

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 20-0427.02 Kristen Forrestal x4217

HOUSE BILL 20-1236

HOUSE SPONSORSHIP

Lontine and Will,

SENATE SPONSORSHIP

Tate and Bridges,

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A HEALTH CARE COVERAGE ENROLLMENT PROGRAM**
102 **THAT USES INFORMATION GATHERED FROM STATE INDIVIDUAL**
103 **INCOME TAX RETURN FORMS TO AID UNINSURED INDIVIDUALS IN**
104 **OBTAINING HEALTH CARE COVERAGE.**

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 creates the Colorado affordable health care coverage easy enrollment program (program) for the purpose of leveraging the tax filing process to connect uninsured Coloradans to free or subsidized health care

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.

HOUSE
Amended 2nd Reading
March 6, 2020

coverage. The program will allow Coloradans to ask on their state income tax returns for the Colorado health benefit exchange (exchange) to assess whether uninsured household members are potentially eligible for free or subsidized health care coverage. If the tax filer requests that the eligibility of uninsured household members be assessed under the program, the tax filer will receive information about coverage options and assistance with enrollment.

The bill creates the affordable health care coverage easy enrollment advisory committee (advisory committee) to guide implementation of the program. The advisory committee will be chaired by the executive director of the exchange and the executive director of the department of revenue (department) and will include representatives of the department of health care policy and financing, the division of insurance in the department of regulatory agencies, consumer advocacy groups, health care consumers, small employers, health insurance carriers, tax preparers, and insurance producers.

The department is required to implement the tax forms and schedules created by the advisory committee and to share the tax information gathered, as authorized by individual tax filers, with the exchange.

The executive director of the department shall promulgate rules to implement the new tax forms and schedules and to implement the authorized sharing of the tax information provided on the state individual income tax return forms for the purpose of enrolling uninsured individuals in a health care coverage affordability program.

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

2 **SECTION 1.** In Colorado Revised Statutes, 10-16-105.7, **amend**
3 (3)(a)(II)(F); and **add** (3)(a)(II)(F.5) as follows:

4 **10-16-105.7. Health benefit plan open enrollment periods -**
5 **special enrollment periods - rules.** (3) (a) (II) A triggering event occurs
6 when:

7 (F) An individual gains access to other creditable coverage as a
8 result of a permanent change of residence; ~~or~~

9 (F.5) THE EXCHANGE NOTIFIES THE INDIVIDUAL BASED ON
10 INFORMATION PROVIDED THROUGH THE COLORADO AFFORDABLE HEALTH
11 CARE COVERAGE EASY ENROLLMENT PROGRAM CREATED IN SECTION

1 10-22-113, CONCERNING THE INDIVIDUAL'S POTENTIAL ELIGIBILITY FOR A
2 HEALTH CARE COVERAGE AFFORDABILITY PROGRAM AS DEFINED IN
3 SECTION 10-22-103 (6.5); OR

4 **SECTION 2.** In Colorado Revised Statutes, 10-22-103, **amend**
5 the introductory portion; and **add** (6.5) as follows:

6 **10-22-103. Definitions.** As used in this ~~article~~ ARTICLE 22, unless
7 the context otherwise requires:

8 (6.5) "HEALTH CARE COVERAGE AFFORDABILITY PROGRAM"
9 MEANS:

10 (a) A MEDICAL ASSISTANCE PROGRAM UNDER THE "COLORADO
11 MEDICAL ASSISTANCE ACT", ARTICLES 4, 5, AND 6 OF TITLE 25.5;

12 (b) THE "CHILDREN'S BASIC HEALTH PLAN ACT", ARTICLE 8 OF
13 TITLE 25.5; OR

14 (c) A HEALTH BENEFIT PLAN OFFERED THROUGH THE EXCHANGE
15 FOR WHICH A PREMIUM TAX CREDIT OR COST-SHARING REDUCTIONS ARE
16 AVAILABLE.

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

19 **10-22-113. Colorado affordable health care coverage easy**
20 **enrollment program - advisory committee - creation - appointments**
21 **- duties - definitions - repeal.** (1) THERE IS HEREBY CREATED THE
22 COLORADO AFFORDABLE HEALTH CARE COVERAGE EASY ENROLLMENT
23 PROGRAM FOR THE PURPOSE OF LEVERAGING THE INDIVIDUAL INCOME TAX
24 FILING PROCESS TO MAXIMIZE THE ENROLLMENT OF ELIGIBLE UNINSURED
25 INDIVIDUALS IN A HEALTH CARE COVERAGE AFFORDABILITY PROGRAM.

26 (2) (a) FOR THE PURPOSE OF GUIDING THE IMPLEMENTATION AND
27 ADMINISTRATION OF THE PROGRAM, THERE IS HEREBY CREATED THE

1 AFFORDABLE HEALTH CARE COVERAGE EASY ENROLLMENT ADVISORY
2 COMMITTEE. THE EXECUTIVE DIRECTORS OF THE EXCHANGE AND THE
3 DEPARTMENT OF REVENUE, OR THEIR DESIGNEES, SHALL SERVE AS
4 CO-CHAIRS OF THE ADVISORY COMMITTEE. ON OR BEFORE SEPTEMBER 1,
5 2020, THE BOARD SHALL APPOINT NINE ADDITIONAL MEMBERS, AS
6 SPECIFIED IN SUBSECTION (2)(b) OF THIS SECTION, TO SERVE ON THE
7 ADVISORY COMMITTEE. IN MAKING THE APPOINTMENTS, THE BOARD SHALL
8 CONSIDER THE GEOGRAPHIC, ECONOMIC, ETHNIC, AND OTHER
9 CHARACTERISTICS OF THE STATE.

10 (b) MEMBERS OF THE ADVISORY COMMITTEE MUST INCLUDE:

11 (I) A REPRESENTATIVE OF THE DEPARTMENT OF HEALTH CARE
12 POLICY AND FINANCING;

13 (II) A REPRESENTATIVE OF THE DIVISION;

14 (III) A REPRESENTATIVE OF CONSUMER ADVOCACY GROUPS;

15 (IV) A REPRESENTATIVE OF SMALL EMPLOYERS, AS DEFINED IN
16 SECTION 10-16-102 (61);

17 (V) A REPRESENTATIVE OF INSURERS;

18 (VI) A HEALTH CARE CONSUMER;

19 (VII) A HEALTH COVERAGE GUIDE OR OTHER PERSON WITH
20 EXPERTISE IN THE PROCESS OF APPLYING FOR FEDERAL INSURANCE OR
21 ASSISTANCE AS PROVIDED BY:

22 (A) TITLE XIX OF THE FEDERAL "SOCIAL SECURITY ACT", AS
23 AMENDED, AND THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES
24 4, 5, AND 6 OF TITLE 25.5; OR

25 (B) THE CHILDREN'S BASIC HEALTH PLAN, AS DEFINED IN ARTICLE
26 8 OF TITLE 25.5;

27 (VIII) AN INSURANCE PRODUCER, AS DEFINED IN SECTION 10-2-103

1 (6); AND

2 (IX) A PROVIDER OF INCOME TAX PREPARATION SERVICES.

3 (c) OF THE MEMBERS FIRST APPOINTED, IN ORDER TO ENSURE
4 STAGGERED TERMS, THE INITIAL TERM OF OFFICE OF FIVE OF THE MEMBERS
5 IS TWO YEARS AND THE INITIAL TERM OF OFFICE OF FOUR OF THE MEMBERS
6 IS FOUR YEARS. THEREAFTER, THE TERM OF OFFICE OF ALL MEMBERS IS
7 FOUR YEARS.

8 (d) MEMBERS OF THE ADVISORY COMMITTEE MAY BE REMOVED
9 FOR CAUSE BY THE BOARD OR BY A MAJORITY VOTE OF THE ADVISORY
10 COMMITTEE MEMBERS.

11 (e) THE ADVISORY COMMITTEE SHALL MEET AS OFTEN AS
12 NECESSARY TO CARRY OUT ITS DUTIES PURSUANT TO THIS SECTION.

13 (f) MEMBERS OF THE ADVISORY COMMITTEE ARE NOT ENTITLED TO
14 RECEIVE PER DIEM OR OTHER COMPENSATION FOR PERFORMANCE OF
15 SERVICES FOR THE ADVISORY COMMITTEE BUT MAY BE REIMBURSED FOR
16 ACTUAL AND NECESSARY EXPENSES, INCLUDING ANY REQUIRED
17 DEPENDENT CARE AND DEPENDENT OR ATTENDANT TRAVEL, FOOD, AND
18 LODGING, WHILE ENGAGED IN THE PERFORMANCE OF OFFICIAL DUTIES OF
19 THE ADVISORY COMMITTEE.

20 (g) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE SEPTEMBER 1,
21 2030.

22 (3) (a) THE ADVISORY COMMITTEE SHALL:

23 (I) DETERMINE THE MINIMUM INFORMATION NECESSARY TO
24 COLLECT THROUGH THE STATE INDIVIDUAL INCOME TAX FORMS TO
25 IDENTIFY UNINSURED INDIVIDUALS AND ALLOW THE EXCHANGE TO ASSESS
26 WHETHER THEY ARE POTENTIALLY ELIGIBLE FOR ENROLLMENT IN A
27 HEALTH CARE COVERAGE AFFORDABILITY PROGRAM OR OTHER

1 CREDITABLE COVERAGE;

2 (II) DETERMINE THE PROCEDURES THAT WILL BE USED TO
3 TRANSFER TAX FILER INFORMATION FROM THE DEPARTMENT OF REVENUE
4 TO THE EXCHANGE IN ORDER TO FACILITATE THE PROGRAM;

5 (III) RECOMMEND REVISIONS TO THE STATE INDIVIDUAL INCOME
6 TAX FORM, SUPPLEMENTAL SCHEDULES, OR BOTH TO BE IMPLEMENTED BY
7 THE DEPARTMENT OF REVENUE PURSUANT TO SECTION 39-22-5202 THAT
8 ARE NEEDED TO IMPLEMENT THE PROGRAM. THE RECOMMENDATIONS
9 MUST INCLUDE:

10 (A) A QUESTION ASKING IF THE TAX FILER WANTS THE EXCHANGE
11 TO ASSESS WHETHER THE UNINSURED INDIVIDUALS IN THE TAX
12 HOUSEHOLD ARE POTENTIALLY ELIGIBLE FOR A HEALTH CARE COVERAGE
13 AFFORDABILITY PROGRAM OR OTHER CREDITABLE COVERAGE USING
14 INFORMATION FROM THE TAX FILER'S STATE INDIVIDUAL INCOME TAX
15 RETURN AND OTHER SOURCES AVAILABLE TO THE EXCHANGE;

16 (B) FOR TAX FILERS THAT WANT THE EXCHANGE TO ASSESS
17 POTENTIAL ELIGIBILITY, A REQUEST FOR: THE IDENTITY OF THE UNINSURED
18 INDIVIDUALS AND ANY ADDITIONAL INFORMATION, INCLUDING THE
19 HOUSEHOLD SIZE OF THE TAX FILER, THAT IS NOT OTHERWISE AVAILABLE
20 TO THE EXCHANGE AND THAT IS DEEMED ESSENTIAL BY THE ADVISORY
21 COMMITTEE FOR MAKING ASSESSMENTS OF POTENTIAL ELIGIBILITY;
22 EXCEPT THAT THE REQUEST FOR ADDITIONAL INFORMATION SHALL NOT
23 INCLUDE REQUESTS FOR CITIZENSHIP, IMMIGRATION, OR HEALTH STATUS;

24 (IV) DRAFT RECOMMENDED INSTRUCTIONS FOR THE INDIVIDUAL
25 TAX FORM INSTRUCTION BOOKLET THAT EXPLAIN HOW TO ANSWER THE
26 QUESTIONS ADDED TO THE TAX RETURN FORM OR SCHEDULES PURSUANT
27 TO SECTION 39-22-5202 (1)(b) AND THE EFFECTS OF INDICATING THAT THE

1 TAX FILER WOULD LIKE THE EXCHANGE TO ASSESS THE ELIGIBILITY OF
2 UNINSURED HOUSEHOLD MEMBERS;

3 (V) DETERMINE THE PROCESS THAT THE EXCHANGE WILL USE
4 UNDER THE PROGRAM TO ASSESS POTENTIAL ELIGIBILITY FOR AND ASSIST
5 WITH ENROLLMENT IN A HEALTH CARE COVERAGE AFFORDABILITY
6 PROGRAM OR OTHER CREDITABLE COVERAGE INCLUDING:

7 (A) A TIMELINE FOR ASSESSING EACH INDIVIDUAL'S POTENTIAL
8 ELIGIBILITY FOR A HEALTH CARE COVERAGE AFFORDABILITY PROGRAM OR
9 OTHER CREDITABLE COVERAGE;

10 (B) A PROCESS TO NOTIFY INDIVIDUALS REGARDING THE
11 OUTCOMES OF ASSESSMENTS OF POTENTIAL ELIGIBILITY, WHICH PROCESS
12 IS DESIGNED TO MAXIMIZE HEALTH CARE COVERAGE ENROLLMENT LEVELS;
13 AND

14 (C) A PROCESS FOR HANDLING UNINSURED INDIVIDUALS WHOSE
15 STATUS AS UNITED STATES CITIZENS CANNOT BE VERIFIED THROUGH
16 INFORMATION AVAILABLE TO THE EXCHANGE; AND

17 (VI) DETERMINE THE FEASIBILITY OF AND, IF FEASIBLE,
18 RECOMMEND A PROCESS FOR AUTOMATIC ENROLLMENT, THROUGH THE
19 PROGRAM, OF ELIGIBLE UNINSURED INDIVIDUALS IN A MEDICAL
20 ASSISTANCE PROGRAM UNDER THE "COLORADO MEDICAL ASSISTANCE
21 ACT", ARTICLES 4, 5, 6, OF TITLE 25.5 OR OTHER ZERO-NET-PREMIUM
22 CREDITABLE COVERAGE.

23 (b) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE SEPTEMBER 1,
24 2030.

25 (4) THE EXCHANGE, THROUGH PROCEDURES DETERMINED BY THE
26 ADVISORY COMMITTEE, SHALL:

27 (a) ASSESS WHETHER UNINSURED INDIVIDUALS IDENTIFIED

1 THROUGH THE PROGRAM ARE POTENTIALLY ELIGIBLE FOR A HEALTH CARE
2 COVERAGE AFFORDABILITY PROGRAM OR OTHER CREDITABLE COVERAGE;

3 (b) NOTIFY THE UNINSURED INDIVIDUALS REGARDING THEIR
4 POTENTIAL ELIGIBILITY;

5 (c) ENROLL OR ASSIST WITH ENROLLING THE UNINSURED
6 INDIVIDUALS IN CREDITABLE COVERAGE; AND

7 (d) NOT TAKE ADDITIONAL STEPS TO DETERMINE ELIGIBILITY FOR
8 OR ENROLL AN UNINSURED INDIVIDUAL IDENTIFIED THROUGH THE
9 PROGRAM IF THE EXCHANGE CANNOT VERIFY THAT THE UNINSURED
10 INDIVIDUAL IS A UNITED STATES CITIZEN UNTIL THE INDIVIDUAL PROVIDES
11 AFFIRMATIVE CONSENT USING PROCEDURES DEVELOPED BY THE ADVISORY
12 COMMITTEE PURSUANT TO SUBSECTION (3)(a)(V)(C) OF THIS SECTION.

13 (5) AS USED IN THIS SECTION:

14 (a) (I) "ADVISORY COMMITTEE" MEANS THE AFFORDABLE HEALTH
15 CARE COVERAGE EASY ENROLLMENT ADVISORY COMMITTEE.

16 (II) THIS SUBSECTION (5)(a) IS REPEALED, EFFECTIVE SEPTEMBER
17 1, 2030.

18 (b) "CREDITABLE COVERAGE" HAS THE SAME MEANING AS SET
19 FORTH IN SECTION 10-16-102 (16).

20 (c) "PROGRAM" MEANS THE COLORADO AFFORDABLE HEALTH
21 CARE COVERAGE EASY ENROLLMENT PROGRAM.

22 (d) "UNINSURED INDIVIDUAL" MEANS AN INDIVIDUAL WHO DOES
23 NOT HAVE CREDITABLE COVERAGE.

24 **SECTION 4.** In Colorado Revised Statutes, 39-21-113, **add** (25)
25 as follows:

26 **39-21-113. Reports and returns - rule.** (25) NOTWITHSTANDING
27 THE CONFIDENTIALITY REQUIREMENTS IN THIS SECTION, THE EXECUTIVE

1 DIRECTOR SHALL PROVIDE THE INFORMATION AUTHORIZED BY THE
2 TAXPAYER TO BE COLLECTED PURSUANT TO SECTION 39-22-5202 (1) TO
3 THE COLORADO HEALTH BENEFIT EXCHANGE CREATED IN ARTICLE 22 OF
4 TITLE 10 AND MAY SHARE THE INFORMATION WITH THE DEPARTMENT OF
5 HEALTH CARE POLICY AND FINANCING TO FACILITATE ASSESSMENT OF
6 POTENTIAL ELIGIBILITY FOR AND ENROLLMENT IN A HEALTH CARE
7 COVERAGE AFFORDABILITY PROGRAM THROUGH THE COLORADO
8 AFFORDABLE HEALTH CARE COVERAGE EASY ENROLLMENT PROGRAM
9 CREATED IN SECTION 10-22-113. ANY INFORMATION PROVIDED TO THE
10 COLORADO HEALTH BENEFIT EXCHANGE OR THE DEPARTMENT OF HEALTH
11 CARE POLICY AND FINANCING PURSUANT TO THIS SUBSECTION (25)
12 REMAINS CONFIDENTIAL, AND THE BOARD OF DIRECTORS AND ALL
13 OFFICERS, AGENTS, CLERKS, AND EMPLOYEES OF THE COLORADO HEALTH
14 BENEFIT EXCHANGE AND THE EXECUTIVE DIRECTOR AND ALL AGENTS,
15 CLERKS, AND EMPLOYEES OF THE DEPARTMENT OF HEALTH CARE POLICY
16 AND FINANCING ARE SUBJECT TO THE LIMITATIONS SET FORTH IN
17 SUBSECTION (4) OF THIS SECTION AND THE PENALTIES IN SUBSECTION (6)
18 OF THIS SECTION.

19 **SECTION 5.** In Colorado Revised Statutes, **add** part 52 to article
20 22 of title 39 as follows:

21 PART 52

22 COLORADO AFFORDABLE HEALTH CARE
23 COVERAGE EASY ENROLLMENT PROGRAM

24 **39-22-5201. Definitions.** AS USED IN THIS PART 52, UNLESS THE
25 CONTEXT OTHERWISE REQUIRES:

26 (1) "ADVISORY COMMITTEE" MEANS THE AFFORDABLE HEALTH
27 CARE COVERAGE EASY ENROLLMENT ADVISORY COMMITTEE CREATED IN

1 SECTION 10-22-113.

2 (2) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

3 (3) "EXCHANGE" MEANS THE COLORADO HEALTH BENEFIT
4 EXCHANGE CREATED IN ARTICLE 22 OF TITLE 10.

5 (4) "HEALTH CARE COVERAGE AFFORDABILITY PROGRAM" MEANS:

6 (a) A MEDICAL ASSISTANCE PROGRAM UNDER THE "COLORADO
7 MEDICAL ASSISTANCE ACT", ARTICLES 4, 5, AND 6 OF TITLE 25.5;

8 (b) THE "CHILDREN'S BASIC HEALTH PLAN ACT", ARTICLE 8 OF
9 TITLE 25.5; OR

10 (c) A HEALTH BENEFIT PLAN, AS DEFINED IN SECTION 10-22-103
11 (6), OFFERED THROUGH THE EXCHANGE FOR WHICH PREMIUM TAX CREDITS
12 OR COST-SHARING REDUCTIONS ARE AVAILABLE.

13 **39-22-5202. Uninsured designation - required forms - rules.**

14 (1) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1,
15 2021:

16 (a) THE COLORADO STATE INDIVIDUAL INCOME TAX FORM MUST
17 ALLOW TAX FILERS TO:

18 (I) REQUEST THAT THE EXCHANGE ASSESS WHETHER UNINSURED
19 TAX HOUSEHOLD MEMBERS ARE POTENTIALLY ELIGIBLE FOR FREE OR
20 LOWER-COST HEALTH COVERAGE UNDER A HEALTH CARE COVERAGE
21 AFFORDABILITY PROGRAM USING INFORMATION FROM THEIR TAX RETURN
22 AND OTHER SOURCES AVAILABLE TO THE EXCHANGE; AND

23 (II) IDENTIFY UNINSURED HOUSEHOLD MEMBERS AND PROVIDE
24 OTHER INFORMATION DETERMINED NECESSARY BY THE ADVISORY
25 COMMITTEE PURSUANT TO SECTION 10-22-113 (3)(a) TO FACILITATE THE
26 COLORADO AFFORDABLE HEALTH CARE COVERAGE EASY ENROLLMENT
27 PROGRAM CREATED IN SECTION 10-22-113;

1 (b) THE ASSOCIATED TAX FORM INSTRUCTION BOOKLET MUST
2 EXPLAIN HOW TO ANSWER THE QUESTIONS ADDED TO THE STATE
3 INDIVIDUAL INCOME TAX FORM OR SCHEDULES PURSUANT TO THIS SECTION
4 AND SECTION 10-22-113 (3)(a)(IV) AND THE EFFECT OF ASKING THE
5 EXCHANGE TO ASSESS WHETHER UNINSURED HOUSEHOLD MEMBERS ARE
6 POTENTIALLY ELIGIBLE FOR FREE OR LOWER-COST HEALTH COVERAGE
7 UNDER A HEALTH CARE COVERAGE AFFORDABILITY PROGRAM.

8 (2) IN IMPLEMENTING SUBSECTION (1) OF THIS SECTION, THE
9 DEPARTMENT SHALL CONSIDER THE DETERMINATIONS AND
10 RECOMMENDATIONS DEVELOPED BY THE ADVISORY COMMITTEE PURSUANT
11 TO SECTION 10-22-113 (3)(a).

12 (3) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT SHALL
13 PROMULGATE RULES AS NECESSARY TO IMPLEMENT THE TAX FORMS AND
14 SCHEDULES REQUIRED BY THIS SECTION AND TO IMPLEMENT THE SHARING
15 OF INFORMATION AUTHORIZED BY THIS SECTION WITH THE EXCHANGE AND
16 THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING.

17 **SECTION 6. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly (August
20 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
21 referendum petition is filed pursuant to section 1 (3) of article V of the
22 state constitution against this act or an item, section, or part of this act
23 within such period, then the act, item, section, or part will not take effect
24 unless approved by the people at the general election to be held in
25 November 2020 and, in such case, will take effect on the date of the
26 official declaration of the vote thereon by the governor.