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AN ACT

RELATING TO GOVERNMENT SERVICES; AMENDING AND REPEALING
SECTIONS OF THE NMSA 1978 TO MERGE THE BUILDING SERVICES
DIVISION INTO THE FACILITIES MANAGEMENT DIVISION OF THE
GENERAL SERVICES DEPARTMENT; CHANGING THE NAME OF THE
PROPERTY CONTROL DIVISION OF THE GENERAL SERVICES DEPARTMENT
TO THE FACILITIES MANAGEMENT DIVISION.

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

SECTION 1. Section 6-21-6.14 NMSA 1978 (being
Laws 2009, Chapter 145, Section 2) is amended 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

1 authorizing law; provided that, if authorized by law, the net
2 proceeds may also be used for debt service payments due
3 before sufficient lease payments have been deposited into the
4 applicable debt service fund.

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

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

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

1 the authority for:

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

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

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

15 G. The authority may enter into an agreement with
16 the facilities management division of the general services
17 department or other agency specified by law for the lease
18 purchase of the building acquired with the lease purchase
19 revenue bond proceeds. The agreement shall provide the
20 lessee with an option to purchase for a price that is reduced
21 according to the lease payments made and shall also provide
22 that:

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

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

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

9 (4) if the lessee is the facilities
10 management division of the general services department or an
11 agency under the jurisdiction of the facilities management
12 division, the title to the building shall be issued in the
13 name of the facilities management division if the building is
14 purchased.

15 H. The provisions of this section apply to state
16 buildings specifically authorized by law to be acquired
17 pursuant to this section through lease purchase agreements
18 with the authority. Nothing in this section limits or
19 otherwise affects the power that the authority has under
20 other laws to incur debt, acquire and dispose of property or
21 enter into agreements."

22 SECTION 2. Section 6-21C-4 NMSA 1978 (being Laws 2001,
23 Chapter 199, Section 4, as amended) is amended to read:

24 "6-21C-4. NEW MEXICO FINANCE AUTHORITY SHALL ISSUE
25 BUILDING BONDS--APPROPRIATION OF PROCEEDS.--

1 A. The New Mexico finance authority is authorized
2 to issue and sell revenue bonds, known as "state office
3 building tax revenue bonds", payable solely from the state
4 building bonding fund, in compliance with the State Building
5 Bonding Act for the purpose of acquiring state office
6 buildings and related facilities and other critical state
7 facilities within the master planning jurisdiction of the
8 capitol buildings planning commission when the acquisition
9 has been reviewed by the capitol buildings planning
10 commission and has been authorized by legislative act and the
11 director of the facilities management division of the general
12 services department has certified the need for the issuance
13 of the bonds; provided that the total amount of state office
14 building tax revenue bonds outstanding at any one time shall
15 not exceed one hundred fifteen million dollars
16 (\$115,000,000).

17 B. The net proceeds from the building bonds are
18 appropriated to the facilities management division of the
19 general services department for the purpose of acquiring
20 state office buildings and related facilities and other
21 critical state facilities within the master planning
22 jurisdiction of the capitol buildings planning commission,
23 the acquisition of which shall be consistent with the State
24 Building Bonding Act and the authorizing legislation."

25 SECTION 3. Section 6-21C-5 NMSA 1978 (being Laws 2001,

1 Chapter 199, Section 5, as amended) is amended to read:

2 "6-21C-5. STATE BUILDING BONDING FUND CREATED--MONEY IN
3 THE FUND PLEDGED.--

4 A. The "state building bonding fund" is created as
5 a special fund within the New Mexico finance authority. The
6 fund shall be administered by the New Mexico finance
7 authority as a special account. The fund shall consist of
8 money appropriated and transferred to the fund and gross
9 receipts tax revenues distributed to the fund by law.
10 Earnings of the fund shall be credited to the fund. Balances
11 in the fund at the end of any fiscal year shall remain in the
12 fund, except as provided in this section.

13 B. Money in the state building bonding fund is
14 pledged for the payment of principal and interest on all
15 building bonds issued pursuant to the State Building Bonding
16 Act. Money in the fund is appropriated:

17 (1) to the New Mexico finance authority for
18 the purpose of paying debt service, including redemption
19 premiums, on the building bonds and the expenses incurred in
20 the issuance, payment and administration of the bonds; and

21 (2) if specifically authorized in the law
22 authorizing the acquisition of a building, to the facilities
23 management division of the general services department for
24 expenditures for required maintenance and repairs of that
25 building but only if the authority determines that money in

1 the fund is sufficient to meet the requirements of Paragraph
2 (1) of this subsection.

3 C. On the last day of January and July of each
4 year, the New Mexico finance authority shall estimate the
5 amount needed to make debt service and other payments during
6 the next twelve months from the state building bonding fund
7 on the building bonds issued pursuant to the State Building
8 Bonding Act plus the amount that may be needed for any
9 required reserves and, if specifically authorized in the law
10 authorizing the acquisition of a building, the amount that
11 may be needed for required maintenance and repairs of that
12 building. The New Mexico finance authority shall transfer to
13 the general fund any balance in the state building bonding
14 fund above the estimated amounts.

15 D. Any balance remaining in the state building
16 bonding fund shall be transferred to the general fund upon
17 certification by the New Mexico finance authority that:

18 (1) the director of the facilities
19 management division of the general services department and
20 the New Mexico finance authority have agreed that the
21 building bonds issued pursuant to the State Building Bonding
22 Act have been retired, that no additional obligations of the
23 state building bonding fund exist and that no additional
24 expenditures from the fund are necessary; or

25 (2) a court of jurisdiction has ruled that

1 the building bonds have been retired, that no additional
2 obligations of the state building bonding fund exist and that
3 no additional expenditures from the fund are necessary.

4 E. The building bonds issued pursuant to the State
5 Building Bonding Act shall be payable solely from the state
6 building bonding fund or, with the approval of the
7 bondholders, such other special funds as may be provided by
8 law and do not create an obligation or indebtedness of the
9 state within the meaning of any constitutional provision. No
10 breach of any contractual obligation incurred pursuant to
11 that act shall impose a pecuniary liability or a charge upon
12 the general credit or taxing power of the state, and the
13 bonds are not general obligations for which the state's full
14 faith and credit is pledged.

15 F. The state does hereby pledge that the state
16 building bonding fund shall be used only for the purposes
17 specified in this section and pledged first to pay the debt
18 service on the building bonds issued pursuant to the State
19 Building Bonding Act. The state further pledges that any law
20 authorizing the distribution of taxes or other revenues to
21 the state building bonding fund or authorizing expenditures
22 from the fund shall not be amended or repealed or otherwise
23 modified so as to impair the bonds to which the state
24 building bonding fund is dedicated as provided in this
25 section."

1 SECTION 4. Section 6-21C-8 NMSA 1978 (being Laws 2001,
2 Chapter 199, Section 8, as amended) is amended to read:

3 "6-21C-8. PROCEDURE FOR SALE OF BUILDING BONDS.--

4 A. Building bonds shall be sold by the New Mexico
5 finance authority at such times and in such manner as the
6 authority may elect, consistent with the need of the
7 facilities management division of the general services
8 department, either at private sale for a negotiated price or
9 to the highest bidder at public sale for cash at not less
10 than par and accrued interest.

11 B. In connection with any public sale of building
12 bonds, the New Mexico finance authority shall publish a
13 notice of the time and place of sale in a newspaper of
14 general circulation in the state and also in a recognized
15 financial journal outside the state. Such publication shall
16 be made once each week for two consecutive weeks prior to the
17 date fixed for such sale, the last publication to be two
18 business days prior to the date of sale. Such notice shall
19 specify the amount, denomination, maturity and description of
20 the bonds to be offered for sale and the place, day and hour
21 at which sealed bids therefor shall be received. All bids,
22 except that of the state, shall be accompanied by a deposit
23 of two percent of the principal amount of the bonds.
24 Deposits of unsuccessful bidders shall be returned upon
25 rejection of the bid. At the time and place specified in

1 such notice, the New Mexico finance authority shall open the
2 bids in public and shall award the bonds, or any part
3 thereof, to the bidder or bidders offering the best price.
4 The New Mexico finance authority may reject any or all bids
5 and readvertise.

6 C. The New Mexico finance authority may sell a
7 building bond issue, or any part thereof, to the state or to
8 one or more investment bankers or institutional investors at
9 private sale."

10 SECTION 5. Section 6-21D-3 NMSA 1978 (being Laws 2005,
11 Chapter 176, Section 3, as amended) is amended to read:

12 "6-21D-3. BUILDING ASSESSMENTS FOR ENERGY EFFICIENCY
13 MEASURES.--

14 A. Upon the request of a state agency or a school
15 district, the department may perform an energy efficiency
16 assessment of a state or school district building to identify
17 the energy efficiency measures that can be installed and
18 operated at a total price that is less than the energy cost
19 savings realized. In addition, the assessment shall include
20 a schedule for funding and installing the energy efficiency
21 measures that will realize significant energy cost savings in
22 the shortest time frame. The department shall develop the
23 assessment of:

24 (1) state buildings, in conjunction with the
25 facilities management division of the general services

1 department, the staff architect of the division, the capitol
2 buildings planning commission and other state agencies with
3 control and management over buildings; and

4 (2) school district buildings, in
5 conjunction with the public education department, the public
6 school capital outlay council and the public school
7 facilities authority.

8 B. State agencies and school districts shall
9 cooperate with the department in the assessment performed
10 pursuant to Subsection A of this section."

11 SECTION 6. Section 9-7-6.5 NMSA 1978 (being Laws 2005,
12 Chapter 317, Section 1, as amended by Laws 2008, Chapter 4,
13 Section 1 and by Laws 2008, Chapter 70, Section 1) is amended
14 to read:

15 "9-7-6.5. AGREEMENTS FOR A REPLACEMENT FACILITY FOR
16 FORT BAYARD MEDICAL CENTER.--

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

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

24 (2) acquire by purchase, lease,
25 construction, lease purchase or other financing arrangement a

1 facility to be located in Grant county to replace Fort Bayard
2 medical center, provided that, if the acquisition results in
3 the transfer of the title to the facility, the title to the
4 facility shall be in the name of the facilities management
5 division of the general services department; or

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

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

19 C. An operating agreement entered into pursuant to
20 this section shall include provisions for the continued
21 employment of all current and future Fort Bayard medical
22 center employees, excluding management employees of the
23 contractor, as state employees, entitled and subject to all
24 the rights and responsibilities of state employees. Under
25 the terms of the agreement and the overall direction of the

1 department, the independent contractor shall provide
2 management and supervision to state employees at Fort Bayard
3 medical center, including the provision of work assignments,
4 evaluations and promotional and disciplinary actions.

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

13 SECTION 7. Section 9-17-3 NMSA 1978 (being Laws 1983,
14 Chapter 301, Section 3, as amended) is amended to read:

15 "9-17-3. GENERAL SERVICES DEPARTMENT--CREATION--
16 TRANSFER AND MERGER OF DIVISION FUNCTIONS--MERGER AND
17 CREATION OF DIVISIONS.--

18 A. The "general services department" is created.
19 The department shall consist of those divisions created by
20 law or executive order, as modified by executive order
21 pursuant to Subsection C of this section, including:

- 22 (1) the administrative services division;
- 23 (2) the facilities management division;
- 24 (3) the purchasing division;
- 25 (4) the risk management division; and

1 (5) the transportation services division.

2 B. The secretary of general services is empowered
3 to organize the department and the divisions specified in
4 Subsection A of this section and may transfer or merge
5 functions between divisions in the interest of efficiency and
6 economy.

7 C. The governor is empowered to merge divisions of
8 the department or to create additional divisions by executive
9 order in the interest of efficiency or economy."

10 SECTION 8. Section 9-27-19 NMSA 1978 (being Laws 1975,
11 Chapter 214, Section 4, as amended) is amended to read:

12 "9-27-19. TRANSFER OF PROPERTY--CUSTODY AND CONTROL.--
13 The radio equipment purchased in accordance with Laws 1972,
14 Chapter 74 by the facilities management division of the
15 general services department is transferred to the department
16 of information technology. The department has the custody
17 and control of the transferred radio equipment."

18 SECTION 9. Section 12-6-10 NMSA 1978 (being Laws 1969,
19 Chapter 68, Section 10, as amended) is amended to read:

20 "12-6-10. ANNUAL INVENTORY.--

21 A. The governing authority of each agency shall,
22 at the end of each fiscal year, conduct a physical inventory
23 of movable chattels and equipment costing more than five
24 thousand dollars (\$5,000) and under the control of the
25 governing authority. This inventory shall include all

1 movable chattels and equipment procured through the capital
2 program fund under Section 15-3B-16 NMSA 1978, which are
3 assigned to the agency designated by the director of the
4 facilities management division of the general services
5 department as the user agency. The inventory shall list the
6 chattels and equipment and the date and cost of acquisition.
7 No agency shall be required to list any item costing five
8 thousand dollars (\$5,000) or less. Upon completion, the
9 inventory shall be certified by the governing authority as to
10 correctness. Each agency shall maintain one copy in its
11 files. At the time of the annual audit, the state auditor
12 shall ascertain the correctness of the inventory by generally
13 accepted auditing procedures.

14 B. The official or governing authority of each
15 agency is chargeable on the official's or authority's
16 official bond for the chattels and equipment shown in the
17 inventory.

18 C. The general services department shall establish
19 standards, including a uniform classification system of
20 inventory items, and promulgate rules concerning the system
21 of inventory accounting for chattels and equipment required
22 to be inventoried, and the governing authority of each agency
23 shall install the system. A museum collection list or
24 catalogue record and a library accession record or shelf list
25 shall constitute the inventories of museum collections and

1 library collections maintained by state agencies and local
2 public bodies.

3 D. No surety upon the official bond of any officer
4 or employee of any agency shall be released from liability
5 until a complete accounting has been had. All official bonds
6 shall provide coverage of, or be written in a manner to
7 include, inventories."

8 SECTION 10. Section 13-1-121 NMSA 1978 (being
9 Laws 1984, Chapter 65, Section 94, as amended) is amended to
10 read:

11 "13-1-121. COMPETITIVE SEALED QUALIFICATIONS-BASED
12 PROPOSALS--ARCHITECTS--ENGINEERS--LANDSCAPE ARCHITECTS--
13 SURVEYORS--SELECTION COMMITTEE--STATE PUBLIC WORKS
14 PROJECTS.--

15 A. The "architect, engineer, landscape architect
16 and surveyor selection committee" is created. The committee,
17 which shall serve as the selection committee for state public
18 works projects, except for highway projects of the department
19 of transportation, is composed of four members as follows:

20 (1) one member of the agency for which the
21 project is being designed;

22 (2) the director of the facilities
23 management division of the general services department, who
24 shall be chair;

25 (3) one member designated by the joint

1 practice committee; and

2 (4) one member designated by the secretary.

3 B. The staff architect or the staff architect's
4 designee of the facilities management division shall serve as
5 staff to the architect, engineer, landscape architect and
6 surveyor selection committee.

7 C. The members of the architect, engineer,
8 landscape architect and surveyor selection committee shall be
9 reimbursed by the facilities management division for per diem
10 and mileage in accordance with the provisions of the Per Diem
11 and Mileage Act.

12 D. The department of transportation shall create a
13 selection committee by rule, after notice and hearing, that
14 shall serve as the selection committee for highway projects
15 of the department."

16 SECTION 11. Section 13-4A-3 NMSA 1978 (being Laws 1986,
17 Chapter 11, Section 3, as amended) is amended to read:

18 "13-4A-3. DEFINITIONS.--As used in the Art in Public
19 Places Act:

20 A. "agency" means all state departments and
21 agencies, boards, councils, institutions, commissions and
22 quasi-public corporations, including all state educational
23 institutions enumerated in Article 12, Section 11 of the
24 constitution of New Mexico, and all statutorily created
25 post-secondary educational institutions;

1 B. "architect" means the person or firm designing
2 the project for the contracting agency to which the one
3 percent provision pursuant to Section 13-4A-4 NMSA 1978
4 applies;

5 C. "contracting agency" means the agency having
6 the control, management and power to enter into contracts for
7 new construction or renovation of any public building;

8 D. "division" means the arts division of the
9 cultural affairs department;

10 E. "public buildings" means those buildings under
11 the control and management of the facilities management
12 division of the general services department, the department
13 of game and fish, the energy, minerals and natural resources
14 department, the department of transportation, the state fair
15 commission, the supreme court, the commissioner of public
16 lands, the cultural affairs department, the governing boards
17 of the state educational institutions and statutorily created
18 post-secondary educational institutions, the public education
19 department and the legislature or all buildings constructed
20 with funds appropriated by the legislature. For the purposes
21 of the Art in Public Places Act, "public buildings" does not
22 include such auxiliary buildings as maintenance plants,
23 correctional facilities, warehouses or temporary structures;
24 and

25 F. "work of art" means any work of visual art,

1 including but not limited to a drawing, painting, mural,
2 fresco, sculpture, mosaic or photograph; a work of
3 calligraphy; a work of graphic art, including an etching,
4 lithograph, offset print, silk screen or a work of graphic
5 art of like nature; works in clay, textile, fiber, wood,
6 metal, plastic, glass and like materials; or mixed media,
7 including a collage or assemblage or any combination of the
8 foregoing art media that is chosen to be included in or
9 immediately adjoining the public building under
10 consideration. Under special circumstances, the term may
11 include environmental landscaping if approved by the
12 division."

13 SECTION 12. Section 15-3-5 NMSA 1978 (being Laws 1957,
14 Chapter 92, Section 2, as amended) is amended to read:

15 "15-3-5. PENITENTIARY PROPERTY TRANSFERRED.--The
16 remaining property on Cordova road held in the name of the
17 New Mexico state penitentiary, including the former site of
18 the New Mexico state penitentiary, is hereby transferred to
19 the facilities management division of the general services
20 department. The land shall be held in the name of the state
21 of New Mexico."

22 SECTION 13. Section 15-3-6 NMSA 1978 (being Laws 1959,
23 Chapter 174, Section 2, as amended) is amended to read:

24 "15-3-6. LEASE OF FORMER PENITENTIARY LAND.--The
25 facilities management division of the general services

1 department may execute on behalf of the state of New Mexico
2 as lessor, from time to time, agreements of lease of all or
3 any part of the real property on Cordova road in Santa Fe,
4 New Mexico formerly held in the name of the penitentiary of
5 New Mexico and now administered by the division to such
6 persons on such terms and conditions and for such
7 consideration as the division determines in the exercise of
8 its discretion to be advantageous to the state of New Mexico;
9 but no such agreement of lease shall provide for a term of
10 more than five years from the date thereof unless first
11 approved by the state board of finance."

12 SECTION 14. Section 15-3-6.1 NMSA 1978 (being Laws
13 2001, Chapter 195, Section 1) is amended to read:

14 "15-3-6.1. STATE PENITENTIARY--LEASE FOR MOTION
15 PICTURES.--The corrections department, the facilities
16 management division of the general services department and
17 the New Mexico film division of the economic development
18 department shall enter into a joint powers agreement to make
19 the old state penitentiary at Santa Fe available for use by
20 the motion picture industry. The property and structures
21 that fall within the existing security perimeter fence at the
22 old state penitentiary at Santa Fe and any building not used
23 by the corrections department that is within three hundred
24 yards of the outside of the security perimeter fence of the
25 old state penitentiary at Santa Fe shall be made available

1 for lease at reasonable market rates to the motion picture
2 industry for economic development."

3 SECTION 15. Section 15-3-35 NMSA 1978 (being Laws 2007,
4 Chapter 184, Section 1) is amended to read:

5 "15-3-35. LEASE-PURCHASE AGREEMENTS--APPROVAL OF
6 LEGISLATURE.--

7 A. A financing agreement under which a state
8 agency is to occupy a building or other real property and
9 that contains an option to purchase for a price that is
10 reduced according to the lease payments made is subject to
11 the following criteria:

12 (1) the agreement shall not become effective
13 until it has been ratified and approved by the legislature;
14 and

15 (2) if the state agency is subject to the
16 jurisdiction of the facilities management division of the
17 general services department pursuant to the Property Control
18 Act, the agreement shall provide that, if the real property
19 is purchased, title to the real property shall be issued in
20 the name of the facilities management division.

21 B. Legislative ratification and approval of an
22 agreement pursuant to Subsection A of this section shall not
23 create a legal obligation for the state agency to continue
24 the lease from year to year or to purchase the real property.

25 C. As used in this section, "state agency" means

1 the state or any of its branches, agencies, departments,
2 boards, instrumentalities or institutions, but "state agency"
3 does not include state educational institutions or
4 state-chartered charter schools."

5 SECTION 16. Section 15-3B-2 NMSA 1978 (being Laws 1972,
6 Chapter 74, Section 2, as amended) is amended to read:

7 "15-3B-2. DEFINITIONS.--As used in the Property Control
8 Act:

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

15 B. "department" means the general services
16 department;

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

18 D. "division" means the facilities management
19 division of the department;

20 E. "jurisdiction" means all state buildings and
21 land except those under the control and management of the
22 state armory board, the border authority, the cultural
23 affairs department, the state fair commission, the department
24 of game and fish, the department of transportation, the
25 commissioner of public lands, the state parks division of the

1 energy, minerals and natural resources department, the state
2 institutions of higher learning, regional education
3 cooperatives, the New Mexico school for the deaf, the New
4 Mexico school for the blind and visually impaired, the
5 judicial branch, the legislative branch, property acquired by
6 the economic development department pursuant to the Statewide
7 Economic Development Finance Act and property acquired by the
8 public school facilities authority pursuant to the Public
9 School Capital Outlay Act; and

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

12 SECTION 17. Section 15-3B-3 NMSA 1978 (being Laws 1968,
13 Chapter 43, Section 1, as amended) is amended to read:

14 "15-3B-3. FACILITIES MANAGEMENT DIVISION--CREATION--
15 DIRECTOR.--The "facilities management division" is created
16 within the department. The director shall be appointed by the
17 secretary with the governor's consent."

18 SECTION 18. Section 15-3B-7.1 NMSA 1978 (being Laws
19 2001, Chapter 196, Section 1) is amended to read:

20 "15-3B-7.1. STATE BUILDINGS--USE IN MOTION PICTURES.--
21 The facilities management division of the general services
22 department shall provide for the free access to state
23 buildings by the motion picture industry."

24 SECTION 19. Section 15-3B-21 NMSA 1978 (being Laws
25 2009, Chapter 145, Section 1) is amended to read:

1 "15-3B-21. HEALTH AND HUMAN SERVICES OFFICE BUILDING.--

2 A. Subject to the provisions of this section, the
3 facilities management division of the general services
4 department, after consulting with the human services
5 department and the children, youth and families department and
6 on behalf of those departments, shall:

7 (1) enter into agreements necessary for the
8 land acquisition, if necessary, and the planning, designing,
9 constructing, equipping and furnishing of a new health and
10 human services office building in the county or municipality
11 of Santa Fe that will serve as the first phase of the health
12 and human services office complex and be occupied by the human
13 services department and the children, youth and families
14 department, provided that, in entering into the agreements,
15 the division shall consider state and private land acquisition
16 options, including potential trades of land; and

17 (2) enter into a lease purchase agreement
18 with the owner of the building for the leasing of the building
19 by the facilities management division with an option to
20 purchase for a price that is reduced according to the payments
21 made pursuant to the agreement; provided that the lease
22 purchase agreement shall:

23 (a) specify the principal, interest and
24 maintenance component of each payment made, provided further
25 that: 1) the initial principal shall not exceed eighty

1 million dollars (\$80,000,000); and 2) the net effective
2 interest rate shall not exceed the maximum permitted by the
3 Public Securities Act;

4 (b) provide that there is no legal
5 obligation for the facilities management division to continue
6 the lease from year to year or to purchase the building;

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

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

15 (e) provide that if the building is
16 purchased, title to the building shall be issued in the name
17 of the facilities management division.

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

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

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

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

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

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

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

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

24 E. The facilities management division shall enter
25 into subleases with the human services department and the

1 children, youth and families department for the lease of
2 office space within the building, provided that the payments
3 made under the subleases shall equal the payments due by the
4 facilities management division under the lease purchase
5 agreement. The facilities management division may also
6 sublease available space within the building to any state
7 agency if:

8 (1) the space subject to an existing
9 sublease has been reduced by agreement between the facilities
10 management division and the existing sublessee;

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

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

17 F. Notwithstanding any provision restricting
18 budget adjustments, upon the certification by the director of
19 the facilities management division that the building is
20 completed and suitable for occupancy, the secretary of finance
21 and administration may transfer between and among the
22 categories and programs of the current operating budget of
23 each agency that will occupy the building any unexpended or
24 unencumbered appropriation for lease payments or building
25 maintenance. The transferred appropriations shall be expended

1 by the facilities management division for lease payments due
2 pursuant to the lease purchase agreement.

3 G. During the term of the lease purchase
4 agreement, each sublessee shall include, in its annual budget
5 request, the amount due under its sublease during the next
6 fiscal year, and the sublessee and the facilities management
7 division shall use their best efforts to secure the
8 appropriation."

9 SECTION 20. Section 15-10-1 NMSA 1978 (being Laws 1997,
10 Chapter 178, Section 5, as amended) is amended to read:

11 "15-10-1. CAPITOL BUILDINGS PLANNING COMMISSION
12 CREATED.--

13 A. The "capitol buildings planning commission" is
14 created. The commission shall be composed of four members of
15 the legislature, two from each house, appointed by the New
16 Mexico legislative council, the secretary of general services
17 or the secretary's designee, the state treasurer or the state
18 treasurer's designee, the secretary of transportation or the
19 secretary's designee, the secretary of cultural affairs or the
20 secretary's designee, the secretary of finance and
21 administration or the secretary's designee, the commissioner
22 of public lands or the commissioner's designee and the chair
23 of the supreme court building commission or the chair's
24 designee.

25 B. The commission shall:

1 (1) study and plan for the long-range
2 facilities needs of state government in the greater
3 metropolitan areas of Las Cruces, Santa Fe and Albuquerque
4 and, after developing an initial master plan for the state
5 facilities in those areas, conduct a review of state
6 properties throughout the state for the development of an
7 overall master plan;

8 (2) review proposed lease-purchase
9 agreements pursuant to Section 15-10-2 NMSA 1978;

10 (3) work with the general services
11 department and other state agencies in developing
12 recommendations for addressing deferred maintenance on state
13 facilities and disposal strategies for aging facilities no
14 longer able to serve their mission; and

15 (4) utilizing life cycle costing, work with
16 the general services department in developing recommendations
17 regarding whether the state should lease, lease-purchase or
18 purchase needed additional facilities.

19 C. The legislative council service shall provide
20 staff for the commission in coordination with the staff
21 architect and other staff of the facilities management
22 division of the general services department.

23 D. The commission shall meet regularly and shall
24 report annually to the legislature on an annual update of the
25 master plan for the long-range facilities needs of state

1 government in the greater metropolitan areas of Las Cruces,
2 Santa Fe and Albuquerque and throughout the state."

3 SECTION 21. Section 19-12-12 NMSA 1978 (being Laws
4 1959, Chapter 25, Section 14, as amended) is amended to read:

5 "19-12-12. CONTRACT FOR MAINTENANCE.--The commissioner
6 of public lands is authorized to contract with the facilities
7 management division of the general services department on a
8 cost basis for the maintenance of the lands and buildings
9 acquired under the provisions of the Land Office Building
10 Act."

11 SECTION 22. Section 22-2B-3 NMSA 1978 (being Laws 1993,
12 Chapter 232, Section 3, as amended) is amended to read:

13 "22-2B-3. REGIONAL EDUCATION COOPERATIVES AUTHORIZED.--

14 A. The department may authorize the existence and
15 operation of "regional education cooperatives". Upon
16 authorization by the department, local school boards may join
17 with other local school boards or other state-supported
18 educational institutions to form cooperatives to provide
19 education-related services. Cooperatives shall be deemed
20 individual state agencies administratively attached to the
21 department; provided that:

22 (1) pursuant to the rules of the department,
23 cooperatives may own, and have control and management over,
24 buildings and land independent of the director of the
25 facilities management division of the general services

1 department;

2 (2) cooperatives shall not submit budgets to
3 the department of finance and administration but shall submit
4 them to the department. The department shall, by rule,
5 determine the provisions of the Public School Finance Act
6 relating to budgets and expenditures that are applicable to
7 cooperatives; and

8 (3) pursuant to the rules of the department,
9 the secretary may, after considering the factors specified in
10 Section 22-8-38 NMSA 1978, designate a cooperative council as
11 a board of finance with which all funds appropriated or
12 distributed to it shall be deposited. If such a designation
13 is not made or if such a designation is suspended by the
14 secretary, the money appropriated or to be distributed to a
15 cooperative shall be deposited with the state treasurer.
16 Unexpended or unencumbered balances in the account of a
17 cooperative shall not revert.

18 B. The department shall, by rule, establish
19 minimum criteria for the establishment and operation of
20 cooperatives. The department shall also establish procedures
21 for oversight of cooperatives to ensure compliance with
22 department rule. Cooperatives shall be exempt from the
23 provisions of the Personnel Act.

24 C. With council approval, a cooperative may
25 provide revenue-generating education-related services to

1 nonmembers, so long as those services do not detract from the
2 cooperative's ability to fulfill its responsibilities to its
3 members.

4 D. With council approval, a cooperative may apply
5 for and receive public and private grants as well as gifts,
6 donations, bequests and devises and use them to further the
7 purposes and goals of the cooperative.

8 E. Each cooperative shall cooperate with the
9 department as required by federal-state plans or department
10 rules in the effectuation and administration of its
11 educational programs. Each cooperative shall submit reports
12 to the department at such times and in such form as required
13 by department rule. Reports shall include an evaluation of
14 the effectiveness of the technical assistance and other
15 services provided to members of the cooperative and any
16 nonmember public and private entities to which the cooperative
17 provided educational services. The reports and evaluations
18 submitted pursuant to this subsection shall be made available
19 upon request to the legislative education study committee and
20 the legislative finance committee."

21 SECTION 23. Section 33-1-17 NMSA 1978 (being Laws 1985,
22 Chapter 149, Section 1, as amended) is amended to read:

23 "33-1-17. PRIVATE CONTRACT.--

24 A. The corrections department may contract for the
25 operation of any adult female facility or for housing adult

1 female inmates in a private facility with a person or entity
2 in the business of providing correctional or jail services to
3 government entities.

4 B. The corrections department may contract with a
5 person or entity in the business of providing correctional or
6 jail services to government entities for:

7 (1) a correctional facility in Guadalupe
8 county of not less than five hundred fifty and not more than
9 two thousand two hundred beds;

10 (2) a correctional facility in Lea, Chaves
11 or Santa Fe county of not less than one thousand two hundred
12 and not more than two thousand two hundred beds;

13 (3) design and construction of a support
14 services building, a laundry and an infirmary at the
15 penitentiary of New Mexico in Santa Fe; or

16 (4) construction of a public facility to
17 house a special incarceration alternative program for adult
18 male and adult female felony offenders.

19 C. The authorization in Subsection B of this
20 section for a correctional facility in Guadalupe county and a
21 correctional facility in Lea, Chaves or Santa Fe county is
22 contingent upon construction of both facilities, so that one
23 of the facilities shall not be constructed unless both of the
24 facilities are constructed, as nearly as practicable,
25 simultaneously.

1 D. The corrections department shall solicit
2 proposals and award any contract under this section in
3 accordance with the provisions of the Procurement Code. The
4 contract shall include such terms and conditions as the
5 corrections department may require after consultation with the
6 general services department; provided that the terms and
7 conditions shall include provisions:

8 (1) setting forth comprehensive standards
9 for conditions of incarceration;

10 (2) that the contractor assumes all
11 liability caused by or arising out of all aspects of the
12 provision or operation of the facility;

13 (3) for liability insurance or other proof
14 of financial responsibility acceptable to the general services
15 department covering the contractor and its officers, employees
16 and agents in an amount sufficient to cover all liability
17 caused by or arising out of all aspects of the provision or
18 operation of the facility;

19 (4) for termination for cause upon ninety
20 days' notice to the contractor for failure to meet contract
21 provisions when such failure seriously affects the
22 availability or operation of the facility;

23 (5) that venue for the enforcement of the
24 contract shall be in the district court for Santa Fe county;

25 (6) that continuation of the contract is

1 subject to the availability of funds; and

2 (7) that compliance with the contract shall
3 be monitored by the corrections department and the contract
4 may be terminated for noncompliance.

5 E. When the contractor begins operation of a
6 facility for which private contractor operation is authorized,
7 the contractor's employees performing the functions of
8 correctional officers shall be deemed correctional officers
9 for the purposes of Sections 33-1-10 and 33-1-11 NMSA 1978 but
10 for no other purpose of state law, unless specifically stated.

11 F. Any contract awarded pursuant to this section
12 may include terms to provide for the renovation of the
13 facility or for the construction of new buildings. Work
14 performed pursuant to such terms and conditions shall not be
15 considered a capital project or a state public works project
16 as defined in Section 13-1-91 NMSA 1978 nor shall it be
17 subject to the requirements of Section 13-1-150 NMSA 1978,
18 review by the staff architect of the facilities management
19 division of the general services department or regulation by
20 the director of that division pursuant to Section 15-3B-6 NMSA
21 1978.

22 G. Any contract entered into by the corrections
23 department with a private contractor to operate an existing
24 facility shall include a provision securing the right of all
25 persons employed by that facility prior to the effective date

1 of that contract to be employed by that contractor in any
2 position for which they qualify before that position is
3 offered to any person not employed by that facility prior to
4 that date."

5 SECTION 24. Section 33-1A-1 NMSA 1978 (being Laws 1983,
6 Chapter 186, Section 1) is amended to read:

7 "33-1A-1. LEASE OF REAL PROPERTY FOR CORRECTIONAL
8 FACILITY HOUSING.--The facilities management division of the
9 general services department is authorized to lease a portion
10 of the real property of the state on which a correctional
11 facility is located, but not to include Grants, New Mexico,
12 for a period not to exceed twenty-five years, to a private
13 entity in consideration for the construction on the real
14 property of low-rent housing units for correctional officers
15 of the corrections department, their families and such other
16 corrections department personnel or other state employees as
17 the secretary of corrections may designate; provided the
18 low-rent housing units are rented only to state employees."

19 SECTION 25. Section 33-1A-2 NMSA 1978 (being Laws 1983,
20 Chapter 186, Section 2) is amended to read:

21 "33-1A-2. LONG-TERM LEASE OF CORRECTIONAL FACILITY
22 HOUSING BY FACILITIES MANAGEMENT DIVISION--SUBLEASE TO
23 CORRECTIONAL OFFICERS AND OTHERS.--In connection with and as
24 part of the real property lease authorized in Section 33-1A-1
25 NMSA 1978, the facilities management division of the general

1 services department is authorized to negotiate and execute a
2 long-term lease, for a period not to exceed twenty-five years,
3 of the low-rent housing units constructed pursuant to Chapter
4 33, Article 1A NMSA 1978 and to sublease them to correctional
5 officers of the corrections department, their families and
6 such other department personnel or other state employees as
7 the secretary of corrections may designate."

8 SECTION 26. Section 33-1A-3 NMSA 1978 (being Laws 1983,
9 Chapter 186, Section 3) is amended to read:

10 "33-1A-3. LONG-TERM CORRECTIONAL FACILITY HOUSING LEASE
11 SUSPENSE FUND ESTABLISHED.--The facilities management division
12 of the general services department shall establish a schedule
13 of sublease rental fees for the low-rent housing units
14 constructed pursuant to Chapter 33, Article 1A NMSA 1978.
15 Sublease rental fee payments shall be paid to the general
16 services department and deposited in the "long-term
17 correctional facility housing lease suspense fund", hereby
18 established, which shall be administered by the secretary of
19 general services or the secretary's designee. Payments shall
20 be made from the long-term correctional facility housing lease
21 suspense fund to satisfy the long-term correctional facility
22 housing lease terms, including rent, maintenance and
23 replacement costs, insurance, management fees, taxes and all
24 applicable costs. No other fund shall be liable for or
25 available to satisfy the long-term correctional facility

1 housing lease authorized in Chapter 33, Article 1A NMSA 1978."

2 SECTION 27. Section 33-1A-4 NMSA 1978 (being Laws 1983,
3 Chapter 186, Section 4) is amended to read:

4 "33-1A-4. LEASE TERMS.--

5 A. Upon expiration of the long-term housing lease,
6 the low-rent housing units constructed pursuant to Chapter 33,
7 Article 1A NMSA 1978 shall become the exclusive property of
8 the state, free of any encumbrances of any kind arising from
9 the construction or leasing of the housing units.

10 B. The low-rent housing units constructed pursuant
11 to Chapter 33, Article 1A NMSA 1978 shall conform to all
12 applicable building codes, and the plans and specifications
13 for the housing units shall be approved by the facilities
14 management division of the general services department prior
15 to commencement of construction.

16 C. The state shall be indemnified against any
17 judgment awarding monetary damages due to the construction or
18 safety of the low-rent housing units constructed pursuant to
19 Chapter 33, Article 1A NMSA 1978."

20 SECTION 28. Section 33-1A-5 NMSA 1978 (being Laws 1983,
21 Chapter 186, Section 5) is amended to read:

22 "33-1A-5. BOARD OF FINANCE APPROVAL.--No lease of
23 low-rent housing units constructed pursuant to Chapter 33,
24 Article 1A NMSA 1978 shall be binding against the facilities
25 management division of the general services department until

1 it has been approved by the state board of finance."

2 SECTION 29. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,
3 PERSONNEL, PROPERTY, CONTRACTS AND REFERENCES IN LAW--BUILDING
4 SERVICES DIVISION TO FACILITIES MANAGEMENT DIVISION.--On July
5 1, 2013:

6 A. all functions, personnel, appropriations,
7 money, records, equipment, supplies and other property of the
8 building services division of the general services department
9 shall be transferred to the facilities management division of
10 the general services department;

11 B. all contracts of the building services division
12 of the general services department shall be binding and
13 effective on the facilities management division of the general
14 services department; and

15 C. all references in law to the building services
16 division of the general services department shall be deemed to
17 be references to the facilities management division of the
18 general services department.

19 SECTION 30. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,
20 PERSONNEL, PROPERTY, CONTRACTS AND REFERENCES IN LAW--PROPERTY
21 CONTROL DIVISION TO FACILITIES MANAGEMENT DIVISION.--On July
22 1, 2013:

23 A. all functions, personnel, appropriations,
24 money, records, equipment, supplies and other property of the
25 property control division of the general services department

