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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/20/07  
 LAST UPDATED 3/9/07

SPONSOR R. Gonzales HB 1221/aHHGAC

SHORT TITLE Lease of Hospitals for Less Than Market Value SB \_\_\_\_\_

ANALYST Propst

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Health (DOH)

Department of Finance and Administration

### SUMMARY

#### Synopsis of Amendment

DoH reports that the amended language includes; on page 1, lines 11 and 12, strike "LEASE A HOSPITAL FOR LESS THAN MARKET VALUE" and insert in lieu thereof "INCLUDE IN-KIND SERVICES AS PART OF THE CONSIDERATION FOR A HOSPITAL LEASE". The amendment on page 2, line 6, after "lease" inserts "; and further provided that a person, association or corporation demonstrating a consistent history of service to sick and indigent persons may include the value of in-kind services provided to the municipality as a portion of consideration due on any lease for the use of hospital facilities owned by the municipality. The lease agreement must set forth the respective value of services being provided to residents and the relative value of the use of property provided by the municipality".

DFA notes that HB 1221, as amended, no longer authorizes the below fair market rental of a hospital, sanitarium, or other institution. Instead, HB 1221 provides that "a person, association or corporation demonstrating a consistent history of service to sick and indigent persons may include the value of in-kind services provided to the municipality as a portion of consideration due on any lease for the use of hospital facilities owned by the municipality. The lease agreement must set forth the respective value of services being provided to residents and the relative value

of the use of property provided by the municipality."

As amended, HB 1221, while not identical, is largely consistent with the approach of Section 4-38-13.1(B) NMSA 1978, which authorizes counties to lease buildings to non-profits "demonstrating a consistent history of service to sick and indigent persons in the county, which service could legally be expected to be provided by a governmental entity, at rates these organizations can be reasonably expected to pay while maintaining their full service commitment to their respective constituencies. Such contracts must set forth the respective value of services being provided to county residents and the relative value of the use of property provided by the county."

DFA believes that an additional safeguard should be required. Namely, the lessee should be required to periodically report and document to the municipality regarding the value of the services it is providing to the community. This helps ensure that the lessee is, in fact, meeting or exceeding the fair market rental value of the property and, thus, that the public is getting a good return on its money. Nothing in the statute precludes this, and it is our hope that municipalities will follow this good business practice.

#### Synopsis of Original Bill

House Bill 1221 amends Section 3-44-1 NMSA to allow the governing body of a municipality to lease a hospital, sanitarium or other institution for less than market value.

#### **SIGNIFICANT ISSUES**

DOH reports HB 1221 amends Section 3-44-1 NMSA to allow the governing body of municipalities to lease hospital operations or maintenance for "less than market value." Although the amendment is a significant addition to the statute, there is no direct financial or administrative implication to the licensing and/or certification process of the Division of Health Improvement.

WEP/mt