



## Summary of Legislation

The bill requires the Commissioner of Insurance in the Department of Regulatory Agencies (DORA) to seek a State Innovation Waiver under the federal Affordable Care Act to create a state reinsurance program in Colorado. If federal approval is granted, the reinsurance program will apply to 2020 health plans sold on the individual health insurance market.

The Commissioner will set the payment parameters of the reinsurance program. These include the attachment point above which claims are eligible for reinsurance payments, the coinsurance rate, the reinsurance cap above which claims are no longer eligible for reinsurance payments, and the fee schedule for provider reimbursement. The bill directs the Commissioner to set the parameters of the program so that claims costs are reduced as follows:

- between 30 and 35 percent in geographic rating areas five and nine (Mesa County and western Colorado);
- between 20 and 25 percent in geographic rating areas four, six, seven, and eight (Larimer, Weld, and Pueblo counties, the eastern plains, and southern Colorado); and
- between 15 and 20 percent in geographic rating areas one, two, and three (Boulder, El Paso, and Teller counties, and the Denver metro area).

Reductions in claims costs will be achieved through a combination of federal funding and reduced health care provider reimbursement rates, established by the commissioner, for claims covered under the reinsurance program. Primary care providers, behavioral health services providers, and hospitals that will be affected in an unsustainable way, as identified by DORA, will be exempt from the reduced reimbursement rates.

Federal funds obtained under the State Innovation Waiver are to be deposited into the newly created Reinsurance Program Cash Fund. The reinsurance program is created as an enterprise under TABOR and revenue is exempt from the TABOR revenue limits. The Division of Insurance is required to report annually on the reinsurance program as part of the Department of Regulatory Agencies (DORA) SMART Act hearing. The program is scheduled to repeal on September 1, 2024, following a sunset review.

## Background

**Reinsurance.** Reinsurance is a type of insurance available to insurance carriers to transfer a portion of their risk to one or more other carriers, thereby reducing the risk of having to pay high-cost claims. By covering a portion of costs for high-cost claims, reinsurance can allow insurance carriers to charge lower premiums to consumers.

**State Innovation Waivers.** Section 1332 of the federal Affordable Care Act allows states to apply for a waiver of various requirements of the federal law to pursue innovative strategies for providing residents with access to high-quality, affordable health care. To apply for a waiver, the state must show that the waiver provides access to quality health care that will be at least as comprehensive and affordable as it would be absent the waiver; that coverage is provided to a comparable number of residents as would be provided absent the waiver; and that the changes under the waiver do not increase the federal deficit.

**Federal health insurance subsidies.** In 2018, Coloradans received about \$636 million in federal advanced premium tax credits to purchase health insurance through Connect for Health Colorado, the state's health insurance exchange. These subsidies are based on household income, premium amount paid, and the cost of a benchmark health plan. Subsidies are available to persons with income between 133 and 400 percent of the federal poverty level.

**Colorado's individual market.** As of January, 2019, an estimated 251,000 individuals receive health insurance coverage through Colorado's individual market. About half of this population receives federal tax credits to pay a portion of their premiums.

**State Diversions**

The bill diverts up to \$785,904 from the General Fund in FY 2019-20 and up to \$1,015,122 in FY 2020-21. This revenue diversion occurs because the bill increases costs in the Division of Insurance in DORA, which is funded with premium tax revenue that would otherwise be credited to the General Fund.

**State Expenditures**

The bill increases state expenditures in DORA by about \$131 million and 3.0 FTE in FY 2019-20 and \$262 million and 4.0 FTE in FY 2020-21. The majority of these costs are conditional upon federal approval of the state waiver. These costs, which are paid from cash funds and federal funds, are summarized in Table 2 and discussed below.

**Table 2  
Reinsurance Program Administration HB 19-1168**

	<b>FY 2019-20</b>	<b>FY 2020-21</b>
<b>Department of Regulatory Agencies</b>		
Reinsurance Payments - Federal Funds	up to \$130,500,000*	up to \$261,000,000*
Reinsurance Program Administration	\$785,904	\$1,015,122
Centrally Appropriated Costs	\$50,296	\$67,062
<b>Total Cost</b>	<b>up to \$131,336,200</b>	<b>up to \$262,082,184</b>
<b>Total FTE</b>	<b>3.0 FTE</b>	<b>4.0 FTE</b>

\* Federal funds will be combined with health care provider reimbursement rate reductions to achieve premium cost reduction of about \$338 million statewide on the individual market.

**Reinsurance program administration.** To create the reinsurance program for the beginning of calendar year 2020, DORA will need to apply for a federal waiver, develop payment parameters for the reinsurance program, and establish a fee schedule of provider reimbursement rates for reinsurance claims. This will require \$274,104 and 3.0 FTE in FY 2019-20 and \$339,122 and 4.0 FTE in FY 2020-21. DORA will require contractor support for claims processing, carrier audits, and in the development of payment parameters; this will result in the need for 1,560 contractor hours at a rate of \$325 per hour (\$507,000) in FY 2019-20 and 2,080 hours at \$325 per hour (\$676,000) in FY 2020-21 and beyond. DORA will require \$4,800 for a healthcare consultant to

assist with the waiver application in FY 2019-20. Ongoing administration can be financed with federal funds, but it is unknown when these funds will become available for this purpose; therefore, the fiscal note shows these costs as paid from the Division of Insurance Cash Fund for the first two fiscal years.

**Reinsurance payments.** The bill requires that claims paid by insurance carriers on the individual market be reduced by about 20 percent statewide, varying by geographic region. This will require a reinsurance program costing an estimated \$338 million in 2020. Reductions in claims costs will be achieved by reimbursing carriers for a portion of claims with federal funds, and reducing health care provider reimbursement rates for claims covered by the reinsurance program. For benefit year 2020, federal funding could total up to \$261 million and provider reimbursements under the reinsurance program are estimate to be up to \$135 million. Updated estimates are expected in March 2019, and the fiscal note will be updated to reflect this.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$50,296 in FY 2019-20 and \$67,062 in FY 2020-21.

## Statutory Public Entity

**Connect for Health Colorado.** The state's health insurance exchange is funded primarily through a health insurance carrier fee charged on plans purchased through the marketplace. The fee is set at 3.5% of premiums for 2019. A reduction in premiums will result in a decrease in revenue to Connect for Health Colorado. This may be partially offset by an increase in demand for health insurance policies.

## Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

## State Appropriations

For FY 2019-20, the bill requires an appropriation from the Division of Insurance Cash Fund of \$785,904 to the Colorado Department of Regulatory Agencies, and an allocation of 3.0 FTE.

## State and Local Government Contacts

Colorado Health Benefit Exchange  
Information Technology  
Personnel  
State Auditor

Health Care Policy and Financing  
Law  
Regulatory Agencies