CHAPTER 381

INSURANCE

HOUSE BILL 19-1176

BY REPRESENTATIVE(S) Sirota and Jaquez Lewis, Benavidez, Singer, Arndt, Bird, Caraveo, Cutter, Duran, Exum, Galindo, Gonzales-Gutierrez, Gray, Herod, Hooton, Jackson, Kipp, Lontine, McCluskie, Melton, Michaelson Jenet, Mullica, Roberts, Snyder, Tipper, Valdez A., Weissman, Buckner, Buentello, McLachlan, Sullivan, Becker;
also SENATOR(S) Foote, Fenberg, Fields, Ginal, Gonzales, Priola, Story, Tate, Todd, Zenzinger.

AN ACT

CONCERNING THE ENACTMENT OF THE "HEALTH CARE COST SAVINGS ACT OF 2019" THAT CREATES A TASK FORCE TO ANALYZE HEALTH CARE FINANCING SYSTEMS IN ORDER TO GIVE THE GENERAL ASSEMBLY FINDINGS REGARDING THE SYSTEMS' COSTS OF PROVIDING ADEQUATE HEALTH CARE TO RESIDENTS OF THE STATE, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Health care costs continue to rise at unsustainable levels that exceed the rate of economic growth in the United States and that require increasingly large portions of the state's budget;

(b) Recent polls of Americans from all demographics indicate that access to affordable health care is a major concern for a substantial majority of those polled;

(c) Colorado's rural residents pay disproportionately higher premiums than urban residents for health insurance and often lack access to adequate health care services;

(d) According to a recent Colorado Health Institute study, there are approximately three hundred fifty thousand Coloradans without health insurance, and there are approximately eight hundred fifty thousand Coloradans who are underinsured in that their health insurance has high deductibles or other coinsurance requirements that result in unaffordable out-of-pocket expenditures; and

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Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(e) Coloradans need facts to determine the most cost-effective method of financing health care that ensures that all Coloradans have access to adequate and affordable health care.

SECTION 2. In Colorado Revised Statutes, **add** article 11 to title 25.5 as follows:

ARTICLE 11
Health Care Cost Savings Act

25.5-11-101. Short title. THE SHORT TITLE OF THIS ARTICLE 11 IS THE "HEALTH CARE COST SAVINGS ACT OF 2019".

25.5-11-102. Definitions. AS USED IN THIS ARTICLE 11, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

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

(3) "MEDICAID" MEANS THE PROGRAM ESTABLISHED PURSUANT TO THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES 4, 5, AND 6 OF THIS TITLE 25.5;

(4) "MEDICARE" MEANS FEDERAL INSURANCE OR ASSISTANCE AS PROVIDED BY TITLE XVIII OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, 42 U.S.C. SEC. 1395 ET SEQ.

(5) "PUBLIC OPTION SYSTEM" MEANS A HEALTH CARE SYSTEM UNDER WHICH EVERY RESIDENT OF THE STATE IS ABLE TO PURCHASE A HEALTH BENEFIT PLAN MANAGED BY THE STATE OR THROUGH THE HEALTH BENEFIT EXCHANGE.

(6) "TASK FORCE" MEANS THE HEALTH CARE COST ANALYSIS TASK FORCE CREATED IN SECTION 25.5-11-103.

(7) "UNIVERSAL HEALTH CARE" MEANS A HEALTH CARE SYSTEM UNDER WHICH EVERY RESIDENT OF THE STATE HAS ACCESS TO ADEQUATE AND AFFORDABLE HEALTH CARE.

25.5-11-103. Health care cost analysis task force - creation - membership - duties - reports. (1) THERE IS CREATED IN THE STATE DEPARTMENT THE HEALTH CARE COST ANALYSIS TASK FORCE FOR THE PURPOSE OF DEVELOPING COMPREHENSIVE FISCAL ANALYSES OF CURRENT AND ALTERNATIVE HEALTH CARE FINANCING SYSTEMS.

(2) (a) ON OR BEFORE SEPTEMBER 1, 2019, 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 MEMBER OF THE GENERAL ASSEMBLY TO THE TASK FORCE.

(b) ON OR BEFORE SEPTEMBER 1, 2019, THE GOVERNOR SHALL APPOINT FOUR MEMBERS TO THE TASK FORCE. IN MAKING THE APPOINTMENTS, THE GOVERNOR SHALL ENSURE THAT THE APPOINTEES:

(I) HAVE A DEMONSTRATED ABILITY TO REPRESENT THE INTERESTS OF ALL COLORADANS AND, REGARDLESS OF THE APPOINTEES' BACKGROUNDS OR AFFILIATIONS, ARE ABLE TO PRESENT OBJECTIVE, NONPARTISAN, FACTUAL, AND EVIDENCE-BASED IDEAS AND TO OBJECTIVELY ADVISE THE ANALYST CONCERNING THE HEALTH CARE FINANCING SYSTEMS; AND

(II) REFLECT THE SOCIAL, DEMOGRAPHIC, AND GEOGRAPHIC DIVERSITY OF THE STATE.

(c) THE EXECUTIVE DIRECTORS OF THE DEPARTMENT OF HUMAN SERVICES, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, AND THE STATE DEPARTMENT, THE COMMISSIONER OF INSURANCE, AND THE CHIEF EXECUTIVE OFFICER OF THE HEALTH BENEFIT EXCHANGE, OR THEIR DESIGNEES, SHALL SERVE ON THE TASK FORCE.

(3) THE TASK FORCE SHALL SELECT A CHAIR AND VICE-CHAIR FROM AMONG ITS MEMBERS. A MEMBER OF THE TASK FORCE APPOINTED PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION MAY BE REMOVED BY A MAJORITY VOTE OF THE REMAINING MEMBERS OF THE TASK FORCE. IF A VACANCY OCCURS ON THE TASK FORCE, THE ORIGINAL APPOINTING AUTHORITY SHALL APPOINT A NEW MEMBER TO FILL THE VACANCY.

(4) NONLEGISLATIVE TASK FORCE MEMBERS ARE NOT ENTITLED TO RECEIVE PER DIEM OR OTHER COMPENSATION FOR PERFORMANCE OF SERVICES FOR THE TASK FORCE BUT MAY BE REIMBURSED FOR ACTUAL AND NECESSARY EXPENSES WHILE ENGAGED IN THE PERFORMANCE OF OFFICIAL DUTIES OF THE TASK FORCE. LEGISLATIVE TASK FORCE MEMBERS ARE REIMBURSED PURSUANT TO SECTION 2-2-307 (3).

(5) THE TASK FORCE SHALL:

(a) ON OR BEFORE OCTOBER 1, 2019, ISSUE A COMPETITIVE SOLICITATION UNDER THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24, IN ORDER TO SELECT AN ANALYST TO PROVIDE A DETAILED ANALYSIS OF FISCAL COSTS AND OTHER IMPACTS OF THE HEALTH CARE FINANCING SYSTEMS SPECIFIED IN THIS ARTICLE 11;

(b) BY MAJORITY VOTE, SELECT AND CONTRACT WITH AN ANALYST WHO:

(I) HAS EXPERIENCE CONDUCTING HEALTH CARE COST ANALYSES;

(II) IS FAMILIAR WITH DIFFERENT METHODOLOGIES USED; AND

(III) IS, IN THE OPINION OF THE TASK FORCE, EMPLOYED BY AN ORGANIZATION THAT IS NONPARTISAN AND UNBIASED;

(c) ON OR BEFORE JANUARY 1, 2021, SUBMIT A PRELIMINARY REPORT TO THE GENERAL ASSEMBLY THAT CONTAINS THE ANALYST'S METHODOLOGY FOR STUDYING

THE HEALTH CARE FINANCING SYSTEMS SPECIFIED IN THIS ARTICLE 11; AND

(d) ON OR BEFORE SEPTEMBER 1, 2021, DELIVER TO THE GENERAL ASSEMBLY A FINAL REPORT OF THE TASK FORCE'S FINDINGS RECEIVED FROM THE ANALYST SELECTED PURSUANT TO THIS SECTION.

(6) IN CARRYING OUT ITS DUTIES PURSUANT TO THIS SECTION, THE TASK FORCE MAY HIRE STAFF AND CONSULTANTS FOR THE PURPOSES OF THIS ARTICLE 11.

(7) THE TASK FORCE IS SUBJECT TO ARTICLES 6 AND 72 OF TITLE 24.

25.5-11-104. Analyst - duties. (1) THE ANALYST SELECTED PURSUANT TO SECTION 25.5-11-103 (5) SHALL HOST AT LEAST THREE STAKEHOLDER MEETINGS IN DIFFERENT GEOGRAPHIC REGIONS OF THE STATE TO DETERMINE THE METHODOLOGY TO BE USED TO STUDY THE HEALTH CARE FINANCING SYSTEMS SPECIFIED IN SUBSECTION (2) OF THIS SECTION.

(2) THE ANALYST SHALL ANALYZE, AT A MINIMUM, THE FOLLOWING HEALTH CARE SYSTEMS:

(a) THE CURRENT COLORADO HEALTH CARE FINANCING SYSTEM IN WHICH RESIDENTS RECEIVE HEALTH CARE COVERAGE FROM PRIVATE INSURERS AND PUBLIC PROGRAMS OR ARE UNINSURED;

(b) A MULTI-PAYER UNIVERSAL HEALTH CARE SYSTEM IN WHICH ALL RESIDENTS OF COLORADO ARE COVERED UNDER A PLAN WITH A MANDATED SET OF BENEFITS THAT IS PUBLICLY AND PRIVATELY FUNDED AND ALSO PAID FOR BY EMPLOYER AND EMPLOYEE CONTRIBUTIONS; AND

(c) A PUBLICLY FINANCED AND PRIVATELY DELIVERED UNIVERSAL HEALTH CARE SYSTEM THAT DIRECTLY COMPENSATES PROVIDERS.

(3) THE ANALYST SHALL PREPARE A DETAILED ANALYSIS OF EACH HEALTH CARE FINANCING SYSTEM. EACH ANALYSIS MAY:

(a) INCLUDE THE FIRST, SECOND, FIFTH, AND TENTH YEAR COSTS;

(b) SET COMPENSATION FOR LICENSED HEALTH CARE PROVIDERS AT LEVELS THAT RESULT IN NET INCOME THAT WILL ATTRACT AND RETAIN NECESSARY HEALTH CARE PROVIDERS;

(c) INCLUDE HEALTH CARE BENEFITS REIMBURSED AT ONE HUNDRED TWENTY PERCENT OF MEDICARE RATES FOR RESIDENTS OF COLORADO WHO ARE TEMPORARILY LIVING OUT OF STATE;

(d) DEFINE, DESCRIBE, AND QUANTIFY THE NUMBER OF UNINSURED, UNDERINSURED, AND AT-RISK INSURED INDIVIDUALS IN EACH SYSTEM;

(e) INCLUDE IN EACH SYSTEM THE PROVISION OF BENEFITS THAT ARE THE SAME AS THE BENEFITS REQUIRED BY THE FEDERAL ACT;

(f) IDENTIFY HEALTH EXPENDITURES BY PAYER;

(g) IDENTIFY OUT-OF-POCKET CHARGES INCLUDING COINSURANCE, DEDUCTIBLES, AND COPAYMENTS;

(h) DESCRIBE HOW THE SYSTEM PROVIDES THE FOLLOWING:

(I) SERVICES REQUIRED BY THE FEDERAL ACT;

(II) MEDICARE-QUALIFIED SERVICES;

(III) MEDICAID SERVICES AND BENEFITS EQUAL TO OR GREATER THAN CURRENT SERVICES AND BENEFITS AND WITH EQUIVALENT PROVIDER COMPENSATION RATES;

(IV) MEDICAID SERVICES AND BENEFITS FOR INDIVIDUALS WITH DISABILITIES WHO DO NOT MEET ASSET OR INCOME QUALIFICATIONS, WHO HAVE THE RIGHT TO MANAGE THEIR OWN CARE, AND WHO HAVE THE RIGHT TO DURABLE MEDICAL EQUIPMENT;

(V) COVERAGE FOR WOMEN'S HEALTH CARE AND REPRODUCTIVE SERVICES;

(VI) VISION, HEARING, AND DENTAL SERVICES;

(VII) ACCESS TO PRIMARY SPECIALTY HEALTH CARE SERVICES IN RURAL COLORADO AND OTHER UNDERSERVED AREAS OR POPULATIONS; AND

(VIII) BEHAVIORAL, MENTAL HEALTH, AND SUBSTANCE USE DISORDERS SERVICES;

(i) PROVIDE A REVIEW OF EXISTING LITERATURE REGARDING THE COLLATERAL COSTS TO SOCIETY OF HIGH HEALTH CARE COSTS, WHICH MAY INCLUDE:

(I) THE COST OF EMERGENCY ROOM, URGENT CARE, AND INTENSIVE CARE TREATMENT FOR INDIVIDUALS WHO ARE UNABLE TO AFFORD PREVENTIVE OR PRIMARY CARE IN LOWER-COST SETTINGS;

(II) THE COST IN LOST TIME FROM WORK, DECREASED PRODUCTIVITY, OR UNEMPLOYMENT FOR INDIVIDUALS WHO, AS A RESULT OF BEING UNABLE TO AFFORD PREVENTIVE OR PRIMARY CARE, DEVELOP A MORE SEVERE, URGENT, OR DISABLING CONDITION;

(III) THE COST OF BANKRUPTCIES CAUSED BY UNAFFORDABLE MEDICAL EXPENSES, INCLUDING THE COST TO THE INDIVIDUALS WHO ARE FORCED TO FILE FOR BANKRUPTCY AND THE COST TO HEALTH CARE PROVIDERS THAT DO NOT GET PAID AS A RESULT;

(IV) THE COSTS TO AND EFFECTS ON INDIVIDUALS WHO DO NOT FILE BANKRUPTCIES BECAUSE OF MEDICAL EXPENSES AND WHO ARE FINANCIALLY DEPLETED BY THESE COSTS;

(V) MEDICAL COSTS CAUSED BY THE DIVERSION OF FUNDS FROM OTHER HEALTH DETERMINANTS, SUCH AS EDUCATION, SAFE FOOD SUPPLY, OR SAFE WATER SUPPLY;

AND

(VI) OTHER COLLATERAL COSTS AS DETERMINED BY THE TASK FORCE.

(4) THE ANALYST SHALL MODEL SUFFICIENT AND FAIR FUNDING SYSTEMS THAT MAY BE VIABLE FOR EACH SYSTEM STUDIED PURSUANT TO THIS SECTION THAT MAY RAISE REVENUE FROM:

(a) THE GENERAL FUND;

(b) FEDERAL WAIVERS AVAILABLE UNDER MEDICAID AND THE FEDERAL ACT, AS APPROPRIATE FOR EACH SYSTEM STUDIED;

(c) PROGRESSIVE INCOME TAXES;

(d) PAYROLL TAXES THAT MAY BE SPLIT BETWEEN EMPLOYER AND EMPLOYEE;

(e) OTHER TAXES; AND

(f) PREMIUMS BASED ON INCOME.

(5) THE ANALYST SHALL CARRY OUT THE DUTIES OF THIS SECTION TO THE EXTENT FEASIBLE WITH FUNDING PROVIDED THROUGH MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY AND WITH GIFTS, GRANTS, AND DONATIONS AND AS PRIORITIZED BY THE TASK FORCE.

25.5-11-105. Appropriation - gifts, grants, and donations. (1) FOR EACH FISCAL YEAR 2019-20 AND 2020-21, THE GENERAL ASSEMBLY MAY APPROPRIATE ONE HUNDRED THOUSAND DOLLARS TO THE STATE DEPARTMENT FOR THE IMPLEMENTATION OF THIS ARTICLE 11.

(2) THE STATE DEPARTMENT AND THE TASK FORCE MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, OR DONATIONS, INCLUDING IN-KIND DONATIONS, FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS ARTICLE 11.

(3) THE TASK FORCE MAY USE MONEY AVAILABLE PURSUANT TO SUBSECTIONS (1) AND (2) OF THIS SECTION FOR THE IMPLEMENTATION OF THIS ARTICLE 11 TO:

(a) COMPENSATE ANY NECESSARY STAFF AND CONSULTANTS HIRED PURSUANT TO SECTION 25.5-11-103 (6);

(b) PAY THE ANALYST SELECTED PURSUANT TO SECTION 25.5-11-103 (5) FOR THE COSTS ASSOCIATED WITH THE DEVELOPMENT OF THE METHODOLOGY AND ANALYSES CONDUCTED PURSUANT TO SECTION 25.5-11-104; AND

(c) REIMBURSE THE TASK FORCE MEMBERS' ACTUAL AND NECESSARY EXPENSES IN PERFORMING THEIR DUTIES.

25.5-11-106. Repeal of article. THIS ARTICLE 11 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2022.

SECTION 3. Appropriation. (1) For the 2019-20 state fiscal year, $92,649 is appropriated to the department of health care policy and financing. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) $5,200 for operating expenses; and

(b) $87,449 for general professional services and special projects.

(2) The general assembly has determined that staffing for the health care cost analysis task force created in section 25.5-11-103, C.R.S., can be implemented within existing appropriations, and therefore no separate appropriation of state money is necessary to carry out this purpose of the act.

(3) For the 2019-20 state fiscal year, $7,351 is appropriated to the legislative department for use by the general assembly. This appropriation is from the general fund. To implement this act, the general assembly may use this appropriation for per diem payments.

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.

Approved: May 31, 2019