

Colorado Legislative Council Staff Fiscal Note

**STATE
FISCAL IMPACT**

| | |
|--|---|
| Drafting Number: LLS 15-0307 | Date: April 30, 2015 |
| Prime Sponsor(s): Rep. Hullinghorst; Court Sen. Steadman | Bill Status: House Health Insurance and Environment |
| | Fiscal Analyst: Greg Sobetski (303-866-4105) |

BILL TOPIC: CREATE NEW HOSPITAL PROVIDER FEE ENTERPRISE

| Fiscal Impact Summary* | FY 2015-2016 | FY 2016-2017 |
|--------------------------------------|---------------------|---------------------------------|
| State Revenue | | <u>\$5.3 million</u> |
| Revenue Change General Fund | | 5.3 million |
| State Transfers General Fund | | (273.5 million) |
| Highway Users Tax Fund | | 218.8 million |
| Capital Construction Fund | | 54.7 million |
| State Expenditures | | See State Expenditures section. |
| FTE Position Change | | |
| TABOR Set-Aside | | (\$434.9 million) |
| Appropriation Required: None. | | |

* This summary shows changes from current law under the bill for each fiscal year. Transfers result in no net change to state revenue. Parentheses indicate a decrease in funds.

Summary of Legislation

This bill creates a Health Care Affordability Enterprise (enterprise) within the Department of Health Care Policy and Financing (HCPF). Beginning FY 2016-17, the enterprise is responsible for the collection of a new hospital provider fee that replaces the hospital provider fee assessed under current law, and for the administration of the hospital provider fee program created pursuant to House Bill 09-1239. The bill abolishes the Hospital Provider Fee Oversight and Advisory Board, which currently administers the hospital provider fee, and the board's functions are transferred to a new board in the enterprise.

The Health Care Affordability Enterprise is designated as an enterprise under the Taxpayer's Bill of Rights (TABOR) and has the authority to issue revenue bonds. Hospital provider fee revenue collected by the enterprise is not subject to the state's TABOR limit.

The bill clarifies that termination of the HCPF's authority to assess and collect the hospital provider fee, and creation of a new enterprise to assess and collect a new hospital provider fee, does not require or authorize a downward adjustment to the TABOR limit.

Background

Hospital Provider Fee. Pursuant to HB09-1239, 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 Medicaid and Child Health Plan Plus programs. Under current law, hospital provider fee revenue is subject to the TABOR limit.

Actual and projected hospital provider fee revenue through FY 2016-17 is shown in Table 1. Increased Medicaid caseload attributable to the Patient Protection and Affordable Care Act will trigger a jump in hospital provider fee revenue in FY 2015-16.

| Table 1. Hospital Provider Fee Revenue Forecast through FY 2016-17 | | | | |
|---|--------------------|-------------------|-------------------|-------------------|
| | FY 2013-14* | FY 2014-15 | FY 2015-16 | FY 2016-17 |
| Hospital Provider Fee Revenue | \$566.7 million | \$532.7 million | \$689.2 million | \$728.0 million |

Source: Legislative Council Staff Economic and Revenue Forecast, March 2015.

*Actual

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 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. However, this adjustment is not required when a new enterprise is created.

State Revenue

Under the bill, General Fund revenue will increase by **\$5.3 million in FY 2016-17**. No change to state revenue is anticipated in FY 2015-16.

Assumptions. Under current law, part of the gross conservation easement income tax credit becomes refundable during tax years following fiscal years for which the state incurs a TABOR surplus. Taxpayers claiming a conservation easement credit, or carrying forward credit from prior tax years, receive up to \$50,000 as a refundable credit in tax years following fiscal years for which the state incurs a TABOR surplus. Under current law, the state is expected to incur a TABOR surplus beginning FY 2014-15, and the tax credit is expected to become refundable in tax years 2015 through at least 2017. Under the bill, state revenue subject to TABOR is expected to be reduced below the Referendum C cap for FY 2016-17, and the tax credit is expected not to be refundable during tax year 2017. The revenue estimate assumes a half-year impact for tax year 2017 on an accrual accounting basis.

State transfers. For FY 2016-17, General Fund transfers to the HUTF and the CCF will increase by \$218.8 million and \$54.7 million, respectively. Senate Bill 09-228 requires transfers equal to 2.0 percent and 0.5 percent of General Fund revenue to the HUTF and the CCF, respectively, for FY 2016-17; however, transfers may be reduced or eliminated depending on the

size of the state TABOR surplus expressed as a share of General Fund revenue. Under current law, transfers are expected not to occur during FY 2016-17 because the state TABOR surplus is expected to exceed 3.0 percent of General Fund revenue. Under the bill, a TABOR surplus is not expected for FY 2016-17, and full transfers are expected to occur.

TABOR Impact

State revenue subject to TABOR will decrease by \$722.7 million in FY 2016-17. This amount represents the net impact of a \$728.0 million decrease in cash fund revenue subject to TABOR, the amount expected to be collected from the hospital provider fee, and a \$5.3 million increase in General Fund revenue attributable to the gross conservation easement income tax credit not being refundable for tax year 2017. The state TABOR surplus for FY 2016-17, forecast at \$434.9 million, will be eliminated, and state revenue subject to TABOR will fall below the Referendum C cap by \$287.8 million.

The TABOR refund expected to occur under current law in tax year 2017 will not take place. Under current law, \$226.6 million is expected to be refunded via a temporary reduction in the state income tax rate from 4.63 percent to 4.50 percent. Additionally, \$208.3 million will be refunded via the six-tier sales tax refund, which is available on income tax forms. State law requires the sales tax refund to be distributed among six income tiers following the proportions in which the sales tax refund was distributed in tax year 1999. Taxpayers filing single returns with adjusted gross incomes of up to \$38,400 are expected to receive refunds of \$43 each, and taxpayers filing single returns with adjusted gross incomes of \$190,600 are expected to receive refunds of \$134 each. For taxpayers filing joint returns, these amounts are doubled.

Expectations for the state TABOR situation and refund mechanisms under current law and HB15-1389 are shown in Table 2 on page 4. TABOR refunds are paid from the General Fund in the year following excess collections.

| Table 2. TABOR Situation and Refund Mechanisms under Current Law and HB15-1389 | | | |
|---|------------------------|------------------------|------------------------|
| | FY 2014-15 | FY 2015-16 | FY 2016-17 |
| Referendum C Cap | \$12,347.3 million | \$12,890.6 million | \$13,444.9 million |
| Current Law | | | |
| State TABOR Revenue | 12,413.4 million | 13,007.4 million | 13,879.8 million |
| Excess (Deficit) of Ref C Cap | 66.1 million | 116.8 million | 434.9 million |
| House Bill 15-1389 | | | |
| State TABOR Revenue | 12,413.4 million | 13,007.4 million | 13,157.1 million |
| Excess (Deficit) of Ref C Cap | 66.1 million | 116.8 million | (287.8 million) |
| | Tax Year 2015 | Tax Year 2016 | Tax Year 2017 |
| Current Law | | | |
| Amount to be refunded | <u>\$69.7 million*</u> | <u>\$116.8 million</u> | <u>\$434.9 million</u> |
| <i>Earned Income Tax Credit</i> | | <i>91.1 million</i> | |
| <i>Income Tax Rate Reduction</i> | | | <i>226.6 million</i> |
| <i>Six-Tier Sales Tax Refund</i> | <i>69.7 million</i> | <i>25.6 million</i> | <i>208.3 million</i> |
| House Bill 15-1389 | | | |
| Amount to be refunded | <u>69.7 million*</u> | <u>116.8 million</u> | <u>0</u> |
| <i>Earned Income Tax Credit</i> | | <i>91.1 million</i> | |
| <i>Income Tax Rate Reduction</i> | | | |
| <i>Six-Tier Sales Tax Refund</i> | <i>69.7 million</i> | <i>25.6 million</i> | |

Source: Legislative Council Staff Economic and Revenue Forecast, March 2015.

*For tax year 2015, an additional \$3.6 million is refunded to correct for previous underrefunds.

State Expenditures

Department of Health Care Policy and Financing. State expenditures for the HCPF are not expected to change as a result of the bill. Because the bill does not change the purpose or usages of the hospital provider fee, this fiscal note assumes that the HCPF can absorb all transition activities within its existing resources, and that no changes to service costs will result from the bill.

General Fund budget. For FY 2016-17, the amount available for the General Fund budget in excess of the statutory reserve will increase by \$166.8 million. This amount represents the net fiscal impact of:

- a \$434.9 million increase from reduced expenditures on TABOR refunds (see TABOR Impact section);
- a \$5.3 million increase in General Fund revenue (see State Revenue section); and
- a \$273.5 million reduction from additional General Fund transfers (see State Transfers section).

This amount is not budgeted for expenditure, and may be spent or saved in the FY 2016-17 state budget at the discretion of the General Assembly.

Effective Date

The bill takes effect July 1, 2016, unless the Centers for Medicaid and Medicare Services determine that the bill does not comply with federal law.

State and Local Government Contacts

Health Care Policy and Financing

Revenue