

**FINAL  
FISCAL NOTE**

**Drafting Number:** LLS 13-0491  
**Prime Sponsor(s):** Rep. Primavera  
 Sen. Todd

**Date:** July 12, 2013  
**Bill Status:** Signed into Law  
**Fiscal Analyst:** Kirk Mlinek (303-866-2756)

**TITLE:** CONCERNING THE USE OF EPINEPHRINE AUTO-INJECTORS IN EMERGENCY SITUATIONS IN SCHOOL SETTINGS.

<b>Fiscal Impact Summary</b>	<b>FY 2013-2014</b>	<b>FY 2014-2015</b>
<b>State Revenue</b>		
<b>State Expenditures</b>		
General Fund	\$8,035	\$8,035
<b>FTE Position Change</b>	0.1 FTE	0.1 FTE
<b>Effective Date:</b> The bill was signed into law by the Governor and took effect on May 28, 2013.		
<b>Appropriation Summary for FY 2013-2014:</b> See State Appropriations section.		
<b>Local Government Impact:</b> See School District Impact section.		

**Summary of Legislation**

No later than December 31, 2013, this bill requires that the State Board of Education (SBE), in consultation with the Department of Public Health and Environment (DPHE), adopt rules for the management of students with life-threatening allergies that, at a minimum, must include:

- education and training for personnel designated to manage students with life-threatening allergies;
- standards for training programs that must be completed by designated personnel in order to administer an epinephrine auto-injector;
- procedures for responding to students' life-threatening allergic reactions;
- a process for developing individualized health care and allergy action plans for students known to have life-threatening allergies;
- protocols to prevent students' exposure to allergens;
- incident reporting protocols; and
- a requirement for schools nurses to report to the Colorado Department of Education (CDE) the number of school district employees trained to administer epinephrine auto-injectors.

The bill allows, but does not require, public and nonpublic schools to adopt policies that authorize designated personnel to administer an epinephrine auto-injector (epi-pen), in accordance with standing orders and protocol, to a student who is believed to be experiencing anaphylaxis. The

standing orders and protocol must be from a licensed physician, physician's assistant, or advance practice nurse with prescriptive authority, regardless of whether the student has a prescription for an epi-pen. School governing bodies are authorized to enter into agreements with manufacturers of epinephrine auto-injectors or third-party suppliers in order to obtain the injectors at fair market or reduced prices, or for free. The bill limits the liability of a school and a good-faith user of an epinephrine auto-injector in emergency situations in school settings.

## **Background**

Data indicate that 3.1 percent of K-12 students have a life-threatening allergic condition that, depending on the circumstances, could cause the student to go into anaphylactic shock. Colorado has approximately 863,561 K-12 students, meaning that as many as 26,571 have a life-threatening allergic condition. Students who are aware of their condition are frequently prescribed epinephrine in the form of syringe-like device known as an epi-pen. In the event of exposure causing a severe allergic reaction, such students self administer the epi-pen or may have it administered to them.

## **State Expenditures**

**Expenditures in the Department of Education will increase by \$8,035 General Fund and 0.1 FTE for FY 2013-14 and FY 2014-15 under the bill.** These and other departmental impacts are discussed below.

***Education.*** The CDE will engage the services of a School Nurse Principal Consultant (0.1 FTE) to prepare the annual report required by the bill and to answer questions from school district personnel. The fiscal note assumes that up to 10 percent of the 26,571 students identified above (2,671) could have events that require that an epi-pen be administered and a report to be filed. The fiscal note assumes that it will take 220 hours to compile, analyze, and format the incident reports, and to prepare the annual report.

The bill also requires the SBE to promulgate rules and to develop an on-line reporting form. While these activities represent workload increases, no additional appropriations are required for CDE to accomplish these tasks. The fiscal note assumes that initial and follow-up training of designated personnel in the use of an epinephrine auto-injector will be provided at the local level.

***Department of Public Health and Environment.*** CDE's consultation of DPHE is expected to be minimal, and could be limited to one time. As a result, any increase in workload will be absorbed within existing appropriations.

***Law.*** The Department of Law will participate in the rule promulgation process required by the bill. The time involved in this process will be minimal and, as such, will be absorbed within existing appropriations.

**Judicial.** The bill clarifies that liability may exist in a public or nonpublic school when designated officials use an epinephrine auto-injector pen in accordance with protocol and injury is caused by willful or wanton conduct. The fiscal note assumes that few, if any, claims under the willful or wanton standard will be filed, therefore, the courts are not expected to see an increase in the number of cases filed.

**No appropriation clause.** The bill specifies that CDE is required to implement the provisions of this bill within existing resources and that no additional appropriation of funds or FTE is required. However, even when bills specify that no appropriation is required, legislative rules require that fiscal notes analyze the workload and cost impacts to state agencies that are expected to result from the bill. To the extent that workload increases as estimated in the fiscal note and funding is not provided in the bill, agencies may be required to seek additional funding through the annual budget process in the future.

### **School District Impact**

The bill will impact school district expenditures to the extent that a district chooses to participate in the program created by the bill. Districts who want to participate will be required to follow SBE guidelines, designate and provide training for selected personnel, provide periodic reports, and maintain a supply of epinephrine auto-injectors.

### **Expenditures Not Included**

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 summarized in Table 1.

<b>Table 1. Expenditures Not Included Under HB13-1171*</b>		
<b>Cost Components</b>	<b>FY 2013-14</b>	<b>FY 2014-15</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$676	\$676
Supplemental Employee Retirement Payments	493	558
<b>TOTAL</b>	<b>\$1,169</b>	<b>\$1,234</b>

\*More information is available at: <http://colorado.gov/fiscalnotes>

**State Appropriations**

The no appropriation clause notwithstanding, for FY 2013-14, the Department of Education requires a General Fund appropriation of \$8,035 and 0.1 FTE.

**Departments Contacted**

Education  
Law  
Judicial

Public Health and Environment  
Office of Information Technology  
School Districts