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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/29/07

SPONSOR Varela LAST UPDATED \_\_\_\_\_ HB 474

SHORT TITLE Women's Prison Anti-Addiction Pilot Project SB \_\_\_\_\_

ANALYST Geisler

### APPROPRIATION (dollars in thousands)

| Appropriation |         | Recurring<br>or Non-Rec | Fund<br>Affected |
|---------------|---------|-------------------------|------------------|
| FY08          | FY09    |                         |                  |
|               | \$250.0 | Recurring               | General          |

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to: HB 224

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
 Department of Health (DOH)  
 Corrections Department (NMCD)

### SUMMARY

#### Synopsis of Bill

House Bill 474 would appropriate \$250,000 from the general fund to the Department of Health (DOH) for expenditure in fiscal year 2009 (FY09) to support a Buprenorphine pilot project at the New Mexico Women's Prison to test anti-addiction medication therapy. Any unexpended balance remaining at the end of FY09 would revert to the General Fund.

### FISCAL IMPLICATIONS

The funding in HB 474 is not a part of DOH's executive budget request. NMCD notes that if NMCD chooses to participate in the administration or evaluation of the pilot project involving its female inmates, then there would be an administrative cost to NMCD. NMCD is also not sure that the \$250,000 appropriation is sufficient to conduct the project, with or without the administrative assistance of NMCD.

## **SIGNIFICANT ISSUES**

The Corrections Department opposes this legislation. This bill, unlike HB 224, would require DOH to administer an opiate replacement drug to female inmates while still in prison. HB 224 focuses on the outpatient use of the drug (after the women have paroled or discharged from an NMCD prison), with the drug's use being initiated only very shortly before the women are released from prison.

As far as NMCD can determine, no entity has ever studied an opiate replacement drug on continuously incarcerated individuals. The reasons for this are many. Such drugs can be habit forming, dangerous, can be sold or bartered in prison and create prison safety and security issues, could lead to lawsuits against prisons and prison medical providers where the drug was given to the inmates, etc. Significantly, such a study could easily be viewed as unethical experimentation upon inmates who are unable to give legitimate, informed consent to taking the drug. HB 224, which focuses on female offenders who take the drug while out of prison and who, therefore, generally have the ability to give informed consent to take or not take the drug, does not raise the same ethical concerns or considerations. Further, such a study would probably require the approval, or at least the input, of the federal Drug Enforcement Agency.

DOH notes that opiate addiction in New Mexico is associated with high rates of morbidity and mortality. In 2007, New Mexico was ranked third in the United States in per-capita overdose deaths (NMDOH Substance Abuse Epidemiology, 2007). According to DOH, 85% of incarcerated women in New Mexico have a history of addiction and 40% have a history of injection drug use (NMDOH Substance Abuse Epidemiology, 2004). Additionally, especially among women, addiction and its concomitant issues are implicated in high rates of recidivism (NMCD, 2004).

The more than 600 women incarcerated in the NM Women's Correctional Facility collectively leave behind 1,800 dependent children under the age of 18. Incarceration in New Mexico costs about \$100 a day per person, and women returning to prison for narcotic-related activities cost New Mexican taxpayers nearly \$3,000,000 per year (Senate Joint Memorial 29 Study, 2002).

Buprenorphine is a Drug Enforcement Agency-approved daily oral medication that, when combined with Naloxone, effectively blocks the action of heroin and other opiates. It is an extremely safe medication that is used in community-based opiate treatment programs.

## **PERFORMANCE IMPLICATIONS**

NMCD has concern about dealing with female prisoners, or any prisoner for that matter, who are taking habit forming, dangerous drugs during their prison sentences. DEA registration issues and requirements, lawsuits by female prisoners who become or may become addicted to the drug, ethical considerations, and prison safety and security problems make such a study too risky for NMCD.

## **RELATIONSHIP**

This bill is related to HB 224. However, HB 224 pertains to an outpatient study, not an "in-prison" study of an opiate replacement drug.

**AMENDMENT**

Since the transfer of the Behavioral Health Services Division to the Human Services Department on July, 1 2008, the Department of Health no longer has the programmatic expertise to implement behavioral health treatment programs. DOH suggests the following amendment: on page 1, line 18 remove the “Department of Health” and replace with the “Human Services Department”.

GG/mt