SB17-267

JBC STAFF FISCAL ANALYSIS
HOUSE APPROPRIATIONS COMMITTEE

CONCERNING THE SUSTAINABILITY OF RURAL COLORADO.

Prime Sponsors:	Sens. Sonnenberg and Guzman Reps. Becker K. and Becker J.	JBC Analyst: Phone: Date Prepared:	Eric Kurtz 303-866-4952 May 8, 2017

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 05/05/17.

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

Amendments in This Packet for Consideration by Appropriations Committee

Amendment	Description
None.	

Current Appropriations Clause in Bill

The bill includes an appropriation clause that provides $263,715,130 total funds to the Department of Health Care Policy and Financing in FY 2017-18. The appropriations clause also assumes that the Department will receive $264.1 million federal funds.

The amount in the appropriations clause is the net result of: (1) a reduction of $597,380,996 cash funds from repealing the Hospital Provider Fee Cash Fund; (2) an increase of $861,480,996 cash funds from creating the Healthcare Affordability and Sustainability Fee Cash Fund and restoring the funding for hospitals that was reduced by S.B. 17-256; (3) an anticipated increase of $264.1 million federal funds as a result of restoring the reduction that occurred in S.B. 17-256; and (4) a decrease of $1,818,901 total funds, including $320,035 General Fund, $64,835 from the Healthcare Affordability and Sustainability Fee Cash Fund, and $1,434,031 anticipated federal funds based on the estimated fiscal impact of a half of a year of higher Medicaid copayments.

FY 2017-18 Appropriations in S.B. 17-267				
	Total Funds	General Fund	Cash Funds	Federal Funds
Repeal Hospital Provider Fee Cash Fund	($597,380,996)	$0	($597,380,996)	$0
Create Healthcare Affordability and Sustainability Enterprise	861,480,996	0	861,480,996	0
Anticipated Federal Funds from Restoring Reduction in SB 17-256	264,100,000	0	0	264,100,000
Medicaid copays	(1,818,901)	(320,035)	(64,835)	(1,434,031)
Total Appropriations	$526,381,099	($320,035)	$264,035,165	$262,665,969

In addition, the appropriations clause provides $3,750 General Fund for FY 2016-17 to the Department of Revenue for the Tax Administration IT System (Gen Tax) Support. This is for administrative costs to implement the required changes to the retail Marijuana sales tax rate.

Points to Consider

Future Fiscal Impact

1. The bill is projected to result in future General Fund obligations, beginning with $9.0 million in FY 2018-19 and increasing over time to $100.0 million per year by FY 2021-22.

Legislative Authority

2. 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, 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. Both the Legislative Council Staff Revised Fiscal Note, dated 05/05/17, and this JBC Staff Fiscal 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.

3. Section 4 of the bill requires certain transfers of marijuana tax revenues to the State Public School Fund and makes statutory appropriations of this money to the Department of

Education for distribution to school districts. Is it necessary to appropriate this money by statute (keeping it off-budget) rather than through the Long Bill?

Timing Issues

4. Current law requires the State's share of all marijuana sales tax revenue to be transferred to the Marijuana Tax Cash Fund and, with the exception of $1.6 million that is appropriated to the Department of Revenue for collection of marijuana taxes, prohibits the General Assembly from appropriating this money until the fiscal year following the one in which the revenues were collected. Senate Bill 17-267 changes this policy, making about a quarter of the annual revenues ($40.0 million in FY 2017-18) available for expenditure in the same year it is collected.

5. Some of the retail marijuana sales tax revenues that are to be spent in the year they are collected are directed to schools, but this presents some particular timing issues for school finance.
   a. For FY 2017-18 the bill appropriates $30 million "for monthly distribution" to rural school districts. However, the money will not be available to the Department of Education to make the distributions until approximately two months after it is collected, because marijuana tax revenues are not remitted to the Department of Revenue until the 20th day of the month following collection.
   b. For FY 2018-19 and subsequent fiscal years, the annual transfer to the State Public School Fund will constitute part of the State Share of Districts' Total Program Funding, but the amount of marijuana sales tax revenue that will be transferred for a fiscal year will be unknown until after the close of that fiscal year.

Potential Unquantified Fiscal Impacts

6. As noted in the Legislative Council Staff Revised Fiscal Note (page 13), it is possible that increased copays could decrease healthcare utilization. For example, some research suggests a relationship between copays and medication adherence. Potential future costs or savings attributable to different utilization rates and consequent health outcomes are not estimated in the Fiscal Note.

TABOR/Excess Revenue Impact

7. The Legislative Council Staff Revised Fiscal Note, dated 05/05/17, 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?