

1 SENATE BILL 305

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Mimi Stewart

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10 AN ACT

11 RELATING TO PUBLIC PROPERTY; PROHIBITING THE SALE OF PUBLIC
12 SURPLUS MOTOR VEHICLES TO PRIVATE PERSONS; PROHIBITING THE
13 DONATION OF PUBLIC SURPLUS MOTOR VEHICLES TO NONPROFIT
14 ORGANIZATIONS.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

19 "13-6-1. DISPOSITION OF OBSOLETE, WORN-OUT OR UNUSABLE
20 TANGIBLE PERSONAL PROPERTY.--

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

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1 that the item of property is:

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

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

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

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

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

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

24 D. Except as provided in Subsection M of this
25 section, the governing authority shall dispose of the tangible

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

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

15 F. If the governing authority is unable to dispose
16 of the tangible personal property pursuant to Subsection D or E
17 of this section, the governing authority may sell or, if the
18 property has no value, donate the property to any organization
19 described in Section 501(c)(3) of the Internal Revenue Code of
20 1986; provided that the governing authority shall not dispose
21 of a motor vehicle by donating the motor vehicle to an
22 organization described in Section 501(c)(3) of the Internal
23 Revenue Code of 1986.

24 G. If the governing authority is unable to dispose
25 of the tangible personal property pursuant to Subsection D, E

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1 or F of this section, it may order that the property be
2 destroyed or otherwise permanently disposed of in accordance
3 with applicable laws.

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

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

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

18 K. Notwithstanding the provisions of Subsection A
19 of this section, the department of transportation may sell
20 through public auction or dispose of surplus tangible personal
21 property, not a motor vehicle, used to manage, maintain or
22 build roads that exceeds five thousand dollars (\$5,000) in
23 value. Proceeds from sales shall be credited to the state road
24 fund. The department of transportation shall notify the
25 department of finance and administration regarding the

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1 disposition of all property.

2 L. If the secretary of public safety finds that
3 ~~[the]~~ a K-9 dog presents no threat to public safety, the K-9
4 dog shall be released from public ownership as provided in this
5 subsection. The K-9 dog shall first be offered to its trainer
6 or handler free of charge. If the trainer or handler does not
7 want to accept ownership of the K-9 dog, then the K-9 dog shall
8 be offered to an organization described in Section 501(c)(3) of
9 the Internal Revenue Code of 1986 free of charge. If both of
10 the above fail, the K-9 dog shall only be sold to a qualified
11 individual found capable of providing a good home to the
12 animal.

13 M. A governing authority shall not sell a motor
14 vehicle to a private individual, but may sell or trade a motor
15 vehicle to a dealer as defined in Section 66-1-4.4 NMSA 1978 or
16 to a recycler licensed pursuant to Section 66-4-1.1 NMSA 1978
17 or other similar business."

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

20 "13-6-2. SALE OF PROPERTY BY STATE AGENCIES OR LOCAL
21 PUBLIC BODIES--AUTHORITY TO SELL OR DISPOSE OF PROPERTY--
22 APPROVAL OF APPROPRIATE APPROVAL AUTHORITY.--

23 A. Except as provided in Subsection I of this
24 section, and providing a written determination has been made, a
25 state agency, local public body, school district or state

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1 educational institution may sell or otherwise dispose of real
2 or tangible personal property belonging to the state agency,
3 local public body, school district or state educational
4 institution.

5 B. A state agency, local public body, school
6 district or state educational institution may sell or otherwise
7 dispose of real property:

8 (1) by negotiated sale or donation to an
9 Indian nation, tribe or pueblo located wholly or partially in
10 New Mexico, or to a governmental unit of an Indian nation,
11 tribe or pueblo in New Mexico, that is authorized to purchase
12 land and control activities on its land by an act of congress
13 or to purchase land on behalf of the Indian nation, tribe or
14 pueblo;

15 (2) by negotiated sale or donation to other
16 state agencies, local public bodies, school districts or state
17 educational institutions;

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

23 (4) if a state agency, through the surplus
24 property bureau of the transportation services division of the
25 general services department.

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1 C. A state agency shall give the surplus property
2 bureau of the transportation services division of the general
3 services department the right of first refusal to dispose of
4 tangible personal property of the state agency. A school
5 district may give the surplus property bureau the right of
6 first refusal to dispose of tangible personal property of the
7 school district.

8 D. Except as provided in Section 13-6-2.1 NMSA 1978
9 requiring state board of finance approval for certain
10 transactions, sale or disposition of real or tangible personal
11 property having a current resale value of more than five
12 thousand dollars (\$5,000) may be made by a state agency, local
13 public body, school district or state educational institution
14 if the sale or disposition has been approved by the state
15 budget division of the department of finance and administration
16 for state agencies, the local government division of the
17 department of finance and administration for local public
18 bodies, the public education department for school districts
19 and the higher education department for state educational
20 institutions.

21 E. Prior approval of the appropriate approval
22 authority is not required if the tangible personal property is
23 to be used as a trade-in or exchange pursuant to the provisions
24 of the Procurement Code.

25 F. The appropriate approval authority may condition

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1 the approval of the sale or other disposition of real or
2 tangible personal property upon the property being offered for
3 sale or donation to a state agency, local public body, school
4 district or state educational institution.

5 G. The appropriate approval authority may credit a
6 payment received from the sale of such real or tangible
7 personal property to the governmental body making the sale.
8 The state agency, local public body, school district or state
9 educational institution may convey all or any interest in the
10 real or tangible personal property without warranty.

11 H. This section does not apply to:

- 12 (1) computer software of a state agency;
- 13 (2) those institutions specifically enumerated
14 in Article 12, Section 11 of the constitution of New Mexico;
- 15 (3) the New Mexico state police division of
16 the department of public safety; provided that the New Mexico
17 state police division of the department of public safety shall
18 not sell a motor vehicle to a private individual, but may sell
19 or trade a motor vehicle to a dealer as defined in Section
20 66-1-4.4 NMSA 1978 or to a recycler licensed pursuant to
21 Section 66-4-1.1 NMSA 1978 or other similar business;
- 22 (4) the state land office or the department of
23 transportation;
- 24 (5) property acquired by a museum through
25 abandonment procedures pursuant to the Abandoned Cultural

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1 Properties Act;

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

4 (7) property acquired by the economic
5 development department pursuant to the Statewide Economic
6 Development Finance Act; and

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

9 I. A state agency, local public body, school
10 district or state educational institution shall not sell a
11 motor vehicle to a private individual, but may sell or trade a
12 motor vehicle to a dealer as defined in Section 66-1-4.4 NMSA
13 1978 or to a recycler licensed pursuant to Section 66-4-1.1
14 NMSA 1978 or other similar business."

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

17 "13-6-4. DEFINITIONS.--As used in Chapter 13, Article 6
18 NMSA 1978:

19 A. "local public body" means all political
20 subdivisions, except municipalities and school districts, of
21 the state and their agencies, instrumentalities and
22 institutions;

23 B. "motor vehicle" means every vehicle that is
24 self-propelled and every vehicle that is propelled by electric
25 power obtained from batteries, but not operated upon rails; but

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1 "motor vehicle" does not include "special mobile equipment";

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

6 [G-] D. "state educational institutions" means
7 those institutions designated by Article 12, Section 11 of the
8 constitution of New Mexico; and

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

13 SECTION 4. Section 13-6-8 NMSA 1978 (being Laws 2007,
14 Chapter 57, Section 3) is amended to read:

15 "13-6-8. DISPOSITION OF STATE PROPERTY.--

16 A. The surplus property bureau of the
17 transportation services division of the general services
18 department may dispose of tangible personal property, except
19 property acquired from the United States government and except
20 for motor vehicles, by advertising the availability of the
21 property as follows:

22 [A-] (1) for the first forty-five-day period,
23 to any agency that has entered into an agreement with the
24 bureau;

25 [B-] (2) for the second forty-five-day period,

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1 to any agency or tax-exempt entity that has filed its written
2 certificate of tax exemption with the bureau;

3 ~~[G-]~~ (3) for the third forty-five-day period,
4 to any agency or tax-exempt entity or to the public through a
5 storefront operation on days and at times specified by rule of
6 the bureau; and

7 ~~[D-]~~ (4) after the third forty-five-day
8 period, by auction or any other means of disposal in compliance
9 with environmental standards for disposal of tangible personal
10 property.

11 B. The surplus property bureau of the
12 transportation services division of the general services
13 department may dispose of motor vehicles by advertising the
14 availability of the motor vehicle as follows:

15 (1) for the first forty-five-day period, to
16 any agency that has entered into an agreement with the bureau;

17 (2) for the second forty-five-day period, to
18 any agency that has filed its written certificate of tax
19 exemption with the bureau;

20 (3) for the third forty-five-day period, to a
21 dealer as defined in Section 66-1-4.4 NMSA 1978 or to a
22 recycler licensed pursuant to Section 66-4-1.1 NMSA 1978 or
23 other similar business; and

24 (4) after the third forty-five-day period, any
25 other means of disposal in compliance with environmental

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1 standards for disposal of tangible personal property."

2 SECTION 5. EFFECTIVE DATE.--The effective date of the
3 provisions of this act is July 1, 2019.

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