SENVATE SPONSORSHIP

Boyd,

HOUSE SPONSORSHIP

Stephens,

Senate Committees
Health and Human Services
Legislative Council

House Committees
Health and Environment

A BILL FOR AN ACT

CONCERNING A COLORADO HEALTH BENEFIT EXCHANGE, AND, IN
CONNECTION THEREWITH, CREATING A PROCESS FOR THE
IMPLEMENTATION OF A HEALTH BENEFIT EXCHANGE IN
COLORADO.

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://www.leg.state.co.us/billsummaries.)

The bill creates the Colorado health benefit exchange (exchange) as a nonprofit unincorporated public entity. The exchange is governed by
a board of directors consisting of 9 members appointed by the governor, the president of the senate, the speaker of the house of representatives, and the minority leaders of the senate and the house of representatives, and 3 ex officio nonvoting members. The board is responsible for:

- Appointing an executive director to administer the exchange;
- Creating operational and financial plans;
- Applying for planning and establishment grants;
- Creating technical and advisory groups;
- Providing a written report to the governor and the general assembly regarding the planning and establishment of the exchange;
- Reviewing internet portals for use by the exchange;
- Considering the structure of the exchange;
- Considering the appropriate size of the small employer market; and
- Investigating requirements, developing options, and determining waivers to ensure that the best interests of Coloradans are protected.

The board may enter into information-sharing agreements with federal and state agencies and other state exchanges.

The bill also establishes the legislative health benefit exchange implementation review committee (committee) to provide oversight of the exchange. The committee may report up to 5 bills or other measures to the legislative council each year. The committee is responsible for reviewing grants applied for by the board and for reviewing the financial and operational plans of the exchange.

Five years after the act becomes law, the legislative service agencies of the general assembly will conduct a post-enactment review of its implementation.

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

SECTION 1. Title 10, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 22

Colorado Health Benefit Exchange

10-22-101. Short title. THIS ARTICLE IS KNOWN AND MAY BE CITED AS THE "COLORADO HEALTH BENEFIT EXCHANGE ACT".

10-22-102. Legislative declaration - intent. THE GENERAL
SMALL EMPLOYER MARKET. THE INTENT OF THE COLORADO HEALTH
BENEFIT EXCHANGE IS TO INCREASE ACCESS, AFFORDABILITY, AND CHOICE
FOR INDIVIDUALS AND SMALL EMPLOYERS PURCHASING HEALTH
INSURANCE IN COLORADO.

10-22-103. Definitions. As used in this article, unless the
context otherwise requires:

(1) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE EXCHANGE,
apPOINTED IN ACCORDANCE WITH SECTION 10-22-105.

(2) "COMMITTEE" MEANS THE LEGISLATIVE HEALTH BENEFIT
EXCHANGE IMPLEMENTATION REVIEW COMMITTEE CREATED IN SECTION
10-22-107.

(3) "EXCHANGE" MEANS THE COLORADO HEALTH BENEFIT
EXCHANGE CREATED IN THIS ARTICLE.

(4) "FEDERAL ACT" MEANS THE "PATIENT PROTECTION AND
AFFORDABLE CARE ACT", PUB.L. 111-148, AS AMENDED BY THE "HEALTH
CARE AND EDUCATION RECONCILIATION ACT OF 2010", PUB.L. 111-152.

(5) "SECRETARY" MEANS THE SECRETARY OF THE UNITED STATES
DEPARTMENT OF HEALTH AND HUMAN SERVICES.

10-22-104. Health benefit exchange - creation. There is
hereby created a nonprofit unincorporated public entity known
as the health benefit exchange. The board of directors shall
govern the operation of the exchange. The board shall
determine and establish the development, governance, and
operation of the exchange. The exchange is an instrumentality
of the state; except that the debts and liabilities of the
exchange do not constitute the debts and liabilities of the state,
and neither the exchange nor the board is an agency of the
STATE. THE BOARD DOES NOT HAVE THE AUTHORITY TO PROMULGATE
RULES PURSUANT TO THE "STATE ADMINISTRATIVE PROCEDURE ACT",
ARTICLE 4 OF TITLE 24, C.R.S. THE EXCHANGE SHALL NOT DUPLICATE OR
REPLACE THE DUTIES OF THE COMMISSIONER ESTABLISHED IN SECTION
10-1-108, INCLUDING RATE APPROVAL, EXCEPT AS DIRECTED BY THE
FEDERAL ACT. THE EXCHANGE SHALL FOSTER A COMPETITIVE
MARKETPLACE FOR INSURANCE AND SHALL NOT SOLICIT BIDS OR ENGAGE
IN THE ACTIVE PURCHASING OF INSURANCE. ALL CARRIERS AUTHORIZED
TO CONDUCT BUSINESS IN THIS STATE MAY BE ELIGIBLE TO PARTICIPATE IN
THE EXCHANGE.

10-22-105. Exchange board of directors. (1) (a) THERE IS
HEREBY CREATED THE BOARD OF DIRECTORS OF THE EXCHANGE. THE
BOARD CONSISTS OF TWELVE MEMBERS, OF WHOM NINE ARE VOTING
MEMBERS AND THREE ARE NONVOTING, EX OFFICIO MEMBERS. ON OR
BEFORE JULY 1, 2011, THE GOVERNOR SHALL APPOINT FIVE VOTING
MEMBERS TO THE BOARD, AND THE PRESIDENT OF THE SENATE, THE
MINORITY LEADER OF THE SENATE, THE SPEAKER OF THE HOUSE OF
REPRESENTATIVES, AND THE MINORITY LEADER OF THE HOUSE OF
REPRESENTATIVES SHALL EACH APPOINT ONE VOTING MEMBER TO THE
BOARD. THE GOVERNOR SHALL NOT APPOINT MORE THAN THREE MEMBERS
FROM THE SAME POLITICAL PARTY. THE BOARD SHALL ELECT ONE OF ITS
MEMBERS AS CHAIR OF THE BOARD. MEMBERS OF THE BOARD MAY BE
REMOVED BY THEIR RESPECTIVE APPOINTING AUTHORITIES FOR CAUSE.
THE PERSON MAKING THE ORIGINAL APPOINTMENT OR REAPPOINTMENT, OR
WHOEVER IS ENTITLED TO MAKE THE APPOINTMENT ON THE DATE OF A
VACANCY, SHALL FILL THE VACANCY BY APPOINTMENT FOR THE
REMAINDER OF AN UNEXPIRED TERM. MEMBERS MAY SERVE A MAXIMUM
OF TWO CONSECUTIVE TERMS. IF A MEMBER IS APPOINTED TO FILL A VACANCY AND SERVES FOR MORE THAN HALF OF THE UNEXPIRED TERM, THE MEMBER SHALL BE ELIGIBLE FOR APPOINTMENT TO ONLY ONE MORE CONSECUTIVE TERM.

(b) The persons making the appointments shall coordinate appointments to ensure that there is broad representation within the skill sets specified in this paragraph (b) and shall consider the geographic, economic, ethnic, and other characteristics of the state when making the appointments. A majority of the voting members must be business representatives or individuals who are not directly affiliated with the insurance industry, and none shall be state employees. Of the members first appointed, in order to ensure staggered terms, four of the governor's appointees shall serve for a term of two years and the remaining governor's appointee and other initial appointees shall serve for a term of four years. Thereafter, the terms of the members shall be for four years. Each person appointed to the board should have demonstrated expertise in at least two, and in any case shall have demonstrated expertise in no less than one, of the following areas:

(I) Individual health insurance coverage;
(II) Small employer health insurance;
(III) Health benefits administration;
(IV) Health care finance;
(V) Administration of a public or private health care delivery system;
(VI) The provision of health care services;
(VII) The purchase of health insurance coverage;
(VIII) Health care consumer navigation or assistance;
(IX) Health care economics or health care actuarial sciences;
(X) Information technology; or
(XI) Starting a small business with fifty or fewer employees.

(c) The Executive Director of the Department of Health Care Policy and Financing, or his or her designee; The Commissioner of Insurance, or his or her designee; and the Director of the Office of Economic Development and International Trade, or his or her designee, shall serve as nonvoting, ex officio members of the board.

(2) Each member of the board is responsible for meeting the requirements of this article and all applicable state and federal laws, rules, and regulations; serving in the public interest of the individuals and small businesses seeking health care coverage through the exchange; and ensuring the operational well-being and fiscal solvency of the exchange.

(3)(a) Board members shall not receive compensation for performance of services for the board but may receive a per diem and reimbursement for travel and other necessary expenses while engaged in the performance of official duties of the board. Per diem and reimbursement expenses are paid through grant moneys received by the board.

(b) A member of the board shall not perform an official act that may have a direct economic benefit on a business or
OTHER UNDERTAKING IN WHICH THE MEMBER HAS A DIRECT OR
SUBSTANTIAL FINANCIAL INTEREST.

(c) A BOARD MEMBER OR AN OFFICER OR EMPLOYEE OF THE
EXCHANGE IS NOT LIABLE FOR AN ACT OR OMISSION WHEN ACTING IN HIS
OR HER OFFICIAL CAPACITY, IN GOOD FAITH, WITHOUT INTENT TO DEFRAUD,
AND IN CONNECTION WITH THE ADMINISTRATION, MANAGEMENT, OR
CONDUCT OF THIS ARTICLE.

(4) (a) BOARD MEMBERS ARE SUBJECT TO ARTICLES 6, 18, AND 72
OF TITLE 24, C.R.S.

(b) ALL MONEYS RECEIVED BY THE BOARD FOR THE EXCHANGE ARE
SUBJECT TO AUDIT BY THE LEGISLATIVE AUDIT COMMITTEE. THE BOARD
SHALL REPORT ALL MONEYS RECEIVED FOR THE EXCHANGE TO THE
LEGISLATIVE AUDIT COMMITTEE.

(5) ANY INFORMATION PROVIDED TO A BOARD MEMBER PURSUANT
TO THIS ARTICLE THAT IS EXEMPT FROM DISCLOSURE UNDER EITHER
SECTION 24-72-204, C.R.S., OR PART 4 OF ARTICLE 6 OF TITLE 24, C.R.S.,
SHALL BE AND REMAIN CONFIDENTIAL AND MAY BE USED ONLY BY THE
BOARD.

10-22-106. Powers and duties of the board. (1) THE BOARD IS
THE GOVERNING BODY OF THE EXCHANGE AND HAS ALL THE POWERS AND
DUTIES NECESSARY TO IMPLEMENT THIS ARTICLE. THE BOARD SHALL:

(a) APPOINT AN EXECUTIVE DIRECTOR TO ADMINISTER THE
EXCHANGE, SUBJECT TO APPROVAL BY THE COMMITTEE;

(b) CREATE AN INITIAL OPERATIONAL AND FINANCIAL PLAN,
SUBJECT TO APPROVAL BY THE COMMITTEE;

(c) APPLY FOR PLANNING AND ESTABLISHMENT GRANTS MADE
AVAILABLE TO THE EXCHANGE PURSUANT TO THE FEDERAL ACT AND APPLY
FOR, RECEIVE, AND EXPEND OTHER GIFTS, GRANTS, AND DONATIONS. EACH
GRANT APPLICATION IS SUBJECT TO THE REVIEW AND UNANIMOUS
APPROVAL OF THE BOARD CHAIR AND THE CHAIR AND VICE-CHAIR OF THE
COMMITTEE PRIOR TO THE SUBMISSION OF THE APPLICATION. IF THERE IS
NOT UNANIMOUS APPROVAL, EACH GRANT APPLICATION IS SUBJECT TO
REVIEW AND THE MAJORITY APPROVAL OF THE COMMITTEE.

(d) CREATE TECHNICAL AND ADVISORY GROUPS AS NEEDED TO
REPORT TO THE BOARD. THE ADVISORY GROUPS SHALL MEET REGULARLY
THROUGHOUT THE YEAR TO DISCUSS ISSUES RELATED TO THE EXCHANGE
AND MAKE RECOMMENDATIONS TO THE BOARD.

(e) PROVIDE A WRITTEN REPORT, ON BEFORE JANUARY 15 OF EACH
YEAR, TO THE GOVERNOR AND THE GENERAL ASSEMBLY CONCERNING THE
PLANNING AND ESTABLISHMENT OF THE EXCHANGE AND PRESENT THE
REPORT TO THE SENATE HEALTH AND HUMAN SERVICES COMMITTEE AND
THE HOUSE OF REPRESENTATIVES HEALTH AND ENVIRONMENT COMMITTEE,
OR THEIR SUCCESSOR COMMITTEES;

(f) REVIEW THE INTERNET PORTAL OPERATED AND MAINTAINED BY
THE SECRETARY AND THE MODEL TEMPLATE FOR AN INTERNET PORTAL
MADE AVAILABLE BY THE SECRETARY FOR USE BY THE STATE EXCHANGES
AND REVIEW OTHER APPROPRIATE INTERNET PORTALS. THE REVIEW MUST
INCLUDE AN EXAMINATION AS TO WHETHER THE MODEL TEMPLATE MAY BE
USED TO DIRECT INDIVIDUALS AND EMPLOYERS TO HEALTH PLANS, TO
ASSIST INDIVIDUALS AND EMPLOYERS IN DETERMINING WHETHER THEY ARE
ELIGIBLE TO PARTICIPATE IN THE EXCHANGE OR ELIGIBLE FOR A PREMIUM
TAX CREDIT OR COST-SHARING REDUCTION, AND TO PRESENT
STANDARDIZED INFORMATION REGARDING HEALTH PLANS OFFERED
THROUGH THE EXCHANGE TO ASSIST CONSUMERS IN MAKING HEALTH
INSURANCE CHOICES.

(g) Consider the desirability of structuring the exchange as one entity that includes two underlying entities to operate in the individual and the small employer markets, respectively;

(h) Consider the appropriate size of the small employer market under the exchange, taking into consideration the definition of "small employer" pursuant to section 10-16-102;

(i) Consider the unique needs of rural Coloradans as they pertain to access, affordability, and choice in purchasing health insurance;

(j) Consider the affordability and cost in the context of quality care and increased access to purchasing health insurance; and

(k) Investigate requirements, develop options, and determine waivers, if appropriate, to ensure that the best interests of Coloradans are protected.

(2) The board may enter into information-sharing agreements with federal and state agencies and other state exchanges to carry out its responsibilities under this article so long as the agreements include adequate protections with respect to the confidentiality of the information that is shared and comply with all state and federal laws, rules, and regulations.

10-22-107. Legislative health benefit exchange implementation review committee - creation - duties. (1) For the purposes of guiding implementation of an exchange in Colorado, making recommendations to the general assembly, and ensuring that the
INTERESTS OF COLORADANS ARE PROTECTED AND FURTHERED, THERE IS
HEREBY CREATED THE LEGISLATIVE HEALTH BENEFIT EXCHANGE
IMPLEMENTATION REVIEW COMMITTEE. THE COMMITTEE SHALL MEET ON
OR BEFORE AUGUST 1, 2011, AND THEREAFTER AT THE CALL OF THE CHAIR
AS OFTEN AS FIVE TIMES DURING EACH CALENDAR YEAR. THE COMMITTEE
MAY USE THE LEGISLATIVE COUNCIL STAFF TO ASSIST ITS MEMBERS IN
RESEARCHING ANY MATTERS.

(2) (a) The President of the Senate shall appoint three
members to the committee. Two appointees shall be members of
the Senate Health and Human Services Committee, the Business,
Labor, and Technology Committee, or the Legislative Audit
Committee, or their successor committees. One appointee shall
be a representative of the Senate at large.

(b) The Speaker of the House of Representatives shall
appoint three members to the committee. Two appointees shall be
members of the House Health and Environment Committee, the
Economic and Business Development Committee, or the Legislative
Audit Committee, or their successor committees. One appointee
shall be a representative of the House of Representatives at
large.

(c) The minority leader of the Senate shall appoint two
members to the committee. One appointee shall be a member of
the Senate Health and Human Services Committee, the Business,
Labor, and Technology Committee, or the Legislative Audit
Committee, or their successor committees. One appointee shall
be a representative of the Senate at large.

(d) The minority leader of the House of Representatives
SHALL APPOINT TWO MEMBERS TO THE COMMITTEE. ONE APPOINTEE SHALL
BE A MEMBER OF THE HOUSE HEALTH AND ENVIRONMENT COMMITTEE, THE
ECONOMIC AND BUSINESS DEVELOPMENT COMMITTEE, OR THE LEGISLATIVE
AUDIT COMMITTEE, OR THEIR SUCCESSOR COMMITTEES. ONE APPOINTEE
SHALL BE A REPRESENTATIVE OF THE HOUSE OF REPRESENTATIVES AT
LARGE.

(e) MEMBERS OF THE COMMITTEE SHALL SERVE AT THE PLEASURE
OF THE APPOINTING AUTHORITY.

(3) MEMBERS OF THE COMMITTEE SHALL SERVE WITHOUT
COMPENSATION; EXCEPT THAT EACH MEMBER SHALL RECEIVE THE SUMS
SPECIFIED IN SECTION 2-2-307 (3) (a) AND (3) (b), C.R.S., FOR
ATTENDANCE AT MEETINGS OF THE COMMITTEE WHEN THE GENERAL
ASSEMBLY IS IN RECESS FOR MORE THAN THREE DAYS OR IS NOT IN SESSION.

(4) DURING ODD-NUMBERED YEARS, THE PRESIDENT OF THE
SENATE SHALL APPOINT THE CHAIR AND THE SPEAKER OF THE HOUSE OF
REPRESENTATIVES SHALL APPOINT THE VICE-CHAIR OF THE COMMITTEE.
DURING EVEN-NUMBERED YEARS THE SPEAKER OF THE HOUSE OF
REPRESENTATIVES SHALL APPOINT THE CHAIR, AND THE PRESIDENT OF THE
SENATE SHALL APPOINT THE VICE-CHAIR OF THE COMMITTEE.

(5) IN ANY YEAR, THE COMMITTEE MAY REPORT UP TO FIVE BILLS
OR OTHER MEASURES TO THE LEGISLATIVE COUNCIL CREATED IN SECTION
2-3-301, C.R.S. THESE BILLS ARE EXEMPT FROM ANY APPLICABLE BILL
LIMIT IMPOSED ON THE INDIVIDUAL COMMITTEE MEMBERS SPONSORING
SUCH BILLS IF THE BILLS HAVE BEEN APPROVED BY THE LEGISLATIVE
COUNCIL UNDER JOINT RULES OF THE SENATE AND HOUSE OF
REPRESENTATIVES.

(6) THE COMMITTEE SHALL REVIEW GRANTS APPLIED FOR BY THE
BOARD TO IMPLEMENT THE EXCHANGE.

(7) THE COMMITTEE SHALL REVIEW THE FINANCIAL AND OPERATIONAL PLANS OF THE EXCHANGE.

10-22-108. Moneys for implementation of the exchange.

MONEYS RECEIVED BY THE BOARD FOR THE IMPLEMENTATION OF THIS ARTICLE MUST BE TRANSFERRED DIRECTLY TO THE EXCHANGE FOR THE PURPOSES OF THIS ARTICLE. THE BOARD SHALL DEPOSIT ANY MONEYS RECEIVED IN A BANKING INSTITUTION WITHIN OR OUTSIDE THE STATE. MONEYS FROM THE GENERAL FUND SHALL NOT BE USED FOR THE IMPLEMENTATION OF THIS ARTICLE, EXCEPT FOR THE SUMS SPECIFIED IN SECTION 10-22-107 (3) AND FOR LEGISLATIVE STAFF AGENCY SERVICES. THE BANKING INSTITUTION MUST BE INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION AND COMPLIANT WITH THE "SAVINGS AND LOAN ASSOCIATION PUBLIC DEPOSIT PROTECTION ACT", ARTICLE 47 OF TITLE 11, C.R.S.

SECTION 2. Accountability. Five years after this act becomes law and in accordance with section 2-2-1201, Colorado Revised Statutes, the legislative service agencies of the Colorado General Assembly shall conduct a post-enactment review of the implementation of this act utilizing the information contained in the legislative declaration set forth in section 1 of this act.

SECTION 3. No appropriation. The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

SECTION 4. Safety clause. The general assembly hereby finds,
determines, and declares that this act is necessary for the immediate
preservation of the public peace, health, and safety.