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## FISCAL IMPACT REPORT

SPONSOR: Aragon DATE TYPED: 03/03/03 HB \_\_\_\_\_  
 SHORT TITLE: Negotiated Sale of Public Property SB 690/aSJC  
 ANALYST: Geisler

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
		See Narrative	Recurring	OSF

/(Parenthesis ( ) Indicate Revenue Decreases)

**Relates to:** HB 424 Negotiated Sale of Public Property

### SOURCES OF INFORMATION

Attorney General (AG)  
 General Services Department (GSD)  
 Energy, Minerals & Natural Resources Department (EMNRD)

### SUMMARY

#### Synopsis of SJC Amendments

The Senate Judiciary Committee amendments to SB 690 make technical corrections to the bill and clarify that real property can be sold or otherwise be disposed of to a governmental unit of a Indian nation, tribe, or pueblo that is authorized to purchased land and control activities on its land by act of Congress or to purchase land on behalf of the Indian nation, tribe or pueblo.

#### Synopsis of Original Bill

This bill would amend certain provisions of the general statute authorizing state agencies, local public bodies, school districts or state educational institutions to dispose of real or tangible personal property by providing separate provisions for the two different types of property, and making several substantive changes.

In new section B(1), authority to dispose of real property to an Indian nation, tribe or pueblo is expanded to include disposal to a governmental unit of the nation, tribe or pueblo. Additionally, Section B(3) on page 2 expands the disposal of real property to a private person to include negotiated sale.

In new section I (G in existing law), the exemptions to the provisions of this section is expanded to include leases of county hospitals with any person pursuant to the Hospital Funding Act, and the state parks division of the energy, mineral, and natural resources department.

Significant Issues

The AG reports the following:

- Expansion of the category of Indian nations, tribes and pueblos to include subordinate governmental units within the nation, tribe or pueblo could raise sovereignty issues to the extent that the Indian nation, tribe or pueblo has not authorized a particular governmental unit to hold title to real property, or to negotiate purchases of land.
- Expansions of the exclusions to include certain leases of county hospitals clears up confusion resulting from the enactment of two laws in 2001, one of which included this exclusion and one of which did not. (N.M. Laws Chp. 317, sec. 2 and Chp. 291, sec. 9) Expansion of the authorized disposals to include negotiated sale with a private person would similarly clear up issues arising in the context of leases between a museum and its supporting foundation.
- Expansion of the exclusion to include the state parks division (which, by necessary implication also exempts parks division and other exempted entities from state board of finance approval pursuant to § 13-6-2.1 or legislative approval pursuant to § 13-6-3, if either of these sections is applicable) would not apply where general services department holds the title to the real property. Further, any agency or public body exempted from this section must rely on separate statutory authority to dispose of any real or personal property interests.

**FISCAL IMPLICATIONS**

EMNRD supports the bill's proposed exclusion of the state parks division from the statute, and estimates a positive impact of approximately \$63.0 to help support the operation of state parks. GSD points out that the property acquired using general fund dollars should be sold through the State Agency for Surplus Property, and providing exemptions to state agencies will have a negative impact on the division.

**RELATIONSHIP**

This bill relates to HB 424 Negotiated Sale of Public Property; the major difference is the HB 424 does not include the exemption for the state parks division.

**ALTERNATIVES**

Clarify section B (1) by inserting "authorized" before "...governmental unit of a Indian nation, tribe or pueblo in New Mexico".

The word "mineral" in the last line of the bill should be "minerals."