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HOUSE BILL 625

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

John A. Sanchez

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**

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1 institution may dispose of any item of tangible personal
2 property belonging to that authority and delete the item from
3 its public inventory upon a specific finding by the authority
4 that the item of property is:

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

7 (2) worn-out, unusable or obsolete to the
8 extent that the item is no longer economical or safe for
9 continued use by the body.

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

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

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

23 C. A copy of the official finding and proposed
24 disposition of the property sought to be disposed of shall be
25 made a permanent part of the official minutes of the governing

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1 authority and maintained as a public record subject to the
2 Inspection of Public Records Act.

3 D. The governing authority shall dispose of the
4 tangible personal property by negotiated sale to any
5 governmental unit of an Indian nation, tribe or pueblo in New
6 Mexico or by negotiated sale or donation to other state
7 agencies, local public bodies, school districts, state
8 educational institutions or municipalities or through the
9 central purchasing office of the governing authority by means
10 of competitive sealed bid or public auction or, if a state
11 agency, through the federal property assistance bureau of the
12 general services department.

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

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

23 [~~F.~~] G. If the governing authority is unable to
24 dispose of the tangible personal property pursuant to
25 Subsection D, [~~or~~] E or F of this section, it may order that

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1 the property be destroyed or otherwise permanently disposed of
2 in accordance with applicable laws.

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

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

14 ~~[I.]~~ J. This section shall not apply to any
15 property acquired by a museum through abandonment procedures
16 pursuant to the Abandoned Cultural Properties Act. "

17 Section 2. Section 13-6-2 NMSA 1978 (being Laws 1979,
18 Chapter 195, Section 3, as amended by Laws 1989, Chapter 211,
19 Section 7 and also by Laws 1989, Chapter 380, Section 3) is
20 amended to read:

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

24 A. ~~[Any]~~ Providing a written determination has
25 been made, a state agency, local public body, school district

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1 or state educational institution [~~is empowered to~~] may sell or
2 otherwise dispose of real or tangible personal property
3 belonging to the state agency, local public body, school
4 district or state educational institution. Disposal of real
5 or tangible personal property under this section shall be by
6 negotiated sale to any governmental unit of an Indian nation,
7 tribe or pueblo in New Mexico or by negotiated sale or
8 donation to other state agencies, local public bodies, school
9 districts or state educational institutions or through the
10 central purchasing office of the governmental entity by means
11 of competitive sealed bids or public auction or, if a state
12 agency, through the federal property assistance bureau of the
13 general services department.

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

20 C. Except as provided in Section 13-6-2.1 NMSA
21 1978 requiring state board of finance approval for certain
22 transactions, sale or disposition of real or tangible personal
23 property having a current resale value of more than five
24 thousand dollars (\$5,000) may be made by [~~any~~] a state agency,
25 local public body, school district or state educational

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1 institution if the sale or disposition has been approved by
2 the state budget division of the department of finance and
3 administration for state agencies, the local government
4 division of the department of finance and administration for
5 local public bodies, the state department of public education
6 for school districts and the commission on higher education
7 for state educational institutions.

8 ~~[B.]~~ D. Prior approval of the appropriate approval
9 authority is not required if the property is to be used as a
10 trade-in or exchange pursuant to the provisions of the
11 Procurement Code.

12 ~~[C.]~~ E. The appropriate approval authority may
13 condition the approval of the sale or other disposition of
14 ~~[any]~~ real or tangible personal property upon the property
15 being offered for sale or donation to a state agency, local
16 public body, school district or state educational institution.

17 ~~[D.]~~ F. The appropriate approval authority ~~[shall~~
18 ~~have the power to]~~ may credit ~~[any]~~ a payment received from
19 the sale of ~~[any]~~ such real or tangible personal property to
20 the governmental body making the sale. The state agency,
21 local public body, school district or state educational
22 institution may convey all or any interest in the real or
23 tangible personal property without warranty.

24 ~~[E.]~~ G. This section shall not apply to ~~[any]~~:

25 (1) computer software ~~[or hardware]~~ of ~~[any]~~

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1 a state agency;

2 ~~[F. The provisions of this section shall not be~~
3 ~~applicable as to]~~

4 (2) those institutions specifically
5 enumerated in Article 12, Section 11 of the constitution of
6 New Mexico;

7 (3) the state land office or the state
8 highway ~~[commission]~~ and transportation department; and

9 (4) property acquired by a museum through
10 abandonment procedures pursuant to the Abandoned Cultural
11 Properties Act. "

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

14 "13-6-4. DEFINITIONS. --As used in ~~[Sections 13-6-1~~
15 ~~through 13-6-4]~~ Chapter 13, Article 6 NMSA 1978:

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

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

24 C. "state educational institutions" means those
25 institutions designated by Article 12, Section 11 of the

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1 constitution of New Mexico; and

2 D. "school districts" means those political
3 subdivisions of the state established for the administration
4 of public schools, segregated geographically for taxation and
5 bonding purposes and governed by the Public School Code [~~as~~
6 amended]. "

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