

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

March 28, 2013  
Date

Committee on Health, Insurance & Environment.

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

HB13-1245 be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation:

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

3           **"SECTION 1.** In Colorado Revised Statutes, 10-22-103, **amend**  
4 (5) and **add** (6), (7), (8), (9) (10), and (11) as follows:

5           **10-22-103. Definitions.** As used in this article, unless the context  
6 otherwise requires:

7           (5) ~~"Secretary" means the secretary of the United States~~  
8 ~~department of health and human services~~ "GROUP HEALTH PLAN" MEANS  
9 AN EMPLOYEE WELFARE BENEFIT PLAN AS DEFINED IN 29 U.S.C. SEC. 1002  
10 (1) OF THE FEDERAL "EMPLOYEE RETIREMENT INCOME SECURITY ACT OF  
11 1974" TO THE EXTENT THAT THE PLAN PROVIDES HEALTH CARE SERVICES,  
12 INCLUDING ITEMS AND SERVICES PAID FOR AS HEALTH CARE SERVICES, TO  
13 EMPLOYEES OR THEIR DEPENDENTS DIRECTLY OR THROUGH INSURANCE  
14 REIMBURSEMENT OR OTHERWISE. A "GROUP HEALTH PLAN" INCLUDES A  
15 GOVERNMENT OR CHURCH PLAN.

16           (6) "HEALTH BENEFIT PLAN" HAS THE SAME MEANING SET FORTH  
17 IN SECTION 10-16-102; EXCEPT THAT THE TERM INCLUDES A DENTAL PLAN.

18           (7) "INSURER" MEANS ANY ENTITY THAT PROVIDES GROUP HEALTH  
19 PLANS OR INDIVIDUAL HEALTH BENEFIT PLANS SUBJECT TO INSURANCE  
20 REGULATION IN THIS STATE, AS WELL AS ANY ENTITY THAT DIRECTLY OR  
21 INDIRECTLY PROVIDES STOP-LOSS OR EXCESS LOSS INSURANCE TO A  
22 SELF-INSURED GROUP HEALTH PLAN INCLUDING A PROPERTY AND  
23 CASUALTY INSURANCE COMPANY.

24           (8) "MEDICAID" MEANS FEDERAL INSURANCE OR ASSISTANCE AS

1 PROVIDED BY TITLE XIX OF THE FEDERAL "SOCIAL SECURITY ACT", AS  
2 AMENDED.

3 (9) "MEDICARE" MEANS FEDERAL INSURANCE OR ASSISTANCE AS  
4 PROVIDED BY TITLE XVIII OF THE FEDERAL "SOCIAL SECURITY ACT", AS  
5 AMENDED.

6 (10) "NUMBER OF LIVES INSURED" MEANS THE NUMBER OF  
7 EMPLOYEES AND RETIRED EMPLOYEES AND INDIVIDUAL POLICYHOLDERS  
8 OR SUBSCRIBERS IN THE INDIVIDUAL AND GROUP MARKETS ON MARCH 1  
9 OF THE PREVIOUS CALENDAR YEAR FOR WHICH A SPECIAL FEE IS BEING  
10 ASSESSED. FOR INSURERS PROVIDING STOP-LOSS, EXCESS LOSS, OR  
11 REINSURANCE, "NUMBER OF LIVES INSURED" DOES NOT INCLUDE  
12 EMPLOYEES, RETIRED EMPLOYEES, OR INDIVIDUAL POLICYHOLDERS OR  
13 SUBSCRIBERS WHO HAVE BEEN COUNTED BY THE PRIMARY INSURER OR  
14 PRIMARY REINSURER.

15 (11) "SECRETARY" MEANS THE SECRETARY OF THE UNITED STATES  
16 DEPARTMENT OF HEALTH AND HUMAN SERVICES.

17 **SECTION 2.** In Colorado Revised Statutes, 10-22-107, **amend**  
18 (1) and (7) as follows:

19 **10-22-107. Legislative health benefit exchange implementation**  
20 **review committee - creation - duties.** (1) For the purposes of guiding  
21 implementation of an exchange in Colorado, making recommendations  
22 to the general assembly, and ensuring that the interests of Coloradans are  
23 protected and furthered, there is hereby created the legislative health  
24 benefit exchange implementation review committee. The committee shall  
25 meet on or before August 1, 2011, and thereafter at the call of the chair  
26 ~~as often as~~ AT LEAST TWO TIMES DURING EACH CALENDAR YEAR, BUT NO  
27 MORE THAN five times during each calendar year. The committee may use  
28 the legislative council staff to assist its members in researching any  
29 matters.

30 (7) THE BOARD SHALL SEND THE COMMITTEE AN ANNUAL REPORT  
31 THAT CONTAINS THE FINANCIAL AND OPERATIONAL PLANS OF THE  
32 EXCHANGE. The committee shall review the financial and operational  
33 plans of the exchange.

34 **SECTION 3.** In Colorado Revised Statutes, **amend** 10-22-108 as  
35 follows:

36 **10-22-108. Moneys for implementation, operation, and**  
37 **sustainability of the exchange.** Moneys received by the board for the  
38 implementation of this article, AND FOR BUILDING RESERVES FOR THE  
39 OPERATION AND SUSTAINABILITY OF THE EXCHANGE PURSUANT TO  
40 SECTION 10-22-109, must be transferred directly to the exchange for the  
41 purposes of this article. The board shall deposit any moneys received in

1 a banking institution within or outside the state. Moneys from the general  
2 fund shall not be used for the implementation of this article, except for  
3 the sums specified in section 10-22-107 (3) and for legislative staff  
4 agency services. The ACCOUNT OF THE banking institution must be  
5 insured by the federal deposit insurance corporation and compliant with  
6 the "~~Savings and Loan Association~~ "Public Deposit Protection Act",  
7 article 47 10.5 of title 11, C.R.S.

8 **SECTION 4.** In Colorado Revised Statutes, **add** 10-22-109,  
9 10-22-110, and 10-22-111 as follows:

10 **10-22-109. Funding for the operation of the exchange and**  
11 **reserves - special fees - rules.** (1) ON AND AFTER JANUARY 1, 2014,  
12 AMONG OTHER FUNDING SOURCES DERIVED THROUGH THE OPERATION OF  
13 THE EXCHANGE, FUNDING FOR THE EXCHANGE MAY BE FROM THE  
14 FOLLOWING SOURCES:

15 (a) SPECIAL FEES ASSESSED AGAINST INSURERS AS PROVIDED IN  
16 SUBSECTION (2) OF THIS SECTION; AND

17 (b) ANY MONEYS ACCEPTED THROUGH GIFTS, GRANTS, OR  
18 DONATIONS RECEIVED BY THE BOARD FOR OPERATION, RESERVES, AND  
19 SUSTAINABILITY OF THE EXCHANGE, INCLUDING CONTRIBUTIONS RECEIVED  
20 PURSUANT TO THE PREMIUM TAX CREDIT ALLOCATION IN SECTION  
21 10-22-110.

22 (2)(a) ON AND AFTER JANUARY 1, 2014, THROUGH DECEMBER 31,  
23 2016, THE BOARD SHALL ASSESS SPECIAL FEES AGAINST INSURERS IN AN  
24 AMOUNT NECESSARY TO PROVIDE FUNDING FOR THE EXCHANGE. THE  
25 BOARD SHALL DETERMINE THE AMOUNT OF THE SPECIAL FEES BASED ON  
26 THE BOARD-APPROVED FINANCIAL PLAN AND ANTICIPATED BUDGETARY  
27 NEEDS FOR THE UPCOMING YEAR TO COMPLY WITH THIS ARTICLE AND  
28 ASSOCIATED FEDERAL REQUIREMENTS. THE SPECIAL FEES MUST NOT  
29 EXCEED ONE DOLLAR AND EIGHTY CENTS PER NUMBER OF LIVES INSURED  
30 PER MONTH; EXCEPT THAT THE SPECIAL FEES ASSESSED FOR LIVES INSURED  
31 UNDER DENTAL PLANS MUST NOT EXCEED EIGHTEEN CENTS PER NUMBER  
32 OF LIVES INSURED PER MONTH. THE BOARD SHALL USE SPECIAL FEES  
33 ASSESSED PURSUANT TO THIS SECTION FOR THE OPERATING EXPENSES OF  
34 THE EXCHANGE, THE RESERVES OF THE EXCHANGE, AND RELATED  
35 AGREEMENTS.

36 (b) THE BOARD SHALL USE ANY MONEY RECEIVED PURSUANT TO  
37 SECTION 10-8-536 (2), AS ENACTED IN HOUSE BILL 13-1115, ENACTED IN  
38 2013, FROM THE RESERVES OF COVERCOLORADO, AS CREATED BY PART 5  
39 OF ARTICLE 8 OF TITLE 10, TO OFFSET THE AMOUNT OF THE FEES ASSESSED  
40 AGAINST INSURERS PURSUANT TO THIS SUBSECTION (2); EXCEPT THAT THE  
41 MONEY RECEIVED MUST NOT BE USED TO OFFSET THE SPECIAL FEES PAID

1 BY DENTAL PLANS.

2 (c) AMOUNTS ASSESSED AGAINST INSURERS TO BE PAID TO THE  
3 EXCHANGE PURSUANT TO THIS SUBSECTION (2) ARE NOT CONSIDERED  
4 PREMIUMS FOR ANY PURPOSE, INCLUDING THE COMPUTATION OF GROSS  
5 PREMIUM TAX OR AGENTS'S COMMISSION.

6 (d) IF AN INSURER FAILS TO PAY THE SPECIAL ASSESSMENT FEE,  
7 THE COMMISSIONER MAY, AFTER PROPER NOTICE AND HEARING, SUSPEND  
8 OR REVOKE THE INSURER'S CERTIFICATE OF AUTHORITY TO TRANSACT  
9 INSURANCE BUSINESS IN THIS STATE.

10 (3) THE COMMISSIONER SHALL PROMULGATE RULES TO IMPLEMENT  
11 THIS SECTION THAT INCLUDE:

12 (a) THE REASONABLE TIME PERIODS FOR THE BILLING AND  
13 COLLECTION OF THE SPECIAL FEES; AND

14 (b) THE PROCESS FOR DETERMINING THE ALLOCATION OF THE  
15 ASSESSMENT AMONG INSURERS, INCLUDING THE PROCESS FOR OBTAINING  
16 ACCURATE INFORMATION ABOUT THE NUMBER OF POLICIES ISSUED AND  
17 LIVES INSURED BY A INSURER WITHIN THE SIX MONTHS PRIOR TO THE  
18 ASSESSMENT.

19 **10-22-110. Tax credit for contributions to the exchange -**  
20 **allocation notice - rules.** (1) (a) FOR THE TAX YEAR 2014 AND EACH TAX  
21 YEAR THEREAFTER, IS ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY  
22 SECTIONS 10-3-209 AND 10-6-128 TO ANY INSURANCE COMPANY THAT  
23 BECOMES A QUALIFIED TAXPAYER BY MAKING A CONTRIBUTION TO THE  
24 EXCHANGE PURSUANT TO THIS SECTION.

25 (b) A QUALIFIED TAXPAYER CLAIMING A CREDIT AGAINST PREMIUM  
26 TAX LIABILITY UNDER THIS SECTION IS NOT REQUIRED TO PAY ANY  
27 ADDITIONAL RETALIATORY TAX AS A RESULT OF CLAIMING THE CREDIT.

28 (2) THE COMMISSIONER MAY PROMULGATE RULES NECESSARY FOR  
29 THE ADMINISTRATION OF THE TAX CREDIT ALLOWED BY SUBSECTION (1)  
30 OF THIS SECTION IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.

31 (3) (a) SUBJECT TO PARAGRAPH (c) OF SUBSECTION (4) OF THIS  
32 SECTION, AN INSURANCE COMPANY SHALL BECOME A QUALIFIED  
33 TAXPAYER IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

34 (I) THE INSURANCE COMPANY DECLARES WITH ITS QUARTERLY TAX  
35 PAYMENT DUE ON OR ABOUT JULY 31 IN THE MANNER PRESCRIBED BY THE  
36 COMMISSIONER ITS INTENT TO CONTRIBUTE TO THE EXCHANGE ON OR  
37 BEFORE OCTOBER 31 AN AMOUNT OF MONEY EQUAL TO THE PREMIUM  
38 TAXES PAID BY THE COMPANY PURSUANT TO THE JULY 31 TAX PAYMENT  
39 OR A LESSER AMOUNT AS SPECIFIED BY THE COMMISSIONER IF REQUIRED  
40 PURSUANT TO PARAGRAPH (b) OF SUBSECTION (4) OF THIS SECTION;

41 (II) THE TOTAL AMOUNT OF THE TAX CREDITS GRANTED BY THE

1 COMMISSIONER DOES NOT EXCEED FIVE MILLION DOLLARS; AND  
2 (III) THE INSURANCE COMPANY RECEIVES AN ALLOCATION NOTICE  
3 FROM THE COMMISSIONER AND THE INSURANCE COMPANY MAKES THE  
4 CONTRIBUTION TO THE EXCHANGE AS SPECIFIED IN THE ALLOCATION  
5 NOTICE ON OR BEFORE OCTOBER 31.  
6 (b) SUBJECT TO PARAGRAPH (c) OF SUBSECTION (4) OF THIS  
7 SECTION, AN INSURANCE COMPANY BECOMES A QUALIFIED TAXPAYER MAY  
8 CLAIM THE TAX CREDIT ON ONE OR MORE SUBSEQUENT QUARTERLY OR  
9 ANNUAL TAX PAYMENTS BEGINNING ON OR ABOUT OCTOBER 31.  
10 (c) THE BOARD SHALL PROMPTLY NOTIFY THE COMMISSIONER  
11 WHEN IT RECEIVES A CONTRIBUTION PURSUANT TO THIS SECTION OF THE  
12 AMOUNT AND DATE OF THE CONTRIBUTION AND THE NAME OF THE  
13 CONTRIBUTOR.  
14 (4) (a) SUBJECT TO PARAGRAPH (c) OF THIS SUBSECTION (4), BY  
15 SEPTEMBER 30 OF EACH YEAR, THE COMMISSIONER SHALL:  
16 (I) SEND AN ALLOCATION NOTICE TO EACH INSURANCE COMPANY  
17 WHOSE DECLARATION OF INTENT TO CONTRIBUTE TO THE EXCHANGE HAS  
18 BEEN ACCEPTED PURSUANT TO THIS SUBSECTION (4). THE ALLOCATION  
19 NOTICE SHALL SPECIFY THE AMOUNT OF TAX CREDITS ALLOCATED TO THE  
20 INSURANCE COMPANY AND THE AMOUNT OF CASH THE INSURANCE  
21 COMPANY MUST CONTRIBUTE TO THE EXCHANGE BY OCTOBER 31, WHICH  
22 AMOUNTS SHALL BE IDENTICAL AND NOT EXCEED THE AMOUNT OF  
23 PREMIUM TAXES PAID BY THE INSURANCE COMPANY IN ITS QUARTERLY  
24 TAX PAYMENT DUE ON OR ABOUT JULY 31; AND  
25 (II) POST ON THE DIVISION'S WEB SITE WHETHER THE FULL AMOUNT  
26 OF TAX CREDITS AUTHORIZED TO BE ALLOCATED EACH YEAR HAS BEEN  
27 ALLOCATED.  
28 (b) SUBJECT TO PARAGRAPH (c) OF THIS SUBSECTION (4), THE  
29 COMMISSIONER SHALL ALLOCATE NO MORE THAN A TOTAL OF FIVE  
30 MILLION DOLLARS OF PREMIUM TAX CREDITS PER YEAR. THE  
31 COMMISSIONER SHALL ALLOCATE TO AN INSURANCE COMPANY THAT HAS  
32 DECLARED ITS INTENT TO CONTRIBUTE TO THE EXCHANGE PURSUANT TO  
33 THIS SECTION TAX CREDITS IN AN AMOUNT EQUAL TO THE AMOUNT OF  
34 PREMIUM TAXES PAID BY THE INSURANCE COMPANY IN ITS QUARTERLY  
35 TAX PAYMENT DUE ON OR ABOUT JULY 31 IN THE ORDER IN WHICH THE  
36 DIVISION RECEIVES SUCH QUARTERLY TAX PAYMENTS UNTIL THE FULL  
37 AMOUNT OF CREDITS AVAILABLE PURSUANT TO THIS SECTION HAS BEEN  
38 ALLOCATED; EXCEPT THAT, IF SUCH AMOUNT OF TAXES OR THE SUM OF ALL  
39 THE TAXES FILED BY ALL THE INSURANCE COMPANIES ON ANY ONE DAY  
40 WOULD EXCEED, SINGLY OR IN THE AGGREGATE, THE ANNUAL MAXIMUM  
41 AGGREGATE AMOUNT OF TAX CREDITS AVAILABLE UNDER THIS SECTION,

1 THE COMMISSIONER SHALL REDUCE THE ALLOCATION TO THE INSURANCE  
2 COMPANY WHOSE CONTRIBUTION FIRST EXCEEDS THE ANNUAL MAXIMUM  
3 AGGREGATE TO THE AMOUNT NEEDED TO SATISFY THE ANNUAL MAXIMUM  
4 AGGREGATE. IF THE COMMISSIONER IS UNABLE TO DETERMINE THE ORDER  
5 OF RECEIPT OF TAX PAYMENTS ON THAT DAY, THE COMMISSIONER SHALL  
6 ALLOCATE THE TAX CREDITS TO THE COMPANY OR AMONG THE COMPANIES  
7 ON A PRORATA BASIS BASED ON THE RATIO SUCH COMPANY'S QUARTERLY  
8 TAX PAYMENT BEARS TO THE TOTAL AMOUNT OF ALL SUCH COMPANIES'  
9 QUARTERLY TAX PAYMENTS UNTIL THE FULL AMOUNT OF CREDITS  
10 AVAILABLE PURSUANT TO THIS SECTION HAS BEEN ALLOCATED.

11 (c) (I) THE COMMISSIONER SHALL ALLOW INSURANCE COMPANIES  
12 TO DECLARE THEIR INTENT TO CONTRIBUTE TO THE EXCHANGE PURSUANT  
13 TO THIS SECTION ON THE INSURANCE COMPANIES' QUARTERLY TAX  
14 PAYMENTS DUE ON OR ABOUT OCTOBER 31 AND SHALL SEND SUCH  
15 COMPANIES ALLOCATION NOTICES BY FEBRUARY 1 IF:

16 (A) THE FULL AMOUNT OF TAX CREDITS AVAILABLE IN ANY ONE  
17 YEAR HAVE NOT BEEN FULLY ALLOCATED BY THE COMMISSIONER  
18 PURSUANT TO STATEMENTS OF INTENT FILED WITH INSURANCE COMPANIES'  
19 QUARTERLY TAX PAYMENTS DUE ON OR ABOUT JULY 31; OR

20 (B) THE TOTAL AMOUNT OF TAX CREDITS HAS BEEN CLAIMED, BUT  
21 ONE OR MORE INSURANCE COMPANIES FAILED TO TIMELY MAKE A  
22 CONTRIBUTION TO THE EXCHANGE.

23 (II) AN INSURANCE COMPANY THAT DECLARES ITS INTENT TO  
24 CONTRIBUTE TO THE EXCHANGE PURSUANT TO THIS PARAGRAPH (c) SHALL  
25 MAKE THE CONTRIBUTION TO THE EXCHANGE AS SPECIFIED IN THE  
26 ALLOCATION NOTICE ON OR BEFORE MARCH 1 AND MAY CLAIM THE TAX  
27 CREDIT ON ONE OR MORE SUBSEQUENT QUARTERLY OR ANNUAL TAX  
28 PAYMENTS DUE ON OR ABOUT MARCH 1.

29 (5) THE BOARD SHALL USE MONEYS CONTRIBUTED TO THE  
30 EXCHANGE PURSUANT TO THIS SUBSECTION (3) AND INTEREST DERIVED  
31 FROM THE DEPOSIT AND INVESTMENT OF THE MONEYS TO OPERATE AND  
32 SUSTAIN THE EXCHANGE AND TO BUILD RESERVES.

33 **10-22-111. Tax exemption.** THE EXCHANGE IS EXEMPT FROM ANY  
34 TAX LEVIED BY THIS STATE OR ANY OF ITS POLITICAL SUBDIVISIONS.

35 **SECTION 5. Safety clause.** The general assembly hereby finds,  
36 determines, and declares that this act is necessary for the immediate  
37 preservation of the public peace, health, and safety."

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