



Legislative  
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**FISCAL NOTE**

|                         |   |                        |   |
|-------------------------|---|------------------------|---|
| <b>Drafting Number:</b> | LLS 18-0769                                 | <b>Date:</b>           | April 18, 2018  |
| <b>Prime Sponsors:</b>  | Rep. Kennedy; Rankin<br>Sen. Coram; Donovan | <b>Bill Status:</b>    | House Health, Insurance, and<br>Environment                 |
|                         |   | <b>Fiscal Analyst:</b> | Bill Zepernick   303-866-4777<br>Bill.Zepernick@state.co.us |

**Bill Topic:** STATE INNOVATION WAIVER REINSURANCE PROGRAM

**Summary of Fiscal Impact:**

|   |   |
|---|---|
| <input checked="" type="checkbox"/> State Revenue ( <i>conditional</i> )            | <input type="checkbox"/> TABOR Refund                       |
| <input checked="" type="checkbox"/> State Expenditure ( <i>partly conditional</i> ) | <input checked="" type="checkbox"/> Local Government        |
| <input type="checkbox"/> State Transfer   | <input checked="" type="checkbox"/> Statutory Public Entity |

This bill requires the Commissioner of Insurance to seek federal approval to establish a reinsurance program to lower health insurance premiums. The bill will result in one-time costs to seek a federal waiver and, conditional upon federal approval, will increase state revenue and expenditures for at least five years.

**Appropriation Summary:** For FY 2018-19, the bill requires an appropriation of \$15,000 to the Department of Regulatory Agencies.

**Fiscal Note Status:** This fiscal note reflects the introduced bill.

**Table 1  
State Fiscal Impacts Under HB 18-1392**

|                      |                  | FY 2018-19           | FY 2019-20            |
|----------------------|------------------|----------------------|-----------------------|
| <b>Revenue</b>       | Cash Funds       | \$90,000,000         | \$180,000,000         |
|                      | <b>Total</b>     | <b>\$90,000,000</b>  | <b>\$180,000,000</b>  |
| <b>Expenditures*</b> | Cash Funds       | \$90,015,000         | \$180,000,000         |
|                      | Federal Funds    | \$90,000,000         | \$180,000,000         |
|                      | <b>Total</b>     | <b>\$180,015,000</b> | <b>\$360,000,000</b>  |
|                      | <b>Total FTE</b> | <b>up to 5.0 FTE</b> | <b>up to 10.0 FTE</b> |
| <b>Diversion</b>     | General Fund     | (\$15,000)           | -                     |
|                      | Cash Funds       | \$15,000             | -                     |
|                      | <b>Total</b>     | <b>\$0</b>           | <b>-</b>              |
| <b>TABOR Refund</b>  |                  | -                    | -                     |

\* In FY 2018-19, \$15,000 in cash fund expenditures and the General Fund diversion will occur upon passage of the bill. The remaining expenditures and all revenue in FY 2018-19 and all expenditures and revenue in future years are conditional upon federal approval of a State Innovation Waiver.

## Summary of Legislation

This bill requires the Commissioner of Insurance to seek a State Innovation Waiver under the federal Affordable Care Act to create a state reinsurance program in Colorado. If federal approval is received, the reinsurance program will apply to 2019 health plans sold on the individual health insurance market. To fund the reinsurance program, the Commissioner is authorized to assess a fee on state-regulated health insurance carriers of up to 2 percent of premiums. In addition, the reinsurance program will be supported by federal funds that would have otherwise been provided to consumers as federal advanced premium tax credits. The bill directs the Commissioner to set the parameters of the reinsurance program so that claims costs in areas of the state with the highest health insurance premiums are reduced by 30 percent, and that all other geographic areas of the state have a 20 percent reduction in claims costs. Fees collected from health insurers and available federal funds 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.

## Background

**Reinsurance.** Reinsurance is a type of insurance available to insurance carriers to transfer a portion of the 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 (ACA) 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 enact a law authorizing a state agency to seek a waiver. To receive a waiver, a state must show that the waiver provides access to quality health care that will be least as comprehensive and affordable as it would be provided absent the waiver; that coverage is provided to a comparable number of residents as would be provided coverage absent a waiver; and that the changes under the waiver do not increase the federal deficit.

**Federal health insurance subsidies.** In 2017, Coloradans received about \$375 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.

## State Revenue

Conditional upon federal approval of a State Innovation Waiver, this bill increases state cash fund revenue by \$90 million in FY 2018-19 and \$180 million in FY 2019-20. This revenue is from fees assessed on health insurance carriers and is based on the amount necessary to fund the reinsurance program. The first-year impact is prorated to reflect a half year of implementation. The exact fee amount will be determined by the Commissioner of Insurance, but may not exceed 2 percent of premiums collected by health insurers. This revenue is exempt from TABOR revenue limits.

**State Diversions**

This bill diverts \$15,000 from the General Fund in FY 2018-19. 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**

This bill increases state expenditures in DORA by \$180,015,000 and up to 5.0 FTE in FY 2018-19 and \$360,000,000 and up to 10.0 FTE in FY 2019-20. 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  
Expenditures Under HB 18-1392**

|  | <b>FY 2018-19</b>    | <b>FY 2019-20</b>     |
|--|----------------------|-----------------------|
| <b>Department of Regulatory Agencies</b> |                      |                       |
| Actuarial Analysis                       | \$15,000             | -                     |
| Reinsurance Payments and Administration  | \$180,000,000        | \$360,000,000         |
| <b>Total Cost</b>                        | <b>\$180,015,000</b> | <b>\$360,000,000</b>  |
| <b>Total FTE</b>                         | <b>up to 5.0 FTE</b> | <b>up to 10.0 FTE</b> |

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

**Waiver application.** DORA will require \$15,000 from the Division of Insurance Cash Fund for actuarial and rate analysis to prepare the federal waiver application. Much of the necessary analysis and work for this waiver application was conducted pursuant to Senate Bill 17-300, which limits the costs under this bill compared to other similar waiver applications.

**Reinsurance payments and administration.** Based on the claims reduction targets in the bill, the fiscal note estimates that reinsurance payments to health insurers will be approximately \$180 million in FY 2018-19 and \$360 million in FY 2019-20, conditional upon federal approval. These costs are split between the Reinsurance Program Cash Fund and federal funds. These amounts also include the administrative costs in DORA to operate the program. At this time, an exact estimate of the FTE and administrative costs are not available, but are estimated to be between \$500,000 and \$1.0 million per year, and may require up to 10.0 FTE when fully implemented. These costs will also be paid using the Reinsurance Program Cash Fund and federal funds. The reinsurance program operates as a state enterprise and funds are continuously appropriated to DORA from the cash fund.

**State employee insurance.** By charging a fee on state-regulated health plans, state agencies' costs for employee health insurance premiums may increase. Currently, one of the two health carriers offering plans to state employees is a state-regulated plan on which the fee would be assessed. Because state employee health insurance contributions are based upon prevailing market rates, with costs shared between the employer and employee, this bill is not expected to affect the state's share of employee health insurance premiums until FY 2019-20. Because

insurance rates are influenced by a number of variables, the exact effect of this bill cannot be determined. Any increase caused by the bill will be addressed through the total compensation analysis included in the annual budget process.

**Statutory Public Entity**

If the reinsurance program succeeds in decreasing health insurance premiums, it will likely spur additional consumers to seek health coverage through Connect for Health Colorado. This could increase customer service and other expenses for Connect for Health Colorado. Correspondingly, additional consumers purchasing health insurance through the health insurance exchange will generate additional revenue for Connect for Health Colorado.

**Local Government**

Similar to the state employee health insurance premium impact above, local governments that offer state-regulated health plans to their employees may have an increase in health insurance premium costs. Given that health insurance premiums are affected by a number of factors, the exact impact cannot be estimated.

**Effective Date**

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

**State Appropriations**

For FY 2018-19, the bill requires an appropriation of \$15,000 from the Division of Insurance Cash Fund to DORA.

**State and Local Government Contacts**

Colorado Health Benefit Exchange  
Information Technology  
Personnel  
State Auditor

Health Care Policy and Financing  
Law  
Regulatory Agencies