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**REVISED
FISCAL NOTE**

(replaces fiscal note dated February 26, 2019)

Drafting Number: LLS 19-0513 **Date:** April 17, 2019
Prime Sponsors: Rep. McCluskie; Rich **Bill Status:** Senate HHS
 Sen. Donovan; Rankin **Fiscal Analyst:** Max Nardo | 303-866-4776
 max.nardo@state.co.us

Bill Topic: STATE INNOVATION WAIVER REINSURANCE PROGRAM

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input checked="" type="checkbox"/> State Diversion	<input checked="" type="checkbox"/> Statutory Public Entity

The bill requires the Commissioner of Insurance to seek federal approval to establish a reinsurance program to lower health insurance premiums. The bill requires one-time funding to seek the federal waiver and, conditional upon federal approval, increases state revenue and expenditures for five years.

Appropriation Summary: For FY 2019-20, the bill requires and includes an appropriation of \$785,904 to the Department of Regulatory Agencies.

Fiscal Note Status: The revised fiscal note reflects the reengrossed bill.

**Table 1
State Fiscal Impacts Under HB 19-1168**

		FY 2019-20	FY 2020-21
Revenue	Cash Funds	\$59.5 million	\$119 million
	Total	\$59.5 million	\$119 million
Expenditures	Cash Funds	\$60,285,904	\$120,015,122
	Federal Funds	\$58,500,000	\$117,000,000
	Centrally Appropriated	\$50,296	\$67,062
	Total	\$118,836,200	\$237,082,184
	Total FTE	3.0 FTE	4.0 FTE
Diversions	General Fund	(\$785,904)	(\$1,015,122)
	Cash Funds	\$785,904	\$1,015,122
	Total	\$0	\$0
TABOR Refund		-	-

Summary of Legislation

The bill requires the Commissioner of Insurance in the Department of Regulatory Agencies (DORA) to seek a State Innovation Waiver under the federal Affordable Care Act to create a jointly funded reinsurance program in Colorado. If federal approval is granted, the reinsurance program will apply to 2020 health plans sold on the individual health insurance market.

The Commissioner will set the payment parameters of the reinsurance program. These include the attachment point, above which claims are eligible for reinsurance payments; the coinsurance rate; and the reinsurance cap, above which claims are no longer eligible for reinsurance payments. The bill directs the Commissioner to set the parameters of the program so that claims costs are reduced as follows:

- between 30 and 35 percent in geographic rating areas five and nine (Mesa County and western Colorado);
- between 20 and 25 percent in geographic rating areas four, six, seven, and eight (Larimer, Weld, and Pueblo counties, the eastern plains, and southern Colorado); and
- between 15 and 20 percent in geographic rating areas one, two, and three (Boulder, El Paso, and Teller counties, and the Denver metro area).

The reinsurance program is created as a state enterprise that, subject to approval by the legislature and governor, may issue revenue bonds. Revenue to the reinsurance program is exempt from the state's TABOR limit. The Commissioner is authorized to assess special fees against hospitals to finance the state's share of the program. Fees may not exceed \$150 million per benefit year and may not exceed a total of \$500 million over five years. Hospitals are prohibited from passing the special fee on to consumers in any manner. Procedures will be created to exempt certain hospitals from the special fees based on parameters included in the bill. If the federal government suspends the Health Insurance Provider Fee, created under the Affordable Care Act, the Commissioner must assess a fee of 2.2 percent of premiums collected by carriers or at a rate imposed by the federal government.

Hospitals are required to provide quarterly reports to the Commissioner, as outlined in the bill. The Division of Insurance is required to report on the reinsurance program each year as part of the DORA SMART Act hearing. The program is scheduled to repeal on September 1, 2024, following a sunset review.

Background

Reinsurance. Reinsurance is a type of insurance available to insurance carriers to transfer a portion of their 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 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 show that the waiver provides access to quality health care that will be at least as comprehensive and affordable as it would be absent the waiver; that coverage is provided to a comparable number of residents as would be provided absent the waiver; and that the changes under the waiver do not increase the federal deficit.

Federal health insurance subsidies. In 2018, Coloradans received about \$636 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.

Colorado's individual market. As of January 2019, an estimated 251,000 individuals receive health insurance coverage through Colorado's individual market. About half of this population receives federal tax credits to pay a portion of their premiums.

State Revenue

Conditional upon the federal waiver being approved, the bill will increase state revenue by about \$59.5 million in FY 2019-20 and \$119 million in FY 2020-21 from fee assessments on hospitals. Actual amounts may vary. The FY 2020-21 revenue estimate is based on an actuarial analysis prepared for DORA in March 2019 assessing the required state share. The FY 2019-20 estimate is prorated to reflect a half year of implementation. Fee revenue is deposited into the Reinsurance Program Cash Fund, and is not subject to state revenue limits.

If the federal government suspends the Health Insurance Provider Fee, created by the Affordable Care Act, the Commissioner must assess a fee of 2.2 percent of premiums collected by carriers. The fiscal note does not include an estimate that reflects this scenario.

State Diversions

The bill diverts up to \$785,904 from the General Fund in FY 2019-20 and up to \$1,015,122 in FY 2020-21. This revenue diversion occurs because the bill increases costs in the Division of Insurance in DORA, which is funded with premium tax revenue that would otherwise be credited to the General Fund.

State Expenditures

The bill increases state expenditures in DORA by about \$119 million and 3.0 FTE in FY 2019-20 and \$237 million and 4.0 FTE in FY 2020-21. 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 19-1174**

	FY 2019-20	FY 2020-21
Reinsurance Program Payments		
Reinsurance Payments – Cash Funds	\$59,500,000	\$119,000,000
Reinsurance Payments – Federal Funds	\$58,500,000	\$117,000,000
Subtotal (Reinsurance Payments)	\$118,000,000	\$236,000,000
Program Administration in DORA		
Personal Services	\$274,104	\$339,122
Contractor and Consultant Services	\$511,800	\$676,000
Centrally Appropriated Costs	\$50,296	\$67,062
FTE – Personal Services	3.0 FTE	4.0 FTE
Subtotal (Administration)	\$836,200	\$1,082,184
Total Cost	\$118,836,200	\$237,082,184
Total FTE	3.0 FTE	4.0 FTE

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

Reinsurance payments. The bill requires the reinsurance program to be sized such that claims paid by insurance carriers on the individual market are reduced by about 21 percent statewide, varying by geographic region. This will require a reinsurance program costing an estimated \$236 million in FY 2020-21. The amount of federal funding available is expected to be \$117 million, which leaves \$119 million to be paid for by the state. These estimates are prorated to reflect a half year of implementation in FY 2019-20.

Reinsurance program administration. To create the reinsurance program beginning in calendar year 2020, DORA will need to apply for a federal waiver and develop payment parameters. This will require \$274,104 and 3.0 FTE in FY 2019-20 and \$339,122 and 4.0 FTE in FY 2020-21. DORA will require contractor support for claims processing, carrier audits, and in the ongoing evaluation of payment parameters; this will require 1,560 contractor hours at a rate of \$325 per hour (\$507,000) in FY 2019-20 and 2,080 hours at \$325 per hour (\$676,000) in FY 2020-21 and beyond. DORA will require \$4,800 for a healthcare consultant to assist with the waiver application in FY 2019-20. Ongoing administration can be financed with reinsurance program funds, but it is unknown when these funds will become available for this purpose; therefore, the fiscal note identifies these costs as paid from the Division of Insurance Cash Fund for the first two fiscal years.

Centrally appropriated costs. 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. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$50,296 in FY 2019-20 and \$67,062 in FY 2020-21.

Statutory Public Entity

Connect for Health Colorado. The state's health insurance exchange is funded primarily through a health insurance carrier fee charged on plans purchased through the marketplace. The fee is set at 3.5 percent of premiums for 2019. A reduction in premiums will result in a decrease in revenue to Connect for Health Colorado. This may be partially offset by an increase in demand for health insurance policies.

Effective Date

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

State Appropriations

For FY 2019-20, the bill requires and includes an appropriation from the Division of Insurance Cash Fund of \$785,904 to the Department of Regulatory Agencies, and an allocation of 3.0 FTE.

State and Local Government Contacts

Colorado Health Benefit Exchange
Information Technology
Personnel
State Auditor

Health Care Policy and Financing
Law
Regulatory Agencies