

Colorado Legislative Council Staff Fiscal Note

**FINAL  
FISCAL NOTE**

**Drafting Number:** LLS 13-0039  
**Prime Sponsor(s):** Sen. Aguilar  
 Rep. Ginal

**Date:** May 16, 2013  
**Bill Status:** Deemed Lost  
**Fiscal Analyst:** Bill Zepernick (303-866-4777)

**TITLE:** SUBMITTING TO THE REGISTERED ELECTORS OF THE STATE OF COLORADO AN AMENDMENT TO THE COLORADO CONSTITUTION CONCERNING THE CREATION OF A COLORADO HEALTH CARE COOPERATIVE TO ENSURE ACCESS TO A STATEWIDE HEALTH CARE SYSTEM THAT PROVIDES HEALTH CARE SERVICES TO ALL PERSONS WHOSE DOMICILE IS COLORADO FOR ALL HEALTH-RELATED ISSUES, AND, IN CONNECTION THEREWITH, CREATING AN INTERIM AND THEN A PERMANENT BOARD OF DIRECTORS TO ADMINISTER THE COOPERATIVE; REQUIRING THE COOPERATIVE TO CONTRACT WITH HEALTH CARE PROVIDERS TO DELIVER SPECIFIC HEALTH CARE BENEFITS; ASSESSING A SIX PERCENT PAYROLL PREMIUM FROM EMPLOYERS, A THREE PERCENT PAYROLL PREMIUM FROM EMPLOYEES, COMPARABLE EMPLOYER AND EMPLOYEE PREMIUMS FROM SELF-EMPLOYED INDIVIDUALS, AND A NINE PERCENT PREMIUM ON OTHER SPECIFIED INCOME; ASSESSING PREMIUMS AT A LOWER RATE UNTIL THE COOPERATIVE ASSUMES FIDUCIARY RESPONSIBILITY FOR HEALTH CARE PAYMENTS; PLACING A CAP ON THE AMOUNT OF INCOME SUBJECT TO THE PREMIUMS; AUTHORIZING THE BOARD TO INCREASE THE PREMIUMS IN SPECIFIED CIRCUMSTANCES; AND REQUIRING THE DEPARTMENT OF REVENUE TO COLLECT AND TRANSFER THE PREMIUMS TO PAY FOR HEALTH CARE SERVICES PROVIDED THROUGH THE COOPERATIVE.

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015	FY 2015-2016	FY 2016-2017	FY 2017-2018
<b>State Revenue</b>		<b>\$272 million</b>	<b>\$543 million</b>	<b>\$543 million</b>	<b>\$16,053 million</b>
General Fund					(\$235 million)
Colorado Health Care Cooperative*		\$272 million	\$543 million	\$543 million	\$16,288 million
<b>State Expenditures</b>	<b>\$975,000</b>	<b>\$6,750,390</b>	<b>\$9,008,023</b>	<b>\$8,987,129</b>	<b>(\$109,948,991)</b>
General Fund	975,000	5,512,009	6,680,568	6,676,833	(65,115,293)
Cash Funds	0	556,642	1,135,549	1,158,260	(22,512,077)
Reapprop. Funds	0	247,071	504,025	514,105	(11,961,674)
Federal Funds	0	434,668	687,881	637,931	(10,359,947)
<b>FTE Position Change</b>					

**Effective Date:** The bill was laid over until January 8, 2014, by the Senate during second reading on April, 12, 2013. As such, the bill was deemed lost.

**Appropriation Summary for FY 2013-2014:** None required. Resolutions of the General Assembly may not contain appropriations, as the state constitution prohibits the disbursement of state money except by law.

**Local Government Impact:** See Local Government Impact section.

\* Revenue is from payroll and income taxes collected by the Department of Revenue for transfer to the Colorado Health Care Cooperative.

## **Summary of Legislation**

SCR13-002 refers a constitutional amendment to the voters to create the Colorado Health Care Cooperative (the cooperative) to provide access to, and payments for, health care services for all residents of the state. The cooperative is required to contract with providers and accountable care organizations to deliver health care benefits, including:

- primary and specialty care;
- hospitalization;
- pharmaceuticals and durable medical equipment;
- mental health and substance abuse treatment;
- emergency and urgent care;
- health maintenance and disease prevention;
- health, wellness, and end-of-life education;
- designated dental, vision, and hearing benefits;
- long-term care services and support; and
- palliative and end-of-life care.

**Funding sources.** The cooperative is funded by a combination of new taxes on payroll and income (paid to the cooperative as premiums) and transfers of existing state and federal fund sources. Prior to assuming responsibility for health care payments, the state is required to collect the following:

- a 0.3-percent payroll tax on gross income (0.2 percent from employers and 0.1 percent from employees); and
- a 0.3 percent tax on self-employment income and all other income.

After the cooperative assumes responsibility for health care payments in Colorado, the taxes under the amendment are collected as follows:

- a 9-percent payroll tax on gross income (6 percent from employers and 3 percent from employees); and
- a 9-percent tax on self-employment income and all other income.

Income taxed for premium payments under the amendment is capped at \$350,000 for individuals and \$450,000 for persons filing jointly. Employers may opt to pay their employees' portion of the payroll tax. Social security, pension, child support, and unemployment insurance income are not taxed.

**Governance.** The cooperative is created as a subdivision of the state, but is not part of, or controlled by, any state agency or department. A 15-member interim board of directors is to be appointed by legislative leadership and the Governor within 60 days of the amendment taking effect. The interim board is required to establish 7 districts and conduct an election for a 17-member board (2 members from each district and 3 at-large members) within 1 year and 30 days of assuming responsibility for health care payments in Colorado or within 3 years of their appointment, whichever comes first. Elected board members serve 4-year terms and are subject to a 2-term limit.

**Federal waivers.** The board is required to seek all necessary waivers, exemptions, and agreements from the federal government to allow federal funds to be used by the cooperative to pay for health care costs in Colorado (e.g., Medicaid and Medicare waivers). If the board does not receive the necessary waivers for the cooperative to operate in a fiscally sound manner, the board shall shut down its operations, return unused premiums, and notify the Revisor of Statutes in writing of the date the operations are shut down and the amendment shall be repealed.

**State Revenue**

The amendment funds the cooperative, in part, through payroll and income taxes. Overall, the amendment increases state revenue by **\$272 million in FY 2014-15, \$543 million per year in FY 2015-16 and FY 2016-17, and by approximately \$16.1 billion per year beginning in FY 2017-18.** This revenue change is conditional upon voter approval at the 2013 general election. Table 1 and the discussion below provides an overview of the revenue impacts of the amendment.

<b>Table 1. Revenue Impact Under SCR 13-002*</b>				
<b>(in millions)</b>				
<b>Cost Components</b>	<b>FY 2014-15</b>	<b>FY 2015-16</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>
Payroll and Income Taxes under SCR 13-002	\$271.5	\$542.9	\$542.9	\$16,288.4
Income Tax	0.0	0.0	0.0	(110.0)
Premium Tax	0.0	0.0	0.0	(125.0)
<b>TOTAL</b>	<b>\$271.5</b>	<b>\$542.9</b>	<b>\$542.9</b>	<b>\$16,053.4</b>

*\* All revenue estimates in this fiscal note are in constant 2016 dollars.*

**New payroll and income taxes.** The payroll tax and tax on self-employment and other income created by the amendment will raise about \$543 million per year at the 0.3-percent rate and \$16.3 billion at the 9-percent rate. The payroll tax is assessed on employees' gross income. The taxes created by the amendment are to be collected by the DOR and transferred to the cooperative beginning on July 1, 2014. *However, because of the short time-period between the November 2013 election and the proposed July 1, 2014, collection date, the fiscal note assumes that the collection of premiums under the amendment will begin on January 1, 2015, so as to allow the DOR to promulgate necessary rules, notify the public and employers of the change in tax law, and make the computer system changes necessary to collect this new type of tax.*

**Income tax collection.** Assessing a new payroll and self-employment tax will reduce the amount of income subject to the state income tax, which will reduce General Fund revenue by \$110 million per year beginning in FY 2017-18 when the 9-percent tax rate under the amendment takes effect. At the 0.3-percent level in the initial years, the impact on income tax collection will be minimal and has not been estimated at this time.

**Premium tax collection.** By having the cooperative take over health services, total premiums paid for health insurance and other health-related insurance coverage are expected to decrease, which will result in a reduction in the premium taxes paid by insurance carriers by about \$125 million per year beginning in FY 2017-18 when the cooperative begins offering coverage. Premium tax is deposited into the General Fund, except for a small portion of funds diverted into the Division of Insurance Cash Fund to fund the division's operations.

**State Expenditures**

The amendment increases costs to all state agencies in FY 2013-14 through FY 2016-17, and results in savings to state agencies beginning in FY 2017-18. These costs and savings are conditional upon voter approval of the amendment in the 2013 general election. Table 2 and the discussion provide more information on the costs and savings.

<b>Cost Components</b>	<b>FY 2013-14</b>	<b>FY 2014-15</b>	<b>FY 2015-16</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>
Medicaid Waiver (DHCPF)	\$0	\$364,204	\$345,292	\$245,392	\$0
Computer Programming (DOR)	975,000	0	0	0	0
Tax Collection Costs (DOR)	0	4,197,200	4,197,200	4,197,200	4,197,200
Payroll Tax on State Employee Wages (All agencies)	0	2,188,986	4,465,531	4,554,842	92,918,774
State Employee Health and Dental Insurance Premiums (All agencies)	0	0	0	0	(207,064,965)
<b>TOTAL</b>	<b>\$975,000</b>	<b>\$6,750,390</b>	<b>\$9,008,023</b>	<b>\$8,997,434</b>	<b>(\$109,948,991)</b>
<b>General Fund</b>	<b>975,000</b>	<b>5,512,009</b>	<b>6,680,568</b>	<b>6,676,833</b>	<b>(65,115,293)</b>
<b>Cash Funds</b>	<b>0</b>	<b>556,642</b>	<b>1,135,549</b>	<b>1,158,261</b>	<b>(22,512,077)</b>
<b>Reapprop. Funds</b>	<b>0</b>	<b>247,071</b>	<b>504,025</b>	<b>514,105</b>	<b>(11,961,674)</b>
<b>Federal Funds</b>	<b>0</b>	<b>434,668</b>	<b>687,881</b>	<b>648,235</b>	<b>(10,359,947)</b>

**Medicaid waiver.** The Department of Health Care Policy and Financing (DHCPF) is required to seek any necessary federal waivers to use available federal funds allocated to Colorado to fund the cooperative. Under federal health care reform, states may seek State Innovation Waivers to become exempt from various federal requirements, as long as the state's system under the waiver (1) covers at least as many people as under current federal law; (2) offers at least the same level of coverage and benefits as required under current federal law; and (3) does not increase the federal deficit.

Waiver costs are expected to be \$364,204 in FY 2014-15, \$345,292 in FY 2015-16, and \$245,392 in FY 2016-17, split evenly between General Fund and federal funds. These costs are for 4.0 FTE per year and \$200,000 in consultant costs in the first 2 years to develop the waiver, seek public input, work with the cooperative to develop the benefit and payment models, and respond to questions from the federal government during the waiver process. It is assumed that the DHCPF will begin the waiver planning and application process on July 1, 2014, submit the waiver on January 1, 2016, receive waiver approval on January 1, 2017, and have services through the cooperative under the waiver begin on July 1, 2017, the earliest date allowed under current federal law. Under the waiver and state plan amendment, if approved, it is assumed the cooperative will become the single state agency for Medicaid in Colorado.

***Computer programming.*** The DOR will have a one-time General Fund cost of \$975,000 in FY 2013-14 to make changes to its computer systems, develop forms, and other tasks to allow the collection of a payroll tax, a type of tax not currently collected at the state level.

***Tax collection costs.*** The DOR is expected to have costs of about \$4.2 million per year, paid from the General Fund, to collect the required taxes and transfer this revenue to the cooperative. Under the amendment, the number of filings from employers and employees, the self-employed, and other individuals and families are expected to increase significantly. To handle this increase in tax returns beginning in FY 2014-15, at least 8.7 FTE per year is required for tax examiners and administrative assistance, as well as approximately 100,000 hours of contract staff in the initial years. Contract staff will decrease over time as the percentage of businesses and individuals filing their taxes electronically increases. These staff are solely for processing payroll and income taxes for the collection of premiums for the cooperative. Enforcement and audit costs have not been included in this estimate.

***Payroll tax on state employee wages.*** As an employer, all state agencies are required to pay the employer's share of the payroll taxes created by the bill (0.2 percent in the initial years and 6 percent in FY 2017-18 and beyond). This tax will increase total costs to all state agencies by \$2.2 million in FY 2014-15, \$4.5 million in FY 2015-16, \$4.6 million in FY 2016-17, and \$92.9 million in FY 2017-18. These estimates are based on \$1.4 billion in state employee wages in FY 2013-14 and a 2-percent annual rate of growth in aggregate state employee wages each year thereafter. The first year tax impact is for 6 months of payments in FY 2014-15.

***State employee insurance premiums.*** The fiscal note assumes that state agencies will offer health and dental coverage to employees through the cooperative. As such, existing payments for health and dental premiums would be eliminated beginning in FY 2017-18, assuming the cooperative offers coverage starting on July 1, 2017. Assuming a 4-percent annual rate of growth in premium cost from the estimated \$177 million in premium costs in FY 2013-14, savings in FY 2017-18 will be \$207 million. However, the exact level of coverage offered through the cooperative is unknown at this time, and state agencies could have costs to offer employees supplemental health insurance policies to be competitive with other employers, which could offset these savings.

***Other health programs.*** Beginning in FY 2017-18, many state health programs, including Medicaid, the Children's Basic Health Insurance Plan, Old Age Pension Medical, and mental health and substance abuse programs, among others, would no longer be needed as all residents in the state

will qualify for care through the cooperative. To the extent that such programs could be eliminated or reduced, it is assumed future legislation will address their repeal and reallocation of funding. Under any federal waivers, it is assumed Medicaid and other programs involving federal funds would be available for appropriation to the cooperative.

**Other agencies.** The creation of the cooperative would also affect other agencies. For example, the Department of Personnel and Administration (DPA) may have lower costs related to administration of state employee health insurance. The Division of Insurance (DOI) in the Department of Regulatory Agencies (DORA) may have lower regulatory workload if fewer health insurance companies operate in Colorado or shift to offering supplemental health policies, rather than more comprehensive plans. Any costs or savings for other agencies cannot be estimated at this time, and depend on numerous factors in how the cooperative is implemented.

### **Election Expenditure Impacts (For Informational Purposes Only)**

The resolution refers a measure to the voters at the November 2013 general election. This measure will be published in newspapers and an analysis of the measure will be included in the Blue Book mailed to all registered voter households prior to the election. Under current law, costs for these functions will be paid through a General Fund line item in the Long Appropriations Bill. Table 3 below identifies the anticipated costs for the 2013 Blue Book.

<b>Table 3. Cost to Produce and Distribute the 2013 Blue Book to All Registered Voter Households</b>	
Printing	\$300,000
Postage	\$450,000
Translation	\$4,000
Newspaper Publication (English & Spanish)	\$150,000
<b>Total Cost (3 issues)</b>	<b>\$904,000</b>
<b>Average Cost per Issue</b>	<b>\$301,333</b>

### **Local Government Impact**

Similar to the costs and savings described in the state expenditure section, local governments will have to begin paying a payroll tax for employees in FY 2014-15 at a rate of 0.2 percent of payroll, which will increase to 6 percent in FY 2017-18. Local governments that choose to provide coverage through the cooperative will likely have savings on existing health and dental premiums. In addition, county clerks and other election officials will be required to work with the cooperative to conduct an election for board members.

### **Statutory Public Entity Impact**

The amendment creates the Colorado Health Care Cooperative as an independent statutory public entity and generates funding for the cooperative through payroll and income taxes. In the initial years (2014-2017) the cooperative will have costs to work with the DHCPF to seek federal waivers, develop payment and benefit models, and hire staff and consultants, as well as costs for rule making, board meetings, and other tasks. The cooperative is required to divide the states in districts and hold elections for board members, which will likely occur in 2016 or 2017. Beginning on July 1, 2017, the cooperative will assume responsibility for health care payments and coverage for all residents of Colorado.

*Other affected entities.* The Colorado Health Benefit Exchange (the exchange), which is a marketplace for individuals and small businesses to shop for health insurance that is scheduled to begin operations in October 2013, will likely be affected by the creation of the cooperative. The exchange may not be necessary if all residents can receive sufficient coverage through the cooperative. It is assumed any federal waivers would address the role of the exchange and future legislation may be required to repeal the exchange. In addition, federal waivers could approve the routing of federal subsidies for purchasing health insurance through the exchange to the cooperative instead. However, at this time, any possible funds from this source cannot be estimated.

### **Departments Contacted**

Health Care Policy and Financing  
Personnel and Administration  
Corrections  
Higher Education  
Revenue  
Law  
Counties

Human Services  
Public Health and Environment  
Education  
Labor and Employment  
Governor  
Regulatory Agencies  
PERA