

ACQUISITION AND DISPOSITION OF REAL PROPERTY

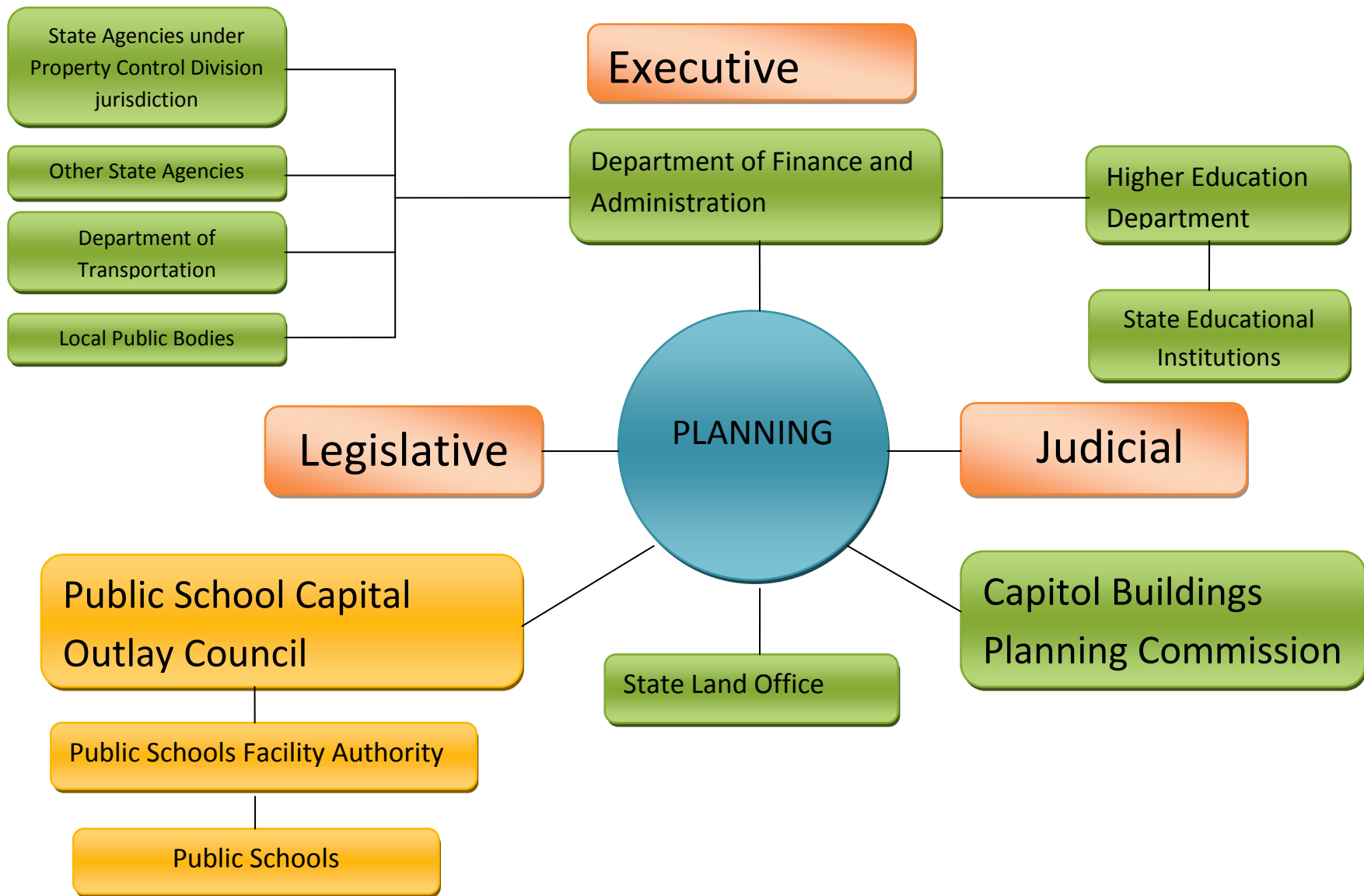
August 29, 2011

Two statutory mandates of the Capitol Buildings Planning Commission (CBPC) are:

1- to “work with the general services department in developing recommendations for addressing deferred maintenance on state facilities and disposal strategies for aging facilities no longer able to serve their mission; and”

2-”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.”
(Section 15-10-1 NMSA 1978)

Facilities Planning is currently being undertaken at different agencies throughout state government. The following slide depicts a general overview of the agencies involved to some degree in planning for the acquisition and disposition of property and facilities.

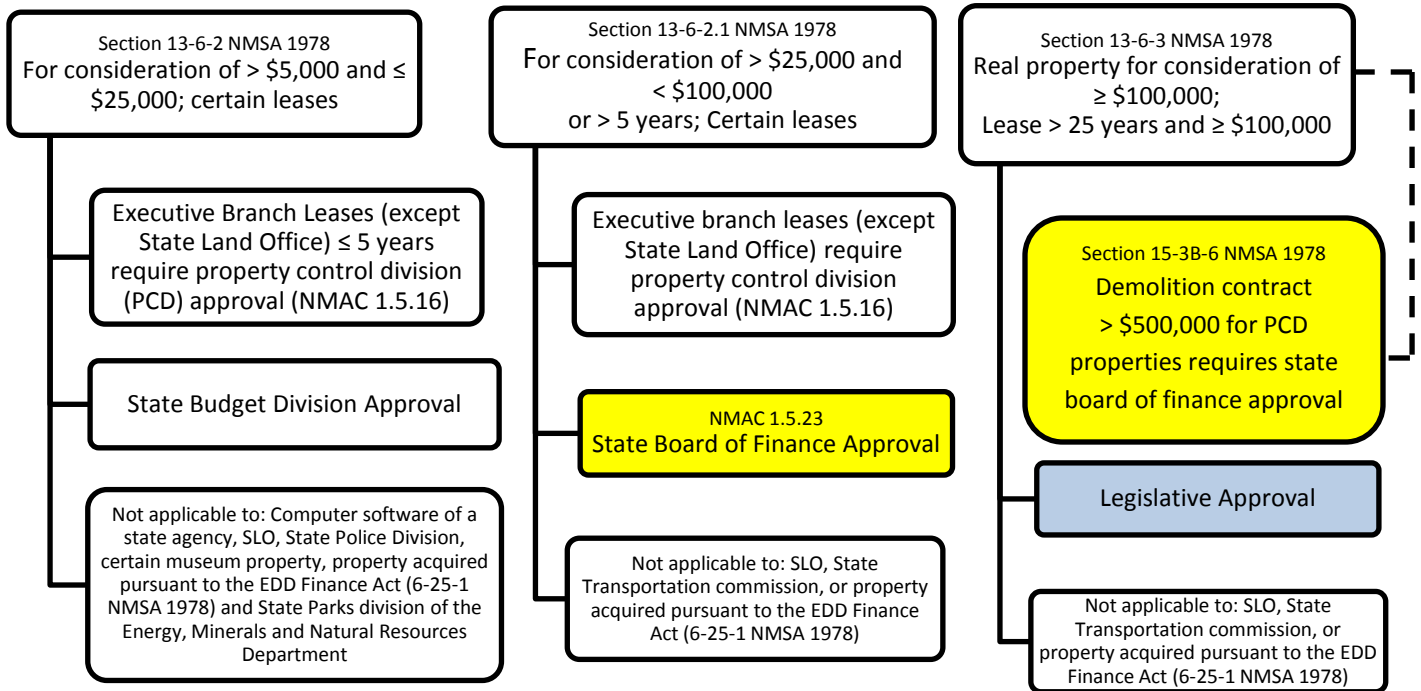


APPROVAL REQUIRED FOR DISPOSITION OF REAL PROPERTY BY SALE, TRADE, LEASE OR DEMOLITION

Initiating Authority: State Agency

Governing Authority: Agency Head or Governing Board

“State agency” means the state of New Mexico or any of its branches, agencies, departments, boards, instrumentalities or institutions other than state educational institutions (Section 13-6-4 NMSA 1978)



- Section 13-6-1 applies only to tangible personal property ≤ \$5,000, requiring initiating authority approval and 30 day notice to the state auditor, providing the “Surplus Property Bureau of GSD is given first right of refusal....”
- Section 13-6-2 applies to tangible personal or real property > \$5,000. Initiating authority approves leases under 5 years.
- Section 13-6-3 applies to state agencies, but not to state educational institutions, state land office, state transportation commission or property acquired under the EDD Finance Act.
- Approval authority is not required for tangible personal property being used as a trade-in or exchange pursuant to the Procurement Code or for negotiated sale or donation of real property to tribes, other governmental agencies, local public bodies, school or state educational institutions.
- Agency shall provide Surplus Property Bureau of GSD right of first refusal, except when selling property located within a community land grant, the board of trustees of the community land grant shall be given the right of first refusal. As provided in Section 13-6-5 NMSA 1978.
- Excluding state trust lands pursuant to the Enabling Act or to the transfer of state highways to local governments.
- Although an “initiating authority” disposing of real property may not be required to obtain SBF or other approvals, a government entity acquiring real property from the “initiating authority” may need SBF or other approvals to complete the transaction.
- SBF NMAC 1.5.23 scope includes any transfer of funds, capital outlay project, acquisition, donation to, purchase, sale, trade or lease, or other disposition except as otherwise indicated or addressed in a separate rule. Lease terms include all renewal options.
- Some separate statutes may have additional approvals required. (Example: HHS, Section 15-3B-21 NMSA 1978 and the replacement for Ft. Bayard Medical Center, Section 9-7-6.5 NMSA 1978)
- Demolition is done under a construction contract (section 57-28A-1 NMSA 1978)

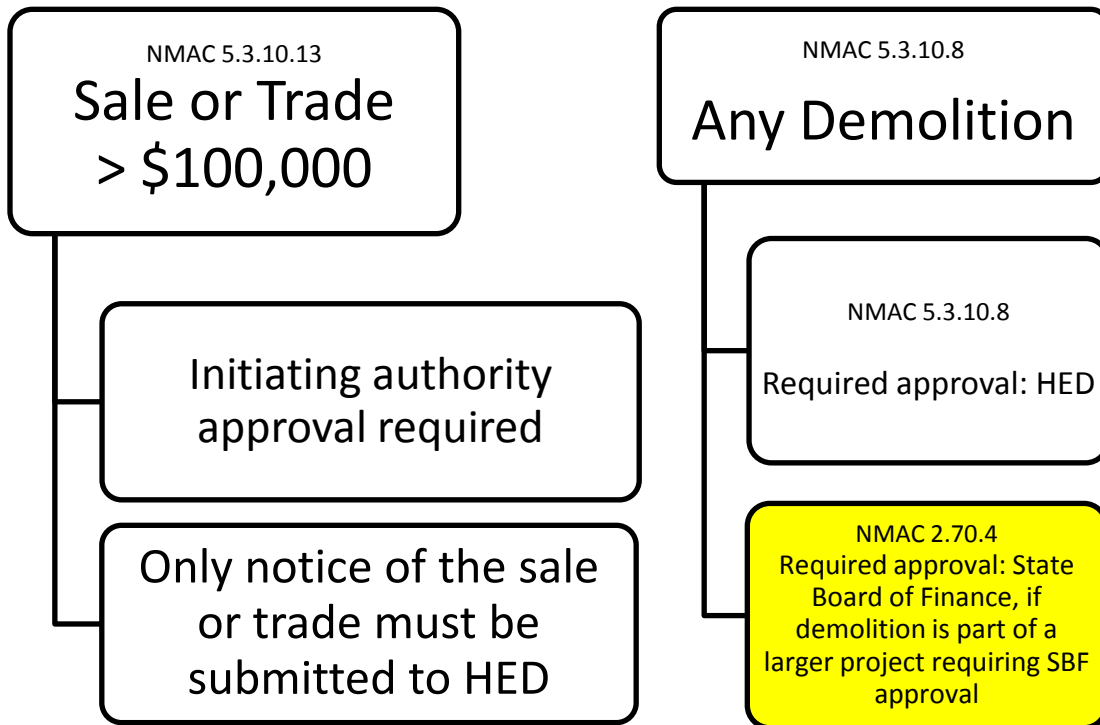
APPROVAL REQUIRED FOR DISPOSITION OF REAL PROPERTY BY SALE, TRADE, LEASE OR DEMOLITION

Initiating Authority: State Educational Institution

Governing Authority: Board of Regents

“State educational institution” means those institutions designated by Article 12, Section 11 of the constitution of New Mexico (13-6-4 NMSA 1978), which includes:

- University of New Mexico
- New Mexico State University
- New Mexico Highlands University
- Western New Mexico University
- Eastern New Mexico University
- New Mexico Institute of Mining and Technology (See NMAC 5.3.10.8 exception)
- New Mexico Military Institute (Also, see 21-1-20 NMSA 1978)
- New Mexico School for the Blind and Visually Impaired
- New Mexico School for the Deaf
- Northern New Mexico State School



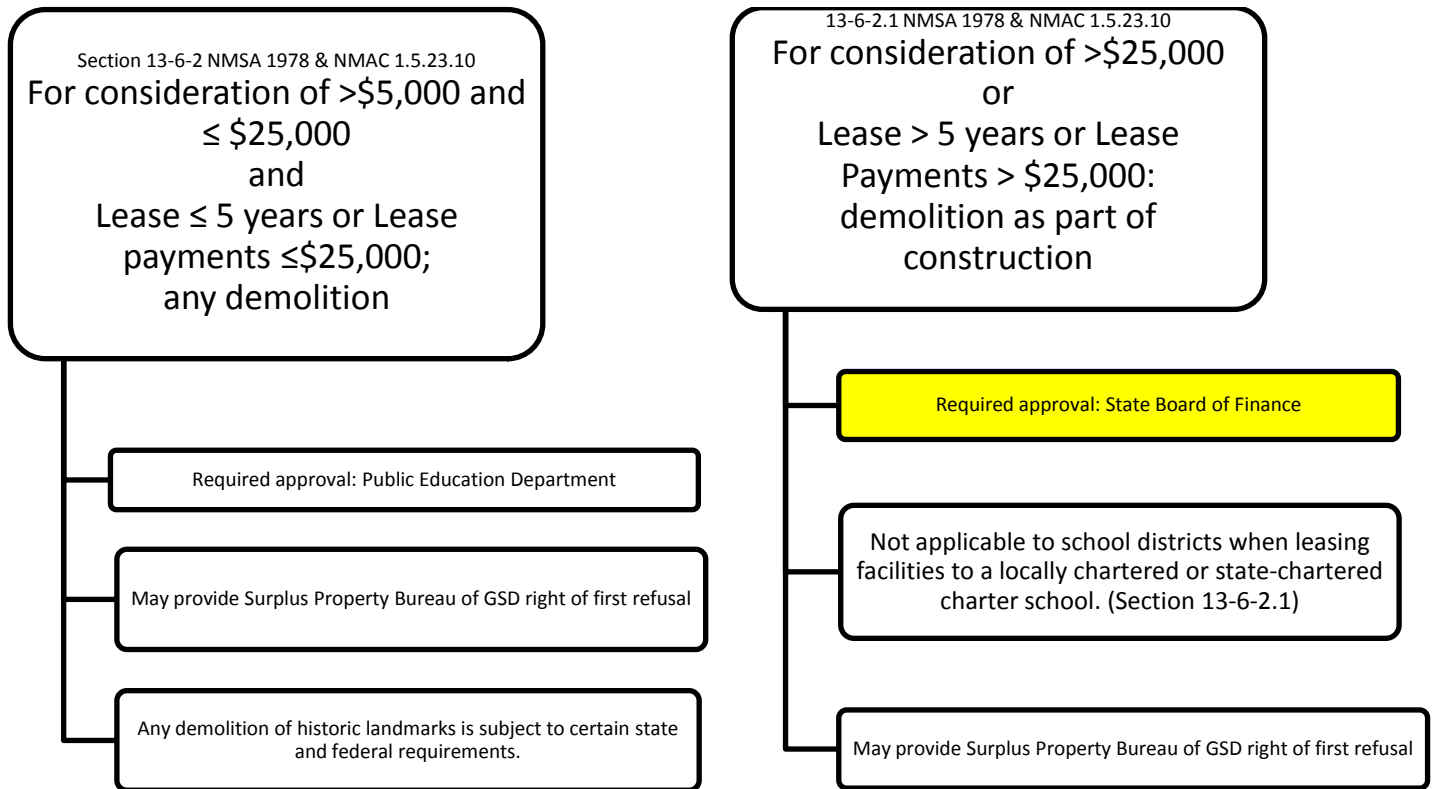
- Section 13-6-1 applies to tangible personal property ≤ \$5,000, requiring initiating authority approval and 30 day notice to the state auditor, providing the “Surplus Property Bureau of GSD is given first right of refusal....”
- Section 13-6-2 applies to tangible personal or real property > \$5,000. Sections 13-6-2, 13-6-2.1 13-6-3 and 13-6-5 NMSA 1978 are not applicable to Article 12, Section 11 state educational institutions
- Only initiating authority approval is required for tangible personal property being used as a trade-in or exchange pursuant to the Procurement Code or for negotiated sale or donation of real property to tribes, other governmental agencies, local public bodies, school or state educational institutions.
- Although an “initiating authority” disposing of real property may not be required to obtain State Board of Finance (SBF) or other approvals, the governing entity acquiring real property from the “initiating authority” may need SBF or other approvals to complete the transaction.
- Lease approvals remain with the institution.

**APPROVAL REQUIRED FOR DISPOSITION OF REAL PROPERTY BY SALE, TRADE, EXCHANGE, DONATION, LEASE OR
DEMOLITION**

Initiating Authority: School District

Governing Authority: School Board

“School districts” means those political subdivisions of the state established for the administration of public schools, segregated geographically for taxation and bonding purposes and governed by the Public School Code. (Section 13-6-4 of NMSA 1978)



- Section 13-6-1 applies to tangible personal property ≤ \$5,000, requiring initiating authority approval and 30 day notice to the state auditor. A school district may give first right of refusal to the GSD Surplus Property Bureau.
- Section 13-6-2 applies to tangible personal or real property > \$5,000.
- Approval authority is not required for tangible personal property being used as a trade-in or exchange pursuant to the Procurement Code or for negotiated sale or donation of real property to tribes, other governmental agencies, local public bodies, school or state educational institutions.
- Although an “initiating authority” disposing of real property may not be required to obtain State Board of Finance (SBF) or other approvals, the governing entity acquiring real property from the “initiating authority” may need SBF or other approvals to complete the transaction.
- SBF NMAC 1.5.23 expands scope to include any transfer of funds, capital outlay project, acquisition, donation to, purchase, sale, trade or lease, or other disposition except as indicated. Also, a lease “term” is defined to include all renewal options or extensions.

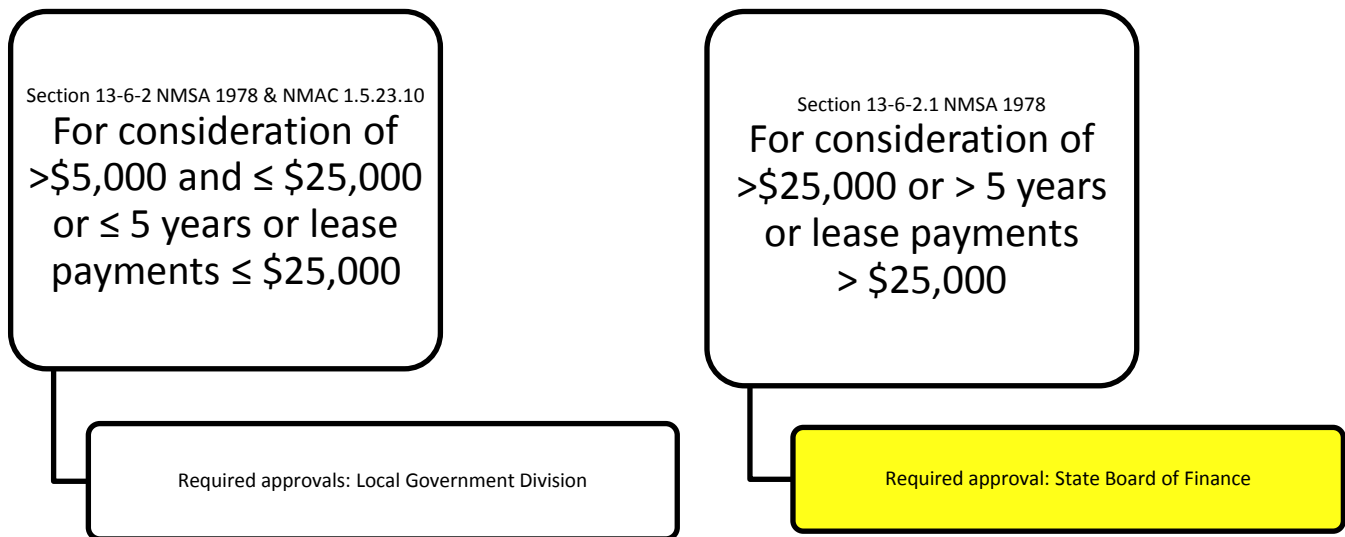
APPROVAL REQUIRED FOR DISPOSITION OF REAL PROPERTY BY SALE, TRADE OR LEASE

Initiating Authority: Local Public Body

Governing Authority: Local Council/Board

“Local public body” means all political subdivisions, except municipalities and school districts, of the state and their agencies, instrumentalities or institutions (Section 13-6-4 NMSA 1978)

State Board of Finance NMAC 1.5.23.9 specifies that for sales or trades, local public bodies include, but are not limited to: counties, conservation districts, flood control authorities, community colleges (but not including branch community colleges) and technical vocational institutes. For leases, it includes special hospital districts and county hospitals pursuant to the Hospital Funding Act.



- Section 13-6-1 applies to tangible personal property ≤ \$5,000, requiring initiating authority approval and 30 day notice to the state auditor.
- Section 13-6-2 applies to tangible personal or real property > \$5,000.
- Approval authority is not required for tangible personal property being used as a trade-in or exchange pursuant to the procurement code or for negotiated sale or donation of real property to tribes, other governmental agencies, local public bodies, school or state educational institutions.
- Although an “initiating authority” disposing of real property may not be required to obtain SBF or other approvals, the governing entity acquiring real property from the “initiating authority” may need SBF or other approvals to complete the transaction
- State Board of Finance NMAC 1.5.23 expands scope to include any transfer of funds, capital outlay project, acquisition, donation to, purchase, sale, trade or lease, or other disposition except as indicated. Also, a lease “term” is defined to include all renewal options or extensions.
- Demolition approval remains with the local public body.

APPROVAL REQUIRED FOR ACQUISITION OF A BUILDING OR OTHER REAL PROPERTY BY LEASE-PURCHASE

Initiating Agency: School Districts and Charter Schools

Governing Agency: School Board or Governing Body of a Charter School

**Article 9, Section 11 of the New Mexico State Constitution
Chapter 22, Article 26A NMSA 1978 - Public School Lease-Purchase Act**

Required approval: Governing authority and its attorney.
Local school board shall not approve a lease-purchase
that is > 30 years (Section 22-26A-6 NMSA 1978)

Section 22-20-1 NMSA 1978

**Required approval: Public Schools
Facility Authority**

Chapter 22, Article 26A NMSA 1978

**Required approval: Public Education
Department**

APPROVAL REQUIRED FOR ACQUISITION OF A BUILDING OR OTHER REAL PROPERTY BY LEASE-PURCHASE

Initiating Authority: State Agency

Governing Authority: Agency Head or Governing Board

Article 9, Section 8 of the New Mexico State Constitution;
and Section 15-3-35 NMSA 1978,
(which excludes state educational institutions, school districts or charter schools)

NMAC 1.5.25

Property Control Division Review/Approval
Only for state agencies under PCD
jurisdiction

Section 15-10-2 NMSA 1978

**Capitol Buildings Planning Commission
review**

For all state agencies, departments, branches, institutions or instrumentalities, boards, officers, bureaus, commissions and districts or committees of government, except school districts and charter schools, state educational institutions, certain property acquired pursuant to the PSCO Act, the State Armory Board, Commissioner of State Lands, and property acquired pursuant to the EDD Finance Act

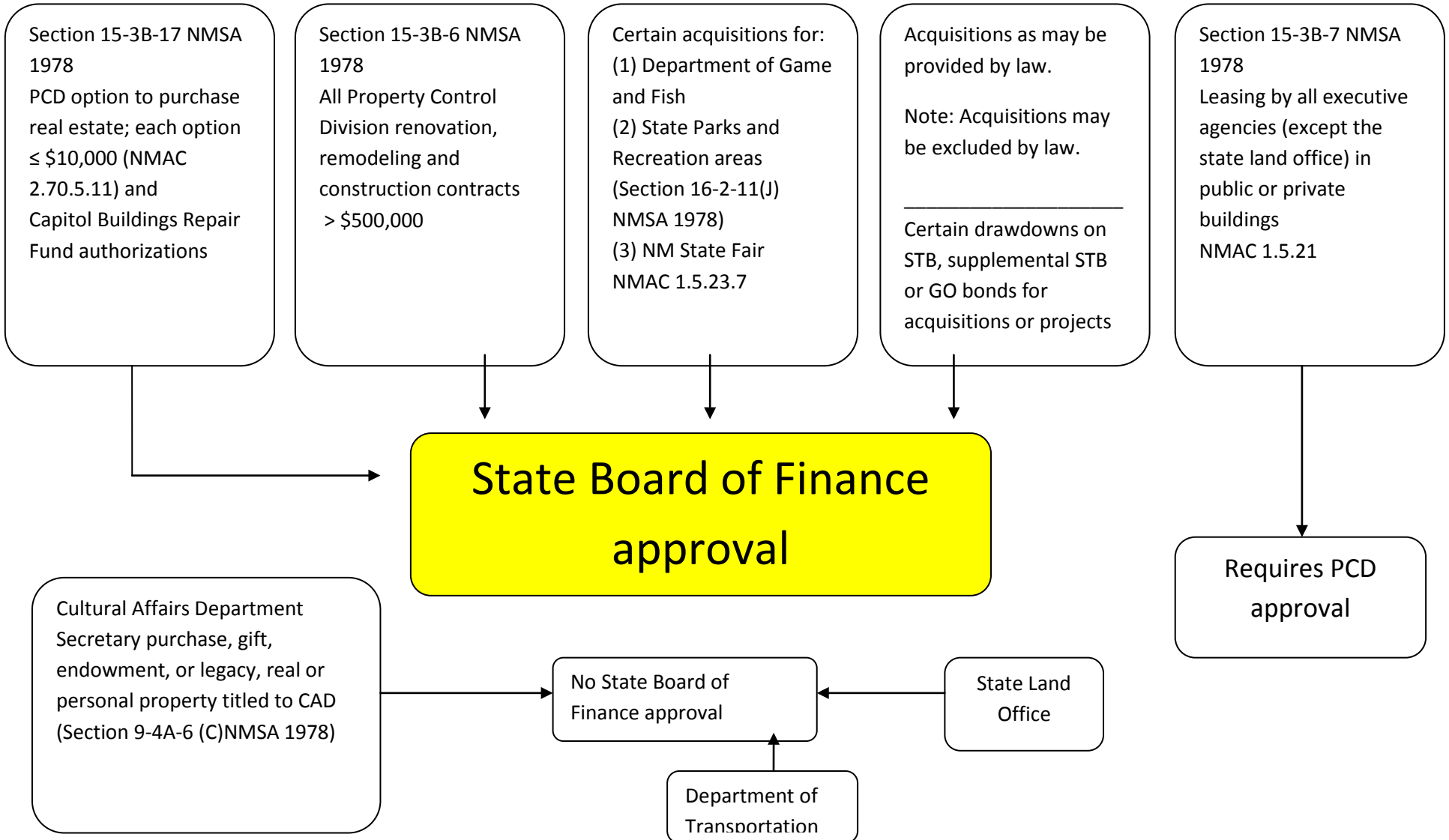
Legislative Approval

**State Board of Finance approval as may be
provided by law**
(Ex. Section 9-7-6.5 and 15-3B-21 NMSA 1978)

APPROVAL REQUIRED FOR ACQUISITION (Purchase, trade, gift or donation) OR LONG TERM LEASE OF REAL PROPERTY OR THE CONSTRUCTION OF BUILDINGS OR OTHER MAJOR STRUCTURES OR MAJOR REMODELING PROJECTS (NMAC 1.5.23)

Initiating Authority: State Agency

Governing Authority: Agency Head or Governing Board

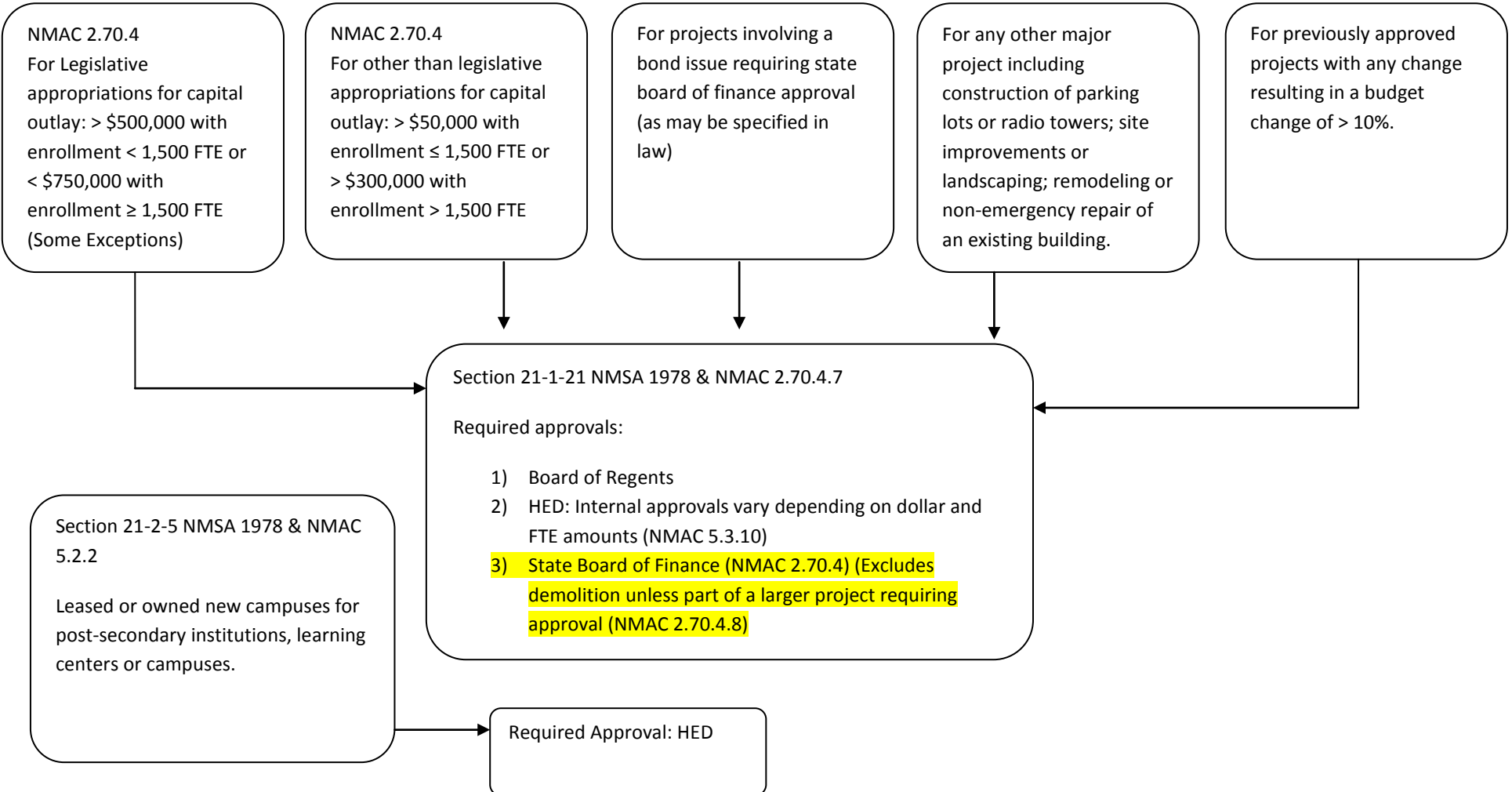


APPROVAL REQUIRED FOR ACQUISITION OF REAL PROPERTY OR THE CONSTRUCTION OF BUILDINGS OR OTHER MAJOR STRUCTURES OR MAJOR REMODELING PROJECTS (Includes purchase of portable buildings)

Initiating Authority: State Educational Institutions

Governing Authority: Board of Regents (Section 21-3-4 NMSA 1978)

“State educational institution” means those institutions designated by Article 12, Section 11 of the constitution of New Mexico (13-6-4 NMSA 1978)



APPROVAL REQUIRED FOR ACQUISITION OR LEASE OF REAL PROPERTY OR THE CONSTRUCTION OF BUILDINGS OR OTHER MAJOR STRUCTURES OR MAJOR REMODELING PROJECTS

Initiating Authority: School Districts and Charter Schools

Governing Authority: School Board or Governing Board of a Charter School

Section 22-20-1 NMSA 1978

Prior to construction, letting of contracts, and reopening an existing structure.

(Includes leased facilities)

Construction defined in Section 13-1-40 NMSA 1978 and NMAC 6.27.2.12



**Required Approval:
Public Schools Facility
Authority**

APPROVAL REQUIRED FOR ACQUISITION (Purchase, trade, gift, or donation) OR LONG TERM LEASE OF REAL PROPERTY OR THE CONSTRUCTION OF BUILDINGS OR OTHER MAJOR STRUCTURES OR MAJOR REMODELING PROJECTS (NMAC 1.5.23)

Initiating Authority: Local Public Body
Governing Authority: Local Council/Board

**As may be
required by law**

**Required approval: May
be the governing
authority or the State
Board of Finance, as
provided by law**

Public Property Dispositions

Sections 13-6-1 through 13-6-8 NMSA 1978

Type	Initiating Authority	Governing Authority	Disposition Procedures	Required Approvals	Other Conditions	Exemptions
Tangible personal property						
1 Worn, unusable, obsolete, resale Value at <=\$5,000	State agency	Agency head or governing board	Section 13-6-1 NMSA 1978	Committee of at least 3 officials to approve and oversee disposition; Surplus Property Bureau of GSD gets right of first refusal	30-day notice of finding and proposed disposition to State Auditor; shall provide Surplus Property Bureau of GSD right of first refusal	Property acquired by a museum through statutory abandonment procedures (Chapter 18, Article 10 NMSA 1978)
	Local public body	Local council/board	Section 13-6-1 NMSA 1978	Committee of at least 3 officials to approve and oversee disposition	30-day notice of finding and proposed disposition to State Auditor	
	School district	School board	Section 13-6-1 NMSA 1978	Committee of at least 3 officials to approve and oversee disposition	30-day notice of finding and proposed disposition to State Auditor	
	State educational institution	Board of regents	Section 13-6-1 NMSA 1978	Committee of at least 3 officials to approve and oversee disposition	30-day notice of finding and proposed disposition to State Auditor	
2 Value at >\$5,000	State agency	Agency head or governing board	Section 13-6-2 NMSA 1978	State Budget Division of DFA (1)(2)	Shall provide Surplus Property Bureau of GSD right of first refusal, except when selling property located within a community land grant, the board of trustees of the community land grant shall be given right of first refusal (2)	Computer software of a state agency; institutions enumerated in Art. 12, Sec. 11 of the Constitution of New Mexico; State Police Division, State Land Office, Department of Transportation and State Parks Division; property acquired by a museum through statutory abandonment procedures; and property acquired by the Economic Development Department pursuant to the Statewide Economic Development Finance Act
	Local public body	Local council/board	Section 13-6-2 NMSA 1978	Local Government Division of DFA(1)(2)		
	School district	School board	Section 13-6-2 NMSA 1978	Public Education Department (1)	May provide Surplus Property Bureau of GSD right of first	
	State educational institution	Board of regents	Section 13-6-2 NMSA 1978	N/A		
(1) Prior approval not required if the tangible personal property is to be used as a trade-in or exchange pursuant to Section 13-1-28 NMSA 1978.						
(2) Governing authority may dispose of property by negotiated sale to any governmental unit of an Indian nation, tribe or pueblo or by negotiated sale or donation to another state.						

Public Property Dispositions

Sections 13-6-1 through 13-6-8 NMSA 1978

Type	Initiating Authority	Governing Authority	Disposition Procedures	Required Approvals	Other Conditions	Exemptions
Real property sales and trades						
1 Valued at <=\$5,000	State agency	Agency head or governing board	Section 13-6-2 NMSA 1978	None	Shall provide Surplus Property Bureau of GSD right of first refusal, except when selling property located within a community land grant, the board of trustees of the community land grant shall be given right of first refusal	Computer software of a state agency; institutions enumerated in Art. 12, Sec. 11 of the Constitution of New Mexico; State Police Division, State Land Office, Department of Transportation and State Parks Division; property acquired by a museum through statutory abandonment procedures; and property acquired by the Economic Development Department pursuant to the Statewide Economic Development Finance Act
	Local public body	Local council/board	Section 13-6-2 NMSA 1978	None		
	School district	School board	Section 13-6-2 NMSA 1978	None	May provide Surplus Property Bureau of GSD right of first	
	State educational institution	Board of regents	Section 13-6-2 NMSA 1978	None		
2 Valued at >\$5,000<=\$25,000	State agency	Agency head or governing board	Section 13-6-2 NMSA 1978	State Budget Division of DFA	Shall provide Surplus Property Bureau of GSD right of first refusal, except when selling property located within a community land grant, the board of trustees of the community land grant shall be given right of first refusal	Computer software of a state agency; institutions enumerated in Art. 12, Sec. 11 of the Constitution of New Mexico; State Police Division, State Land Office, Department of Transportation and State Parks Division; property acquired by a museum through statutory abandonment procedures; and property acquired by the Economic Development Department pursuant to the Statewide Economic Development Finance Act
	Local public body	Local council/board	Section 13-6-2 NMSA 1978	Local Government Division of DFA		
	School district	School board	Section 13-6-2 NMSA 1978	Public Education Department	May provide Surplus Property Bureau of GSD right of first	
	State educational institution	Board of regents	Section 13-6-2 NMSA 1978	N/A		
3 Valued at >\$25,000<\$100,000 Valued at >\$25,000	State agency	Agency head or governing board	Section 13-6-2.1 NMSA 1978	Board of Finance Division of DFA		Institutions enumerated in Art. 12, Sec. 11 of the Constitution of New Mexico; State Land Office; State Transportation Commission of New Mexico; and property acquired by the Economic Development Department pursuant to the Statewide Economic Development Finance Act
	Local public body	Local council/board	Section 13-6-2.1 NMSA 1978	Board of Finance Division of DFA		
	School district	School board	Section 13-6-2.1 NMSA 1978	Board of Finance Division of DFA		
	State educational institution	Board of regents	Section 13-6-2.1 NMSA 1978	N/A		
4 Valued at >=\$100,000	State agency	Agency head or governing board	Section 13-6-3 NMSA 1978	Legislature (no Board of Finance approval required)		Institutions enumerated in Art. 12, Sec. 11 of the Constitution of New Mexico; State Land Office; State Transportation Commission; and property acquired by the Economic Development Department

Public Property Dispositions

Sections 13-6-1 through 13-6-8 NMSA 1978

Type	Initiating Authority	Governing Authority	Disposition Procedures	Required Approvals	Other Conditions	Exemptions
Real property leases						
1 Leases: > 5 years or > \$25,000	State agency	Agency head or governing board	Section 13-6-2.1 NMSA 1978	Board of Finance Division of DFA		Institutions enumerated in Art. 12, Sec. 11 of the Constitution of New Mexico; State Land Office; State Transportation Commission; and property acquired by the Economic Development Department pursuant to the Statewide Economic Development Finance Act.
	Local public body	Local council/board	Section 13-6-2.1 NMSA 1978	Board of Finance Division of DFA		
	School district	School board	Section 13-6-2.1 NMSA 1978	Board of Finance Division of DFA		
	State educational institution	Board of regents	Section 13-6-2.1 NMSA 1978	N/A		
2 Leases: >25 years and > =\$100,000	State agency	Agency head or governing board	Section 13-6-3 NMSA 1978	Legislature (no Board of Finance approval required)		Institutions enumerated in Art. 12, Sec. 11 of the Constitution of New Mexico; State Land Office; State Transportation Commission; and property acquired by the Economic Development Department pursuant to the Statewide Economic Development Finance Act (Chapter 6, Article 25 NMSA 1978)
	Local public body	Local council/board	Section 13-6-3 NMSA 1978	Board of Finance Division of DFA		
	School district	School board	Section 13-6-3 NMSA 1978	Board of Finance Division of DFA		
	State educational institution	Board of regents	Section 13-6-3 NMSA 1978	N/A		

Definitions:

"Local public body" means all political subdivisions, except municipalities and school districts, of the state and their agencies, instrumentalities and institutions.

"State agency" means the state of New Mexico or any of its branches, agencies, departments, boards, instrumentalities or institutions other than state educational institutions.

"State educational institutions" means those institutions designated by Article 12, Section 11 of the Constitution of New Mexico.

"School districts" means those political subdivisions of the state established for the administration of public schools, segregated geographically for taxation and bonding purposes and governed by the Public School Code [Chapter 22 NMSA 1978].