

1 HOUSE BILL 264

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Doreen Y. Gallegos

5
6
7
8
9
10 AN ACT

11 RELATING TO PUBLIC PROPERTY; EXEMPTING COUNTIES FROM
12 REQUIREMENTS APPLICABLE TO LOCAL PUBLIC BODIES FOR THE SALE OR
13 OTHER DISPOSAL OF PUBLIC PROPERTY; MAINTAINING THE ABILITY OF
14 COUNTIES TO RECEIVE DONATIONS OF PUBLIC PROPERTY FROM STATE
15 AGENCIES AND OTHER GOVERNMENTAL ENTITIES.

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

18 SECTION 1. Section 13-6-1 NMSA 1978 (being Laws 1961,
19 Chapter 100, Section 1, as amended) is amended to read:

20 "13-6-1. DISPOSITION OF OBSOLETE, WORN-OUT OR UNUSABLE
21 TANGIBLE PERSONAL PROPERTY.--

22 A. The governing authority of each state agency,
23 local public body, school district and state educational
24 institution may dispose of any item of tangible personal
25 property belonging to that authority and delete the item from

.219552.1

underscoring material = new
~~[bracketed material] = delete~~

1 its public inventory upon a specific finding by the authority
2 that the item of property is:

3 (1) of a current resale value of five thousand
4 dollars (\$5,000) or less; and

5 (2) worn out, unusable or obsolete to the
6 extent that the item is no longer economical or safe for
7 continued use by the body.

8 B. The governing authority shall, as a prerequisite
9 to the disposition of any items of tangible personal property:

10 (1) designate a committee of at least three
11 officials of the governing authority to approve and oversee the
12 disposition; and

13 (2) give notification at least thirty days
14 prior to its action making the deletion by sending a copy of
15 its official finding and the proposed disposition of the
16 property to the state auditor and the appropriate approval
17 authority designated in Section 13-6-2 NMSA 1978, duly sworn
18 and subscribed under oath by each member of the authority
19 approving the action.

20 C. A copy of the official finding and proposed
21 disposition of the property sought to be disposed of shall be
22 made a permanent part of the official minutes of the governing
23 authority and maintained as a public record subject to the
24 Inspection of Public Records Act.

25 D. The governing authority shall dispose of the

underscoring material = new
~~[bracketed material] = delete~~

1 tangible personal property by negotiated sale to any
2 governmental unit of an Indian nation, tribe or pueblo in
3 New Mexico or by negotiated sale or donation to other state
4 agencies, local public bodies, counties, school districts,
5 state educational institutions or municipalities or through the
6 central purchasing office of the governing authority by means
7 of competitive sealed bid or public auction or, if a state
8 agency, through the surplus property bureau of the
9 transportation services division of the general services
10 department.

11 E. A state agency shall give the surplus property
12 bureau of the transportation services division of the general
13 services department the right of first refusal when disposing
14 of obsolete, worn-out or unusable tangible personal property of
15 the state agency.

16 F. If the governing authority is unable to dispose
17 of the tangible personal property pursuant to Subsection D or E
18 of this section, the governing authority may sell or, if the
19 property has no value, donate the property to any organization
20 described in Section 501(c)(3) of the Internal Revenue Code of
21 1986.

22 G. If the governing authority is unable to dispose
23 of the tangible personal property pursuant to Subsection D, E
24 or F of this section, it may order that the property be
25 destroyed or otherwise permanently disposed of in accordance

.219552.1

underscoring material = new
~~[bracketed material]~~ = delete

1 with applicable laws.

2 H. If the governing authority determines that the
3 tangible personal property is hazardous or contains hazardous
4 materials and may not be used safely under any circumstances,
5 the property shall be destroyed and disposed of pursuant to
6 Subsection G of this section.

7 I. No tangible personal property shall be donated
8 to an employee or relative of an employee of a state agency,
9 local public body, county, school district or state educational
10 institution; provided that nothing in this subsection precludes
11 an employee from participating and bidding for public property
12 at a public auction.

13 J. This section shall not apply to any property
14 acquired by a museum through abandonment procedures pursuant to
15 the Abandoned Cultural Properties Act.

16 K. Notwithstanding the provisions of Subsection A
17 of this section, the department of transportation may sell
18 through public auction or dispose of surplus tangible personal
19 property used to manage, maintain or build roads that exceeds
20 five thousand dollars (\$5,000) in value. Proceeds from sales
21 shall be credited to the state road fund. The department of
22 transportation shall notify the department of finance and
23 administration regarding the disposition of all property.

24 L. If the secretary of public safety finds that
25 ~~[the]~~ a K-9 dog presents no threat to public safety, the K-9

.219552.1

underscoring material = new
~~[bracketed material] = delete~~

1 dog shall be released from public ownership as provided in this
2 subsection. The K-9 dog shall first be offered to its trainer
3 or handler free of charge. If the trainer or handler does not
4 want to accept ownership of the K-9 dog, then the K-9 dog shall
5 be offered to an organization described in Section 501(c)(3) of
6 the Internal Revenue Code of 1986 free of charge. If both of
7 the above fail, the K-9 dog shall only be sold to a qualified
8 individual found capable of providing a good home to the
9 animal."

10 SECTION 2. Section 13-6-2 NMSA 1978 (being Laws 1979,
11 Chapter 195, Section 3, as amended) is amended to read:

12 "13-6-2. SALE OF PROPERTY BY STATE AGENCIES OR LOCAL
13 PUBLIC BODIES--AUTHORITY TO SELL OR DISPOSE OF PROPERTY--
14 APPROVAL OF APPROPRIATE APPROVAL AUTHORITY.--

15 A. Providing a written determination has been made,
16 a state agency, local public body, school district or state
17 educational institution may sell or otherwise dispose of real
18 or tangible personal property belonging to the state agency,
19 local public body, school district or state educational
20 institution.

21 B. A state agency, local public body, school
22 district or state educational institution may sell or otherwise
23 dispose of real property:

24 (1) by negotiated sale or donation to an
25 Indian nation, tribe or pueblo located wholly or partially in

1 New Mexico, or to a governmental unit of an Indian nation,
2 tribe or pueblo in New Mexico, that is authorized to purchase
3 land and control activities on its land by an act of congress
4 or to purchase land on behalf of the Indian nation, tribe or
5 pueblo;

6 (2) by negotiated sale or donation to other
7 state agencies, local public bodies, counties, school districts
8 or state educational institutions;

9 (3) through the central purchasing office of
10 the state agency, local public body, school district or state
11 educational institution by means of competitive sealed bid,
12 public auction or negotiated sale to a private person or to an
13 Indian nation, tribe or pueblo in New Mexico; or

14 (4) if a state agency, through the surplus
15 property bureau of the transportation services division of the
16 general services department.

17 C. A state agency shall give the surplus property
18 bureau of the transportation services division of the general
19 services department the right of first refusal to dispose of
20 tangible personal property of the state agency. A school
21 district may give the surplus property bureau the right of
22 first refusal to dispose of tangible personal property of the
23 school district.

24 D. Except as provided in Section 13-6-2.1 NMSA 1978
25 requiring state board of finance approval for certain

.219552.1

underscoring material = new
~~[bracketed material] = delete~~

1 transactions, sale or disposition of real or tangible personal
2 property having a current resale value of more than five
3 thousand dollars (\$5,000) may be made by a state agency, local
4 public body, school district or state educational institution
5 if the sale or disposition has been approved by the state
6 budget division of the department of finance and administration
7 for state agencies, the local government division of the
8 department of finance and administration for local public
9 bodies, the public education department for school districts
10 and the higher education department for state educational
11 institutions.

12 E. Prior approval of the appropriate approval
13 authority is not required if the tangible personal property is
14 to be used as a trade-in or exchange pursuant to the provisions
15 of the Procurement Code.

16 F. The appropriate approval authority may condition
17 the approval of the sale or other disposition of real or
18 tangible personal property upon the property being offered for
19 sale or donation to a state agency, local public body, county,
20 school district or state educational institution.

21 G. The appropriate approval authority may credit a
22 payment received from the sale of such real or tangible
23 personal property to the governmental body making the sale.
24 The state agency, local public body, school district or state
25 educational institution may convey all or any interest in the

.219552.1

underscoring material = new
[bracketed material] = delete

1 real or tangible personal property without warranty.

2 H. This section does not apply to:

3 (1) computer software of a state agency;

4 (2) those institutions specifically enumerated
5 in Article 12, Section 11 of the constitution of New Mexico;

6 (3) the New Mexico state police division of
7 the department of public safety;

8 (4) the state land office or the department of
9 transportation;

10 (5) property acquired by a museum through
11 abandonment procedures pursuant to the Abandoned Cultural
12 Properties Act;

13 (6) leases of county hospitals with any person
14 pursuant to the Hospital Funding Act;

15 (7) property acquired by the economic
16 development department pursuant to the Statewide Economic
17 Development Finance Act; and

18 (8) the state parks division of the energy,
19 minerals and natural resources department."

20 SECTION 3. Section 13-6-4 NMSA 1978 (being Laws 1979,
21 Chapter 195, Section 5, as amended) is amended to read:

22 "13-6-4. DEFINITIONS.--As used in Chapter 13, Article 6
23 NMSA 1978:

24 A. "local public body" means all political
25 subdivisions, except counties, municipalities and school

.219552.1

underscoring material = new
~~[bracketed material] = delete~~

1 districts, of the state and their agencies, instrumentalities
2 and institutions;

3 B. "state agency" means the state of New Mexico or
4 any of its branches, agencies, departments, boards,
5 instrumentalities or institutions other than state educational
6 institutions;

7 C. "state educational institutions" means those
8 institutions designated by Article 12, Section 11 of the
9 constitution of New Mexico; and

10 D. "school districts" means those political
11 subdivisions of the state established for the administration of
12 public schools, segregated geographically for taxation and
13 bonding purposes and governed by the Public School Code."