

AN ACT

RELATING TO HEALTH FACILITIES; AUTHORIZING THE STATE TO ACQUIRE A FACILITY TO REPLACE FORT BAYARD MEDICAL CENTER; AUTHORIZING CERTAIN AGREEMENTS TO EFFECTUATE THE ACQUISITION; RATIFYING AND APPROVING A LEASE-PURCHASE AGREEMENT; PROVIDING EXEMPTIONS FROM THE PROCUREMENT CODE; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2007; DECLARING AN EMERGENCY.

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

Section 1. Section 9-7-6.5 NMSA 1978 (being Laws 2005, Chapter 317, Section 1) is amended to read:

"9-7-6.5. AGREEMENTS FOR A REPLACEMENT FACILITY FOR FORT BAYARD MEDICAL CENTER.--

A. Notwithstanding any other provision of state law or rule, the secretary may do one or more of the following:

(1) enter into an agreement, including an agreement with an independent contractor, to operate Fort Bayard medical center or a replacement for Fort Bayard medical center in Grant county;

(2) acquire by purchase, lease, construction, lease-purchase or other financing arrangement a facility to be located in Grant county to replace Fort Bayard medical center, provided that, if the acquisition results in

the transfer of the title to the facility, the title to the facility shall be in the name of the property control division of the general services department; or

(3) enter into an agreement with Grant county under which the department may construct or cause to be constructed the facility that will replace the Fort Bayard medical center.

B. The provisions of the Procurement Code shall not apply to the procurement, by either the department or Grant county or both, of tangible personal property, services or construction deemed necessary by the department to effectuate the provisions of this section. However, agreements related to the acquisition of the facility to replace Fort Bayard medical center shall be subject to the provisions of state law regulating the acquisition and disposal of real property by governmental entities.

C. An operating agreement entered into pursuant to this section shall include provisions for the continued employment of all current and future Fort Bayard medical center employees, excluding management employees of the contractor, as state employees, entitled and subject to all the rights and responsibilities of state employees. Under the terms of the agreement and the overall direction of the department, the independent contractor shall provide management and supervision to state employees at Fort Bayard

medical center, including the provision of work assignments, evaluations and promotional and disciplinary actions.

D. Pursuant to Section 15-3-35 NMSA 1978, the legislature ratifies and approves a lease-purchase agreement, in a form approved by the state board of finance, between the department, as lessee-purchaser and Grant county, as lessor-seller, for the facility that will replace the Fort Bayard medical center, provided that, upon transfer of title, title to the facility shall be in the name of the property control division of the general services department."

Section 2. Section 13-1-98 NMSA 1978 (being Laws 1984, Chapter 65, Section 71, as amended by Laws 2007, Chapter 55, Section 1 and by Laws 2007, Chapter 345, Section 1) is amended to read:

"13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The provisions of the Procurement Code shall not apply to:

A. procurement of items of tangible personal property or services by a state agency or a local public body from a state agency, a local public body or external procurement unit except as otherwise provided in Sections 13-1-135 through 13-1-137 NMSA 1978;

B. procurement of tangible personal property or services for the governor's mansion and grounds;

C. printing and duplicating contracts involving materials that are required to be filed in connection with

proceedings before administrative agencies or state or federal courts;

D. purchases of publicly provided or publicly regulated gas, electricity, water, sewer and refuse collection services;

E. purchases of books and periodicals from the publishers or copyright holders thereof;

F. travel or shipping by common carrier or by private conveyance or to meals and lodging;

G. purchase of livestock at auction rings or to the procurement of animals to be used for research and experimentation or exhibit;

H. contracts with businesses for public school transportation services;

I. procurement of tangible personal property or services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978, by the corrections industries division of the corrections department pursuant to rules adopted by the corrections industries commission, which shall be reviewed by the purchasing division of the general services department prior to adoption;

J. minor purchases not exceeding five thousand dollars (\$5,000) consisting of magazine subscriptions, conference registration fees and other similar purchases where prepayments are required;

K. municipalities having adopted home rule charters and having enacted their own purchasing ordinances;

L. the issuance, sale and delivery of public securities pursuant to the applicable authorizing statute, with the exception of bond attorneys and general financial consultants;

M. contracts entered into by a local public body with a private independent contractor for the operation, or provision and operation, of a jail pursuant to Sections 33-3-26 and 33-3-27 NMSA 1978;

N. contracts for maintenance of grounds and facilities at highway rest stops and other employment opportunities, excluding those intended for the direct care and support of persons with handicaps, entered into by state agencies with private, nonprofit, independent contractors who provide services to persons with handicaps;

O. contracts and expenditures for services or items of tangible personal property to be paid or compensated by money or other property transferred to New Mexico law enforcement agencies by the United States department of justice drug enforcement administration;

P. contracts for retirement and other benefits pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

Q. contracts with professional entertainers;

R. contracts and expenditures for litigation

expenses in connection with proceedings before administrative agencies or state or federal courts, including experts, mediators, court reporters, process servers and witness fees, but not including attorney contracts;

S. contracts for service relating to the design, engineering, financing, construction and acquisition of public improvements undertaken in improvement districts pursuant to Subsection L of Section 3-33-14.1 NMSA 1978 and in county improvement districts pursuant to Subsection L of Section 4-55A-12.1 NMSA 1978;

T. works of art for museums or for display in public buildings or places;

U. contracts entered into by a local public body with a person, firm, organization, corporation or association or a state educational institution named in Article 12, Section 11 of the constitution of New Mexico for the operation and maintenance of a hospital pursuant to Chapter 3, Article 44 NMSA 1978, lease or operation of a county hospital pursuant to the Hospital Funding Act or operation and maintenance of a hospital pursuant to the Special Hospital District Act;

V. purchases of advertising in all media, including radio, television, print and electronic;

W. purchases of promotional goods intended for resale by the tourism department;

X. procurement of printing services for materials

produced and intended for resale by the cultural affairs department;

Y. procurement by or through the public education department from the federal department of education relating to parent training and information centers designed to increase parent participation, projects and initiatives designed to improve outcomes for students with disabilities and other projects and initiatives relating to the administration of improvement strategy programs pursuant to the federal Individuals with Disabilities Education Act; provided that the exemption applies only to procurement of services not to exceed two hundred thousand dollars (\$200,000);

Z. procurement of services from community rehabilitation programs or qualified individuals pursuant to the State Use Act;

AA. purchases of products or services for eligible persons with disabilities pursuant to the federal Rehabilitation Act of 1973;

BB. procurement, by either the department of health or Grant county or both, of tangible personal property, services or construction that are exempt from the Procurement Code pursuant to Section 9-7-6.5 NMSA 1978;

CC. contracts for investment advisory services, investment management services or other investment-related

services entered into by the educational retirement board, the state investment officer or the retirement board created pursuant to the Public Employees Retirement Act; and

DD. the purchase for resale by the state fair commission of feed and other items necessary for the upkeep of livestock."

Section 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.
