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SENATE BILL 335

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Mary Kay Papen

FOR THE CAPITOL BUILDINGS PLANNING COMMISSION

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
FINDINGS OF FACT AND A RECOMMENDATION BY THE CAPITOL BUILDINGS
PLANNING COMMISSION AND LEGISLATIVE AND STATE BOARD OF FINANCE
APPROVAL FOR DISPOSITIONS OF CERTAIN REAL PROPERTY WITH A VALUE
OF MORE THAN TWO HUNDRED THOUSAND DOLLARS (\$200,000); ADDING
CLARIFYING DEFINITIONS; 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 DISPOSITION BY STATE AGENCIES
~~[OR]~~, LOCAL PUBLIC BODIES, SCHOOL DISTRICTS AND STATE
EDUCATIONAL INSTITUTIONS--AUTHORITY TO SELL OR DISPOSE OF

.204647.3

1 PROPERTY--APPROVAL OF APPROPRIATE APPROVAL AUTHORITY.--

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

12 B. Real property may be disposed of by a state
13 agency, local public body, school district or state educational
14 institution ~~[may sell or otherwise dispose of real property]:~~

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

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

25 (3) through the central purchasing office of

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

6 (4) ~~[if a state agency]~~ through the surplus
7 property bureau of the transportation services division of the
8 general services department on behalf of the state agency.

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 ~~[or tangible personal]~~ property having a
20 current resale value of more than ~~[five thousand dollars~~
21 ~~(\$5,000)]~~ may be made by a state agency, local public body,
22 school district or state educational institution ~~if the sale or~~
23 ~~disposition has been approved by]~~ ten thousand dollars
24 (\$10,000), up to sixty thousand dollars (\$60,000), or tangible
25 personal property having a current resale value of more than

1 ten thousand dollars (\$10,000) may be disposed of following
2 approval by:

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

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

8 (3) the public education department for school
9 districts; and

10 (4) the higher education department for state
11 educational institutions.

12 ~~[E. Prior approval of the appropriate approval~~
13 ~~authority is not required if the]~~

14 D. For tangible personal property [is]:

15 (1) to be used as a trade-in or exchange
16 pursuant to the provisions of the Procurement Code, prior
17 approval pursuant to Subsection C of this section is not
18 required; and

19 (2) to be disposed of by a state agency, local
20 public body, school district or state educational institution,
21 a right of first refusal to the surplus property bureau of the
22 transportation services division of the general services
23 department:

24 (a) shall be offered by the state
25 agency, local public body or state educational institution; and

1 (b) may be offered by the school
2 district.

3 ~~[F. The appropriate approval authority may~~
4 ~~condition the approval of the sale or other disposition of real~~
5 ~~or tangible personal property upon the property being offered~~
6 ~~for sale or donation to a state agency, local public body,~~
7 ~~school district or state educational institution.~~

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

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

15 E. Payment received from the disposition of real
16 property or tangible personal property shall be credited to the
17 state agency, local public body, school district or state
18 educational institution that had ownership or jurisdiction over
19 the real property or tangible personal property.

20 F. For the disposition of real property or tangible
21 personal property, the provisions of Subsections A through E of
22 this section do not apply to:

- 23 (1) computer software of a state agency;
- 24 (2) those institutions specifically enumerated
- 25 in Article 12, Section 11 of the constitution of New Mexico,

1 notwithstanding the provisions of Subsections A through E of
2 this section;

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

5 (4) the state land office or the department of
6 transportation;

7 (5) property acquired by a museum through
8 abandonment procedures pursuant to the Abandoned Cultural
9 Properties Act;

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

12 (7) property acquired by the economic
13 development department pursuant to the Statewide Economic
14 Development Finance Act. [~~and~~

15 ~~(8)]~~ G. For the disposition of tangible personal
16 property, the provisions of Subsections A through E of this
17 section do not apply to the state parks division of the energy,
18 minerals and natural resources department."

19 SECTION 2. Section 13-6-2.1 NMSA 1978 (being Laws 1989,
20 Chapter 380, Section 1, as amended) is amended to read:

21 "13-6-2.1. [~~SALES, TRADES OR LEASES~~] DISPOSITION OF REAL
22 PROPERTY--STATE BOARD OF FINANCE APPROVAL--EXCEPTIONS.--

23 A. [~~Except as provided in Section 13-6-3 NMSA 1978,~~
24 ~~for state agencies, any sale, trade or lease for a period of~~
25 ~~more than five years of real property belonging to a state~~

1 ~~agency, local public body or school district or any sale, trade~~
2 ~~or lease of such real property for a consideration of more than~~
3 ~~twenty-five thousand dollars (\$25,000)]~~ A state agency's
4 disposition of real property having a current resale value of
5 more than sixty thousand dollars (\$60,000), up to two hundred
6 thousand dollars (\$200,000), or lease of real property for a
7 period of more than five years, up to twenty-five years, and a
8 local public body's, school district's or state educational
9 institution's disposition of real property having a current
10 resale value of more than sixty thousand dollars (\$60,000) or
11 lease of real property for a period of more than five years,
12 shall not be valid and shall be retractable unless ~~[it is~~
13 ~~approved prior to its effective date by]~~ the state board of
14 finance first reviews and approves the proposed disposition.

15 B. The provisions of this section shall not be
16 applicable to:

17 (1) those institutions specifically enumerated
18 in Article 12, Section 11 of the constitution of New Mexico;

19 (2) the state land office;

20 (3) the state transportation commission;

21 (4) the economic development department when
22 disposing of property acquired pursuant to the Statewide
23 Economic Development Finance Act; or

24 (5) a school district when leasing facilities
25 to a locally chartered or state-chartered charter school."

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

5 "13-6-3. [~~SALE, TRADE OR LEASE OF~~] REAL PROPERTY
6 DISPOSITION BY STATE AGENCIES--REVIEW, FINDINGS OF FACT AND
7 APPROVAL [~~OF LEGISLATURE~~] REQUIRED--EXCEPTIONS.--

8 A. [~~Any sale, trade or lease for a period exceeding~~
9 ~~twenty-five years in duration of real property belonging to any~~
10 ~~state agency, which sale, trade or lease shall be for a~~
11 ~~consideration of one hundred thousand dollars (\$100,000) or~~
12 ~~more shall be subject to the ratification and approval of the~~
13 ~~state legislature prior to the sale, trade or lease becoming~~
14 ~~effective. The provision specified in Section 13-6-2 NMSA 1978~~
15 ~~requiring approval of the state budget division of the~~
16 ~~department of finance and administration as a prerequisite to~~
17 ~~consummating such sales or dispositions of realty shall not be~~
18 ~~applicable in instances wherein the consideration for the sale,~~
19 ~~trade or lease shall be for a consideration of one hundred~~
20 ~~thousand dollars (\$100,000) or more and wherein a state agency~~
21 ~~not specifically excepted by Subsection B of this section is a~~
22 ~~contracting party, and, in every such instance, the legislature~~
23 ~~shall specify its approval prior to the sale, trade or lease~~
24 ~~becoming effective.] A state agency's disposition of real
25 property having a current resale value of more than two hundred~~

1 thousand dollars (\$200,000) or lease of real property for a
2 period of more than twenty-five years shall not be valid and
3 shall be retractable unless first:

4 (1) the capitol buildings planning commission
5 reviews the proposed disposition; determines whether the
6 proposed disposition comports with the state's inventory and
7 master plan and is in the best interests of the state or state
8 agency; makes findings of fact and a recommendation; and
9 reports the findings and recommendation to the legislature;

10 (2) following receipt of the capitol buildings
11 planning commission report, the legislature passes a joint
12 resolution to approve the proposed disposition subject to the
13 provisions of Paragraph (3) of this subsection, which approval
14 shall be effective for five years following the joint
15 resolution's passage; and

16 (3) the state board of finance reviews and
17 approves the proposed disposition.

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

20 (1) those institutions specifically enumerated
21 in Article 12, Section 11 of the constitution of New Mexico;

22 (2) the state land office;

23 (3) the state transportation commission; or

24 (4) the economic development department when
25 disposing of property acquired pursuant to the Statewide

1 Economic Development Finance Act."

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

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

6 A. "consideration" includes cash, other property,
7 services or another form of compensation that is of equal or
8 greater value as the property interest being conveyed;

9 B. "disposition" and "disposed of" means a
10 negotiated sale, trade, lease or donation;

11 ~~[A-]~~ C. "local public body" means all political
12 subdivisions, except municipalities and school districts, of
13 the state and their agencies, instrumentalities and
14 institutions;

15 ~~[B-]~~ D. "state agency" means the state of New
16 Mexico or any of its branches, agencies, departments, boards,
17 instrumentalities or institutions other than state educational
18 institutions;

19 ~~[G-]~~ E. "state educational institutions" means
20 those institutions designated by Article 12, Section 11 of the
21 constitution of New Mexico; and

22 ~~[D-]~~ F. "school districts" means those political
23 subdivisions of the state established for the administration of
24 public schools, segregated geographically for taxation and
25 bonding purposes and governed by the Public School Code."

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