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HOUSE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PUBLIC PROPERTY; REQUIRING APPROVAL FOR CERTAIN REAL PROPERTY DISPOSITIONS BY THE STATE PARKS DIVISION OF THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT; REQUIRING A REVIEW, FINDINGS OF FACT AND A REPORT TO THE LEGISLATURE FOR DISPOSITIONS OF CERTAIN REAL PROPERTY WITH A VALUE OF ONE HUNDRED THOUSAND DOLLARS (\$100,000) OR MORE; MAKING TECHNICAL CHANGES.

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

SECTION 1. Section 13-6-2 NMSA 1978 (being Laws 1979, Chapter 195, Section 3, as amended) is amended to read:

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

A. ~~[Providing a written determination has been~~

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1 ~~made, a state agency, local public body, school district or~~
2 ~~state educational institution may sell or otherwise dispose of]~~
3 Real property or tangible personal property [~~belonging to~~] may
4 be sold or otherwise disposed of by the state agency, local
5 public body, school district or state educational institution
6 to which the real property or tangible personal property
7 belongs; provided that a determination has been made in writing
8 that the sale or disposition is in the best interests of the
9 state or the governmental entity. The sale or other
10 disposition may be without warranty.

11 B. A state agency, local public body, school
12 district or state educational institution may sell or otherwise
13 dispose of real property:

14 (1) by negotiated sale or donation to an
15 Indian nation, tribe or pueblo located wholly or partially in
16 New Mexico, or to a governmental unit of an Indian nation,
17 tribe or pueblo in New Mexico, that is authorized to purchase
18 land and control activities on its land by an act of congress
19 or to purchase land on behalf of the Indian nation, tribe or
20 pueblo;

21 (2) by negotiated sale or donation to other
22 state agencies, local public bodies, school districts or state
23 educational institutions;

24 (3) through the central purchasing office of
25 the state agency, local public body, school district or state

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1 educational institution by means of competitive sealed bid,
2 public auction or negotiated sale to a [~~private~~] person or to
3 an Indian nation, tribe or pueblo in New Mexico at a
4 competitive price or to advance a substantial state interest;
5 or

6 (4) if a state agency, through the surplus
7 property bureau of the transportation services division of the
8 general services department.

9 ~~[G. 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 to dispose of~~
12 ~~tangible personal property of the state agency. A school~~
13 ~~district may give the surplus property bureau the right of~~
14 ~~first refusal to dispose of tangible personal property of the~~
15 ~~school district.~~

16 ~~D. Except as provided in Section 13-6-2.1 NMSA 1978~~
17 ~~requiring state board of finance approval for certain~~
18 ~~transactions, sale or disposition of]~~

19 C. Real property or tangible personal property
20 having a current resale value of more than five thousand
21 dollars (\$5,000) may be [~~made by a state agency, local public~~
22 ~~body, school district or state educational institution if the~~
23 ~~sale or disposition has been approved by] sold or otherwise
24 disposed of, subject to the provisions of Sections 13-6-2.1 and
25 13-6-3 NMSA 1978, following approval by:~~

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

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

6 (3) the public education department for school
7 districts; and

8 (4) the higher education department for state
9 educational institutions.

10 D. Before tangible personal property may be sold or
11 otherwise disposed of by a state agency, local public body,
12 state educational institution or school district, a right of
13 first refusal to the surplus property bureau of the
14 transportation services division of the general services
15 department:

16 (1) shall be offered by the state agency,
17 local public body or state educational institution; and

18 (2) may be offered by the school district.

19 E. [~~Prior approval of the appropriate approval~~
20 ~~authority is not required if the~~] For tangible personal
21 property [~~is~~] to be used as a trade-in or exchange pursuant to
22 the provisions of the Procurement Code, prior approval pursuant
23 to Subsection C of this section is not required.

24 [~~F. The appropriate approval authority may~~
25 ~~condition the approval of the sale or other disposition of real~~

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[bracketed material] = delete

1 ~~or tangible personal property upon the property being offered~~
2 ~~for sale or donation to a state agency, local public body,~~
3 ~~school district or state educational institution.~~

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

10 ~~H. This section does not apply to]~~

11 F. Payment received from the sale or other
12 disposition of real property or tangible personal property may
13 be credited to the state agency, local public body, school
14 district or state educational institution to which the real
15 property or tangible personal property belonged.

16 G. For the sale or other disposition of real
17 property or tangible personal property, the provisions of
18 Subsections A through F of this section do not apply to:

19 (1) computer software of a state agency;
20 (2) those institutions specifically enumerated
21 in Article 12, Section 11 of the constitution of New Mexico,
22 notwithstanding the provisions of Subsections A through F of
23 this section;

24 (3) the New Mexico state police division of
25 the department of public safety;

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1 (4) the state land office or the department of
2 transportation;

3 (5) property acquired by a museum through
4 abandonment procedures pursuant to the Abandoned Cultural
5 Properties Act;

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

8 (7) property acquired by the economic
9 development department pursuant to the Statewide Economic
10 Development Finance Act. [~~and~~

11 ~~(8)]~~ H. For the sale or other disposition of
12 tangible personal property, the provisions of Subsections A
13 through F of this section do not apply to the state parks
14 division of the energy, minerals and natural resources
15 department."

16 SECTION 2. Section 13-6-3 NMSA 1978 (being Laws 1961,
17 Chapter 41, Section 1, as amended by Laws 2003, Chapter 142,
18 Section 4 and by Laws 2003, Chapter 349, Section 23) is amended
19 to read:

20 "13-6-3. SALE, TRADE OR LEASE OF REAL PROPERTY BY STATE
21 AGENCIES--APPROVAL OF LEGISLATURE--EXCEPTIONS.--

22 A. [~~Any sale, trade or lease for a period exceeding~~
23 ~~twenty-five years in duration of]~~ Before real property
24 belonging to [~~any~~] a state agency [~~which sale, trade or lease~~
25 ~~shall be~~] may be sold or traded, or is leased under an

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1 agreement with a term exceeding twenty-five years, for a
2 consideration of one hundred thousand dollars (\$100,000) or
3 more [shall be subject to the ratification and approval of the
4 state legislature prior to the sale, trade or lease becoming
5 effective. The provision specified in Section 13-6-2 NMSA 1978
6 requiring approval of the state budget division of the
7 department of finance and administration as a prerequisite to
8 consummating such sales or dispositions of realty shall not be
9 applicable in instances wherein the consideration for the sale,
10 trade or lease shall be for a consideration of one hundred
11 thousand dollars (\$100,000) or more and wherein a state agency
12 not specifically excepted by Subsection B of this section is a
13 contracting party, and, in every such instance, the legislature
14 shall specify its approval prior to the sale, trade or lease
15 becoming effective]:

16 (1) the capitol buildings planning commission
17 shall review the proposed sale, trade or lease; make findings
18 of fact; and report the findings to the legislature; and

19 (2) the legislature shall receive the capitol
20 buildings planning commission report and ratify and approve the
21 proposed sale, trade or lease if the proposed sale, trade or
22 lease is in the best interests of the state or state agency.

23 B. The provisions of this section shall not [~~be~~
24 ~~applicable as~~] apply to:

25 (1) those institutions specifically enumerated

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1 in Article 12, Section 11 of the constitution of New Mexico;
2 (2) the state land office;
3 (3) the state transportation commission; or
4 (4) the economic development department when
5 disposing of property acquired pursuant to the Statewide
6 Economic Development Finance Act."