

1 AN ACT

2 RELATING TO PUBLIC PROPERTY; RAISING THE RESALE VALUE  
3 THRESHOLD FOR THE DISPOSITION OF OBSOLETE, WORN-OUT OR  
4 UNUSABLE TANGIBLE PERSONAL PUBLIC PROPERTY; REQUIRING  
5 APPROVAL FOR CERTAIN REAL PROPERTY DISPOSITIONS BY THE STATE  
6 PARKS DIVISION OF THE ENERGY, MINERALS AND NATURAL RESOURCES  
7 DEPARTMENT; REQUIRING FINDINGS OF FACT AND A RECOMMENDATION  
8 BY THE CAPITOL BUILDINGS PLANNING COMMISSION AND LEGISLATIVE  
9 AND STATE BOARD OF FINANCE APPROVAL FOR DISPOSITIONS OF  
10 CERTAIN REAL PROPERTY WITH A VALUE OF MORE THAN TWO HUNDRED  
11 THOUSAND DOLLARS (\$200,000); ADDING CLARIFYING DEFINITIONS;  
12 MAKING TECHNICAL CHANGES.

13  
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

17 "13-6-1. DISPOSITION OF OBSOLETE, WORN-OUT OR UNUSABLE  
18 TANGIBLE PERSONAL PROPERTY.--

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

25 (1) of a current resale value of ten

1 thousand dollars (\$10,000) 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  
6 prerequisite to the disposition of any items of tangible  
7 personal property:

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

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

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

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

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

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

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

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

25 H. If the governing authority determines that the

1 tangible personal property is hazardous or contains hazardous  
2 materials and may not be used safely under any circumstances,  
3 the property shall be destroyed and disposed of pursuant to  
4 Subsection G of this section.

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

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

14 K. Notwithstanding the provisions of Subsection A  
15 of this section, the department of transportation may sell  
16 through public auction or dispose of surplus tangible  
17 personal property used to manage, maintain or build roads  
18 that exceeds ten thousand dollars (\$10,000) in value.  
19 Proceeds from sales shall be credited to the state road fund.  
20 The department of transportation shall notify the department  
21 of finance and administration regarding the disposition of  
22 all property.

23 L. If the secretary of public safety finds that a  
24 K-9 dog presents no threat to public safety, the K-9 dog  
25 shall be released from public ownership as provided in this

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

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

11 "13-6-2. PROPERTY DISPOSITION BY STATE AGENCIES, LOCAL  
12 PUBLIC BODIES, SCHOOL DISTRICTS AND STATE EDUCATIONAL  
13 INSTITUTIONS--AUTHORITY TO SELL OR DISPOSE OF PROPERTY--  
14 APPROVAL OF APPROPRIATE APPROVAL AUTHORITY.--

15 A. Real property or tangible personal property may  
16 be disposed of by a state agency, local public body, school  
17 district or state educational institution; provided that a  
18 determination has been made in writing that the disposition  
19 is in the best interests of the state, state agency, local  
20 public body, school district or state educational  
21 institution. The disposition may be without warranty.

22 B. Real property may be disposed of by a state  
23 agency, local public body, school district or state  
24 educational institution:

25 (1) by negotiated sale or donation to an

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

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

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

16 (4) through the surplus property bureau of  
17 the transportation services division of the general services  
18 department on behalf of the state agency.

19 C. Real property having a current resale value of  
20 more than ten thousand dollars (\$10,000), up to sixty  
21 thousand dollars (\$60,000), or tangible personal property  
22 having a current resale value of more than ten thousand  
23 dollars (\$10,000) may be disposed of following approval by:

24 (1) the state budget division of the  
25 department of finance and administration for state agencies;

1                   (2) the local government division of the  
2 department of finance and administration for local public  
3 bodies;

4                   (3) the public education department for  
5 school districts; and

6                   (4) the higher education department for  
7 state educational institutions.

8                   D. For tangible personal property:

9                   (1) to be used as a trade-in or exchange  
10 pursuant to the provisions of the Procurement Code, prior  
11 approval pursuant to Subsection C of this section is not  
12 required; and

13                   (2) to be disposed of by a state agency,  
14 local public body, school district or state educational  
15 institution, a right of first refusal to the surplus property  
16 bureau of the transportation services division of the general  
17 services department:

18                   (a) shall be offered by the state  
19 agency, local public body or state educational institution;  
20 and

21                   (b) may be offered by the school  
22 district.

23                   E. Payment received from the disposition of real  
24 property or tangible personal property shall be credited to  
25 the state agency, local public body, school district or state

1 educational institution that had ownership or jurisdiction  
2 over the real property or tangible personal property.

3 F. For the disposition of real property or  
4 tangible personal property, the provisions of Subsections A  
5 through E of this section do not apply to:

6 (1) computer software of a state agency;

7 (2) those institutions specifically  
8 enumerated in Article 12, Section 11 of the constitution of  
9 New Mexico, notwithstanding the provisions of Subsections A  
10 through E of this section;

11 (3) the New Mexico state police division of  
12 the department of public safety;

13 (4) the state land office or the department  
14 of transportation;

15 (5) property acquired by a museum through  
16 abandonment procedures pursuant to the Abandoned Cultural  
17 Properties Act;

18 (6) leases of county hospitals with any  
19 person pursuant to the Hospital Funding Act; and

20 (7) property acquired by the economic  
21 development department pursuant to the Statewide Economic  
22 Development Finance Act.

23 G. For the disposition of tangible personal  
24 property, the provisions of Subsections A through E of this  
25 section do not apply to the state parks division of the

1 energy, minerals and natural resources department."

2 SECTION 3. Section 13-6-2.1 NMSA 1978 (being Laws 1989,  
3 Chapter 380, Section 1, as amended) is amended to read:

4 "13-6-2.1. DISPOSITION OF REAL PROPERTY--STATE BOARD OF  
5 FINANCE APPROVAL--EXCEPTIONS.--

6 A. A state agency's disposition of real property  
7 having a current resale value of more than sixty thousand  
8 dollars (\$60,000), up to two hundred thousand dollars  
9 (\$200,000), or lease of real property for a period of more  
10 than five years, up to twenty-five years, and a local public  
11 body's, school district's or state educational institution's  
12 disposition of real property having a current resale value of  
13 more than sixty thousand dollars (\$60,000) or lease of real  
14 property for a period of more than five years, shall not be  
15 valid and shall be retractable unless the state board of  
16 finance first reviews and approves the proposed disposition.

17 B. The provisions of this section shall not be  
18 applicable to:

19 (1) those institutions specifically  
20 enumerated in Article 12, Section 11 of the constitution of  
21 New Mexico;

22 (2) the state land office;

23 (3) the state transportation commission;

24 (4) the economic development department when  
25 disposing of property acquired pursuant to the Statewide

1 Economic Development Finance Act; or

2 (5) a school district when leasing  
3 facilities to a locally chartered or state-chartered charter  
4 school."

5 SECTION 4. Section 13-6-3 NMSA 1978 (being Laws 1961,  
6 Chapter 41, Section 1, as amended by Laws 2003, Chapter 142,  
7 Section 4 and by Laws 2003, Chapter 349, Section 23) is  
8 amended to read:

9 "13-6-3. REAL PROPERTY DISPOSITION BY STATE AGENCIES--  
10 REVIEW, FINDINGS OF FACT AND APPROVAL REQUIRED--EXCEPTIONS.--

11 A. A state agency's disposition of real property  
12 having a current resale value of more than two hundred  
13 thousand dollars (\$200,000) or lease of real property for a  
14 period of more than twenty-five years shall not be valid and  
15 shall be retractable unless first:

16 (1) the capitol buildings planning  
17 commission reviews the proposed disposition; determines  
18 whether the proposed disposition comports with the state's  
19 inventory and master plan and is in the best interests of the  
20 state or state agency; makes findings of fact and a  
21 recommendation; and reports the findings and recommendation  
22 to the legislature;

23 (2) following receipt of the capitol  
24 buildings planning commission report, the legislature passes  
25 a joint resolution to approve the proposed disposition

1 subject to the provisions of Paragraph (3) of this  
2 subsection, which approval shall be effective for five years  
3 following the joint resolution's passage; and

4 (3) the state board of finance reviews and  
5 approves the proposed disposition.

6 B. The provisions of this section shall not apply  
7 to:

8 (1) those institutions specifically  
9 enumerated in Article 12, Section 11 of the constitution of  
10 New Mexico;

11 (2) the state land office;

12 (3) the state transportation commission; or

13 (4) the economic development department when  
14 disposing of property acquired pursuant to the Statewide  
15 Economic Development Finance Act."

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

18 "13-6-4. DEFINITIONS.--As used in Chapter 13, Article 6  
19 NMSA 1978:

20 A. "consideration" includes cash, other property,  
21 services or another form of compensation that is of equal or  
22 greater value as the property interest being conveyed;

23 B. "disposition" and "disposed of" means a  
24 negotiated sale, trade, lease or donation;

25 C. "local public body" means all political

1 subdivisions, except municipalities and school districts, of  
2 the state and their agencies, instrumentalities and  
3 institutions;

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

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

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

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25