

**FINAL
FISCAL NOTE**

Drafting Number: LLS 13-0790
Prime Sponsor(s): Rep. McCann
 Sen. Steadman

Date: June 12, 2013
Bill Status: Signed into Law
Fiscal Analyst: Bill Zepernick (303-866-4777)

TITLE: CONCERNING FUNDING MECHANISMS FOR THE COLORADO HEALTH BENEFIT EXCHANGE.

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
State Revenue		
General Fund	(up to \$7.5 million)	(\$5.0 million)
Cash Funds		
Administrative Hearings Fund	Increase.	Increase.
State Transfers		
Transfer from the Unclaimed Property Trust Fund to the Colorado Health Benefit Exchange	\$15.0 million	
State Expenditures	See State Expenditures section.	
FTE Position Change		
Effective Date: The bill was signed into law by the Governor and took effect on May 23, 2013.		
Appropriation Summary for FY 2013-2014: None required.		
Statutory Public Entity Impact: See Statutory Public Entity Impact section below.		
Local Government Impact: None.		

Summary of Legislation

The bill creates 2 funding mechanisms to support the operations of the Colorado Health Benefit Exchange (health exchange), as discussed below.

Insurance assessment. The health exchange board of directors may assess a fee on health plans in the small group and individual markets, as well as on dental plans, during the period from January 1, 2014, through December 31, 2016. The fee is limited to \$1.80 per member for month for health insurance carriers and up to \$0.18 per member per month for dental plans. The Commissioner of Insurance is required to promulgate rules for the collection and assessment of the fee on carriers.

Premium tax credit. The bill creates a tax credit against the premium tax owed by insurance carriers for donations to the health exchange. The tax credit is capped at \$5.0 million per year statewide and may be claimed by a carrier against its quarterly premium tax payment beginning in the 2013 tax year. To claim the credit, a carrier must follow the rules promulgated by the Commissioner of Insurance and complete the specified process for becoming a qualified taxpayer.

Other provisions. In addition, the bill specifies that any funds received from the reserves of CoverColorado under House Bill 13-1115 or from a transfer from the Unclaimed Property Trust Fund must be used to reduce the assessment charged to health plans. The bill also clarifies that the board of the health exchange is required to submit its operational and financial plans to the Legislative Health Benefit Exchange Implementation Review Committee and that the committee is required to meet at least 2 times per year. Also, the exchange board is authorized to create a separate program to offer ancillary products that shares resources and infrastructure with the exchange. Lastly, the board is authorized to enter into an agreement with the Office of Administrative Courts in the Department of Personnel and Administration (DPA) to use administrative law judges (ALJs) to hear matters resulting from the exchange.

Background

The Colorado Health Benefit Exchange was created by Senate Bill 11-200 to act as a state-based health insurance exchange under the federal Patient Protection and Affordable Care Act (federal health care reform). The health exchange is a market place for consumers to shop for and purchase health insurance, and is scheduled to begin operation in October 2013, with policies sold taking effect on January 1, 2014. Persons purchasing health insurance through the exchange may qualify for federal subsidies if their income is between 133 and 400 percent of the federal poverty level and they meet certain other requirements. The exchange is currently supported by federal grants and under federal law is required to be self-sufficient in funding its operations by 2015.

CoverColorado offers health insurance to individuals with preexisting conditions who are unable to qualify for health insurance in the private market. Under federal health care reform, health insurers must provide coverage to all persons applying for coverage regardless of any preexisting condition. Thus, CoverColorado will no longer be required to provide insurance to high-risk persons and will be repealed if House Bill 13-1115 becomes law. The tax credits and fees on health insurance carriers established in this bill are similar to those for CoverColorado, which will be repealed under House Bill 13-1115.

State Revenue

The bill reduces General Fund revenue by up to \$7.5 million in FY 2013-14 and \$5.0 million per year beginning in FY 2014-15. Insurance carriers may claim a credit against their premium taxes, up to a statewide total of \$5.0 million per year. This analysis assumes that insurance carriers will claim the full \$5.0 million credit each year, as has been the case under a similar tax credit for donations to CoverColorado. In FY 2013-14, General Fund revenue may be reduced by up to \$7.5 million if insurance carriers are able to take the full \$5.0 million credit for tax year 2013 and \$2.5 million for half of tax year 2014. This will depend on the tax credit allocation decisions made by the Commissioner of Insurance.

Revenue to the Administrative Hearings Fund will increase if the exchange enters an agreement with the DPA to use ALJs in the Office of Administrative Courts to hear cases arising from the exchange. At this time, the number of cases referred from the exchange and potential revenue to the Administrative Hearings Fund are unknown.

State Transfers

The bill transfers \$15.0 million from the Unclaimed Property Trust Fund to the Colorado Health Benefit Exchange at the start of FY 2013-14. This is a one-time transfer of funds.

State Expenditures

Under the bill, the Division of Insurance in the Department of Regulatory Agencies may have a small increase in workload to promulgate rules pertaining to the tax credit and the fee assessment on insurance carriers. Any increase in workload can be accomplished within existing appropriations to the department.

The Office of Administrative Courts in the DPA will have increased costs to hear cases arising from the exchange. It is assumed that the costs of such hearings will be paid by the exchange as outlined in any future agreement between the DPA and the exchange. To the extent that exchange-related case increase the need for ALJs, this will be addressed through the annual budget process. These costs are paid from the Administrative Hearings Fund.

Statutory Public Entity Impact

Ongoing operating expenses for the health exchange are estimated to be \$26 million per year. In addition to revenue generated by this bill, the health exchange anticipates revenue from fees on policies sold through the exchange, grants from private foundations, and other business revenue such as advertising. **Revenue to the Colorado Health Benefit Exchange created by this bill is estimated to be \$22.6 million in FY 2013-14 and \$19.4 million in FY 2014-15.** Revenue to the exchange is discussed below and summarized in Table 1.

Health insurer assessment. This analysis assumes that the health exchange board will begin charging an assessment of \$1.00 per member per month on health insurance carriers beginning on January 1, 2015, after transfers from the reserves of CoverColorado and the Unclaimed Property Trust Fund are used to offset the potential assessment on these carriers. Applying a \$1.00 assessment per member per month on the estimated 890,000 insured lives in the small group and individual health insurance markets will generate about \$10.7 million per year to the health exchange. The assessment may be collected by the exchange through December 31, 2016.

Dental insurer assessment. Exact data on insured lives subject to the dental plan assessment are not available. Assuming a rough estimate of 100,000 insured lives at \$0.18 per member per month, the dental assessment will result in \$216,000 in revenue per year to the exchange.

Donations under the premium tax credit. Revenue from donations under the premium tax credit are expected to be \$5.0 million per year. In FY 2013-14, tax credits for maybe be higher (up to \$7.5 million), if the full amount of the \$5.0 million credit for tax year 2013 and half of the amount for tax year 2014 are allocated by the Commissioner of Insurance.

CoverColorado reserves. At this time, it is preliminarily estimated that between \$6.8 million and \$10.8 million will be transferred from the CoverColorado reserves to the exchange if HB 13-1115 becomes law. Assuming the mid-point of this range and a March 2015 transfer date, the transfer from CoverColorado to the exchange will be \$8.8 million in FY 2014-15.

Table 1. Revenue to the Colorado Health Benefit Exchange Under HB 13-1245		
Cost Components	FY 2013-14	FY 2014-15
Assessment on Health Insurance Carriers*	\$0	\$5,340,000
Assessment on Dental Insurance Carriers*	108,000	216,000
Transfer from Unclaimed Property Trust Fund	15,000,000	0
Transfer of Cover Colorado Reserves (HB 13-1115)	0	8,800,000
Donations under Premium Tax Credit	7,500,000	5,000,000
TOTAL	\$22,608,000	\$19,356,000

* Assessments on dental insurance carriers in FY 2013-14 and on health insurance carriers in FY 2014-15 reflect 6 months of revenue.

Departments Contacted

Regulatory Agencies
Revenue

Health Care Policy and Financing
Personnel and Administration

Law
Governor