

**First Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 13-0790.01 Kristen Forrestal x4217

**HOUSE BILL 13-1245**

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**HOUSE SPONSORSHIP**

**McCann,**

**SENATE SPONSORSHIP**

**Steadman,**

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**House Committees**

Health, Insurance & Environment  
Finance

**Senate Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING FUNDING MECHANISMS FOR THE COLORADO HEALTH**  
102     **BENEFIT EXCHANGE.**

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**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>.)*

On and after January 1, 2014, in order to fund the Colorado health benefit exchange, the bill allows:

- !       The health benefit exchange board of directors to assess against small group and individual health insurers in an amount necessary to provide for the sustainability of the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

- exchange; and
- ! A credit against the tax imposed against insurance companies to any insurance company that becomes a qualified taxpayer by making a contribution to the exchange.

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

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

4 **10-22-103. Definitions.** As used in this article, unless the context  
5 otherwise requires:

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

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

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

23 (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

1 the legislative council staff to assist its members in researching any  
2 matters.

3 (7) THE BOARD SHALL SEND THE COMMITTEE AN ANNUAL REPORT  
4 THAT CONTAINS THE FINANCIAL AND OPERATIONAL PLANS OF THE  
5 EXCHANGE. The committee shall review the financial and operational  
6 plans of the exchange.

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

9 **10-22-108. Moneys for implementation, operation, and**  
10 **sustainability of the exchange.** Moneys received by the board for the  
11 implementation of this article, AND FOR BUILDING RESERVES FOR THE  
12 OPERATION AND SUSTAINABILITY OF THE EXCHANGE PURSUANT TO  
13 SECTION 10-22-109, must be transferred directly to the exchange for the  
14 purposes of this article. The board shall deposit any moneys received in  
15 a banking institution within or outside the state. Moneys from the general  
16 fund shall not be used for the implementation of this article, except for  
17 the sums specified in section 10-22-107 (3) and for legislative staff  
18 agency services. The ACCOUNT OF THE banking institution must be  
19 insured by the federal deposit insurance corporation and compliant with  
20 the "~~Savings and Loan Association~~ "Public Deposit Protection Act",  
21 article ~~47~~ 10.5 of title 11, C.R.S.

22 **SECTION 4.** In Colorado Revised Statutes, **add** 10-22-109,  
23 10-22-110, and 10-22-111 as follows:

24 **10-22-109. Funding for the operation of the exchange and**  
25 **reserves - special fees - rules.** (1) ON AND AFTER JANUARY 1, 2014,  
26 AMONG OTHER FUNDING SOURCES DERIVED THROUGH THE OPERATION OF  
27 THE EXCHANGE, FUNDING FOR THE EXCHANGE MAY BE FROM THE

1 FOLLOWING SOURCES:

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

4 (b) ANY MONEYS ACCEPTED THROUGH GIFTS, GRANTS, OR  
5 DONATIONS RECEIVED BY THE BOARD FOR OPERATION, RESERVES, AND  
6 SUSTAINABILITY OF THE EXCHANGE, INCLUDING CONTRIBUTIONS RECEIVED  
7 PURSUANT TO THE PREMIUM TAX CREDIT ALLOCATION IN SECTION  
8 10-22-110.

9 (2) (a) ON AND AFTER JANUARY 1, 2014, THROUGH DECEMBER 31,  
10 2016, THE BOARD SHALL ASSESS SPECIAL FEES AGAINST INSURERS IN AN  
11 AMOUNT NECESSARY TO PROVIDE FUNDING FOR THE EXCHANGE. THE  
12 BOARD SHALL DETERMINE THE AMOUNT OF THE SPECIAL FEES BASED ON  
13 THE BOARD-APPROVED FINANCIAL PLAN AND ANTICIPATED BUDGETARY  
14 NEEDS FOR THE UPCOMING YEAR TO COMPLY WITH THIS ARTICLE AND  
15 ASSOCIATED FEDERAL REQUIREMENTS. THE SPECIAL FEES MUST NOT  
16 EXCEED ONE DOLLAR AND EIGHTY CENTS PER NUMBER OF LIVES INSURED  
17 PER MONTH; EXCEPT THAT THE SPECIAL FEES ASSESSED FOR LIVES INSURED  
18 UNDER DENTAL PLANS MUST NOT EXCEED EIGHTEEN CENTS PER NUMBER  
19 OF LIVES INSURED PER MONTH. THE BOARD SHALL USE SPECIAL FEES  
20 ASSESSED PURSUANT TO THIS SECTION FOR THE OPERATING EXPENSES OF  
21 THE EXCHANGE, THE RESERVES OF THE EXCHANGE, AND RELATED  
22 AGREEMENTS.

23 (b) THE BOARD SHALL USE ANY MONEY RECEIVED PURSUANT TO  
24 SECTION 10-8-536 (2), AS ENACTED IN HOUSE BILL 13-1115, ENACTED IN  
25 2013, FROM THE RESERVES OF COVERCOLORADO, AS CREATED BY PART 5  
26 OF ARTICLE 8 OF TITLE 10, TO OFFSET THE AMOUNT OF THE FEES ASSESSED  
27 AGAINST INSURERS PURSUANT TO THIS SUBSECTION (2); EXCEPT THAT THE

1 MONEY RECEIVED MUST NOT BE USED TO OFFSET THE SPECIAL FEES PAID  
2 BY DENTAL PLANS.

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

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

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

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

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

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

26 (b) A QUALIFIED TAXPAYER CLAIMING A CREDIT AGAINST PREMIUM  
27 TAX LIABILITY UNDER THIS SECTION IS NOT REQUIRED TO PAY ANY

1 ADDITIONAL RETALIATORY TAX AS A RESULT OF CLAIMING THE CREDIT.

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

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

8 (I) THE INSURANCE COMPANY DECLARES WITH ITS QUARTERLY TAX  
9 PAYMENT DUE ON OR ABOUT JULY 31 IN THE MANNER PRESCRIBED BY THE  
10 COMMISSIONER ITS INTENT TO CONTRIBUTE TO THE EXCHANGE ON OR  
11 BEFORE OCTOBER 31 AN AMOUNT OF MONEY EQUAL TO THE PREMIUM  
12 TAXES PAID BY THE COMPANY PURSUANT TO THE JULY 31 TAX PAYMENT  
13 OR A LESSER AMOUNT AS SPECIFIED BY THE COMMISSIONER IF REQUIRED  
14 PURSUANT TO PARAGRAPH (b) OF SUBSECTION (4) OF THIS SECTION;

15 (II) THE TOTAL AMOUNT OF THE TAX CREDITS GRANTED BY THE  
16 COMMISSIONER DOES NOT EXCEED FIVE MILLION DOLLARS; AND

17 (III) THE INSURANCE COMPANY RECEIVES AN ALLOCATION NOTICE  
18 FROM THE COMMISSIONER AND THE INSURANCE COMPANY MAKES THE  
19 CONTRIBUTION TO THE EXCHANGE AS SPECIFIED IN THE ALLOCATION  
20 NOTICE ON OR BEFORE OCTOBER 31.

21 (b) SUBJECT TO PARAGRAPH (c) OF SUBSECTION (4) OF THIS  
22 SECTION, AN INSURANCE COMPANY BECOMES A QUALIFIED TAXPAYER MAY  
23 CLAIM THE TAX CREDIT ON ONE OR MORE SUBSEQUENT QUARTERLY OR  
24 ANNUAL TAX PAYMENTS BEGINNING ON OR ABOUT OCTOBER 31.

25 (c) THE BOARD SHALL PROMPTLY NOTIFY THE COMMISSIONER  
26 WHEN IT RECEIVES A CONTRIBUTION PURSUANT TO THIS SECTION OF THE  
27 AMOUNT AND DATE OF THE CONTRIBUTION AND THE NAME OF THE

1 CONTRIBUTOR.

2 (4) (a) SUBJECT TO PARAGRAPH (c) OF THIS SUBSECTION (4), BY  
3 SEPTEMBER 30 OF EACH YEAR, THE COMMISSIONER SHALL:

4 (I) SEND AN ALLOCATION NOTICE TO EACH INSURANCE COMPANY  
5 WHOSE DECLARATION OF INTENT TO CONTRIBUTE TO THE EXCHANGE HAS  
6 BEEN ACCEPTED PURSUANT TO THIS SUBSECTION (4). THE ALLOCATION  
7 NOTICE SHALL SPECIFY THE AMOUNT OF TAX CREDITS ALLOCATED TO THE  
8 INSURANCE COMPANY AND THE AMOUNT OF CASH THE INSURANCE  
9 COMPANY MUST CONTRIBUTE TO THE EXCHANGE BY OCTOBER 31, WHICH  
10 AMOUNTS SHALL BE IDENTICAL AND NOT EXCEED THE AMOUNT OF  
11 PREMIUM TAXES PAID BY THE INSURANCE COMPANY IN ITS QUARTERLY  
12 TAX PAYMENT DUE ON OR ABOUT JULY 31; AND

13 (II) POST ON THE DIVISION'S WEB SITE WHETHER THE FULL AMOUNT  
14 OF TAX CREDITS AUTHORIZED TO BE ALLOCATED EACH YEAR HAS BEEN  
15 ALLOCATED.

16 (b) SUBJECT TO PARAGRAPH (c) OF THIS SUBSECTION (4), THE  
17 COMMISSIONER SHALL ALLOCATE NO MORE THAN A TOTAL OF FIVE  
18 MILLION DOLLARS OF PREMIUM TAX CREDITS PER YEAR. THE  
19 COMMISSIONER SHALL ALLOCATE TO AN INSURANCE COMPANY THAT HAS  
20 DECLARED ITS INTENT TO CONTRIBUTE TO THE EXCHANGE PURSUANT TO  
21 THIS SECTION TAX CREDITS IN AN AMOUNT EQUAL TO THE AMOUNT OF  
22 PREMIUM TAXES PAID BY THE INSURANCE COMPANY IN ITS QUARTERLY  
23 TAX PAYMENT DUE ON OR ABOUT JULY 31 IN THE ORDER IN WHICH THE  
24 DIVISION RECEIVES SUCH QUARTERLY TAX PAYMENTS UNTIL THE FULL  
25 AMOUNT OF CREDITS AVAILABLE PURSUANT TO THIS SECTION HAS BEEN  
26 ALLOCATED; EXCEPT THAT, IF SUCH AMOUNT OF TAXES OR THE SUM OF ALL  
27 THE TAXES FILED BY ALL THE INSURANCE COMPANIES ON ANY ONE DAY



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

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

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

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

25 (II) AN INSURANCE COMPANY THAT DECLARES ITS INTENT TO  
26 CONTRIBUTE TO THE EXCHANGE PURSUANT TO THIS PARAGRAPH (c) SHALL  
27 MAKE THE CONTRIBUTION TO THE EXCHANGE AS SPECIFIED IN THE

1 ALLOCATION NOTICE ON OR BEFORE MARCH 1 AND MAY CLAIM THE TAX  
2 CREDIT ON ONE OR MORE SUBSEQUENT QUARTERLY OR ANNUAL TAX  
3 PAYMENTS DUE ON OR ABOUT MARCH 1.

4 (5) THE BOARD SHALL USE MONEYS CONTRIBUTED TO THE  
5 EXCHANGE PURSUANT TO THIS SUBSECTION (3) AND INTEREST DERIVED  
6 FROM THE DEPOSIT AND INVESTMENT OF THE MONEYS TO OPERATE AND  
7 SUSTAIN THE EXCHANGE AND TO BUILD RESERVES.

8 **10-22-111. Tax exemption.** THE EXCHANGE IS EXEMPT FROM ANY  
9 TAX LEVIED BY THIS STATE OR ANY OF ITS POLITICAL SUBDIVISIONS.

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