

AN ACT

RELATING TO PROPERTY; REQUIRING SALE OR DISPOSITION OF PROPERTY OF A STATE AGENCY, LOCAL PUBLIC BODY, SCHOOL DISTRICT OR STATE EDUCATIONAL INSTITUTION BY NEGOTIATED SALE, DONATION, SEALED BID OR PUBLIC AUCTION; GIVING RIGHT OF FIRST REFUSAL TO DISPOSE OF STATE PROPERTY TO THE GENERAL SERVICES DEPARTMENT; RECONCILING 1989 AMENDMENTS TO A SECTION OF CHAPTER 13, ARTICLE 6 NMSA 1978; AMENDING SECTIONS OF THE NMSA 1978.

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

(2) worn-out, unusable or obsolete to the extent that the item is no longer economical or safe for

continued use by the body.

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

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

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

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

D. The governing authority shall dispose of the tangible personal property by negotiated sale to any governmental unit of an Indian nation, tribe or pueblo in New Mexico or by negotiated sale or donation to other state agencies, local public bodies, school districts, state educational institutions or municipalities or through the

central purchasing office of the governing authority by means of competitive sealed bid or public auction or, if a state agency, through the federal property assistance bureau of the general services department.

E. A state agency shall give the federal property assistance bureau of the general services department the right of first refusal when disposing of obsolete, worn-out or unusable tangible personal property of the state agency.

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

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

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

I. No tangible personal property shall be donated

to an employee or relative of an employee of a state agency, local public body, school district or state educational institution; provided that nothing in this subsection precludes an employee from participating and bidding for public property at a public auction.

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

Section 2. Section 13-6-2 NMSA 1978 (being Laws 1979, Chapter 195, Section 3, as amended by Laws 1989, Chapter 211, Section 7 and also by Laws 1989, Chapter 380, Section 3) 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 made, a state agency, local public body, school district or state educational institution may sell or otherwise dispose of real or tangible personal property belonging to the state agency, local public body, school district or state educational institution. Disposal of real or tangible personal property under this section shall be by negotiated sale or donation to an Indian nation, tribe or pueblo in New Mexico or by negotiated sale or donation to other state agencies, local public bodies, school districts or state

educational institutions or through the central purchasing office of the governmental entity by means of competitive sealed bids or public auction or, if a state agency, through the federal property assistance bureau of the general services department.

B. A state agency shall give the federal property assistance bureau of the general services department the right of first refusal to dispose of tangible personal property of the state agency. A school district may give the department the right of first refusal to dispose of tangible personal property of the school district.

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

D. Prior approval of the appropriate approval

authority is not required if the property is to be used as a trade-in or exchange pursuant to the provisions of the Procurement Code.

E. The appropriate approval authority may condition the approval of the sale or other disposition of real or tangible personal property upon the property being offered for sale or donation to a state agency, local public body, school district or state educational institution.

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

G. This section shall not apply to:

- (1) computer software of a state agency;
- (2) those institutions specifically enumerated in Article 12, Section 11 of the constitution of New Mexico;
- (3) the New Mexico state police division of the department of public safety;
- (4) the state land office or the state highway and transportation department; and
- (5) property acquired by a museum through abandonment procedures pursuant to the Abandoned Cultural

Properties Act."

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

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

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

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

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

D. "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." ==