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

ORIGINAL DATE 02/05/07
SPONSOR Sandoval **LAST UPDATED** **HB** 373

SHORT TITLE Approval for Agency Prior Year Obligations **SB**

ANALYST Weber

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates SB 298

SOURCES OF INFORMATION
LFC Files

Responses Received From
Human Services Department (HSD)
Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

House Bill 373 amends Section 6-10-4 in Public Finances by striking Section B. Section 6-10-4 defines the circumstances that allows for payment of prior year's expenditures with current year's appropriation. Section B exempts the Human Services Department from the provisions and allows payment of prior year's expenditures with current year appropriations without approval from the Department of Finance and Administration as required in Section A

FISCAL IMPLICATIONS

HSD notes the possibility of "significant" additional operating expenses but does not quantify or define any specific expense.

SIGNIFICANT ISSUES

HSD notes the following.

By removing the exemption granted to the Human Services Department that allows payment of prior year obligations from a current year appropriation, the result is likely to be (as it was prior to the exemption) that HSD will require deficiency or supplemental appropriations to meet its Medicaid obligations. Medicaid obligations often occur up to two years after the end of the fiscal year. Payment for claims that are submitted long after the close of the fiscal year may result in the HSD exceeding its appropriation for that fiscal year. HSD may already have reverted funding which should be used to pay those obligations. Furthermore, there would be a delay in effecting Medicaid payments since HSD would have to follow established Department of Finance procedures of certifying and approving prior year payments against current fiscal year budget. This would have a detrimental impact on the program's ability to accurately project Medicaid expenditures and budget needs and may be an impediment to drawing federal funds.

HSD continues that removing the exclusion granted to the Medicaid program to pay prior year expenses from the current year budget will likely result in delayed payments to vendors and will increase the administrative cost to both HSD and the Financial Control Division of the Department of Finance and Administration (FCD). FCD will have to certify with the help of the agency whether or not prior year budget and cash exist to pay any late Medicaid obligations which could occur as long as two years after the close of the fiscal year. Removal of the existing exemption would require that the agency follow a cumbersome process for thousands of transactions.

The Department of Finance and Administration echoes the comments of HSD.

However, as HSD comments, this section allows HSD to circumvent the requirement of a deficiency or supplemental. In addition, HSD can effectively create its own appropriation by incurring non-entitlement liabilities in one year and paying from the following year appropriation without action by the Legislature. The practice is common with $3.9 million from FY05 and prior charged to FY06, $6.4 million from FY06 charged to FY07. General fund expenditures such as $450 thousand to set up a risk fund for the Small Employers' Insurance Program, $3 million of Value Options reimbursement increases and $660 thousand to supplement the Santa Fe County share of the Sole Community Provider Hospital Fund for St. Vincent Hospital are examples of non-entitlement use of FY06 funds. Section B allows HSD to proceed with initiatives such as these without disclosure or approval by the Legislature.

This procedure diminishes the Legislature's appropriation power. This practice on the part of HSD can be eliminated if 6-10-4B is amended out of the statute. It may be argued that this special authority is required since there are many outstanding Medicaid invoices at the end of any fiscal year and it will facilitate payment. However, current accounting practices require an accrued accounts payable as part of the independent audit and using this information authority can be granted by Financial Control with the authority from Section A the same as any other agency. This does not address the concern raised by the possibility of exceeding the prior year budget authority and thereby jeopardizing Medicaid payments to providers. However, accurate projections coupled good management will produce reasonable supplementals that will alleviate the possibility of this disastrous result.

ALTERNATIVES

If the possibility of exceeding budget authority with the resultant threat of non-payment of providers is an overriding issue then the following language may be considered in Section B.

> B. Appropriations to the human services department for medicaid payments may be expended by that department for medicaid obligations for prior fiscal years upon approval by the department. The department shall make quarterly reports to the legislative finance committee concerning all authorizations of payment for prior fiscal years.

This will provide the requested flexibility while introducing an additional level of oversight and transparency.

MW/mt