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AN ACT

RELATING TO PUBLIC PROPERTY; CREATING THE SURPLUS PROPERTY BUREAU; PROVIDING POWERS AND DUTIES; CREATING A FUND; AUTHORIZING STOREFRONT SALES OF SURPLUS PROPERTY; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

Section 1. A new section of Chapter 13, Article 6 NMSA 1978 is enacted to read:

"SURPLUS PROPERTY BUREAU CREATED--DUTIES--POWERS.--

A. The "surplus property bureau" is created in the transportation services division of the general services department. The surplus property bureau is designated as the New Mexico agency responsible for distribution of federal surplus personal property, excepting food commodities, in accordance with subdivision (j) of Section 203 of the Federal Property and Administrative Services Act of 1949. The surplus property bureau is also designated as the agency for distribution or disposal of state surplus property.

B. The surplus property bureau shall:

(1) develop a detailed state plan of operation for the management and administration of surplus property acquired from the federal government that complies with the Federal Property and Administrative Services Act of

1 1949 and regulations promulgated in accordance with that act;

2 (2) cooperate with the federal government
3 and its agencies in securing the expeditious and equitable
4 distribution of federal surplus personal property, excepting
5 food commodities, to eligible institutions in New Mexico, and
6 assist those institutions in securing that property;

7 (3) dispose of unusable federal surplus
8 property in accordance with subdivision (j) of Section 203 of
9 the Federal Property and Administrative Services Act of 1949;
10 and

11 (4) manage a program to recycle, donate,
12 sell or dispose of state surplus tangible personal property.

13 C. The surplus property bureau may:

14 (1) enter into agreements with the federal
15 government or its agencies for the purchase, lease, receipt
16 as a loan or gift or any other means of acquisition of any
17 real or personal property without regard to provisions of
18 state law that require:

19 (a) the posting of notices or public
20 advertising for bids;

21 (b) the inviting or receiving of
22 competitive bids; or

23 (c) the delivery of purchases before
24 payment;

25 (2) enter into cooperative agreements for

1 the sale, transfer or disposal of federal surplus property
2 that has not been distributed;

3 (3) enter into contracts with other state
4 agencies for the purpose of acquiring or disposing of any
5 tangible personal property originally purchased with state
6 money as specified by rule of the transportation services
7 division of the general services department; and

8 (4) designate the representative of a user
9 to enter a bid at a sale of real or personal property owned
10 by the United States government or any agency or department
11 thereof and authorize that person to make payment required in
12 connection with the bidding."

13 Section 2. A new section of Chapter 13, Article 6 NMSA
14 1978 is enacted to read:

15 "SURPLUS PROPERTY FUND--CREATED--EXPENDITURES.--

16 A. The "surplus property fund" is created as a
17 nonreverting fund in the state treasury. The fund consists
18 of money received from the sale of surplus property by the
19 surplus property bureau of the transportation services
20 division of the general services department. The surplus
21 property bureau shall administer the fund, and money in the
22 fund is subject to appropriation by the legislature to carry
23 out activities relating to the acquisition, transfer and sale
24 of surplus government property. Money in the fund shall be
25 disbursed on vouchers approved and warrants signed by the

1 director of the transportation services division of the
2 general services department or the director's authorized
3 representative.

4 B. Money in the surplus property fund attributable
5 to the sale of federal property shall be held and accounted
6 for separately from money attributable to the purchase or
7 sale of state property."

8 Section 3. A new section of Chapter 13, Article 6 NMSA
9 1978 is enacted to read:

10 "DISPOSITION OF STATE PROPERTY.--The surplus property
11 bureau of the transportation services division of the general
12 services department may dispose of tangible personal
13 property, except property acquired from the United States
14 government, by advertising the availability of the property
15 as follows:

16 A. for the first forty-five-day period, to any
17 agency that has entered into an agreement with the bureau;

18 B. for the second forty-five-day period, to any
19 agency or tax-exempt entity that has filed its written
20 certificate of tax exemption with the bureau;

21 C. for the third forty-five-day period, to any
22 agency or tax-exempt entity or to the public through a
23 storefront operation on days and at times specified by rule
24 of the bureau; and

25 D. after the third forty-five-day period, by

1 auction or any other means of disposal in compliance with
2 environmental standards for disposal of tangible personal
3 property."

4 Section 4. Section 13-6-1 NMSA 1978 (being Laws 1961,
5 Chapter 100, Section 1, as amended) is amended to read:

6 "13-6-1. DISPOSITION OF OBSOLETE, WORN-OUT OR UNUSABLE
7 TANGIBLE PERSONAL PROPERTY.--

8 A. The governing authority of each state agency,
9 local public body, school district and state educational
10 institution may dispose of any item of tangible personal
11 property belonging to that authority and delete the item from
12 its public inventory upon a specific finding by the authority
13 that the item of property is:

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

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

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

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

25 (2) give notification at least thirty days

1 prior to its action making the deletion by sending a copy of
2 its official finding and the proposed disposition of the
3 property to the state auditor and the appropriate approval
4 authority designated in Section 13-6-2 NMSA 1978, duly sworn
5 and subscribed under oath by each member of the authority
6 approving the action.

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

12 D. The governing authority shall dispose of the
13 tangible personal property by negotiated sale to any
14 governmental unit of an Indian nation, tribe or pueblo in New
15 Mexico or by negotiated sale or donation to other state
16 agencies, local public bodies, school districts, state
17 educational institutions or municipalities or through the
18 central purchasing office of the governing authority by means
19 of competitive sealed bid or public auction or, if a state
20 agency, through the surplus property bureau of the
21 transportation services division of the general services
22 department.

23 E. A state agency shall give the surplus property
24 bureau of the transportation services division of the general
25 services department the right of first refusal when disposing

1 of obsolete, worn-out or unusable tangible personal property
2 of the state agency.

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

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

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

19 I. No tangible personal property shall be donated
20 to an employee or relative of an employee of a state agency,
21 local public body, school district or state educational
22 institution; provided that nothing in this subsection
23 precludes an employee from participating and bidding for
24 public property at a public auction.

25 J. This section shall not apply to any property

1 acquired by a museum through abandonment procedures pursuant
2 to the Abandoned Cultural Properties Act."

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

5 "13-6-2. SALE OF PROPERTY BY STATE AGENCIES OR LOCAL
6 PUBLIC BODIES--AUTHORITY TO SELL OR DISPOSE OF PROPERTY--
7 APPROVAL OF APPROPRIATE APPROVAL AUTHORITY.--

8 A. Providing a written determination has been
9 made, a state agency, local public body, school district or
10 state educational institution may sell or otherwise dispose
11 of real or tangible personal property belonging to the state
12 agency, local public body, school district or state
13 educational institution.

14 B. A state agency, local public body, school
15 district or state educational institution may sell or
16 otherwise dispose of real property:

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

24 (2) by negotiated sale or donation to other
25 state agencies, local public bodies, school districts or

1 state educational institutions;

2 (3) through the central purchasing office of
3 the state agency, local public body, school district or state
4 educational institution by means of competitive sealed bid,
5 public auction or negotiated sale to a private person or to
6 an Indian nation, tribe or pueblo in New Mexico; or

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

10 C. A state agency shall give the surplus property
11 bureau of the transportation services division of the general
12 services department the right of first refusal to dispose of
13 tangible personal property of the state agency. A school
14 district may give the surplus property bureau the right of
15 first refusal to dispose of tangible personal property of the
16 school district.

17 D. Except as provided in Section 13-6-2.1 NMSA
18 1978 requiring state board of finance approval for certain
19 transactions, sale or disposition of real or tangible
20 personal property having a current resale value of more than
21 five thousand dollars (\$5,000) may be made by a state agency,
22 local public body, school district or state educational
23 institution if the sale or disposition has been approved by
24 the state budget division of the department of finance and
25 administration for state agencies, the local government

1 division of the department of finance and administration for
2 local public bodies, the public education department for
3 school districts and the higher education department for
4 state educational institutions.

5 E. Prior approval of the appropriate approval
6 authority is not required if the tangible personal property
7 is to be used as a trade-in or exchange pursuant to the
8 provisions of the Procurement Code.

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

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

20 H. This section does not apply to:

21 (1) computer software of a state agency;

22 (2) those institutions specifically

23 enumerated in Article 12, Section 11 of the constitution of
24 New Mexico;

25 (3) the New Mexico state police division of

1 the department of public safety;

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

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

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

9 (7) property acquired by the economic
10 development department pursuant to the Statewide Economic
11 Development Finance Act; and

12 (8) the state parks division of the energy,
13 minerals and natural resources department."

14 Section 6. TEMPORARY PROVISION--TRANSFER OF MONEY.--On
15 the effective date of this act, all money in the surplus
16 property revolving fund shall be transferred to the surplus
17 property fund.

18 Section 7. REPEAL.--Sections 15-4-2 and 15-4-3 NMSA
19 1978 (being Laws 1971, Chapter 189, Sections 2 and 3, as
20 amended) are repealed.

21 Section 8. EFFECTIVE DATE.--The effective date of the
22 provisions of this act is July 1, 2007. _____

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