



**Colorado  
Legislative  
Council  
Staff**

**HB16-1015**

**FINAL  
FISCAL NOTE**

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

**Drafting Number:** LLS 16-0794  
**Prime Sponsor(s):** Rep. Klingenschmitt

**Date:** August 22, 2016  
**Bill Status:** Postponed Indefinitely  
**Fiscal Analyst:** Bill Zepernick (303-866-4777)

**BILL TOPIC:** CONTINGENT REPEAL HEALTH INSURANCE LAWS ALIGNING WITH ACA

| <b>Fiscal Impact Summary</b>  | <b>FY 2016-2017*</b>          | <b>FY 2017-2018</b> |
|---|-------------------------------|---------------------|
| <b>State Revenue</b>  | <b><u>\$0</u></b>             |                     |
| <i>State Diversions</i>   |                               |                     |
| General Fund  | up to (165,000)               |                     |
| Cash Fund   | up to 165,000                 |                     |
| <b>State Expenditures</b>   | <b><u>up to \$215,000</u></b> | Potential increase. |
| General Fund  | 25,000                        |                     |
| Cash Funds  | up to 165,000                 |                     |
| Federal Funds   | 25,000                        |                     |
| <b>FTE Position Change</b>  | 0.3 FTE                       |                     |
| <b>Appropriation Required:</b> None.                                  |                               |                     |
| <b>Future Year Impacts:</b> Potential increase in state expenditures. |                               |                     |

\* Costs are shown in FY 2016-17 for informational purposes. If and when the costs occur are conditional upon the federal government repealing all or part of the federal Affordable Care Act.

**NOTE: This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.**

**Summary of Legislation**

Conditional upon a repeal of all or part of the federal Affordable Care Act (ACA), this bill automatically repeals the corresponding provisions in state law enacted by House Bill 13-1266 to align state health insurance laws with the requirements of the ACA. The Commissioner of Insurance is required to notify the Revisor of Statutes if federal action is taken to repeal all or part of the ACA in order to trigger the repeal of the various provisions in HB 13-1266.

The provisions of HB 13-1266 that are subject to repeal under the bill include:

- the mandatory issuance and renewal of health insurance policies;
- the prohibition against exclusions for pre-existing conditions;
- the requirement that health insurance plans cover children of policyholders up to age 26;

- the requirement that health insurance plans cover certain essential health benefits at various coverage levels;
- the open and special enrollment periods to purchase insurance in the individual and small group markets and required grace periods in which insured individuals may pay premiums;
- the prohibition against discrimination with respect to participation under an insurance plan by any provider acting within the scope of his or her license;
- fair market practices;
- the requirement that continuing coverage be offered to employees who are no longer employed by an employer; and
- procedures for the denial of benefits and internal reviews.

The bill maintains the existing requirements for maternity and contraception coverage, but specifies that the mandated contraception coverage only applies to contraception that does not destroy an embryo.

**State Revenue**

While the bill does not affect net revenue to the state, it does potentially result in a diversion of General Fund, as described below.

**State diversion.** Conditional upon federal repeal of the ACA, this bill diverts **at least \$15,000 and up to \$165,000** from the General Fund in the first year that the provisions of the bill take effect. This revenue diversion occurs because the bill increases costs in the Department of Regulatory Agencies (DORA), Division of Insurance, which is funded with premium tax revenue that would otherwise be credited to the General Fund.

**State Expenditures**

Conditional upon federal action, the bill increases costs by **up to \$215,000** in the first year that the provisions take effect, if a federal repeal of the ACA occurs. These costs, paid with General Fund, cash funds, and federal funds, are in DORA, the Department of Health Care Policy and Financing (HCPF), the Department of Human Services (DHS), and other state agencies. These costs will vary depending on the timing of any federal repeal and the number of provisions of the ACA that are repealed. The fiscal note assumes that the earliest potential repeal date for the ACA will be February 2017, following the inauguration of the next president after the 2016 general election. These potential costs are summarized in Table 1 and discussed below.

| <b>Table 1. Expenditures Under HB 16-1015</b> |                   |                   |
|---|-------------------|-------------------|
| <b>Cost Components</b>                        | <b>FY 2016-17</b> | <b>FY 2017-18</b> |
| Temporary Staff (DORA)                        | \$15,000          |                   |
| FTE   | 0.3 FTE           |                   |
| Rate Filing Review (DORA)                     | 150,000           |                   |
| Information Technology Costs                  | 50,000            |                   |
| <b>TOTAL</b>                                  | <b>\$215,000</b>  |                   |

**Department of Regulatory Agencies.** At a minimum, the Division of Insurance in DORA will have a one-time cost to update state insurance regulations. This cost is estimated at about \$15,000 for 0.3 FTE of temporary staff. In addition, if the federal repeal triggers the state-level repeals in a way that causes health insurers to resubmit rates and forms for their insurance plans outside of the annual review process, DORA will have an additional one-time cost of about \$150,000 for temporary staff and consultants to conduct out-of-cycle rate, form, and actuarial reviews. Any costs are assumed to be addressed through the annual budget process following federal action to repeal the ACA.

**Department of Health Care Policy and Financing.** To the extent some individuals will not be eligible to purchase private health insurance due to pre-existing conditions or young adults will not be able to stay on their parents' health plans, the bill will increase enrollment in Medicaid. The impact on enrollment and timing cannot be estimated at this time, so it is assumed that these costs will be addressed through the annual budget process as they occur.

**Department of Human Services.** The DHS will have one-time costs of about \$50,000, split evenly between General Fund and federal funds, to make modifications to the Colorado Benefit Management System (CBMS) to update certain eligibility determination and notification functions. In addition, the DHS will have costs to send mailings and notifications to clients in various programs regarding changes to eligibility calculations and certain procedures relating to health services provided by the DHS. It is assumed that any costs will be addressed through the annual budget process after the timing and scope of any repeals are known.

**State employee insurance.** The bill may decrease costs for state employee insurance coverage if the state chooses not to continue certain mandatory coverage requirements that are eliminated under the bill. Because insurance rates are influenced by a number of variables, the exact effect of this bill cannot be determined. Any change in insurance costs caused by the bill will likely occur in FY 2017-18 or later and be addressed through the total compensation analysis included in the annual budget process.

## **Local Government Impact**

Similar to the state employee insurance impact above, local governments that provide health insurance to their employees may experience a decrease in premiums following the repeal of mandatory coverage requirements. The timing and exact impact on local governments cannot be estimated at this time.

## **Statutory Public Entity Impact**

If the provisions of this bill are triggered, it could hinder the ability of Connect for Health Colorado, the state's health insurance exchange under the ACA, to continue its operations. For example, repeal of the mandatory issuance of health insurance could make it difficult for consumers to purchase insurance through the Connect for Health Colorado marketplace. In addition, depending on the scope of a federal repeal of the ACA and any replacement law at the federal level, state-based health exchanges may not be necessary and could be eliminated. If this were to occur, it is assumed that separate legislation would be required to formally repeal Connect for Health Colorado.

## Effective Date

The bill was postponed indefinitely by the House State, Veterans, and Military Affairs Committee on February 3, 2016.

## State and Local Government Contacts

Colorado Health Benefit Exchange  
Human Services  
Personnel

Health Care Policy and Financing  
Information Technology  
Regulatory Agencies