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## FISCAL IMPACT REPORT

SPONSOR Smith DATE TYPED 1/31/05 HB \_\_\_\_\_  
 Disclosure – Real Property Sales Prices and  
 SHORT TITLE Other Considerations SB 175  
 ANALYST Hadwiger

### APPROPRIATION (in \$000s)

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	none		Indeterminate		Counties

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)

No comments were received from the Department of Finance and Administration, New Mexico Municipal League, or New Mexico Association of Counties at the time this FIR was prepared.

### SUMMARY

#### Synopsis of Bill

Under current statute, when any property is transferred, the person who files the deed is required to file an affidavit with the county assessor that identifies the names of the sellers and buyers of the property, legal description of the property, value and description of personal property included in the sale price, and full consideration paid for the property. The information is to be used only for analytical and statistical purposes.

Senate bill 175 would apply this requirement only to residential real property. It would clarify that the responsible person could be the transferor or transferor’s authorized agent or the transferee or the transferee’s authorized agent. SB175 would also clarify that the affidavit should show “any amount of seller incentives” as well as money and other things of value paid for the property. The bill would add a requirement that county assessors return a copy of the affidavit marked with the date of receipt to the person who presented the affidavit.

## FISCAL IMPLICATIONS

The requirement to return copies of the affidavit to the person who presented the original affidavit will result in additional costs to county assessors for printing and postage.

## OTHER SUBSTANTIVE ISSUES

The Taxation and Revenue Department identified the following considerations with regard to SB175:

1) Some county assessors have assumed that the disclosure statute enacted in 2003 applies only to residential property, while others have assumed that it does not. By clarifying the issue, the proposed measure would tend to make assessment procedures around the state more uniform.

2) Section 7-28-12.1 NMSA currently states that affidavits are not part of valuation records of assessors, and that county assessors are required to retain them as confidential records "only for analytical and statistical purposes in the application of appraisal methods". Section 7-28-12.1 stipulates that an employee of the Taxation and Revenue Department or any other person subject to provisions of 7-38-12.1 who releases information in violation of the section is guilty of a misdemeanor. Hence the effect of the proposed legislation would be to deny access to the information only to public officials. Current statutes prevent access to the information by individuals not employed by government agencies.

3) Residential property is defined in Section 7-35-2J NMSA 1978 as:

“...property consisting of one or more dwellings together with appurtenant structures, the land underlying both the dwellings and the appurtenant structures and a quantity of land reasonably necessary for parking and other uses that facilitate the use of dwellings and appurtenant structures; as used in this subsection, “dwellings” includes both manufactured homes and other structures when used primarily for permanent habitation, but the term does not include structures when used primarily for temporary or transient habitation such as hotels, motels and similar structures...”

Hence, for example, vacant land in residential subdivisions that is zoned for residential use is considered nonresidential under current statute. Provisions of the proposed measure would thus apply to vacant land in residential subdivisions.

4) The proposed language substitutes the term “person” with a fuller definition of “transferor or the transferor’s authorized agent or a transferee or the transferee’s authorized agent”. The new specificity in the language clarifies that either the seller or buyer, whomever is recording the deed, is responsible for compliance with the disclosure requirements. The proposed legislation also ensures that there is disclosure of the full consideration exchanged. This is done by adding language that the affidavit must disclose not only the money or value exchanged, but also, “the terms of the sale including any amount of seller incentives.” Finally, the legislation provides administrative guidance by stating that the original affidavit is maintained by the county assessor, with a conformed copy returned to the affiant.

**POSSIBLE QUESTIONS**

1. How do county assessors use the information provided in these affidavits?
2. Why should commercial properties be treated differently than residential properties?  
Why would information about commercial properties be less useful for analytical and statistical purposes than information about residential properties?

DH/yr