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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/23/09  
 SPONSOR Stewart LAST UPDATED 2/06/09 HB 132  
 SHORT TITLE Educational Property Tax Exemptions SB \_\_\_\_\_  
 ANALYST Gutierrez

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	(\$0.1)	(\$0.1)	Recurring	Property Tax Recipients

(Parenthesis ( ) Indicate Revenue Decreases)

Duplicates SB115

### SOURCES OF INFORMATION

LFC Files  
 Taxation and Revenue Department (TRD)  
 Department of Finance and Administration (DFA)

#### Responses Received From

Public School Facilities Authority (PSFA)  
 Public Education Department (PED)

### SUMMARY

#### Synopsis of Bill

House Bill 132 adds an exemption from property tax for property leased to a public school district or public school for use exclusively for educational purposes.

Because the bill has no effective date, it would become effective 90 days after the 2009 legislature adjourns (June 19, 2009).

This bill is applicable to the 2009 and subsequent property tax years.

## FISCAL IMPLICATIONS

TRD reports that the bill would impose minimal fiscal impacts on the State of New Mexico or local governments. Reductions in net taxable value caused by the exemption would, for the most part, be offset by very minor property tax rate increases applicable to essentially all taxpayers.

## SIGNIFICANT ISSUES

Because the bill will not go into effect until June 19, 2009, well into the valuation and assessment cycle for 2009 taxes, it will be very difficult for counties to implement this law.

DFA:

Any delay at the county level would cause a subsequent delay in the TRD/Property Tax Division's certification of property valuations. If the certification process is delayed, it would be very difficult for the Department of Finance and Administration (DFA) to set property tax rates by the statutory (7-38-33A) deadline of September 1st. Not meeting the deadline would in turn delay the mailing of property tax bills by counties, which impacts all taxpayers in the state.

## ADMINISTRATIVE IMPLICATIONS

This bill will have minor impacts to the Taxation and Revenue Department.

DFA:

Unless the effective date of this bill is postponed to the beginning of the 2010 property valuation cycle, the ability for DFA to accurately set property tax rates by the statutory deadline of September 1st will be compromised.

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill duplicates Senate Bill 115.

## TECHNICAL ISSUES

TRD notes that if property is not exempt under the state Constitution, Article VIII, Sec. 3, the legislature cannot by statute make it exempt. The Constitution only allows the legislature to

***The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:***

- 1. Adequacy:*** revenue should be adequate to fund government services.
- 2. Efficiency:*** tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.
- 3. Equity:*** taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.
- 4. Simplicity:*** taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.
- 5. Accountability/Transparency:*** Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.

***More information about the LFC tax policy principles will soon be available on the LFC website at [www.nmlegis.gov/lcs/lfc](http://www.nmlegis.gov/lcs/lfc)***

make personal property exempt by statute. Property leased, but not owned, by a school district is not exempt under Article VIII, Sec. 3 since it is not the “property of” the school district. Finally, the use of property by a tenant does not qualify a property owner/lessor for exemption from property tax. *Rutherford v. Bernalillo County Assessor*, 89 NM 348 (Ct.App. 1976).

Counties would need to develop a method of tracking the lease period so that the exemption would terminate upon the termination of the lease agreement to the public school.

### **OTHER SUBSTANTIVE ISSUES**

PSFA:

There is currently a deadline for all charter schools to be in “public buildings” by 2010. Theoretically, if all charters enter into lease purchase arrangements by that date and have leases extending 20 years, these properties would become tax exempt at that time. The PSCOOTF is recommending extending to 2015 the deadline to be in public buildings and to 30 years the maximum term on the lease purchases.

### **POSSIBLE QUESTIONS**

If a property owner is exempt from property taxes during the lease period, should that savings be passed on to the public school by lowering the cost of the lease?

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