HOUSE BILL NO. 67

INTRODUCED BY COBB

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING FUTURE INCREASES IN GENERAL FUND APPROPRIATIONS FOR THE MONTANA MEDICAID PROGRAM BY THE USE OF PROGRAM TRANSFERS OR SUPPLEMENTAL APPROPRIATIONS; AMENDING SECTION 17-7-301, MCA; AND PROVIDING AN EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY PROVISION."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Increase in medicaid appropriations prohibited -- exception -- use of savings.** (1) The general fund spending authority of the department for the Montana medicaid program enacted by the general appropriations act may not be increased for a fiscal year by the use of:

(a) program transfers pursuant to 17-7-139; or

(b) supplemental or deficiency appropriations pursuant to Title 17, chapter 7, part 3.

(2) Notwithstanding Title 17, chapter 7, part 3, the department may expend, in any year of a biennium, for a purpose consistent with the goals and objectives of the department an amount appropriated by the general appropriations act for the purposes of the Montana medicaid program that is unexpended and unobligated and that is determined by the department to be unnecessary for a purpose of the Montana medicaid program. This subsection does not apply to reversions that are the result of a reduction in spending directed by the governor pursuant to 17-7-140. Any amount that is a result of a reduction in spending directed by the governor must revert to the fund or account from which it was originally appropriated.

Section 2. Section 17-7-301, MCA, is amended to read:

"17-7-301. Authorization to expend during first year of biennium from appropriation for second year -- proposed supplemental appropriation defined -- limit on second-year expenditures. (1) A state department, institution, or agency of the executive branch desiring authorization to make expenditures during the first fiscal year of the biennium from appropriations for the second fiscal year of the biennium shall submit a proposed supplemental appropriation to the governor through the budget director. The proposal submitted to the governor must include a plan for reducing expenditures in the second year of the biennium that allows the agency to contain expenditures within appropriations. If the governor finds that, due to an unforeseen and unanticipated emergency, the amount actually appropriated for the first fiscal year of the biennium with all other income will be insufficient for the operation and maintenance of the department, institution, or agency during the year for which the appropriation was made, the governor shall, after careful study and examination of the request and upon review of the recommendation of the budget director, submit the proposed supplemental appropriation to the legislative fiscal analyst.

(2) The plan for reducing expenditures required by subsection (1) is not required if the proposed supplemental appropriation is:

(a) due to an unforeseen and unanticipated emergency for fire suppression;

(b) requested by the superintendent of public instruction, in accordance with the provisions of 20-9-351, and is to complete the state's funding of guaranteed tax base aid, transportation aid, or equalization aid to elementary and secondary schools for the current biennium; or

(c) requested by the attorney general and:

(i) is to pay the costs associated with litigation in which the department of justice must provide representation to the state of Montana; or

(ii) in accordance with the provisions of 7-32-2242, is to pay costs for which the department of justice is responsible for confinement of an arrested person in a detention center.

(3) Upon receipt of the recommendation of the legislative finance committee pursuant to 17-7-311, the governor may authorize an expenditure during the first fiscal year of the biennium to be made from the appropriation for the second fiscal year of the biennium. Except as provided in subsection (2), the governor shall require the agency to implement the plan for reducing expenditures in the second year of the biennium that contains agency expenditures within appropriations.

(4) The department, institution, or agency may expend the amount authorized by the governor only for the purposes specified in the authorization.

(5) The governor shall report to the next legislature in a special section of the budget the amounts expended as a result of all authorizations granted by the governor and shall request that any necessary supplemental appropriation bills be passed.

(6) As used in this part, "proposed supplemental appropriation" means an application for authorization to make expenditures during the first fiscal year of the biennium from appropriations for the

second fiscal year of the biennium.

(7) (a) Except as provided in subsections (2) and (7)(b), an agency may not make expenditures in the second year of the biennium that, if carried on for the full year, will require a deficiency appropriation, commonly referred to as a "supplemental appropriation".

(b) An agency shall prepare and, to the extent feasible, implement a plan for reducing expenditures in the second year of the biennium that contains agency expenditures within appropriations. The approving authority is responsible for ensuring the implementation of the plan. If, in the second year of a biennium, mandated expenditures that are required by state or federal law will cause an agency to exceed appropriations or available funds, the agency shall reduce all nonmandated expenditures pursuant to the plan in order to reduce to the greatest extent possible the expenditures in excess of appropriations or funding. An agency may not transfer funds between fund types in order to implement a plan.

<u>(8) Except as provided in [section 1], this section does not apply to the Montana medicaid program.</u>"

<u>NEW SECTION.</u> **Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 53, chapter 6, part 1, and the provisions of Title 53, chapter 6, part 1, apply to [section 1].

<u>NEW SECTION.</u> **Section 4. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to money appropriated to the department of public health and human services that is unexpended and unobligated prior to [the effective date of this act].

<u>NEW SECTION.</u> **Section 5. Effective date.** [This act] is effective July 1, 1997.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0067, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
An act prohibiting future increases in general fund appropriations for the Montana Medicaid Program by the use of program transfers or supplemental appropriations.

ASSUMPTIONS:
1. Medicaid is a state/federal entitlement program available to Montana's categorically needy population.
2. The state and federal government share the cost of the program. Benefits are funded 29.83% state funds and 70.17% federal funds in fiscal 1998 and 28.88% state funds and 71.12% federal funds in fiscal 1999. In order to be eligible for federal cost sharing, the state must have an approved state plan with the federal government.
3. In the event that state law requires an action by the department which does not comply with federal regulations or an approved state plan, the federal government has the option to cease sharing costs with the state. For Montana, this would amount to a loss of roughly $245-255 million in federal revenue each year of the biennium to the program.
4. The state determines eligibility standards, scope of services and payment rates in accordance with the state plan submitted to and approved by the federal government.
5. Changes to the state plan would need to be made in the event of a funding shortfall which would require substantial reductions in the amount of non-federally mandated expenditures. A change to the state plan would require a minimum of one month.
6. The state accounting system accounts for Medicaid expenditures on the modified accrual basis of accounting. Paid claims are accounted for based on the date the Medicaid service was received. Providers then have 1 year after the date of service to submit a clean claim to the department for payment. This results in difficulties detecting increases in the specific segment(s) of the program that are causing cost overruns in a given Medicaid category. If a significant increase is not detected on a timely basis, due to the difficulty in detecting such increases, then implementing an expenditure reduction plan which complies with this statute would not be possible.
7. Since the creation of the Department of Public Health and Human Services (DPHHS), portions of the Medicaid program are now located in four divisions within the department and have unique appropriations for many categories of service.
8. Clients may be eligible for services in several different areas of the Medicaid program which cross divisions. For example, there is movement of clients between Disability Services (Program 10) and Senior and Long Term Care (Program 22).
9. The department will not be able to use program transfers to move funds between Medicaid appropriations, when one appropriation is insufficient to cover expenditures and another appropriation has a surplus of funds. Medicaid funding in total for the department is generally sufficient to cover the entire program, but there could be shortfalls or surpluses within smaller portions of the program. Without the ability to transfer funds, the department may be put into a supplemental situation when Medicaid funds exist in total to cover any shortfall that may exist in a particular program.
10. A division managing multiple service categories under the Medicaid program will be allowed to transfer authority within the division.

FISCAL IMPACT:
Unable to determine at this time. However, if the state does not comply with federal regulations governing the federal cost-sharing of the program, federal financial participation could be lost. This would be a loss to the state of $245-255 million in federal revenue each year of the biennium.

Dave Lewis 1-13-97

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

JOHN COBB, PRIMARY SPONSOR DATE

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