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FISCAL NOTE

Drafting Number: LLS 19-1018 Date: April 18, 2019
Prime Sponsors: Sen. Zenzinger Bill Status: Senate Appropriations
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Bill Topic: NURSING HOME PENALTY CASH FUND

- Summary of Fiscal Impact: State Revenue, TABOR Refund, State Expenditure, Local Government, State Transfer, Statutory Public Entity

Joint Budget Committee. The bill lifts the statutory limit of \$250,000 on grants from the Nursing Home Penalty Cash Fund. It requires the Medical Services Board to establish a minimum reserve and repeals a sunset review on the use of these grants. It will increase state expenditures on an ongoing basis.

Appropriation Summary: For FY 2019-20, the bill includes an appropriation of \$250,000 from the Nursing Home Penalty Cash Fund.

Fiscal Note Status: The fiscal note reflects the introduced bill, as recommended by the Joint Budget Committee.

Table 1 State Fiscal Impacts Under SB 19-254

Table with 3 columns: Category, FY 2019-20, FY 2020-21. Rows include Revenue, Expenditures (Cash Funds), Transfers, and TABOR Refund.

## **Summary of Legislation**

Under current law, the Department of Public Health and Environment (CDPHE) and the Department of Health Care Policy and Financing (HCPF) are prohibited from spending money from the Nursing Home Penalty Cash Fund for grants benefitting residents of nursing facilities if the expenditure would cause the fund balance to fall below \$1.0 million. The bill repeals this reserve requirement in state law and requires the Medical Services Board to establish through rule a minimum reserve amount. CDPHE and HCPF may not spend money from the fund if the expenditure would cause the fund balance to fall below the minimum reserve amount. The annual cap on expenditures for grants is also repealed. Finally, the sunset review of the use of grants and the related Nursing Home Innovations Grant Board is also repealed.

## **Background**

Revenue for the Nursing Facility Civil Monetary Penalty Fund, more commonly referred to as the Nursing Home Cash Penalty Fund, has been steadily increasing in recent years. Revenue to the fund consists of fines issued when nursing facilities do not meet requirements for Long Term Care facilities. Federal regulations limit the spending of these funds to grants made to foster innovation and improve quality of life and care at nursing facilities that have secured Centers for Medicare and Medicaid Services (CMS) approval by meeting criteria related to nursing facility quality, improvements, and training. 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 Cash Penalty Fund; the bill also created a maximum budget for grant disbursements, which limits spending on reinvestment projects to no more than \$250,000 annually if the cash fund balance is greater than \$2.0 million. Currently, the remaining fund balance cannot be reinvested due to statutory limitations, and failure to utilize these funds could lead to a federal recoupment of the remaining balance, as has occurred in other states. The fund balance was \$7,895,770 at the beginning of FY 2019-20.

## **State Expenditures**

Beginning in FY 2019-20, the bill is expected to increase state expenditures by \$250,000 per year from the Nursing Home Cash Penalty Fund. The Nursing Home Innovations Grant Board has been allocating the maximum \$250,000 in grants from the cash fund each year and there are more projects that would meet the criteria and be funded once the statutory limit on reinvestment is lifted under the bill. It is assumed that the Medical Services Board will establish a reserve requirement that will allow for up to \$500,000 to be expended each year from the fund. If the amount is lower than \$500,000, HCPF will adjust the grant allocations accordingly.

## **Effective Date**

The bill takes effect August 2, 2019, if the General Assembly adjourns on May 3, 2019, as scheduled, and no referendum petition is filed.

**State Appropriations**

The bill requires and includes an appropriation of \$250,000 to the Department of Health Care Policy and Financing from the Nursing Home Cash Penalty Fund.

**State and Local Government Contacts**

Health Care Policy and Financing  
Public Health and Environment

Joint Budget Committee  
Regulatory Agencies