



- tuition waivers at state institutions of higher education, if the exonerated person was incarcerated for at least three years;
- compensation for child support payments and associated interest owed by the exonerated person that were incurred during his or her incarceration;
- reasonable attorney fees; and
- the amount of any fine, penalty, court costs, or restitution imposed as a result of the exonerated person's wrongful conviction.

The bill allows for prorated compensation and for reductions to be made for certain reasons. No compensation is allowed for periods of incarceration that were served as a result of a concurrent sentence for another crime. Reductions in compensation are required if the exonerated person fails to provide proof of enrollment in a qualified health plan. No payments are allowed if the exonerated person prevails in a civil action and is awarded monetary damages that equal or exceed the state's obligation, the exonerated person is convicted of a class 1 or class 2 felony after the court issues the order of compensation, or the person has not yet completed a personal financial management instruction course. Compensation is not subject to civil lawsuit caps or state income tax, although the portion awarded as attorney's fees are subject to taxation.

The state controller is required to issue annual payments of a maximum of \$100,000 from the Risk Management Fund.

### **State Transfers or Diversions**

If HB13-1230 is adopted, it will require a transfer from the General Fund to the Risk Management Fund to cover the cost of the payments made to and on behalf of exonerated persons. Based on the assumptions in the fiscal note, this amount is anticipated to be at least \$100,000 per year, per exonerated person. The Risk Management Fund is funded by state agencies based on anticipated liabilities and includes funds from a variety of sources, including cash and federal funds. Because cash and federal funds may only be used for specific purposes, this analysis assumes payments under this bill require General Fund support.

### **State Expenditures**

Overall, this bill will increase state expenditures by a minimum of \$288,934 and 2.1 FTE in FY 2013-14 and \$385,643 and 2.1 FTE in FY 2014-15. Costs are based on the assumption that 37 petitions will be filed, there will be two trials as a result of the Attorney General contesting the petition, and one disbursement order per year.

**Department of Law.** The Attorney General is tasked with responding to petitions, and if appropriate, contesting the petition in district court. Costs will increase by \$188,934 and 2.1 FTE in FY 2013-14 and \$185,643 and 2.1 FTE in FY 2014-15. These costs assume each petition will take 20 hours for review and response and that two trials per year will require 1,600 hours of staff time each to investigate and conduct. First year costs include capital outlay costs of \$15,344 and one-time investigator costs of \$4,884. Both years require operating costs of \$2,955 and investigator travel costs of \$3,384. Personal services costs are \$179,304, prorated in the first year to account for the General Fund paydate shift.

***Judicial Department.*** Costs for state courts will increase in order to hear petitions and to hear trials resulting from either the Attorney General or a district attorney contesting a petition. Costs will also increase as a result of expunging records for persons exonerated of their crimes. These costs are anticipated to be minimal and can be addressed within existing appropriations.

***Department of Higher Education.*** The bill requires the Colorado Commission on Higher Education to develop and implement a policy for granting tuition waivers by September 1, 2013. The development of the policy will increase workload by a minimal amount. Issuing tuition waivers will also increase costs for state institutions of higher education. Depending on the timing of enrollment, number of affected individuals, number of credit hours enrolled, and the school selected, costs per person will increase by between \$1,770 and \$14,454 per year. As it is unknown how many individuals will become eligible for and request tuition waivers, it is not possible to determine the increase in costs for state institutions of higher education.

***Department of Personnel and Administration.*** The state controller is required to manage disbursements, verify enrollment in a qualified health plan, and verify completion of a personal financial management instruction course. It is assumed the workload increase will be between 20 and 50 hours, per approved order, per year. For FY 2013-14 and FY 2014-15, the fiscal note assumes this work can be performed within existing appropriations. However, in future years, depending on the number of orders approved and the actual workload incurred, an increase in appropriations may be required. If this occurs, such a request will be addressed through the annual budget process.

Disbursements will increase by up to \$100,000 per year, per exonerated person, paid from the Risk Management Fund. As it is unknown how many persons will be eligible for disbursements, this amount cannot be quantified. However, given a recent high profile case, this analysis assumes at least one person will qualify for disbursements per year and that funding for additional disbursement orders within a fiscal year will be requested through the annual budget process. As discussed in the State Transfers or Diversions section, this analysis assumes General Fund backfill will be required to support these costs.

***Department of Public Safety.*** This bill allows the court to order retesting of evidence in contested cases. To the extent that this occurs, costs for the Department of Public Safety may increase. This amount is anticipated to be minimal and not require an increase in appropriations.

***Technical note.*** Due to the limitations on the use of the Risk Management Fund and the unknown number of disbursement orders that will be granted, it is possible the state controller will not have sufficient moneys to comply with the bill's requirement to make payments within 14 days.

### **Expenditures Not Included**

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. The centrally appropriated costs subject to this policy are summarized in Table 1.

<b>Table 1. Expenditures Not Included Under HB13-1230*</b>		
<b>Cost Components</b>	<b>FY 2013-14</b>	<b>FY 2014-15</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$14,214	\$14,215
Supplemental Employee Retirement Payments	11,006	12,452
<b>TOTAL</b>	<b>\$25,221</b>	<b>\$26,667</b>

*\*More information is available at: <http://colorado.gov/fiscalnotes>*

### **Local Government Impact**

Similar to the Department of Law, district attorneys are required to review petitions from persons who have been exonerated of their crimes. This analysis assumes costs will increase by a similar amount for counties.

### **State Appropriations**

For FY 2013-14, the Department of Law requires a General Fund appropriation of \$188,934 and 2.1 FTE. The Department of Personnel and Administration requires an appropriation of \$100,000 cash funds from the Risk Management Fund.

### **Departments Contacted**

Corrections	District Attorneys	Higher Education
Human Services	Judicial	Law
Local Affairs	Personnel and Administration	Revenue
Treasury		