

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR Sanchez, M **ORIGINAL DATE** 01/27/14
LAST UPDATED 02/04/14 **HB** _____

SHORT TITLE Study Acquiring BLM Land To Generate Revenue **SB** 1/aSCONC

ANALYST McCoy

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY14	FY15		
\$250.0		Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From
 State Land Office

SUMMARY

Synopsis of SCONC Amendment

The Senate Conservation Committee amendment to Senate Bill 1 inserts “through exchange or purchase” after “acquiring” on page 1, line 20. By inserting “through exchange or purchase” the amendment clarifies that the assessment of the feasibility of the acquisition shall consider both purchase of federal land and exchange of state lands for federal lands. This language is consistent with existing federal law governing sales and exchanges of public lands. See 43 U.S.C. §§ 1713 and 1716.

Synopsis of Original Bill

Senate Bill 1 appropriates \$250 thousand from the general fund to the State Land Office (SLO) to study whether it is feasible for the SLO to acquire a portion of lands that are identified by the U.S. Bureau of Land Management (BLM) as “disposal lands.” The funds for the study would be available in fiscal year 2014 to enable the SLO to report its findings and recommendations to the governor and Legislature during the next legislative session.

FISCAL IMPLICATIONS

The appropriation of \$250 thousand contained in SB 1 is a non-recurring expense to the general fund for expenditure in fiscal year 2014 and 2015. Any unexpended or unencumbered balance remaining at the end of fiscal year 2015 shall revert to the general fund.

The LFC recommendation includes a special appropriation for \$200 thousand from the general fund for a study to assess the feasibility of acquiring federal disposal lands for the purpose of generating revenue.

According to the SLO, the agency's goal in acquiring BLM disposal lands is to add to the state's portfolio of managed land creating a new long term revenue source. The feasibility study would identify those lands with the greatest potential for revenue. The SLO notes, revenue generated on newly acquired land from commercial development, renewable energy, grazing, rights of ways, and oil, gas and mineral extraction could be used for programs such as early childhood or lottery scholarships without negatively affecting current land grant permanent fund beneficiaries. According to the SLO, a preliminary estimate of potential revenue indicates these lands could generate approximately \$50 million a year, assuming these lands are as productive as the average existing lands currently managed by the SLO. However, the study will allow the agency to inform the governor and Legislature of the earning potential for the available BLM disposal lands because the earning potential will greatly differ based on the productive use (commercial development, renewable energy, grazing, rights of ways, and oil, gas and mineral extraction) of the newly acquired land.

However, there may be an adverse fiscal impact on mineral lease and royalty payments to New Mexico for the oil, gas, and other energy production done on federal lands. The impact on these revenues will not be determined until the SLO identifies the tracts of land it will acquire.

The SLO notes, the U.S. Department of Interior administers the Payment in Lieu of Taxes (PILT) program, which provides federal payments to local governments to help offset losses in property taxes due to non-taxable federal lands within their boundaries. The funding formula is in part based on the amount of federal land within an affected county. The SLO reports, of the 22.5 million acres of federally owned lands under the PILT program, BLM has approximately 12.7 million acres in counties throughout New Mexico. The acquisition of BLM disposal land would only impact a small portion of the BLM lands in New Mexico, and an even smaller portion of the overall federal lands in the state. Any potential decrease in PILT payments may be offset by an increase in additional tax revenue as these lands are brought into productive use. For example, new renewable energy projects, commercial developments, oil and gas activities, and agricultural leasing on the acquired lands would bring in additional state and local tax revenue (property tax on improvements, gross receipts tax, payroll tax, severance tax, etc.).

The time frame for the process is in the mid- to long-term, as completing the assessment, drafting and enacting legislation at the state and the federal level, transferring lands, and collecting revenues from activity on the land would take several years. Before any such state or federal legislative action, this feasibility study would be used to determine which parcels, if any, would be appropriate to acquire (able to produce revenue, not burdensome to manage, no legacy issues on the land, etc.) and how much money could potentially be generated by the acquisition. Then, federal legislation may be necessary to authorize the grant of the identified lands to the state. Additionally, the New Mexico Legislature would need to pass legislation to authorize the SLO to manage any disposal lands it acquires to generate income for a specific purpose (such as early

childhood education or the lottery scholarship), establish a fund and the mechanism for distributing these revenue generated on these lands to recipients.

If the SLO were to pay the United States for the new lands, that payment would offset the projected revenue. The SLO notes, through federal legislation, it may be possible for Congress to grant certain lands to the SLO without compensation or at a reduced rate.

The SLO notes the impact to the agency's operating budget would be minimal for the purpose of the study. Staff time would be needed to procure and administer a contract with a consultant. The results of the study will determine the course of future activities and funding needs.

SIGNIFICANT ISSUES

The SLO reports, the BLM follows a statutory process for identifying disposal lands. Under this process, potential disposal lands are included within a land management plan, which must be prepared in accordance with federal laws including section 203 of the Federal Land Policy and Management Act (FLPMA) and the National Environmental Policy Act. FLPMA requires public involvement in federal land management planning. Accordingly, there is an extensive federal process, including the opportunity for community input, before BLM lands can be identified as eligible for disposal.

According to the SLO, there are currently over 800 thousand acres of BLM disposal lands in New Mexico. The SLO notes this study would be limited to assessing the feasibility of acquiring only economically productive lands of the total 800 thousand acres BLM has already identified for disposal. The SLO does not support efforts to transfer federal lands to the state beyond those subject to disposal.

The SLO notes, the study also would identify lands that the SLO would not want to acquire because they are biologically or culturally sensitive, because they pose potential environmental liability issues, or because they are otherwise unsuitable for acquisition by the SLO. The study would take into account land management responsibilities and related expenses associated with any land acquisition. The purpose of the study would be to assess the universe of disposal lands that may be suitable for acquisition and the revenue potential of these lands – additional consultation with interested stakeholders would need to occur before any final determination is made regarding which specific tracts of land should be acquired.

Another option is for the BLM and the SLO to engage in a land swap. New Mexico could give up some of its trust land in the Southeastern portion of the state to the BLM for protection of local habitat of the lesser prairie chicken and the dunes sagebrush lizard.

The Energy, Minerals and Natural Resources Department provided the following information:

The Federal Land Policy and Management Act, 43 U.S.C. 1713, provides that the BLM may sell public lands (lands owned by the United States and administered by the BLM) where pursuant to a land use plan developed pursuant to 43 U.S.C. 1712, the Secretary of Interior determines that the land because of its location or other characteristics is difficult and uneconomic to manage as part of the public lands and is not suitable for management by another federal agency; the land was acquired for a specific purpose and is no longer required for that purpose or another federal purpose; or disposal of the land will serve

important public objectives that cannot be achieved on land other than public land and those objectives outweigh other public objectives and values that would be served by keeping the land in federal ownership. The proposed study would evaluate the public lands the Secretary of Interior has identified through land use plans as meeting the criteria in 43 U.S.C. 1713 to determine whether the State of New Mexico should pursue acquisition of those lands to generate revenue.

43 U.S.C 1713 provides that sales of public lands shall be made at a price not less than fair market value. Sales of public lands are conducted pursuant to competitive bidding procedures developed by the Secretary of Interior, unless the Secretary determines it necessary and proper to use modified competitive bidding or to sell without competitive bidding.

DUPLICATION

The LFC recommendation includes a special appropriation for \$200 thousand from the general fund for a study to assess the feasibility of acquiring federal disposal lands for the purpose of generating revenue.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If this bill is not enacted, the SLO will not have the information needed to determine whether acquisition of a portion of BLM disposal land is a feasible option to create a new revenue stream to support education in New Mexico.

MM/ds:jl