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SENATE BILL 546

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Michael S. Sanchez

AN ACT

RELATING TO STATE BUILDINGS; AUTHORIZING THE PROPERTY CONTROL DIVISION OF THE GENERAL SERVICES DEPARTMENT TO LEASE LAND IN LOS LUNAS UPON WHICH WILL BE CONSTRUCTED A SUBSTANCE ABUSE TREATMENT AND TRAINING FACILITY; AUTHORIZING THE DIVISION TO ENTER INTO A LEASE PURCHASE AGREEMENT FOR THE BUILDING AND A SUBLEASE WITH THE HUMAN SERVICES DEPARTMENT FOR THE OCCUPANCY OF THE BUILDING; AUTHORIZING THE ISSUANCE OF REVENUE BONDS BY THE NEW MEXICO FINANCE AUTHORITY; MAKING AN APPROPRIATION.

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

Section 1. [NEW MATERIAL] LOS LUNAS SUBSTANCE ABUSE TREATMENT AND TRAINING FACILITY.--

A. Subject to the provisions of this section, the property control division of the general services department, after consulting with the human services department and on

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1 behalf of that department, shall:

2 (1) enter into agreements necessary for a
3 building to be constructed on land owned by the property
4 control division at the correctional site of the Los Lunas
5 campus in Valencia county, for use by the human services
6 department as a substance abuse treatment and training
7 facility;

8 (2) enter into a long-term lease of the land
9 with the owner of the building; and

10 (3) enter into an agreement with the owner of
11 the building for the leasing of the building by the property
12 control division with an option to purchase for a price that is
13 reduced according to the payments made pursuant to the
14 agreement; provided that the lease agreement shall provide
15 that:

16 (a) there is no legal obligation for the
17 property control division to continue the lease from year to
18 year or to purchase the building;

19 (b) the lease shall be terminated if
20 sufficient appropriations are not available to meet the current
21 lease payments;

22 (c) the lease payments include a
23 maintenance component that may escalate annually and, over the
24 length of the agreement, approximate the amount that will be
25 needed for the maintenance and repair of the building; and

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1 (d) if the building is purchased, title
2 to the building shall be issued in the name of the property
3 control division.

4 B. The property control division shall enter into
5 such financing arrangements as are necessary to construct,
6 occupy and acquire the building by the most cost-effective
7 method and, if the division determines that the issuance of
8 lease purchase revenue bonds by the New Mexico finance
9 authority pursuant to Section 6-21-6.14 NMSA 1978 is the most
10 cost-effective financing arrangement, the New Mexico finance
11 authority is authorized to issue bonds pursuant to that section
12 and is also authorized to include a maintenance component as
13 part of the lease payments received.

14 C. No contract or financing arrangement entered
15 into pursuant to Subsection A or B of this section shall be
16 effective until approved by the attorney general for legal
17 sufficiency.

18 D. No offeror shall be selected in response to a
19 request for proposals issued pursuant to Subsection A or B of
20 this section nor a contract entered into pursuant to those
21 subsections without prior review by the capitol buildings
22 planning commission.

23 E. The property control division and the human
24 services department shall enter into an agreement for the
25 sublease of the building to the department for use as a

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1 substance abuse treatment and training facility, provided that
2 the payments made under the sublease shall equal the payments
3 due by the property control division under the lease purchase
4 agreement. The property control division may also sublease
5 available space within the building to any state agency if:

6 (1) the space subject to an existing sublease
7 has been reduced by agreement between the property control
8 division and the existing sublessee;

9 (2) the previous sublease for the available
10 space has been terminated due to the failure of the sublessee
11 to obtain appropriations or otherwise receive the money
12 necessary for making the lease payments; or

13 (3) the previous sublessee of the available
14 space has been relocated by an act of the legislature.

15 F. Notwithstanding any provision restricting budget
16 adjustments, upon the certification by the director of the
17 property control division that the building is completed and
18 suitable for occupancy, the secretary of finance and
19 administration may transfer between and among the categories
20 and programs of the current operating budget of the human
21 services department the amount necessary to provide for lease
22 payments due during the remainder of the fiscal year.

23 G. During the term of the lease purchase agreement,
24 each sublessee shall include, in its annual budget request, the
25 amount due under its sublease during the next fiscal year, and

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1 the sublessee and the property control division shall use their
2 best efforts to secure the appropriation.

3 Section 2. A new section of the New Mexico Finance
4 Authority Act, Section 6-21-6.14 NMSA 1978, is enacted to read:

5 "6-21-6.14. [NEW MATERIAL] LEASE PURCHASE REVENUE BONDS--
6 LEASE PURCHASE AGREEMENTS.--

7 A. If specifically authorized by law, the authority
8 may issue and sell lease purchase revenue bonds in compliance
9 with the New Mexico Finance Authority Act and enter into a
10 lease purchase agreement pursuant to the provisions of this
11 section.

12 B. Lease purchase revenue bonds may be issued at
13 times and on terms established by the authority and shall be
14 paid exclusively from a debt service fund created pursuant to
15 this section. The net proceeds from the sale of lease purchase
16 revenue bonds are appropriated to the authority for the purpose
17 of acquiring by construction or purchase the buildings, land or
18 infrastructure specified in the authorizing law; provided that,
19 if authorized by law, the net proceeds may also be used for
20 debt service payments due before sufficient lease payments have
21 been deposited into the applicable debt service fund.

22 C. All lease purchase revenue bonds issued by the
23 authority shall be obligations of the authority payable solely
24 from the separate debt service fund created for those bonds.

25 The bonds shall not create an obligation, debt or liability of

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1 the state and no breach of any pledge, obligation or agreement
2 of the authority shall impose a pecuniary liability or charge
3 upon the general credit or taxing power of the state or any
4 political subdivision of the state.

5 D. The authority may purchase lease purchase
6 revenue bonds with money in the public project revolving fund
7 pursuant to the provisions of Section 6-21-6 NMSA 1978.

8 E. A debt service fund shall be created in the
9 authority for each authorized issuance of lease purchase
10 revenue bonds. Each fund shall consist of transfers to the
11 fund, legislative appropriations, lease payments made by the
12 property control division of the general services department or
13 other lessee pursuant to the authorized lease purchase
14 agreement and money earned from investment of the fund.
15 Balances remaining in a fund at the end of a fiscal year shall
16 not revert. Money in each fund is appropriated to the
17 authority for:

18 (1) the payment of principal, interest,
19 premiums and expenses on the specific lease purchase revenue
20 bonds that are issued pursuant to the bond authorization; and

21 (2) if authorized by law, required maintenance
22 and repairs of the building, land or infrastructure if the
23 authority determines that money in the fund is sufficient to
24 meet the requirements of Paragraph (1) of this subsection plus
25 any required reserve.

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1 F. Upon the certification of the authority that all
2 debt service on a specific issuance of lease purchase revenue
3 bonds has been paid in full, any remaining balance of the debt
4 service fund created for those bonds shall be transferred to
5 the general fund.

6 G. The authority may enter into an agreement with
7 the property control division of the general services
8 department or other agency specified by law for the lease
9 purchase of the building acquired with the lease purchase
10 revenue bond proceeds. The agreement shall provide the lessee
11 with an option to purchase for a price that is reduced
12 according to the lease payments made and shall also provide
13 that:

14 (1) there is no legal obligation for the state
15 to continue the lease from year to year or to purchase the
16 building;

17 (2) the lease shall be terminated if
18 sufficient appropriations are not available to meet the current
19 lease payments;

20 (3) if authorized by the legislature, the
21 lease payments include a maintenance component that may
22 escalate annually and, over the length of the agreement,
23 approximate the amount that will be needed for the maintenance
24 and repair of the building; and

25 (4) if the lessee is the property control

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1 division of the general services department or an agency under
2 the jurisdiction of the property control division, the title to
3 the building shall be issued in the name of the property
4 control division if the building is purchased."

5 Section 3. TEMPORARY PROVISION--RATIFICATION AND
6 APPROVAL.--

7 A. In lieu of the ratification and approval
8 otherwise required by Section 15-3-35 NMSA 1978, the
9 legislature ratifies and approves a lease purchase agreement
10 entered into in compliance with this act for the lease and
11 option to purchase of a building by the property control
12 division of the general services department.

13 B. In lieu of the ratification and approval
14 otherwise required by Section 13-6-3 NMSA 1978, the legislature
15 ratifies and approves a lease of land owned by the property
16 control division of the general services department at the
17 correctional site of the Los Lunas campus in Valencia county in
18 compliance with this act.