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FISCAL IMPACT REPORT

ORIGINAL DATE 02/25/19
 LAST UPDATED 03/02/19 HJR 10

SPONSOR Baldonado/Sanchez

SHORT TITLE Valencia County Land Sale SB _____

ANALYST Hanika-Ortiz

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
	\$119.5		Nonrecurring	Property Control Reserve Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Attorney General (NMAG)
 New Mexico Corrections Department (NMCD)

No Response Received From

General Services Department (GSD)

SUMMARY

Synopsis of Bill

House Joint Resolution 10 requests the Legislature ratify and approve the sale by the General Services Department (GSD) of five easements within Valencia County.

FISCAL IMPLICATIONS

The bill proposes the appraised loss of value of certain property following the transfer of an easement to the Public Service Company of New Mexico (PNM) was \$119.5 thousand, and on February 7, 2019, transferred the easement to PNM for the appraised value. Until an analysis is provided by GSD, it is assumed the proceeds would go into the property control reserve fund for the construction or renovation of state buildings, to alleviate reliance on leased space.

GSD will be allowed to recover the appraised loss of value of the property from transferring the easement, presumably, after the appraisal is approved by the Taxation and Revenue Department.

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Under New Mexico state law, state agencies and other public bodies may sell or otherwise convey real property, subject to certain requirements, see Section 13-6-2 and 3 NMSA 1978. If the term of any sale, trade, or lease of real property exceeds 25 years and is for a consideration of \$100 thousand or more, the sale, trade or lease must be approved by the Legislature in advance.

SIGNIFICANT ISSUES

The bill provides that GSD holds title to the property but is not using it or planning a use for it. According to the joint resolution, the property is within the central New Mexico correctional facility property, is vacant, and will be used by PNM for access to its proposed St. Celia 115 kilovolt transmission facility for current and future electric transmission needs.

By passing this resolution, the Legislature is delegating the authority to complete the transaction to GSD, including the buyer selection process, purchase price, and terms and conditions. If the Legislature wishes to impose additional expectations on the terms of this transaction, it should communicate those expectations through contingencies and requirements. One such requirements may be to require the State Board of Finance (SBOF) or the Capital Buildings Planning Commission (CBPC) to approve (not just “review”) the property sale before it can be finalized.

NMAG provided the following about a potential legal issue:

NMSA 1978, Section 13-6-5, provides in relevant part that:

A. Notwithstanding the provisions of [Section 13-6-2](#) or [67-3-8.2 NMSA 1978](#), a state agency shall give the board of trustees of a community land grant governed pursuant to the provisions of Chapter 49, Article 1 NMSA 1978 or by statutes specific to the named land grant the right of first refusal when selling real property belonging to the state agency if the property is land that is located within the boundaries of that community land grant as shown in the United States patent to the grant.

If the San Clemente Grant is a community land grant governed pursuant to the provisions of Chapter 49, Article 1 NMSA 1978, Section 13-6-5 may apply, potentially subjecting proposed ratification of GSD’s conveyance to PNM to legal challenge if GSD did not give the land grant the right of first refusal.

ADMINISTRATIVE IMPLICATIONS

NMCD reported it is not opposed to this easement, because it can control access and maintain prison safety and security.

AHO/sb