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## FISCAL IMPACT REPORT

SPONSOR Romero DATE TYPED 2/12/04 HB \_\_\_\_\_

SHORT TITLE Military Base Retention SB 333/aSFC

ANALYST Collard

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
			See Narrative		

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY04	FY05			
	(\$160.0)	(\$40.0) See Narrative	Non-Recurring	General Fund and Small City/County Assistance Funds

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to HB 361, SB 217 and SB 278

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Economic Development Department  
Taxation and Revenue Department

### SUMMARY

#### Synopsis of SFC Amendment

The Senate Finance Committee Amendment to Senate Bill 333 strikes the appropriation of \$400 thousand.

#### Synopsis of Original Bill

Senate Bill 333 appropriates \$400 thousand from the general fund to the Economic Development Department for the purpose of administering and operating the Office of Military Base Planning and Support. Additionally, the bill moves the policy and administration arm of the Office from

the Economic Development Department to the governor's Office of Homeland Security. The bill also exempts the Office from the open meetings act when relocation of military units is discussed or information is obtained pertaining to Office strategies.

The bill also proposes a new section of the gross receipts and compensating tax act is enacted to create a deduction for test articles. Finally, the bill contains an emergency clause.

### Significant Issues

The Economic Development Department indicates the proposed legislation contains the provision for deducting the value of "test articles" which are used for research and testing in the performance of contracts with the Department of Defense in computing the compensating tax due. The proposed legislation defines "test articles." The legislation does not include research and testing by the national laboratories, but is designed to apply to the Department of Defense (DOD) Research and Development facilities located on New Mexico's military installations: Holloman AFB, the 46<sup>th</sup> Test Group; Kirtland AFB, the Air Force Operational Test and Evaluation Center, the Air Force Research Laboratory (two directorates—Directed Energy and Space Vehicles), and Space and Missile Systems Center Det 12; and White Sands Missile Range, including numerous "tenant" organizations with similar research and development missions.

- The purpose of including this compensating tax revision is to increase "business" at New Mexico's military installations. In the past, DOD traditionally owned the military systems used in research and development programs. Currently, contractors retain ownership through the research and development phases of the acquisition process. DOD made these changes to provide an incentive for contractors to perform well. The state needs to recognize these changes by positioning New Mexico's military research and development entities in a more competitive posture.
- Currently, New Mexico's three military research and development installations compete for customers which consist of contractors developing future military systems. White Sands Missile Range (WSMR) is funded partially on a reimbursable basis, with the total financial posture, and thereby numbers of personnel, of the installation based on the workload performed by the various activities.
- Senior military engineers and project managers have stated that New Mexico compensating taxes are considered to be an adverse factor when considering testing of systems in New Mexico.

### **FISCAL IMPLICATIONS**

The appropriation of \$400 thousand contained in this bill is a non-recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY05 shall revert to the general fund.

It should be noted there is a special appropriation of \$250 thousand in Section 5 the General Appropriation Act. Additionally, there is \$150 thousand in Section 4 in the Technology and Space Commercialization Program of the Economic Development Department (EDD).

EDD notes the bill provides continuing funding for the Office and for the Commission, which includes travel and a modest level of administrative support. It includes money for an evaluation of New Mexico's military installations as compared to the published Department of Defense Base Realignment and Closure Criteria which were published (draft) in December 2002 and will be finalized during February. It will also include money for support of the various communities.

The Taxation and Revenue Department (TRD) indicates the fiscal impact of the compensating tax deduction for the value of test articles is unpredictable. Historically, test articles were owned by government entities and were therefore not subject to compensating tax. However, industry sources report that, increasingly, ownership of test articles remains with contractors/manufacturers during the testing phases of a project thereby rendering the value of the article potentially taxable. Privately owned test articles have been brought into the state, and compensating tax paid on their value, but the cases are irregular. Thus there is a negative fiscal impact associated with this provision, but its magnitude and timing are uncertain.

<b>Estimated Impact on Revenues</b>		<b>Recurring or Nonrecurring Impact</b>	<b>Funds</b>
	<i>Full Year</i>		Affected
<b>Compensating Tax Deduction:</b>	(160) (40)	Non-Recurring Non-Recurring	General Fund Small City/County Assistance Funds

Graph provided by TRD

*TRD notes the fiscal impact estimate does not take into account potential increases in investment and employment in the state that might be stimulated by the proposal. The department does not have enough information about individual businesses to determine whether a particular incentive is the key factor influencing the decision to locate or do business in the state.*

**DUPLICATION, RELATIONSHIP**

Senate Bill 333 duplicates House Bill 361 and is similar, but broader, than Senate Bill 217 and House Bill 278.

**OTHER SUBSTANTIVE ISSUES**

EDD notes the Secretary of Defense has announced a Base Closure and Realignment round in 2005, and the New Mexico Military Base Planning Commission, supported by the Office of Military Base Planning and Support, has undertaken several initiatives to support New Mexico’s military installations. This proposed legislation supports all four of our bases in a general manner, and it provides specific support for the research and development activities at Holloman AFB, Kirtland AFB, and WSMR. During the forthcoming closure and realignment process, which actually commenced during the fall of 2002, it is essential that New Mexico be viewed as encouraging the growth of military research and development activities.

TRD notes this deduction is intended to help attract defense system testing contracts—including major portions of the Future Combat System and Advanced Tactical Laser Weapons System programs—WSMR. According to industry representatives, WSMR is one of several test facilities nationwide with the capacity to handle the testing.

Additionally, according to the Federal Procurement Data Center, New Mexico ranked third in per capita federal procurement by place of performance in fiscal year 2002.