



# Public Option Study Bills

## A Key Step in the Policy Process

by Laura Buddenbaum and Sofia Cuenca

States continue to work towards a [public health insurance option](#) (referred to as a “public option”), a government-run health insurance plan that competes alongside privately-run insurance plans in order to expand health care coverage and address increasing costs in the insurance market. An exploratory bill to study the feasibility and implementation pathways of a public option is an integral component of the legislative process. The information gained from a study can identify a state’s unique health coverage needs, emphasize important considerations for the design of a public option to address such needs, and outline necessary steps for the effective implementation of the policy. This information also serves as a useful advocacy tool for states to describe a public option’s impact on people and markets. Several states have passed study bills to explore the feasibility and potential impacts of a public option (or similar approaches like a Medicaid buy-in

program or a combination of interventions to improve affordable coverage), which have led to the successful enactment of new affordable coverage options within those states.

For interested parties considering new and innovative ways to provide comprehensive, affordable health insurance options for people, United States of Care (USofCare) has outlined six crucial components of a public option study bill. While this memo focuses on what makes a successful public option study bill, this memo also highlights examples from public option implementation bills that could be included within study bills. The final reports yielded by these study bills are included at the end of this document.

## A Public Option Study Bill Must:

- A. Convey a clear focus on improving affordability for health care coverage and addressing health equity**
  1. Increase affordable health care coverage
  2. Prioritize health equity
- B. Include robust and detailed study requirements to assess the feasibility of a public option**
  1. Include information on the interaction between federal policy and a state public option
  2. Consider state and federal funding pathways
  3. Include actuarial analysis
  4. Set requirements for insurance plans
- C. Be delegated to the state’s insurance regulatory agency, which would also be responsible for implementing the policy**
  1. Define entities responsible for conducting the feasibility study
  2. Consider implementation costs
  3. Outline steps for monitoring and evaluating the implemented policy
- D. Strategically plan for equitably incorporating effective stakeholder engagement**
  1. Incorporate stakeholder engagement during the study process & implementation
  2. Incorporate stakeholder engagement for policy monitoring and evaluation
- E. Leverage different funding mechanisms to fund the study adequately**
  1. Set a clear budget
  2. Allow for alternative funding mechanisms
- F. Establish a timeline for the completion of the study to inform the legislative process**

# Leveraging What Works: Detailed Study Bill Components and State Examples

## A. Convey a clear focus for improving affordable health care coverage and addressing health equity

- ★ **Increase Affordable Health Care Coverage:** An effective study bill will have a clear focus on increasing affordable health care coverage through a public option. An effective study will compare and contrast two to three models for integrating a public option within the state’s current health care infrastructure. The bill should specifically require an assessment of a state public option, or another innovative approach such as a Medicaid buy-in policy, to increase access to affordable health coverage.
- ★ **Prioritize Health Equity:** State legislatures will also use the opportunity to gather data to be used to advance health equity. The study bill will require an assessment of the people historically underserved by the health care system, such as communities of color, rural populations, LGBTQ+ communities, people with disabilities, and low-income individuals. The study should examine how particular policy options will impact these groups of people so that the policy recommended from the study will address these disparities with the goal of advancing health equity. Please refer to USofCare’s report entitled “[Advancing Health Equity Through Insurance Coverage: Examples From The States](#)” for more detail on how public option programs can advance health equity.

**Table A.1 : State Examples of Studying Affordable Healthcare Coverage**

★ **Nevada: [SB 394](#); [SCR 10](#); [SB 420](#) (2017-2021)**

In 2017, Nevada passed SB 394, which required the Legislative Committee on Health Care to study the feasibility of the state offering a program similar to the state’s Medicaid managed care program for people who do not qualify for Medicaid. The study also required the committee to study how the state could maintain the same level of coverage offered through the Medicaid program and health insurance marketplaces to this population if the Affordable Care Act (ACA) were to be repealed. In 2019, [SCR 10](#) directed the Legislative Commission to study the viability of a state public option that would be offered to all Nevada residents. This study included specific goals to improve market stability, decrease the state uninsured rate, and increase affordability for all. Based on the recommendations of SCR 10, [SB 420](#) was passed in 2021 to implement the state’s public option by 2026.

★ **New Jersey: [A 5600](#); [S 1947](#) (2019-2020)**

In 2019, the New Jersey legislature passed [A 5600](#), which required the study of multiple options for the state to provide more affordable health coverage in the individual market, regardless of eligibility for federal financial assistance. The study considered a state subsidy program for people with incomes up to 200% or 300% of the federal poverty level (FPL), Marketplace premium assistance for people with incomes between 400%-500% FPL, a Basic Health Program using a 1331 State Innovation Waiver under the ACA, and establishing a Medicaid buy-in program. New Jersey lawmakers proposed public option [legislation](#) in 2020, building on the study’s final recommendations.

**Table A.2: State Examples of Studying Health Equity**

★ **Oregon: [SB 770](#); [Report](#); [HB 4035](#) (2019-2022)**

In 2019, the Oregon legislature passed [SB 770](#), which established a Task Force on Universal Health Care to study a public option or Medicaid buy-in program for the state. The Task Force operated with a focus on how each coverage option would ensure that all Oregonians have equitable access to health care regardless of health status, income, employment, age, race, gender, or immigration status. The Task Force’s 2020 [Oregon Public Option Report](#) assessed multiple delivery models for a state public option, particularly examining meeting the needs of uninsured and underinsured Oregonians. In 2022, the Oregon legislature passed [HB 4035](#) to develop recommendations for creating a Basic Health Plan (known as the “Bridge Plan”), in part due to the recommendations of the Task Force. The Bridge Plan will ensure continuous coverage for Oregonians making between 138-200% of the FPL, including but not limited to those that will roll-off Medicaid when Oregon proceeds with the redeterminations that were paused during the COVID-19 Public Health Emergency.

## B. Include robust and detailed study requirements to assess the feasibility of a public option

- ★ **Include Information on the Interaction between Federal Policy and a State Public Option:** In order to adequately assess the feasibility of a public option, the study must understand and acknowledge flexibilities on the federal level that allow for state-level innovations in health insurance coverage. The study should assess how to leverage federal funding opportunities, including Sections 1331 and/or 1332 of the Affordable Care Act and Medicaid Section 1115 Demonstration Waivers, which allow for states to pursue innovations that reduce costs while utilizing federal funding. United States of Care has developed a [comparison chart](#) with a detailed overview of each of the latter waiver options.
- ★ **Consider State and Federal Funding Pathways:** The study must consider a range of potential state and federal funding pathways and should set a goal to maximize federal funding for the state option. States can be flexible with federal funds to offset existing state costs in unrestricted ways by applying for waiver amendments and seeking approval for multiple federal waivers in tandem, which can allow for leeway to cover additional populations in the future and can better support streamlined enrollment across coverage programs.
- ★ **Include Actuarial Analysis:** The study must include an actuarial analysis of market and state budget impacts, as well as mitigation strategies to offset adverse effects to people, providers, the market, and the state budget.

<b>People</b>	<ul style="list-style-type: none"> <li>→ Out-of-pocket costs such as premiums, deductibles, copays, and coinsurance</li> <li>→ Enrollee benefits/plan design/standardized plans</li> <li>→ The impact on the uninsured rate and enrollment increases</li> <li>→ Health equity implications for those historically facing barriers to the health care system</li> </ul>
<b>Providers</b>	<ul style="list-style-type: none"> <li>→ Reimbursement rates</li> <li>→ Provider participation</li> <li>→ Impact across geographic settings i.e. urban versus rural</li> </ul>
<b>Market</b>	<ul style="list-style-type: none"> <li>→ Changes of the risk pool leading to adverse/beneficial selection</li> <li>→ The impact on Medicaid and commercial insurance</li> <li>→ The impact and strategies for mitigating the impact on the Employer-sponsored market</li> </ul>
<b>State Budget</b>	<ul style="list-style-type: none"> <li>→ The impact of implementation on the state budget</li> <li>→ Consider needs such as infrastructure, staffing, outreach and enrollment, and monitoring and evaluation</li> </ul>

- ★ **Set Requirements for Insurance Plans:** The study must look at who provides people with coverage and what requirements are placed on public option plans.
  - ★ Sources of coverage that leverage the existing public infrastructure to provide lower cost coverage (such as creating new plans through the state, or utilizing managed care organizations and carriers on the exchange to provide coverage);
  - ★ Continuity of care, ensuring that enrollees are not losing access to their current providers or benefits;
  - ★ Access to culturally competent care, such as through network adequacy requirements.
    - ★ Health equity considerations related to networks (FQHCs, providers in rural areas, mental health parity) and cultural competency requirements.

## Table B.1: State Examples of Studying the Federal Policy Interaction on State Option

★ **Delaware:** [SCR 70](#); [HB 193](#) (2018-2019)

In 2018, Delaware legislators passed [SCR 70](#) and created a Medicaid Buy-in Study Group that [recommended](#) the creation of a reinsurance program through a Section 1332 waiver as the first step toward lowering individual health insurance premiums in the state. Based on the group's final report in 2019, [HB 193](#) created the Delaware Health Insurance Individual Market Stabilization Reinsurance Program & Fund in order to provide reinsurance to health insurance plans that offer comprehensive individual health benefit plans.

★ **New Mexico:** [SM 3](#); [SB 536](#) (2018-2019)

In 2018, the New Mexico legislature passed [SM 3](#) and commissioned the state Legislative Health and Human Services Committee to explore the potential design and implications of a Medicaid buy-in program. In 2019, [SB 536](#) prompted the administration to further study a Medicaid buy-in proposal, with the bill appropriating funding for the state to seek either a Section 1331 or Section 1332 federal waiver under the ACA. Following the [study's completion](#) in 2019, legislation in [both chambers](#) of the New Mexico legislature was introduced to establish a Medicaid buy-in program.

## Table B.2: State Examples of Studying Funding Pathways

★ **Maine:** [SP 592](#) (2017)

The passage of [SP 592](#) in 2017 created the Task Force on Health Care Coverage for All of Maine in order to study policy options for advancing affordable health care coverage in the state, including a public option. Each policy design was required to maximize the amount of federal funds the state would receive to implement and operate the chosen policy. [Legislation](#) to enact the recommendations of the Task Force was proposed in 2019.

★ **Colorado:** [HB 1232](#) (2019-2022)

Colorado was the first state to use a [1332 waiver](#) to implement a public option, known as the “Colorado Option”. To do this, Colorado submitted an amendment request that builds upon the state’s existing reinsurance program, as outlined in United States of Care’s [Colorado Section 1332 Innovation Waiver Explainer](#). The Colorado Option was implemented as outlined in [HB21-1232](#), offering standardized health plans to all residents, regardless of immigration status, on its state-based exchange. The revenue generated from the Colorado Option and the reinsurance program will generate savings to further improve health coverage affordability in the state.

## Table B.3: State Examples of Studying Impact and Conducting Actuarial Analysis

★ **Colorado:** [HB 1004](#); [HB 1232](#) (2019-2021)

In 2019, Colorado passed [HB 1004](#), which tasked the State Department and the Division of Insurance with submitting a proposal to the legislature on the feasibility and cost implications of a state public option. The bill required actuarial analysis to assess the potential impacts of the public option on Coloradans, such as changes in premium and cost-sharing amounts of plans that meet essential health benefit requirements. The [final report](#) included a summary of how the proposed public option impacts the state budget. It also emphasizes the budgetary risk and minimal state funding needed for agencies to oversee and manage a public option. Additionally, it featured a comprehensive evaluation of the first two years of the public option to inform the next steps in the implementation process; USofCare recommends that stakeholder evaluation and monitoring occur at all stages of the study bill process. HB 1004 laid the groundwork for the 2021 passage of [HB 1232](#), which formally created the state’s public option.

★ **New Jersey:** [A 5600](#) (2019)

The New Jersey legislature passed [A 5600](#) in 2019, tasking the Commissioner of Banking and Insurance to conduct a microsimulation (a form of actuarial analysis) of opportunities to improve health coverage affordability, such as the [study](#) of a state-sponsored premium subsidy program.

★ **Washington: [SB 5526](#) (2019)**

Washington's legislation, [SB 5526](#), required the Health Benefit Exchange and Insurance Commissioner to consult stakeholders to establish standardized health plans for a public option and develop an implementation plan for funding premium subsidies for individuals below 500% FPL who purchase Marketplace coverage. The bill also discusses setting provider rates while identifying the subsequent impacts on provider participation.

★ **Nevada: [SCR 10](#) (2019)**

Nevada's 2019 legislation, [SCR 10](#), required the actuarial analysis to assess the feasibility of offering a public option and the effect that such an option would have on small group health insurance markets and the stability of the insurance market generally.

### Table B.4: State Examples of Studying Requirements on Plans

★ **Colorado: [HB 1004](#); [HB 1232](#) (2019-2021)**

In 2019, Colorado legislators passed [HB 1004](#) and specified that the state's public option must leverage existing health care infrastructure in the state. The public option legislation [HB 1232](#) (2021) follows this provision by requiring standardized health plans to be offered through the state exchange in the individual market and requires carriers in the individual and small group markets to also offer the standardized plan in each county where they offer plans. Additionally, [HB 1232](#) includes network requirements explicitly designed to improve racial health equity and decrease racial health disparities, such as ensuring networks are culturally responsive and representative of the patient population.

The final legislation ultimately included these plan requirements, and it is imperative that study bills also consider what requirements--including requirements to advance equity--will be placed on plans. Doing so at the onset can serve to ease both passage and implementation.

★ **Nevada: [SB 394](#), [SB 420](#) (2019-2021)**

In 2017, Nevada passed [SB 394](#), which required the Legislative Committee on Health Care to study the feasibility of the state offering a program similar to the state's Medicaid managed care program for people who do not qualify for Medicaid, followed by [SCR 10](#) in 2019, which ultimately led to the adoption of [SB 420](#) in 2021. [SB 420](#) seeks to leverage the state's existing buying power through Medicaid to offer more affordable choices to Nevadans. Insurers will compete to offer the public option, with all Medicaid managed care plans being required to submit a good-faith bid to offer a public option plan. Nevada's legislation ultimately requires managed care organizations to provide coverage, which was informed by the studies that took place in years prior.

## C. Be delegated to a state's insurance regulatory agency, which would also be responsible for implementing the policy

- ★ **Define Entities Responsible for Conducting the Feasibility Study:** A state's insurance regulatory agency should be designated as responsible for conducting the public option feasibility and implementation study. It should take into account the agency's current and future administrative capacity and financial limitations, as it will be ultimately responsible for using the study's findings to implement and operate the state's chosen policy.

On some occasions, such as when a state's insurance regulatory agency has limited capacity, it may be more appropriate for a legislative committee to be appointed to this role, which should include seat requirements for health policy expertise and diversity requirements to ensure that the perspectives of people historically underserved by the health care system are meaningfully considered.

- ★ **Consider Implementation Costs:** From the onset, a feasibility study should examine and deliberate the financial implications that may arise from the implementation of a public option plan. This will provide policymakers and stakeholders with clear expectations of the unique costs of creating a public option plan in their state and can help guide future budgeting and appropriations processes.
- ★ **Outline Steps for Monitoring and Evaluating the Implemented Policy:** It is recommended that a study investigate processes for monitoring and evaluating a public option during and following its implementation. A routine and robust monitoring and evaluation process ensures that the policy is adhering to its intended goals, identifies areas for improvement and growth, and engages stakeholders meaningfully throughout.

## Table C.1: State Examples of Entities Responsible for Conducting the Study

★ **Nevada:** [SB 394](#), [SCR 10](#) (2017-2019)

In 2017, Nevada passed [SB 394](#) and charged the study on Medicaid buy-in to the Legislative Committee on Health Care, in consultation with the Department of Health and Human Services, the Division of Insurance and Department of Business and Industry, and the Silver State Health Insurance Exchange. In 2019, [SCR 10](#) directed a public option study and authorized the Legislative Commission to contract with several consultants to carry out the analysis.

★ **Oregon:** [HB 4035](#) (2022)

In 2022, the Oregon legislature passed [HB 4035](#), which created the Bridge Plan Task Force. The Bridge Plan Task Force aims to ensure continuous coverage for people no longer eligible for Medicaid coverage once redeterminations begin. The bill required the Task Force to include a member representing low-income workers likely to be eligible for the Bridge Program, two members with health equity expertise, and a member representing organized labor. In addition, both the Oregon Health Authority and the Oregon Department of Consumer and Business Services, the two state agencies tasked with managing the Bridge Plan were included as members.

★ **Delaware:** [SCR 70](#) (2018)

In 2018, the Delaware legislature passed [SCR 70](#), which established a Medicaid Buy-in Study Group. The study group included stakeholders from diverse backgrounds to participate in the study, such as the Insurance Commissioner, the Secretary of the Department of Health and Social Services, two physicians appointed by the Medical Society of Delaware, two representatives from hospitals appointed by the Delaware Healthcare Association, and three members of the public representing consumers appointed by the Governor.

### D. Effective stakeholder engagement

- ★ **During the Study & Implementation Process:** The study should allow for opportunities for stakeholder engagement, incorporating accessibility accommodations to engage all stakeholders. Effective stakeholder engagement includes language access accommodations, meetings after hours, public comments at hearings and task force meetings, and making specific plans to engage underserved community members directly. The study bill should require engagement with various stakeholders such as providers, insurers, and health advocates, as well as community members with diverse experiences.
- ★ **During Monitoring and Evaluation:** Stakeholder engagement is encouraged throughout the entirety of the process, from determining the study bill language to evaluating the implemented policy. Community members and additional impacted and interested parties must be engaged in evaluation to provide perspectives and ideas on how to continuously improve the policy solution.

### E. Leverage different funding mechanisms to adequately fund the study

- ★ **Set a Clear Budget:** In order to meet the detailed requirements of the study bill, adequate funding must be appropriated. State legislatures must view the appropriations for a feasibility study as an investment in meaningfully planning for better health care for state residents in the future. The bill should include a clear budget for the study and direct the use of federal funds when possible.
- ★ **Allow for Alternative Funding Mechanisms:** In order to leverage innovative funding mechanisms, the study bill should allow for grants and donations from public and private sources to contribute to the cost of the study. These funds should be exempt from state revenue restrictions, if applicable.

## Table E.1: State Examples of Study Budget

★ **Delaware:** [SCR 70](#) (2018)

To study a Medicaid buy-in program, Delaware's 2018 study bill, [SCR 70](#), required the appropriation of funds from the General Assembly to the Department of Health and Social Services to hire experts for the study.

★ **Maine:** [SP 592](#) (2017)

Maine's study bill, [SP 592](#), specified that the Task Force on Health Care Coverage for All of Maine could utilize funds, grants, and contracts from public and private sources, but General Funds were not appropriated for the study.

## Table E.2: State Examples of Alternative Funding Mechanisms

★ **Oregon:** [SB 770 \(2019\)](#)

Oregon's legislation created a Health Care for All Oregon Board, responsible for the design of a publicly funded Health Care for All Oregon plan. The bill allows for federal and private gifts and grants. The Board was authorized to use funds within the Health Care for All Oregon Fund if such funds are not available.

### F. Establish a timeline for the completion of the study to inform the legislative process

- ★ **Timeline:** The bill must specify a timeline for the study to be completed. This should allow time for all study material to be provided to the legislature, building meaningful opportunities for discussion between legislators and advocates to determine the next steps before the next legislative session.

## Table F.1: State Examples of Timeline

★ **New Jersey:** [A 5600 \(2019\)](#)

New Jersey's legislation appropriated funds for an actuarial analysis of options to provide more affordable health coverage. The bill provided approximately one year from enactment to complete the analysis, seek public comment, and send the final report to the State Legislature.

## Final Reports Produced After Public Option Studies

- ★ **Colorado:** "[Final Report for Colorado's Public Option](#)" (Colorado Division of Insurance, and Colorado Department of Health Care Policy & Financing, 2019)
- ★ **Delaware:** "[Senate Concurrent Resolution 70 Study Group Final Report](#)" (State of Delaware, 2019)
- ★ **Maine:** "[Task Force on Health Care Coverage for All of Maine](#)" (Task Force on Health Care Coverage for All of Maine, 2018)
- ★ **Nevada:** "[Senate Concurrent Resolution No. 10 Study: Evaluating Public Health Insurance Plan Options for Nevada Residents](#)" (Manatt, 2021)
- ★ **New Jersey:** "[Study of State-Sponsored Subsidies for the New Jersey Individual Market](#)" (Oliver Wyman, 2020)
- ★ **New Mexico:** "[Evaluating Medicaid Buy-In Options for New Mexico](#)" (Manatt, 2018)
- ★ **New Mexico:** "[Quantitative Evaluation of a Targeted Medicaid Buy-In for New Mexico](#)" (Manatt, 2019)
- ★ **Oregon:** "[Oregon Public Option Report: An Evaluation and Comparison of Proposed Delivery Models](#)" (Manatt, 2020)