F I S C A L   I M P A C T   R E P O R T

SPONSOR Cervantes **DATE TYPED** 2/6/04 **HB** 431

SHORT TITLE Use of Proceeds from Hospital Sales **SB**

ANALYST Dunbar

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
	NFI				

Relates to HB 431; SB315; HB322; HB301; HB93; SB34; SB315; HB310; HB322

SOURCES OF INFORMATION
LFC Files

SUMMARY

Department of Finance and Administration (HPC)
Human Services Department (HSD)
Department of Health (DOH)
Health Policy Commission (HPC)

Synopsis of Bill

House Bill 431 restricts the use of proceeds from the sale or lease of a municipal hospital, county hospital or a joint county-municipal hospital, and would require submission to, and approval by, the Department of Health (DOH) Secretary of any plan for expending proceeds within certain provisions.

HB 431 contains an emergency clause.

Significant Issues

HB431 ensures that proceeds from the sale or lease of a county or municipal hospital are utilized for the community's health care needs only. The bill restricts the use of these proceeds to: 1) payment of debt service on revenue or general obligations bonds issued for the acquisition, construction, renovation or operation of the hospital; 2) payment of other obligations from operation of the hospital; 3) care of sick and indigent persons or other community health care.

DFA points out that:

- HB431 contains an emergency clause intended to make the bill effective before the sale of a hospital in Dona Ana County can occur. Dona Ana County is in support of HB 431. The county intends to utilize proceeds from the sale of their hospital strictly for health care, which is an area in need of funding.
- HB431 takes away the authority of the local governing body to determine where public funds are best spent.

DFA acknowledges Chaves County sold their hospital and utilized a portion of the funds for reduction of the property tax mill levy, benefiting all property tax payers. A small portion of proceeds was used to fund operations, and a major portion of the proceeds to set up a permanent fund which most counties cannot afford.

Governmental units in New Mexico have different practices about whether funds from sales of assets such as a hospital are segregated into a fund to be used solely for health-related activities, are placed into the general fund for any purpose or are returned to taxpayers in the form of tax relief. There is no uniform statewide requirement on how on how to deal with sale and lease proceeds.

FISCAL IMPLICATIONS

The bill has potential for off setting some health care cost in local communities.

ADMINISTRATIVE IMPLICATIONS

HB 431 would have some administrative impact on DOH relating to the development of a process for submission, review and finding for counties or municipalities considering entering into agreements for sale or lease of a hospital.

RELATIONSHIP

HB 431, SB 315, and HB 322 are related in that they all designate authority for approval of a change in control or ownership of a county or municipal hospital. HB 431 also relates to HB 301, HB 93 and SB 34, which require the development of a comprehensive strategic health plan.

HB 431 is related to SB 315, which would establish other health facilities oversight responsibilities for the DOH, HB 310 Hospital Oversight by Secretary of Health, and HB 322 Secretary of Health Hospital Oversight.

TECHNICAL ISSUES

DFA is concerned that Section 4-48A-11 NMSA 1978 may conflict because it allows the board of trustees of a special hospital district to purchase or lease any existing hospital facility (including building, property, furniture and equipment, with State Board of Finance Approval). This bill does not amend 4-48A-11, but possibly conflicts with 4-48A-11.

A review process is recommended by HPC for disposition of the proceeds for sale or lease of certain hospitals, which allow restrictions of the disposition of the proceeds to be set through the review process rather than through predetermined scopes of expenditure. The review process might be required to prioritize expenditures to health care needs without full restriction to health care needs.

The Health Policy Commission further recommends that this bill be merged into HB 301 or HB 322, which pertain to hospital oversight for coherence of effort.

The bill does not provide a "cut-off" date after which proceeds from the sale cannot be applied to continuing obligations incurred in the operation of the hospital.

AMENDMENTS

Page 2, Line 19: after "approve" insert or disapprove.

This would clarify the two options open to the DOH Secretary.

Page 2, Lines 9 – 12: the words "care of the sick" or "health care in the community served by the hospital" are very broad. DOH suggests language that after defeasance of the bond obligations and trade payables, the balance of the proceeds goes to the county indigent fund which has an existing mechanism for distribution of indigent care dollars. The fund also has eligibility criteria, and providers who can be reimbursed.

Specify when the "cut-off" date occurs after which the sale proceeds are no longer required to pay off operational expenditures.

HPC suggest instituting legal research relative to HB431's relationship and potential violation to existing statute (including 24-1-5 NMSA 1978, Licensure of health facilities; hearings; appeals; 4-48, A-11 Special Hospital Districts, Board of Trustees, acquisition of existing hospital facilities; agreements), and draft the proposals outlined in HB431 as amendments to existing statute for reconsideration.

DFA suggests adding an amendment to allow re-payment to other county funds that have previously sup-ported hospital debt or operations, such as County/Municipal General Fund.

BD/lg