FISCAL IMPACT REPORT

	LAST UPDATED
SPONSOR Baca	**ORIGINAL DATE** 3/8/2023
	BILL Senate Joint
SHORT TITLE Los Lunas Property Donation	**NUMBER** Resolution 15
	ANALYST Hanika-Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact			

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Responses Received From
General Services Department (GSD)
New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of Senate Joint Resolution 15

Senate Joint Resolution 15 (SJR15) ratifies and approves the donation by the Facilities Management Division of GSD to Valencia County of approximately 11 acres located at 1835 Highway 314 Southwest in Los Lunas.

SJR resolves the following:
- Section 13-6-2 NMSA 1978 provides that a state agency may sell or otherwise dispose of real property by competitive sealed bid, public auction or negotiated sale to a private person or to other entities.
- Section 13-6-3 NMSA 1978 provides in pertinent part that any sale, trade, or lease of real property belonging to a state agency for consideration of $100 thousand or more shall be subject to the ratification and approval by the state Legislature.
- The Facilities Management Division (FMD) of GSD holds the title to approximately 11 acres located at 1835 Highway 314 Southwest in Los Lunas but is not using or planning a use for it.
- The value of the property has been appraised at $295 thousand.
- Valencia County has agreed to accept ownership of the property at no cost and, if the property is no longer needed for any county purpose and should be disposed of, at the

option of the state and at no cost to the state, the county will transfer ownership of the subject property back to the state.

FISCAL IMPLICATIONS

SJR15 does not say FMD/GSD has agreed to the donation of the acreage to Valencia County.

Without an agreed-on transaction to ratify and approve, the passage of SJR15 may result in a long-drawn-out dispute if the executive chooses to defend what it believes is a usurpation of its authority. Such legal fees and related costs could exceed the appraised value of the property.

SIGNIFICANT ISSUES

GSD reports "The Facilities Management Division did not agree to donate the property located at 1835 Highway 314, and there is no properly authorized donation agreement between the State and the County for the Legislature to approve pursuant to Section 13-6-3, NMSA 1978."

SJR15 also does not include or identify the documents necessary for the Legislature to contemplate before ratifying and approving this transaction. Those documents include a written agreement by the parties authorizing the transaction; a survey plat to verify the legal description of the property; an assertion by FMD/GSD that it is in the best interest of the state that the property be disposed of; and a resolution or minutes of the governing body that agreed to accept the donation. If the Legislature desires to impose additional expectations upon the terms of this or any property transaction, it should communicate those expectations through contingencies and requirements.

TECHNICAL ISSUES

SJR15 appears to be seeking a land transaction generated by the Legislature itself. According to FMD/GSD:

> The authority to present a joint resolution to the Legislature to convey property in the executive's control is authority granted to the executive; it is not authority held by the Legislature. Without the assent of the FMD/GSD, who supposedly holds title to the acreage in Valencia County, the passage of SJR15 would be unauthorized and in the end, a potentially void act.

AHO/rl/hg