

**LEGISLATIVE FISCAL OFFICE**  
**Fiscal Note**



Fiscal Note On: **SB 173** SLS 19RS 429  
 Bill Text Version: **REENGROSSED**  
 Opp. Chamb. Action:  
 Proposed Amd.:  
 Sub. Bill For.:

<b>Date:</b> May 20, 2019 6:22 PM	<b>Author:</b> MILLS
<b>Dept./Agy.:</b> LA Dept. of Insurance	<b>Analyst:</b> Zachary Rau
<b>Subject:</b> Healthcare Coverage for LA Families Protection Act	

HEALTH CARE RE SEE FISC NOTE GF EX See Note Page 1 of 2  
 Provides for the Healthcare Coverage for Louisiana Families Protection Act. (gov sig)

Proposed law is only effective in the event the Patient Protection and Affordable Care Act (PPACA) is ruled unconstitutional, and requires health insurance policies in LA to adhere to certain standards. Proposed law further provides for open enrollment, rate setting, and coverage for dependent children under the age of 26, as well as prohibit preexisting condition exclusions and annual lifetime limits. Proposed law requires insurance policies to cover "essential health benefits" and charges the commissioner with defining such benefits, and further requires that such benefits include certain categories. Proposed law further provides a framework for monitoring, assessing, and updating the definition of the essential health benefits package. Proposed law applies to any health policy in LA beginning 90 days after the attorney general notifies the commissioner pursuant to proposed law. Proposed law supercedes any other provision of law unless it results in a reduction of coverage. Proposed law is only applicable if the current federal tax credit for policies is valid or is otherwise enforceable, or unless a state or federal appropriation is made in the same amount as the tax credit. Proposed law shall not apply to certain types of coverage. Proposed law creates the LA Guaranteed Benefits Pool and provides for LDI to conduct an analysis regarding the pool's operations. Proposed law requires JLCB approval of the pool's operation and limits pool participation unless the PPACA is invalidated.

<b>EXPENDITURES</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>	<b>2023-24</b>	<b>5 -YEAR TOTAL</b>
State Gen. Fd.	\$0	\$0	SEE BELOW	SEE BELOW	SEE BELOW	<b>\$0</b>
Agy. Self-Gen.	\$25,000	\$0	SEE BELOW	SEE BELOW	SEE BELOW	<b>\$25,000</b>
Ded./Other	\$0	\$0	SEE BELOW	SEE BELOW	SEE BELOW	<b>\$0</b>
Federal Funds	\$0	\$0	SEE BELOW	SEE BELOW	SEE BELOW	<b>\$0</b>
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<b>\$0</b>
<b>Annual Total</b>	<b>\$25,000</b>	<b>\$0</b>				<b>\$25,000</b>

  

<b>REVENUES</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>	<b>2023-24</b>	<b>5 -YEAR TOTAL</b>
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Ded./Other	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Federal Funds	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<b>\$0</b>
<b>Annual Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**EXPENDITURE EXPLANATION**

Proposed law will result in a one-time SGR expenditure increase of \$25,000 in FY 20 for the LA Dept. of Insurance (LDI) and may result in increased expenditures across various means of finance beginning in or after FY 20 to the extent the Patient Protect & Affordable Care Act (PPACA) is ruled unconstitutional by a court of competent jurisdiction. LDI will incur a one-time SGR expense anticipated to total \$25,000 in FY 20 to conduct an actuarial analysis prior to developing funding and coverage guidelines for the establishment of a guaranteed benefits pool. LDI reports that it will absorb this expense utilizing an existing actuarial contract. The proposed legislation further requires the LDI to present a report on the aforementioned analysis and guidelines to the Joint Legislative Committee on the Budget prior to March 1, 2020.

Furthermore, the proposed legislation appears to contemplate two scenarios regarding a ruling on PPACA unconstitutionality that may impact state and/or private sector expenditures associated with replacing federal subsidies for existing policies issued on the insurance exchange and/or covering additional persons under the auspices of proposed law. The Legislative Fiscal Office assumes that Scenario 2 will only occur if the events outlined in Scenario 1 do not materialize (see narratives below). Discussions with LA Dept. of Justice (DOJ) staff indicate that a final ruling on constitutionality of the PPACA is unlikely to occur prior to FY 22, therefore any expenditures other than costs for the actuarial analysis associated with proposed law are anticipated to occur beginning during or after FY 22. To the extent Scenario 2 occurs, state expenditures will likely be significant. The first scenario (Scenario 1) anticipates partial unconstitutionality of the PPACA and preservation of the law's premium tax credit for health insurance policies issued on the insurance exchange. The second scenario (Scenario 2) contemplates full repeal of the PPACA, the loss of federal subsidies as outlined in Scenario 1, and subsequent funding of the LA Guaranteed Benefits Pool via either a state or federal appropriation.

**Scenario 1 - Partial PPACA Repeal, Preservation of Premium Tax Credits for Policies Issued on the Insurance Exchange**

To the extent a court of competent jurisdiction rules the PPACA partially constitutional and preserves the premium tax credits for health insurance policies issued on the insurance exchange, it is assumed that private sector expenditures associated with issuing policies for high-risk persons would be unaffected and continue to be subsidized by the federal government via the premium tax credit. It is unknown if a partial repeal and/or preservation of these federal subsidies will occur.

(See Expenditure Explanation continued on Page 2)

**REVENUE EXPLANATION**

There is no anticipated direct material effect on governmental revenues as a result of this measure.

<u>Senate</u>	<u>Dual Referral Rules</u>	<u>House</u>
<input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}		<input type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
<input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}		<input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

*Evan Brasseaux*  
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**Staff Director**

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**CONTINUED EXPLANATION from page one:**

**(Expenditure Explanation continued from Page 1)**

**Scenario 2 - Full PPACA Repeal, Funding of Benefits for High-Risk Persons through the LA Guaranteed Benefits Pool**  
To the extent the PPACA is repealed in full and federal subsidies for high-risk health insurance policies end, the proposed legislation outlines a process to establish the LA Guaranteed Benefits Pool ("pool"), a health care coverage pool to defray costs for certain high-risk individuals, which will likely increase state expenditures by an indeterminable but significant amount. Funding for the pool may come from state or federal sources per proposed law. It is unclear if these funds would be directly appropriated to an agency or in the ancillary appropriations act. To the extent the federal premium tax credits end, state expenditures associated with funding the pool will likely be significant and will require a source of funding. LA previously operated a state-run high risk pool that had annual expenditures of \$17.1 M with an enrollment of 1,639 as of December 31, 2010 according to a study conducted by the National Council of State Legislatures (NCSL).

Additionally, the Centers for Medicare and Medicaid Services (CMS) reports total enrollment for LA through the healthcare exchanges to be 92,948 in 2019. CMS further reports 91% of persons enrolled in the exchanges receiving premium tax credits for the first half of 2018 with the average monthly subsidy totaling \$528.26. To the extent the state would need to issue subsidies for high-risk individuals at this rate in a given year, the estimated total cost is \$536.18 M (92,948 enrollees \* 91% of enrollees receiving premium tax credit \* \$528.26 average monthly subsidy \* 12 months). However, the exact expenditure increase associated with potentially funding these expenditures is unknown, because it is unknown when a final judgment on the PPACA's constitutionality will occur, if federal premium tax credits will be preserved, and the associated premium tax credit amounts enacted at the time of the ruling are unknown.

**Senate**  
Dual Referral Rules  
 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}  
 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}

**House**  
 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}  
 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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