c), (4)(e),  
27 (4)(f), (4)(g), AND (4)(h) OF THIS SECTION, AND ANY DISPROPORTIONATE  
28 EFFECTS THAT THE LEGISLATIVE PROPOSAL WOULD HAVE ON  
29 COLORADANS, WHICH INFORMATION, IF AVAILABLE, MUST BE  
30 DISAGGREGATED, AT A MINIMUM, BY RACE, ETHNICITY, SEX, GENDER, AND  
31 AGE; AND

32 (d) INCLUDE, TO THE EXTENT PRACTICABLE, A QUALITATIVE  
33 ANALYSIS OF THE IMPACTS OF THE LEGISLATIVE PROPOSAL. FOR THE  
34 PURPOSES OF THIS SUBSECTION (5)(d), A MEMBER OF THE GENERAL  
35 ASSEMBLY WHO REQUESTS AN ACTUARIAL REVIEW OF A LEGISLATIVE  
36 PROPOSAL PURSUANT TO THIS SECTION MAY DESIGNATE ONE OR MORE  
37 PERSONS TO PROVIDE DATA TO THE CONTRACTORS IN ORDER TO INFORM A  
38 QUALITATIVE ANALYSIS OF THE LEGISLATIVE PROPOSAL.

39 (6) IN PERFORMING ACTUARIAL REVIEWS OF LEGISLATIVE  
40 PROPOSALS, THE CONTRACTORS MAY UTILIZE DATA FROM THE ALL-PAYER  
41 HEALTH CLAIMS DATABASE DESCRIBED IN SECTION 25.5-1-204, DATA  
42 COLLECTED FROM CARRIERS, OR DATA FROM OTHER SOURCES. CARRIERS  
43 SHALL PROVIDE INFORMATION TO, AND OTHERWISE COOPERATE WITH, THE

1 CONTRACTORS AND THE DIVISION FOR THE PURPOSES OF THIS SECTION.

2 (7) THE COMMISSIONER IS NOT REQUIRED TO COMPLY WITH THE  
3 STATE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24, FOR THE  
4 PURPOSES OF HIRING CONTRACTORS BY NOVEMBER 1, 2022, AS DESCRIBED  
5 IN SUBSECTION (1) OF THIS SECTION, OR FOR CONTRACTING FOR THE  
6 COLLECTION OF DATA, BUT THE COMMISSIONER SHALL COMPLY WITH THE  
7 STATE "PROCUREMENT CODE" WHEN HIRING CONTRACTORS OR  
8 CONTRACTING FOR THE COLLECTION OF DATA AFTER NOVEMBER 1, 2022.

9 (8) A REQUEST FOR AN ACTUARIAL REVIEW PURSUANT TO THIS  
10 SECTION AND THE FINAL REPORT RESULTING FROM SUCH A REQUEST SHALL  
11 BE TREATED AS CONFIDENTIAL EXCEPT BY THE MEMBER OF THE GENERAL  
12 ASSEMBLY WHO MADE THE REQUEST UNTIL THE LEGISLATIVE PROPOSAL  
13 THAT IS THE SUBJECT OF THE ACTUARIAL REVIEW IS INTRODUCED IN THE  
14 REGULAR LEGISLATIVE SESSION FOLLOWING THE SUBMISSION OF THE  
15 REQUEST FOR THE ACTUARIAL REVIEW OR, IF NO SUCH LEGISLATIVE  
16 PROPOSAL IS INTRODUCED, UNTIL AFTER THE END OF THE LEGISLATIVE  
17 SESSION FOLLOWING THE SUBMISSION OF THE REQUEST.

18 (9) THIS SECTION IS REPEALED, EFFECTIVE NOVEMBER 1, 2027.

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

21 **2-2-322. Fiscal notes - repeal.** (5) (a) IN PREPARING A FISCAL  
22 NOTE FOR ANY LEGISLATIVE PROPOSAL THAT MAY IMPOSE A NEW HEALTH  
23 BENEFIT COVERAGE MANDATE ON HEALTH BENEFIT PLANS OR MANDATE A  
24 REDUCTION OR ELIMINATION OF COVERAGE UNDER A HEALTH BENEFIT  
25 PLAN AND FOR WHICH A REPORT HAS BEEN PREPARED BY A CONTRACTOR  
26 PURSUANT TO SECTION 10-16-155, THE LEGISLATIVE SERVICE AGENCY  
27 CHARGED WITH PREPARING THE FISCAL NOTE SHALL INCLUDE A  
28 STATEMENT THAT A REPORT HAS BEEN PREPARED BY THE CONTRACTORS  
29 FOR THE LEGISLATIVE PROPOSAL PURSUANT TO SECTION 10-16-155 AND  
30 SUBMITTED TO THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL  
31 BY THE DIVISION, INCLUDING AN INDICATION OF HOW THE CONTRACTORS'  
32 FINAL REPORT MAY BE OBTAINED IN ITS ENTIRETY.

33 (b) THIS SUBSECTION (5) IS REPEALED, EFFECTIVE NOVEMBER 1,  
34 2027.

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

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