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FISCAL IMPACT REPORT

ORIGINAL DATE 1/23/08

SPONSOR Grubestic LAST UPDATED _____ HB _____

SHORT TITLE Prohibit Municipal Property Transfer Tax SB 160

ANALYST Francis

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	FY09	FY10		
	NFI			

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Municipal League (NMML)

SUMMARY

Synopsis of Bill

Senate Bill 160 would prohibit municipalities from taxing real property sales. Currently, excise taxes on the transfer of real property from one owner to another are not included in prohibited items and so can be levied.

There is no effective date so it is assumed the effective date is May 14, 2008.

FISCAL IMPLICATIONS

Currently there are no municipalities that levy this tax so there is no fiscal impact associated with this bill.

SIGNIFICANT ISSUES

A real estate transfer tax is an excise tax on the sale of real property. Some type of transfer tax is in effect in all but 13 states (see attached table). New Mexico is one of those states but the statute that gives municipalities taxing authority does not automatically exclude transfer taxes and some municipalities have discussed enacting such a tax. This bill would preempt that discussion.

It is a generally accepted principle that increasing a tax on a transaction would increase the price of that transaction and therefore lower demand for the related good or service. Levying a transfer tax on real estate transfers, under this theory, would dampen demand for real estate. However, the size of the tax is a critical issue.

Currently, real estate agents typically charge a 6 percent commission on the transfer of real estate, split between the buyer's agent and the seller's agent unless they are the same. There has been anecdotal evidence that during the housing boom of the last few years there has been pressure on these commissions which operate identically to a transfer tax. That pressure has been more related to the volume of transfers and the huge increase in real estate agents giving both buyers and sellers a negotiating point. There, however, has been no empirical evidence that this convention of 6 percent has changed.

The City of Santa Fe has seen property values increase dramatically over the last few years and that has put pressure on long time homeowners' property taxes. The level of affordable housing is extremely low and many workers have to find housing outside the city due to the high prices. There has been discussion

NMML reports "the prohibition contained in this bill would be contrary to New Mexico Municipal League Policy. The New Mexico Municipal League has established policy that calls for a local option real estate transfer tax on property priced above a level set by the municipality. The New Mexico Municipal League proposes that the transfer tax be used for affordable housing, a growing need in many municipalities."

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Municipalities will be able to levy real estate transfer taxes.

POSSIBLE QUESTIONS

If a transfer tax were enacted in a municipality, what would the effect be on the real estate market?

Does a transfer tax affect principal residences or second homes more?

NF/mt

State Real Estate Transfer/Deed Recordation Taxes

State	Description	Rate in Percent
Alabama	\$.50 per \$500 of property conveyed	0.10%
Arizona	\$2 per deed required to be recorded	NA
Arkansas	\$3.30 per \$1,000 of consideration in excess of \$100	0.33%
California	Local taxes only	
Colorado	\$.01 per \$100 of consideration in excess of \$500	0.01%
Connecticut	1.25 percent of consideration paid if consideration exceeds \$2,000 -- Other rates for commercial transfers	1.25%
D.C.	2.2 percent of consideration or fair market value	2.20%
Delaware	2-3 percent (depending on local tax) on transfers in excess of \$100; 1 percent on contracts for improvements to realty in excess of \$10,000	2.0-3.0%
Florida	\$.70 per \$100 of consideration except in Miami-Dade County where it is \$.60 per \$100	0.70%
Georgia	\$1 for first \$1,000 of consideration plus \$.10 per \$100 of additional consideration	0.10%
Hawaii	\$.10 per \$100 of consideration	0.10%
Illinois	\$.50 per each \$500 of value or fraction of \$50	0.10%
Iowa	\$.80 per \$500 paid for the real property transferred	0.16%
Kansas	0.26 percent of debt or obligation secured by real estate	0.26%
Kentucky	\$.50 per \$500 of value conveyed in deed	0.10%
Louisiana	Local taxes only	
Maine	\$2.20 per \$500 of value conveyed - Split between grantor and grantee	0.44%
Maryland	0.5 percent of consideration paid for realty -- Also local deed recordation taxes ranging from \$2.20-\$5.00 per \$500 of value and local transfer taxes ranging up to 1.5 percent of \$4.56 per \$1,000 of consideration	Variable depending on local rates
Massachusetts		0.46%
Michigan	\$3.75 per \$500 of value for property being transferred plus local taxes of \$.55 - \$.75 per \$1.65 plus .33 percent of value in excess of \$500 plus .23 percent of debt secured by real estate for mortgage registry	0.75%
Minnesota		0.56%
Nebraska	\$2.25 per \$1,000 of value transferred	0.23%
Nevada	\$1.95 - \$2.55 per \$500 of consideration depending on population of county	0.255% max.
New Hampshire	\$1.50 per \$100 of consideration split equally between buyer and seller	1.50%
New Jersey	Four transfer fees -- Basic is \$1.25 state and \$.50 county each \$500 of consideration; additional fees range from \$.25 - \$4.30 per \$500 of consideration; a fifth fee of 1 percent is imposed on buyers for an entire consideration in excess of \$1 million for certain residential transfers	1.21% max. if less than \$1 million
New York	\$2.00 per \$500 of consideration. An additional 1 percent on transfers of a personal residence of more than \$1 million	0.4% on the basic tax plus and additional 1.0% on residence over \$1 million
North Carolina	\$1 per \$500 of consideration or value transferred with 51 percent of revenue retained at local level	0.20%
Ohio	Local taxes only ranging from \$.10 - \$.40 per \$100 of value	0.4% max.
Oklahoma	\$.75 per \$500 of consideration	0.15%
Pennsylvania	1 percent of consideration or fair market value with local transfer taxes of 1 - 3 percent	4.0% max.
Rhode Island	\$2 per \$500 of consideration	0.40%
South Carolina	\$1.85 per \$500 of value with \$.55 per \$500 retained at the local level	0.37%
South Dakota	\$.50 per \$500 of consideration payable by grantor	0.10%
Tennessee	\$.37 per \$100 of consideration plus a mortgage tax of \$.115 per \$100 of indebtedness in excess of \$100	0.49%
Vermont	1.25 percent of value of property transferred; lower rates on certain homes and farms	1.25% max.
Virginia	\$.25 per \$100 of conveyance plus \$.50 per \$500 of consideration for transfer of realty	0.35%
Washington	1.28 percent of selling price plus local tax of 0.3-0.5 percent	1.33% max.
West Virginia	\$1.10 per \$500 of consideration plus local taxes that may run to another \$1.10 per \$500	0.44% max.
Wisconsin	\$.30 per \$100 of value	0.30%

Source: FTA compilation based on CCH, State Tax Handbook (2006), data from the U.S. Bureau of the Census, Governments Division and information from