

AN ACT

RELATING TO STATE BUILDINGS; AUTHORIZING THE PROPERTY CONTROL DIVISION OF THE GENERAL SERVICES DEPARTMENT TO ENTER INTO CONTRACTS FOR THE ACQUISITION OF A HEALTH AND HUMAN SERVICES OFFICE BUILDING; AUTHORIZING THE DIVISION TO ENTER INTO A LEASE PURCHASE AGREEMENT FOR THE BUILDING AND A SUBLEASE WITH THE HUMAN SERVICES DEPARTMENT AND THE CHILDREN, YOUTH AND FAMILIES 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. HEALTH AND HUMAN SERVICES OFFICE BUILDING.--

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 the children, youth and families department and on behalf of those departments, shall:

(1) enter into agreements necessary for the land acquisition, if necessary, and the planning, designing, constructing, equipping and furnishing of a new health and human services office building in the county or municipality of Santa Fe that will serve as the first phase of the health and human services office complex and be occupied by the human services department and the children, youth and families

department, provided that, in entering into the agreements, the division shall consider state and private land acquisition options, including potential trades of land; and

(2) enter into a lease purchase agreement with the owner of the building for the leasing of the building by the property control division with an option to purchase for a price that is reduced according to the payments made pursuant to the agreement; provided that the lease purchase agreement shall:

(a) specify the principal, interest and maintenance component of each payment made, provided further that: 1) the initial principal shall not exceed eighty million dollars (\$80,000,000); and 2) the net effective interest rate shall not exceed the maximum permitted by the Public Securities Act;

(b) provide that there is no legal obligation for the property control division to continue the lease from year to year or to purchase the building;

(c) provide that the lease shall be terminated if sufficient appropriations are not available to meet the current lease payments;

(d) provide that the lease payments include a maintenance component that shall escalate annually and, over the length of the agreement, approximate the amount that will be needed for the maintenance and repair of the

building; and

(e) provide that if the building is purchased, title to the building shall be issued in the name of the property control division.

B. The property control division shall enter into such financing arrangements as are necessary to construct, occupy and acquire the building by the most cost-effective method and, if the division determines that the issuance of lease purchase revenue bonds by the New Mexico finance authority pursuant to Section 6-21-6.14 NMSA 1978 is the most cost-effective financing arrangement, the New Mexico finance authority is authorized to:

(1) issue bonds, in an amount not to exceed eighty million dollars (\$80,000,000), pursuant to that section;

(2) include a maintenance component as part of the lease payments received; and

(3) use a portion of the net proceeds from the sale of the bonds for debt service payments that are due before sufficient lease payments have been deposited into the debt service fund.

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

D. Neither a request for proposals shall be issued pursuant to Subsection A or B of this section nor a contract entered into pursuant to those subsections without prior review by the capitol buildings planning commission to ensure that:

(1) the request for proposals or the contract is the most cost-effective method for acquiring the building; and

(2) the building and its proposed use are within the scope of the commission's master plan.

E. The property control division shall enter into subleases with the human services department and the children, youth and families department for the lease of office space within the building, provided that the payments made under the subleases shall equal the payments due by the property control division under the lease purchase agreement. The property control division may also sublease available space within the building to any state agency if:

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

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

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

F. Notwithstanding any provision restricting budget adjustments, upon the certification by the director of the property control division that the building is completed and suitable for occupancy, the secretary of finance and administration may transfer between and among the categories and programs of the current operating budget of each agency that will occupy the building any unexpended or unencumbered appropriation for lease payments or building maintenance. The transferred appropriations shall be expended by the property control division for lease payments due pursuant to the lease purchase agreement.

G. During the term of the lease purchase agreement, each sublessee shall include, in its annual budget request, the amount due under its sublease during the next fiscal year, and the sublessee and the property control division shall use their best efforts to secure the appropriation.

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

"6-21-6.14. LEASE PURCHASE REVENUE BONDS--LEASE PURCHASE AGREEMENTS.--

A. If specifically authorized by law, the

authority may issue and sell lease purchase revenue bonds in compliance with the New Mexico Finance Authority Act and enter into a lease purchase agreement pursuant to the provisions of this section.

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

C. All lease purchase revenue bonds issued by the authority shall be obligations of the authority payable solely from the separate debt service fund created for those bonds. The bonds shall not create an obligation, debt or liability of the state and no breach of any pledge, obligation or agreement of the authority shall impose a pecuniary liability or charge upon the general credit or taxing power of the state or any political subdivision of the state.

D. The authority may purchase lease purchase revenue bonds with money in the public project revolving fund

pursuant to the provisions of Section 6-21-6 NMSA 1978.

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

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

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

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

G. The authority may enter into an agreement with

the property control division of the general services department or other agency specified by law for the lease purchase of the building acquired with the lease purchase revenue bond proceeds. The agreement shall provide the lessee with an option to purchase for a price that is reduced according to the lease payments made and shall also provide that:

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

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

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

(4) if the lessee is the property control division of the general services department or an agency under the jurisdiction of the property control division, the title to the building shall be issued in the name of the property control division if the building is purchased.

H. 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."

Section 3. TEMPORARY PROVISION--RATIFICATION AND APPROVAL.--In lieu of the ratification and approval otherwise required by Section 15-3-35 NMSA 1978, the legislature ratifies and approves a lease purchase agreement entered into in compliance with Section 1 of this act for the lease and option to purchase of a building by the property control division of the general services department.