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FISCAL IMPACT REPORT

SPONSOR Campos **ORIGINAL DATE** 2/20/09 **LAST UPDATED** 3/07/09 **HB** _____
SHORT TITLE Las Vegas Juvenile Facility Lease Purchase **SB** 604/aSJC
ANALYST Archuleta

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY08	FY09	FY10	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$0.1	\$0.1	\$0.1	Recurring	General

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

General Services Department (GSD)

Children, Youth and Families Department (CYFD)

SUMMARY

Synopsis of SJC amendment

The Senate Judiciary Committee amendment inserts the following language: “the provisions of this section apply to state buildings specifically authorized by law to be acquired pursuant to this section through lease purchase agreements with the authority. Nothing in this section limits or otherwise affects the power that the authority has under other laws to incur debt, acquire and dispose of property or enter into agreements” as it relates to the relationship between the New Mexico Finance Authority and the General Services Department.

Synopsis of Original Bill

Senate Bill 604 authorizes the Property Control Division of the General Services Department to lease land in Las Vegas for construction of a juvenile rehabilitation facility, and to enter into a lease purchase agreement for the building and a sublease with CYFD for the occupancy of the building; and authorizes the New Mexico Finance Authority to issue revenue bonds for the acquisition of property and construction of facilities for this purpose.

FISCAL IMPLICATIONS

This has a major fiscal impact if CYFD has no lease money to pay for a lease-purchase.

Lease-purchase financing captures agency annual occupancy costs and converts those payments

over time into an asset when the building is purchased at a price reduced according to the lease payments made.

CYFD would require additional staff to operate a new regional facility.

SIGNIFICANT ISSUES

GSD indicates that this project has not been approved by the Capitol Buildings Planning Commission, nor has a program been developed or a financial feasibility study completed. In order for PCD to issue a RFP for lease purchase, it needs a programming document, partial schematic design, and a detailed design intent/specification document prepared by a licensed Architect/Engineer on which developers can base their proposals. PCD is not currently funded to prepare these critical documents, and could not proceed to implement the intent of this legislation without them. This bill establishes in law a methodology for financing and approvals of a lease-purchase agreement between PCD and a private developer or NMFA, as well as allows the NMFA to finance and act as owner in such a transaction. The bill also satisfies the requirements of 15-3-35, NMSA 1978, that the legislature ratify and approve any lease purchase agreement, as well as a long-term land lease after approval by the NM Attorney General and review by the Capitol Buildings Planning Commission.

The CYFD five year plan (2008- 2012) for juvenile justice facilities included building smaller, regional facilities throughout New Mexico in keeping with the Cambiar (Missouri) model. The Northeast quadrant of the state was the first region in which CYFD had planned to build a smaller regional model. However, due to the economic downturn, CYFD has revised its plan to implement key components (unit management, facility remodeling to establish living units similar to a dormitory, increased staff-to-client ratios) of the Cambiar program within its existing facilities.

The Cambiar (Missouri) model has shown very positive results in Missouri (where it originated) and at CYFD's John Paul Taylor Center in Las Cruces where it has been implemented. When the economic forecast is more promising, CYFD will again propose moving to smaller, regional facilities.

The NM Attorney General is required to approve the lease contract and financing arrangements for legal sufficiency, and the Capitol Buildings Planning Commission (CBPC) must review the offerors in response to a request for proposals (RFP) and the proposed contract prior to execution.

PCD and CYFD shall execute a sublease for CYFD to occupy the facility for juvenile rehabilitation and for CYFD to make payments equal to the lease payment PCD is required to make under the lease purchase agreement with the developer. In addition, PCD may sublease to any state agency should the space needed by CYFD or its successor be reduced; CYFD or its successor has insufficient appropriations; CYFD or its successor is relocated by the legislature.

The Secretary of Finance and Administration (DFA) is authorized to transfer funds from CYFD operating budget to pay annual lease payments. In addition, both PCD and CYFD shall make necessary efforts to secure adequate appropriations for this purpose each year.

PERFORMANCE IMPLICATIONS

CYFD has performance measures focusing on the re-adjudication of clients receiving juvenile probation services and the recommitment of clients back into a juvenile or adult facility. Smaller regional facilities have evidence-based results for reducing recidivism.

OTHER SUBSTANTIVE ISSUES

GSD indicates that in order to proceed with this project, an appropriation for design and financial feasibility study should be secured. The cost of the project will depend on the size and complexity of the project.

CONFLICTS

Senate Bill 604 relates to and could conflict with House Bill 728 and with the Senate Bill 546.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

CYFD and PCD would be required to develop a programming and financial feasibility study before proceeding to a request for approval of a lease-purchase. In addition, CYFD needs to secure adequate funding to make the lease payments or provide evidence to that effect.

DA/mt:mc