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SENATE BILL 215

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

John Arthur Smith

AN ACT

RELATING TO TRANSPORTATION; GRANTING THE DEPARTMENT OF  
TRANSPORTATION THE AUTHORITY TO SELL OR DISPOSE OF PROPERTY OR  
PROPERTY INTEREST; DISTRIBUTING THE PROCEEDS FROM THE SALE OF  
PROPERTY OR PROPERTY INTEREST TO THE STATE ROAD FUND; DECLARING  
AN EMERGENCY.

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

Section 1. A new Section 67-3-8.2 NMSA 1978 is enacted to  
read:

"67-3-8.2. NEW MATERIAL SECRETARY-- AUTHORITY TO SELL OR  
OTHERWISE DISPOSE OF PROPERTY OR PROPERTY INTEREST. --

A. In the event the department acquires by  
condemnation or other means property or a property interest,  
including water, mineral and oil and gas rights in excess of  
the dimensions or amount necessary for public use, as

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1 determined by the department if the determination occurs within  
2 five years of the date of the acquisition, the prior owner from  
3 whom the property or property interest was acquired or the  
4 prior owner's personal representative or heirs shall have the  
5 option to purchase the property or property interest determined  
6 to be in excess. The persons may purchase the property or  
7 property interest at a price equal to the price paid for the  
8 excess property or property interest by the department to the  
9 prior owner at the time of acquisition, plus interest at the  
10 rate of six percent per year, for the period beginning with the  
11 date the prior owner received final payment for the property or  
12 property interest taken and ending when the notice of intent to  
13 dispose is mailed, less the amount of any liens attached  
14 against the property or property interest while it was held by  
15 the department.

16 B. The notice of intent to dispose shall be mailed  
17 to the last known address of the prior owner by certified mail  
18 with a return receipt requested. The notice shall notify the  
19 prior owner of the prior owner's right to purchase, specify  
20 which portion of the property or property interest of the prior  
21 owner is available for purchase by the prior owner, the amount  
22 of money, both the principal and interest, required to  
23 repurchase it and the amount of any liens that may be deducted  
24 from the purchase price. If within thirty days after mailing  
25 the notice of intent to dispose, the prior owner or the prior

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1 owner's personal representative or heirs elect to exercise the  
2 option to purchase, the department shall enter into an  
3 agreement prepared and approved by the appropriate legal  
4 officer for the sale of the excess property or property  
5 interest to the prior owner or the prior owner's personal  
6 representative or heirs.

7 C. If the prior owner or the prior owner's personal  
8 representative or heirs have not elected to exercise the option  
9 within thirty days from the date of mailing the notice of  
10 intent to dispose, the department may sell the property or the  
11 property interest on the open market in a commercially  
12 reasonable manner. The proceeds from the sale of the property  
13 or property interest shall be deposited in the state road  
14 fund. "

15 Section 2. EMERGENCY.--It is necessary for the public  
16 peace, health and safety that this act take effect immediately.