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FISCAL IMPACT REPORT

ORIGINAL DATE 02/12/14

SPONSOR Stewart LAST UPDATED _____ HB 345

SHORT TITLE School Finance "Local Revenue" SB _____

ANALYST Gudgel

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY14	FY15	FY16		
	See Fiscal Implications			

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See Fiscal Implications				

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)

Attorney General's Office (AGO)

SUMMARY

Synopsis of Original Bill

House Bill 345 amends the Public School Finance Act definition of "local revenue" to include 75 percent of any other receipts provided to the school district for noncapital purposes and derived from locally imposed gross receipts tax.

FISCAL IMPLICATIONS

As stated in interim hearings of the New Mexico Finance Authority Oversight Committee, this bill appears to add that portion of the gross receipts tax collected for the space port project allocated to specific counties that are then granted to school districts to supplement science, technology, engineering and math education.

Concerns exist that several school districts are receiving revenues derived from local gross receipts taxes that other school districts do not receive and these revenues are not being accounted for in the public school funding formula, causing potential disequalization of public education funding. If the state is found to not have an equalized funding formula, the state could be prohibited from taking credit for \$52.7 million in federal impact aid revenues. This would either result in a reduction to school district and charter school operating budgets or the need to increase public school support appropriations by that amount to hold schools harmless. PED indicates the impact to the disparity calculation required to continue taking credit for impact aid appears to be minimal given revenues received by the four affected school districts in FY13.

Dona Ana and Sierra County are the only two counties known to have imposed a local gross receipts tax that may be considered to fall under the definition established in this bill. The counties have imposed a “county regional spaceport gross receipts tax”. LFC staff projects Dona Ana and Sierra Counties will generate \$9.3 million in spaceport GRT in FY15. Assuming the MOU to transfer 25 percent of these revenues to the school districts continues, approximately \$2.3 million will be received by the districts in FY15. If the bill is enacted and the state is allowed to take credit for these revenues, the state will be able to take credit for \$1.7 million of these revenues. Based on the spending level currently included in House Bill 2, this represents less than

PED also notes the bill may apply to wind farm revenues as well.

SIGNIFICANT ISSUES

PED’s analysis notes that currently, Gadsden, Hatch, Las Cruces and T or C will receive funds from the spaceport gross receipts tax for operational purposes in FY14. Gadsden projects they will receive \$1.3 million in revenues from the space port project in FY14. Hatch is eligible to receive funds but has not yet projected how much they will receive in FY14. Las Cruces projects they will receive \$1.3 million in FY14 from the space port project in FY14. T or C projects they will receive \$296,670 from this funding source in FY14.

A key feature of New Mexico’s Public School Finance Act’s operational funding scheme is the state equalization guarantee (SEG) distribution, which is a formula that is meant to apportion federal and local revenue for schools equitably among the state’s school districts. The SEG is a distribution model that takes a number of revenues into consideration and distributes funding to school districts and charter schools statewide regardless of local wealth, based on student membership and characteristics and other district/charter characteristics. To determine a given school district’s state equalization guarantee (SEG) distribution under the current law, Section 22-8-25(D)(6) NMSA 1978 requires the PED to deduct the “local and federal revenues” from the total calculated program cost of the school district. “Local revenues” and “federal revenues” are statutorily defined terms, and include the following:

Local Revenues

- The 0.5 mill levy;
- Assessed value of products severed and sold in the school districts as determined under the Oil and Gas Ad Valorem Production Tax Act; and
- Property tax receipts derived from the assessed value of equipment in the school district as determined under the Oil and Gas Production Equipment Ad Valorem Tax Act.

Federal Revenues

- Basic payment portion of Federal Impact Aid; and
- Federal Forest Reserve payments

The purpose of the bill is to ensure the funding generated for public education remains equalized across the 89 school districts and almost 100 charter schools. As noted above, the state is only allowed to take credit for local property taxes, federal forest reserve funds, and federal impact aid funds. Statute is very specific about these revenue sources. If school districts are receiving other local and federal revenues that are not included in the definitions included in this section of law, the state is unable to take credit for these revenues sources.

County Regional Spaceport Gross Receipts Tax

In 2007, Dona Ana County adopted an Ordinance to impose a “County Regional Spaceport Gross Receipts Tax”, a local gross receipts tax allowed under state law for a county that wishes to become a member of a regional spaceport district. Law requires a minimum of 75 percent of the proceeds of the tax be dedicated to the regional spaceport district that is created for the financing, planning, designing and engineering and construction of a spaceport or for projects or services of the district. The remaining 25 percent of the revenue must be dedicated to spaceport-related projects approved by the by resolution of the governing body of the county. Dona Ana County voters approved the Ordinance for the benefit of Spaceport America and the tax has been in effect since January 2009. In November of 2009, the County Commissioners entered into a memorandum of understanding with the Boards of Education of Las Cruces Public Schools, Hatch Valley Public Schools, and Gadsden Independent Schools to transfer 25 percent to fund educational programs designed and administered by the school districts. The school districts have been receiving revenues from the county since FY10.

The Ordinance adopted by the Dona Ana County Commissioners states:

“The governing body must dedicate at least 75 percent of the proceeds of this tax to the regional spaceport district for the financing, planning, designing, engineering and construction of a spaceport or for projects or services of the district pursuant to the regional spaceport district act. The governing body may dedicate no more than 25 percent of the revenue for spaceport-related projects as approved by resolution of the governing body of the count.”

Sierra County has entered into a similar agreement with the Truth or Consequences Municipal School District in Sierra County.

PED’s analysis notes that historically, property taxes are used by states to fund operating expenses for school districts. Property taxes tend to be more stable in the amount of revenue they generate when compared to gross receipts taxes year to year.

ADMINISTRATIVE IMPLICATIONS

PED will need to coordinate with the Taxation and Revenue Department and school districts and charter schools to ensure any local revenues contemplated by this bill are captured in annual calculations of the state equalization guarantee distribution. PED notes that any modification to the public school funding formula should have an effective date of July 1, 2015. The department

notes additional time will be needed to determine how to collect the new tax information, assess the impacts to the unit value, modify SEG worksheets and apply the information to determine each school districts SEG.

COMPANIONSHIP, RELATIONSHIP

House Bill 13 and Senate Bill 310 also propose changes to the definition of “local revenue” under the state equalization guarantee distribution. Originally they were duplicates; however, HB13 was amended to limit the expanded definition of “local revenue” to “the amount of a tax imposed by a municipality or county and used to provide funding to the school district for any noncapital purpose” while SB310 expands the definition to “the amount of a tax imposed by a municipality, a county or a school district and used for any operational purpose.” This bill is limited to gross receipts taxes provided for noncapital purposes.

House Bill 37 amends the Public School Finance Act to prohibit PED from taking credit for federal Impact Aid payments made to Zuni Public Schools.

Senate Bill 310 is related.

RSG/ds:jl