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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/21/2007

SPONSOR Gonzales LAST UPDATED 3/16/07 HB 968/aSCONC

SHORT TITLE Public Property Sale Right of First Refusal SB \_\_\_\_\_

ANALYST Kehoe/Aguilar

### REVENUE (dollars in thousands)

| Estimated Revenue |               |      | Recurring<br>or Non-Rec | Fund<br>Affected |
|-------------------|---------------|------|-------------------------|------------------|
| FY07              | FY08          | FY09 |                         |                  |
|                   | Indeterminate |      | Recurring               | Various          |
|                   |               |      |                         |                  |

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Higher Education (HED)  
 General Services Department (GSD)  
 Energy, Minerals and Natural Resources Department (EMNRD)  
 New Mexico Correction Department (NMCD)  
 Public Education Department (PED)

#### Responses NOT Received From

Public School Facilities Authority (PSFA)  
 Municipal League

### SUMMARY

#### Synopsis of SCONC Amendment

The Senate Conservation Committee amendment provides that the right of first refusal shall remain open for 30 days from the date of the last publication date of the offer. The amendment further provides that “if two or more state agencies timely accept the offer, the offering state agency shall sell, trade or lease the real property to the agency that conducts state business on property located nearest to the real property being disposed of. If the primary office location of all agencies that timely accept the offer are equidistant to the property, the property shall be sold to the state agency as determined by lot, subject to ratification and approval by the Legislature.”

Synopsis of Bill

House Bill 968 provides for state agencies, local public bodies and school districts be given the right of first refusal before the sale, trade or lease of certain public property.

The bill also adds those sections amended in this bill to those affected by notwithstanding language regarding the right of first refusal when selling real property that is located within the boundaries of that community land grant as shown in the United States patent to the grant.

**FISCAL IMPLICATIONS**

The General Services Department notes the net proceeds from sale of tangible personal property would be reduced by the cost to appraise tangible personal property. The net proceeds for sale of real property would be reduced by publication costs. This requirement could reduce the appraised value of real property since it creates an encumbrance on the marketability of property.

**SIGNIFICANT ISSUES**

The bill would require publishing the offer twice a month for two months in the New Mexico register. A state agency desiring to accept the offer would comply with applicable requirements of the property control division of the General Services Department (GSD). The sale, trade or lease would be subject to ratification and approval by the Legislature. If no state agency accepts the offer within 30 days of the last publication date of the offer, the offering agency may proceed with its original plans and would seek legislative ratification and approval

The bill provides that these new requirements would not apply when giving the board of trustees of a land grant the right of first refusal. This includes real property that is submitted for sale, trade or lease of twenty-five years or more in duration which requires legislative approval.

**TECHNICAL ISSUES**

GSD notes that most state agencies do not have statutory authority to acquire real property. The Legislature may wish to clarify that sales would be limited to state agencies statutorily authorized to own real property.

Section 13-6-2.1 requires that for property disposals greater than \$25,000 but less than \$100,000, an agency must seek Board of Finance approval. This section states that the right of first refusal is offered to “state agencies, local public bodies, and school districts.” Whereas Section 13-6-3, requiring legislative approval of transactions in excess of \$100,000, as written (under B) only state agencies have the right of first refusal.

PA/mt