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BILL

**50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

INTRODUCED BY

DISCUSSION DRAFT

FOR THE CAPITOL BUILDINGS PLANNING COMMISSION

AN ACT

RELATING TO STATE FACILITIES; REQUIRING STATE AGENCIES TO  
SUBMIT FIVE-YEAR FACILITIES MASTER PLANS; PROVIDING FOR PLAN  
GUIDELINES; PROVIDING ADDITIONAL DUTIES FOR THE PROPERTY  
CONTROL DIVISION OF THE GENERAL SERVICES DEPARTMENT;  
RECONCILING CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW  
IN LAWS 2001 BY REPEALING LAWS 2001, CHAPTER 293, SECTION 1;  
MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

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

SECTION 1. Section 6-4-1 NMSA 1978 (being Laws 1975,  
Chapter 282, Section 3, as amended) is amended to read:

"6-4-1. CAPITAL PROGRAMS--PREPARATION--DUTIES.--

A. The department of finance and administration and  
the property control division of the general services  
department shall jointly prepare ~~[amend and maintain a four-~~

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1 ~~year program of major state capital improvement projects~~  
2 ~~recommended to be undertaken by the state or to be undertaken~~  
3 ~~with state aid or under state regulation]~~ and annually update a  
4 five-year program for all state capital improvement projects,  
5 which program shall be submitted to the governor and  
6 legislature by November 1 of each year. The program shall  
7 [~~classify~~] prioritize projects with respect to urgency and need  
8 [~~for realization~~] and [~~it~~] shall recommend a time sequence for  
9 construction. The program shall [~~also contain the contract~~  
10 ~~price or estimated cost of each project and it shall indicate~~  
11 ~~probable operating and maintenance costs and probable revenues,~~  
12 ~~if any, as well as existing sources of funds or the need for~~  
13 ~~additional sources of funds for the construction and operation~~  
14 ~~of each project]~~ further classify the projects into:

15 (1) those projects for which the initial  
16 planning and design phase has been completed and approved by  
17 the appropriate planning entity and that are awaiting  
18 consideration by the legislature and appropriation for the full  
19 project costs; and

20 (2) those projects requesting funding for the  
21 initial planning and design phase for which the programming,  
22 delivery method, partial schematic design and construction cost  
23 estimates have not been determined or completed.

24 B. Heads of departments and other agencies of the  
25 state shall transmit to the department of finance and

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1 administration, in the form and content prescribed by the  
2 property control division of the general services department,  
3 on July 1 of each year, a ~~[statement of all]~~ plan for proposed  
4 capital improvement projects ~~[proposed]~~ for the ensuing ~~[four]~~  
5 five years for review and recommendation to the governor with  
6 respect to inclusion in the state capital program ~~[of the~~  
7 ~~state]~~. A state agency required to develop a facilities master  
8 plan pursuant to Section 6-4-1.1 NMSA 1978 shall submit its  
9 plan for proposed capital projects as part of its facilities  
10 master plan or update to that master plan."

11 SECTION 2. A new Section 6-4-1.1 NMSA 1978 is enacted to  
12 read:

13 "6-4-1.1. [NEW MATERIAL] FACILITIES MASTER PLANS--  
14 GUIDELINES.--

15 A. Each state agency shall annually develop or  
16 update a five-year facilities master plan that describes all  
17 capital projects proposed for the ensuing five years and  
18 contains such other information as required by the property  
19 control division of the general services department pursuant to  
20 Subsection B of this section. The facilities master plan shall  
21 be submitted to the department of finance and administration on  
22 July 1 of each year pursuant to Section 6-4-1 NMSA 1978.

23 B. The property control division shall prescribe  
24 the form and content of facilities master plans for state  
25 agencies to follow in the preparation of the master plans,

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1 consistent with the capitol buildings planning commission  
2 master plans and comprehensive planning principles. The  
3 property control division shall provide technical assistance to  
4 state agencies in the development of their facilities master  
5 plans. The guidelines shall include:

6 (1) guidelines for development of the  
7 facilities master plans;

8 (2) requirements for preventive and deferred  
9 maintenance plans, including standards for facility maintenance  
10 plans;

11 (3) a ranking system to determine priority  
12 capital projects for state facilities;

13 (4) space and energy efficiency standards for  
14 state facilities;

15 (5) life-cycle costing models for existing and  
16 proposed state facilities; and

17 (6) any other requirements that may assist the  
18 department of finance and administration, the property control  
19 division, the governor and the legislature in assessing needs  
20 and establishing priorities for including state capital  
21 projects in the state capital program.

22 C. As used in this section, "state agency" means  
23 any department, institution, board, bureau, commission,  
24 district or committee of state government except:

25 (1) political subdivisions of the state;

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1 (2) institutions under the jurisdiction of the  
2 higher education department;

3 (3) the state transportation commission and  
4 the department of transportation in regard to facilities used  
5 directly for the transportation of natural resources,  
6 manufactured products or passengers, including communication  
7 and transportation structures and other facilities necessary  
8 for the operation of those facilities; provided that the state  
9 transportation commission and the department of transportation  
10 are each a "state agency" as used in this section in regard to  
11 facilities that are used for administrative purposes by those  
12 entities and are intended to provide work space for commission  
13 and department officers and employees, including buildings and  
14 the appurtenances, improvements, real estate, parking,  
15 utilities and access roads associated with a building and  
16 undeveloped or developed real estate that is intended for  
17 improvement for administrative purposes;

18 (4) independent authorities specifically  
19 exempted from laws governing state agencies;

20 (5) public schools and charter schools; and

21 (6) the public school facilities authority  
22 when the authority acquires property pursuant to the Public  
23 School Capital Outlay Act."

24 SECTION 3. Section 9-6-5.1 NMSA 1978 (being Laws 1983,  
25 Chapter 296, Section 7) is amended to read:

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1 "9-6-5.1. PLANNING POWERS AND DUTIES OF SECRETARY OF  
2 FINANCE AND ADMINISTRATION.--The secretary of [~~the department~~  
3 ~~of~~] finance and administration, in addition to the other powers  
4 and duties conferred:

5 A. shall review federal grant applications and  
6 provide management assistance;

7 B. shall coordinate, in accordance with directives  
8 from the governor's office of policy and planning, state agency  
9 plans for economic, natural resource, energy resource and human  
10 resource development;

11 C. shall provide aid to planning and development  
12 districts in developing grant proposals and cooperate with  
13 other local entities in developing grant proposals;

14 D. shall [~~acquire~~] receive, study and review all  
15 plans for capital projects proposed by state agencies pursuant  
16 to Section 6-4-1 NMSA 1978 and render advice on the plans. The  
17 secretary shall maintain long-range estimates and plans for  
18 capital projects [~~and develop standards for measuring the need~~  
19 ~~for and utility of proposed projects~~];

20 E. may contract for, receive and utilize any grants  
21 or other financial assistance made available by the United  
22 States government or by any other source, public or private;

23 F. may provide planning and funding assistance to  
24 units of local government, council of government organizations,  
25 Indian tribal governments situated within New Mexico and [~~to~~]

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1 nonprofit entities having for their purpose local, regional or  
2 community betterment. The secretary, incident to any such  
3 programs, may enter into contracts and agreements with such  
4 units of local government, council of government organizations,  
5 Indian tribal governments, nonprofit entities and the federal  
6 government and may participate in or receive aid from any  
7 federal or private program in relation to such a planning  
8 program or assistance;

9 G. shall confer with the state budget division of  
10 the department of finance and administration in developing  
11 comprehensive plans to assure coordination of planning and  
12 budgeting functions;

13 H. shall coordinate the state clearinghouse review  
14 process;

15 I. shall develop a status of the state report;

16 J. shall review and coordinate comment by state  
17 agencies on draft environmental impact statements;

18 K. shall provide community development block grant  
19 technical assistance to local governments;

20 L. shall administer, in consultation with and upon  
21 advice and direction from the community development block grant  
22 policy committee, the program for the state community  
23 development block grant program;

24 M. shall serve as staff to the New Mexico  
25 association of regional councils;

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1 N. shall maintain a state planning library; and  
2 O. shall provide planning assistance to county and  
3 multi-county districts relative to application by such  
4 districts for financial assistance and for regional plan  
5 development."

6 SECTION 4. Section 15-3B-4 NMSA 1978 (being Laws 1978,  
7 Chapter 166, Section 14, as amended by Laws 2001, Chapter 293,  
8 Section 1 and by Laws 2001, Chapter 319, Section 4) is amended  
9 to read:

10 "15-3B-4. DIVISION--DUTIES--FEDERAL FUNDS.--

11 A. The division shall:

12 (1) unless otherwise specified by law, assign  
13 the use or occupancy of state buildings and lands under its  
14 jurisdiction to the state agency or political subdivision that  
15 may make the best and highest beneficial use of the property;

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

19 (3) regulate the lease purchase of buildings  
20 or other real property by state executive agencies except the  
21 state land office;

22 [~~3~~] (4) establish space standards for  
23 buildings under its jurisdiction;

24 [~~4~~] (5) have custody of all maps, deeds,  
25 plats, plans, specifications, contracts, books and other papers

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1 connected with state buildings under its jurisdiction;

2 [~~(5)~~] (6) secure copies of all documents of  
3 title to all real property under its jurisdiction held in the  
4 name of the state or for the use of the state, and index those  
5 documents so that the status of real property held by the state  
6 under its jurisdiction can be readily ascertained;

7 [~~(6)~~] (7) control the lease or rental of space  
8 in private buildings by state executive agencies other than the  
9 state land office, including inspection for code compliance and  
10 life and safety issues. The director may act as lessee on  
11 behalf of a state agency if the division determines it is in  
12 the best interest of the state;

13 [~~(7)~~] (8) make rules for the conduct of all  
14 persons in and about buildings and grounds under its  
15 jurisdiction necessary and proper for the safety, care and  
16 preservation of the buildings and grounds and for the safety  
17 and convenience of the persons while they are in and about the  
18 buildings and grounds;

19 [~~(8)~~] (9) have the power to sell state  
20 buildings and real property under its jurisdiction in  
21 accordance with Sections 13-6-2 and 13-6-3 NMSA 1978. Any such  
22 sale shall be by quitclaim deed;

23 [~~(9)~~] (10) have the power to purchase title  
24 insurance or a title opinion in conjunction with the sale of  
25 state buildings or land;

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1                    [~~(10)~~] (11) have the power to enter into  
2 contracts for the improvement, alteration and reconstruction of  
3 the state buildings under its jurisdiction, including the  
4 governor's residence, and for the design and construction of  
5 additional buildings, to the extent funds are available;

6                    [~~(11)~~] (12) develop long-range programs for  
7 the continuing preservation and repair of buildings and  
8 improvements and for beautification of grounds and premises  
9 under its jurisdiction;

10                   [~~(12)~~] (13) conduct continuing review and  
11 analysis of requirements for additional structures and  
12 facilities to house state agencies;

13                   [~~(13)~~] (14) ensure that on-site inspections of  
14 capital projects are conducted to verify that construction  
15 specifications are being met; [~~and~~

16                   ~~(14)~~ (15) receive gifts, grants and donations  
17 from the federal government or other sources for the public  
18 buildings repair fund;

19                   (16) prescribe guidelines for state agencies  
20 to use in preparing five-year facilities master plans pursuant  
21 to Section 6-4-1.1 NMSA 1978; and

22                   (17) in conjunction with the department of  
23 finance and administration, prepare and submit a five-year  
24 program for all state capital improvement projects pursuant to  
25 Section 6-4-1 NMSA 1978.

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

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

10           **SECTION 5. APPROPRIATIONS.--**

11           A. Two million three hundred thousand dollars  
12 (\$2,300,000) is appropriated from the general fund to the  
13 property control division of the general services department  
14 for expenditure in fiscal years 2012 through 2014 to fund a  
15 facility condition assessment of all state facilities under the  
16 jurisdiction of state agencies as defined in Subsection C of  
17 Section 6-4-1.1 NMSA 1978. Any unexpended or unencumbered  
18 balance remaining at the end of fiscal year 2014 shall revert  
19 to the general fund.

20           B. One million dollars (\$1,000,000) is appropriated  
21 from the general fund to the property control division of the  
22 general services department for expenditure in fiscal years  
23 2012 through 2014 to provide assistance to state agencies as  
24 defined in Section 6-4-1.1 NMSA 1978 in development of  
25 facilities master plans and annual updates of facilities master

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1 plans. Any unexpended or unencumbered balance remaining at the  
2 end of fiscal year 2014 shall revert to the general fund.

3 SECTION 6. REPEAL.--Laws 2001, Chapter 293, Section 1 is  
4 repealed.

5 SECTION 7. EMERGENCY.--It is necessary for the public  
6 peace, health and safety that this act take effect immediately.