

# CHAPTER 15

## Administration of Government

### ARTICLE 1

#### Information and Communications Management

(Repealed by Laws 1986, ch. 81, § 15 and Laws 1993, ch. 197, § 9.)

#### 15-1-1 to 15-1-13. Repealed.

#### ANNOTATIONS

**Repeals.** — Pursuant to former 15-1-13 NMSA 1978, the Information and Communication Management Act, consisting of 15-1-1 to 15-1-8 and 15-1-10 to 15-1-13 NMSA 1978, as enacted by Laws 1986, ch. 81, § 2, and Laws 1993, ch. 197, §§ 3 to 9, and as amended by Laws 1989, ch. 191, § 1 and Laws 1993, ch. 197, §§ 1, 2, 12, 13, is repealed effective July 1, 1996. For provisions of the former sections, see 1994 Replacement Pamphlet. For present comparable provisions, see Chapter 15, Article 1C NMSA 1978.

Laws 1994, ch. 66, § 1, compiled as 15-1-7.2 NMSA 1978, relating to DWI process and data standards research and planning, was deleted in 1999 as the section was temporary and had become obsolete.

Laws 1986, ch. 81, § 15 repeals former 15-1-1 to 15-1-10 NMSA 1978, as enacted by Laws 1984, ch. 64, §§ 4 to 13, the Information Systems Act, effective May 21, 1986. For provisions of former section, see 1985 Supplement.

**Recompilations.** — Laws 1995, ch. 110, § 8 recompiled former 15-1-9 NMSA 1978, relating to public records, as 14-3-15.1 NMSA 1978, effective July 1, 1995.

### ARTICLE 1A

#### Automated Data Processing

(Repealed by Laws 1984, ch. 64, § 26A.)

#### 15-1A-1 to 15-1A-17. Repealed.

#### ANNOTATIONS

**Repeals.** — Laws 1984, ch. 64, § 26A, amends Laws 1981, ch. 241, § 12, to repeal 15-1A-1 through 15-1A-17 NMSA 1978.

## **ARTICLE 1B**

### **Information and Communication Management**

(Repealed by Laws 1996, ch. 44, § 1.)

#### **15-1B-1 to 15-1B-9. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 1996, ch. 44, § 9, repeals 15-1B-1 to 15-1B-9 NMSA 1978, as enacted by Laws 1996, ch. 44, §§ 1 to 8, 11 NMSA 1978, relating to the Information and Communication Management Act, effective July 1, 1998. For present provisions, see 15-1C-1 NMSA 1978.

## **ARTICLE 1C**

### **Information Technology Management**

#### **15-1C-1. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 2007, ch. 290, § 27 repeals 15-1C-1 NMSA 1978, being Laws 1999, ch. 16, § 1, as amended, the Information Technology Management Act, effective July 1, 2007. For provisions of former section, see the 2006 NMSA 1978 on New Mexico One Source of Law. For current law, see 9-27-1 NMSA 1978.

#### **15-1C-2. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 2007, ch. 290, § 27 repeals 15-1C-2 NMSA 1978, being Laws 1999, ch. 16, § 2, as amended, relating to the Information Technology Management Act, effective July 1, 2007. For provisions of former section, see the 2006 NMSA 1978 on New Mexico One Source of Law. For current law, see 9-27-1 NMSA 1978.

#### **15-1C-3. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 2007, ch. 290, § 27 repeals 15-1C-3 NMSA 1978, being Laws 1999, ch. 16, § 3, as amended, relating to the Information Technology Management Act, effective July 1, 2007. For provisions of former section, see the 2006 NMSA 1978 on New Mexico One Source of Law. For current law, see 9-27-1 NMSA 1978.

## **15-1C-4. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 2007, ch. 290, § 27 repeals 15-1C-4 NMSA 1978, being Laws 1999, ch. 16, § 4, as amended, relating to the Information Technology Management Act, effective July 1, 2007. For provisions of former section, see the 2006 NMSA 1978 on New Mexico One Source of Law. For current law, see 9-27-1 NMSA 1978.

**Compiler's notes.** — Laws 2007, ch. 289, § 1 amended this section and Laws 2007, ch. 290, § 27 repealed this section. Laws 2007, ch. 289, § 1, effective June 15, 2007, changed the number of members to 17 and added Paragraphs (6) and (7) of Subsection A. Because Laws 2007, ch. 290 was signed after Laws 2007, ch. 289, this section is repealed by Laws 2007, ch. 290, § 27. See 12-1-8 NMSA 1978.

## **15-1C-5. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 2007, ch. 290, § 27 repeals 15-1C-5 NMSA 1978, being Laws 1999, ch. 16, § 5, as amended, relating to the Information Technology Management Act, effective July 1, 2007. For provisions of former section, see the 2006 NMSA 1978 on New Mexico One Source of Law. For current law, see 9-27-1 NMSA 1978.

## **15-1C-6. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 2007, ch. 290, § 27 repeals 15-1C-6 NMSA 1978, being Laws 1999, ch. 16, § 6, as amended, relating to the Information Technology Management Act, effective July 1, 2007. For provisions of former section, see the 2006 NMSA 1978 on New Mexico One Source of Law. For current law, see 9-27-1 NMSA 1978.

## **15-1C-7. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 2007, ch. 290, § 27 repeals 15-1C-7 NMSA 1978, being Laws 1999, ch. 16, § 7, as amended, relating to the Information Technology Management Act, effective July 1, 2007. For provisions of former section, see the 2006 NMSA 1978 on New Mexico One Source of Law.

## **15-1C-8. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 2007, ch. 290, § 27 repeals 15-1C-8 NMSA 1978, being Laws 1999, ch. 16, § 8, as amended, relating to the Information Technology Management Act, effective July 1, 2007. For provisions of former section, see the 2006 NMSA 1978 on New Mexico One Source of Law. For current law, see 9-27-1 NMSA 1978.

### **15-1C-9. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 2007, ch. 290, § 27 repeals 15-1C-9 NMSA 1978, being Laws 1999, ch. 16, § 9, as amended, relating to the Information Technology Management Act, effective July 1, 2007. For provisions of former section, see the 2006 NMSA 1978 on New Mexico One Source of Law. For current law, see 9-27-1 NMSA 1978.

### **15-1C-10. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 2007, ch. 290, § 27 repeals 15-1C-10 NMSA 1978, being Laws 1999, ch. 16, § 10, relating to the Information Technology Management Act, effective July 1, 2007. For provisions of former section, see the 2006 NMSA 1978 on New Mexico One Source of Law. For current law, see 9-27-1 NMSA 1978.

### **15-1C-11. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 2007, ch. 290, § 27 repeals 15-1C-11 NMSA 1978, being Laws 1999, ch. 16, § 11, as amended, relating to the Information Technology Management Act, effective July 1, 2007. For provisions of former section, see the 2006 NMSA 1978 on New Mexico One Source of Law. For current law, see 9-27-1 NMSA 1978.

### **15-1C-12. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 2007, ch. 290, § 27 repeals 15-1C-12 NMSA 1978, being Laws 2003, ch. 49, § 9 and Laws 2003, ch. 308, § 9, relating to the Information Technology Management Act, effective July 1, 2007. For provisions of former section, see the 2006 NMSA 1978 on New Mexico One Source of Law. For current law, see 9-27-1 NMSA 1978.

## **ARTICLE 2**

### **Communications Division**

## **15-2-1. Recompiled.**

### **ANNOTATIONS**

**Recompilations.** — Laws 2009, ch. 146, § 10 recompiled 15-2-1 NMSA 1978, relating to telecommunications services, as 9-27-13 NMSA 1978, effective June 19, 2009.

## **15-2-2. Recompiled.**

### **ANNOTATIONS**

**Recompilations.** — Laws 2009, ch. 146, § 10 recompiled 15-2-2 NMSA 1978, relating to radio communications, as 9-27-14 NMSA 1978, effective June 19, 2009.

## **15-2-2.1. Recompiled.**

### **ANNOTATIONS**

**Recompilations.** — Laws 2009, ch. 146, § 10 recompiled 15-2-2.1 NMSA 1978, relating to lease of radio communications network, as 9-27-15 NMSA 1978, effective June 19, 2009.

## **15-2-3. Recompiled.**

### **ANNOTATIONS**

**Recompilations.** — Laws 2009, ch. 146, § 10 recompiled 15-2-3 NMSA 1978, relating to services charges, as 9-27-16 NMSA 1978, effective June 19, 2009.

## **15-2-4. Recompiled.**

### **ANNOTATIONS**

**Recompilations.** — Laws 2009, ch. 146, § 10 recompiled 15-2-4 NMSA 1978, relating to exclusion from jurisdiction, as 9-27-17 NMSA 1978, effective June 19, 2009.

## **15-2-5. Recompiled.**

### **ANNOTATIONS**

**Recompilations.** — Laws 2009, ch. 146, § 10 recompiled 15-2-5 NMSA 1978, relating to property transfer, as 9-27-18 NMSA 1978, effective June 19, 2009.

## **15-2-6, 15-2-7. Repealed.**

## ANNOTATIONS

**Repeals.** — Laws 1986, ch. 81, § 15 repealed former 15-2-6 and 15-2-7 NMSA 1978 as amended by Laws 1978, ch. 124, § 8 and Laws 1980, ch. 151, § 14 relating to radio equipment amortization, effective May 21, 1986. For provisions of former sections see 1983 Replacement Pamphlet.

### 15-2-8. Recompiled.

## ANNOTATIONS

**Recompilations.** — Laws 2009, ch. 146, § 10 recompiled 15-2-8 NMSA 1978, relating to transfer of property, custody and control, as 9-27-19 NMSA 1978, effective June 19, 2009.

## ARTICLE 3

### Miscellaneous State Buildings Provisions

### 15-3-1. Recompiled.

## ANNOTATIONS

**Recompilations.** — Laws 2001, ch. 319, § 3 recompiled 15-3-1 NMSA 1978, relating to the creation of the property control division, as 15-3B-3 NMSA 1978, effective July 1, 2001.

### 15-3-2. Recompiled.

## ANNOTATIONS

**Recompilations.** — Laws 2001, ch. 319, § 4 recompiled 15-3-2 NMSA 1978, relating to the duties of the division and federal funds, as 15-3B-4 NMSA 1978, effective July 1, 2001.

**Compiler's notes.** — Laws 2001, ch. 293, § 1 would have amended 15-3-2 NMSA 1978; however, a later act, Laws 2001, ch. 319, § 4 amended and recompiled the section as 15-3B-4 NMSA 1978. See 12-1-8 NMSA 1978. Also see notes following 15-3B-4 NMSA 1978 for text of Laws 2001, ch. 293, § 1.

### 15-3-3. Repealed.

## ANNOTATIONS

**Repeals.** — Laws 1983, ch. 301, § 84, repeals 15-3-3 NMSA 1978, relating to construction of references to the capitol custodian, effective July 1, 1983.

#### **15-3-4. Purpose of act.**

It is the purpose of this act [15-3-4, 15-3-5 NMSA 1978] to set aside a permanent area and integrated site for future use.

**History:** 1953 Comp., § 6-1-19, enacted by Laws 1957, ch. 92, § 1.

#### **15-3-5. Penitentiary property transferred.**

The remaining property on Cordova road held in the name of the New Mexico state penitentiary including the former site of the New Mexico state penitentiary is hereby transferred to the property control division of the general services department. The land will be held in the name of the state of New Mexico.

**History:** 1953 Comp., § 6-1-20, enacted by Laws 1957, ch. 92, § 2; 1977, ch. 247, § 59; 1983, ch. 301, § 46.

#### **15-3-6. Lease of former penitentiary land.**

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

**History:** 1953 Comp., § 6-1-22, enacted by Laws 1959, ch. 174, § 2; 1977, ch. 247, § 60; 1983, ch. 301, § 47.

##### **15-3-6.1. State penitentiary; lease for motion pictures.**

The corrections department, the property control division of the general services department and the New Mexico film division of the economic development department shall enter into a joint powers agreement to make the old state penitentiary at Santa Fe available for use by the motion picture industry. The property and structures that fall within the existing security perimeter fence at the old state penitentiary at Santa Fe and any building not used by the corrections department that is within three hundred yards of the outside of the security perimeter fence of the old state penitentiary at Santa Fe shall be made available for lease at reasonable market rates to the motion picture industry for economic development.

**History:** Laws 2001, ch. 195, § 1.

### **ANNOTATIONS**

**Cross references.** — For the Joint Powers Agreements Act, see 11-1-1 NMSA 1978.

**Effective dates.** — Laws 2001, ch. 195 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective June 15, 2001, 90 days after adjournment of the legislature.

### **15-3-7 to 15-3-10. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 2001, ch. 319, § 23 repeals 15-3-7, 15-3-8, 15-3-9 and 15-3-10 (being Laws 1975, ch. 10, §§ 1 and 2 and Laws 1968, ch. 43, §§ 3 and 4, as amended) regarding prohibition of buildings not meeting standards for the handicapped and purchase and acquisition of land, effective July 1, 2001. For provisions of former sections, see 1999 Replacement Pamphlet.

### **15-3-11 to 15-3-12. Recompiled.**

### **ANNOTATIONS**

**Recompilations.** — Laws 2001, ch. 319, § 6 recompiled 15-3-11 NMSA 1978, relating to building, remodeling and leasing, as 15-3B-6 NMSA 1978, effective July 1, 2001.

Laws 2001, ch. 319, § 18 recompiled 15-3-11.1 NMSA 1978, relating to the public buildings repair fund, as 15-3B-18 NMSA 1978, effective July 1, 2001.

Laws 2001, ch. 319, § 19 recompiled 15-3-11.2 NMSA 1978, relating to building use fees, as 15-3B-19 NMSA 1978, effective July 1, 2001.

Laws 2001, ch. 319, § 12 recompiled 15-3-12 NMSA 1978, relating to feasibility studies of energy sources, as 15-3B-12 NMSA 1978, effective July 1, 2001.

### **15-3-12.1. Water conservation devices; state government building.**

The construction of new state government buildings shall provide for water conservation devices, including flow-limiting faucets in lavatories and other water dispensing facilities.

**History:** Laws 1995, ch. 73, § 1.

### **15-3-13. Recompiled.**



## ANNOTATIONS

**Recompilations.** — Laws 2001, ch. 319, § 5 recompiled 15-3-13 NMSA 1978, relating to duties of the staff architect, as 15-3B-5 NMSA 1978, effective July 1, 2001.

### **15-3-13.1 to 15-3-13.7. Repealed.**

## ANNOTATIONS

**Repeals.** — Laws 1984, ch. 65, § 175, effective November 1, 1984, repeals 15-3-13.1 through 15-3-13.7 NMSA 1978, as enacted by Laws 1983, ch. 12, §§ 1 through 7, relating to architect and engineering selection on state capital projects. For provisions of former sections, see 1983 Replacement Pamphlet. For present comparable provisions, see 13-1-119 through 13-1-124 NMSA 1978.

### **15-3-13.8. Repealed.**

## ANNOTATIONS

**Repeals.** — Laws 2001, ch. 319, § 23 repeals 15-3-13.8 NMSA 1978, as enacted by Laws 1984, ch. 64 § 19, regarding the architect rate schedule, effective July 1, 2001. For provisions of the former section, see 1999 Replacement Pamphlet.

### **15-3-14, 15-3-15. Recompiled.**

## ANNOTATIONS

**Recompilations.** — Laws 2001, ch. 319, §§ 7 and 14 recompiled 15-3-14 and 15-3-15 NMSA 1978, as 15-3B-7 and 15-3B-14 NMSA 1978, respectively, effective July 1, 2001.

### **15-3-16. Repealed.**

## ANNOTATIONS

**Repeals.** — Laws 2001, ch. 319, § 23 repeals 15-3-16 NMSA 1978, as enacted by Laws 1968, ch. 43 § 10, regarding negotiating grants and loans, effective July 1, 2001. For provisions of the former section, see 1999 Replacement Pamphlet.

### **15-3-17. [Park system near capitol grounds.]**

The regulation and control of the flow of water in the Santa Fe river, the prevention of pollution thereof, the preservation of the trees and other growth along the shores of said stream, from the Denver & Rio Grande railroad bridge to the Canon Road bridge on Palace avenue, within the city of Santa Fe, and a comprehensive and systematic development of such portion of said river and its banks as a park system, are hereby

declared to be proper objects of state encouragement and support, as tending to improve the capital city of the state and the capitol buildings and grounds.

**History:** Laws 1929, ch. 15, § 1; C.S. 1929, § 134-1206; 1941 Comp., § 6-213; 1953 Comp., § 6-1-18.

### **15-3-18. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 1978, ch. 209, § 3, repeals 6-2-24.1, 1953 Comp. (15-3-18 NMSA 1978), relating to the creation of the state capitol improvement fund, and provides that any balances remaining in the state capitol improvement fund are to be transferred to the long-term lease guarantee fund. For provisions relating to the long-term lease guarantee fund, see 15-3-11 and 15-3-14 NMSA 1978.

### **15-3-19. Recompiled.**

#### **ANNOTATIONS**

**Recompilations.** — Laws 2001, ch. 319, § 13 recompiled 15-3-19 NMSA 1978, relating to parking facilities, as 15-3B-13 NMSA 1978, effective July 1, 2001.

### **15-3-20, 15-3-21. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 2001, ch. 319, § 23 repeals 15-3-20 and 15-3-21 NMSA 1978 (being Laws 1977, ch. 360, § 2 and Laws 1972, ch. 74, § 2) regarding approval by staff architect and containing a short title, effective July 1, 2001. For provisions of former sections, see 1999 Replacement Pamphlet.

### **15-3-22, 15-3-23. Recompiled.**

#### **ANNOTATIONS**

**Recompilations.** — Laws 2001, ch 319, §§ 2 and 16 recompiled 15-3-22 and 15-3-23 NMSA 1978, as 15-3B-2 and 15-3B-16 NMSA 1978, effective July 1, 2001.

### **15-3-23.1. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 2001, ch. 319, § 23 repeals 15-3-23.1 NMSA 1978, as enacted by Laws 1980, ch. 11 § 1, regarding the capital outlay project reserve fund, effective July 1, 2001. For provisions of the former section, see 1999 Replacement Pamphlet.

### **15-3-23.2. Recompiled.**

#### **ANNOTATIONS**

**Recompilations.** — Laws 2001, ch. 319, § 11 recompiled 15-3-23.2 NMSA 1978, relating to a contingency limitation, as 15-3B-11 NMSA 1978, effective July 1, 2001.

### **15-3-23.3. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 2001, ch. 319, § 23 repeals 15-3-23.3 NMSA 1978, as enacted by Laws 1980, ch. 10, § 1, regarding a fee schedule for state police facilities, effective July 1, 2001. For provisions of the former section, see 1999 Replacement Pamphlet.

### **15-3-24. Recompiled.**

#### **ANNOTATIONS**

**Recompilations.** — Laws 2001, ch. 319, § 17 recompiled 15-3-24 NMSA 1978, relating to the capitol buildings repair fund, as 15-3B-17 NMSA 1978, effective July 1, 2001.

### **15-3-24.1. Capital projects fund; created.**

A. There is created in the state treasury the "capital projects fund" from which appropriations for specific projects and programs shall be made. The state treasurer shall deposit in this fund all amounts specifically appropriated to this fund and all governmental grants designated to or authorized for deposit in this fund.

B. Fifty-six million nine hundred forty-two thousand three hundred seventy-one dollars (\$56,942,371) is appropriated from the general fund to the capital projects fund created in Subsection A of this section for expenditure in the seventy-seventh through eightieth fiscal years. In the event that general fund revenues and balances, including all other transfers to the general fund authorized by law, are insufficient to meet the level of this appropriation, an amount not to exceed this amount is authorized by the legislature to be expended from the general fund operating reserve pursuant to Section 6-4-2.1 NMSA 1978.

**History:** Laws 1989, ch. 315, § 1.

#### **ANNOTATIONS**

**Appropriations.** — Laws 2002, ch. 110, § 39, effective March 6, 2002, appropriates \$72,441,684 from the general fund to the capital projects fund for expenditure in fiscal years 2002 through 2007, with the reversion of any unexpended or unencumbered balance at the end of fiscal year 2007 to the capital projects fund.

Laws 2004, ch. 126, § 19, effective March 10, 2004, authorizes the issuance of \$127,530,943 severance bonds for capital projects fund projects. See Laws 2004, ch. 126, §§ 20 to 37, 38 to 41, 43, 44, 123 to 139 and 190 for appropriations from the capital projects fund for various projects.

Laws 2005, ch. 347, § 22, effective April 8, 2005, appropriates various amounts to the capital program fund. Laws 2005, ch. 347, § 54 appropriates funds from the general fund to the capital program fund.

Laws 2005, ch. 347, § 64, effective April 8, 2005, appropriates \$17,000,000 in severance tax bond proceeds to the capital program fund for a state scientific laboratory in Bernalillo county.

Laws 2005, ch. 347, §§ 130, 191 and 283, effective April 8, 2005, change the purpose and reauthorize severance tax bond proceeds and general fund appropriations to the capital program fund.

Laws 2007, ch. 2, § 4, effective March 1, 2007, appropriates various amounts from the general fund to the capital program fund for expenditure in fiscal years 2007 through 2011.

Laws 2007, ch. 42, §§ 6, 38 and 208, effective March 15, 2007, appropriate revenues to the capital program fund.

Laws 2009, ch. 128, §§ 1 through 556, effective April 7, 2009, reauthorized and reappropriated balances, expanded or changed purposes, extended expenditure periods, changed agencies and established conditions for the reversion of unexpended cash balances of capital outlay projects approved by the legislature in prior years and funded by the severance tax bonding fund, general fund and capital projects fund.

### **15-3-24.2. Recompiled.**

#### **ANNOTATIONS**

**Recompilations.** — Laws 2001, ch. 319, § 20 recompiled 15-3-24.2 NMSA 1978, relating to the property control reserve fund, as 15-3B-20 NMSA 1978, effective July 1, 2001.

### **15-3-25 to 15-3-30. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 1994, ch. 119, § 15 repeals 15-3-25 to 15-3-30 NMSA 1978, as enacted by Laws 1925, ch. 98, §§ 1-3, Laws 1933, ch. 100, § 3 and Laws 1968, ch. 43, § 11, and amended by Laws 1977, ch. 247, § 76 and Laws 1983, ch. 301, § 54, concerning the state motor pool, purchase or lease of motor vehicles with state funds, excepted vehicles, identification marks on state-owned vehicles, the governor's contingent fund and penalties for use of state vehicles for pleasure, effective May 18, 1994. For former sections, see 1991 Replacement Pamphlet. For present comparable provisions, see 15-8-1 to 15-8-11 and 66-3-28 NMSA 1978.

### **15-3-31 to 15-3-33. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 2001, ch. 319, § 23 repeals 15-3-31, 15-3-32 and 15-3-33 NMSA 1978 (being Laws 1968, ch. 43, § 12, Laws 1971, ch. 285, § 1 and Laws 1980, ch. 10, § 1) regarding the aircraft control center, a short title and a fee schedule, effective July 1, 2001. For provisions of former sections, see 1999 Replacement Pamphlet.

### **15-3-34. Public buildings; flag display.**

The prisoner of war and missing in action flag shall be displayed on legal public holidays in New Mexico at all public buildings with flagpoles owned by the state in accordance with rules adopted by the veterans' services department.

History: Laws 1991, ch. 39, § 1; 2001, ch. 319, § 21; 2004, ch. 19, § 23.

#### **ANNOTATIONS**

**The 2004 amendment**, effective May 19, 2004, amended this section to change "veterans' service commission" to "veterans' services department".

**The 2001 amendment**, effective July 1, 2001, substituted "New Mexico veterans' service commission" for "general service department" and made a stylistic change.

### **15-3-35. Lease-purchase agreements; approval of legislature.**

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

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

(2) if the state agency is subject to the jurisdiction of the property control division of the general services department pursuant to the Property Control Act [15-3B-

1 NMSA 1978], the agreement shall provide that, if the real property is purchased, title to the real property shall be issued in the name of the property control division.

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

C. As used in this section, "state agency" means the state or any of its branches, agencies, departments, boards, instrumentalities or institutions, but "state agency" does not include state educational institutions or state-chartered charter schools.

History: Laws 2007, ch. 184, § 1.

## ANNOTATIONS

**Cross references.** — See N.M. Const., Art IX, § 8 for lease purchase agreements.

**Effective dates.** — Laws 2007, ch. 184 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective June 15, 2007, 90 days after the adjournment of the legislature.

### **15-3-36. Energy efficiency standards for public buildings.**

A. As used in this section:

(1) "department" means the energy, minerals and natural resources department;

(2) "new building" means a building to be constructed that is designed with a square footage of three thousand or more square feet;

(3) "selected building addition" means an addition to a building that increases the square footage of the building by three thousand or more square feet; and

(4) "selected building renovation" means a renovation of a building that includes upgrade or replacement of at least two of the following:

(a) heating, ventilation and air conditioning systems;

(b) electrical systems, including lighting systems; and

(c) the components that separate the interior and the exterior environments of a building and serve to protect the indoor environment and facilitate climate control.

B. Except as provided in Subsection C of this section, a new building, selected building addition or selected building renovation that is financed to any extent with

legislative appropriations of state general fund revenues, severance tax bond proceeds, supplemental severance tax bond proceeds or state general obligation bond proceeds shall be designed and constructed to attain the energy star qualification of the United States environmental protection agency, or an alternative, equivalent standard specified by rule of the department.

C. The requirements of this section do not apply to:

(1) a new building, a selected building addition or a selected building renovation for which the initial legislative appropriation is made prior to January 1, 2011;

(2) a new building, a selected building addition or a selected building renovation for which, in the department's opinion, substantial design expenditures have been made prior to July 1, 2010;

(3) a selected building addition to an existing building or a selected building renovation to an existing building if the existing building is listed in the state register of cultural properties of the national register of historic places; or

(4) a new building, selected building addition or selected building renovation if the department determines that the costs of compliance with the requirements of this section would exceed the estimated life-cycle savings of the building, addition or renovation.

History: Laws 2010, ch. 73, § 1.

## ANNOTATIONS

**Cross references.** — For the energy, minerals and natural resources department, see 9-5A-3 NMSA 1978.

**Effective dates.** — Laws 2010, ch. 73 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective May 19, 2010, 90 days after the adjournment of the legislature.

## ARTICLE 3A

### Governor's Residence Advisory Commission

#### 15-3A-1. Governor's residence advisory commission; created.

A. There is created the "governor's residence advisory commission" which shall be administratively attached to the general services department.

B. The commission shall consist of five members selected as follows:

- (1) the governor or his designee;
- (2) the secretary of general services or his designee; and
- (3) three members appointed by the governor from a list of names submitted by the governor's mansion foundation, a nonprofit, charitable corporation of this state. The chairman of the commission shall be elected annually from among the commission membership.

C. Appointed members shall serve for terms of four years each and vacancies in any appointed member's seat shall be filled for the remainder of the unexpired term in the same manner as the original appointment was made.

D. Appointed members shall receive no compensation but shall be paid per diem and mileage as provided for nonsalaried officers in the Per Diem and Mileage Act [10-8-1 NMSA 1978].

**History:** Laws 1989, ch. 363, § 1.

### **15-3A-2. Duties and powers.**

A. The governor's residence advisory commission shall:

- (1) plan, assemble, dispose and acquire furnishings, art, landscaping materials and plants and other decorations for the public areas of the official residence of the governor;
- (2) monitor and report on the status of maintenance of the governor's residence and recommend to the general services department and to the legislature actions necessary to repair, maintain and renovate the residence;
- (3) conduct a detailed inventory at the beginning of each governor's term and annually prepare and submit to the legislature, the governor and the general services department a written inventory of and a statement on the condition of these public furnishings, art decorations and other items of the residence, as well as a written statement on the condition of the residence as a whole; and
- (4) develop statewide interest in the residence and effect such measures as will enhance the governor's ability to provide appropriate hospitality to the visitors of the residence.

B. The commission may:

- (1) utilize the assistance of individuals, the general services department, other state agencies and nonprofit charitable corporations in carrying out its duties;



(2) accept on behalf of the state from any private or other public sources, money, gifts, donations and bequests for use by the commission in carrying out its duties; and

(3) enter into public promotions of its endeavors and publish such materials as it deems appropriate to promote the purposes of the commission.

**History:** Laws 1989, ch. 363, § 2.

### **15-3A-3. Trust fund created.**

There is created in the state treasury a permanent trust fund which shall be known as the "governor's residence preservation fund". The fund shall consist of all gifts, donations and bequests of money to the governor's residence advisory commission as well as any appropriations made to the commission. Earnings from the investment of the fund shall be credited to the fund. Expenditure of the fund shall be only for the purposes for which the commission was created and shall be paid to the commission upon vouchers signed by the chairman of the commission and warrants issued by the secretary of finance and administration.

**History:** Laws 1989, ch. 363, § 3.

## **ARTICLE 3B Property Control**

### **15-3B-1. Short title.**

Chapter 15, Article 3B NMSA 1978 may be cited as the "Property Control Act".

**History:** 1978 Comp., § 15-3B-1, enacted by Laws 2001, ch. 319, § 1.

### **ANNOTATIONS**

**Effective dates.** — Laws 2001, ch. 319 § 24 makes the act effective July 1, 2001.

### **15-3B-2. Definitions.**

As used in the Property Control Act:

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

B. "department" means the general services department;

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

D. "division" means the property control division of the department;

E. "jurisdiction" means all state buildings and land except those under the control and management of the state armory board, the border authority, the cultural affairs department, the state fair commission, the department of game and fish, the department of transportation, the commissioner of public lands, the state parks division of the energy, minerals and natural resources department, the state institutions of higher learning, regional education cooperatives, the New Mexico school for the deaf, the New Mexico school for the blind and visually impaired, the judicial branch, the legislative branch, property acquired by the economic development department pursuant to the Statewide Economic Development Finance Act [6-25-1 NMSA 1978] and property acquired by the public school facilities authority pursuant to the Public School Capital Outlay Act [22-24-1 NMSA 1978]; and

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

History: 1953 Comp., § 6-2-43, enacted by Laws 1972, ch. 74, § 2; 1978 Comp., § 15-3-22, recompiled and amended as 1978 Comp., § 15-3B-2 by Laws 2001, ch. 319, § 2; 2003, ch. 349, § 24; 2004, ch. 125, § 4; 2009, ch. 45, § 1.

## ANNOTATIONS

**The 2009 amendment**, effective June 19, 2009, in Subsection E, exempted the border authority and regional education cooperatives.

**The 2004 amendment**, effective May 19, 2004, amended Subsection E to change the name of the state highway and transportation department to the department of transportation and added at the end of the subsection "property acquired by the public school facilities authority pursuant to the Public School Capital Outlay Act; and".

**The 2003 amendment**, effective June 20, 2003, in Subsection E, added "and property acquired by the economic development department pursuant to the Statewide Economic Development Finance Act" at the end.

**The 2001 amendment**, effective July, 1 2001, recompiled former 15-3-22 NMSA 1978 as this section; substituted "Property Control" for "Capital Program" in the preliminary language; in Subsection A, deleted "but not limited to" following "building", deleted "but excluding projects or programs for the construction, improvement or maintenance of highways and bridges under the supervision of the state highway commission" following "and equipment"; and added Subsections B, C, D, E and F.

**15-3B-3. Property control division; creation; director.**

The "property control division" is created within the department. The director shall be appointed by the secretary with the governor's consent.

**History:** 1953 Comp., § 6-2-25, enacted by Laws 1968, ch. 43, § 1; 1977, ch. 247, § 68; 1983, ch. 301, § 45; 1978 Comp., § 15-3-1, recompiled and amended as 1978 Comp., § 15-3B-3 by Laws 2001, ch. 319, § 3.

## ANNOTATIONS

**The 2001 amendment**, effective July, 1, 2001, recompiled former 15-3-1 NMSA 1978, as this section; deleted "general services" preceding "department", deleted "of the division" following "director" and deleted "of general services" following "secretary".

**Title of act.** — The title of Laws 1968, ch. 43, did not violate N.M. Const., art. IV, § 16. 1967-68 Op. Att'y Gen. No. 68-64.

**Binding on judiciary.** — The provisions of Laws 1968, ch. 43 (compiled as 15-3-1 (now 15-3B-3 NMSA 1978), 15-3-9 (repealed) to 15-3-11 (now 15-3B-6 NMSA 1978), 15-3-14 (now 15-3B-7 NMSA 1978) to 15-3-16 (repealed), and 15-3-31 (repealed) NMSA 1978) and the rules promulgated thereunder, are binding on the judicial branch unless the supreme court determines that such compliance would unreasonably impede or impair the functions of the judiciary. 1967-68 Op. Att'y Gen. No. 68-64.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 81A C.J.S. States § 141.

### **15-3B-4. Division; duties; federal funds.**

A. The division shall:

(1) assign the use or occupancy of state buildings and lands under its jurisdiction to the state agency or political subdivision that may make the best and highest beneficial use of the property;

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

(3) establish space standards for buildings under its jurisdiction;

(4) have custody of all maps, deeds, plats, plans, specifications, contracts, books and other papers connected with state buildings under its jurisdiction;

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

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

(7) make rules for the conduct of all persons in and about buildings and grounds under its jurisdiction necessary and proper for the safety, care and preservation of the buildings and grounds and for the safety and convenience of the persons while they are in and about the buildings and grounds;

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

(9) have the power to purchase title insurance or a title opinion in conjunction with the sale of state buildings or land;

(10) have the power to enter into contracts for the improvement, alteration and reconstruction of the state buildings under its jurisdiction, including the governor's residence, and for the design and construction of additional buildings, to the extent funds are available;

(11) develop long-range programs for the continuing preservation and repair of buildings and improvements and for beautification of grounds and premises under its jurisdiction;

(12) conduct continuing review and analysis of requirements for additional structures and facilities to house state agencies;

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

(14) receive gifts, grants and donations from the federal government or other sources for the public buildings repair fund.

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

C. The division and a state agency or institution that controls property exempt from the jurisdiction of the division may enter into a joint powers agreement pursuant to the Joint Powers Agreements Act [11-1-1 NMSA 1978] giving the division the power to exercise control of the property as specified in the agreement.

**History:** 1953 Comp., § 6-2-26, enacted by Laws 1968, ch. 43, § 2; 1971, ch. 285, § 2; 1973, ch. 209, § 1; 1977, ch. 247, § 69; 1977, ch. 385, § 14; repealed and new by Laws

1978, ch. 166, § 14; 1980, ch. 151, § 16; 1978 Comp., § 15-3-2, recompiled and amended as 1978 Comp., § 15-3B-4 by Laws 2001, ch. 319, § 4.

## ANNOTATIONS

**Cross references.** — For transfer of control of state library building to legislative council, see 2-3-6 NMSA 1978.

For service of director on architect, engineering, and land surveyor selection committee, see 13-1-121 NMSA 1978.

**Laws 2009, ch. 114, § 6**, effective April 6, 2009, amended Laws 2007, ch. 64, § 6 to extend the period for expenditure of funds from the end of fiscal year 2009 to the end of fiscal year 2011 and to extend the time for reversion of unexpended or unencumbered balances from the end of fiscal year 2009 to the end of fiscal year 2011; and to delete former Subsection B, which appropriated one million dollars from the general fund to the property control division for expenditure in fiscal years 2007 through 2009 for a New Mexico state police crime laboratory.

**Appropriations.** — Laws 2007, ch. 64, § 6, effective March 29, 2007, appropriates \$1,000,000 from the general fund to the property control division for planning and design of a New Mexico state police crime laboratory.

**2001 amendments.** — Laws 2001, ch. 319, § 4, effective July 1, 2001, recompile former 15-3-2 NMSA 1978 as this section; substituting "The division shall" for "The director of the property control division shall" in the introductory language of Subsection A; deleting the former first sentence regarding the exceptions to the control of the director in Paragraph A(1), substituting "its jurisdiction" for "his control" in Paragraphs A(1), (2), (5), (8), and (10); inserting Paragraph A(3) and redesignating the remaining paragraphs accordingly; substituting "under its jurisdiction" for "over which he exercises control" in Paragraph A(4); deleting former Paragraphs A(6) and (7), relating to control of buildings within the city of Santa Fe, and redesignating the remaining paragraphs accordingly; adding the language beginning "including inspection for code compliance" to the end of present Paragraph A(6); inserting "under its jurisdiction" in Paragraph A(7); substituting "governor's residence" for "executive mansion" in Paragraph A(10); adding Paragraphs A(11) to (14) and Subsection C, was approved April 5, 2001. Laws 2001, ch. 293, § 1, effective June 15, 2001, provides:

"15-3-2. Director of division; duties; federal funds.

A. The director of the property control division of the general services department shall:

"(1) have control over all state buildings and lands except those under the control and management of the state highway and transportation department [department of transportation]; the state fair commission; state institutions of higher learning; regional education cooperatives; the New Mexico school for the deaf; the New Mexico school for

the visually handicapped; the supreme court; the commissioner of public lands; the state armory board, in accordance with Section 20-8-3 NMSA 1978; the building in which the legislature is housed, the adjacent utilities plant and the surrounding grounds; the museum of New Mexico; and the state library building and adjacent grounds. The director shall assign the use or occupancy of state buildings and lands under his control to the state agency or political subdivision that may make the best and highest beneficial use of the property;

"(2) regulate the use or occupancy of buildings and real property under his control and make reasonable requirements for the continuation of that use or occupancy;

"(3) have custody of all maps, deeds, plats, plans, specifications, contracts, books and other papers connected with state buildings over which he exercises control;

"(4) secure copies of all documents of title to all real property under his control held in the name of the state or for the use of the state, and index those documents so that the status of real property held by the state under his control can be readily ascertained;

"(5) control the lease or rental of space in private buildings by state executive agencies other than the state land office;

"(6) preserve, repair, clean, heat and light the buildings and improvements under his control that are located within the exterior boundaries of the city of Santa Fe, either with his own staff or by contract with private firms;

"(7) care for and beautify the grounds and premises under his control that are located within the exterior boundaries of the city of Santa Fe, either with his own staff or by contract with private firms;]

"(8) make rules for the conduct of all persons in and about such buildings and grounds necessary and proper for the safety, care and preservation of the buildings and grounds and for the safety and convenience of the persons while they are in and about the buildings and grounds;

"(9) have the power to sell state buildings and real property under his control in accordance with Sections 13-6-2 and 13-6-3 NMSA 1978. Any such sale shall be by quitclaim deed;

"(10) have the power to purchase title insurance or a title opinion in conjunction with the sale of state buildings or land; and

"(11) have the power to enter into contracts for the improvement, alteration and reconstruction of the state buildings under his control, including the executive mansion, and for the design and construction of additional buildings, to the extent funds are available.

"B. The provisions of this section shall be subject to federal law or regulation if the buildings or property were purchased with federal funds.

"C. If the parties determine that it is in the best interest of the state, the director of the property control division of the general services department and the governing body in control of buildings or land otherwise exempted from the director's control pursuant to Paragraph (1) of Subsection A of this section may enter into an agreement pursuant to the Joint Powers Agreements Act to exercise such control and jurisdiction over the buildings or land as is specified in the agreement."

Because Laws 2001, ch. 293 was approved earlier on April 5, 2001, this section is set out as amended by Laws 2001, ch. 319, § 4. See 12-1-8 NMSA 1978.

### **15-3B-5. Position of staff architect created; duties and responsibilities.**

A. The position of "staff architect" is created within the division. The staff architect shall be a legal resident of and an architect registered in the state for at least two years. The staff architect shall assist the director in carrying out the provisions and requirements of the Property Control Act [15-3B-1 NMSA 1978].

B. The staff architect shall review plans and specifications developed by architects or engineers contracted for the construction of new buildings or for the remodeling or renovation of existing state buildings under the jurisdiction of the division.

C. The staff architect may develop plans and specifications for state projects whose expenditures do not exceed five hundred thousand dollars (\$500,000) and that consist of repair, replacement or remodeling of nonstructural elements.

D. A staff architect who subsequently leaves the position, or any firm he may subsequently be employed by, is prohibited for a period of two years from providing architectural services or bidding on the construction, remodeling or renovation of a state building if he developed or worked on the plans or specifications for such construction, remodeling or renovation while employed as staff architect.

**History:** 1953 Comp., § 6-2-30, enacted by Laws 1968, ch. 43, § 6; 1975, ch. 177, § 1; 1977, ch. 247, § 72; 1977, ch. 360, § 3; 1978, ch. 69, § 1; 1981, ch. 277, § 1; 1983, ch. 301, § 51; 1978 Comp., § 15-3-13, recompiled and amended as 1978 Comp., § 15-3B-5 by Laws 2001, ch. 319, § 5.

### **ANNOTATIONS**

**Cross references.** — For staffing of architect, engineering and land surveyor selection committee by staff architect, see 13-1-121 NMSA 1978.

For professional licensing of architects, see 61-15-1 NSMA 1978.

**The 2001 amendment**, effective July 1, 2001, recompiled former 15-3-13 NMSA 1978 as this section; deleted former Paragraphs A(1) and (2), concerning long-range programs and need for additional buildings; redesignated former Paragraph A (3) as Subsection B; deleted last part of former Paragraph A(3), relating to building codes, parking, and safety; redesignated former Paragraph A(4) as Subsection C; inserted "The staff architect may" to the beginning of Subsection C; deleted "of an existing structure or project" from the end of Subsection C; deleted former Paragraphs A(5) and (6), relating to inspections of buildings under construction and inspection of leased facilities; and made stylistic changes throughout the section.

### **15-3B-6. Building and remodeling.**

The division may do all acts necessary and proper for the redesigning, major renovation and remodeling of present state buildings and the erection of additional state buildings when needed. The division may let contracts for these purposes in accordance with the provisions of the Procurement Code [13-1-28 NMSA 1978]. All such remodeling, major renovation and construction must be approved by the state board of finance. Contracts costing more than five hundred thousand dollars (\$500,000), not including gross receipts tax, must first be approved by the state board of finance. All other contracts shall be reported to the state board of finance at its next regularly scheduled meeting after the contract is fully executed. This section applies only to state buildings under the division's jurisdiction.

History: 1953 Comp., § 6-2-29, enacted by Laws 1968, ch. 43, § 5; 1971, ch. 285, § 6; 1977, ch. 247, § 71; 1978, ch. 209, § 1; 1983, ch. 301, § 49; 1989, ch. 324, § 9; 1996, ch. 46, § 3; 1978 Comp., § 15-3-11, recompiled and amended as 1978 Comp., § 15-3B-6 by Laws 2001, ch. 319, § 6; 2007, ch. 312, § 3.

### **ANNOTATIONS**

**Cross references.** — For powers and duties of state board of finance, see 6-1-1 NMSA 1978.

**The 2007 amendment**, effective July 1, 2007, provides that contracts costing more than \$500,000, not including gross receipts tax, must be approved by the state board of finance and that all other contracts shall be reported to the state board of finance at the meeting after the contract is signed.

**The 2001 amendment**, effective July 1, 2001, recompiled former 15-3-11 NMSA 1978 as this section; deleted the subsection designations; deleted "director of the property control" twice; with regard to contracts, substituted the "provisions of the Procurement Code" for "made in according to the established state purchasing procedures"; deleted the former last sentence of Subsection A concerning redesign, renovation or remodeling; deleted former Subsection B in its entirety; added the language beginning "section applies only to" at the end of the section; and made stylistic changes.



**The 1996 amendment**, effective July 1, 1996, substituted "state buildings exempt from the control of the property control division pursuant to Section 15-3-2 NMSA 1978" for "building of the state highway department" at the end of Subsection A, substituted "has filed" for "shall have filed" in the last sentence of Subsection B, and deleted former Subsection C, which provided that the secretary of general services shall establish a schedule of rental fees and the subsequent utilization of those fees.

**Prior approval of board of finance mandatory.** — The chief (now director) of the property control division may not award any contract that has not been approved by the board of finance. 1969 Op. Att'y Gen. No. 69-56.

No act or acts of the chief (now director) of the property control division have any validity so far as creating contractual obligation of the state of New Mexico until approval is given by the board of finance. 1969 Op. Att'y Gen. No. 69-56.

**Contractual provisions authorized.** — Inherent in the authority to do all acts necessary and proper in the remodeling or erection of state buildings, including the authority to let the contract, is the power to include therein a provision that the contractor must obtain a permit from the proper trade board (now bureau), pay the permit fee and submit to inspection to ensure compliance with the codes. 1969-70 Op. Att'y Gen. No. 70-38.

### **15-3B-7. Lease of land or buildings for private use.**

A. The division may lease any land or building under its jurisdiction to private use until the land or building is needed for public use. All income from the leases shall be deposited in the public buildings repair fund. All leases shall be made in accordance with Sections 13-6-2.1 and 13-6-3 NMSA 1978. The division shall establish building use fees by rule for property under its jurisdiction; provided that this provision does not apply to residences furnished to state officials or employees for the legitimate convenience of the employer and that are not taxable benefits for general income tax purposes. All state departments and institutions whose property is under the jurisdiction of the division shall remit building use fees collected from lessees to the division for deposit into the public buildings repair fund. Departments and institutions may charge separate utility costs for property where the property is not separately metered, and those costs may be deposited to the credit of the department's or institution's operating budget.

B. The division, subject to the approval of the state board of finance and after following the bidding procedures required by the Procurement Code [13-1-28 NMSA 1978] for the purchase of tangible personal property, may enter into long-term leases of vacant lands where the lessor contracts with the state to construct and complete buildings, subject to the approval of the staff architect, as a condition precedent to the start of the lease term. The buildings shall comply with applicable state and federal laws and codes. A lease shall not be executed pursuant to this subsection until the staff architect has filed with the legislative finance committee a detailed statement of his evaluation and approval of the proposed building.

**History:** 1953 Comp., § 6-2-32, enacted by Laws 1968, ch. 43, § 8; 1971, ch. 285, § 7; 1977, ch. 247, § 73; 1978, ch. 209, § 2; 1996, ch. 46, § 4; 1978 Comp., § 15-3-14, recompiled and amended as 1978 Comp., § 15-3B-7 by Laws 2001, ch. 319, § 7.

## ANNOTATIONS

**Cross references.** — For the public buildings repair fund, see 15-3B-18 NMSA 1978.

**The 2001 amendment,** effective July 1, 2001, recompiled former 15-3-14 NMSA 1978, as this section; inserted the Subsection A designation to the language of the former section; substituted "division" for "director of the property control division of the general services department"; substituted "by rule" for "at the current fair-market value" in the fourth sentence; added current Subsection B; and made stylistic changes.

**The 1996 amendment,** effective July 1, 1996, inserted "of the general services department" in the first sentence, substituted "public buildings repair fund" for "long term lease guarantee fund" in the second sentence, substituted "13-6-2.1 and 13-6-3 NMSA 1978" for "6-1-8 and 6-1-8.1 NMSA 1953" in the third sentence, and added the last three sentences.

### **15-3B-7.1. State buildings; use in motion pictures.**

The property control division of the general services department shall provide for the free access to state buildings by the motion picture industry.

**History:** Laws 2001, ch. 196, § 1.

## ANNOTATIONS

**Effective dates.** — Laws 2001, ch. 196 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective June 15, 2001, 90 days after adjournment of the legislature.

### **15-3B-8. Acquisition of land.**

The division may acquire land through purchase or through gift or donation; provided, however, that acquisitions shall first be approved by the state board of finance. The title of acquired land shall vest in the state.

**History:** 1978 Comp., § 15-3B-8, enacted by Laws 2001, ch. 319, § 8.

## ANNOTATIONS

**Effective dates.** — Laws 2001, ch. 319, § 24 makes the act effective July 1, 2001.

**Laws 2007, ch. 64, § 3**, effective March 29, 2007, amends Laws 2001, ch. 166, § 1, as amended, to authorize the division to acquire the property within the central capital campus in Santa Fe known as the "Coughlin building".

**Appropriations.** — Laws 2007, ch. 64, § 6, effective March 29, 2007, appropriates funds from the property control reserve fund and the public buildings repair fund to acquire property within the west capitol complex owned by the United States.

### **15-3B-9. Lease of New Mexico finance authority property; maintenance and repair.**

The division may enter into long-term leases, not to exceed ninety-nine years, on property owned by the New Mexico finance authority for state use. Lease of the property owned by the New Mexico finance authority may require the department to operate, maintain and make renovations and repairs to the property.

**History:** 1978 Comp., § 15-3B-9, enacted by Laws 2001, ch. 319, § 9.

#### **ANNOTATIONS**

**Effective dates.** — Laws 2001, ch. 319, § 24 makes the act effective July 1, 2001.

### **15-3B-10. Capital projects; administrative fees.**

The cost of a capital project shall include an administrative fee to cover the cost of administering the capital project. The fee shall be one percent of the estimated construction cost of a capital project located in Santa Fe county and one and one-half percent for a capital project located outside Santa Fe county.

**History:** 1978 Comp., § 15-3B-10, enacted by Laws 2001, ch. 319, § 10.

#### **ANNOTATIONS**

**Effective dates.** — Laws 2001, ch. 319, § 24 makes the act effective July 1, 2001.

### **15-3B-11. Capital projects; contingency limitation.**

No more than six and one-half percent of the cost of a capital project shall be used for contingencies. For the purposes of this section, "contingencies" means unforeseeable elements of cost within the defined scope of the capital project.

**History:** 1978 Comp., § 15-3-23.2, enacted by Laws 1984 (1st S.S.), ch. 10, § 10; recompiled and amended as 1978 Comp., § 15-3B-11 by Laws 2001, ch. 319, § 11.

#### **ANNOTATIONS**

**The 2001 amendment**, effective July 1, 2001, recompiled former 15-3-23.2 NMSA 1978 as this section; and deleted "and cost engineering fees" from the end of the section.

### **15-3B-12. Feasibility study of energy sources.**

Before a contract is executed for the construction, major alteration or renovation of a state-owned building, the division may have a feasibility study made on the use of energy sources other than fossil fuels for the heating and air conditioning of the proposed building. A copy of the feasibility study shall remain on file with the division and shall be open to public inspection.

**History:** 1953 Comp., § 6-2-29.1, enacted by Laws 1975, ch. 200, § 1; 1983, ch. 301, § 50; 1978 Comp., § 15-3-12, recompiled and amended as 1978 Comp., § 15-3B-12 by Laws 2001, ch. 319, § 12.

#### **ANNOTATIONS**

**The 2001 amendment**, effective July 1, 2001, recompiled former 15-3-12 NMSA 1978 as this section; substituted "the division may" for "the property control division of the general services department shall" in the first sentence; and made stylistic changes.

### **15-3B-13. Parking facilities required for state buildings; standards.**

A. A state building shall not be constructed or enlarged to a major degree without providing adequate parking facilities, as approved by the staff architect, for the use of the public officers and employees employed in the building and for the use of those members of the public reasonably expected to enter the building on public business.

B. The provisions of this section shall not apply to historic sites or state buildings in historical zones as designated by local government ordinance.

**History:** 1953 Comp., § 6-6-18, enacted by Laws 1977, ch. 360, § 1; 1978 Comp., § 15-3-19, recompiled and amended as 1978 Comp., § 15-3B-13 by Laws 2001, ch. 319, § 13.

#### **ANNOTATIONS**

**The 2001 amendment**, effective July 1, 2001, recompiled the former 15-3-19 NMSA 1978 as this section; inserted "as approved by the staff architect" in Subsection A; deleted former Subsections B and C, relating to parking needs of employees and visitors and the relationship of floor space to parking; and redesignated former Subsection D as present Subsection B.

### **15-3B-14. Concessions.**

A. The division may grant concession contracts in state buildings under its jurisdiction, except concession contracts authorized to be entered into by the state parks division of the energy, minerals and natural resources department pursuant to Section 16-2-9 NMSA 1978 or the commission for the blind pursuant to Section 22-14-24 NMSA 1978, at such fees as the division prescribes.

B. Concessions shall be granted only under written contract, the faithful performance of which shall be secured by a bond prescribed by the division. All income from such concessions shall be deposited in the public buildings repair fund.

**History:** 1953 Comp., § 6-2-33, enacted by Laws 1968, ch. 43, § 9; 1971, ch. 285, § 8; 1977, ch. 247, § 74; 1978 Comp., § 15-3-15, recompiled and amended as 1978 Comp., § 15-3B-14 by Laws 2001, ch. 319, § 14.

## ANNOTATIONS

**Cross references.** — For the public buildings repair fund, see 15-3B-18 NMSA 1978.

**The 2001 amendment,** effective July 1, 2001, recompiled former 15-3-15 as this section; in Subsection A, substituted "division" for "director of the property control division", substituted "parks division of the energy, minerals and natural resources department" for "park and recreation commission"; substituted "16-2-9 NMSA 1978 or the commission for the blind pursuant to Section 22-14-24 NMSA 1978" for "4-9-9 NMSA 1953"; in Subsection B, substituted "public buildings repair fund" for "state capitol improvement fund"; and made stylistic changes.

### **15-3B-15. Maintenance charges; credited to agency operating budget.**

A state agency that occupies a facility under the jurisdiction of the division and that acts as the representative of the division pursuant to a use agreement between the division and the state agency may charge maintenance and utility costs to other entities that use the facility. The charges shall be deposited to the credit of the state agency to cover maintenance and utility expenses.

**History:** 1978 Comp., § 15-3B-15, enacted by Laws 2001, ch. 319, § 15.

## ANNOTATIONS

**Effective dates.** — Laws 2001, ch. 319, § 24 makes the act effective July 1, 2001.

### **15-3B-16. Capital program; fund created; allocation and expenditure for capital outlay.**

A. The "capital program fund" is created in the state treasury. To this fund shall be credited all appropriations for capital outlay projects under the jurisdiction of the division.

B. The capital program fund shall be allocated by the division for capital outlay projects specified by the legislature in accordance with the provisions of the Property Control Act [15-3B-1 NMSA 1978].

**History:** 1953 Comp., § 6-2-44, enacted by Laws 1972, ch. 74, § 3; 1983, ch. 301, § 53; 1978 Comp., § 15-3-23, recompiled and amended as 1978 Comp., § 15-3B-16 by Laws 2001, ch. 319, § 16.

## ANNOTATIONS

**The 2001 amendment,** effective July 1, 2001, recompiled the former 15-3-23 NMSA 1978 as this section; inserted "in the state treasury" to the end of the first sentence; substituted "the Property Control Act" for "Sections 15-3-1, 15-3-2, 15-3-7, to 15-3-16, 15-3-25 and 15-3-31 NMSA 1978" and made stylistic changes.

**Appropriations.** — Laws 2002, ch. 110, § 49, effective March 6, 2002, appropriates \$2,800,000 from the workers' compensation administration fund to the capital program fund for expenditure in fiscal years 2002 through 2007 to construct or remodel office buildings in Las Cruces and Farmington, with any unexpended or unencumbered balance reverting to the workers' compensation administration fund at the end of fiscal year 2007.

Laws 2006, ch. 111, § 64, effective March 8, 2006, appropriates from the general fund to the capital program fund for expenditure in fiscal years 2006 through 2010, specific amounts for state buildings throughout the state.

Laws 2009, ch. 71, § 1, effective June 19, 2009, appropriated \$5,000, from the property control reserve fund to the capital program fund for expenditure by the property control division of the general services department in fiscal years 2010 and 2011 to purchase from the federal bureau of land management the real property currently occupied by the southern New Mexico correctional facility and the JP Taylor juvenile justice center.

### **15-3B-17. Capitol buildings repair fund; creation; expenditures.**

A. The "capitol buildings repair fund" is created in the state treasury. To this fund shall be transferred, after payments required by Laws 1997, Chapter 178, Section 1 to the New Mexico finance authority, all income, including distributions from the land grant permanent fund derived from lands granted to the state by the United States congress for legislative, executive and judicial public buildings. Two percent of this fund shall be transferred annually to a "state capitol maintenance fund", hereby created, as a special perpetual fund for the upkeep and maintenance of the capitol renovation and capitol grounds.

B. The capitol buildings repair fund may be used to repair, remodel and equip capitol buildings and adjacent lands, to repair or replace building machinery and building equipment located in capitol buildings and to contract for options to purchase real estate, such real estate, if purchased, to be put to state use; provided that no more than ten thousand dollars (\$10,000) shall be expended for any single option. Any money used for consideration in acquiring an option to purchase real estate shall be applied against the purchase price of the real estate if the option is exercised. No money shall be expended from the capitol buildings repair fund without authorization of the state board of finance.

C. In the event a capital outlay project exceeds authorized project cost by five percent or less, the state board of finance may authorize the division to supplement the authorized cost by an allocation not to exceed five percent of the authorized cost from the capitol buildings repair fund to the extent of the unencumbered and unexpended balance of the fund.

History: 1953 Comp., § 6-2-45, enacted by Laws 1972, ch. 74, § 4; 1979, ch. 177, § 1; 1992, ch. 92, § 1; 1997, ch. 178, § 4; 1978 Comp., § 15-3-24, recompiled and amended as 1978 Comp., § 15-3B-17 by Laws 2001, ch. 319, § 17.

## ANNOTATIONS

**Compiler's notes.** — Laws 1997, ch. 178, § 1, referred to in Subsection A, is an uncompiled provision authorizing the issuance of revenue bonds. Details of Section 1 of Laws 1997, ch. 178 may be found in the Revenue Bonds table following Chapter 6, Article 12 NMSA 1978.

**The 2001 amendment,** effective July 1, 2001, recompiled former 15-3-24 NMSA 1978 as this section; in Subsection A, inserted "in the state treasury" in the first sentence; updated the internal references; in Subsection C, substituted "five percent or less" for "no more than five percent" and made stylistic changes.

**The 1997 amendment,** in the second sentence of Subsection A, inserted ", after payments required by Section 1 of this 1997 act to the New Mexico finance authority" and substituted "distributions from the land grant permanent fund" for "earnings on investments". Laws 1997, ch. 178 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on June 20, 1997, 90 days after adjournment of the legislature.

**The 1992 amendment,** effective July 1, 1994, added the third sentence of Subsection A and inserted "of the general services department" in Subsection C.

**Appropriations.** — Laws 2004, ch. 126, § 46, effective March 10, 2004, appropriates \$525,000 from the state capitol maintenance fund to the legislative council service for expenditure in fiscal years 2004 through 2009.

Laws 2007, ch. 192, § 1, appropriates \$1,250,000 from the 2007 and 2008 fiscal years distributions to the legislative council services for expenditures during fiscal years 2007 to 2011.

**The primary beneficiaries of the capitol buildings repair fund** are executive, legislative and judicial buildings located within Santa Fe, New Mexico, the state capital. 1987 Op. Att'y Gen. No. 87-27.

### **15-3B-18. Public buildings repair fund; created; expenditures.**

A. The "public buildings repair fund" is created in the state treasury. The fund shall consist of appropriations, building use fees, concession fees, gifts, grants, donations and bequests. Money in the fund shall not revert at the end of any fiscal year. The fund shall be administered by the division.

B. Expenditures may be made from the public buildings repair fund only for operating expenses of the division and necessary repair, renovation and purchase of physical plant equipment for public buildings under the jurisdiction of the division.

C. The division shall establish priorities for the use of the public buildings repair fund and shall submit to the legislature in each regular session a list of recommended expenditures to be made from the fund in the following fiscal year. The public buildings repair fund shall be expended pursuant to appropriations by the legislature.

**History:** Laws 1996, ch. 46, § 1; 1978 Comp., § 15-3-11.1, recompiled and amended as 1978 Comp., § 15-3B-18 by Laws 2001, ch. 319, § 18.

### **ANNOTATIONS**

**The 2001 amendment**, effective July 1, 2001, recompiled the former 15-3-11.1 NMSA 1978 as this section; in Subsection A, inserted "concession fees" preceding "gifts"; in Subsection B, inserted "operating expenses of the division and" preceding "necessary repair"; substituted "under the jurisdiction of the division" for "owned by the state and under the control of the property control"; in Subsection C, deleted a reference to Subsection D; and deleted Subsection D.

### **15-3B-19. Building use fees; transfers to fund.**

The secretary shall establish a schedule of building use fees for state agencies occupying space in state-owned buildings under the jurisdiction of the division. The building use fees shall equal the estimated cost for the next fiscal year of operating expenses for the division and planned and emergency repairs, renovations and purchase of physical plant equipment; provided that total fees shall not exceed ten million dollars (\$10,000,000) in any fiscal year. The building use fees shall be included in the budget requests of pertinent state agencies. At the beginning of each fiscal year,



the department of finance and administration shall transfer to the public buildings repair fund the amounts appropriated for building use fees.

**History:** Laws 1996, ch. 46, § 2; 1978 Comp., § 15-3-11.2, recompiled and amended as 1978 Comp., § 15-3B-19 by Laws 2001, ch. 319, § 19.

### **ANNOTATIONS**

**The 2001 amendment**, effective July 1, 2001, recompiled former 15-3-11.2 NMSA 1978 as this section; inserted "operating expenses for the division and" preceding "planned and emergency repairs"; deleted "beginning with fiscal year 1998" from the end of the penultimate sentence and made stylistic changes.

**General rule is that interest is accretion or increment to principal fund** earning it, and becomes a part of that fund. 1980 Op. Att'y Gen. No. 80-17.

### **15-3B-20. Property control reserve fund; created; purpose.**

The "property control reserve fund" is created in the state treasury. The purpose of the fund is to provide a reserve account from which the division can purchase or construct state office buildings, in particular to alleviate the state's reliance on expensive leased office space in Santa Fe. The fund shall consist of appropriations, money from the sale of real property under the jurisdiction of the division, gifts, grants, donations, bequests and income from investment of the fund. Money in the fund shall not revert to the general fund at the end of any fiscal year. The division shall administer the fund subject to appropriation by the legislature. The legislature shall appropriate money in the fund to the division to purchase or acquire land and construct state office buildings in Santa Fe in accordance with the state's four-year major capital improvements plan. Disbursements from the fund shall be made on warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the director or his authorized representative.

**History:** Laws 1998, ch. 58, § 1; 1978 Comp., § 15-3-24.2, recompiled and amended as 1978 Comp., § 15-3B-20 by Laws 2001, ch. 319, § 20.

### **ANNOTATIONS**

**The 2001 amendment**, effective July 1, 2001, recompiled former 15-3-24.2 NMSA 1978 as this section; and made stylistic changes.

**Appropriations.** — Laws 2004, ch. 63, § 1, effective March 4, 2004, appropriates the proceeds from the sale of the labor department building at 301 West De Vargas in Santa Fe to plan, design, construct or renovate a workforce development center.

Laws 2004, ch. 126, § 47, effective March 10, 2004, provides: "The provisions of Section 15-3B-20 NMSA 1978 notwithstanding, the proceeds from the sale of the labor

department building in Santa Fe are appropriated to the property control division of the general services department for expenditure in fiscal years 2004 through 2008 to acquire land or a building and to plan, design, construct or renovate a building for a workforce development center for the labor department in Santa Fe".

Laws 2007, ch. 64, § 6, effective March 29, 2007, appropriates \$1,500,000 from the property control reserve fund for the planning and designing of a state police crime laboratory.

Laws 2007, ch. 28, § 5, increases the appropriation from the property control reserve fund to the capital program fund for the relocation of state agencies in the La Villa Rivera and Marian Hall buildings to \$10,600,000.

### **15-3B-21. Health and human services office building.**

A. Subject to the provisions of this section, the property control division of the general services department, after consulting with the human services department and the children, youth and families department and on behalf of those departments, shall:

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

(2) enter into a lease purchase agreement with the owner of the building for the leasing of the building by the property control division with an option to purchase for a price that is reduced according to the payments made pursuant to the agreement; provided that the lease purchase agreement shall:

(a) specify the principal, interest and maintenance component of each payment made, provided further that: 1) the initial principal shall not exceed eighty million dollars (\$80,000,000); and 2) the net effective interest rate shall not exceed the maximum permitted by the Public Securities Act [6-14-1 NMSA 1978];

(b) provide that there is no legal obligation for the property control division to continue the lease from year to year or to purchase the building;

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

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

(e) provide that if the building is purchased, title to the building shall be issued in the name of the property control division.

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

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

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

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

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

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

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

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

E. The property control division shall enter into subleases with the human services department and the children, youth and families department for the lease of office space within the building, provided that the payments made under the subleases shall equal the payments due by the property control division under the lease purchase agreement. The property control division may also sublease available space within the building to any state agency if:

(1) the space subject to an existing sublease has been reduced by agreement between the property control division and the existing sublessee;

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

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

F. Notwithstanding any provision restricting budget adjustments, upon the certification by the director of the property control division that the building is completed and suitable for occupancy, the secretary of finance and administration may transfer between and among the categories and programs of the current operating budget of each agency that will occupy the building any unexpended or unencumbered appropriation for lease payments or building maintenance. The transferred appropriations shall be expended by the property control division for lease payments due pursuant to the lease purchase agreement.

G. During the term of the lease purchase agreement, each sublessee shall include, in its annual budget request, the amount due under its sublease during the next fiscal year, and the sublessee and the property control division shall use their best efforts to secure the appropriation.

History: Laws 2009, ch. 145, § 1.

## ANNOTATIONS

**Temporary provisions.** — Laws 2009, ch. 145, § 3 provided that in lieu of the ratification and approval otherwise required by Section 15-3-35 NMSA 1978, the legislature ratifies and approves a lease purchase agreement entered into in compliance with Section 1 of this act for the lease and option to purchase of a building by the property control division of the general services department.

**Effective dates.** — Laws 2009, ch. 145 contained no effective date provisions, but pursuant to N.M. Const., art. IV, § 23 was effective June 19, 2009, 90 days after the adjournment of the legislature.

## ARTICLE 4

### Federal Property and Commodities Division

#### 15-4-1. Repealed.

## ANNOTATIONS

**Repeals.** — Laws 1984, ch. 64, § 26B, repeals 15-4-1 NMSA 1978, as amended through Laws 1983, ch. 301, § 26, relating to the creation of the surplus property control

division. For present provisions relating to surplus property, see 15-4-2 and 15-4-3 NMSA 1978.

Laws 1984, ch. 64, contains no effective date provision but was enacted at a session which adjourned on February 16, 1984. See N.M. Const., art. IV, § 23.

### **15-4-2. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 2007, ch. 57, § 7 repeals 15-4-2 NMSA 1978, being Laws 1971, ch. 189, § 2, as amended, relating to surplus property, effective July 1, 2007. For provisions of former section, see the 2006 NMSA 1978 on New Mexico One Source of Law.

### **15-4-3. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 2007, ch. 57, § 7 repeals 15-4-3 NMSA 1978, being Laws 1971, ch. 189, § 3, as amended, relating to surplus property, effective July 1, 2007. For provisions of former section, see the 2006 NMSA 1978 on New Mexico One Source of Law.

## **ARTICLE 5**

### **Telecommunications Bureau**

### **15-5-1. Recompiled.**

#### **ANNOTATIONS**

**Recompilations.** — Laws 2009, ch. 146, § 10 recompiled 15-5-1 NMSA 1978, relating to telecommunications duties, as 9-27-20 NMSA 1978, effective June 19, 2009.

### **15-5-2. Recompiled.**

#### **ANNOTATIONS**

**Recompilations.** — Laws 2009, ch. 146, § 7 recompiled 15-5-2 NMSA 1978, relating to staff and budget for central telephone services, as 9-27-21 NMSA 1978, effective June 19, 2009.

### **15-5-3. Recompiled.**

#### **ANNOTATIONS**

**Recompilations.** — Laws 2009, ch. 146, § 10 recompiled 15-5-3 NMSA 1978, relating to charges for central telephone services, as 9-27-22 NMSA 1978, effective June 19, 2009.

#### **15-5-4. Recompiled.**

##### **ANNOTATIONS**

**Recompilations.** — Laws 2009, ch. 146, § 10 recompiled 15-5-4 NMSA 1978, relating to deposits of money, as 9-27-23 NMSA 1978, effective June 19, 2009.

#### **15-5-5. Recompiled.**

##### **ANNOTATIONS**

**Recompilations.** — Laws 2009, ch. 146, § 8 recompiled 15-5-5 NMSA 1978, relating to appropriations for central telephone services, as 9-27-24 NMSA 1978, effective June 19, 2009.

#### **15-5-6. Recompiled.**

##### **ANNOTATIONS**

**Recompilations.** — Laws 2009, ch. 146, § 9 recompiled 15-5-6 NMSA 1978, relating to participation or exclusion of agency, department or institution in the central telephone system, as 9-27-25 NMSA 1978, effective June 19, 2009.

#### **15-5-7. Repealed.**

##### **ANNOTATIONS**

**Repeals.** — Laws 2009, ch. 146, § 11 repealed 15-5-7 NMSA 1978, as enacted by Laws 2007, ch. 288, § 1, relating to telecommunications services, effective June 19, 2009. For provisions of former section, see the 2008 NMSA 1978 on New Mexico One Source of Law.

## **ARTICLE 5A**

### **Arts and Cultural District Act**

#### **15-5A-1. Short title.**

Sections 1 through 7 of this act may be cited as the "Arts and Cultural District Act".

History: Laws 2007, ch. 160, § 1.

## ANNOTATIONS

**Effective dates.** — Laws 2007, ch. 160, § 17, makes the Arts & Cultural District Act effective July 1, 2007.

### **15-5A-2. Definitions.**

As used in the Arts and Cultural District Act:

A. "arts and cultural district" means a developed district of public and private uses designated by the commission or a municipality;

B. "commission" means the New Mexico arts commission; and

C. "coordinator" means the person responsible for coordinating the main street program pursuant to Subsection B of Section 3-60B-3 NMSA 1978.

History: Laws 2007, ch. 160, § 2.

## ANNOTATIONS

**Effective dates.** — Laws 2007, ch. 160, § 17, makes the Arts & Cultural District Act effective July 1, 2007.

### **15-5A-3. Main street program coordinator; duties.**

A. The coordinator shall:

(1) review and approve or reject applications from municipalities, citizens and nonprofit organizations to designate state-authorized arts and cultural districts pursuant to the Arts and Cultural District Act [15-5A-1 NMSA 1978];

(2) administer and promote an application process for the designation of state-authorized arts and cultural districts;

(3) provide financial grants or contracts for development of a state-authorized arts and cultural district, including planning, designing, construction and renovation costs; and

(4) develop policies and standards for the designation of state-authorized arts and cultural districts and for the declassification should a state-authorized arts and cultural district not comply with the policies and standards established by the commission as set forth in an approved application.

B. The coordinator shall require annual reports from each state-authorized arts and cultural district for purposes of reviewing the activities of that district, including the

compliance of the district with the policies and standards of the commission and with the conditions of an approved application.

History: Laws 2007, ch. 160, § 3.

#### **ANNOTATIONS**

**Effective dates.** — Laws 2007, ch. 160, § 17, makes the Arts & Cultural District Act effective July 1, 2007.

#### **15-5A-4. Arts and cultural districts; creation.**

A. A state-authorized arts and cultural district may be created by the municipality in which the proposed arts and cultural district will be located only if the proposed district is approved by the commission.

B. A municipally authorized arts and cultural district may be created by a municipality with a population greater than fifty thousand in which the proposed arts and cultural district will be located if the proposed district meets the criteria set forth in Subsection C of this section.

C. An arts and cultural district shall:

(1) be in a geographically contiguous area that ranges in size from a portion of a municipality to a regional district with a special coherence;

(2) be distinguished by physical and cultural resources that play a vital role in the life and development, including economic and cultural development, of a community;

(3) focus on a cultural compound, a major art institution, art and entertainment businesses, an area with arts and cultural activities or cultural or artisan production; and

(4) be engaged in promotion, preservation and educational aspects of the arts and culture of that locale and contribute to the public through interpretive, educational and recreational uses.

History: Laws 2007, ch. 160, § 4.

#### **ANNOTATIONS**

**Effective dates.** — Laws 2007, ch. 160, § 17, makes the Arts & Cultural District Act effective July 1, 2007.

#### **15-5A-5. State-authorized districts.**



A. The coordinator shall review applications submitted by municipalities, citizens or nonprofit organizations for the purpose of designating an arts and cultural district and make a recommendation to the commission for action on each application. Citizens and nonprofit organizations that submit an application shall include a formal endorsement of the application by the municipal government in which the proposed district is to be located.

B. After reviewing an application for the designation of an arts and cultural district, the commission shall approve or reject the application or send it back to the applicant with a request for changes or additional information.

C. The commission shall designate no more than five arts and cultural districts in a calendar year. Rejected applicants may re-apply without prejudice.

D. If the commission approves an application for the designation of an arts and cultural district, it shall notify the applicant in writing and shall specify the terms and conditions of the commission's approval, including the terms and conditions set forth in the application and as modified by written agreement between the applicant and the commission.

E. After the commission approves an application for the designation of a state-authorized arts and cultural district, the applicable municipality may pass a local ordinance to establish the state-authorized arts and cultural district pursuant to the terms and conditions specified in the approved application. Municipalities may administer arts and cultural districts through a newly created local commission with a specific mission to oversee the district subject to review by the municipality.

History: Laws 2007, ch. 160, § 5.

#### **ANNOTATIONS**

**Effective dates.** — Laws 2007, ch. 160, § 17, makes the Arts & Cultural District Act effective July 1, 2007.

#### **15-5A-6. Municipally authorized districts.**

Municipalities with a population greater than fifty thousand that choose to authorize their own districts shall pass a local ordinance stating minimum requirements for establishing the arts and cultural district, and any municipally authorized arts and cultural district shall meet the criteria contained in Subsection C of Section 4 [15-5A-4 NMSA 1978] of the Arts and Cultural District Act.

History: Laws 2007, ch. 160, § 6.

#### **ANNOTATIONS**

**Effective dates.** — Laws 2007, ch. 160, § 17, makes the Arts & Cultural District Act effective July 1, 2007.

### **15-5A-7. Arts and cultural district fund established.**

The "arts and cultural district fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations, gifts, grants, donations and bequests. The fund shall be administered by the cultural affairs department, and money in the fund is appropriated to the cultural affairs department to carry out the provisions of the Arts and Cultural District Act. Money in the fund shall be disbursed on warrants signed by the secretary of finance and administration pursuant to vouchers signed by the secretary of cultural affairs or the secretary's authorized representative.

History: Laws 2007, ch. 160, § 7.

#### **ANNOTATIONS**

**Effective dates.** — Laws 2007, ch. 160, § 17, makes the Arts & Cultural District Act effective July 1, 2007.

## **ARTICLE 6 Planning Division**

(Repealed by Laws 1983, ch. 296, § 5.)

### **15-6-1 to 15-6-3. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 1983, ch. 296, § 5, repeals 15-6-1 to 15-6-3 NMSA 1978, relating to the planning division of the department of finance and administration, effective July 1, 1983. For present provisions, see 9-14-1 to 9-14-4 NMSA 1978.

**Applicability.** — Laws 1983, ch. 296, § 6, provides that § 5 of the act, repealing 15-6-1 to 15-6-3 NMSA 1978, shall not apply to litigation pending on the effective date of the act, nor shall it apply to contracts extending beyond the seventy-first fiscal year.

## **ARTICLE 7 Risk Management Division**

### **15-7-1. Definitions.**

As used in Chapter 15, Article 7 NMSA 1978:

- A. "board" means the risk management advisory board;
- B. "director" means the director of the risk management division of the general services department;
- C. "local public body" means all political subdivisions of the state and their agencies, instrumentalities and institutions;
- D. "public employee" means any officer, employee or servant of a governmental entity, including elected or appointed officials, law enforcement officers and persons acting on behalf or in service of a governmental entity in any official capacity, whether with or without compensation, but the term does not include an independent contractor; and
- E. "state" or "state agency" means the state of New Mexico or any of its branches, agencies, departments, boards, instrumentalities or institutions, including regional housing authorities.

**History:** 1953 Comp., § 5-14-20.4, enacted by Laws 1977, ch. 385, § 4; 1978, ch. 166, § 6; 1982, ch. 19, § 1; 1983, ch. 301, § 63; 1996, ch. 45, § 1.

#### **ANNOTATIONS**

**The 1996 amendment**, effective March 4, 1996, substituted "Chapter 15, Article 7" for "Sections 15-7-1 through 15-7-10" in the introductory language and added "including regional housing authorities" at the end of Subsection E.

#### **15-7-2. Risk management division.**

A. There is established a "risk management division" of the general services department. The director of the risk management division shall be appointed by the secretary of general services. The director shall be knowledgeable and experienced in general insurance practices. The director shall be responsible for the acquisition and administration of all insurance purchased by the state. Except as provided by this section, no state agency may procure any kind of insurance other than through the risk management division.

B. The risk management division shall apportion to each state agency its contributions toward the purchase of insurance or for the providing of coverage for any risk not insured. The amount of contribution by each agency shall be determined by the risk management division and shall reflect the respective risks of each agency. All contributions toward the purchase of insurance or for the coverage of any risk not insured shall be paid into the public liability fund, the workers' compensation retention fund, the public property reserve fund or the group self-insurance fund, as appropriate. The department of finance and administration may collect or transfer funds from each

agency to cover insurance or other costs, pursuant to the risk management division's instructions.

C. The director, upon a finding that efficiency and economy so require, may authorize any state agency to purchase insurance for, or otherwise cover, vision, dental, any group or individual health, life, accidental death and dismemberment or disability coverage. Any authorization granted shall be conditioned upon the prior approval by the director of any policy to be purchased and the premium to be paid by the agency.

**History:** Laws 1978, ch. 166, § 7; 1983, ch. 301, § 64; 1986, ch. 102, § 5; 1989, ch. 231, § 10.

## ANNOTATIONS

**Cross references.** — For appointment of director, see 9-17-5 NMSA 1978.

**Appropriations.** — Laws 2007, ch. 206, § 9, effective July 1, 2007, appropriates \$185,000 from the public liability fund to the risk management division of the general services department for expenditure in fiscal year 2008 for three full-time employees for the office of alternative dispute prevention and resolution for the purpose of implementing the Governmental Dispute Prevention and Resolution Act, 12-8A-1 NMSA 1978.

**Law reviews.** — For survey, "Torts: Sovereign and Governmental Immunity in New Mexico," see 6 N.M. L. Rev. 249 (1976).

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 81A C.J.S. States § 196.

### **15-7-3. Additional powers and duties of the risk management division.**

A. The risk management division of the general services department may:

- (1) enter into contracts;
- (2) procure insurance, reinsurance or employee group benefits; provided that any proposal or contract for the procurement of any group health care benefits shall be subject to the provisions of the Health Care Purchasing Act [13-7-1 NMSA 1978]; and provided further that reinsurance or excess coverage insurance may be placed by private negotiation, notwithstanding the provisions of the Procurement Code [13-1-28 NMSA 1978], if the insurance or reinsurance has a restricted number of interested carriers, the board determines that the coverage is in the interest of the state and cannot otherwise be procured for a reasonable cost and the director seeks the advice and review of the board in the placement and in designing private negotiation procedures;

(3) in the manner prescribed by Subsection E of Section 9-17-5 NMSA 1978, after a notice and a public hearing, prescribe by regulation reasonable and objective underwriting and safety standards for governmental entities and reasonable standards for municipal self-insurance pooling agreements covering liability under the Tort Claims Act [41-4-1 NMSA 1978] and adopt such other regulations as may be deemed necessary;

(4) compromise, adjust, settle and pay claims;

(5) pay expenses and costs;

(6) in the manner prescribed by Subsection E of Section 9-17-5 NMSA 1978, prescribe by rule or regulation the rating bases, assessments, penalties and risks to be covered by the public liability fund, the workers' compensation retention fund and the public property reserve fund and the extent such risks are to be covered;

(7) issue certificates of coverage in accordance with Paragraph (6) of this subsection:

(a) to any governmental entity for any tort liability risk covered by the public liability fund;

(b) to any governmental entity for any personal injury liability risk or for the defense of any errors or act or omission or neglect or breach of duty, including the risks set forth in Paragraph (2) of Subsection B and Paragraph (2) of Subsection D of Section 41-4-4 NMSA 1978; and

(c) to any governmental entity for any part of risk covered by the workers' compensation retention fund, the surety bond fund or the public property reserve fund;

(8) study the risks of all governmental entities;

(9) initiate the establishment of safety programs and adopt regulations to carry out such programs in the manner prescribed by Subsection E of Section 9-17-5 NMSA 1978;

(10) hire a safety program director who shall coordinate all safety programs of all state agencies;

(11) consult with and advise local public bodies on their risk management problems; and

(12) employ full-time legal counsel who shall be under the exclusive control and supervision of the director and the secretary of general services.

B. The risk management division of the general services department shall provide liability coverage for the following risks:

(1) a claim made pursuant to the provisions of 42 U.S.C. Section 1983 against a nonprofit corporation, members of its board of directors or its employees when the claim is based upon action taken pursuant to the provisions of a contract between the corporation and the department of health under which the corporation provides developmental disability services to clients of the department and the claim is made by or on behalf of a client; and

(2) a claim made pursuant to the provisions of 42 U.S.C. Section 1983 against a nonprofit corporation, members of its board of directors or its employees when the corporation operates a facility licensed by the department of health as an intermediate care facility for the mentally retarded and the claim is based upon action taken pursuant to the provisions of the license and is made by or on behalf of a resident of the licensed facility.

C. The director shall report his findings and recommendations, if any, for the consideration of each legislature. The report shall include the amount and name of any person receiving payment from the public liability fund of any claim paid during the previous fiscal year exceeding one thousand dollars (\$1,000). The report shall be made available to the legislature on or before December 15 preceding each regular legislative session.

**History:** Laws 1978, ch. 166, § 8; 1979, ch. 287, § 3, 1979, ch. 392, § 1; 1983, ch. 301, § 65; 1986, ch. 102, § 6; 1990, ch. 71, § 1; 1995, ch. 173, § 1; 1997, ch. 74, § 6.

## ANNOTATIONS

**The 1997 amendment**, effective July 1, 1997, inserted the proviso following "group benefits" at the beginning of the sentence in Paragraph A(2) and made minor stylistic changes.

**The 1995 amendment**, effective June 16, 1995, added "and duties" in the section heading, substituted "9-17-5" for "9-6-5" in Paragraphs (3) and (6) of Subsection A, added Subsection B, and redesignated former Subsection B as Subsection C.

**The 1990 amendment**, effective May 16, 1990, rewrote Paragraph (2) of Subsection A which read "purchase insurance or reinsurance" and substituted "workers' compensation" for "workmen's compensation" in two places in Subsection A.

**Coverage limited by Tort Claims Act.** — Provision of this section regarding coverage for the defense of governmental entities is limited to the coverage required by the Tort Claims Act [41-4-1 to 41-4-27 NMSA 1978] and does not extend to mandamus actions. Board of County Comm'rs v. Risk Mgt. Div., 120 N.M. 178, 899 P.2d 1132 (1995).

**Denial of coverage for mandamus claims.** — The risk management division's endorsement of a certificate of coverage issued to a county denying coverage for mandamus actions was a ministerial act, fulfilling the requirements of the Tort Claims Act [41-4-1 to 41-4-27 NMSA 1978], and not a discretionary decision altering the scope of the county's coverage; accordingly, the refusal to cover mandamus claims in the endorsement was not subject to rulemaking requirements. *Board of County Comm'rs v. Risk Mgmt. Div.*, 120 N.M. 178, 899 P.2d 1132 (1995).

**Waiver of Eleventh Amendment immunity by duly employed legal counsel.** — Attorneys duly hired by risk management division, in removing suit to federal court, invoked federal jurisdiction and thereby waived state's immunity from suit. *Abreu v. N.M. Children Youth & Families Dep't*, 646 F.Supp.2d 1259 (D.N.M. 2009).

### **15-7-3.1. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 1987, ch. 319, § 1 repeals 15-7-3.1 NMSA 1978, as enacted by Laws 1986, ch. 114, § 1, relating to the public child contractor liability fund, effective June 19, 1987. For the provisions of the former section, see the 1986 Replacement Pamphlet.

### **15-7-4. Risk management advisory board.**

A. There is created the "risk management advisory board." The board shall be composed of:

- (1) the attorney general or his designee;
- (2) the superintendent of insurance;
- (3) the secretary of finance and administration or his designee;
- (4) the chief financial officer of a public school district who shall be appointed by the governor;
- (5) an attorney, who shall be named by the president of the state bar of New Mexico;
- (6) the director of the legislative council service or his designee;
- (7) the chief financial officer of an institution of higher education who shall be appointed by the governor;
- (8) an insurance agent licensed to write property, casualty and life insurance in this state who shall be appointed by the governor; and

(9) the chief financial officer of a local public body or the chief administrator of an entity of a local public body, other than a school district, with a risk covered by the public liability fund, who shall be appointed by the governor.

B. Members of the board appointed by the governor or named by the president of the state bar of New Mexico shall serve for a term of four years. The insurance agent appointed by the governor and the attorney named by the president of the state bar of New Mexico shall be paid by the risk management division per diem and mileage in accordance with the provisions of the Per Diem and Mileage Act [10-8-1 NMSA 1978].

C. A majority of the board shall constitute a quorum. The members of the board shall annually elect from among their membership a chairman and vice chairman.

**History:** Laws 1978, ch. 166, § 9.

### **ANNOTATIONS**

**Law reviews.** — For survey, "Torts: Sovereign and Governmental Immunity in New Mexico," see 6 N.M. L. Rev. 249 (1976).

### **15-7-5. Powers and duties of the advisory board.**

The advisory board shall review:

A. specifications for all insurance policies to be purchased by the risk management division including specifications setting forth minimum capital and surplus requirements for any insurance company submitting a bid;

B. all professional service and consulting contracts or agreements to be entered into by the risk management division;

C. if insurance is to be purchased by negotiation, the companies and agents to be selected to submit proposals;

D. all rules and regulations to be promulgated by the risk management division;

E. the form, purpose and content of certificates of coverage to be issued by the risk management division; and

F. investments to be made by the risk management division.

**History:** Laws 1978, ch. 166, § 10.

### **15-7-6. Workers' compensation retention fund.**



A. There is created in the state treasury the "workers' compensation retention fund".

B. Money deposited in, earned by or appropriated to the workers' compensation retention fund may be used by the director to:

- (1) purchase workers' compensation insurance;
- (2) establish appropriate reserves to provide workers' compensation coverage for employees of state agencies or employees of covered educational entities;
- (3) pay workers' compensation claims in accordance with the Workers' Compensation Act [52-1-1 NMSA 1978];
- (4) enter into consulting and other contracts as may be necessary or desirable in carrying out the provisions of this section; and
- (5) pay costs or expenses incurred in carrying out the provisions of this section.

C. For the purposes of this section, "covered educational entities" means school districts as defined in Section 22-1-2 NMSA 1978 and educational institutions established pursuant to Chapter 21, Articles 13, 16 and 17 [repealed] NMSA 1978 that request and are granted coverage from the risk management division of the general services department, if the coverage is commercially unavailable; except that coverage shall be provided to a school district only through the public school insurance authority or its successor unless the district has been granted a waiver by the authority or the authority is not offering the coverage for the fiscal year for which the division offers its coverage. A local school district to which the division may provide coverage may provide for marketing and servicing to be done by licensed insurance agents who shall receive reasonable compensation for their services.

**History:** 1953 Comp., § 5-14-25, enacted by Laws 1977, ch. 385, § 9; 1978, ch. 166, § 11; 1983, ch. 301, § 66; 1986, ch. 102, § 7; 1989, ch. 324, § 10; 1996 (1st S.S.), ch. 3, § 4; 2000, ch. 27, § 3.

## ANNOTATIONS

**Bracketed material.** — The bracketed material in Subsection C was inserted by the compiler. It was not enacted by the legislature, and it is not a part of the law. Article 17 of Chapter 21 NMSA 1978 was repealed by Laws 1995, ch. 224, § 29 and Laws 1999, ch. 219, § 21. See notes following Chapter 21, Article 17 NMSA 1978.

**The 2000 amendment,** effective March 6, 2000, added Subsection B(2) and redesignated the remaining paragraphs in Subsection B accordingly, and deleted Subsection D, concerning excess cash balances in the workers' compensation retention fund.

**The 1996 amendment**, effective March 21, 1996, in Subsection B, inserted "earned by" in the introductory paragraph, deleted former Paragraph (2), which provided that the director may establish appropriate reserves to provide workers' compensation coverage for employees of state agencies or employees of covered educational entities, and redesignated the remaining paragraphs; in the first sentence of Subsection C, substituted "that request" for "which request" near the beginning and deleted "group" preceding "insurance authority"; and added Subsection D.

### **15-7-7. Consulting and claims adjusting contracts.**

A. Notwithstanding any other provision of law, the risk management division of the department of finance and administration [general services department] may:

(1) contract, as may be necessary, with a recognized insurance consulting firm to assist in the implementation of the workmen's compensation retention fund and the public property reserve fund; and

(2) contract with a recognized insurance claims adjusting firm for the handling of all claims made against the workmen's compensation retention fund or the public property reserve fund.

B. No contract shall be entered into pursuant to this section unless proposals have been sought from two or more qualified firms. Contracts shall be awarded on the basis of cost, financial resources of the firm, service facilities in New Mexico, service reputation and experience.

**History:** 1953 Comp., § 5-14-26, enacted by Laws 1977, ch. 385, § 10; 1983, ch. 58, § 1.

### **ANNOTATIONS**

**Department of finance and administration.** — Laws 1983, ch. 301, § 7 states that references to the risk management division of the department of finance and administration are to be construed as references to the risk management division of the general services department. See 15-7-2 NMSA 1978. The bracketed material was inserted by the compiler. It was not enacted by the legislature, and it is not part of the law.

### **15-7-8. Local public bodies; insurance policies; reports.**

A. Upon request, any local public body shall file with the director of the risk management division:

(1) a copy of every insurance policy currently in effect; and

(2) a detailed statement of the cost of such policies.

B. If a local public body has been unable to insure any risk or for any other reason has failed to insure any risk, it shall report the reason for such failure to the director of the risk management division on or before November 1 of each year.

**History:** 1953 Comp., § 5-14-27, enacted by Laws 1977, ch. 385, § 16; 1978, ch. 166, § 12; 1983, ch. 58, § 2.

### **15-7-9. Confidentiality of records; penalty.**

A. The following records created or maintained by the risk management division are confidential and shall not be subject to any right of inspection by any person not a state officer, member of the legislature or state employee within the scope of his official duties:

(1) records pertaining to insurance coverage; provided any record of a particular coverage shall be available to any public officer, public employee or governmental entity insured under such coverage; and

(2) records pertaining to claims for damages or other relief against any governmental entity or public officer or employee; provided such records shall be subject to public inspection by New Mexico citizens one hundred eighty days after the latest of the following dates:

(a) the date all statutes of limitation applicable to the claim have run;

(b) the date all litigation involving the claim and the occurrence giving rise thereto has been brought to final judgment and all appeals and rights to appeal have been exhausted;

(c) the date the claim is fully and finally settled; or

(d) the date the claim has been placed on closed status.

B. Records protected pursuant to Subsection A of this section shall be made available as necessary for purposes of audit or defense. Any person performing such audit or providing such defense shall keep such records confidential, except as required otherwise by law.

C. Any person who reveals records protected pursuant to Subsection A of this section to another person in violation of this section is guilty of a misdemeanor and shall, upon conviction, be fined not more than one thousand dollars (\$1,000). The state shall not employ any person so convicted for a period of five years after the date of conviction.

**History:** 1978 Comp., § 15-7-9, enacted by Laws 1981, ch. 280, § 1.

## ANNOTATIONS

**Cross references.** — For inspection of public records generally, see 14-2-1 et seq., 14-3-7 and 14-3-8 NMSA 1978.

**Section does not encompass all public bodies.** — The clear, unambiguous language limiting confidentiality to “records created or maintained by the risk management division” means that this section does not encompass all public bodies, but rather only those insured by the risk management division. *Bd. of Comm’rs v. Las Cruces Sun-News*, 2003-NMCA-102, 134 N.M. 283, 76 P.3d 36.

**Funds held by private insurers not protected.** — Nothing in the Tort Claims Act suggests the legislature intended to extend the protection of this section to funds held by private insurers. *Board of Comm’rs v. Las Cruces Sun-News*, 2003-NMCA-102, 134 N.M. 283, 76 P.3d 36.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — What preliminary data gathered by public departments or officials constitute “public records” within the right of access, inspection, and copying by private persons, 26 A.L.R.4th 639.

76 C.J.S. Records § 74 et seq.

### **15-7-10. Legal defense contracts; renewal.**

Any valid contract between the risk management division and any law firm, to defend claims against the state or any of its public employees pursuant to Subsection B of Section 41-4-4 NMSA 1978, shall be automatically extended for the purpose of and as long as necessary for completing and concluding any matter in litigation, including appeals, referred to the firm for defense prior to the termination date stated in the contract or any applicable amendment thereto. Automatic renewal pursuant to this section applies only to matters which were in litigation and were referred to the law firm prior to the contract termination date and does not apply to regular contract renewals. This section does not affect the director's discretion to assign or to terminate a prior assignment and reassign any matter to any law firm. This section does not apply where nonrenewal is approved:

A. by two-thirds majority vote of the board members present and voting and by consent of a majority of the state public employee defendants being represented in each matter; or

B. by simple majority vote of the board members present and voting, consent of the law firm and consent of a majority of the state public employee defendants being represented in each matter.

**History:** 1978 Comp., § 15-7-10, enacted by Laws 1982, ch. 19, § 2.

## **15-7-11. Temporary transfer of money among funds administered by risk management division.**

A. The director of the risk management division of the general services department may transfer money in accordance with this section among the following funds:

- (1) the local public body unemployment compensation reserve fund;
- (2) the public liability fund;
- (3) the public property reserve fund;
- (4) the state government unemployment compensation reserve fund;
- (5) the surety bond fund; and
- (6) the workers' compensation retention fund.

B. Money may be transferred among the funds specified in Subsection A of this section only upon the director's written certification that:

- (1) the money is required to maintain the financial stability and liquidity of the fund to which the money is to be transferred;
- (2) the money is not required to maintain the financial stability and liquidity of any fund from which the money is to be transferred;
- (3) the fund to which the money is to be transferred can reasonably be expected to have sufficient balances within one year of the date of the transfer to repay the amount transferred in full plus interest; and
- (4) all other requirements of this section will be fulfilled prior to transfer.

C. The secretary of general services and the state board of finance shall approve in advance any transfer of money pursuant to this section.

D. The total amount of money which may be transferred out of a particular fund shall not at any time exceed thirty percent of the total balance deposited in the fund including any money owed to the fund pursuant to this section.

E. Amounts of money transferred pursuant to this section shall be repaid to any fund from which transferred within one year from the date of transfer, together with interest. Interest shall be calculated on the basis of the average interest earned on money remaining in the fund during the duration of the transfer.

F. If amounts owing any fund cannot be repaid in accordance with this section, the director of the risk management division shall so certify to the secretary of general services and to the state board of finance. Repayment shall then be made as soon as money becomes available therefor.

G. Repayment of money to a particular fund shall not be deemed a transfer subject to the requirements of this section.

**History:** 1978 Comp., § 15-7-11, enacted by Laws 1983, ch. 292, § 1; 1990, ch. 28, § 1.

### **ANNOTATIONS**

**The 1990 amendment**, effective May 16, 1990, inserted "of the risk management division of the general services department" and "of the risk management division" following "director" in Subsections A and F, substituted "secretary of general services" for "secretary of finance and administration" in Subsections C and F and, in Subsection A, added present Paragraphs (1), (2) and (4) and redesignated former Paragraphs (1) to (3) as present Paragraphs (6), (3), and (5), respectively.

## **ARTICLE 8**

### **Transportation Services**

#### **15-8-1. Short title.**

Chapter 15, Article 8 NMSA 1978 may be cited as the "Transportation Services Act".

**History:** Laws 1994, ch. 119, § 1; 1995, ch. 161, § 3.

### **ANNOTATIONS**

**The 1995 amendment**, effective June 1, 1995, rewrote the section which read "Sections 1 through 12 of this act may be cited as the 'Motor Pool Act.'"

**Personal use of state vehicles prohibited.** — Although Rule 78-9 of the department of finance and administration (now general services department) does not specifically prohibit the use of state vehicles for hauling or pulling personal vehicles while on official business, it is apparently intended to prohibit any personal use of state vehicles. 1980 Op. Att'y Gen. No. 80-4.

#### **15-8-2. Findings and purpose.**

The legislature finds that centralized control of state vehicles is in the best interest of the state because it permits the state to use its transportation resources in the most efficient and effective manner. The primary purposes of the Transportation Services Act [15-8-1 NMSA 1978] are to:

- A. provide a centralized agency to purchase state vehicles and to control their use;
- B. implement and administer the State Aircraft Act [15-9-1 A 1978]; and
- C. provide authorization for administration of the state's state and federal surplus property programs.

History: Laws 1994, ch. 119, § 2; 1995, ch. 161, § 4; 2007, ch. 29, § 1.

### ANNOTATIONS

**The 2007 amendment**, effective July 1, 2007, deletes former Subsection C, which provided that a purpose of the act was to supervise and monitor the alternative fuel conversion program; deletes former Subsection D, which provided that a purpose of the act was to supervise and administer a state travel coordination program; and adds new Subsection C to include as a purpose of the Transportation Services Act the administration of surplus property programs.

**The 1995 amendment**, effective June 1, 1995, subdivided the existing language to form Subsection A, added Subsections B through D, and substituted "The primary purposes of the Transportation Services Act are" for "the purpose of the Motor Pool Act is" in the introductory language.

### 15-8-3. Definitions.

As used in the Transportation Services Act:

- A. "director" means the director of the division;
- B. "division" means the transportation services division of the general services department;
- C. "secretary" means the secretary of general services;
- D. "state agency" means a state department, agency, board or commission but does not include the legislative and judicial branches, public schools and institutions of higher education; and
- E. "state vehicle" means an automobile, van, sport-utility truck, pickup truck or other vehicle with a declared gross vehicle weight of less than ten thousand pounds used by a state agency to transport passengers or property.

History: Laws 1994, ch. 119, § 3; 1995, ch. 161, § 5; 2007, ch. 29, § 2; 2010, ch. 57, § 1.

## ANNOTATIONS

**The 2010 amendment**, effective May 19, 2010, in Subsection D, after "board or commission", deleted "including" and added "but does not include", and after "judicial branches", deleted "but not including".

**The 2007 amendment**, effective July 1, 2007, deleted former Subsection A, which defined "department" as the general services department; changed the definition of "state agency" in Subsection D to include the legislative and judicial branches, but to exclude public schools and institutions of higher learning; and in Subsection E, changed to the definition of "state vehicle" to include vehicles with a declared gross weight of less than ten thousand pounds.

**The 1995 amendment**, effective June 1, 1995, substituted "transportation services" for "motor pool" in the introductory language and in Subsection C.

### **15-8-4. Division created.**

The "transportation services division" is created in the general services department. The director shall be appointed by the secretary with the consent of the governor. Staff of the division shall be covered by the provisions of the Personnel Act [10-9-1 NMSA 1978].

History: Laws 1994, ch. 119, § 4; 1995, ch. 161, § 6; 2007, ch. 29, § 3.

## ANNOTATIONS

**The 2007 amendment**, effective July 1, 2007, changed "department" to "general services department".

**The 1995 amendment**, effective June 1, 1995, substituted "transportation services" for "motor pool" in the first sentence.

### **15-8-5. Division; general powers and duties.**

The division shall:

- A. have control over state vehicles owned or leased by the division;
- B. regulate the use of the state vehicles owned or leased by the division;
- C. register all state vehicles owned or leased by the division;
- D. control the issuance of state government plates assigned to a state agency and ensure that state government plates are used only on state vehicles;



- E. maintain a complete and accurate inventory of state vehicles owned or leased by the division and the location of those vehicles;
- F. establish and enforce maintenance standards for state vehicles owned or leased by the division;
- G. require periodic use and maintenance reports from state agencies that have custody of state vehicles owned or leased by the division;
- H. purchase or lease, through the state purchasing agent, state vehicles to be owned or leased by the division and assign their use;
- I. perform periodic announced and unannounced inspections of state vehicles owned or leased by the division in the custody of state agencies;
- J. establish a motor pool and provide a fleet of state vehicles for use by state agencies;
- K. establish and enforce standards for drivers of state vehicles, including revoking driver privileges;
- L. have access to individual state employee driver records maintained by the taxation and revenue department in order to ensure that drivers of state vehicles hold a current valid driver's license as defined by the rules of the division;
- M. maintain a record of all accident reports and insurance claims for vehicles owned or leased by the division;
- N. maintain a history of state vehicles owned or leased by the division, including purchases, maintenance and sales;
- O. carry out the provisions of the Alternative Fuel Acquisition Act [13-1B-1 NMSA 1978] as it applies to vehicles owned or leased by the division;
- P. have the power to sell or otherwise dispose of vehicles owned or leased by the division pursuant to the provisions of Sections 13-6-1 and 13-6-2 NMSA 1978 after approval of the secretary; and
- Q. administer the state's state and federal surplus property programs.

History: Laws 1994, ch. 119, § 5; 2007, ch. 29, § 4.

## **ANNOTATIONS**

**Compiler's notes.** — The Alternative Fuel Conversion Act, referred to in Subsection Q, was amended and renamed as the Alternative Fuel Acquisition Act by Laws 2002, chapter 32. See 13-1B-1 NMSA 1978 et seq.

**The 2007 amendment,** effective July 1, 2007, deleted former Subsection C, which required the division to hold titles to all state vehicles and provide for the security of the titles; deleted former Subsection L, which required the division to provide for maintenance of state vehicles in the motor pool; relettered former Subsections C to K as Subsections C to J and former Subsections M to R as Subsections K to P; in Subsections A and B and new Subsections C, E, F, G, I, M, N, O and P, added the qualification that state vehicles be owned or leased by the division; in relettered Subsection C, deleted the requirements that the division register state vehicles in the custody of the division and ensure that state vehicles assigned to other state agencies have current and correct registration and added the qualification that the state vehicles be owned or leased by the division; in new Subsection H, added the authority to lease vehicles and added the qualification that the state vehicles be owned or leased by the division; in new Subsection L, deleted the provision that driver records include all tickets received by drivers of state vehicles for violations of the Motor Vehicle Code and granted the division access to employee driver records maintained by the taxation and revenue department to ensure that drivers of state vehicles hold a current valid driver's license as defined by the rules of the division; in new Subsection M, added the qualification that reports and claims be for vehicles owned or leased by the division; in new Subsection O, changed the name of "Alternative Fuel Conservation Act" to the "Alternative Fuel Acquisition Act" and added the qualification that the act be carried out as it applies to vehicles owned or leased by the division; and added a new Subsection Q to provide for administration by the division of the state's state and federal surplus property programs.

### **15-8-6. State vehicles; use; markings; state government plates.**

A. The division shall adopt rules governing the use of vehicles used by state agencies, including driver requirements and responsibilities, under what circumstances someone can be assigned a state vehicle on a permanent or semi-permanent basis and when custody of a state vehicle can be vested in another state agency.

B. The division may determine that it is impractical to retain custody of certain state vehicles, and it may provide that custody reside in another state agency in the following cases:

- (1) the state vehicle is used for emergency or law enforcement purposes; or
- (2) the state vehicle is a department of transportation, energy, minerals and natural resources department, department of game and fish or homeland security and emergency management department passenger vehicle, truck or tractor or heavy road equipment.

C. Except as provided in Subsections E and F of this section, all state vehicles shall be marked as state vehicles. Each side of the vehicle shall be marked, in letters not less than two inches in height, with the following designation of ownership: "State of New Mexico,..... Department" or "State of New Mexico Department of ....." and naming the department using the vehicle.

D. Except as provided in Subsections E and F of this section, all state vehicles shall have specially designed government registration plates.

E. Only state vehicles used for legitimate undercover law enforcement purposes are exempt from the requirements of Subsections C and D of this section. All other state vehicles owned or in the custody of state agencies that have law enforcement functions shall be marked and have state government registration plates.

F. A state agency may seek custody of state vehicles as an exception to Subsection B of this section or an exemption to the provisions of Subsection C of this section by making a written request to the director, specifying the reasons for the proposed custody or exemption. The director may approve the custody or exemption, in writing, indicating the duration and any conditions of the custody or exemption.

History: Laws 1994, ch. 119, § 6; 2007, ch. 29, § 5; 2009, ch. 8, § 1; 2009, ch. 129, § 1; 2009, ch. 250, § 6.

## ANNOTATIONS

**Cross references.** — For state government registration plates, see 66-3-28 NMSA 1978.

**2009 amendments.** — Laws 2009, ch. 8, § 1, Laws 2009, ch. 129, § 1 and Laws 2009, ch. 250, § 6 amended 15-8-6 NMSA 1978. The section is set out as amended by Laws 2009, ch. 250, § 6. See 12-1-8 NMSA 1978.

**Laws 2009, ch. 250, § 6**, effective April 7, 2009, in Paragraph (2) of Subsection B, deleted "or" after "natural resources department", and after "game and fish", added "or homeland security and emergency management department".

**Laws 2009, ch. 8, § 1 and Laws 2009, ch. 129, § 1**, effective June 19, 2009, also enacted identical amendments to the section as follows: in Subsection A, after "state agencies", added "or by other persons pursuant to Subsection G of this section"; and added Subsection G, which required the division to adopt rules for using special-use vehicles for evaluation and training in conjunction with the governor's commission on disabilities adaptive driving program.

**The 2007 amendment**, effective July 1, 2007, in Subsection A, changed "state vehicles" to "vehicles used by state agencies"; deleted former Paragraph (2) of Subsection B, which provided that custody may reside in another state agency if the

vehicle is of a special design or construction that effectively limits its use to a particular purpose; deleted former Paragraph (3) of Subsection B, which provided that custody may reside in another state agency if the money used to acquire the vehicle is subject to constitutional or trust limitations that prevent its use as part of the motor pool; deleted former Paragraph (4) of Subsection B, which provided that custody may reside in another state agency if the vehicle is not based in Santa Fe; in Paragraph (2), changed "state highway and transportation department" to "department of transportation" and added "energy, minerals and natural resources department or department of game and fish passenger vehicle"; deleted former Paragraph (6) of Subsection B, which provided that custody may reside in another state agency if the agency requires the use of a vehicle on a regular basis as defined by regulation of the division; in Subsection C, added "State of New Mexico Department of \_\_\_\_\_" as a state vehicle designation, added the qualification that the department designated by the marking be the department using the vehicle, and deleted the provision that if a department has more than one vehicle assigned for its use, each vehicle shall be conspicuously numbered in consecutive order and that the division include the words "State Motor Pool" and consecutive number of the vehicle on the designation for its vehicles; and added Subsection F.

### **15-8-7. Purchase of state vehicles; Procurement Code; equipment.**

A. All state vehicle purchases shall be pursuant to the provisions of the Procurement Code [13-1-28 NMSA 1978]. All purchases of state vehicles, even those not assigned to the motor pool, shall be approved by the director.

B. Subject to legislative appropriations and directives and the approval of the secretary, the director shall determine the type and number of state vehicles to be purchased each year and how they shall be equipped.

**History:** Laws 1994, ch. 119, § 7.

### **ANNOTATIONS**

**Purchase through budget transfers.** — This section does not provide that motor vehicle purchases may be approved only if specifically provided in the agency budget in its originally approved form, and where the general appropriation act gives the state budget division the authority to increase agency budgets and to transfer funds between budget categories, vehicle acquisitions may be provided either in the originally approved operating budget submitted by the state agency to the state budget division and then provided to the legislature, or in the approval budget as amended by approved budget transfers and increases that the state budget division approves, provided that the budget and any amendments to it must provide that the funds are to be used specifically for the purchase or lease of motor vehicles. 1987 Op. Att'y Gen. No. 87-32 (rendered under former 15-3-26 NMSA 1978).

The use of budget adjustment requests to place funds in the capital outlay budget category for the purpose of purchasing vehicles does not infringe upon or usurp the legislature's authority to make agency appropriations. 1987 Op. Att'y Gen. No. 87-32 (rendered under former 15-3-26 NMSA 1978).

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — Use of automobile as corporate or governmental function, 110 A.L.R. 1117, 156 A.L.R. 714.

81A C.J.S. States § 145.

### **15-8-8. Lease with state funds.**

No motor vehicle shall be leased with state money unless such lease is first specifically approved by the division.

**History:** Laws 1994, ch. 119, § 8.

### **15-8-9. Vehicle title.**

Title to all state vehicles shall be in the name of the division.

**History:** Laws 1994, ch. 119, § 9; 2007, ch. 29, § 6.

## **ANNOTATIONS**

**The 2007 amendment**, effective July 1, 2007, changed the requirement that title to vehicles be held in the name of the state to the requirement that title to vehicles be held in the name of the division; deleted the requirement that titles, even to state vehicles not in the custody of the division, be kept by the division; and deleted the requirement that the division provide for the security of vehicle titles.

### **15-8-10. Rules.**

The division shall adopt and file in accordance with the State Rules Act [14-4-1 NMSA 1978] rules to carry out the provisions of the Transportation Services Act [15-8-1 NMSA 1978].

**History:** Laws 1994, ch. 119, § 10; 1995, ch. 161, § 7; 2007, ch. 29, § 7.

## **ANNOTATIONS**

**The 2007 amendment**, effective July 1, 2007, deleted the phrase "and regulations".

**The 1995 amendment**, effective June 1, 1995, substituted "Transportation Services Act" for "Motor Pool Act".

## **15-8-11. Report to legislature.**

The division shall provide an annual report to the legislature that includes information on the operations of the division, including reports on Motor Vehicle Code [66-1-1 NMSA 1978] violations, accidents and insurance claims involving state vehicles owned or leased by the division; major maintenance costs; and purchases and sales of motor vehicles. The report shall be deemed to have been provided to the legislature when filed with the legislative council service and the legislative finance committee. The division shall make copies available to individual legislators upon request.

History: Laws 1994, ch. 119, § 11; 2007, ch. 29, § 8.

### **ANNOTATIONS**

**Compiler's notes.** — The Alternative Fuel Conversion Act, referred to at the end of the first sentence, was amended and renamed as the Alternative Fuel Acquisition Act by Laws 2002, chapter 32. See 13-1B-1 NMSA 1978 et seq.

**The 2007 amendment,** effective July 1, 2007, adds the qualification that state vehicles be owned or leased by the division and deletes the requirement that the report include information about the progress of the division in carrying out the provisions of the Alternative Fuel Acquisition Act.

## **ARTICLE 9 State Aircraft**

### **15-9-1. Short title.**

Chapter 15, Article 9 NMSA 1978 may be cited as the "State Aircraft Act".

**History:** Laws 1994, ch. 135, § 1; 1995, ch. 49, § 1.

### **ANNOTATIONS**

**The 1995 amendment,** effective June 16, 1995, substituted "Chapter 15, Article 9 NMSA 1978" for "This act".

### **15-9-2. Definitions.**

As used in the State Aircraft Act [15-9-1 NMSA 1978]:

- A. "department" means the general services department; and
- B. "state aircraft" means all state airplanes used primarily to transport passengers.

**History:** Laws 1994, ch. 135, § 2.

### **15-9-3. Aircraft consolidation; department duties.**

A. All state aircraft shall be consolidated in the department for the use of the state's agencies, departments, branches and institutions.

B. The department shall:

(1) adopt and file in accordance with the State Rules Act [14-4-1 NMSA 1978] rules and regulations to carry out the provisions of the State Aircraft Act [15-9-1 NMSA 1978];

(2) own, operate and maintain the state's aircraft fleet;

(3) provide centralized statewide scheduling of aircraft;

(4) designate destination airports;

(5) determine travel charges for state aircraft services;

(6) determine use requirements, including the number of required passengers per flight and under what conditions persons other than state officers and employees are allowed to travel in state aircraft; and

(7) determine other requirements it deems appropriate or fiscally responsible.

C. The department may refuse a request for state aircraft scheduling.

**History:** Laws 1994, ch. 135, § 3.

#### **ANNOTATIONS**

**Cross references.** — For transfer of state-owned aircraft and related personnel, property and obligations, see 15-9-5 NMSA 1978.

### **15-9-4. Travel charges.**

The department shall charge for the use of state aircraft. Charges shall be sufficient to offset the costs of operation, maintenance and depreciation of state aircraft. Money collected for travel charges shall be deposited in the aviation services fund.

**History:** Laws 1994, ch. 135, § 4; 1995, ch. 49, § 2.

#### **ANNOTATIONS**

**The 1995 amendment**, effective June 16, 1995, substituted "aviation services fund" for "general fund" in the third sentence.

#### **15-9-4.1. Aviation services fund.**

There is created in the state treasury the "aviation services fund". Money in the fund is appropriated to the general services department for the purpose of operating, maintaining and repairing state aircraft, including fuel, insurance, pilot compensation and other basic support costs. Disbursements from the fund shall be made only upon warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the director of the motor pool division of the general services department. Money in the fund shall not revert at the end of any fiscal year.

**History:** Laws 1995, ch. 49, § 3.

#### **15-9-5. Temporary provision; transfer of aircraft, personnel, money, appropriations, furniture, supplies and other property and contractual obligations.**

On the effective date of the State Aircraft Act [15-9-1 NMSA 1978], the passenger aircraft owned by the state corporation commission [public regulation commission], the energy, minerals and natural resources department and the state highway and transportation department shall be transferred to the general services department, and title to the aircraft shall be transferred to the general services department. On the effective date of the State Aircraft Act, the personnel, money, appropriations, furniture, supplies and other property attributable to the ownership, operation or maintenance of passenger aircraft in the state corporation commission [public regulation commission], the energy, minerals and natural resources department and the state highway and transportation department shall be transferred to the general services department. On the effective date of the State Aircraft Act, contractual obligations related to the ownership, operation or maintenance of passenger aircraft of the state corporation commission [public regulation commission], the energy, minerals and natural resources department and the state highway and transportation department shall be binding on the general services department.

**History:** Laws 1994, ch. 135, § 5.

### **ANNOTATIONS**

**Cross references.** — For references to state corporation commission being construed as references to the public regulation commission, see 8-8-21 NMSA 1978.

**Bracketed material.** — The bracketed material in this section was inserted by the compiler. It was not enacted by the legislature and is not part of the law.



# **ARTICLE 10**

## **Capitol Buildings Planning Commission**

### **15-10-1. Capitol buildings planning commission created.**

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

B. The commission shall:

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

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

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

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

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

D. The commission shall meet regularly and shall report annually to the legislature on an annual update of the master plan for the long-range facilities needs of state government in the greater metropolitan areas of Las Cruces, Santa Fe and Albuquerque and throughout the state.

History: Laws 1997, ch. 178, § 5; 2002, ch. 69, § 1; 2003, ch. 110, § 1; 2007, ch. 64, § 1; 2009, ch. 19, § 1.

### **ANNOTATIONS**

**The 2009 amendment**, effective July 1, 2009, in Subsection A, deleted the former specification of the duties of the commission and authorized the designees of the secretary of general services and of the state treasurer to serve on the commission; and added Subsection B.

**The 2007 amendment**, effective March 29, 2007, directs the commission to study and plan for facilities in Las Cruces and to develop a master plan for facilities statewide, eliminates the staff architect as a commission member and adds the state treasurer as a commission member; and requires the staff architect and property control division to provide staff for the commission.

**The 2003 amendment**, effective June 20, 2003, inserted "the secretary of highway and transportation or his designee, the state cultural affairs officer or his designee" following "New Mexico staff architect" in Subsection B.

**The 2002 amendment**, effective May 15, 2002, inserted the references to Albuquerque in Subsections A and D; and inserted "regularly" in Subsection D.

## **15-10-2. Capitol buildings planning commission; review of lease-purchase agreements.**

A. Before submitting a proposed lease-purchase agreement to the legislature for ratification and approval pursuant to Section 15-3-35 NMSA 1978, the proposed lessee shall notify the commission. The commission shall review a proposed lease-purchase agreement if:

- (1) the total lease revenues to be generated during the term of the lease-purchase agreement, including any possible extensions or renewals, exceed five million dollars (\$5,000,000); or
- (2) pursuant to criteria adopted by the commission, the commission selects the lease-purchase agreement for review.

B. A review conducted pursuant to this section shall include findings by the commission as to whether:

- (1) the leasehold property and the term of the lease-purchase agreement are sufficient to meet the identified needs of the state agency that will occupy the leasehold property;
- (2) the payment of all lease revenues due pursuant to a lease-purchase agreement will be sufficient, at the end of the term of the lease-purchase agreement, to acquire ownership of the leasehold property;
- (3) the lease-purchase agreement provides that there is no legal obligation for the state or state agency to continue the lease-purchase agreement from year to year or

to purchase the leasehold property, and that the lease-purchase agreement shall be terminated if sufficient appropriations are not available to meet the current lease payments; and

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

C. After a review pursuant to this section, the commission shall submit its findings and recommendations to the legislature.

D. As used in this section:

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

(2) "facilities" means buildings and the appurtenances and improvements associated therewith, including the real estate upon which a building is constructed; suitable parking for use of the building; utilities, access roads and other infrastructure; and related real estate. "Facilities" can also mean undeveloped or developed real estate that is transferred or leased with the intent that a new building or improvement be constructed thereon;

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

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

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

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

(a) the state armory board;

(b) the commissioner of public lands;

(c) state institutions under the jurisdiction of the higher education department;

(d) the economic development department when the department is acquiring property pursuant to the Statewide Economic Development Finance Act [6-25-1 NMSA 1978];

(e) the public school facilities authority when the authority is acquiring property pursuant to the Public School Capital Outlay Act [22-24-1 NMSA 1978]; and

(f) a state-chartered charter school.

History: 1978 Comp., §15-10-2, as enacted by Laws 2009, ch. 19, § 2.

## **ANNOTATIONS**

**Effective dates.** — Laws 2009, ch. 19, § 3 provided that Laws 2009, ch. 19, § 2 was effective July 1, 2009.

# **ARTICLE 11**

## **Building Services Division**

### **15-11-1. Building services division; powers and duties.**

A. The building services division of the general services department shall:

(1) maintain, clean and operate buildings and improvements and maintain and landscape the grounds and premises under the control of the property control division of the general services department that are located within the exterior boundaries of the city of Santa Fe, either with building services division staff or by contract;

(2) recommend annually to the secretary of general services any major repairs, renovations and equipment replacement needed in buildings serviced by the building services division; and

(3) develop and implement energy and water conservation measures in buildings serviced by the building services division.

B. The building services division of the general services department may maintain, clean, operate and otherwise care for buildings owned by the New Mexico finance authority that are leased to the property control division of the general services department in accordance with the provisions of the lease.

C. The building services division of the general services department may enter into agreements with state agencies housed in buildings under the control of the property control division of the general services department located outside the exterior boundaries of the city of Santa Fe to provide or administer contracts with private firms to

provide maintenance, custodial or security services. The building services division may charge reasonable fees to cover costs of providing the services, and money from the fees shall be appropriated by the legislature for division operations.

**History:** Laws 2001, ch. 108, § 1.

### **ANNOTATIONS**

**Effective dates.** — Laws 2001, ch. 108 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective June 15, 2001, 90 days after adjournment of the legislature.