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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/10/09

SPONSOR Sanchez LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Los Lunas Substance Abuse Building Lease SB SJR7

ANALYST Archuleta

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>			\$899.0	\$899.0	Recurring	General Fund*

(Parenthesis ( ) Indicate Expenditure Decreases)

\*Estimate provided by Human Services Department

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

General Services Department (GSD)

Human Services Department (HSD)

Corrections Department (CD)

### SUMMARY

#### Synopsis of Bill

Senate Joint Resolution 7 ratifies and authorizes a lease to purchase agreement by GSD on behalf of HSD for a building to be constructed on land owned by the state near the correctional facility located in Los Lunas, in Valencia County. The building will be used as a substance abuse treatment and training facility and will be adjacent to a building to be constructed by GSD to augment the programs at the facility.

### FISCAL IMPLICATIONS

HSD projects annual lease cost in the first year to be \$899,000 to be incurred upon occupancy after August, 2010. HSD will request budget for FY 2011 to make lease payments.

According to CD, there will not be any significant fiscal implications for the department. However, if the substance abuse treatment facility ultimately helps prevent certain individuals from ever being sentenced to prison or placed on probation or parole for certain crimes stemming from their substance abuse problems, it could reduce the prison population and probation/parole caseloads to a minimal degree.

## **Senate Joint Resolution Bill 7– Page 2**

The contract/private prison annual cost of incarcerating an inmate is \$27,761 per year for males. The cost per client to house a female inmate at a privately operated facility is \$31,600 per year. Because state owned prisons are essentially at capacity, any net increase in inmate population will be housed at a contract/private facility.

The cost per client in Probation and Parole for a standard supervision program is \$1,205 per year. The cost per client in Intensive Supervision programs is \$3,848 per year. The cost per client in Community Corrections is \$3,830 per year. The cost per client per year for male and female residential Community Corrections programs is \$25,161.

GSD does not have budget authority to enter into a lease agreement for this purpose. GSD recommends that the lease to purchase agreement be between the developer of the facility, HSD as “Lessee occupant” and GSD as “Land Owner.” HSD will then make all lease payments and occupy the building; GSD will be party to the lease, and ownership will transfer to GSD upon purchase.

### **SIGNIFICANT ISSUES**

According to HSD, substance Abuse has grown to epidemic proportions in New Mexico communities. Effective treatment can significantly reduce these costs by allowing individuals to become productive participants in their families and communities. In recognition of this problem the New Mexico 2007 and 2008 Legislatures appropriated a total of \$11 million dollars of funds (capital and general funds) to program, plan and construct a Substance Abuse Treatment and Training Center in Los Lunas (LL SATTC). The planning of the two facilities housed within the LL SATTC has been a priority of the Behavioral Health Purchasing Collaborative.

The LL SATT center will have two facilities:

- Women (with children) Residential Treatment facility: The Women’s Residential Treatment shall provide 16 beds for women; 24 beds for their children thru age 11. It will be a 20,000 sq. ft. “green” state facility built through the standard General Service Department capital project process. Projected construction completion: August 2010
- Substance Abuse Treatment and Training facility:: The 31,000 sq. ft lease-to-purchase “green” facility will provide treatment for up to 840 men, women and adolescents annually; and house a training center that provides cutting edge training for up to 1,200 persons annually Projected construction completion: August 2010.

### **ADMINISTRATIVE IMPLICATIONS**

HSD, in collaboration with GSD, will issue a “Request for Proposal” for leased office space, review all proposals, select a contractor, review all plans and monitor construction of the facility to insure compliance with all requirements of the RFP.

As written, the resolution could require GSD to receive payments from HSD to meet obligations as Lessee. This would require additional agreements such as JPA or MOU between the two agencies.

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According to GSD, in order to meet the projected completion schedule of August, 2010, a lease to purchase agreement will have to be executed by June, 2009. This is prior to a budget to lease or operate the facility will be in place for FY 2011. If a budget to meet the lease to purchase payment is not approved in the 2010 Legislature, the building, which could be 50% complete at that time, could be put to another use by the developer in order to meet their financial obligations. It is possible that this other use could be incompatible with the Substance Abuse Treatment facility program.

### **TECHNICAL ISSUES**

According to GSD, SJR 7 would ratify a financing agreement for the lease/purchase in question, but delegates the approval of the agreement to the Attorney General and the Capitol Building Planning Commission. This conflicts with Section 15-3-35, NMSA 1978 which provides that the legislature shall not just ratify, but also approve the agreement. No agreement for this particular lease agreement exists at this time. Therefore, arguably under Section 15-3-35, NMSA 1978, the actual agreement once negotiated would also have to be submitted to the legislature for approval. Section 15-3-35, NMSA 1978, should be amended to clarify that it does not require legislative approval of the actual agreement but only the lease purchase (see Sections 13-6-2.1 and 3 which only require legislative approval of the sale, lease or trade, not the *agreements* of sale, lease or trade.) SJR7 in effect amends Section 15-3-35, NMSA 1978. If this is the intent, SJR 7 should be introduced as a statutory amendment.

The Corrections Department currently utilizes a facility at 1000 Main Street, Los Lunas, New Mexico, and that facility is commonly known as the Los Lunas Campus or the Los Lunas Training Campus. The Department desperately needs that facility for its treatment programs. If the Resolution is intended to remove the use of that facility from the Department, this would cause an undue hardship on the Department. Otherwise, the Department would have no objections to the Resolution, and in fact would fully support it.

### **OTHER SUBSTANTIVE ISSUES**

According to HSD, LLSATT is designed to be the pre-eminent substance abuse treatment program in New Mexico. Points of excellence include but are not limited to: close linkage to courts, law enforcement, community providers and consumer/family groups; innovative, extensive training; comprehensive evaluation, data driven management; wide range of integrated, cutting-edge evidenced-based practices, and Continuous Quality Improvement processes. State-of-the-art technology will be utilized in every major area of the center, including program and treatment, facility management, outcome management, and business operations.

Individuals on probation and parole who need substance abuse treatment could possibly be sent to this treatment facility, helping to reduce the chances that those individuals will violate their probation or parole because of their substance abuse problems and have to be sent to prison.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

HSD indicates the Women's Residential Facility and the Substance Abuse Treatment and Training facility are separate facilities but, operationally function as one inseparable program. The programs integrate multiple functions across facilities including but not limited to common commercial kitchen, common child care and common treatment locations. The integrated

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functions eliminate redundancy and decrease costs. The overlapping infrastructure requires both facilities and projects to be developed according to established time projections. If the purchase agreement is not ratified the entire project will not be viable including the construction of the Women's Residential facility by GSD.

DA/mc