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## FISCAL IMPACT REPORT

**SPONSOR** Candelaria **ORIGINAL DATE** 02/10/14  
**LAST UPDATED** 02/17/14 **HB** \_\_\_\_\_

**SHORT TITLE** School District "Local Revenue" **SB** 310/aSEC

**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
<b>Total</b>		See Fiscal Implications				

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General's Office (AGO)

Public Education Department (PED)

### SUMMARY

#### Synopsis of SEC Amendment

The Senate Education Committee amendment to Senate Bill 310 eliminates the reference to school districts in Section C (4) (this was language added by the original bill) and limits the new definition to the "amount of tax imposed by a municipality or a county and used to provide funding to the school district for any noncapital purpose". The amendment also changes the effective date to July 1, 2015.

Synopsis of Bill

Senate Bill 310 amends the Public School Finance Act definition of “local revenue” to include the amount of a tax imposed by a municipality, a county or the school district and used to providing funding to the school district for any operational purpose.

Concerns exist that several school districts are receiving public funds that other school districts do not receive and 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.

Dona Ana and Sierra County are the only two counties that have imposed a local revenue 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 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.

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

**SIGNIFICANT ISSUES**

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.

The bill will require PED to take 75 percent credit for the amount of tax imposed by a municipality, a county, or the school district and used to provide funding to the school district for any operational purpose. Funds currently received by these school districts are not received into their operational fund, but are rather received as grant funds. PED staff recently noted concerns that provisions of this bill may not accomplish the intended results as noted in technical issues.

### **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.

**COMPANIONSHIP, RELATIONSHIP**

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.

House Bill 13 is a duplicate with an effective date of July 1, 2015.

**TECHNICAL ISSUES**

PED staff has noted that revenues currently received by school districts from the spaceport tax are currently not deposited into the school districts operational account but a grants account and the provisions of the bill would not have an effect on that revenue source. The Legislature may want to consider changing the term “operational” used on page 3, line 3 to “noncapital” to ensure tax revenues received by a school district either directly or by grant are included in the definition of “local revenue”. This concern has been addressed by the Senate Education Committee Amendment.

RSG/jl:ds