

**EXECUTIVE AGENCY
FISCAL NOTE**

AGENCY'S ESTIMATES

Date Prepared: March 24, 2015

Agency Submitting: Silver State Health Insurance Exchange

Items of Revenue or Expense, or Both	Fiscal Year 2014-15	Fiscal Year 2015-16	Fiscal Year 2016-17	Effect on Future Biennia
Total	0	0	0	0

Explanation

(Use Additional Sheets of Attachments, if required)

The Silver State Health Insurance Exchange has reviewed the bill and has determined that while our agency would not have a tangible fiscal impact, Health Insurance Carriers and Citizens of the State of Nevada will be impacted significantly. Please see attached supporting documentation and financial analysis.

Name Cari Eaton

Title Finance & Research Officer

DEPARTMENT OF ADMINISTRATION'S COMMENTS

Date Friday, March 20, 2015

The agency's response appears reasonable.

Name James R. Wells, CPA

Title Interim Director

DESCRIPTION OF FISCAL EFFECT

BDR/Bill/Amendment Number: BDR 57-1066 (AB368)

Name of Agency: Silver State Health Insurance Exchange

Division/Department: _____

Date: March 19, 2015

Background

BDR 57-1066 (AB368) repeals provisions creating and providing for the Silver State Health Insurance Exchange (Exchange). The Bill also requires the Executive Director of the Exchange to notify the US Department of Health and Human Services (DHHS) of the cessation of the Exchange and to coordinate all transition activities accordingly on July 1, 2015.

Effect on the State

FEES PAYABLE FOR EXCHANGE ACCESS AND OPERATIONS WILL RISE BY OVER \$1,200,000 ANNUALLY

Currently, Nevada operates an Exchange established by the State through NRS 695I. The Exchange collects fees from participating health insurance carrier enrollment on a per member per month (PMPM) basis. Fees for 2015 were established at a Fee Adoption Hearing on April 10, 2014 in accordance with Exchange Regulation Ex-03-A. For Plan Year 2016, the Exchange recently held a Fee Adoption Hearing on February 12, 2015. The 2016 PMPM fees were set at 3% of premium.

In contrast, the Federally Facilitated Exchanges operated by the Centers for Medicare and Medicaid Services (CMS) utilized in 34 other states set fees payable by carriers (and included in the premiums paid by consumers) at 3.5% of premium.

Attached to this Fiscal Note is a calculation sheet showing the difference in fees payable to the Exchange based on the number of Nevadans purchasing coverage through the Exchange and the fees which would payable to CMS based on that same number of Nevadans purchasing identical coverage through the Federally Facilitated Marketplace model.

Moving to the Federally Facilitated Marketplace will increase health insurance carrier costs by \$1,241,535.11 in Plan Year 2016 with the potential for greater disparity over the coming years. This increased cost will necessarily be reflected in higher premiums paid by Nevada's consumers for health insurance coverage.

NEARLY \$60,000,000 IN ADVANCED PREMIUM TAX CREDITS (APTC) PRESENTLY AVAILABLE TO NEVADA CONSUMERS TO HELP SUBSIDIZE THE COST OF HEALTH INSURANCE PREMIUMS WILL BE PLACED AT RISK AND MAY BE LOST

Per the Affordable Care Act, the only place a consumer can apply for and receive Advanced Premium Tax Credits (APTC) to offset the monthly costs of their insurance premiums is on Health Insurance Exchanges.

A pending Supreme Court case (*King v Burwell*) is in the process of determining whether the exchanges established by CMS in those states that chose not to create state-based marketplaces may lawfully provide these tax credits. The case was argued before the Supreme Court on March 4, 2015 with a decision expected in June or July 2015.

The core legal question in *King* is whether the text, structure, and intent of the ACA demonstrate that Congress intended subsidies to be available only to those who purchase insurance on a state exchange (such as the Silver State Health Insurance Exchange) while excluding those who purchase insurance on a federally established exchange.

Thirty-four states did not establish state exchanges. If plaintiffs prevail in *King*, all of the persons who purchased insurance through the federal exchanges in those thirty-four states – approximately five million people in 2014 – would lose their subsidies and, ultimately, the vast majority of those five million people would lose their insurance because they could not afford to purchase the insurance without the subsidies. This assessment is supported by the American Academy of Actuaries' Health Practice Council. A copy of the Academy's determinations as to the expected effect of *King* on premium rate filings and market participation is available at http://actuary.org/files/HPC_letter_to_HHS_King_v_Burwell_022415.pdf.

According to reports provided to CMS by participating insurance carriers, over 83% of consumers purchasing health plans through the Exchange receive APTC premium subsidies. Those subsidies, in the aggregate, total nearly \$5,000,000 per month.

If the plaintiffs in *King* are successful and the Silver State Health Insurance Exchange ceases to exist, Nevada's consumers would lose almost \$60 million of projected APTC premium subsidies through December 2015. Based on the demographic data reported by CMS, this loss would disproportionately affect the young, the less affluent, and Nevada's minority communities.

Total Effect on the State:

- Additional CMS Fees: \$1,241,535 per year
- Potential Loss of APTC: \$58,816,184 per year
- TOTAL: \$60,057,719 per year

DESCRIPTION OF FISCAL EFFECT

BDR/Bill/Amendment Number: BDR 57-1066

Name of Agency: Silver State Health Insurance Exchange

Division/Department: _____

Date: Thursday, March 19, 2015

Plan Year 2016									
Current 2015 Paid Enrollment*	2015 Average Premium*	Approved Exchange Fees (% of Premium)	Equivalent \$ Amount	Approved CMS Fees (% of Premium)	Equivalent \$ Amount	Differenc e in Fees per Plan	12 Month Projected Exchange Fees	12 Month Projected CMS Fees	Difference in Projected Fees Collected over 12 Months
50,990	\$ 405.81	3%	\$ 12.17	3.50%	\$ 14.20	\$ (2.03)	\$ 7,449,210.68	\$ 8,690,745.80	\$ (1,241,535.11)

**Current Paid Enrollment and Average Premium are represented above from the Exchange Fee Adoption Hearing held in February 2015. These numbers will adjust throughout the year as individuals and families enroll and disenroll in health plans.*

Plan Year 2015		
Total APTC Reported*	12 Month Projected APTC	% of Enrollees Receiving APTC (Jan- Feb 2015)
\$ 9,802,697.34	\$ 58,816,184.04	83%

**Advanced Premium Tax Credit (APTC) reported by each insurance carrier to CMS on a monthly basis. This figure includes January and February 2015.*

	Fiscal Year 2014-15	Fiscal Year 2015-16	Fiscal Year 2016-17	Effect of Future Biennia
Additional Fees Carriers Pay to Federal Gov	\$ -	\$ 1,241,535.11	\$ 1,241,535.11	\$ 1,241,535.11
Potential Loss of APTC to Nevadan's	\$ -	\$ 58,816,184.04	\$ 58,816,184.04	\$ 58,816,184.04