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SENATE BILL 139

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

Mark Moores

AN ACT

RELATING TO PUBLIC PROPERTY; AMENDING SECTIONS OF THE NMSA 1978  
TO PROVIDE FOR DISPOSITION OF STATE-OWNED ANIMALS.

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

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

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

A. The governing authority of each state agency,  
local public body, school district and state educational  
institution may dispose of any item of tangible personal  
property belonging to that authority and delete the item from  
its public inventory upon a specific finding by the authority  
that the item of property is:

(1) of a current resale value of five thousand

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1 dollars (\$5,000) or less; and

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

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

7 (1) designate a committee of at least three  
8 officials of the governing authority to approve and oversee the  
9 disposition; and

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

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

22 D. The governing authority shall dispose of the  
23 tangible personal property by negotiated sale to any  
24 governmental unit of an Indian nation, tribe or pueblo in New  
25 Mexico or by negotiated sale or donation to other state

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1 agencies, local public bodies, school districts, state  
2 educational institutions or municipalities or through the  
3 central purchasing office of the governing authority by means  
4 of competitive sealed bid or public auction or, if a state  
5 agency, through the surplus property bureau of the  
6 transportation services division of the general services  
7 department.

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

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

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

24 H. If the governing authority determines that the  
25 tangible personal property is hazardous or contains hazardous

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1 materials and may not be used safely under any circumstances,  
2 the property shall be destroyed and disposed of pursuant to  
3 Subsection G of this section.

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

10 J. This section shall not apply to any property  
11 acquired by a museum through abandonment procedures pursuant to  
12 the Abandoned Cultural Properties Act.

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

21 L. Living mammals owned by the state are exempted  
22 from the provisions of this section. In the case of K-9 dogs,  
23 the dogs shall first be offered to their trainers or handlers  
24 free of charge. If the trainer or handler does not want to  
25 accept ownership of the K-9 dog, then the K-9 dog shall be

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1 offered to an organization described in Section 501(c)(3) of  
2 the Internal Revenue Code of 1986 free of charge, as long as  
3 the dog does not present a threat to public safety. In the  
4 case of all other mammals, they shall only be sold to qualified  
5 individuals found capable of providing a good home to the  
6 animal."

7 SECTION 2. Section 33-2-5 NMSA 1978 (being Laws 1939,  
8 Chapter 55, Section 5, as amended) is amended to read:

9 "33-2-5. DISPOSITION OF UNNEEDED PROPERTY.--

10 A. If [~~and when~~] the penitentiary of New Mexico, as  
11 [~~such~~] a body corporate, [~~shall be possessed of~~] possesses any  
12 real, personal or mixed property of [~~whatsoever~~] any kind [~~or~~  
13 ~~nature which~~] that, in the judgment of the [~~director~~] secretary  
14 of [~~the~~] corrections [~~division of said body corporate, shall~~]  
15 is no longer [~~be~~] required for the use of [~~said~~] the  
16 penitentiary, then [~~in such event~~] the penitentiary of New  
17 Mexico [~~shall have~~] has the right to sell, trade, mortgage or  
18 otherwise alienate any [~~such~~] real, personal or mixed property  
19 for such price and upon such terms as [~~to the director of the~~  
20 ~~corrections division shall seem~~] seems just and proper to the  
21 secretary of corrections, and the proceeds to be derived from  
22 any such transaction shall become the property of [~~said~~  
23 ~~corporation~~] the penitentiary of New Mexico; provided, however,  
24 that in all cases of the sale, trade, mortgage or other  
25 alienation of real property belonging to the penitentiary of

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1 New Mexico, the same shall not take effect until approved by  
2 the department of finance and administration.

3 B. K-9 dogs are exempt from the provisions of  
4 Subsection A of this section. In the case of K-9 dogs, the  
5 dogs shall first be offered to their trainers or handlers free  
6 of charge. If the trainer or handler does not want to take  
7 ownership of the K-9 dog, then the K-9 dog shall be offered to  
8 an organization described in Section 501(c)(3) of the Internal  
9 Revenue Code of 1986 free of charge, as long as the dog does  
10 not present a threat to public safety. If both of the above  
11 fail, the K-9 dog shall only be sold to qualified individuals  
12 found capable of providing a good home to the animal."