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Final Fiscal Note

Drafting Number: LLS 21-0787
Prime Sponsors: Sen. Kolker
Rep. Lontine

Date: August 4, 2021
Bill Status: Signed into Law
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Bill Topic: **MODIFY ADMINISTRATION OF NURSING HOME PENALTY CASH FUND**

Summary of Fiscal Impact:

- | | |
|---|--|
| <input type="checkbox"/> State Revenue | <input type="checkbox"/> TABOR Refund |
| <input checked="" type="checkbox"/> State Expenditure | <input checked="" type="checkbox"/> Local Government |
| <input type="checkbox"/> State Transfer | <input type="checkbox"/> Statutory Public Entity |

The bill transfers administration of the Nursing Home Penalty Cash Fund from the Department of Health Care Policy and Financing to the Department of Public Health and Environment, and modifies how the fund is operated. It increases state expenditures beginning in FY 2021-22 on an ongoing basis.

Appropriation Summary:

For FY 2021-22, the bill requires and includes an appropriation of \$2,053,254 to the Department of Public Health and Environment and a \$500,000 reduction in appropriations to the Department of Health Care Policy and Financing.

Fiscal Note Status:

The fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under SB 21-128

		Budget Year FY 2021-22	Out Year FY 2022-23
Revenue		-	-
Expenditures	Cash Funds	\$1,553,254	\$1,553,254
	Centrally Appropriated	\$72,307	\$72,307
	Total Expenditures	\$1,625,561	\$1,625,561
	Total FTE	0.8 FTE	0.8 FTE
Transfers		-	-
TABOR Refund		-	-

Summary of Legislation

The bill transfers final authority over the Nursing Home Penalty Cash Fund from the Department of Health Care Policy and Financing (HCPF) to the Department of Public Health and Environment (CDPHE). It likewise transfers rulemaking authority, the authority to set a minimum reserve for the cash fund, and board oversight. In addition, the bill:

- requires both departments to annually assess and review emergency funding needs and response plans for potential nursing facility closures, directs HCPF to administer emergency funding, and makes such funding continuously appropriated to the department;
- broadens the goals for projects that can be awarded grants from the fund;
- removes the prohibition on non-state, governmental entities from applying for grants;
- removes the \$10,000 limit on annual administrative costs and directs both departments to jointly develop an annual administrative budget; and
- extends the period during which CDPHE must notify a nursing home facility after identifying a violation.

Background

Revenue for the Nursing Home Penalty Cash Fund consists of the state share of penalties collected when nursing facilities do not meet federal requirements for long term care facilities. Funds can be used to make grants to foster innovation and improve quality of life and care at nursing facilities or to protect and support residents in emergency situations. Senate Bill 14-151 established the Nursing Home Innovations Grant Board, a ten-member board that solicits, reviews, and recommends grants to CDPHE and HCPF for funding from the Nursing Home Penalty Cash Fund. Senate Bill 19-254 removed a statutory limitation on the amount of grant support that could be awarded annually. The fund balance was about \$8.1 million at the beginning of FY 2020-21.

State Expenditures

Beginning in FY 2021-22, the bill increases state cash fund expenditures by \$2.1 million and 0.8 FTE each year in CDPHE. The bill reduces cash fund expenditures in HCPF by \$500,000 each year.

**Table 2
Expenditures Under SB 21-128**

Cost Components	FY 2021-22	FY 2022-23
Department of Public Health and Environment		
Personal Services	\$52,174	\$52,174
Operating Expenses	\$1,080	\$1,080
Nursing Home Grants	\$2,000,000	\$2,000,000
Centrally Appropriated Costs ¹	\$72,307	\$72,307
FTE – Personal Services	0.8 FTE	0.8 FTE
CDPHE Subtotal	\$2,125,561	\$2,125,561
Department of Health Care Policy and Financing		
Nursing Home Grants	(\$500,000)	(\$500,000)
HCPF Subtotal	(\$500,000)	(\$500,000)
Total	\$1,625,561	\$1,625,561
Total FTE	0.8 FTE	0.8 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Public Health and Environment. Removing the statutory limit on administrative expenditures will increase such expenditures in CDPHE beginning in FY 2021-22. This increase in administrative resources will allow more grants to be processed each year, increasing program expenditures. The fiscal note assumes that CDPHE will recommend an estimated 20 grants with an average value of \$100,000 each year.

Department of Health Care Policy and Financing. The bill decreases expenditures for nursing home grants in HCPF by \$500,000 per year. Currently, no funds or FTE are appropriated to HCPF for the administration of the program.

Centrally appropriated costs. 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. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$72,307 in FY 2021-22 and FY 2022-23.

Local Government

Revenue and expenditures may increase in local governments to the extent that they operate a nursing facility, and apply for and are awarded a grant.

Effective Date

This bill was signed into law by the Governor and took effect on June 23, 2021.

State Appropriations

For FY 2021-22, the bill includes the following appropriations from the Nursing Home Penalty Cash Fund:

- an increase of \$2,053,254 to the Department of Public Health and Environment and 0.8 FTE; and
- a reduction of \$500,000 from the Department of Health Care Policy and Financing.

State and Local Government Contacts

Health Care Policy and Financing
Law

Information Technology
Public Health and Environment