

## **SB22-040: ACTUARIAL REVIEW HEALTH INSURANCE MANDATE LEGISLATION**

Concerning actuarial reviews of proposed legislation that may impose a new health benefit mandate on health benefit plans.

### Details

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<b>Bill Sponsors:</b>	Senate –Smallwood (R)
<b>Committee:</b>	Senate Finance Committee Senate Appropriations Committee
<b>Bill History:</b>	1/14/2022- Introduced in Senate 2/23/2022- Senate Committee on Finance Refer Amended to Appropriations
<b>Next Action:</b>	Hearing in Senate Appropriations Committee
<b>Fiscal Note:</b>	<u>February 14, 2022</u>

### Background

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This bill is similar to the one that was introduced and postponed indefinitely in the 2021 legislative session (SB21-085). The Health District of Northern Larimer County Board of Directors took two positions on SB21-085; a summary of those positions is included after the description of the bill..

### Bill Summary

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The following bill summary reflects the bill as amended in the Senate Finance committee.

#### Actuarial Review

By November 1, 2022, the Division of Insurance (DOI) is to retain one or more contractors that have experience with health care policy and equity, with at least one being an actuary. The contractor is to perform actuarial reviews on proposed legislation that may impose a new health benefit mandate on health plans or reduce or eliminate mandated coverage. Under the direction of the DOI, the contractor is to conduct such reviews of up to 6 legislative proposals, regardless of the number of proposals requested by members of the General Assembly each legislative session. Before September 1, 2022, the DOI must convene a stakeholder meeting regarding the methodology for conducting the analysis.

A member of the General Assembly who requests an actuarial review of a legislative proposal must submit the request to the DOI no later than September 1st of the year preceding the regular legislative session where the proposed legislation would be introduced. For each regular legislative session up to two members of the majority party in the House, two members of the majority party of the Senate, one member of the minority party in the House, and one member of the minority party in the Senate may submit a request for an actuarial review. If more than the allotted number of requests are submitted, the DOI will inform the respective minority/leader, who shall select the proposal(s) that are reviewed by September 15th each year.

An actuarial review must consider the predicted effects of the proposal during the 5 and 10 years immediately following the effective date of the proposed legislation (or during another period if such consideration is more actuarial feasible), including:

- A. An estimate of the number of Coloradans who will be directly affected
- B. Estimates of changes in the rates of utilization of specific health care services
- C. Estimates concerning any changes in consumer cost sharing

- D. Estimates of any premium increases or decreases for plans for individuals and for employers in the small-group, and large-group markets (in terms of percentage increase or decrease and in terms of per-member, per-month charges)
- E. An estimate of the out-of-pocket health care cost changes (in terms of dollar amounts)
- F. An estimate of the potential long-term health care cost changes
- G. Identification of any potential health benefits for individuals or communities
- H. To the extent practicable, the social and economic impacts

For items 'C', 'E', 'F', 'G', and 'H', the review must provide, if available, information concerning who would benefit, cost and benefit changes, and any disproportionate effects that the proposal would have on Coloradans, disaggregated by at least race, ethnicity, sex, gender, and age. To the extent practicable, the review must include a qualitative analysis of the proposal's impacts.

In performing these reviews, the contractor can utilize data from the all-payer claims database, data from carriers, or data from other sources. Carriers must provide information to and cooperate with the contractor and the DOI. The state procurement code does not have to be adhered to for hiring contractors prior to November 1, 2022, or for when contracting for collection of data. However, it must be followed for hiring contractors after November 1, 2022.

A request for a review and the final report resulting from the request is to be treated as confidential except by the member of the General Assembly that made the request until the proposal under review is introduced in the following regular legislative session. If the proposal is not introduced, confidentiality ends after the end of the legislative session following the submission of the request.

This section is repealed November 1, 2027.

#### Fiscal Notes

In preparing a fiscal note for a piece of legislation that has had an actuarial review, Legislative Council Staff is to include a statement that a report has been prepared and an indication of how the final report may be obtained in its entirety. This section is repealed November 1, 2027.

#### Effective Date

The bill, subject to a petition, takes effect at 12:01am on the day following the expiration of the 90 day period after the final adjournment of the General Assembly.

#### Fiscal Note

For FY2022-23 the bill requires an appropriation of \$157,329 to the Department of Regulatory Agencies. Note that the fiscal note reflects the introduced version of the bill, not as it was amended in the Senate

**Table 2**  
**Expenditures Under SB 22-040**

	FY 2022-23	FY 2023-24
<b>Department of Regulatory Agencies</b>		
Personal Services	\$22,329	\$22,329
Actuarial Contractor	\$60,000	\$60,000
All-Payer Claims Database Fees	\$75,000	\$75,000
Centrally Appropriated Costs <sup>1</sup>	\$18,955	\$18,955
<b>Total Cost</b>	<b>\$176,284</b>	<b>\$176,284</b>
<b>Total FTE</b>	<b>0.2 FTE</b>	<b>0.2 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

Finance Committee. Table 2 includes the projected expenditures under the bill. The centrally appropriated costs are not included in the appropriation, which is why the appropriation and the total cost in the table are different.

### Health District's Positions on the Prior Similar Bill, SB21-085

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**March 9, 2021:** The Board appreciates the intent of the bill but does not recommend that it be passed without Amendments, because it is an extraordinarily complex challenge to undertake quality analyses, this is likely to have major impacts into the future, and many amendments should be considered. The Board's recommendation is that this concept be referred to a Task Force for further development before passage. At first look, the following amendments should be considered, and there may well be others:

1. Public programs should be excluded from actuarial review.
2. The bill should allow for the request actuarial reviews if an insurance benefit is being cut/reduced- not just adding new benefits
3. Greater focus on health equity (i.e. contractor selected through a process that includes stakeholders; the report should include an equity analysis; adding a section of language that includes identifying who would benefit from the proposal)
4. The description of potential savings should be broken into multiple levels in the same way that the costs are, and look for savings over a window of time.
5. The length of time required for the actuarial analysis should not prohibit a bill from moving in a single legislative session, which may require such bills to be flagged before a regular session begins.
6. Any mandate that results in a premium impact of less than 1% should be deemed negligible and the contractor should not perform the estimates in sections in IV-VII for that mandate. If an equity review or language that outlines the demographics of who would benefit from proposed legislation is added to the bill, the Board urges that that information still be gathered if a premium impact is deemed negligible.

**April 13, 2021:** The Board voted to Oppose SB21-085. While they appreciate the intent of the law, the concern is that the timing and budget would not allow for the required quality of analysis that would lead to adequate meaningful data from which to make policy decisions

### Reasons to Support

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Governor Polis has indicated a veto on any bill that imposes an additional insurance mandate. This bill would require new insurance mandate proposals to undergo an actuarial review, by request of an individual legislator, prior to introduction of such legislation. This analysis may add meaningful data regarding fiscal impact during the legislative process for broader consideration of passage into law.

### Supporters

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| • Adams County Regional Economic Partnership        | • Denver Health                    |
| • Cigna   | • Denver Metro Chamber of Commerce |
| • Colorado Chamber of Commerce                      | • HCA- The Healthcare Company      |
| • Colorado Competitive Council                      | • Healthier Colorado               |
| • Colorado Hospital Association                     | • Kaiser Foundation Health Plan    |
| • Colorado State Association of Health Underwriters | • Kaiser Permanente                |
|   | • SCL Health                       |

### Reasons to Oppose

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Budget may not allow for the required quality of analysis that would lead to adequate meaningful data from which to make policy decisions. Many legislators and proponents may not have a complete legislative

proposal by September 1<sup>st</sup> each year; therefore, it may take multiple legislative sessions for a proposal to be formulated, drafted, reviewed, and introduced.

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**Opponents**

- AARP
- American Physical Therapy Association, Colorado Chapter

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**About this Brief**

This brief was prepared by Health District of Northern Larimer County staff to assist the Health District Board of Directors in determining whether to take an official stand on various health-related issues. The Health District is a special district of the northern two-thirds of Larimer County, Colorado, supported by local property tax dollars and governed by a publicly elected five-member board. The Health District provides medical, mental health, dental, preventive and health planning services to the communities it serves. This brief is accurate to staff knowledge as of date printed. For more information about this brief or the Health District, please contact Lisa Ward, Policy Coordinator, at (970) 224-5209, or e-mail at [lward@healthdistrict.org](mailto:lward@healthdistrict.org)