F I S C A L   I M P A C T   R E P O R T

ORIGINAL DATE 1/25/07
SPONSOR Garcia, MH **LAST UPDATED** **HB** 145

SHORT TITLE Public School Construction Gross Receipts **SB**

ANALYST Schardin

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	(13,008.6)		Recurring	General Fund
	(8,672.4)		Recurring	Local Governments

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Public School Facilities Authority (PSFA)
Public Education Department (PED)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 145 creates a new gross receipts tax deduction for receipts from providing construction services to a school district or the public school facilities authority to construct a public school facility.

The effective date of these provisions will be July 1, 2007.

FISCAL IMPLICATIONS

Based on information provided by PSFA, state spending on public school construction averages about $120 million per year. This amount is matched by local spending, bringing average state and local public school construction spending to about $240 million per year. In addition to this $240 million from the state and local matching, local districts also pay about $125 million more per year for projects separate from the Public School Capital Outlay Council for a grand total of $365 million per year.

PFSA estimates that about 10 percent of this $365 million ($36.5 million) is spent on design and other services not eligible for the new deduction. Assuming a statewide effective tax rate of 6.6 percent on the remaining $337.5 million, this deduction will reduce gross receipts tax revenue by about $21.7 million. About 60 percent of this revenue loss will accrue to the general fund, while about 40 percent will accrue to local governments.

An important caveat is that while this estimated fiscal impact may hold on average, state spending on public school capital outlay fluctuates dramatically from year to year. Years with greater capital outlay expenditures for public education will result in a higher fiscal impact from this bill.

SIGNIFICANT ISSUES

LFC notes that while individual deductions from the gross receipts tax may have small fiscal impacts, their cumulative effect significantly narrows the gross receipts tax base. Narrowing the gross receipts tax base increases revenue volatility and requires a higher tax rate to generate the same amount of revenue. Construction currently represents about 13 percent of the state's gross receipts tax base.

This bill reduces the cost of public school construction, but does so at the expense of having less general fund revenue available to fund school operations.

The bill will reduce local government gross receipts tax collections. Many of New Mexico's local governments are highly dependent on gross receipts tax revenue.

ADMINISTRATIVE IMPLICATIONS

The administrative impact on TRD will be minimal.

TECHNICAL ISSUES

TRD notes that the bill is unclear about whether maintenance and repair of facilities will be eligible for the new deduction. A definition of the term "construction services" would clarify the bill.

The sale of construction services to government entities at the federal, state and local level are all generally subject to the gross receipts tax. House Bill 145 would provide a deduction for certain spending by local and state governments, and thus could lead to a federal challenge that New Mexico's taxation of construction is discriminatory. Given the large presence of federal facilities in the state, this could pose a serious threat to the state gross receipts tax base.

SS/csd