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## FISCAL IMPACT REPORT

**SPONSOR** Munoz **ORIGINAL DATE** 03/04/15  
**LAST UPDATED** \_\_\_\_\_ **HB** \_\_\_\_\_

**SHORT TITLE** Equalization Guarantee & Federal Funds **SB** 602

**ANALYST** Gudgel

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		
	See Fiscal Implications		

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		
*(56,645.2)	(\$56,642.5)	(\$56,645.2)	Recurring	State Equalization Guarantee Distribution

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to Appropriation in the General Appropriation Act

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
 Public Education Department (PED)

### SUMMARY

#### Synopsis of Bill

Senate Bill 602 amends the School Finance Act to prohibit the state from taking credit for federal Impact Aid revenue payments made to school districts when the state equalization guarantee distribution is calculated.

## FISCAL IMPLICATIONS

To determine a given school district's state equalization guarantee (SEG) distribution under current law, Section 22-8-25(D) (6) NMSA 1978 requires that PED 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. Federal revenue, for the purpose of calculating the SEG, is partially derived from 75 percent of grants from the federal government as assistance to those areas affected by federal activity authorized in accordance with Title 20 of the United State Code, commonly known as "PL 874 Funds" or "Impact Aid." This bill would change the current public school funding formula to prohibit PED from deduct 75 percent of federal Impact Aid payments received by any school district from their program cost

Impact Aid payments are revenues received by certain school districts in lieu of taxes received for federal property within school district boundaries that do not generate property taxes. PED indicates these basic payments are considered as part of these school districts' contribution to statewide revenues that are distributed through the funding formula since they do not generate revenue to the state from these lands.

Twenty-three school districts received \$57.7 million in federal Impact Aid payments considered in the calculation of the 2013-2014 SEG. This bill would prohibit the state from taking credit for 75 percent of these revenues – or \$43.2 million in federal revenues. The amount the state will take credit for in FY15 has grown to \$56.6 million. The 23 school districts that receive federal Impact Aid payments would not have their program cost reduced by this amount. However, every school district and charter school in the state would likely see a decreased program cost if the bill is enacted. PED's analysis notes that the loss of this revenue would result in the dilution of the unit value to accommodate the loss of credits equaling \$56.6 million. This represents 2.2 percent of the program cost currently assumed in HB2 as adopted by HAFC. Otherwise, the Legislature would need to increase annual appropriations to the SEG in this amount to ensure dilution of the unit value does not occur.

PED states excluding basic Impact Aid payments from the calculation of the SEG will increase the funding disparity between school districts in the state.

The bill does not have an effective date, making it possible the bill could be interpreted to prohibit the state from taking credit for \$56.6 million in Impact Aid revenues in FY15. This would likely result in a reduction of each school district's and charter school's state equalization guarantee distribution. Monthly allocations would be adjusted downward to reflect the loss of revenue. The Legislature may want to consider including an effective date of July 1, 2015 to address this.

PED notes a drop in general fund appropriations of \$56.6 million would place the state in jeopardy of not meeting federal special education maintenance of effort requirements. If the state fails to meet MOE, future federal IDEA-B allocations could be reduced.

Additionally PED notes concerns that eliminating this federal revenue source considered in calculating the SEG may lead to a request from school districts that receive local revenues the state takes credit for (0.5 mill levy) to be excluded in the calculation of the SEG distribution in future years.

## **SIGNIFICANT ISSUES**

A key feature of New Mexico’s Public School Finance Act’s operational funding scheme is the state equalization guarantee distribution, which is a formula that is meant to apportion federal and local revenue for schools equitably among the state’s school districts.

Impact Aid is a federal program that provides revenue to local governmental entities including school districts in lieu of property taxes not received from federal lands. These lands include property owned by the U.S. Forest, the Bureau of Land Management, National Laboratories, Indian reservations, and any other federally owned property. School districts directly receive 100 percent of federal Impact Aid payments. The objective of the Public School Finance Act is to equalize educational opportunity at the highest possible revenue level and guarantee each public school student equal access to programs and services appropriate to educational need, despite geographic location or local economic conditions. This is accomplished by accumulating revenue at the state level and distributing appropriations to districts based on a program cost determined through the Public School Funding Formula. Because New Mexico is an equalized state, all revenue sources are considered in meeting the annual program cost. As a result, the state takes credit for 75 percent of federal Impact Aid payments to the districts, the local 0.5% mil levy and federal forest reserve payments to the districts. This ensures that total district revenue received through the state equalization guarantee (SEG) remains consistent with the amount calculated to meet student need and that each public school student receives equal access to programs and services appropriate to educational need. There are four parts to Impact Aid: basic payment, Indian set-aside, special education add-on, and construction funds. The state takes credit for the basic payment portion of Impact Aid only.

The “Indian set-aside” portion of Impact Aid is a payment to school districts based on the number of Native American students enrolled and receiving educational services. This payment meets the Congressional trust responsibility for educating Native American students. The state does not take credit for this portion of Impact Aid. Districts are required to consult with local Pueblos, Tribes, and Nations as to those programs that will be most beneficial to Native American students enrolled in the local district. Pueblos, Tribes, and Nations acknowledge this collaboration through the Indian Policies and Procedures agreement with the local district.

## **ADMINISTRATIVE IMPLICATIONS**

PED will be required to update the funding formula to reflect the changes of this bill. This should be able to be accomplished within current resources.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB 492 and HB 162 conflict with SB 602. HB 74 and HB 579 also amend Section 22-8-25 NMSA 1978.

## **TECHNICAL ISSUES**

The bill does not have an effective date making it possible to argue that, in the event the bill is enacted, the Public Education Department should not take credit for federal Impact Aid received by Zuni Public Schools in FY15. The Legislature should consider including an effective date of July 1, 2015 or later to ensure the provisions of the bill do not become effective in FY15.

## OTHER SUBSTANTIVE ISSUES

### According to the Indian Affairs Department:

According to a presentation entitled “Impact Aid-Title VIII: A 50 State Comparison” presented by the Indian Affairs Department in 2011: Impact Aid is a means to provide federal funds to public schools on Indian reservations. There are two reasons for Impact Aid: lack of local tax revenue and the unique needs of a predominantly Native American population-specifically to strengthen education programs in general. Impact Aid funds can be used for salaries for teachers and teacher aides; purchasing of text books, computers, and other equipment; after-school programs; remedial tutoring; advanced placement classes; and special enrichment programs. There are 89 public school districts in New Mexico. 23 public school districts have significant Native American student populations. 20 public school districts apply for Impact Aid funds. Some public school districts have opted not to apply for Impact Aid funds.

According to the National Indian Impacted Schools Association: Many local school districts across the United States include within their boundaries parcels of land that the federal government either owns or has removed from the local tax rolls-including Indian lands. These school districts face special challenges; they must provide a quality education to the children living on Indian and other federal lands, while sometimes operating with less local revenue than other school districts have, because the federal property is exempt from local property taxes.

Since 1950, Congress has provided financial assistance to these local school districts through the Impact Aid Program. Impact Aid was designed to assist local school districts that have lost property tax revenue due to the presence of tax-exempt federal property, or that have experienced increased expenditures due to the enrollment of federally conducted children, including children living on Indian lands. The Impact Aid law assists local school districts with concentrations of children residing on Indian lands, military bases, low-rent housing properties, or other federal properties. To a lesser extent, the Act also supports school districts with children who have parents in the uniformed services or employed on eligible federal properties but who do not live on federal property.

Impact Aid is often an extremely important source of revenue for school districts that serve children living on Indian reservations and other Indian lands, because these districts frequently have a very small local property tax base from which to raise revenue for schools. School districts may use their Impact Aid payments for whatever they choose, such as teacher salaries, utilities, facilities maintenance, and supplies, in accordance with their local and state requirements. Districts may even use the funds for capital improvements. The only limitations on the use of Impact Aid funds are those payments made for children with disabilities; these funds must be used for the increased costs of educating these children.

RSG/aml