



**Colorado
Legislative
Council
Staff**

SB17-057

FISCAL NOTE

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 17-0033
Prime Sponsor(s): Sen. Guzman

Date: February 1, 2017
Bill Status: Senate Finance
Fiscal Analyst: Greg Sobetski (303-866-4105)

BILL TOPIC: CO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY ENTERPRISE

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue	<u>\$5.2 million</u>	<u>\$10.5 million</u>
General Fund	5.2 million	10.5 million
<i>State Transfers</i>		
General Fund	(165.3 million)	(174.9 million)
Highway Users Tax Fund	110.2 million	116.6 million
Capital Construction Fund	55.1 million	58.3 million
State Expenditures		
TABOR Impact	(\$279.4 million)	(\$287.2 million)
Appropriation Required: None.		
Future Year Impacts: Dependent on state TABOR situation; not estimated.		

Summary of Legislation

The bill creates the Colorado Healthcare Affordability and Sustainability Enterprise (enterprise) within the Department of Health Care Policy and Financing (HCPF). Beginning FY 2017-18, the enterprise is responsible for the collection of the new Healthcare Affordability and Sustainability Fee, which replaces the Hospital Provider Fee assessed under current law. The enterprise must use fee revenue to draw down federal matching funds and expend fee revenue and federal funds for administration, reimbursements to hospitals, and business support purposes including:

- consulting with hospitals to improve cost efficiency;
- advising hospitals regarding potential changes to federal and state laws and regulations;
- assisting hospitals with state performance tracking and payment systems; and
- providing other services to aid hospitals participating in state programs.

Fee revenue and federal matching funds are continuously appropriated to the enterprise, eliminating the authority of the General Assembly to constrain fee revenue via an appropriation in the Long Appropriations Bill.

The bill transfers all unexpended revenue from the existing Hospital Provider Fee Cash Fund to the newly created Unexpended Hospital Provider Fee Cash Fund at the end of FY 2016-17. Until October 30, 2018, the HCPF is authorized to use money in the fund to pay reimbursements to hospitals under the existing Hospital Provider Fee statute, and must refund any money not used for this purpose to hospitals that paid the fees. The new cash fund is repealed effective November 1, 2018.

Enterprise status under TABOR. The Colorado Healthcare Affordability and Sustainability Enterprise is designated as an enterprise under the Taxpayer's Bill of Rights (TABOR) and has the authority to issue revenue bonds. Fee revenue collected by the enterprise is not subject to the state's TABOR limit.

The bill clarifies that termination of the HCPF's authority to assess and collect the existing Hospital Provider Fee, and creation of a new enterprise to assess and collect a new fee, does not require or authorize a downward adjustment to the TABOR limit (the Referendum C cap).

Enterprise board. The bill abolishes the Hospital Provider Fee Oversight and Advisory Board, which administers the existing Hospital Provider Fee, and the board's functions are transferred to a new Colorado Healthcare Affordability and Sustainability Enterprise Board in the enterprise. The enterprise board comprises the membership of the existing board at the time of its abolition, and future appointments are to be made by the Governor with the advice and consent of the Senate.

Federal approval. The bill takes effect only if, prior to July 1, 2017, the federal Centers for Medicare and Medicaid Services do not determine that it does not comply with federal law.

Background

Hospital Provider Fee. Pursuant to House Bill 09-1293, the state collects a provider fee from hospitals. Hospital Provider Fee revenue is matched with federal dollars and used to reimburse hospitals for uncompensated care and to expand the Medicaid and Child Health Plan Plus programs. Currently, 37.4 percent of Medicaid and Child Health Plan Plus caseload is funded with Hospital Provider Fee revenue and federal matching funds. Under current law, Hospital Provider Fee revenue is subject to the TABOR limit.

Actual and projected Hospital Provider Fee revenue through FY 2018-19 under current law is shown in Table 1. A new federal cost model approved in June 2016 has resulted in increased expectations for the amount of fees for which the state is able to draw a federal match. The permitted amount of Hospital Provider Fee collections for FY 2016-17 was limited in the 2016 Long Bill.

Table 1. Hospital Provider Fee Forecast through FY 2018-19				
	FY 2015-16*	FY 2016-17	FY 2017-18	FY 2018-19
Hospital Provider Fee Revenue	\$804.0 million	\$656.6 million	\$864.7 million	\$859.2 million

Source: Legislative Council Staff Economic and Revenue Forecast, December 2016.

*Preliminary and un-audited revenue collections.

State enterprises. TABOR defines an enterprise as "a government-owned business authorized to issue its own revenue bonds and receiving under 10 percent of annual revenue in grants from all Colorado state and local governments combined." Because the share of revenue that an enterprise may receive from government sources is capped, enterprises are largely financially independent of core government agencies. Additionally, enterprises cannot levy taxes.

TABOR limits the amount of money that can be spent or saved by the state government and all local governments within the state. However, revenue collected by enterprises is not subject to these constraints. When an existing government entity becomes an enterprise, its revenue is exempted from the state TABOR limit, and a corresponding downward adjustment is made to the level at which the TABOR limit is set. This adjustment is not required when a new enterprise is created.

State Revenue

The bill increases state General Fund revenue by **\$5.2 million in FY 2017-18** and **\$10.5 million in FY 2018-19**. These impacts may exist in subsequent fiscal years depending on the presence of a TABOR surplus absent the bill.

General Fund revenue. Under current law, part of the gross conservation easement income tax credit becomes refundable during tax years following fiscal years for which the state incurs a TABOR surplus. Taxpayers claiming a conservation easement credit, or carrying forward credit from prior tax years, receive up to \$50,000 as a refundable credit in tax years following fiscal years for which the state incurs a TABOR refund obligation. Under current law, the state is expected to incur a TABOR refund obligation in both FY 2017-18 and FY 2018-19, and the tax credit is expected to be refundable in both tax years 2018 and 2019. Under the bill, state revenue subject to TABOR is expected to be reduced below the Referendum C cap, and the tax credit is expected not to be refundable. The revenue estimate for FY 2017-18 assumes a half-year impact for tax year 2018 on an accrual accounting basis.

Senate Bill 09-228 transfers. For FY 2017-18, General Fund transfers to the Highway Users Tax Fund (HUTF) and the Capital Construction Fund (CCF) will increase by \$110.2 million and \$55.1 million, respectively. For FY 2018-19, General Fund transfers to the HUTF and the CCF increase by \$116.6 million and \$58.3 million, respectively.

Senate Bill 09-228 requires transfers to the HUTF and the CCF to occur each year through FY 2019-20. When the TABOR refund obligation is between 1.0 percent and 3.0 percent of General Fund revenue, the transfers are halved. Under current law, the SB09-228 transfers are expected to be halved in both FY 2017-18 and FY 2018-19. The bill will eliminate the anticipated TABOR refund obligation, restoring full transfers in both years.

TABOR Impact

State revenue subject to TABOR will decrease by **\$859.5 million in FY 2017-18** and **\$848.7 million in FY 2018-19**. The bill eliminates the TABOR refund obligations of \$279.4 million and \$287.2 million anticipated for these two fiscal years, respectively. TABOR refunds are paid out of the General Fund. Estimated reductions in TABOR revenue primarily reflect the creation of

a TABOR-exempt enterprise to collect hospital fees. The enterprise impact is partially offset by an increase in General Fund revenue resulting from the non-refundability of the gross conservation easement income tax credit.

Table 2 shows the projected impact on the mechanisms used to refund the TABOR surplus in current law. Revenue is refunded in the year following the year in which it is collected.

Table 2. Impact of SB17-057 on TABOR Refund Mechanisms		
<i>Millions of Dollars</i>		
	FY 2017-18 Surplus FY 2018-19 Refund Tax Year 2018	FY 2018-19 Surplus FY 2019-20 Refund Tax Year 2019
Current Law		
TABOR Refund Obligation	\$279.4 million	\$287.2 million
<i>Income Tax Rate Reduction</i>	<i>229.0 million</i>	<i>242.7 million</i>
<i>Sales Tax Refund</i>	<i>50.4 million</i>	<i>44.5 million</i>
Senate Bill 17-057		
TABOR Refund Obligation	\$0	\$0
<i>Income Tax Rate Reduction</i>		
<i>Sales Tax Refund</i>		
Change from Current Law		
TABOR Refund Obligation	(\$279.4 million)	(\$287.2 million)
<i>Income Tax Rate Reduction</i>	<i>(229.0 million)</i>	<i>(242.7 million)</i>
<i>Sales Tax Refund</i>	<i>(50.4 million)</i>	<i>(44.5 million)</i>

Source: Legislative Council Staff Economic and Revenue Forecast, December 2016.

State Expenditures

Department of Health Care Policy and Financing. Administrative expenditures for the HCPF are not expected to change as a result of the bill. Because the bill does not change the primary purpose or use of funds compared with the existing Hospital Provider Fee, this fiscal note assumes that the bill entails no net impact on workload to the department and that all transition activities can be accomplished within existing appropriations. Technical changes to appropriations may be required to allow spending authority from the new cash fund.

FY 2017-18 General Fund budget. The obligation for TABOR refunds will decrease by \$279.4 million for FY 2017-18, of which \$22.9 million is already set aside within the General Fund and will remain encumbered until the state next collects a TABOR surplus. The obligation for Senate Bill 09-228 transfers will increase by \$165.3 million, and General Fund revenue will increase by \$5.2 million. On net, the amount available in the General Fund for the FY 2017-18 budget is expected to increase by \$96.4 million.

Effective Date

Unless the Centers for Medicare and Medicaid Services determine that it does not comply with federal law, the bill takes effect July 1, 2017.

State and Local Government Contacts

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Information Technology