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Final Fiscal Note

Drafting Number: LLS 24-1190 Date: August 8, 2024
Prime Sponsors: Rep. Bird; Taggart Bill Status: Signed into Law
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Bill Topic: ELIMINATE PREMIUM TAX TO HEALTH INSURANCE AFFORDABILITY FUND

Summary of Fiscal Impact: [X] State Revenue [X] State Diversion [ ] Local Government
[X] State Expenditure [ ] TABOR Refund [ ] Statutory Public Entity

The bill ends the annual diversion from the General Fund to the Health Insurance Affordability Cash Fund in the current fiscal year and future fiscal years.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The final fiscal note reflects the enacted bill, which was recommended by the Joint Budget Committee.

Table 1
State Fiscal Impacts Under HB 24-1470

Table with 5 columns: Category, Current Year FY 2023-24, Budget Year FY 2024-25, Out Year FY 2025-26. Rows include Revenue, Expenditures, Diversion (General Fund, Cash Funds), Net Diversion, and Other Budget Impacts.

## **Summary of Legislation**

Under current law, the Health Insurance Affordability (HIA) Enterprise under the Department of Regulatory Agencies (DORA) provides funding for the Reinsurance Program which covers a portion of claims for high cost individuals insured through the individual health insurance market. The enterprise is partially funded by the insurance premium tax through an annual diversion of revenue that would otherwise be credited to the General Fund.

The bill ends the annual diversion from the General Fund to the HIA Cash Fund in the current fiscal year and future fiscal years.

## **Background and Assumptions**

Since the formation of the enterprise in [Senate Bill 20-215](#), insurance premium taxes diverted to the HIA have been accounted as TABOR-exempt enterprise revenue. In [the FY 2022-23 single statewide audit](#), the State Auditor concluded, and the Attorney General agreed, that the money should be accounted as state revenue subject to TABOR. Pursuant to the audit finding and Attorney General's opinion, and as indicated in the [final fiscal note](#) for SB 20-215, creating the diversion to the enterprise did not exempt a portion of insurance premium tax from TABOR. Therefore, this revenue is subject to TABOR under current law, and ending the diversion has no impact on revenue subject to TABOR or TABOR refunds.

## **State Diversion**

The bill ends the annual diversion from the General Fund to the HIA Cash Fund starting in the current fiscal year. Currently the diversion amount is calculated such that no more than 10 percent of revenue to the HIA Cash Fund comes from the diversion. Based on the estimated amount of revenue to the HIA Cash Fund from other sources, absent the bill, \$15.7 million would be diverted in FY 2024-24 and \$17.3 million would be diverted in FY 2024-25. Lacking better information, it is assumed that \$17.3 million would be diverted in future years as well.

## **State Revenue**

As a result of ending the diversion, the HIA Enterprise will have less revenue to expend on the Reinsurance Program. The HIA enterprise may raise the Hospital Fee Assessments to partially or completely offset this reduction. DORA believes the HIA has sufficient reserves to absorb the reduction in FY 2023-24 without impacting program operations in calendar year 2024.

## **State Expenditures**

As a result of ending the diversion, more funds will be available in the General Fund for future expenditures or to pay TABOR refunds to taxpayers.

Any impact to expenditures within the HIA Enterprise will depend on whether the revenue reduction from ending the diversion is otherwise offset by higher fees. If expenditures decrease, the federal funds received through the program may be affected. Since the HIA Cash Fund is continuously appropriated, no change in appropriations is required.

### **Effective Date**

This bill was signed into law by the Governor and took effect on June 7, 2024.

### **State and Local Government Contacts**

Regulatory Agencies

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The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).