

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 (legis.state.nm.us). 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

SPONSOR Campos DATE TYPED 3/14/05 HB \_\_\_\_\_

SHORT TITLE Airport Proximity to Real Estate Sales SB 464/aSCORC

ANALYST Medina

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Regulation and Licensing Department (RLD)

### SUMMARY

#### Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee amendment to Senate Bill 464 places the condition on the real estate seller's disclosure that the property for sale is within three miles of an airport, requiring that the seller do so if the municipality or the county in which the real estate is located furnishes to the seller, upon request, a map that includes the airport and the area within a three-mile radius of the airport. The amendment changes references to real estate agent to real estate licensee. The amendment also clarifies that the provisions of the bill relating to municipalities also apply to counties, if the property for sale is outside a municipality.

#### Synopsis of Original Bill

Senate Bill 464 requires that a seller of real estate disclose to a prospective purchaser of real estate whether the real estate for sale is located within three miles of an airport. The bill requires that the sole responsibility for disclosure fall upon the seller of real estate and does not hold a real estate agent liable for omission of disclosure. The bill further requires that the seller of real estate can request and the municipality in which the real estate is located must furnish to the seller a map that includes the airport and the area within a three mile radius of the airport.

Significant Issues

This bill does not indicate a section of statute being amended. Given the bill's provision of protection from liability for omission of disclosure for real estate agents, it does not appear that the Real Estate Commission's rules and regulations are affected. However, according to RLD, the Real Estate Commission's rules and regulations require a real estate licensee to disclose to prospective purchasers of real estate any adverse material facts about the property or the transaction that is known by the licensee. RLD further states that it is possible that proximity of an airport to real estate being offered for sale could be construed to be an adverse material fact about the property. Given that possibility, it would behoove a licensee, if he or she knew about the proximity of an airport to a property being offered for sale, to make that information known to buyers.

**OTHER SUBSTANTIVE ISSUES**

The Regulation and Licensing Department states the following:

“Because the proximity of an existing airport would most likely be obvious or well-known, it might be more helpful to a prospective purchaser to know that an airport might be built in the future in the area in which they are proposing to purchase real estate. The Real Estate Commission has received complaints in the past from individuals who were not aware at the time they purchased real estate that a highway or some other public facility was planned for the area in which they made a purchase.”

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?**

Sellers of real property will not be required to disclose to prospective buyers whether or not the property for sale is within three miles of an airport.

**DXM/yr:lg**