



**Colorado  
Legislative  
Council  
Staff**

**SB17-181**

**FISCAL NOTE**

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 17-0910  
**Prime Sponsor(s):** Sen. Gardner  
Rep. Willett

**Date:** March 1, 2017  
**Bill Status:** Senate Judiciary  
**Fiscal Analyst:** Chris Creighton (303-866-5834)

**BILL TOPIC:** COLLATERAL-SOURCE RULE EVIDENCE OF INSURANCE

<b>Fiscal Impact Summary</b>	<b>FY 2017-2018</b>	<b>FY 2018-2019</b>
<b>State Revenue</b> General Fund	Decrease. See State Revenue section.	
<b>State Expenditures</b> Multiple Fund Sources	Increase and decrease. See State Expenditure section.	
<b>Appropriation Required:</b> None.		
<b>Future Year Impacts:</b> Ongoing revenue decrease and state expenditure impact.		

**Summary of Legislation**

Currently in a civil action for damages, the jury is not told about insurance coverage or other sources (collateral-source) from which the plaintiff has or may receive compensation. This bill allows the presentation of collateral-source evidence, unless the plaintiff agrees to a reduced jury award. The procedure for a collateral-source determination by the court and conditions under which the plaintiff may elect to exclude amounts paid by the collateral-source rule are specified in the bill.

**State Revenue**

Beginning in FY 2017-18, this bill reduces General Fund and federal funds revenue received from insurance recoveries. Claims for damages for parties on Medicaid that are injured in tort and casualty cases are paid by the Department of Health Care Policy and Financing (HCPF) using Medicaid funds. In cases where another party is liable, HCPF seeks to recover these costs and places a lien on any award. Allowing collateral-source evidence will decrease the amount of money awarded in these cases, which will decrease the amount of money that may be recovered by HCPF. The revenue decrease that will result from this bill cannot be estimated because damages and potential recoveries can vary significantly based on the extent of personal injury. HCPF recovered \$8,457,430 in FY 2015-16. For illustrative purposes only, a 10% reduction in these recoveries would result in a revenue decrease of \$845,743. Recovery revenue is split evenly between the General Fund and federal funds, with federal funds being returned to the federal government. Such recoveries are not subject to TABOR.

## **State Expenditures**

This bill impacts state agencies beginning in FY 2017-18, as discussed below.

**DPA risk management.** By allowing for the consideration of the amount paid rather than billed on a medical claim, this bill decreases risk management awards paid by the Department of Personnel and Administration. The amount of any such reduction is unknown because actual jury awards can vary significantly based on the extent of damages or personal injury. These awards are paid from the Risk Management Fund which is comprised of reappropriated funds from other state agencies based on each agency's historical liability losses. Any change in appropriations resulting from this bill will be addressed through the annual budget process.

**Judicial Department.** To the extent that post-trial collateral-source motions are filed, trial court workload in the Judicial Department will increase to review submitted evidence, determine amounts paid from collateral sources, and determine the amount by which to reduce the jury award. It is anticipated that any workload increase resulting from this bill can be accomplished within existing appropriations. Should workload be greater than anticipated, additional appropriations will be requested through the annual budget process.

**Health Care Policy and Financing.** Beginning in FY 2017-18, because Medicaid rates tend to be lower than those of other payers, this bill potentially increases medical services costs by allowing for collateral-source evidence. To the extent that award amounts are reduced and the amount of the award does not sufficiently cover costs, HCPF medical services expenditures will increase. Should additional HCPF appropriations be needed, they will be requested through the annual budget process.

**All state agencies.** The allowance of collateral-source evidence may increase the time it takes to litigate a civil action for damages and may result in more cases proceeding to trial which will increase legal services costs to litigate such cases. These legal services costs are paid by the state agency that is a party to the lawsuit. Should additional appropriations be needed by any state agency they will be requested through the annual budget process.

## **Local Government Impact**

Similar to the state, the allowance of collateral-source evidence will decrease award amounts, which will reduce local government risk management expenses for the payment of damages. To the extent that allowing for collateral-source evidence increases the amount of time it takes to litigate a civil action for damages or increases the number of cases that proceed to trial, this bill will increase local government legal services costs. The impact of this bill will vary by local government depending on the number of civil actions for damages and the amount of time it takes to litigate each case.

## **Effective Date**

The bill takes effect August 9, 2017, if the General Assembly adjourns on May 10, 2017, as scheduled, and no referendum petition is filed.

**State and Local Government Contacts**

District Attorneys  
Information Technology  
Labor  
Personnel

Health Care Policy and Financing  
Judicial  
Law  
Regulatory Agencies