

SB063\_L.002

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Business, Labor, & Technology.

SB21-063 be amended as follows:

1 Amend printed bill, page 2, line 3, strike everything after "introductory"  
2 and substitute "portion; and **add** (7)(d) as follows:".

3 Page 2, strike lines 6 through 11 and substitute "~~which~~ THAT complies  
4 with EITHER the following requirements OR SUBSECTION (7)(d) OF THIS  
5 SECTION:

6 (d) (I) A MULTIPLE EMPLOYER WELFARE ARRANGEMENT THAT  
7 MEETS THE REQUIREMENTS SPECIFIED IN SUBSECTION (7)(c) OF THIS  
8 SECTION OTHER THAN SUBSECTION (7)(c)(I) OF THIS SECTION MAY FILE AN  
9 APPLICATION FOR A WAIVER WITH THE COMMISSIONER. THE APPLICATION  
10 MUST INCLUDE:

11 (A) A COPY OF THE MULTIPLE EMPLOYER WELFARE  
12 ARRANGEMENT'S ARTICLES OF INCORPORATION, CONSTITUTION, TRUST  
13 AGREEMENT, BYLAWS, AND ANALOGOUS ORGANIC DOCUMENTS THAT  
14 GOVERN THE OPERATION OF THE ARRANGEMENT;

15 (B) A COPY OF MEMBERSHIP CRITERIA, A STATEMENT OF  
16 OWNERSHIP OF THE MULTIPLE EMPLOYER WELFARE ARRANGEMENT'S  
17 MEMBERS, AND A SUMMARY OF THE ACTIVITIES AND BENEFITS, OTHER  
18 THAN HEALTH PLAN COVERAGE, PROVIDED TO MEMBERS;

19 (C) A LIST OF NAMES, ADDRESSES, AND OFFICIAL CAPACITIES WITH  
20 THE MULTIPLE EMPLOYER WELFARE ARRANGEMENT OF THE INDIVIDUALS  
21 WHO WILL BE RESPONSIBLE FOR THE MANAGEMENT AND CONDUCT OF THE  
22 AFFAIRS OF THE ARRANGEMENT, INCLUDING ALL TRUSTEES, OFFICERS, AND  
23 DIRECTORS, ALONG WITH A FULL DISCLOSURE OF THE EXTENT AND NATURE  
24 OF ANY CONTRACTS BETWEEN THE INDIVIDUALS AND THE ARRANGEMENT,  
25 INCLUDING POSSIBLE CONFLICTS OF INTEREST;

26 (D) CRIMINAL BACKGROUND RECORDS. EACH INDIVIDUAL  
27 SPECIFIED IN SUBSECTION (7)(d)(I)(C) OF THIS SECTION SHALL SUBMIT A  
28 SET OF FINGERPRINTS TO THE COMMISSIONER. THE COMMISSIONER SHALL  
29 FORWARD THE FINGERPRINTS TO THE COLORADO BUREAU OF  
30 INVESTIGATION FOR THE PURPOSE OF CONDUCTING A STATE AND NATIONAL  
31 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK UTILIZING  
32 RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND THE  
33 FEDERAL BUREAU OF INVESTIGATION. THE MULTIPLE EMPLOYER WELFARE  
34 ARRANGEMENT SHALL BEAR ONLY THE ACTUAL COSTS OF THE RECORD  
35 CHECK. WHEN THE RESULTS OF A FINGERPRINT-BASED CRIMINAL HISTORY  
36 RECORD CHECK OF AN INDIVIDUAL PERFORMED PURSUANT TO THIS  
37 SUBSECTION (7)(d)(I)(D) REVEAL A RECORD OF ARREST WITHOUT A  
38 DISPOSITION, THE COMMISSIONER SHALL REQUIRE THAT INDIVIDUAL TO  
39 SUBMIT TO A NAME-BASED CRIMINAL HISTORY RECORD CHECK, AS DEFINED  
40 IN SECTION 22-2-119.3 (6)(d).

1 (E) A COPY OF THE POLICY, CONTRACT, CERTIFICATE, SUMMARY  
2 PLAN DESCRIPTION, OR OTHER EVIDENCE OF THE BENEFITS AND  
3 COVERAGES PROVIDED TO COVERED EMPLOYEES, INCLUDING FOR EACH  
4 FORM OF EVIDENCE A TABLE OF THE RATES CHARGED OR PROPOSED TO BE  
5 CHARGED;

6 (F) A COPY OF THE MULTIPLE EMPLOYER WELFARE  
7 ARRANGEMENT'S STOP-LOSS OR EXCESS INSURANCE AGREEMENT, IF ANY;

8 (G) A COPY OF AUDITED FINANCIAL STATEMENTS OF THE MULTIPLE  
9 EMPLOYER WELFARE ARRANGEMENT FOR THE PREVIOUS FIVE YEARS THAT  
10 WERE PREPARED BY A LICENSED CERTIFIED PUBLIC ACCOUNTANT,  
11 INCLUDING AN ACTUARIAL OPINION; AND

12 (H) A COPY OF EVERY CONTRACT BETWEEN THE MULTIPLE  
13 EMPLOYER WELFARE ARRANGEMENT AND ITS ADMINISTRATOR OR SERVICE  
14 COMPANY, INCLUDING, IF APPLICABLE, A COPY OF THE FIDELITY BOND  
15 SPECIFIED IN SUBSECTION (7)(d)(II)(C) OF THIS SECTION.

16 (II) TO QUALIFY FOR A WAIVER, A MULTIPLE EMPLOYER WELFARE  
17 ARRANGEMENT MUST:

18 (A) MAINTAIN UNALLOCATED RESERVES OF NOT LESS THAN TWO  
19 MILLION DOLLARS OF MINIMUM SURPLUS PLUS THREE TIMES THE MULTIPLE  
20 EMPLOYER WELFARE ARRANGEMENT'S AUTHORIZED CONTROL LEVEL OF  
21 RISK-BASED CAPITAL;

22 (B) BE MANAGED BY AND PROVIDE BENEFITS THROUGH AN  
23 ADMINISTRATOR OR SERVICE COMPANY THAT IS IN GOOD STANDING IN ALL  
24 OTHER STATES IN WHICH THE ADMINISTRATOR OR SERVICE COMPANY  
25 OPERATES, AND IF THE MULTIPLE EMPLOYER WELFARE ARRANGEMENT  
26 PROVIDES COVERAGE THROUGH ONE OR MORE BROKERS, THE BROKERS  
27 MUST BE LICENSED AS PRODUCERS PURSUANT TO ARTICLE 2 OF THIS TITLE  
28 10;

29 (C) BE MANAGED BY AN ADMINISTRATOR OR SERVICE COMPANY  
30 THAT IS A LICENSED THIRD-PARTY ADMINISTRATOR OR IS COVERED BY A  
31 FIDELITY BOND IN THE AMOUNT OF TWO HUNDRED THOUSAND DOLLARS;

32 (D) MAINTAIN A COMPLAINT SYSTEM THAT COMPLIES WITH  
33 SECTION 10-3-1104 (1)(i) AND MAKE THE SYSTEM AVAILABLE TO THE  
34 DIVISION UPON REQUEST;

35 (E) FILE THE MULTIPLE EMPLOYER WELFARE ARRANGEMENT'S  
36 PLAN MARKETING MATERIALS WITH THE DIVISION;

37 (F) PROVIDE TO THE COMMISSIONER QUARTERLY FINANCIAL  
38 STATEMENTS TO DEMONSTRATE THAT THE RESERVES REQUIRED PURSUANT  
39 TO SUBSECTION (7)(d)(II)(A) OF THIS SECTION ARE BEING MAINTAINED  
40 ALONG WITH ANNUAL AUDITED FINANCIAL REPORTS; AND

41 (G) PROVIDE NONDISCRIMINATORY PLAN COVERAGE TO ITS  
42 MEMBERS THAT IS APPLIED EVENLY AND EQUITABLY TO ALL EMPLOYEES  
43 OF THE MEMBERS AND THAT MATCHES WHAT IS OTHERWISE REQUIRED OF

1 HEALTH BENEFIT PLANS, INCLUDING ELEMENTS COVERAGE OF ESSENTIAL  
2 HEALTH BENEFITS AND COMPLIANCE WITH THE FEDERAL "PATIENT  
3 PROTECTION AND AFFORDABLE CARE ACT", AS AMENDED, PUB.L.  
4 111-148; NETWORK PROVIDER REQUIREMENTS AND COMPLIANCE WITH  
5 NETWORK ADEQUACY STANDARDS; GUARANTEE ISSUE; AND ANNUAL RATE  
6 AND FORM FILINGS WITH THE DIVISION.

7 (III) THE COMMISSIONER SHALL CONSIDER GRANTING A WAIVER TO  
8 A MULTIPLE EMPLOYER WELFARE ARRANGEMENT THAT HAS SUBMITTED A  
9 COMPLETE APPLICATION PURSUANT TO SUBSECTION (7)(d)(I) OF THIS  
10 SECTION AND THAT IS IN COMPLIANCE WITH SUBSECTION (7)(d)(II) OF THIS  
11 SECTION IN ACCORDANCE WITH THE FOLLOWING FACTORS:

12 (A) WHETHER THE ESTABLISHMENT OF A MULTIPLE EMPLOYER  
13 WELFARE ARRANGEMENT HAS THE POTENTIAL TO LOWER INSURANCE  
14 COSTS FOR ITS MEMBERS OR PROVIDE ADDITIONAL INSURANCE OPTIONS IN  
15 A REGION OR REGIONS OF THE STATE WHERE THERE MAY NOT BE  
16 SUFFICIENT COMPETITION;

17 (B) POTENTIAL IMPACT ON THE FULLY INSURED MARKET;

18 (C) CONSUMER EXPERIENCE WITH ACCESSING COVERAGE AND THE  
19 POTENTIAL FOR CONSUMER HARM;

20 (D) WHETHER THE ADMINISTRATOR OF THE MULTIPLE EMPLOYER  
21 WELFARE ARRANGEMENT HAS DEMONSTRATED FINANCIAL SOUNDNESS SO  
22 AS TO NOT JEOPARDIZE THE VIABILITY OF THE ARRANGEMENT OR HARM ITS  
23 MEMBERS; AND

24 (E) OTHER FACTORS THAT DEMONSTRATE THE NEED FOR  
25 ADDITIONAL INSURANCE OPTIONS TO INCREASE COMPETITION OR LOWER  
26 HEALTH-CARE COSTS FOR CONSUMERS.

27 (IV) A WAIVER GRANTED PURSUANT TO THIS SUBSECTION (7)(d)  
28 SUBJECTS THE MULTIPLE EMPLOYER WELFARE ARRANGEMENT TO THE  
29 DIVISION'S FULL ENFORCEMENT AUTHORITY AVAILABLE PURSUANT TO THIS  
30 TITLE 10 AND ALLOWS THE ARRANGEMENT TO OPERATE PURSUANT TO THIS  
31 SUBSECTION (7) FOR TWO YEARS. TO CONTINUE TO OPERATE PURSUANT TO  
32 THIS SUBSECTION (7), AN ARRANGEMENT MUST REAPPLY FOR A WAIVER;  
33 EXCEPT THAT, IF THE COMMISSIONER GRANTS FIVE CONSECUTIVE WAIVERS  
34 PURSUANT TO THIS SUBSECTION (7)(d), AN ARRANGEMENT MAY CONTINUE  
35 TO OPERATE PURSUANT TO THIS SUBSECTION (7) WITHOUT AGAIN  
36 APPLYING FOR A WAIVER."

\*\* \*\* \*\* \*\* \*\*