Colorado Legislative Council Staff

# SB17-267

# REVISED FISCAL NOTE

(replaces fiscal note dated April 10, 2017)

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

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|---|---|---|---|
| **Drafting Number:** | LLS 17-1080 | **Date:** | April 13, 2017 |
| **Prime Sponsor(s):** | Sen. Sonnenberg; Guzman<br>Rep. Becker K.; Becker J. | **Bill Status:**<br>**Fiscal Analyst:** | Senate Appropriations<br>Greg Sobetski (303-866-4105) |

**BILL TOPIC:** SUSTAINABILITY OF RURAL COLORADO

| Fiscal Impact Summary* | FY 2017-2018 | FY 2018-2019 |
|---|---|---|
| **State Revenue** | **$0** | **up to $1,700.0 million** |
| *Revenue Change* | | |
| State Highway Fund | | up to 1,300.5 million |
| Other Cash Funds | | up to 399.5 million |
| *State Transfers* | | |
| State Public School Fund | 79.0 million | 160.0 million |
| Highway Users Tax Fund | (79.0 million) | (160.0 million) |
| **State Expenditures** | **$79.0 million** | **up to $285.0 million** |
| General Fund | | up to 29.4 million |
| State Highway Fund | | up to 95.6 million |
| State Public School Fund | 79.0 million | 160.0 million |
| Various Funds** | | other increases |
| **TABOR Impact** | ($148.5 million) | (up to $110.1 million) |
| **Appropriation Required:** $79.0 million - Department of Education (FY 2017-18). | | |
| **Future Year Impacts:** General Fund and State Highway Fund expenditures through FY 2038-39; transfers and State Public School Fund expenditures through FY 2019-20. | | |

* *Totals may not sum due to rounding.*

** *Beginning in FY 2018-19, the bill also changes the amount of revenue available for transportation and capital construction projects. This spending will occur over multiple years based on future decisions by the Transportation Commission and the General Assembly.*

## Summary of Legislation

This bill has six principal components. The bill:

- repeals the existing Hospital Provider Fee, creates the Colorado Healthcare Affordability and Sustainability Enterprise (enterprise) to administer a similar new fee, and makes an adjustment to reduce the state TABOR limit (Referendum C cap);

- beginning in FY 2018-19, authorizes the state to execute lease-purchase agreements on existing facilities and credits the proceeds of such agreements to fund transportation, capital construction, and controlled maintenance projects;

- repeals the current General Fund transfers to the Highway Users Tax Fund (HUTF) under Senate Bill 17-262 and instead transfers this money to the State Public School Fund for allocation to rural and small rural school districts;

- requires executive departments to submit FY 2018-19 budget requests to the Office of State Planning and Budgeting (OSPB) that are 2 percent lower than the amounts they receive for FY 2017-18;

- allows health care providers that are not enrolled in Medicaid to bill Medicaid patients for health care services, provided that the provider and patient enter into a written contract; and

- conditional on enactment of the federal Advancing Care for Exceptional Kids Act (ACE Kids Act), requires the Department of Health Care Policy and Financing (HCPF) to seek federal waivers necessary to fund an enhanced pediatric health home for children with complex medical conditions.

Each of these components is described in more detail below.

***Colorado Healthcare Affordability and Sustainability Enterprise.*** The bill creates the enterprise within HCPF beginning in 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 uses fee revenue to draw down federal matching funds and expends 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 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.

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, 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 Unexpended Hospital Provider Fee Cash Fund is repealed effective November 1, 2018.

*Enterprise status and TABOR limit adjustment.* 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 adjusts the state TABOR limit as the new enterprise is created. When the TABOR limit (Referendum C cap) is computed for FY 2017-18, a downward adjustment is applied to the FY 2016-17 limit before inflation and population growth factors are added. The bill specifies that the amount of the adjustment is $670.3 million.

*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.

*Health care delivery system reform incentive payments program.* The bill requires the enterprise to seek federal waivers necessary to form and implement a health care delivery system reform incentive payments program. The bill requires that implementation of the program begin on or after October 1, 2019. When implemented, the program will focus on care coordination, integration of physical and behavioral health services, chronic condition management, targeted population health, and data-driven accountability and outcome management.

*Federal approval.* This portion of the bill does not take effect if, prior to June 1, 2017, the federal Centers for Medicare and Medicaid Services determine that it does not comply with federal law.

***Lease-purchase agreements.*** The bill requires the State Architect, in consultation with OSPB and higher education institutions, to select a list of state facilities with a net present value of at least $1.7 billion by December 31, 2017. Beginning in FY 2018-19, the state will execute lease-purchase agreements on these facilities. The state's obligation for lease payments may not exceed $125 million annually, or $2.5 billion over 20 years. Proceeds from the lease-purchase agreements are credited in shares of 76.5 percent to the State Highway Fund (SHF) and 23.5 percent to fund capital construction and controlled maintenance projects. Proceeds are exempt from the TABOR limit as a property sale, and leases must be renewed by annual appropriation so as not to constitute multi-year debt requiring voter approval under subsection (4) of TABOR. Interest earned by participants in agreements are exempt from the state income tax.

*State Highway Fund.* Proceeds from the sale of lease-purchase agreements that are credited to the SHF must be used by the Department of Transportation (CDOT) for the construction, reconstruction, repairs, improvement, planning, supervision, and maintenance of state highways. Additionally, at least 25 percent of proceeds credited to the SHF must be expended for projects located in counties with populations of 50,000 or fewer people as of July 2015.

*Controlled maintenance and capital construction.* Proceeds allocated for capital construction, up to $113,852,921, will be used to fund controlled maintenance at levels identified in the bill. Any remaining amount will be used for construction projects as prioritized by the Capital Development Committee (CDC). For projects funded at institutions of higher education, the institution is required to pay 20 percent of the project cost to a newly created Capital Construction Lease-Purchase Agreement Cash Fund; community colleges are exempt from this requirement.

*Lease payments.* The SHF will pay for 76.5 percent of lease payments each year. Remaining costs are paid from the Capital Construction Lease-Purchase Agreement Cash Fund and, if moneys in this fund are insufficient, from the General Fund or any other legally available source of money at the discretion of the General Assembly.

***Transfers.*** This bill repeals transfers to the HUTF specified in SB17-262, part of the budget package referred with the 2017 Long Bill. The revenue that would be transferred to the HUTF is instead transferred to the State Public School Fund and expended to reimburse rural school districts and small rural school districts for reductions to these districts' total program funding for school finance.

***Budget requests.*** The bill requires executive departments to submit FY 2018-19 budget requests to OSPB that are 2 percent lower than the amounts that they receive in FY 2017-18. OSPB is required to strongly consider the budget reduction proposals submitted by departments and shall seek to ensure that the executive budget proposal for each department is at least 2 percent lower than the department's actual budget for FY 2017-18. Final authority in matters relating to the executive budget remains with the Governor pursuant to current law.

***Health care for Medicaid recipients by nonenrolled providers.*** Under current law, Medicaid recipients are not responsible for any remaining costs after payment by Medicaid, Medicare, or a private insurer if the services are eligible for reimbursement under Medicaid. This limitation applies regardless of whether the provider is enrolled as a Medicaid provider. Under this bill, a Medicaid client is liable for the cost of the medical services provided by a non-enrolled health care provider if the client and nonenrolled medical provider enter into a written contract specifying:

- the specific medical services provided;
- the customary costs for the services provided;
- the cost of services to the recipient; and
- the terms of payment.

***Enhanced pediatric health home.*** Conditional on enactment of the federal ACE Kids Act, HCPF is required to seek federal waivers to fund an enhanced pediatric health home for children with complex medical conditions in cooperation with qualifying hospitals. The bill directs HCPF to follow procedures specified in the ACE Kids Act in seeking federal approval.

## 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 coverage under the Medicaid and Child Health Plan Plus (CHP+) programs. Currently, 37.4 percent of Medicaid and CHP+ 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 and interest earnings through FY 2018-19 under current law are shown in Table 1. The permitted amount of Hospital Provider Fee collections for FY 2016-17 was limited in the 2016 Long Bill. Senate Bill 17-256, part of the budget package referred with the 2017 Long Bill, proposes reducing the appropriation for FY 2017-18 collections by $264.1 million; this adjustment is not reflected in Table 1.

**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, March 2017.*

***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 state 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.

***Lease-purchase agreements.*** The state enters into lease-purchase agreements using financial instruments called certificates of participation (COPs). In this type of lease-purchase agreement, the state transfers its interests in a property to a lessor in exchange for cash and then leases the property back through annual lease payments. The lessor assigns its interests to a trustee, usually a commercial bank, who holds the title to the property, collects lease payments from the state, and makes payments to the investors. The state renews the lease each year and makes annual payments authorized through the Long Bill. The interest rate paid by the state is fixed and depends on market conditions at the time COPs are priced for sale. When the lease ends, the state owns the facility at no or minimal additional cost.

***Statutory transfers.*** Senate Bill 17-262 was introduced as part of the budget package referred with the 2017 Long Bill. The bill has not yet been enacted by the General Assembly. If enacted, it requires transfers from the General Fund to the HUTF and the Capital Construction Fund (CCF) through FY 2019-20. Transfers are made in fixed dollar amounts in each of the remaining years as follows:

- for FY 2017-18, $79.0 million to the HUTF;
- for FY 2018-19, $160.0 million to the HUTF and $60.0 million to the CCF; and
- for FY 2019-20, $160.0 million to the HUTF and $60.0 million to the CCF.

***Advancing Care for Exceptional Kids Act.*** First introduced in Congress in 2015, the ACE Kids Act proposes changes to the coordination of health care for children with complex medical conditions who receive health care coverage through Medicaid. Under the act, states would be authorized to coordinate care through medical homes providing comprehensive health services. The ACE Kids Act has not yet been enacted at the federal level.

## State Revenue

The bill increases state revenue by **up to $1.7 billion in FY 2018-19** with these funds potentially distributed over multiple years.

*Lease-purchase agreements.* State revenue will increase from the sale of COPs through the execution of lease-purchase agreements. The amount of new revenue is expected to total $1.7 billion and the timing will depend on the number of properties collateralized and the terms of the agreements executed. Revenue is allocated in shares of 76.5 percent, totaling $1,300.5 million, to the SHF and 23.5 percent, totaling $399.5 million, to capital construction and controlled maintenance projects. The amounts allocated to capital construction and controlled maintenance are assumed to be deposited in cash funds for the affected agency or higher education institution; the specific funds affected are unknown at this time.

*Capital Construction Lease-Purchase Agreement Cash Fund.* Revenue to the new cash fund will potentially increase beginning in FY 2018-19. Institutions of higher education, except community colleges, are required to deposit 20 percent of funded capital project costs in this fund if and when projects are funded from COP proceeds. The amount and timing of the revenue increase is dependent on which, if any, higher education projects are prioritized by the CDC.

***State transfers.*** For FY 2017-18 through FY 2019-20, the bill repeals General Fund transfers to the HUTF under SB17-262 while authorizing new General Fund transfers to the State Public School Fund. Transfers are summarized in Table 2. Senate Bill 17-262 has not been enacted into law. Because SB17-267 modifies SB17-262, rather than modifying current law, the fiscal impact of the bill if SB17-262 does not pass is unclear.

**Table 2. State Transfers under SB17-262 and SB17-267***

| | FY 2017-18 | FY 2018-19 | FY 2019-20 |
|---|---|---|---|
| **Transfers under SB17-262** | | | |
| General Fund | ($79.0 million) | ($220.0 million) | ($220.0 million) |
| Highway Users Tax Fund | 79.0 million | 160.0 million | 160.0 million |
| Capital Construction Fund | | 60.0 million | 60.0 million |
| **Transfers under SB17-267** | | | |
| General Fund | ($79.0 million) | ($220.0 million) | ($220.0 million) |
| State Public School Fund | 79.0 million | 160.0 million | 160.0 million |
| Capital Construction Fund | | 60.0 million | 60.0 million |
| **Change from SB17-262** | | | |
| General Fund | $0 | $0 | $0 |
| State Public School Fund | 79.0 million | 160.0 million | 160.0 million |
| Highway Users Tax Fund | (79.0 million) | (160.0 million) | (160.0 million) |
| Capital Construction Fund | 0 | 0 | 0 |

**SB17-262 has not been enacted into law.*

## TABOR Impact

This bill reduces the state TABOR refund obligation by $148.5 million in FY 2017-18 and by up to $110.1 million in FY 2018-19. These amounts represent the net impact of reductions in state revenue subject to TABOR and in the Referendum C cap. The TABOR impact is summarized in Table 3 and described below.

**Table 3. TABOR Impact of SB17-267***

| | FY 2017-18 | FY 2018-19 |
|---|---|---|
| **State TABOR Situation under Current Law** | | |
| State Revenue Subject to TABOR | $14,148.7 million | $14,825.8 million |
| Referendum C Cap | 13,884.6 million | 14,537.2 million |
| Revenue Above Referendum C Cap | 264.1 million | 288.6 million |
| **Changes to TABOR Computation under SB17-267** | | |
| Repeal of Existing Hospital Provider Fee | ($864.7 million) | ($859.2 million) |
| Enterprise Expenditures for HCPF | 15.7 million | 15.7 million |
| Payments by Higher Ed Institutions to New Fund | | potential increase |
| Adjustment to Referendum C Cap | (700.5 million) | (733.4 million) |

| Table 3. TABOR Impact of SB17-267* (Cont.) | | |
|---|---|---|
| | FY 2017-18 | FY 2018-19 |
| **State TABOR Situation under SB17-267** | | |
| State Revenue Subject to TABOR | $13,299.7 million | at least $13,982.4 million |
| Referendum C Cap | 13,184.2 million | 13,803.8 million |
| Revenue Above Referendum C Cap | 115.5 million | at least 178.5 million |
| **Change from Current Law** | | |
| State Revenue Subject to TABOR | ($849.0 million) | (up to $843.5 million) |
| Referendum C Cap | (700.5 million) | (733.4 million) |
| Revenue Above Referendum C Cap | (148.5 million) | (up to 110.1 million) |

**Totals may not sum due to rounding.*

***State revenue subject to TABOR.*** Repeal of the existing Hospital Provider Fee removes fee revenue from the state's current TABOR computation. Consistent with the March 2017 forecast in Table 1, this effect is estimated to reduce state revenue subject to TABOR by $864.7 million in FY 2017-18 and $859.2 million in FY 2018-19. The reduction is partially offset by the amount of enterprise revenue assumed to be spent on other HCPF programs under SB17-267. The bill permits the expenditure of enterprise fee revenue to offset lost federal matching moneys for HCPF programs. This amount is estimated at $15.7 million annually, which would be moved across TABOR district boundaries and would remain subject to TABOR under the bill.

Revenue from lease-purchase agreements is exempt from TABOR as a property sale. However, the bill requires that institutions of higher education, except community colleges, deposit revenue equal to 20 percent of project costs funded through the bill in the Capital Construction Lease-Purchase Agreement Cash Fund. State revenue to this fund potentially increases beginning in FY 2018-19, potentially offsetting the reduction in the state TABOR refund obligation for that year.

***Referendum C Cap.*** The bill makes a downward adjustment to the Referendum C cap. The amount of the adjustment is specified at $670.3 million relative to the FY 2016-17 cap, and is effectively grown thereafter by the inflation and population growth adjustments applied to the total cap each year. Based on projections for inflation and population adjustment factors, the bill is expected to reduce the cap by $700.5 million in FY 2017-18 and $733.4 million in FY 2018-19 relative to current law.

***TABOR refund mechanisms.*** Table 4 presents the state's TABOR refund obligation under current law and SB17-267. For FY 2017-18, the amount of the refund obligation differs from the amount of the surplus because it includes under-refunds of and other adjustments to previous TABOR surpluses. Current law estimates are based on the March 2017 LCS forecast. Under the bill, the TABOR refund obligation is not expected to be sufficient to trigger a temporary income tax rate reduction from 4.63 percent to 4.50 percent in tax years 2018 and 2019 as expected under current law. Instead, the TABOR surpluses expected for both years would be refunded using the six-tier sales tax refund mechanism.

| Table 4. Impact of SB17-267 on TABOR Refund Mechanisms* | | |
|---|---|---|
| | **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 | $286.7 million | $288.6 million |
| *Income Tax Rate Reduction* | *230.1 million* | *243.5 million* |
| *Sales Tax Refund* | *56.6 million* | *45.1 million* |
| **Senate Bill 17-267** | | |
| TABOR Refund Obligation | $138.1 million | at least $178.5 million |
| *Income Tax Rate Reduction* | | |
| *Sales Tax Refund* | *138.1 million* | *at least 178.5 million* |
| **Change from Current Law** | | |
| TABOR Refund Obligation | ($148.5 million) | (up to $110.1 million) |
| *Income Tax Rate Reduction* | (230.1 million) | (243.5 million) |
| *Sales Tax Refund* | 81.6 million | at least 133.4 million |

**Totals may not sum due to rounding.*

### State Expenditures

The bill increases state expenditures by **$79.0 million in FY 2017-18** and **up to $285.0 million in FY 2018-19** for lease payments and school finance. It also changes the amount of revenue available for transportation and capital construction projects, respectively, which will increase future spending at the discretion of the Transportation Commission and the CDC as under current law. Workload and costs may potentially increase in the Departments of Personnel and Administration, Higher Education, Law, and Treasury for the execution and administration of lease-purchase agreements. These impacts are described below.

***Lease payments.*** Assuming that lease-purchase agreements are first executed in FY 2018-19, the state is required to make lease payments on collateralized property as specified in the agreements through FY 2038-39. The bill caps annual lease payments at $125.0 million annually. The bill requires that revenue under the control of the Transportation Commission, presumably the SHF, be used to pay 76.5 percent of annual lease payments, or up to $95.6 million annually. The remainder is paid from the Capital Construction Lease-Purchase Agreement Cash Fund and, if revenue in that fund is insufficient, from the General Fund or another source of revenue identified by the General Assembly. Lease payment expenditures from the Capital Construction Lease-Purchase Agreement Cash Fund and the General Fund will total up to $29.4 million beginning in FY 2018-19.

***K-12 school funding.*** Through FY 2019-20, the bill increases expenditures from the State Public School Fund for rural and small rural school districts. Expenditures will increase by $79.0 million in FY 2017-18 and $160.0 million in each of FY 2018-19 and FY 2019-20. The bill transfers these amounts to the State Public School Fund and requires that they be expended to offset reductions of total program funding for rural and small rural school districts.

***Expenditures for lease-purchase agreements.*** Beginning in FY 2017-18, the bill potentially increases expenditures for the preparation and administration of lease-purchase agreements. The amounts of these expenditures and the agencies for which they will be required depend on the structure of the lease-purchase agreements and what state facilities are chosen as collateral. For this reason, expenditures are indeterminate and assumed to be addressed through the annual budget process. Workload impacts affect the Departments of Personnel and Administration, Higher Education, Law, and Treasury as described in the following paragraphs.

*Department of Personnel and Administration.* Workload in the Office of the State Architect will increase during FY 2017-18 to identify facilities that can be collateralized in lease-purchase agreements. This increase can be accomplished within existing departmental appropriations. To the extent that lease-purchase agreements are executed on facilities in the Capitol Complex, DPA will require additional staff, up to 0.3 FTE at the Accountant II level, to execute and administer lease-purchase agreements.

*Department of Higher Education.* Institutional workload will increase for accounting and legal staff responsible for the execution and ongoing administration of lease-purchase agreements made for facilities at institutions of higher education. Because facilities are to be selected by DPA and OSPB, it is unknown which institutions will be affected by the policy change.

Institutional expenditures to the Capital Construction Lease-Purchase Agreement Cash Fund will potentially increase beginning in FY 2018-19. Institutions for which projects are funded from COP proceeds are required to make payments into the fund equal to 20 percent of project costs. The amount and timing of the increase, as well as which institutions are affected, is dependent on the projects prioritized by the CDC. Community colleges are exempted from this requirement.

*Department of Law.* To the extent that lease-purchase agreements are executed on facilities outside of institutions of higher education, expenditures in the Department of Law may increase for legal services. Depending on the structure of agreements, legal services are estimated at up to 150 hours per building on which a lease-purchase agreement is executed and assessed at a cost of $95.05 per hour.

*Department of the Treasury.* The bill is expected to increase workload in the Department of the Treasury for the execution and ongoing administration of lease-purchase agreements. Workload for any new lease-purchase agreements is expected to be accomplished within existing departmental appropriations.

***Transportation and capital construction projects.*** Transportation and capital construction projects are funded from the SHF and departmental cash funds respectively at the discretion of the Transportation Commission and the General Assembly, particularly the CDC. Beginning in FY 2018-19, the bill changes the amounts available for expenditure on projects as shown in Table 5. Changes are attributable to revenue from COP proceeds and the elimination of General Fund transfers. For FY 2018-19, the bill generates up to $1.7 billion in proceeds from sales of COPs, which are credited in shares of 76.5 percent to the SHF and 23.5 percent to capital construction. The bill repeals General Fund transfers to the HUTF for FY 2017-18 through FY 2019-20; this transfer is paid to the SHF under current law.

| Table 5. Changes to Funds Available for Transportation and Capital Projects under SB17-267* | | |
|---|---|---|
| | **FY 2017-18** | **FY 2018-19** |
| **State Highway Fund** | | |
| Proceeds from Certificates of Participation | | up to $1,300.5 million |
| Obligation for Lease Payments | | (up to 95.6 million) |
| Elimination of SB17-262 Transfer | ($79.0 million) | (160.0 million) |
| **Net Impact** | **($79.0 million)** | **up to $1,044.9 million** |
| **Capital Construction and Maintenance** | | |
| Proceeds from Certificates of Participation | $0 | up to $399.5 million |
| **Net Impact** | **$0** | **up to $399.5 million** |

** Table reflects changes relative to current law and SB17-262. SB17-262 has not been enacted in law.*

*State Highway Fund allocation.* The bill requires that COP proceeds credited to the SHF be spent for state highways. At least 25 percent of proceeds, or up to $325.1 million, must be expended for projects located in counties with populations of 50,000 or fewer people as of July 2015.

*Capital Construction allocation.* The bill requires that the first $113,852,921 in COP proceeds allocated for capital construction be used for controlled maintenance as follows:

- $13,006,081 for level I controlled maintenance;
- $60,637,305 for level II controlled maintenance; and
- $40,209,535 for level III controlled maintenance.

Any amount remaining after controlled maintenance allocations are paid, totaling up to $285,647,079, may be expended for capital construction projects as prioritized by the CDC.

***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 the enterprise fee compared with the existing Hospital Provider Fee, this fiscal note assumes that the enterprise portion of 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 will be required to allow spending authority from the new cash fund. It is assumed that contracts for consultant services for the development of a health care delivery system reform incentive payments program will be addressed through the annual budget process.

HCPF will need to update program rules related to the billing of Medicaid clients by nonenrolled providers through the Medical Services Board process, which will require a minimal workload increase that can be completed within existing appropriations.

The department will incur an additional workload increase conditional on the federal passage of the ACE Kids Act. The timing and magnitude of the impact depends on the date of passage and final content of the ACE Kids Act. For this reason, this impact is assessed as an indeterminate potential increase.

***Office of State Planning and Budgeting.*** All executive departments are required to submit FY 2018-19 budget requests to OSPB that are 2 percent lower than the agency budgets received for FY 2017-18. All agencies employ staff responsible for the preparation of annual budget requests, and this requirement is not expected to increase budget staff workload by more than a minimal amount. OSPB is required to seriously consider reduced agency budget requests when preparing the executive budget request for the JBC. Any workload increase resulting from consideration of budget cuts can be accomplished within existing office appropriations.

The bill does not by itself reduce departmental appropriations for FY 2018-19. Appropriations will be set by the JBC and the General Assembly in the 2018 Long Bill.

***General Fund budget.*** The bill increases the amount available for the FY 2017-18 General Fund budget by $148.5 million relative to current law. This amount represents the impact of the reduced TABOR refund obligation.

*Impact relative to Long Bill package.* Relative to the 2017 Long Bill and budget package, the bill reduces the amount available for the FY 2017-18 General Fund budget by $115.5 million, the impact of the TABOR refund obligation requiring a set-aside in the budget.

## School District Impact

The bill increases distributions from the State Public School Fund for school finance by $79.0 million in FY 2017-18 and by $160.0 million in each of FY 2018-19 and FY 2019-20. Distributions are assumed to be made to districts according to their share of the total negative factor applied to all rural and small rural school districts. For the state's 108 small rural districts, additional FY 2017-18 distributions will range from $52,200 for the Kim School District to $655,500 for the Telluride School District. For the state's 39 rural school districts, additional FY 2017-18 distributions will range from $585,600 for the Bennett School District to $3,417,100 for the Roaring Fork School District. For FY 2017-18, the total negative factor for these 147 districts is estimated at $137.4 million. Depending on the 2018 and 2019 school finance acts, the $160.0 million transferred for FY 2018-19 and FY 2019-20 may be sufficient to completely offset the negative factor for these districts in these years.

## Technical Note

The bill requires all executive departments to submit reduced FY 2018-19 budget requests to OSPB, and that OSPB seriously consider budget reduction proposals when submitting the executive budget request to the JBC. Under current law, OSPB does not administer budget requests for the Department of Law, the Department of State, and the Department of the Treasury; however, copies of these agencies' budget requests are provided to OSPB when requests are submitted to the JBC. This fiscal note assumes that the bill does not require these agencies to submit budget requests to the JBC that are 2 percent lower than the amounts they receive in FY 2017-18.

## Effective Date

Unless the Centers for Medicare and Medicaid Services determine that they do not comply with federal law, the portions of the bill that create the Colorado Healthcare Affordability and Sustainability Enterprise and adjust the Referendum C cap take effect on July 1, 2017. The remainder of the bill takes effect upon signature of the Governor, or upon becoming law without his signature.

## State Appropriations

For FY 2017-18, the bill requires a State Public School Fund appropriation of $79.0 million to the Department of Education for distributions to school districts. The bill also requires adjustments to appropriations for the Department of Health Care Policy and Financing to reflect the replacement of the Hospital Provider Fee Cash Fund with the Healthcare Affordability and Sustainability Fee Cash Fund. No net increase or decrease to HCPF appropriations is required.

## State and Local Government Contacts

All State Agencies