Colorado Legislative Council Staff

ISSUE BRIEF

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SENATE BILL 17-267, CONCERNING THE SUSTAINABILITY OF RURAL COLORADO

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Senate Bill 17-267, enacted during the 2017 legislative session, changes many aspects of fiscal policy for the state. This *issue brief* summarizes the bill's principal components, which include:

- repeal of the Hospital Provider Fee and creation of the ***Colorado Healthcare Affordability and Sustainability Enterprise*** to administer a similar new fee, with an adjustment to the Referendum C cap;
- new ***lease-purchase agreements*** on existing state buildings expected to generate $2.0 billion for transportation and capital construction over four years;
- changes to the state's ***marijuana taxes***, with portions of revenue allocated to K-12 education and to the General Fund;
- expansion of the income tax credit for businesses paying the ***business personal property tax***;
- increases in ***Medicaid copayments***;
- designation of money paid to local governments to offset their property tax loss from the ***senior homestead property tax exemption*** as a TABOR refund mechanism; and
- requirements that state agencies submit ***reduced budget requests*** for FY 2018-19.

Colorado Healthcare Affordability and Sustainability Enterprise. The Hospital Provider Fee was collected from hospitals and used to draw federal matching funds. Fee revenue and federal funds were redistributed to hospitals serving Medicaid patients and providing uncompensated health care. Effective FY 2017-18, SB 17-267 repeals the Hospital Provider Fee and creates a new enterprise to administer a similar Healthcare Affordability and Sustainability Fee.

This provision of the bill has the effect of excluding a significant portion of the state's health care system from the TABOR revenue limit. The June 2017 Legislative Council Staff forecast estimates that repeal of the Hospital Provider Fee prevents the state from collecting $214.0 million in excess of the Referendum C cap during FY 2018-19, an amount that would otherwise be set aside in the General Fund to be refunded during the following fiscal year. Additionally, SB 17-267 restores $528.2 million in cuts to FY 2017-18 hospital reimbursements that the General Assembly had previously authorized in Senate Bill 17-256.

The bill also directs the State Controller to subtract $200 million when computing the Referendum C cap for FY 2017-18, permanently lowering the state's revenue limit by this amount.

Lease-purchase agreements. Beginning in FY 2018-19 and continuing through FY 2021-22, the bill directs the State Treasurer to execute lease-purchase agreements on existing state facilities. These agreements function as sales of state property to private investors and require that the investors immediately lease the buildings back to the state. Leases are renewed annually for up to 20 years, after which period the state resumes ownership of the buildings.

The facilities leased are to be selected by the Department of Personnel and Administration in consultation with the Office of State Planning and Budgeting (OSPB). The total value of buildings selected is expected to equal $500 million in each of the four years, for a total of $2.0 billion. Revenue from the sales will first be expended for controlled maintenance projects selected by the Capital Development Committee ($120 million) and then spent for transportation projects selected by the Transportation Commission ($1.88 billion). At least 25 percent of transportation funds must be spent in counties with fewer than 50,000 residents as of July 2015. The bill also repeals two $160.0 million transfers scheduled to be made from the General Fund to the Highway Users Tax Fund in each of FY 2018-19 and FY 2019-20 under Senate Bill 17-262.

Lease payments will be made from the State Highway Fund (up to $50 million annually) and the General Fund (up to $100 million annually). Total lease payments are limited to $150 million annually over 20 years, or $3.0 billion total.

Marijuana taxes. Between FY 2013-14 and FY 2016-17, the state collected two sales taxes on retail (non-medical) marijuana: the 2.9 percent state sales tax assessed on most goods, revenue from which is subject to TABOR; and a 10 percent special sales tax, revenue from which is exempt from TABOR under Proposition AA. A portion of special sales tax revenue, 15 percent, was distributed to local governments permitting retail marijuana sales.

Effective FY 2017-18, the bill exempts sales of retail marijuana from the 2.9 percent state sales tax. Under the authority granted by voters in Proposition AA, the bill increases the special sales tax to 15 percent. The local share of the special sales tax is reduced to 10 percent of revenue. From the 90 percent state share, 71.85 percent is paid to the Marijuana Tax Cash Fund to be spent for programs selected by the General Assembly. In FY 2017-18 only, $30 million is spent for K-12 schools in rural districts, and the remaining revenue is credited to the General Fund. In FY 2018-19 and subsequent years, 12.59 percent of the state share of marijuana special sales tax revenue is spent for K-12 education and 15.56 percent is credited to the General Fund.

Business personal property tax. Under current law, a business with personal property valued at $15,000 or less is able to claim a refundable state income tax credit equal to the amount of business personal property tax it pays. Beginning in tax year 2019, the bill expands this credit by allowing all locally assessed businesses paying personal property tax to claim a refundable income tax credit equal to the amount of tax paid on the first $18,000 in actual property value.

Medicaid copayments. Beginning in 2018, the bill increases copayments for certain Medicaid services, including pharmaceuticals, outpatient services, and non-emergency services received at emergency facilities.

Senior homestead exemption. For years in which the state is required to refund a TABOR surplus, the bill designates reimbursements to local governments to offset their property tax loss from the senior homestead exemption and the disabled veterans' property tax exemption as the first mechanism used to issue refunds. The General Fund will be obligated for refunds via the six-tier sales tax refund mechanism and/or the temporary income tax rate reduction only if the amount of the refund obligation exceeds the total reimbursement for these exemptions.

Budget requests. The bill requires that most state agencies submit FY 2018-19 budget requests to OSPB that are 2 percent lower than the amounts they received in FY 2017-18. OSPB is instructed to strongly consider these proposed reductions; however, the Governor retains final authority over the executive budget submitted to the Joint Budget Committee.