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SENATE BILL 509

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY
Stuart Ingle

AN ACT

RELATING TO THE FINANCING OF STATE FACILITIES; PROVIDING
ADDITIONAL DUTIES FOR THE CAPITOL BUILDINGS PLANNING COMMISSION
RELATING TO PLANNING FOR STATE FACILITIES AND THE APPROVAL OF
LEASE-PURCHASE AGREEMENTS ENTERED INTO BY THE STATE OR ITS
AGENCIES; MAKING AN APPROPRIATION.

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

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

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

A. The "capitol buildings planning commission" is
created. ~~[to study and plan for the long-range facilities
needs of state government in the greater metropolitan areas of
Las Cruces, Santa Fe and Albuquerque. The commission shall~~

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1 ~~review prior long-range facilities needs assessments and~~
2 ~~develop an initial master plan for the state facilities in the~~
3 ~~greater metropolitan areas of Las Cruces, Santa Fe and~~
4 ~~Albuquerque. After development of the initial master plan, the~~
5 ~~commission shall conduct a review of state properties~~
6 ~~throughout the state for the development of an overall master~~
7 ~~plan.~~ B.] The commission shall be composed of four members of
8 the legislature, two from each house, appointed by the New
9 Mexico legislative council, the secretary of general services,
10 the state treasurer, the secretary of transportation or the
11 secretary's designee, the secretary of cultural affairs or the
12 secretary's designee, the secretary of finance and
13 administration or the secretary's designee, the commissioner of
14 public lands or the commissioner's designee and the chair of
15 the supreme court building commission or the chair's designee.

16 B. The commission shall:

17 (1) study and plan for the long-range
18 facilities needs of state government in the greater
19 metropolitan areas of Las Cruces, Santa Fe and Albuquerque
20 and, after developing an initial master plan for the state
21 facilities in those areas, the commission shall conduct a
22 review of state properties throughout the state for the
23 development of an overall master plan;

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

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1 (3) after considering agency mission
2 requirements; the costs of ownership and operation; any
3 evaluations of the adequacy and condition of current state
4 facilities; and other factors, develop a long-term statewide
5 strategic facility management plan. The commission may adopt
6 guiding principles and coordinate with the general services
7 department, the New Mexico finance authority and other agencies
8 in obtaining data or analyses to support development of the
9 management plan;

10 (4) determine the amount of deferred
11 maintenance required on existing facilities to maintain their
12 usefulness;

13 (5) after utilizing life cycle costing,
14 recommend whether the state should lease, lease-purchase or
15 purchase needed additional facilities; and

16 (6) formulate disposal strategies for aging
17 facilities no longer able to serve their mission.

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

22 D. The commission shall meet regularly and shall
23 report annually to the legislature on an annual update of:

24 (1) the master plan for the long-range
25 facilities needs of state government in the greater

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1 metropolitan areas of Las Cruces, Santa Fe and Albuquerque
2 and throughout the state; and

3 (2) the long-term statewide strategic
4 facility management plan."

5 Section 2. A new Section 15-10-2 NMSA 1978 is enacted
6 to read:

7 "15-10-2. [NEW MATERIAL] CAPITOL BUILDINGS PLANNING
8 COMMISSION--APPROVAL OF LEASE-PURCHASE AGREEMENTS.--

9 A. Before entering into a lease-purchase
10 agreement in which the state or a state agency is the lessee,
11 the proposed lessee shall notify the commission. The
12 commission shall review a proposed lease-purchase agreement
13 if:

14 (1) the total lease revenues to be generated
15 during the term of the lease-purchase agreement, including
16 any possible extensions or renewals, exceed five million
17 dollars (\$5,000,000); or

18 (2) pursuant to criteria adopted by the
19 commission, the commission selects the lease-purchase
20 agreement for review.

21 B. No lease-purchase agreement reviewed pursuant
22 to Subsection A of this section shall be submitted to the
23 legislature for ratification and approval pursuant to Section
24 15-3-35 NMSA 1978 unless the commission determines that:

25 (1) the leasehold property and the term of

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1 the lease-purchase agreement are sufficient to meet the
2 identified needs of the state agency that will occupy the
3 leasehold property;

4 (2) the payment of all lease revenues due
5 pursuant to a lease-purchase agreement will be sufficient, at
6 the end of the term of the lease-purchase agreement, to
7 acquire ownership of the leasehold property;

8 (3) the lease-purchase agreement provides
9 that there is no legal obligation for the state or state
10 agency to continue the lease-purchase agreement from year to
11 year or to purchase the leasehold property, and that the
12 lease-purchase agreement shall be terminated if sufficient
13 appropriations are not available to meet the current lease
14 payments; and

15 (4) the lease-purchase agreement is the most
16 cost-effective alternative for acquiring the leasehold
17 property, taking into account currently available alternative
18 lease arrangements, lease-purchase agreements or other
19 financing arrangements permitted by law.

20 C. As used in this section:

21 (1) "commission" means the capitol buildings
22 planning commission;

23 (2) "facilities" means buildings and the
24 appurtenances and improvements associated therewith,
25 including the real estate upon which a building is

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1 constructed; suitable parking for use of the building;
2 utilities, access roads and other infrastructure; and related
3 real estate. "Facilities" can also mean undeveloped or
4 developed real estate that is transferred or leased with the
5 intent that a new building or improvement be constructed
6 thereon;

7 (3) "lease-purchase agreement" means a
8 financing agreement for the leasing of facilities by the
9 state or a state agency from a public or private entity with
10 an option to purchase the leasehold property for a price that
11 is reduced according to the payments made pursuant to the
12 financing agreement;

13 (4) "leasehold property" means facilities
14 that are subject to a lease-purchase agreement;

15 (5) "lease revenues" means the amounts
16 payable pursuant to a lease-purchase agreement; and

17 (6) "state agency" means any department,
18 branch, institution, board, officer, bureau, instrumentality,
19 commission, district or committee of government of the state
20 of New Mexico except:

- 21 (a) the state armory board;
22 (b) the commissioner of public lands;
23 (c) state institutions under the
24 jurisdiction of the higher education department;
25 (d) the economic development

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1 department when the department is acquiring property pursuant
2 to the Statewide Economic Development Finance Act;

3 (e) the public school facilities
4 authority when the authority is acquiring property pursuant
5 to the Public School Capital Outlay Act; and

6 (f) a state-chartered charter school."

7 Section 3. APPROPRIATION.--Two hundred fifty thousand
8 dollars (\$250,000) is appropriated from the general fund to
9 the legislative council service for expenditure in fiscal
10 year 2009 for the purpose of providing funding for the
11 capitol buildings planning commission to develop the long-
12 term statewide strategic facility management plan and related
13 duties pursuant to Sections 15-10-1 and 15-10-2 NMSA 1978.
14 Any unexpended or unencumbered balance remaining at the end
15 of fiscal year 2009 shall revert to the general fund.

16 Section 4. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2008.