Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO
INTRODUCED

LLS NO. 14-0632.01 Christy Chase x2008

SENATE BILL 14-187

SENATE SPONSORSHIP
Aguilar and Roberts,

HOUSE SPONSORSHIP
Stephens and Schafer,

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 CONCERNING CREATION OF THE COLORADO COMMISSION ON
102 AFFORDABLE HEALTH CARE TO ANALYZE HEALTH CARE COSTS
103 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 commission on affordable health care and tasks the commission with studying and making recommendations regarding health care costs, focusing on evidence-based cost controls and access and quality of care. The governor and legislative leadership from
both houses and parties are to appoint the 12-member commission, assuring representation from across the state and by individuals with expertise in various subject areas, including health care administration, financing, delivery, and consumption. Additionally, the commissioner of insurance, the executive directors of the departments of public health and environment, human services, and health care policy and financing, and an administrator from the all-payer health claims database serve as ex officio, nonvoting members of the commission.

The commission is to make recommendations regarding legislative and regulatory modifications that could make health care affordable while improving access and quality of health care.

The commission may hire staff to facilitate its work and may request the office of legislative legal services to provide staff to attend commission meetings and provide support for the commission's activities. The commission is authorized to accept gifts, grants, and donations to fund the commission's duties. Additionally, for the 2014-15 fiscal year, the general assembly is to appropriate $400,000 to the commission. The commission is repealed on July 1, 2017.

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

SECTION 1. In Colorado Revised Statutes, add article 45 to title 25 as follows:

ARTICLE 45
Colorado Commission on Affordable Health Care

25-45-101. Legislative declaration. (1) The general assembly finds and declares that:
(a) Ensuring access to quality affordable health care is of paramount concern to the citizens of Colorado;
(b) Improving the affordability of health care involves a comprehensive examination of and recommendations regarding the major and fundamental drivers of health care costs;
(c) Current commitments of the department of health care policy and financing require the expenditure of a significant percentage of the annual state budget on health
CARE;

(d) INCREASED COSTS OF HEALTH CARE WILL REQUIRE THAT AN
EVEN GREATER PERCENTAGE OF THE STATE BUDGET BE DEDICATED TO
HEALTH CARE COSTS, CONSTRAINING THE PRIVATE SECTOR BY
RESTRICTING AVAILABLE DOLLARS FOR INFRASTRUCTURE IMPROVEMENT
AND EXPANSION AND HAMPERING COLORADO'S ECONOMIC
COMPETITIVENESS;

(e) FACTORS THAT MAY CONTRIBUTE TO ESCALATING HEALTH
CARE COSTS INCLUDE:

(I) PAYMENTS THAT REWARD VOLUME OF SERVICES RATHER THAN
OUTCOMES;

(II) LACK OF TRANSPARENT INFORMATION ABOUT PRICES;

(III) INSUFFICIENT TYPE AND DISTRIBUTION OF PROVIDERS;

(IV) LACK OF COORDINATION AMONG PROVIDERS;

(V) HIGH AND REDUNDANT ADMINISTRATIVE COSTS;

(VI) POOR QUALITY OF CARE;

(VII) INEFFECTIVE DELIVERY OF CARE;

(VIII) PATIENT NONCOMPLIANCE;

(IX) LIFESTYLE;

(X) POPULATION DEMOGRAPHICS;

(XI) LACK OF COMPETITION;

(XII) FRAUD, WASTE, AND ABUSE; AND

(XIII) MISSED PREVENTION OPPORTUNITIES;

(f) PRIVATE SECTOR INITIATIVES ALREADY EXIST TO ANALYZE
COSTS AND IMPROVE QUALITY OF HEALTH CARE IN COLORADO, BUT THEY
LACK THE VISIBILITY AND EMPHASIS THAT A LEGISLATIVE FOCUS WILL
PROVIDE;
It is in the best interests of the public that the General Assembly require a comprehensive, evidence-based analysis of the major cost drivers in health care and the effectiveness of strategies for controlling expenditures, including:

(I) Prevention programs;

(II) Access to health care providers;

(III) New approaches to delivering and paying for health care;

(IV) Ways to improve health industry laws and reduce unnecessary or redundant regulations;

(V) The effectiveness of insurance laws; and

(VI) Other policies and market initiatives to make health care more affordable while improving patient care; and

Therefore, the General Assembly is enacting this article to form a Commission of experts in health care administration, financing, delivery and consumption, and other pertinent disciplines to engage in analysis of health care costs in this state and make recommendations for action to the Governor, the Senate Committee on Health and Human Services or its successor committee, and the House of Representatives Committee on Health, Insurance, and Environment and Public Health Care and Human Services or their successor committees.

25-45-102. Definitions. As used in this article:

(1) "Commission" means the Colorado Commission on Affordable Health Care established under section 25-45-103.

(2) "Fund" means the Colorado Commission on Affordable Health Care Cash Fund created in section 25-45-105.
(3) "HIPAA" means the federal "Health Insurance Portability and Accountability Act of 1996", Pub. L. 104-191, as amended.

(4) "HIPAA covered entity" means an entity defined as a "covered entity" under HIPAA.

(5) "HITECH Act" means the federal "Health Information Technology for Economic and Clinical Health Act", Pub. L. 111-5, as amended.

(6) "Medicaid program" means the program established under the "Colorado Medical Assistance Act", article 4 to 6 of title 25.5, C.R.S.

25-45-103. Colorado commission on affordable health care - creation - membership - operation. (1) There is hereby created the Colorado commission on affordable health care, which has the powers and duties specified in this article.

(2) (a) The commission consists of:

(I) Twelve voting members as follows:

(A) One person representing hospitals, recommended by a statewide association of hospitals;

(B) Two health care providers who are not employed by a hospital, only one of whom is a physician. The physician must be recommended by a statewide society or association whose membership includes at least one-third of the doctors of medicine or osteopathy licensed in the state.

(C) Two representatives from organizations representing consumers, at least one of whom understands consumers with chronic medical conditions;
(D) One individual representing small Colorado businesses and one individual representing self-insured large Colorado businesses, neither of whom is or represents a payer, health care provider, or health care facility; 

(E) One health care economist; 

(F) One representative of carriers offering health plans in this state; 

(G) One representative of licensed health insurance producers; 

(H) One person with expertise in health care payment and delivery; and 

(I) One person with expertise in public health and the provision of health care to populations with low incomes and significant health care needs; and 

(II) Five nonvoting, ex officio members as follows: 

(A) The commissioner of insurance; 

(B) The executive directors of the departments of public health and environment, human services, and health care policy and financing or their designees; and 

(C) A representative of the all-payer health claims database established under section 25.5-1-204, C.R.S. 

(b) The governor shall appoint four of the voting members described in subparagraph (I) of paragraph (a) of this subsection (2) to the commission. The president and minority leader of the senate and the speaker and minority leader of the house of representatives each shall appoint two of the voting members described in subparagraph (I) of paragraph (a) of this subsection
(2) TO THE COMMISSION, NONE OF WHOM MAY BE CURRENT MEMBERS OF
THE GENERAL ASSEMBLY. THE GOVERNOR SHALL COORDINATE
APPOINTMENTS WITH THE PRESIDENT, SPEAKER, AND MINORITY LEADERS
TO ENSURE REPRESENTATION AS SPECIFIED IN SUBPARAGRAPH (I) OF
PARAGRAPH (a) OF THIS SUBSECTION (2) AND, TO THE EXTENT POSSIBLE,
FROM RURAL AND URBAN REGIONS OF THE STATE AND FROM AT LEAST
THREE DIFFERENT CONGRESSIONAL DISTRICTS IN THE STATE. NOT MORE
THAN SIX OF THE TWELVE VOTING MEMBERS MAY BE FROM THE SAME
POLITICAL PARTY.

(c) THE APPOINTING AUTHORITIES SHALL NAME THE INITIAL
MEMBERS TO THE COMMISSION BY JULY 7, 2014. MEMBERS OF THE
COMMISSION MAY BE REMOVED BY THEIR RESPECTIVE APPOINTING
AUTHORITIES FOR CAUSE. IF A VACANCY OCCURS ON THE COMMISSION, THE
APPOINTING AUTHORITY FOR THE MEMBER WHOSE POSITION IS VACATED
SHALL APPOINT A MEMBER TO FILL THE VACANT POSITION.

(d) THE COMMISSION SHALL SELECT A CHAIR AND VICE-CHAIR OF
THE COMMISSION FROM ITS MEMBERSHIP.

(3) MEMBERS OF THE COMMISSION SERVE WITHOUT
COMPENSATION BUT MAY BE REIMBURSED FOR THEIR ACTUAL AND
NECESSARY TRAVEL EXPENSES INCURRED IN THE PERFORMANCE OF THEIR
OFFICIAL DUTIES.

(4) THE COMMISSION MAY ESTABLISH BYLAWS AS APPROPRIATE
FOR ITS EFFECTIVE OPERATION.

(5) THE CHAIR OF THE COMMISSION SHALL ESTABLISH A SCHEDULE
FOR COMMISSION MEETINGS. THE COMMISSION SHALL MEET AT LEAST
ONCE A MONTH ON AVERAGE.

(6) MEMBERS OF THE COMMISSION, STAFF, AND CONSULTANTS ARE
NOT LIABLE FOR AN ACT OR OMISSION IN THEIR OFFICIAL CAPACITY PERFORMED IN GOOD FAITH IN ACCORDANCE WITH THIS ARTICLE.

(7) (a) **The** **commission** **is** **exempt** **from** **the** "**Procurement Code**, articles 101 to 112 of title 24, C.R.S.

(b) (I) **Except** **as** **provided** **in** **subparagraph** **(II)** **of** **this paragraph** (b), the commission is subject to the open meetings law, part 4 of article 6 of title 24, C.R.S., and the "Colorado Open Records Act", part 2 of article 72 of title 24, C.R.S.

(II) **Members** **of** **the** **commission** **may** **convene** **in** **groups** **of no** **more** **than** **five** **members** **for** **the** **following** **purposes** **without complying** **with** **the** **open** **meetings** **law** **as** **long** **as** **no** **formal action** **is** **taken** **at** **the** **meeting**:

(A) **To** **gather** **and** **understand** **data**; **or**

(B) **To** **organize** **and** **plan** **for** **the** **business** **of** **the commission**.

25-45-104. **Duties** **of** **commission** **-** **mission** **-** **staffing** **-** **report**.

(1) **The** **mission** **of** **the** **commission** **is** **to** **ensure** **that** **Coloradans have** **access** **to** **affordable** **health** **care** **in** **Colorado. The commission** shall **focus** its **recommendations** **on** **evidence-based cost** **control**, **access**, **and** **quality** **improvement** **initiatives** **and the** **cost-effective expenditure** **of** **limited** **state** **moneys** **to improve** **the** **health** **of** **the** **state’s** **population**.

(2) **The** **commission** **has** **the** **following** **powers** **and** **duties**:

(a) **To** **identify**, **examine**, **and** **report** **on** **the** **principal health** **care** **cost** **drivers** **for** **Colorado** **businesses** **and** **their employees**, **individuals** **who** **purchase** **their** **own** **health insurance**, **Colorado’s** **Medicaid** **program**, **and** **the** **uninsured...
BASED ON DATA-DRIVEN, EVIDENCE-BASED ANALYSES;

(b) TO CONDUCT EMPIRICAL ANALYSIS OF AND COLLECT DATA ON
EVIDENCE-BASED INITIATIVES DESIGNED TO REDUCE HEALTH CARE COSTS
WHILE MAINTAINING OR IMPROVING ACCESS TO AND QUALITY OF CARE;

(c) TO ANALYZE THE IMPACT OF INCREASED AVAILABILITY OF
INFORMATION ON HEALTH CARE PRICING, COST, AND QUALITY ON
PROVIDER, PAYER, PURCHASER, AND CONSUMER BEHAVIOR;

(d) TO ANALYZE THE IMPACT THAT OUT-OF-POCKET COSTS AND
HIGH DEDUCTIBLE HEALTH PLANS HAVE ON PATIENT SPENDING,
UNCOMPENSATED CARE, OUTCOMES, AND ACCESS TO CARE;

(e) TO EXAMINE ACCESS TO CARE AND ITS IMPACT ON HEALTH
CARE COSTS, INCLUDING THE ADEQUACY, COMPOSITION, AND
DISTRIBUTION OF COLORADO'S HEALTH CARE WORKFORCE;

(f) TO REVIEW REPORTS AND STUDIES FOR POTENTIAL
IMPLEMENTATION, INCLUDING REPORTS, STUDIES, WORK, AND RESOURCES
COMPiled BY COLORADO ORGANIZATIONS, OUT-OF-STATE
ORGANIZATIONS, THE FORMER BLUE RIBBON COMMISSION FOR HEALTH
CARE REFORM ESTABLISHED PURSUANT TO SENATE BILL 06-208, ENACTED
IN 2006, THE ACCOUNTABLE CARE COLLABORATIVE PROGRAM IN THE
DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, THE COLORADO
FOUNDATION FOR MEDICAL CARE OR ITS SUCCESSOR ENTITY, AND
COLORADO'S STATE HEALTH INNOVATION PLAN DEVELOPED THROUGH THE
STATE INNOVATION MODEL Project;

(g) TO COLLECT DATA, INCLUDING RATE REVIEW PROCESS DATA,
FROM THE DIVISION OF INSURANCE AND PAYMENT INFORMATION FROM THE
DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, FOR WHICH THE
COMMISSION SHALL PAY THE DIVISION'S AND DEPARTMENT'S DATA
GATHERING COSTS IF THE DATA ARE NOT ALREADY AVAILABLE IN AN
ACCESSIBLE FORMAT;

(h) TO REVIEW THE IMPACT A GROWING MEDICAID POPULATION
HAS ON HEALTH CARE COSTS, ACCESS TO CARE, AND COMMERCIAL
INSURANCE;

(i) TO REVIEW THE FOLLOWING, AS PUBLICLY AVAILABLE AND
SUBJECT TO PAYMENT OF COSTS FOR GATHERING INFORMATION AS
NECESSARY:

(I) PRICING TRANSPARENCY;

(II) DOCTOR AND HOSPITAL NETWORKS;

(III) DRUG FORMULARIES;

(IV) COINSURANCE, COPAYMENTS, AND DEDUCTIBLES; AND

(V) HEALTH PLAN AVAILABILITY;

(j) TO WORK WITH OTHER COLORADO BOARDS, TASK FORCES,
COMMISSIONS, OR OTHER ENTITIES OR ORGANIZATIONS THAT STUDY OR
ADDRESS HEALTH CARE COSTS, ACCESS, AND QUALITY TO ENSURE THAT
THE COMMISSION'S EFFORTS ARE FULLY INTEGRATED AND COORDINATED
WITH ONGOING COST CONTAINMENT AND PAYMENT REFORM EFFORTS;

(k) TO ENTER INTO BUSINESS ASSOCIATE AGREEMENTS WITH
HIPAA COVERED ENTITIES;

(l) TO MAKE RECOMMENDATIONS ABOUT OTHER PUBLIC OR
PRIVATE ENTITIES THAT SHOULD CONTINUE TO STUDY HEALTH CARE COST
DRIVERS IN COLORADO; AND

(m) ANY OTHER POWERS OR DUTIES NECESSARY TO FULFILL ITS
MISSION.

(3) RECOMMENDATIONS OF THE COMMISSION FOR PRIVATE SECTOR
ACTIONS, MARKET-BASED INITIATIVES, AND POLICY INTERVENTIONS THAT
CAN CONTROL COSTS WHILE MAINTAINING ACCESS TO AND QUALITY OF
HEALTH CARE MUST BE CENTERED ON EVIDENCE-BASED ANALYSIS AND
DATA. THE COMMISSION SHALL PRIORITIZE AREAS FOR ACTION BASED ON
THE POTENTIAL IMPACT ON HEALTH CARE COSTS.

(4) (a) The commission shall create advisory committees
that focus on specific subject matters and make
recommendations to the full commission. The chair of the
commission shall appoint members of the commission to serve on
advisory committees and shall appoint a commission member as
chair of each advisory committee formed pursuant to this
subsection (4).

(b) The chair of an advisory committee shall select
interested members of the community who are not members of
the commission to serve on the advisory committee he or she
chairs. When appointing noncommission members to an advisory
committee, the chair of the advisory committee shall ensure
representation from broad and diverse interests. Noncommission
members of an advisory committee serve without compensation
or reimbursement of expenses.

(5) The commission may respond to inquiries referred by
members of the general assembly, the governor, businesses, or
consumers, as resources allow.

(6) (a) Upon the request of the commission, the office of
legislative legal services, created in section 2-3-501, C.R.S.,
shall provide staff to attend meetings of the commission and
provide support for the activities and duties of the commission
and its advisory committees.
(b) The Commission may hire staff to facilitate its work, including an administrator and other staff as necessary to collect evidence-based research, analysis, and modeling to inform the Commission about cost drivers and cost containment approaches.

(c) As funds allow, the Commission may also contract with:

(I) Nonpartisan, independent contractors to provide resources for data collection, research, analysis, and publication of the Commission's findings and reports; and

(II) Health care cost experts to advise the Commission.

(d) The administrator of the all-payer health claims database established under section 25.5-1-204, C.R.S., shall make claims data available to the Commission and may charge the Commission the actual cost of collecting the data, which data may include custom reports, de-identified and limited data sets, and other data the Commission may require. The Commission may provide the data from the all-payer health claims database to the Commission's staff and third-party independent contractors to enable them to perform analyses to support the Commission in performing its duties. Release and subsequent use of data from the all-payer health claims database, as well as any other personal health information the Commission obtains, and analyses of that data must be conducted:

(I) In compliance with HIPAA, the HITECH Act, and antitrust compliance criteria developed and interpreted jointly by the United States department of justice and the federal
TRADE COMMISSION; AND

(II) UNDER THE TERMS OF A HIPAA-COMPLIANT DATA USE AGREEMENT.

(7) IN ADDITION TO ITS REGULAR MEETINGS, THE COMMISSION SHALL HOLD PUBLIC HEARINGS TO SOLICIT INPUT ON HEALTH COST DRIVERS AND WAYS TO CONTROL HEALTH CARE COSTS. THE COMMISSION SHALL ACCEPT WRITTEN AND ORAL TESTIMONY AND SHALL CONDUCT AT LEAST ONE PUBLIC HEARING IN EACH CONGRESSIONAL DISTRICT IN THE STATE.


(b) WITH REGARD TO ANY LEGISLATIVE RECOMMENDATIONS
CONTAINED IN ITS REPORT, THE COMMISSION SHALL SPECIFY THE LAWS
THAT NEED TO BE CREATED, AMENDED, OR REPEALED TO ENSURE THAT
HEALTH CARE REMAINS AFFORDABLE AND ACCESSIBLE IN COLORADO. THE
COMMISSION SHALL ONLY SUBMIT TO THE GENERAL ASSEMBLY
LEGISLATIVE RECOMMENDATIONS THAT RECEIVED APPROVAL OF AT LEAST
TWO-THIRDS OF THE VOTING MEMBERS OF THE COMMISSION.

(c) THE COMMISSION SHALL SUBMIT A FINAL REPORT TO THE
GOVERNOR AND THE COMMITTEES SPECIFIED IN PARAGRAPH (a) OF THIS
SUBSECTION (8) BY JUNE 30, 2017, DETAILING THE WORK OF THE
COMMISSION AND THE FINAL OUTCOME OF ITS EFFORTS.

(9) NOTHING IN THIS SECTION, NOR IN ANY RECOMMENDATIONS OF
THE COMMISSION, ALTERS THE DEPARTMENT OF HEALTH CARE POLICY AND
FINANCING'S FINAL POLICY DECISION-MAKING AUTHORITY, PURSUANT TO
FEDERAL REGULATIONS, FOR THE MEDICAID PROGRAM AND THE
CHILDREN'S BASIC HEALTH PLAN ESTABLISHED UNDER THE "CHILDREN'S
BASIC HEALTH PLAN ACT", ARTICLE 8 OF TITLE 25.5, C.R.S.

25-45-105. Colorado commission on affordable health care
cash fund - creation - funding sources - use of fund. (1) (a) THERE IS
HEREBY CREATED THE COLORADO COMMISSION ON AFFORDABLE HEALTH
care cash fund. The fund consists of moneys appropriated by the
general assembly to the fund and any gifts, grants, or
donations from private or public sources made to the commission
for the purposes of this article.

(b) MONEYS IN THE FUND ARE CONTINUOUSLY APPROPRIATED TO
THE COMMISSION FOR THE PURPOSES OF THIS ARTICLE. THE STATE
TREASURER SHALL CREDIT TO THE FUND ALL INTEREST AND INCOME
DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND.
ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF ANY FISCAL YEAR REMAIN IN THE FUND AND MUST NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

(c) The commission may solicit and accept gifts, grants, or donations, including in-kind donations, from any source for the purposes of this article.

(d) For the 2014-15 fiscal year, the General Assembly shall appropriate four hundred thousand dollars to the fund.

(2) The commission may use moneys in the fund for the implementation of this article and in furtherance of the commission's mission, including:

(a) To compensate the commission's staff and independent contractors;

(b) To pay the costs of obtaining data and analyses from organizations and entities, including the all-payer health claims database; and

(c) Paying the commission members' necessary expenses in performing their duties.

25-45-106. Repeal. This article is repealed, effective July 1, 2017, unless the General Assembly, acting by bill, extends the article beyond that date.

SECTION 2. 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.