HB 20-1413

Legislative
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Nonpartisan Services for Colorado's Legislature

FINAL FISCAL NOTE

Drafting Number:	LLS 20-1303	**Date:**	July 27, 2020
Prime Sponsors:	Rep. Bird; Cutter Sen. Zenzinger; Donovan	**Bill Status:**	Signed into Law
		Fiscal Analyst:	Erin Reynolds | 303-866-4146 Erin.Reynolds@state.co.us

Bill Topic: **SMALL BUSINESS RECOVERY LOAN PROGRAM PREMIUM TAX CREDITS**

Summary of Fiscal Impact:

- ☒ State Revenue
- ☒ State Expenditure
- ☒ State Transfer
- ☐ TABOR Refund
- ☐ Local Government
- ☒ Statutory Public Entity

This bill establishes a state and private investor funded small business recovery loan program. It will impact state revenue, transfers, and expenditures through FY 2026-27. It may also impact workload in a statutory public entity.

Appropriation Summary: No appropriation is required. The newly created Small Business Recovery Fund is continuously appropriated to the Treasury Department.

Fiscal Note Status: The fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under HB 20-1413

		FY 2020-21*	FY 2021-22	FY 2022-23	FY 2025-26	FY 2026-27
Revenue**	General Fund	-	-	-	up to ($20.0 million)	up to ($20.0 million)
	Cash Funds	up to $33.7 million	up to $29.6 million	up to $10.8 million	up to $7.5 million	up to $2.2 million
	Total	**up to $33.7 million**	**up to $29.6 million**	**up to $10.8 million**	**up to ($12.5 million)**	**up to ($17.8 million)**
Expenditures	Cash Funds	up to $30.5 million	up to $21.0 million	$65,034	$65,034	$65,034
	FTE	0.6 FTE	0.6 FTE	0.6 FTE	0.6 FTE	0.6 FTE
Transfers***		-	-	-	-	-
TABOR		-	-	-	-	-

* *Cash fund revenue in FY 2020-21 may be reduced to the extent that federal CARES Act funding is available for this purpose. This would correspondingly reduce the revenue decrease in FY 2025-26 and FY 2026-27.*

** *Table 1 shows the maximum allowable issuance of insurance premium tax credits and small business recovery loan issuance. See Assumptions section for additional information. Additional reductions in General Fund revenue totaling up to $28 million across four fiscal years will occur between FY 2027-28 and FY 2030-31.*

*** *Beginning in FY 2025-26, unspent and unencumbered funds at the end of any fiscal year are transferred from the Small Business Recovery Fund to the General Fund. These amounts have not been estimated.*

Summary of Legislation

This bill creates the Colorado Loans for Increasing Main Street Business Economic Recovery Act in the Office of the State Treasurer.

Small Business Recovery Loan Program. The State Treasurer is authorized to enter into one or more contracts to establish a Small Business Recovery Loan Program to assist the state's recovery from the COVID-19 pandemic by leveraging private investment for loans to Colorado small businesses.

Small Business Recovery Insurance Premium Tax Credits. The bill permits the State Treasurer to issue insurance premium tax credits to insurance companies that are authorized to do business in Colorado and incur premium tax liability, subject to procedures established by the Treasury Department. The State Treasurer may contract with the Colorado Housing and Finance Authority or a private entity selected through an open and competitive process to manage the bidding process. The purchase price for insurance premium tax credit certificates must be set either as a percentage determined in a matter consistent with market conditions as of the offer date established by the State Treasurer or independent third-party, or 75 percent of the certificate amount.

The State Treasurer is authorized to issue insurance premium tax credit certificates in the following amounts:

- for FY 2020-21, up to $40 million in total certificate face value, or total sales proceeds of up to $30.5 million, whichever is less; and
- for FY 2021-22, up to $28 million in total certificate face value, or total sales proceeds of up to $21.0 million, whichever is less.

However, if CARES Act funding received by the state from the federal government has been allocated to the fund for the purposes of small business loans, the value of the certificate proceeds for FY 2020-21 is reduced by the amount of that federal allocation.

For an insurance premium tax credit certificate issued in FY 2020-21, the insurance company may claim up to 50 percent of the credit in calendar year 2026, and may claim the remaining amount of the credit beginning in calendar year 2027. For certificates issued in FY 2021-22, the qualified taxpayer may claim the credit beginning in calendar year 2028. The amount of the credit claimed cannot exceed the taxpayer's premium tax liability for a given year. The unused amount carries forward and may be claimed in subsequent years; except that a credit cannot be claimed for premium tax liability incurred in a taxable year that begins after December 31, 2031.

Loans to small businesses. Subject to the availability of proceeds from insurance premium tax credit purchases or allocation of federal CARES Act funding, the State Treasurer may invest up to $30 million in first loss capital from the newly established Small Business Recovery Fund in each of FY 2020-21 and FY 2021-22. Loans must be issued in tranches of $10 million dollars or less, up to a maximum amount of $50 million in all tranches combined across FY 2020-21 and FY 2021-22. A new tranche may be issued only once 90 percent of the money in the prior tranche has been invested in small business loans. Loan commitments may only be made once funding from other sources in a 4-to-1 ration has been secured. Loans must be between $30,000 and $500,000 and have a maximum initial maturity of five years, with amortization and principal and interest payments established in the bill.

When each tranche is deployed, it is subject to an initial period of time in which a portion of the money is allocated to each county on a per capita basis and reserved for eligible borrowers located in that county. After the initial period of time passes, the money remaining in the tranche is available on a statewide basis.

The loan must carry an interest rate that is lower than would otherwise be available on a risk-adjusted basis from a commercial lender or that bears terms that are not otherwise available from a commercial lender, as determined by the oversight board. The loan program may only make loans directly if federal or state bank regulators prohibit the banking industry from originating the loans.

Eligible borrowers. The bill defines eligible borrower to mean a business that, as determined by the oversight board:

- has its principal place of business in the state;
- has at least five but fewer than 100 employees;
- can demonstrate that it had at least two consecutive years of positive cash flow prior to February 29, 2020; and
- can demonstrate that it had a debt-service coverage ratio as of February 29, 2020, of at least one-to-one or a higher level as determined by the oversight board.

Small Business Recovery Loan Program Oversight Board. The bill creates the Small Business Recovery Loan Program Oversight Board (board) to meet at least quarterly. The board is a state public body subject to open meeting requirements.

The board consists of five members serving at the pleasure of the official who appointed the member for three-year terms, including:

- the State Treasurer or the treasurer's designee;
- the Minority Business Office director on behalf of the Office of Economic Development (OEDIT) or the director's designee; and
- three members appointed by the Speaker of the House, the President of the Senate, and the Governor, respectively.

The chair of the Governor's Council on Economic Stabilization and Growth and the co-chairs of the Council's Financial Services Committee must consult with and provide recommendations on initial appointments. Initial appointments must be made no later than July 31, 2020. Board members serve without compensation, but may be reimbursed for actual and necessary expenses.

The board must consult with the State Treasurer on the selection of a loan program manager; consult with lending industry leaders and small business representatives to establish certain terms and criteria applicable to the loan program; and provide oversight and guidance to the loan program to ensure it complies with statutory requirements and fulfills the purpose of assisting Colorado small businesses recovering from the COVID-19 crisis.

Reporting. The board must submit a report on information outlined in the bill every six months to the Joint Budget Committee, beginning on or before November 30, 2020, as well as an annual report and presentation to the Business Committees of the General Assembly in that time frame. After November 30, 2022, annual reporting is required.

Small Business Recovery Fund. The bill creates the Small Business Recovery Fund in the Treasury Department. The fund consists of tax credit sale proceeds, any revenues, disbursements, or money returned to the state from the loan program, and any other money the General Assembly appropriates or transfers to the fund. The money in the fund is continuously appropriated to the Treasury Department to implement the loan program and to pay for the department's direct and indirect costs in administering the loan program and in issuing the tax credits. Beginning in FY 2025-26, the State Treasurer must credit any unexpended and unencumbered money remaining in the fund at the end of a fiscal year to the General Fund. The fund is repealed on July 1, 2029, and all unexpended and unencumbered money remaining in the fund is transferred to the General Fund.

Background

The state currently issues insurance premium tax credits under the Certified Capital Companies Program (CAPCO), administered by OEDIT. It has previously issued such credits for the CoverColorado program, now Connect for Health Colorado.

The Division of Insurance collected $314.7 million in insurance premium taxes in FY 2018-19. This includes revenue from taxes on insurance premiums charged by insurance companies and surplus line brokers.

Assumptions

Insurance Premium Tax Credits. The fiscal note assumes the bill's maximum allowable insurance premium tax credits are issued.

Small Business Loans. The fiscal note assumes the bill's maximum allowable small business loan amount is issued. Loan revenue also assumes:

- all loans start January 1;
- 100 percent repayment;
- 5 year term with monthly payments
- 3.0 percent interest;
- fixed payment over life of loan; and
- the state receives interest based on its share of funds committed to the loan program.

State Revenue

The bill increases state cash fund revenue by up to $33.7 million FY 2020-21 and up to $29.6 million in FY 2021-22, credited to the Small Business Recovery Fund. Of these amounts, up to $50 million across these two fiscal years will be from the sales proceeds from insurance premium tax credit certificates, and the remainder, up to $11.9 million across both years, will be from loan repayment and interest revenue. The exact amount of credit certificate proceed revenue will depend on the face value and purchase price of insurance premium tax credit certificates, as well as the availably of federal CARES funding, which would offset the amount of certificates issued. Loan repayment revenue will vary depend on actual interest rates for loans issued, the volume of loans, agreements with private sector lenders contributing capital to the lending program, and other factors. Table 2 provides a detailed estimate of the sales proceeds and loan repayment revenues, based on the assumptions outlined above.

Table 2
Maximum Projected Revenue Change Under HB 20-1413
(in millions)

	FY 20-21	FY 21-22	FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27	FY 27-28	FY 28-29
Reduced Insurance Premium Tax Revenue*	-	-	-	-	-	($20.0)	($20.0)	($14.0)	($14.0)
Insurance Premium Tax Credit Certificate	$30.5	$21.0	-	-	-	-	-	-	-
Loan Repayment Revenue	$3.2	$8.6	$10.8	$10.8	$10.8	$7.5	$2.2	-	-
Total FTE	**$33.7**	**$29.6**	**$10.8**	**$10.8**	**$10.8**	**($12.5)**	**($17.8)**	**($14.0)**	**($14.0)**

* *The bill may reduce insurance premium tax collections by up to $28.0 million between FY 2027-28 and FY 2030-31. It is shown here, split evenly between FY 2027-28 and FY 2028-29 for informational purposes; the actual reduction may be spread out across four fiscal years.*

State Transfers

Beginning in FY 2025-26, unspent and unencumbered funds at the end of any fiscal year are transferred from the Small Business Recovery Fund to the General Fund. These amounts have not been estimated, and will depend on the amount of proceeds from premium tax credit certificates not used to issue loans, the amount of revenue from repayments, the timing and amount of any funds used to support program administration, and other factors.

State Expenditures

The bill will increase cash fund expenditures in the Treasury Department to contribute funds to the new lending program, as well as to manage the program. Loan funds may total up to $50.0 million, in total, across FY 2020-21 and FY 2021-22. Administrative costs are shown in Table 3, and discussed below. Workload will also increase for OEDIT to participate on the board.

Table 3
Administrative Costs Under HB 20-1413

	FY 2020-21	FY 2021-22
Department of Treasury		
Personal Services	$53,866	$53,866
Operating Expenses	$810	$810
Capital Outlay Costs	$6,200	-
Centrally Appropriated Costs*	$10,358	$10,358
Total Cost	**$71,234**	**$65,034**
Total FTE	**0.6 FTE**	**0.6 FTE**

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

Treasury Department. The bill requires 0.6 FTE Program Manager to assist the oversight board in its formation, staff its meetings, and liaison with agencies, as necessary. The position will also work with the Department of Law in executing the contracts under the bill, and work to fund-raise the 4:1 match. Funds in the continuously appropriated Small Business Recovery Fund may be used by the Treasury Department for these expenses. It is assumed these staffing costs will continue through the end of the loan program in FY 2026-27. Workload will continue through FY 2030-31 concerning redemption of insurance premium tax credit certificates.

Office of Economic Development. Workload will increase for OEDIT to participate in the oversight board. No change in appropriations are required.

Statutory Public Entity

Workload will increase in the Colorado Housing and Finance Authority (CHFA) if the agency is selected as the Loan Program Manager.

Colorado Housing and Finance Authority. CHFA does not receive state appropriations to support operations; as such, there is no fiscal impact to the General Fund if CHFA is selected as the Loan Program Manager. Initial and ongoing program administration costs will be paid by the fund, which consists of capital invested and loan repayment revenue paid. Administrative costs are expected to be greater during the initial period to support increased contracting, legal, systems integration, planning, marketing, and outreach activities required to launch the program. If selected as the Loan Program Manager, CHFA will amortize initial program administration expenses over the term of its contract period. Administration expenses incurred once the fund is operational will be paid per the requirements of the contract and the fund.

Effective Date

The bill was signed into law by the Governor and took effect on June 23, 2020.

State and Local Government Contacts

CHFA	Law	Economic Development
Personnel	Regulatory Agencies	Revenue
Treasury		