

SURPLUS PROPERTY AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: Eric K. Hutchings

LONG TITLE

General Description:

This bill modifies provisions relating to state surplus property.

Highlighted Provisions:

This bill:

- ▶ modifies the authority of the Division of Purchasing and General Services with respect to the surplus property program;
- ▶ repeals provisions relating to:
 - specific methods of disposing of state surplus property;
 - institutions of higher education participation in the surplus property program;
 - charges and fees for surplus property; and
 - a surplus property contractor;
- ▶ modifies provisions relating to the surplus property program;
- ▶ authorizes a state agency to declare property to be surplus property;
- ▶ modifies provisions relating to the disposal of items of minimal value; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-2-101.5, as last amended by Laws of Utah 2015, Chapter 98

- 30 **63A-2-103**, as last amended by Laws of Utah 2017, Chapter 463
- 31 **63A-2-404**, as last amended by Laws of Utah 2013, Chapter 151
- 32 **63A-2-411**, as repealed and reenacted by Laws of Utah 2015, Chapter 98

33 REPEALS AND REENACTS:

- 34 **63A-2-401**, as last amended by Laws of Utah 2015, Chapter 98

35 REPEALS:

- 36 **63A-2-402**, as last amended by Laws of Utah 2017, Chapter 382
- 37 **63A-2-405**, as last amended by Laws of Utah 2015, Chapter 98
- 38 **63A-2-410**, as last amended by Laws of Utah 2015, Chapter 98



40 *Be it enacted by the Legislature of the state of Utah:*

41 Section 1. Section **63A-2-101.5** is amended to read:

42 **63A-2-101.5. Definitions.**

43 As used in this chapter:

44 (1) "Division" means the Division of Purchasing and General Services created under
45 Section **63A-2-101**.

46 (2) "Federal surplus property" means surplus property of the federal government of the
47 United States.

48 (3) "Information technology equipment" means equipment capable of downloading,
49 accessing, manipulating, storing, or transferring electronic data, including:

50 (a) a computer;

51 (b) a smart phone, electronic tablet, personal digital assistant, or other portable
52 electronic device;

53 (c) a digital copier or multifunction printer;

54 (d) a flash drive or other portable electronic data storage device;

55 (e) a server; and

56 (f) any other similar device.

57 (4) "Person with a disability" means a person with a severe, chronic disability that:

58 (a) is attributable to a mental or physical impairment or a combination of mental and
59 physical impairments; and

60 (b) is likely to continue indefinitely.

61 (5) "Property act" means the Federal Property and Administrative Services Act of
62 1949, 40 U.S.C. Sec. 549.

63 (6) "Purchasing director" means the director of the division appointed under Section
64 [63A-2-102](#).

65 (7) "Smart phone" means an electronic device that combines a cell phone with a
66 hand-held computer, typically offering Internet access, data storage, and text and email
67 capabilities.

68 (8) "State agency" means any executive branch department, division, or other agency of
69 the state.

70 (9) "State surplus property":

71 (a) means state-owned property, whether acquired by purchase, seizure, donation, or
72 otherwise:

73 (i) that is no longer being used by the state or no longer usable by the state;

74 (ii) that is out of date;

75 (iii) that is damaged and cannot be repaired or cannot be repaired at a cost that is less
76 than the property's value;

77 (iv) whose useful life span has expired; or

78 (v) that the state agency possessing the property determines is not required to meet the
79 needs or responsibilities of the state agency;

80 (b) includes:

81 (i) a motor vehicle;

82 (ii) equipment;

83 (iii) furniture;

84 (iv) information technology equipment; and

85 (v) a supply; and

86 (c) does not include:

87 (i) real property;

88 (ii) an asset of the School and Institutional Trust Lands Administration, established in
89 Section 53C-1-201;

90 (iii) a firearm or ammunition; or

91 (iv) an office or household item made of aluminum, paper, plastic, cardboard, or other
92 recyclable material, without any meaningful value except for recycling purposes.

93 (10) "State surplus property contractor" means a person in the private sector under
94 contract with the state to provide one or more services related to the division's program for the
95 management and disposition of state surplus property.

96 (11) "Surplus property program" means the program relating to state surplus property
97 under Part 4, Surplus Property Service.

98 (12) "Surplus property program administrator" means:

99 (a) the purchasing director, if the purchasing director administers the surplus property
100 program; or

101 (b) the state surplus property contractor, if the state surplus property contractor
102 administers the surplus property program.

103 Section 2. Section 63A-2-103 is amended to read:

104 **63A-2-103. Duties and authority of purchasing director -- Subscribing to mailing**
105 **system and electronic central store -- Fee schedule.**

106 (1) The purchasing director:

107 (a) shall operate, manage, and maintain:

108 (i) a central mailing service; and

109 (ii) an electronic central store system for procuring goods and services;

110 (b) shall, except when a state surplus property contractor administers the [state's
111 ~~program for disposition of state surplus property~~] surplus property program, operate, manage,
112 and maintain the [state] surplus property program;

113 (c) shall, when a state surplus property contractor administers the [state's program for

114 ~~disposition of state surplus property]~~ surplus property program, oversee the state surplus
115 property contractor's administration of the [state] surplus property program in accordance with
116 Part 4, Surplus Property Services; and

117 (d) may establish microfilming, duplicating, printing, addressograph, and other central
118 services.

119 (2) (a) Each state agency shall subscribe to all of the services described in Subsection
120 (1)(a), unless the director delegates the director's authority to a state agency under Section
121 [63A-2-104](#).

122 (b) An institution of higher education, the State Board of Education, a school district,
123 or a political subdivision of the state may subscribe to one or more of the services described in
124 Subsection (1)(a).

125 (3) (a) The purchasing director shall:

126 (i) prescribe a schedule of fees to be charged for all services provided by the division
127 after the purchasing director:

128 (A) submits the proposed rate, fees, or other amounts for services provided by the
129 division's internal service fund to the Rate Committee established in Section [63A-1-114](#); and

130 (B) obtains the approval of the Legislature, as required by Section [63J-1-504](#);

131 (ii) ensure that the fees are approximately equal to the cost of providing the services;
132 and

133 (iii) annually conduct a market analysis of fees.

134 (b) A market analysis under Subsection (3)(a)(iii) shall include a comparison of the
135 division's rates with the fees of other public or private sector providers if comparable services
136 and rates are reasonably available.

137 Section 3. Section [63A-2-401](#) is repealed and reenacted to read:

138 **63A-2-401. State agencies required to participate in surplus property program --**
139 **Declaring property to be state surplus property -- Division authority.**

140 (1) Except as otherwise provided in this part, a state agency shall dispose of and
141 acquire state surplus property by participating in the surplus property program.

142 (2) A state agency may declare property that the state agency owns to be state surplus
143 property by making a written determination that the property is state surplus property.

144 (3) The division shall determine the appropriate method for disposing of state surplus
145 property.

146 (4) The division may:

147 (a) establish facilities to store state surplus property at locations throughout the state;
148 and

149 (b) after consultation with the state agency requesting the sale of state surplus property,
150 establish the selling price for the state surplus property.

151 (5) As provided in Title 63J, Chapter 1, Budgetary Procedures Act, the division may
152 transfer proceeds generated by the sale of state surplus property to the state agency requesting
153 the sale, reduced by a fee approved in accordance with Subsection [63A-2-103\(3\)](#) to pay the
154 division's costs of administering the surplus property program.

155 (6) By following the procedures and requirements of Title 63G, Chapter 3, Utah
156 Administrative Rulemaking Act, the division may make rules establishing a surplus property
157 program that meets the requirements of this chapter.

158 Section 4. Section **63A-2-404** is amended to read:

159 **63A-2-404. Acquisition of federal surplus property -- Powers and duties --**
160 **Advisory boards and committees -- Expenditures and contracts -- Clearinghouse of**
161 **information -- Reports.**

162 (1) The division may:

163 (a) acquire from the United States under and in conformance with the property act any
164 federal surplus property under the control of any department or agency of the United States that
165 is usable and necessary for any purposes authorized by federal law;

166 (b) warehouse federal surplus property if it is not real property; and

167 (c) distribute federal surplus property within this state to:

168 (i) tax-supported medical institutions, hospitals, clinics, and health centers;

169 (ii) school systems, schools, colleges, and universities;

170 (iii) other nonprofit medical institutions, hospitals, clinics, health centers, schools,
171 colleges, and universities that are exempt from taxation under Section 501(c)(3) of the United
172 States Internal Revenue Code of 1954;

173 (iv) civil defense organizations;

174 (v) political subdivisions; and

175 (vi) any other types of institutions or activities that are eligible to acquire the federal
176 surplus property under federal law.

177 (2) The division may:

178 (a) receive applications from eligible health and educational institutions for the
179 acquisition of federal surplus real property;

180 (b) investigate the applications;

181 (c) obtain opinions about those applications from the appropriate health or educational
182 authorities of this state;

183 (d) make recommendations about the need of the applicant for the property, the merits
184 of the applicant's proposed use of the property, and the suitability of the property for those
185 purposes; and

186 (e) otherwise assist in the processing of those applications for acquisition of real and
187 related personal property of the United States under the property act.

188 (3) The division may appoint advisory boards or committees.

189 (4) If required by law or regulation of the United States in connection with the
190 disposition of surplus real property and the receipt, warehousing, and distribution of surplus
191 personal property received by the ~~[division]~~ surplus property program from the United States,
192 the ~~[division]~~ surplus property program administrator may:

193 (a) make certifications, take action, and make expenditures;

194 (b) enter into contracts, agreements, and undertakings for and in the name of the state
195 including cooperative agreements with the federal agencies providing for use by and exchange
196 between them of the property, facilities, personnel, and services of each by the other;

197 (c) require reports; and

198 (d) make investigations.

199 (5) The division shall act as the clearinghouse of information for public and private
200 nonprofit institutions, organizations, and agencies eligible to acquire federal surplus real
201 property to:

202 (a) locate both real and personal property available for acquisition from the United
203 States;

204 (b) ascertain the terms and conditions under which that property may be obtained;

205 (c) receive requests from those institutions, organizations, and agencies and transmit to
206 them all available information in reference to that property; and

207 (d) aid and assist those institutions, organizations, and agencies in every way possible
208 in those acquisitions or transactions.

209 (6) The division shall:

210 (a) cooperate with the departments or agencies of the United States;

211 (b) file a state plan of operation;

212 (c) operate according to that plan;

213 (d) take the actions necessary to meet the minimum standards prescribed by the
214 property act;

215 (e) make any reports required by the United States or any of its departments or
216 agencies; and

217 (f) comply with the laws of the United States and the regulations of any of the
218 departments or agencies of the United States governing the allocation of, transfer of, use of, or
219 accounting for any property donated to the state.

220 Section 5. Section **63A-2-411** is amended to read:

221 **63A-2-411. Disposal of state surplus property with minimal value.**

222 (1) As used in this section, "item of minimal value" means [~~a value of less than \$100.~~]
223 an item of property that:

224 (a) (i) had an initial purchase price of less than \$100; and

225 (ii) does not appreciate in value; or

226 (b) the surplus property program administrator determines to be worth less than \$100.

227 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
228 division shall make rules that permit a state agency to dispose of ~~[property with a]~~ an item of
229 minimal value that the state agency has declared to be state surplus property as provided in
230 ~~[Subsection 63A-2-401(7)]~~ Section 63A-2-401.

231 ~~[(3) The division's rules under Subsection (2) shall permit a state agency to dispose of~~
232 ~~state surplus property with a minimal value by:]~~

233 ~~[(a) destroying the property;]~~

234 ~~[(b) disposing of the property as waste; or]~~

235 ~~[(c) donating the property to:]~~

236 ~~[(i) a charitable organization; or]~~

237 ~~[(ii) an employee of the state agency.]~~

238 ~~[(4)]~~ (3) Property of a state agency is presumed to ~~[have a]~~ be an item of minimal value
239 if the property is not purchased after the ~~[state agency]~~ surplus property program administrator
240 offers the property for sale to the public at a price above \$100 ~~[for at least seven days:].~~

241 ~~[(a) through an online auction;]~~

242 ~~[(b) through a live auction;]~~

243 ~~[(c) at a retail location managed by the division; or]~~

244 ~~[(d) through another sale method approved by the director.]~~

245 Section 6. **Repealer.**

246 This bill repeals:

247 Section **63A-2-402, State surplus property program -- Participation by institutions**
248 **of higher education.**

249 Section **63A-2-405, Charges and fees assessed for surplus property.**

250 Section **63A-2-410, State surplus property contractor -- Deposit of proceeds.**