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FISCAL IMPACT REPORT

SPONSOR Leavell DATE TYPED 2/9/2004 HB _____

SHORT TITLE Compensation of Auctioneers SB 61/aSCORC

ANALYST Aguilar

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY04	FY05			
		Indeterminate	Recurring	State Road Fund
		Indeterminate	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Department of Transportation (NMDOT)
 Taxation and Revenue Department (TRD)
 Regulation and Licensing Department (RLD)
 Department of Finance and Administration (DFA)

SUMMARY

Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee amendment strikes section 1 and inserts language repealing Sections 61-16-1 and 61-16-2 NMSA 1978.

Significant Issues

Section 61-16-1 NMSA 1978 removes penalty and civil liability for puffing and charging illegal fees.

Synopsis of Original Bill

Senate Bill 61 repeals Section 61-16-1 NMSA 1978.

Significant Issues

Section 61-16-1 NMSA 1978 deals with two specific issues:

1. Makes it unlawful for a person who is selling at public auction articles of personal property belonging to others to bid on or to employ others (puffers) to bid on those articles.
2. Sets the maximum fees allowable to be charged for selling personal property at public auction.

“Puffing” as used in this section, refers to the process of bidding up the price of a piece of personal property at auction for the purpose of artificially increasing the sale price. The department of transportation notes this portion of the statute should be retained since it allows market forces and legitimate bidders to determine the price. This language is contained in NMDOT auctioneering contracts.

NMDODT reports that this bill removes the payment percentage limits for items sold at auction. By repealing this without any language to replace it will allow state agencies such as Public Safety, General Services and the NMDOT to dictate the commission or payment percentages on each contract without regulations, limits or standards. This is a concern because auctioneers can be overpaid or underpaid depending on how the contract is written.

Present statute allows for the following fees to be charged for auction services:

- <\$200 10%
- \$200 – \$500 8%
- >\$500 5%

NMDOT proposes an alternate payment commission schedule for consideration. This schedule has been used by DOT for over 10 years. This schedule is used for NMDOT’s annual public auction of surplus equipment, autos and heavy-duty equipment. Although this schedule is provided for consideration, it is very important to have input from the Department of Public Safety and the General Services Department since they conduct annual auctions independent of the NMDOT.

TOTAL SALES (Dollar Value)	COMMISSION
UP TO \$100,000	10.0%
\$100,001 TO \$200,000	9.5%
\$200,001 TO \$300,000	9.0%
\$300,001 TO \$400,000	8.5%
\$400,001 TO \$500,000	8.0%
\$500,001 TO \$600,000	7.5%
\$600,001 TO \$700,000	7.0%
\$700,001 TO \$800,000	6.5%
\$800,001 TO \$900,000	6.0%
\$900,001 TO \$1,000,000 +	5.5%

FISCAL IMPLICATIONS

The revenue impact is indeterminate at this time. However it is expected to be significant if caps on auctioneering fees are eliminated.

ADMINISTRATIVE IMPLICATIONS

NMDOT notes the current auctioneer contract with NMDOT will be out of compliance since its contract is still valid for another three years with the old payment percentages in place as per statute. NMDOT is in contact with its legal office to determine if the contract would become invalid if this section is repealed.

PA/prr