



**Colorado  
Legislative  
Council  
Staff**

**SB16-002**

**FISCAL NOTE**

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

**Drafting Number:** LLS 16-0244  
**Prime Sponsor(s):** Sen. Lundberg  
Rep. Sias

**Date:** January 25, 2016  
**Bill Status:** Senate Health & Human Services  
**Fiscal Analyst:** Bill Zepernick (303-866-4777)

**BILL TOPIC:** HEALTH EXCHANGE VOTER APPROVAL TO IMPOSE TAX

<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	(44,876)	
Cash Funds	44,876	
<b>State Expenditures</b>	<b><u>\$3,623,047</u></b>	
General Fund	1,776,087	Potential increase. See State Expenditures section.
Cash Funds	38,035	
Federal Funds	1,776,087	
Centrally Appropriated Costs	32,838	
<b>FTE Position Change</b>	2.5 FTE	
<b>Appropriation Required:</b> None.		
<b>Future Year Impacts:</b> None.		

\* *The costs in the summary table represent the costs to transition to the federally operated health exchange if voters do not approve the Connect for Health Colorado administrative fee. These costs are conditional upon such a vote occurring. If voters approve the fee, there will be no new state expenditure or revenue impacts.*

**Summary of Legislation**

Currently, the Colorado Health Benefit Exchange (Connect for Health Colorado) charges insurance companies a 3.5 percent administrative fee based on the premium amount of health plans sold through the exchange. Senate Bill 16-002 requires that voter approval be given for this fee to continue and refers a question on fee approval to the voters at the November 2016 election. If voters do not approve the fee, the bill prohibits Connect for Health Colorado from continuing to charge the administrative fee.

**Background**

Connect for Health Colorado is the state's health insurance exchange established in response to federal health care reform under the Affordable Care Act (ACA). Through Connect for Health Colorado, consumers can shop for health insurance and determine eligibility for federal tax subsidies for the purchase of health insurance or other public health programs. Under the ACA,

states may establish state-based health insurance exchanges or participate in a federally operated health exchange. The ACA requires that a state operating its own exchange "shall ensure that such Exchange is self-sustaining beginning on January 1, 2015, including allowing the Exchange to charge assessments or user fees to participating health insurance issuers, or to otherwise generate funding, to support its operations." The administrative fee is currently projected to generate \$24.9 million and \$30.3 million in FY 2016-17 and FY 2017-18, respectively.

## **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 voters not approving the Connect for Health Colorado administrative fee, this bill diverts **\$44,876 in FY 2016-17** from the General Fund, assuming costs are incurred to transition to a federal health exchange. This revenue diversion occurs because the bill increases costs in the Department of Regulatory Agencies, Division of Insurance, which is funded with premium tax revenue that would otherwise be credited to the General Fund. If voters approve the administrative fee, there would be no diversion of General Fund.

## **State Expenditures**

The bill increases costs in two areas. First, by referring a statewide ballot measure to voters, the state will have election-related expenditures, paid from existing appropriations. Second, depending on the outcome of the ballot measure, the state may have costs. Specifically, if voters *do not approve* the administrative fee, the state will likely have costs to transition from a state operated health exchange to the federally operated exchange, assuming Connect for Health Colorado is unable to find an alternative funding source to replace the administrative fee. The costs are described below in more detail.

**Scenario 1 — Voters approve fee.** If voters *approve* the administrative fee, there will be no additional costs to the state and Connect for Health Colorado will continue operating.

**Scenario 2 — Voters do not approve fee.** If voters *do not approve* the administrative fee, the fiscal note assumes that Connect for Health Colorado will not have sufficient revenue to continue operating. Under this scenario, the state will be required to transition to the federal health exchange. The costs of this transition are described below.

**Transition to federal health exchange.** The state will have costs to shift to a federally operated health exchange if Connect for Health is unable to fund its ongoing operation. These costs would total **\$3.6 million in FY 2016-17**, primarily for the Office of Information Technology (OIT) to make changes to the Colorado Benefit Management System (CBMS) to connect Medicaid eligibility determination functions with the federal health exchange. Costs would also be incurred in the Division of Insurance in the Department of Regulatory Agencies (DORA) for staff to work with insurance companies during the transition and address consumer inquiries. These costs are summarized in Table 1 on the following page and discussed below.

<b>Table 1. Expenditures Under HB 16-002</b>		
<b>Cost Components</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>
<b><i>Office of Information Technology</i></b>	<b><u>\$3,578,170</u></b>	
Personal Services	\$115,867	
FTE	2.0 FTE	
Operating Expenses and Capital Outlay Costs	11,306	
Information Technology Contractor	3,425,000	
Centrally Appropriated Costs*	25,997	
<b><i>Department of Regulatory Agencies</i></b>	<b><u>\$44,877</u></b>	
Personal Services	32,858	
FTE	0.5 FTE	
Operating Expenses and Capital Outlay Costs	5,178	
Centrally Appropriated Costs*	6,841	
<b><u>TOTAL</u></b>	<b><u>\$3,623,047</u></b>	
<b>General Fund</b>	<b>1,776,087</b>	
<b>Cash Funds</b>	<b>38,035</b>	
<b>Federal Funds</b>	<b>1,776,087</b>	
<b>Centrally Appropriated Costs</b>	<b>32,838</b>	

\* These costs are conditional upon voters not approving the Connect for Health administrative fee.

\*\* Centrally appropriated costs are not included in the bill's appropriation.

*Office of Information Technology.* In the event Connect for Health Colorado is unable to continue operations, the OIT would be required to remove the existing integration between Connect for Health Colorado and CBMS and transition to the federal exchange. These costs include both contract IT services and in-house staff at OIT. The IT contractor costs are based on 25,000 hours of programmer time at the current contract rate of \$137 per hour. The 2.0 FTE for in-house IT staff are necessary to conduct user acceptance testing and other tasks not covered under the contract with the current vendor.

*Division of Insurance.* The Division of Insurance in DORA will require 0.5 FTE for staff to address consumer inquiries concerning the repeal of Connect for Health Colorado and establishment of a new federally facilitated health insurance exchange. Division of Insurance staff will also be required to work with insurance carriers and the federal government concerning the transition to a federal health exchange. Costs for this staff include \$32,858 for personal services and \$5,178 for standard operating and capital outlay expenses.

*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. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 2 on the following page.

<b>Table 2. Centrally Appropriated Costs Under SB 16-002</b>		
<b>Cost Components</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$20,111	\$0
Supplemental Employee Retirement Payments	12,727	0
<b>TOTAL</b>	<b>\$32,838</b>	<b>\$0</b>

***Election expenditure impact (existing appropriations).*** The bill includes a referred measure that will appear before voters at the November 2016 general election. Although no additional appropriation is required in this bill to cover election costs associated with this ballot measure, certain election costs to the state are appropriated as part of the annual budget process. First, state law requires that the state reimburse counties for costs incurred conducting a ballot measure election, paid from the Department of State Cash Fund. Second, the text and title of the measure must be published in one legal newspaper per county and an analysis of the measure must be included in the Ballot Information Booklet (Blue Book) mailed to all registered voter households prior to the election paid from the Ballot Analysis Revolving Fund. As of this writing, there will be at least one citizen-initiated measure on the ballot at the 2016 election, which will trigger the ballot costs shown in Table 3 below for a single ballot measure. Costs in 2016 will increase by approximately \$100,000 per measure beyond this base amount for any additional referred or initiated measures placed on the ballot.

<b>Table 3. Projected Costs of a Single Statewide Ballot Measure Election in 2016</b>	
<b>Cost Component</b>	<b>Amount</b>
County Reimbursement for Statewide Ballot Measures	\$2,400,000
Ballot Information Booklet (Blue Book) & Newspaper Publication	\$670,000
<b>TOTAL</b>	<b>\$3,070,000</b>

**Statutory Public Entity Impact**

If voters approve the administrative fee, Connect for Health Colorado will continue collecting a fee of up to 3.5 percent on the value of premiums sold through the exchange to fund its operations. If the fee is not approved by voters, Connect for Health Colorado cannot continue collecting the fee as of February 1, 2017, and would be required to find alternate funding. For FY 2017-18, the administrative fee represents 72 percent of its projected revenue. If alternate funding is not available, the health exchange would be required to cease operations. Costs to wind down its operations (buy-out lease, pay staff and technology vendors, etc.) are estimated to cost about \$9.8 million over a two-year period.

**Technical Note**

The fiscal note shows the costs for the state to transition to the federal exchange in the event voters reject the Connect for Health administrative fee. For this transition to occur, additional legislative action may be required to officially repeal Connect for Health Colorado or to make a supplemental appropriation to cover the costs described in this fiscal note. Even if additional legislation is not passed, the transition to the federal exchange may be required under federal law if the state exchange is not financially sustainable and is unable to continue operations.

**Effective Date**

The bill takes effect upon signature of the Governor or becoming law without his signature. If voters do not approve the administrative fee at the November 2016 election, the prohibition on collecting the fee takes effect on February 1, 2017.

**State and Local Government Contacts**

Colorado Health Benefit Exchange  
Legislative Council  
Secretary of State

Health Care Policy and Financing  
Office of Information Technology