

**JBC STAFF REVISED FISCAL ANALYSIS  
SENATE APPROPRIATIONS COMMITTEE**

CONCERNING THE SUSTAINABILITY OF RURAL COLORADO.

Prime Sponsors: Sens. Sonnenberg and Guzman  
Reps. Becker K. and Becker J.

JBC Analyst: Eric Kurtz  
Phone: 303-866-4952  
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**Fiscal Impact of Bill as Amended to Date**

The most recent Legislative Council Staff Revised Fiscal Note (attached) reflects the fiscal impact of the bill as of 04/13/17.

<b>XXX</b>	<b>No Change:</b> Attached LCS Fiscal Note accurately reflects the fiscal impact of the bill
	<b>Update:</b> Fiscal impact has changed due to <i>new information or technical issues</i>
	<b>Update:</b> Fiscal impact has changed due to <i>amendment adopted</i> after LCS Fiscal Note was prepared
	<b>Non-Concurrence:</b> JBC Staff and Legislative Council Staff disagree about the fiscal impact of the bill

**Amendments in This Packet for Consideration by Appropriations Committee**

<b>Amendment</b>	<b>Description</b>
J.002	Staff-prepared appropriation amendment

**Current Appropriations Clause in Bill**

The bill requires but does not contain an appropriation clause.

**Description of Amendments in This Packet**

**J.002** Staff has prepared amendment **J.002** (attached) that makes different appropriations to the Department of Health Care Policy and Financing for FY 2017-18 based on whether S.B. 17-256 becomes law.

- If S.B. 17-256 *does not* become law, the amendment reduces appropriations by \$861,480,996 cash funds from the Hospital Provider Fee Cash Fund and makes new appropriations totaling the same amount from the Healthcare Affordability and Sustainability Fee Cash Fund.
- If S.B. 17-256 *does* become law, the amendment reduces appropriations by \$597,380,996 cash funds from the Hospital Provider Fee Cash Fund (a lower amount to account for the reduction to Hospital Provider Fee appropriations already in S.B. 17-256) and makes new appropriations totaling \$861,480,996 from the Healthcare Affordability and Sustainability Fee Cash Fund (to restore the funding reduced by

S.B. 17-256). The amendment assumes the Department will receive \$264.1 million matching federal funds as a result of restoring the reduction in S.B. 17-256.

In addition to the changes to appropriations for the Department of Health Care Policy and Financing, the amendment appropriates to the Department of Education for FY 2017-18 \$79.0 million cash funds from the State Public School Fund for payments to rural school districts and small rural school districts pursuant to the new Section 22-54-139 (1), C.R.S., added by the bill.

### **Points to Consider**

#### *TABOR/Excess Revenue Impact*

1. The Joint Budget Committee has proposed a budget package for FY 2017-18 based on the March 2017 Legislative Council Staff revenue forecast. The proposed budget package eliminates the projected \$264.1 million of revenue in excess of the Referendum C cap for FY 2017-18. This bill is projected to result in revenue in excess of the Referendum C cap of \$115.5 million in FY 2017-18, due to the provision in the bill that lowers the Referendum C cap. The \$115.5 million in excess of the Referendum C cap will need to be refunded from the General Fund.

The budget package proposed by the Joint Budget Committee allocates \$11.7 million General Fund to be available to fund 2017 legislation that is not accounted for in the budget package. The \$115.5 million increase in the General Fund obligation for a TABOR refund as a result of this bill exceeds the \$11.7 million allocation for new legislation.

2. The Legislative Council Staff Revised Fiscal Note, dated 04/12/17, assumes that all but \$15.7 million of the revenue to the Healthcare Affordability and Sustainability Enterprise would be exempt from TABOR, but some of the expenditures for administration may need to be counted as TABOR revenue. When money from an enterprise is paid to a government agency that is not an enterprise that payment is TABOR revenue. It is not clear what the boundaries will be for the Enterprise. For example, will the Enterprise include part of the Colorado Benefits Management System and Medicaid Management Information System, or will payments for administration of these information technology systems cross the boundary of the enterprise and need to be counted as TABOR revenue?

#### *Future Fiscal Impact*

3. The bill is projected to result in future General Fund obligations, beginning in FY 2018-19, of \$29,375,000 per year, composed of some combination of the General Fund payments for the Certificates of Participation and the General Fund obligation for a TABOR refund as a

result of increased revenue from payments by higher education institutions that are enterprises to the Capital Construction Lease-Purchase Agreement Cash Fund.

*Legislative Authority*

4. For FY 2017-18 it is not clear whether the intent of the bill is to take the Colorado Healthcare Affordability and Sustainability Enterprise off budget. The bill makes money in the Healthcare Affordability and Sustainability Fee Cash Fund continuously appropriated (page 31, lines 11 and 12), implying that the associated expenditures should be off budget. However, the bill also requires that for FY 2017-18 the Medical Services Board shall establish the fee to generate revenue approximately equal to the sum of appropriations (page 26, lines 12 through 17). Both the Legislative Council Staff Revised Fiscal Note, dated 04/13/17, and this JBC Staff Revised Analysis assume there will be appropriations from the Healthcare Affordability and Sustainability Fee Cash Fund for FY 2017-18.

Is it necessary to "continuously appropriate" money in the Healthcare Affordability and Sustainability Fee Cash Fund? This language in the bill implies that after FY 2017-18 the expenditures associated with the enterprise, such as those for hospital reimbursements, expansion populations, and administration, would not be reported or accounted for through the budget process. Continuous spending authority is not part of the test for whether an entity qualifies as an enterprise under TABOR and there are examples of TABOR enterprises where the funds are subject to annual appropriation, such as the Parks and Wildlife enterprise and the higher education enterprises.

*Technical Issues*

5. As amended by the Senate Finance Committee Report, the bill assumes passage of S.B. 17-262. It is not clear what would happen to the fiscal impact of the bill if S.B. 17-262 does not become law.