

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 FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

ORIGINAL DATE 3/4/15  
 SPONSOR Payne LAST UPDATED 3/8/15 HB \_\_\_\_\_  
 SHORT TITLE Art Sale At Auction Gross Receipts SB 662  
 ANALYST van Moorsel

### REVENUE (dollars in thousands)

| Estimated Revenue |           |           |           |           | Recurring<br>or<br>Nonrecurring | Fund<br>Affected |
|-------------------|-----------|-----------|-----------|-----------|---------------------------------|------------------|
| FY15              | FY16      | FY17      | FY18      | FY19      |                                 |                  |
| (\$200.0)         | (\$200.0) | (\$200.0) | (\$200.0) | (\$200.0) | Recurring                       | General<br>Fund  |

(Parenthesis ( ) indicate revenue decreases

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)  
 Economic Development Department (EDD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 662 adds a new section of the Gross Receipts and Compensating Tax Act to create an exemption from gross receipts tax for receipts from the sale of fine art sold by an auction house located in a municipality to a bidder that is not a resident of the state and that does not have a principal place of business in the state. The bill makes several definitions:

- **auction means** - a sale, conducted by means of oral or written bids, to the highest bidder;
- **auction house** - any person, partnership, corporation, association or group engaged for profit primarily in the business of conducting auctions where it acts as agent for sellers of fine art;
- **fine art** - any original work of visual or graphic art of any media, including any painting, print, drawing, sculpture, craft, object, photograph, hologram or any combination of such media of recognized quality; and
- **municipality** - a municipality with a population between 67,500-68,000, according to the most recent decennial census, in a class A county with a population of 144,000-145,000.

The effective date of this bill is July 1, 2015. There is no sunset date. The LFC recommends adding a sunset date.

## FISCAL IMPLICATIONS

TRD’s analysis of the bill’s fiscal impact was calculated based on the prices realized by yearly auctions in the city of Santa Fe, as only Santa Fe falls under the definition of “municipality” as it is written in the bill. According to TRD, representatives from auction houses indicated a majority of their customers were out of state bidders; leading the department to assume up to 80 percent of bidders would come from out of state.

This bill may be counter to the LFC tax policy principle of adequacy, efficiency and equity. Due to the increasing cost of tax expenditures revenues may be insufficient to cover growing recurring appropriations.

Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources. The statutory criteria for a tax expenditure may be ambiguous, further complicating the initial cost estimate of the expenditure’s fiscal impact. Once a tax expenditure has been approved, information constraints continue to create challenges in tracking the real costs (and benefits) of tax expenditures.

## SIGNIFICANT ISSUES

It appears the population threshold contained in this bill only includes the population of Santa Fe as per the 2010 census, its population was 67,947.

## PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is not met since TRD is not required in the bill to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the exemption and other information to determine whether the exemption is meeting its purpose.

## TECHNICAL ISSUES

The definition is so narrowly defined that Santa Fe may no longer qualify for the deduction if its population changes outside of the narrow range in the 2020 federal census.

This bill does not contain a sunset date. The LFC recommends adding a sunset date.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy:** Revenue should be adequate to fund needed government services.
2. **Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity:** Different taxpayers should be treated fairly.
4. **Simplicity:** Collection should be simple and easily understood.
5. **Accountability:** Preferences should be easy to monitor and evaluate