

1 SENATE BILL 53

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

3 INTRODUCED BY

4 Stephen H. Fischmann

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10 AN ACT

11 RELATING TO STATE LANDS; PROVIDING FOR A PRIOR REVIEW BY THE
12 STATE AUDITOR OF CERTAIN LEASES FOR REAL ESTATE PLANNING OR
13 DEVELOPMENT PURPOSES; AMENDING AND ENACTING SECTIONS OF THE
14 NMSA 1978.

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

17 SECTION 1. Section 19-1-1 NMSA 1978 (being Laws 1912,
18 Chapter 82, Section 1, as amended) is amended to read:

19 "19-1-1. STATE LAND OFFICE CREATED--COMMISSIONER--
20 POWERS.--~~[Section 1.]~~ A "state land office" is ~~[hereby]~~
21 created, the executive officer of which shall be the
22 "commissioner of public lands", ~~[herein after called]~~ referred
23 to in Chapter 19 NMSA 1978 as the "commissioner", who shall
24 have jurisdiction over all lands owned ~~[in this chapter]~~ by the
25 state, except as may be otherwise specifically provided by law,

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1 and shall have the management, care, custody, control and
2 disposition [~~thereof~~] of such lands in accordance with the
3 provisions of [~~this~~] Chapter 19 NMSA 1978 and the [~~law or~~] laws
4 under which such lands have been or may be acquired."

5 SECTION 2. Section 19-7-9 NMSA 1978 (being Laws 1971,
6 Chapter 93, Section 1, as amended) is amended to read:

7 "19-7-9. SALE AND LEASE OF STATE LANDS--CONVEYANCE FOR
8 TERM OF YEARS--TERMS AND CONDITIONS.--Any state lands offered
9 for sale by the commissioner may be sold at the commissioner's
10 discretion for cash or upon payment of not less than one-tenth
11 of the purchase price in cash and payment of the balance in
12 amortized installments for any period up to thirty years with
13 interest on the principal balance at a rate to be set by the
14 commissioner in the notice of auction pertaining to the
15 particular sale in advance. Additional payments on the
16 principal may be made at any time, but such payments shall not
17 be effective for credit until the date the next installment is
18 due. The purchase contract shall be upon a form prescribed by
19 the commissioner prior to publication of the notice of auction
20 and shall contain the terms and conditions the commissioner may
21 deem to be in the best interest of the state and consistent
22 with law. Should a purchaser die before completing the
23 contract, the due date of the next installment payment shall,
24 upon written application, be deferred by the commissioner for
25 one year. In addition, the commissioner is authorized to

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1 convey for any period of time state lands under the
2 commissioner's jurisdiction having value for commercial
3 development or public use purposes, provided that:

4 A. all of the requirements for the disposition of
5 lands set forth in the constitution of New Mexico and the [~~New~~
6 ~~Mexico~~] Enabling Act for New Mexico are complied with,
7 including but not limited to those pertaining to appraisal at
8 true value, advertising and public auction;

9 B. the term and nature of the estate to be conveyed
10 is set forth in the public notice of auction pertaining to the
11 particular conveyance; and

12 C. if the conveyance is a business lease for real
13 estate planning or development purposes, then,
14 notwithstanding the term of the lease, it shall only be
15 issued after:

- 16 (1) notice and competitive bid; and
- 17 (2) compliance with Section 3 of this 2011
18 act."

19 SECTION 3. A new section of Chapter 19, Article 7 NMSA
20 1978 is enacted to read:

21 "[NEW MATERIAL] LEASES FOR REAL ESTATE PLANNING OR
22 DEVELOPMENT PURPOSES--PRIOR REVIEW BY STATE AUDITOR.--

23 A. Except as provided in Subsection E of this
24 section, no business lease for real estate planning or
25 development purposes being considered by the commissioner

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1 shall be effective unless it has been reviewed by the state
2 auditor or, if the state auditor does not have the
3 appropriate resources available to conduct a proper review,
4 by an independent real estate expert with specialized
5 knowledge of large-scale commercial real estate planning or
6 development transactions selected by the state auditor to
7 conduct the review.

8 B. Before entering into a lease, the commissioner
9 shall submit a copy of the proposed lease to the state
10 auditor and to each beneficiary of the lands to be included
11 in the lease. The state auditor or an independent expert
12 shall review the proposed lease and issue an opinion as to
13 whether the proposed lease:

14 (1) is in compliance with the applicable
15 statutes and the Enabling Act for New Mexico; and

16 (2) is in the best interest of the
17 beneficiaries of the lands to be included in the lease.

18 C. The state auditor shall deliver a copy of the
19 opinion to each beneficiary and the commissioner. The state
20 auditor shall post the opinion on the state auditor's web
21 site, and the commissioner shall post the opinion on the
22 state land office's web site.

23 D. The commissioner shall consider the opinion of
24 the state auditor or independent expert before entering into
25 the lease. If the commissioner enters into a proposed lease

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1 against the opinion of the state auditor or independent
2 expert, the commissioner shall notify, in writing and within
3 ten days of entering into the lease, the state auditor, the
4 attorney general, the governor and the legislature. The
5 commissioner shall post the notification on the state land
6 office's web site.

7 E. If the commissioner has not received an
8 opinion from the state auditor or independent expert within
9 thirty days of submitting a proposed lease pursuant to this
10 section, the commissioner may enter into the proposed lease.

11 F. The reasonable costs for the review of a
12 proposed lease shall be paid from the state lands maintenance
13 fund."

14 SECTION 4. APPLICABILITY.--The provisions of this act
15 apply to all business leases for real estate planning or
16 development purposes entered into by the commissioner of
17 public lands on or after July 1, 2011.