

AN ACT

RELATING TO THE GENERAL SERVICES DEPARTMENT; REORGANIZING PROPERTY CONTROL STATUTES; PROVIDING FOR JOINT POWERS AGREEMENTS WITH EXEMPT AGENCIES; ELIMINATING THE TEN-YEAR LIMIT ON LONG-TERM LEASES; ALLOWING FOR CERTAIN NINETY-NINE YEAR LEASES; LIMITING OPERATION, MAINTENANCE, RENOVATION AND REPAIR COSTS TO CERTAIN LEASES; PROVIDING FOR ADMINISTRATIVE FEES ON CAPITAL PROJECTS; PROVIDING FOR MAINTENANCE FEES TO BE CREDITED TO CERTAIN STATE AGENCIES; PROVIDING FOR THE OPERATING BUDGET OF THE PROPERTY CONTROL DIVISION TO BE INCLUDED IN THE BUILDING USE FEES CHARGED TO STATE AGENCIES AND FUNDED IN THEIR BUDGETS; AMENDING, REPEALING, ENACTING AND RECOMPILING SECTIONS OF THE NMSA 1978; MAKING APPROPRIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new Section 15-3B-1 NMSA 1978 is enacted to read:

"15-3B-1. SHORT TITLE. -- Chapter 15, Article 3B NMSA 1978 may be cited as the "Property Control Act"."

Section 2. Section 15-3-22 NMSA 1978 (being Laws 1972, Chapter 74, Section 2) is recompiled as Section 15-3B-2 NMSA 1978 and is amended to read:

"15-3B-2. DEFINITIONS. -- As used in the Property Control Act:

A. "capital outlay project" means the acquisition, improvement, alteration or reconstruction of assets of a long-term character that are intended to continue to be held or used, including land, buildings, machinery, furniture and equipment. A "capital outlay project" includes all proposed expenditures related to the entire undertaking;

B. "department" means the general services department;

C. "director" means the director of the division;

D. "division" means the property control division of the department;

E. "jurisdiction" means all state buildings and land except those under the control and management of the state armory board, the office of cultural affairs, the state fair commission, the department of game and fish, the state highway and transportation department, the commissioner of public lands, the state parks division of the energy, minerals and natural resources department, the state institutions of higher learning, the New Mexico school for the deaf, the New Mexico school for the visually handicapped, the judicial branch and the legislative branch; and

F. "secretary" means the secretary of general services. "

Section 3. Section 15-3-1 NMSA 1978 (being Laws 1968, Chapter 43, Section 1, as amended) is recompiled as Section

15-3B-3 NMSA 1978 and is amended to read:

"15-3B-3. PROPERTY CONTROL DIVISION-- CREATION-- DIRECTOR.--The "property control division" is created within the department. The director shall be appointed by the secretary with the governor's consent."

Section 4. Section 15-3-2 NMSA 1978 (being Laws 1978, Chapter 166, Section 14, as amended) is recompiled as Section 15-3B-4 NMSA 1978 and is amended to read:

"15-3B-4. DIVISION-- DUTIES-- FEDERAL FUNDS.--

A. The division shall:

(1) assign the use or occupancy of state buildings and lands under its jurisdiction to the state agency or political subdivision that may make the best and highest beneficial use of the property;

(2) regulate the use or occupancy of buildings and real property under its jurisdiction and make reasonable requirements for the continuation of that use or occupancy;

(3) establish space standards for buildings under its jurisdiction;

(4) have custody of all maps, deeds, plats, plans, specifications, contracts, books and other papers connected with state buildings under its jurisdiction;

(5) secure copies of all documents of title to all real property under its jurisdiction held in the name

of the state or for the use of the state, and index those documents so that the status of real property held by the state under its jurisdiction can be readily ascertained;

(6) control the lease or rental of space in private buildings by state executive agencies other than the state land office, including inspection for code compliance and life and safety issues. The director may act as lessee on behalf of a state agency if the division determines it is in the best interest of the state;

(7) make rules for the conduct of all persons in and about buildings and grounds under its jurisdiction necessary and proper for the safety, care and preservation of the buildings and grounds and for the safety and convenience of the persons while they are in and about the buildings and grounds;

(8) have the power to sell state buildings and real property under its jurisdiction in accordance with Sections 13-6-2 and 13-6-3 NMSA 1978. Any such sale shall be by quitclaim deed;

(9) have the power to purchase title insurance or a title opinion in conjunction with the sale of state buildings or land;

(10) have the power to enter into contracts for the improvement, alteration and reconstruction of the state buildings under its jurisdiction, including the

governor's residence, and for the design and construction of additional buildings, to the extent funds are available;

(11) develop long-range programs for the continuing preservation and repair of buildings and improvements and for beautification of grounds and premises under its jurisdiction;

(12) conduct continuing review and analysis of requirements for additional structures and facilities to house state agencies;

(13) ensure that on-site inspections of capital projects are conducted to verify that construction specifications are being met; and

(14) receive gifts, grants and donations from the federal government or other sources for the public buildings repair fund.

B. The provisions of this section are subject to federal law or rules if the buildings or property was purchased with federal funds.

C. The division and a state agency or institution that controls property exempt from the jurisdiction of the division may enter into a joint powers agreement pursuant to the Joint Powers Agreements Act giving the division the power to exercise control of the property as specified in the agreement. "

Chapter 69, Section 1, as amended) is recompiled as Section 15-3B-5 NMSA 1978 and is amended to read:

"15-3B-5. POSITION OF STAFF ARCHITECT CREATED--DUTIES AND RESPONSIBILITIES.--

A. The position of "staff architect" is created within the division. The staff architect shall be a legal resident of and an architect registered in the state for at least two years. The staff architect shall assist the director in carrying out the provisions and requirements of the Property Control Act.

B. The staff architect shall review plans and specifications developed by architects or engineers contracted for the construction of new buildings or for the remodeling or renovation of existing state buildings under the jurisdiction of the division.

C. The staff architect may develop plans and specifications for state projects whose expenditures do not exceed five hundred thousand dollars (\$500,000) and that consist of repair, replacement or remodeling of nonstructural elements.

D. A staff architect who subsequently leaves the position, or any firm he may subsequently be employed by, is prohibited for a period of two years from providing architectural services or bidding on the construction, remodeling or renovation of a state building if he developed

or worked on the plans or specifications for such construction, remodeling or renovation while employed as staff architect."

Section 6. Section 15-3-11 NMSA 1978 (being Laws 1968, Chapter 43, Section 5, as amended) is recompiled as Section 15-3B-6 NMSA 1978 and is amended to read:

"15-3B-6. BUILDING AND REMODELING. --The division may do all acts necessary and proper for the redesigning, major renovation and remodeling of present state buildings and the erection of additional state buildings when needed. The division may let contracts for these purposes in accordance with the provisions of the Procurement Code. All such remodeling, major renovation and construction must first be approved by the state board of finance. This section applies only to state buildings under the division's jurisdiction."

Section 7. Section 15-3-14 NMSA 1978 (being Laws 1968, Chapter 43, Section 8, as amended) is recompiled as Section 15-3B-7 NMSA 1978 and is amended to read:

"15-3B-7. LEASE OF LAND OR BUILDINGS FOR PRIVATE USE. -

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A. The division may lease any land or building under its jurisdiction to private use until the land or building is needed for public use. All income from the leases shall be deposited in the public buildings repair fund. All leases shall be made in accordance with Sections

13-6-2.1 and 13-6-3 NMSA 1978. The division shall establish building use fees by rule for property under its jurisdiction; provided that this provision does not apply to residences furnished to state officials or employees for the legitimate convenience of the employer and that are not taxable benefits for general income tax purposes. All state departments and institutions whose property is under the jurisdiction of the division shall remit building use fees collected from lessees to the division for deposit into the public buildings repair fund. Departments and institutions may charge separate utility costs for property where the property is not separately metered, and those costs may be deposited to the credit of the department's or institution's operating budget.

B. The division, subject to the approval of the state board of finance and after following the bidding procedures required by the Procurement Code for the purchase of tangible personal property, may enter into long-term leases of vacant lands where the lessor contracts with the state to construct and complete buildings, subject to the approval of the staff architect, as a condition precedent to the start of the lease term. The buildings shall comply with applicable state and federal laws and codes. A lease shall not be executed pursuant to this subsection until the staff architect has filed with the legislative finance committee a

detailed statement of his evaluation and approval of the proposed building. "

Section 8. A new Section 15-3B-8 NMSA 1978 is enacted to read:

"15-3B-8. ACQUISITION OF LAND. --The division may acquire land through purchase or through gift or donation; provided, however, that acquisitions shall first be approved by the state board of finance. The title of acquired land shall vest in the state."

Section 9. A new Section 15-3B-9 NMSA 1978 is enacted to read:

"15-3B-9. LEASE OF NEW MEXICO FINANCE AUTHORITY PROPERTY--MAINTENANCE AND REPAIR. --The division may enter into long-term leases, not to exceed ninety-nine years, on property owned by the New Mexico finance authority for state use. Lease of the property owned by the New Mexico finance authority may require the department to operate, maintain and make renovations and repairs to the property."

Section 10. A new Section 15-3B-10 NMSA 1978 is enacted to read:

"15-3B-10. CAPITAL PROJECTS--ADMINISTRATIVE FEES. --The cost of a capital project shall include an administrative fee to cover the cost of administering the capital project. The fee shall be one percent of the estimated construction cost of a capital project located in Santa Fe county and one and

one-half percent for a capital project located outside Santa Fe county. "

Section 11. Section 15-3-23.2 NMSA 1978 (being Laws 1984 (S.S.), Chapter 10, Section 10) is recompiled as Section 15-3B-11 NMSA 1978 and is amended to read:

"15-3B-11. CAPITAL PROJECTS--CONTINGENCY LIMITATION. -- No more than six and one-half percent of the cost of a capital project shall be used for contingencies. For the purposes of this section, "contingencies" means unforeseeable elements of cost within the defined scope of the capital project. "

Section 12. Section 15-3-12 NMSA 1978 (being Laws 1975, Chapter 200, Section 1, as amended) is recompiled as Section 15-3B-12 NMSA 1978 and is amended to read:

"15-3B-12. FEASIBILITY STUDY OF ENERGY SOURCES. -- Before a contract is executed for the construction, major alteration or renovation of a state-owned building, the division may have a feasibility study made on the use of energy sources other than fossil fuels for the heating and air conditioning of the proposed building. A copy of the feasibility study shall remain on file with the division and shall be open to public inspection. "

Section 13. Section 15-3-19 NMSA 1978 (being Laws 1977, Chapter 360, Section 1) is recompiled as Section 15-3B-13 NMSA 1978 and is amended to read:

"15-3B-13. PARKING FACILITIES REQUIRED FOR STATE BUILDINGS--STANDARDS.--

A. A state building shall not be constructed or enlarged to a major degree without providing adequate parking facilities, as approved by the staff architect, for the use of the public officers and employees employed in the building and for the use of those members of the public reasonably expected to enter the building on public business.

B. The provisions of this section shall not apply to historic sites or state buildings in historical zones as designated by local government ordinance."

Section 14. Section 15-3-15 NMSA 1978 (being Laws 1968, Chapter 43, Section 9, as amended) is recompiled as Section 15-3B-14 NMSA 1978 and is amended to read:

"15-3B-14. CONCESSIONS.--

A. The division may grant concession contracts in state buildings under its jurisdiction, except concession contracts authorized to be entered into by the state parks division of the energy, minerals and natural resources department pursuant to Section 16-2-9 NMSA 1978 or the commission for the blind pursuant to Section 22-14-24 NMSA 1978, at such fees as the division prescribes.

B. Concessions shall be granted only under written contract, the faithful performance of which shall be secured by a bond prescribed by the division. All income

from such concessions shall be deposited in the public buildings repair fund. "

Section 15. A new Section 15-3B-15 NMSA 1978 is enacted to read:

"15-3B-15. MAINTENANCE CHARGES--CREDITED TO AGENCY OPERATING BUDGET.--A state agency that occupies a facility under the jurisdiction of the division and that acts as the representative of the division pursuant to a use agreement between the division and the state agency may charge maintenance and utility costs to other entities that use the facility. The charges shall be deposited to the credit of the state agency to cover maintenance and utility expenses. "

Section 16. Section 15-3-23 NMSA 1978 (being Laws 1972, Chapter 74, Section 3, as amended) is recompiled as Section 15-3B-16 NMSA 1978 and is amended to read:

"15-3B-16. CAPITAL PROGRAM--FUND CREATED--ALLOCATION AND EXPENDITURE FOR CAPITAL OUTLAY.--

A. The "capital program fund" is created in the state treasury. To this fund shall be credited all appropriations for capital outlay projects under the jurisdiction of the division.

B. The capital program fund shall be allocated by the division for capital outlay projects specified by the legislature in accordance with the provisions of the Property Control Act. "

Section 17. Section 15-3-24 NMSA 1978 (being Laws 1972, Chapter 74, Section 4, as amended) is recompiled as Section 15-3B-17 NMSA 1978 and is amended to read:

"15-3B-17. CAPITOL BUILDINGS REPAIR FUND--CREATION--EXPENDITURES.--

A. The "capitol buildings repair fund" is created in the state treasury. To this fund shall be transferred, after payments required by Laws 1997, Chapter 178, Section 1 to the New Mexico finance authority, all income, including distributions from the land grant permanent fund derived from lands granted to the state by the United States congress for legislative, executive and judicial public buildings. Two percent of this fund shall be transferred annually to a "state capitol maintenance fund", hereby created, as a special perpetual fund for the upkeep and maintenance of the capitol renovation and capitol grounds.

B. The capitol buildings repair fund may be used to repair, remodel and equip capitol buildings and adjacent lands, to repair or replace building machinery and building equipment located in capitol buildings and to contract for options to purchase real estate, such real estate, if purchased, to be put to state use; provided that no more than ten thousand dollars (\$10,000) shall be expended for any single option. Any money used for consideration in acquiring an option to purchase real estate shall be applied against

the purchase price of the real estate if the option is exercised. No money shall be expended from the capitol buildings repair fund without authorization of the state board of finance.

C. In the event a capital outlay project exceeds authorized project cost by five percent or less, the state board of finance may authorize the division to supplement the authorized cost by an allocation not to exceed five percent of the authorized cost from the capitol buildings repair fund to the extent of the unencumbered and unexpended balance of the fund."

Section 18. Section 15-3-11.1 NMSA 1978 (being Laws 1996, Chapter 46, Section 1) is recompiled as Section 15-3B-18 NMSA 1978 and is amended to read:

"15-3B-18. PUBLIC BUILDINGS REPAIR FUND--CREATED-- EXPENDITURES.--

A. The "public buildings repair fund" is created in the state treasury. The fund shall consist of appropriations, building use fees, concession fees, gifts, grants, donations and bequests. Money in the fund shall not revert at the end of any fiscal year. The fund shall be administered by the division.

B. Expenditures may be made from the public buildings repair fund only for operating expenses of the division and necessary repair, renovation and purchase of

physical plant equipment for public buildings under the jurisdiction of the division.

C. The division shall establish priorities for the use of the public buildings repair fund and shall submit to the legislature in each regular session a list of recommended expenditures to be made from the fund in the following fiscal year. The public buildings repair fund shall be expended pursuant to appropriations by the legislature. "

Section 19. Section 15-3-11.2 NMSA 1978 (being Laws 1996, Chapter 46, Section 2) is recompiled as Section 15-3B-19 NMSA 1978 and is amended to read:

"15-3B-19. BUILDING USE FEES--TRANSFERS TO FUND.--The secretary shall establish a schedule of building use fees for state agencies occupying space in state-owned buildings under the jurisdiction of the division. The building use fees shall equal the estimated cost for the next fiscal year of operating expenses for the division and planned and emergency repairs, renovations and purchase of physical plant equipment; provided that total fees shall not exceed ten million dollars (\$10,000,000) in any fiscal year. The building use fees shall be included in the budget requests of pertinent state agencies. At the beginning of each fiscal year, the department of finance and administration shall transfer to the public buildings repair fund the amounts

appropriated for building use fees. "

Section 20. Section 15-3-24.2 NMSA 1978 (being Laws 1998, Chapter 58, Section 1) is recompiled as Section 15-3B-20 NMSA 1978 and is amended to read:

"15-3B-20. PROPERTY CONTROL RESERVE FUND--CREATED-- PURPOSE.--The "property control reserve fund" is created in the state treasury. The purpose of the fund is to provide a reserve account from which the division can purchase or construct state office buildings, in particular to alleviate the state's reliance on expensive leased office space in Santa Fe. The fund shall consist of appropriations, money from the sale of real property under the jurisdiction of the division, gifts, grants, donations, bequests and income from investment of the fund. Money in the fund shall not revert to the general fund at the end of any fiscal year. The division shall administer the fund subject to appropriation by the legislature. The legislature shall appropriate money in the fund to the division to purchase or acquire land and construct state office buildings in Santa Fe in accordance with the state's four-year major capital improvements plan. Disbursements from the fund shall be made on warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the director or his authorized representative. "

Section 21. Section 15-3-34 NMSA 1978 (being Laws

1991, Chapter 39, Section 1) is amended to read:

"15-3-34. PUBLIC BUILDINGS--FLAG DISPLAY. --The prisoner of war and missing in action flag shall be displayed on legal public holidays in New Mexico at all public buildings with flagpoles owned by the state in accordance with rules adopted by the New Mexico veterans' service commission. "

Section 22. A new section of Chapter 21, Article 1 NMSA 1978 is enacted to read:

"STATE EDUCATIONAL INSTITUTIONS--ADEQUATE PARKING. --The staff architect of a university, or the commission on higher education in the case of state educational facilities that do not employ a staff architect, shall review all plans for the construction or major enlargement of a state educational facility prior to the execution of a contract for such work and shall certify to the state board of finance that adequate parking is provided for the use of staff employed in the facility, students who attend classes or events in the facility and members of the public reasonably expected to enter the facility. If adequate parking is not provided for, no contract may be entered into. "

Section 23. REPEAL. --Sections 15-3-7 through 15-3-10, 15-3-13.8, 15-3-16, 15-3-20, 15-3-21, 15-3-23.1, 15-3-23.3 and 15-3-31 through 15-3-33 NMSA 1978 (being Laws 1975, Chapter 10, Sections 1 and 2, Laws 1968, Chapter 43, Sections

3 and 4, Laws 1984, Chapter 64, Section 19, Laws 1968, Chapter 43, Section 10, Laws 1977, Chapter 360, Section 2, Laws 1972, Chapter 74, Section 1, Laws 1980, Chapter 11, Section 1, Laws 1984 (S.S.), Chapter 10, Section 11, Laws 1968, Chapter 43, Section 12, Laws 1971, Chapter 285, Section 1 and Laws 1980, Chapter 10, Section 1, as amended) are repealed.

Section 24. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 2001. _____

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