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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/02/08  
 SPONSOR Chasey LAST UPDATED 2/05/08 HB 583  
 SHORT TITLE TV And Video Game Excise Tax SB \_\_\_\_\_  
 ANALYST Francis

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	46.0	Recurring	TRD operating

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	FY09	FY10		
	926.0	1,963.0	Recurring	Leave No Child Inside Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY08	FY09	FY10	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		220.0	140.0	360.0	Recurring	TRD Budget

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Energy Minerals and Natural Resources Department (EMNRD)

Public Education Department (PED)

Taxation and Revenue Department (TRD)

## SUMMARY

### Synopsis of Bill

House Bill 583 enacts the “Leave No Child Inside Act” which levies a one percent excise tax on televisions, video games or video game equipment and creates the “Leave No Child Inside Fund” (LNCI) to be used to

- Develop curriculum-based programs for teachers to use on public lands and at other outdoor learning sites for outdoor education;
- Develop hands-on teaching materials;
- Provide transportation for children to experience outdoor programs;
- Provide substantial and frequent outdoor experiences for children; and
- Increase outdoor nature-oriented physical activity programs for school age children.

The fund shall be administered by the Energy Minerals and Natural Resources Department (EMNRD). Ninety five percent of the excise tax goes into the LNCI and the balance is appropriated to TRD for administrative costs relating to administering the excise tax.

## FISCAL IMPLICATIONS

According to TRD, the estimated sales of video games and televisions in New Mexico are \$185 million so a one percent excise tax would generate \$1.85 million annually. Since it takes effect on January 1, 2009, only half of the impact is in FY09.

TRD:

The estimated revenue impact reflects the “television tax” taking effect on January 1, 2009, and therefore shows a half year of revenue for fiscal year 2009. According to industry groups who track U.S. retail sales there were \$9.9 billion of video game console and software equipment sales in 2004, and \$18.2 billion of television sales in 2006. This estimate assumes sales grow at 6% a year. The U.S. sales were allocated to New Mexico using the ratio of New Mexico to U.S. population and the ratio of New Mexico to U.S. 2006 median annual household income. This calculation results in an estimated \$115 million of retail television sales and \$70 million of retail video game and video game equipment sales in New Mexico in fiscal year 2009.

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

## SIGNIFICANT ISSUES

The American Institutes of Research conducted a study for California on a program that provided outdoor education to inner city youth. The study found that the children in the program exhibited gains in cooperation and conflict resolution skills and teachers found that the children made gains in self esteem, peer relationships, problem solving and classroom behavior.

(<http://www.seer.org/pages/research/AIROutdoorSchool2005.pdf>).

EMNRD (State Parks Division – SPD):

HB 583 addresses the recommendations from a joint study prepared by SPD and PED

required by SJM 24, which passed the Legislature in 2005. SJM 24 requested SPD and PED evaluate opportunities for collaboration. This study, “Making New Mexico Schools Work Outdoors—Educación al Aire Libre”, was presented to the Legislative Education Study Committee in October 2005.

The PED/SPD study recommended the establishment of the “New Mexico Outdoor Classroom” initiative and indicated the need for funding to maintain and coordinate such programs. The Outdoor Classroom Program (OCP) received non-recurring funding from the Legislature in FY08. The Legislature provided \$250,000.00 to PED to fund the pilot phase of the program. A portion of that funding was transferred from PED to SPD in order to fully implement the program. SPD also received an additional \$45,000.00 to support OCP efforts in Doña Ana County and northeastern N.M. The Legislative Education Study Committee endorsed recurring funding for the Outdoor Classroom Program in FY09 at the level of \$500,000.00.

HB 583 would establish the Leave No Child Inside Fund as a dedicated revenue source to support educational and interpretation programs in state parks and increase educational programs for school children that utilize state parks and other outdoor classroom sites, such as local, state, and federal lands (city open space, national parks, national forests, national wildlife refuges, etc.); ranches; nature centers, and other similar locations. SPD would be responsible for administering the fund.

Currently, grants are being distributed to school districts by the Rural Education Bureau of PED to schools statewide. PED has held teacher trainings for outdoor classroom programs through the Math and Science Bureau. Online resources are also being developed both by PED and SPD. SPD is in the process of creating curriculum guides and establishing a teacher training network -- it is anticipated that up to 300 teachers will be trained in outdoor classroom programs in FY08. Regarding transportation for students to outdoor classrooms, SPD is working with multiple school districts statewide in FY08. For example, all 5th graders in Doña Ana County will get an OCP experience from a \$20,000 special FY08 appropriation. (Transportation costs = \$8/student)

All of these programs will be evaluated by SPD and PED. A more extensive evaluation process will also be defined in FY08 to document the impacts of outdoor classroom programs on student academic achievement. At the end of FY08, a report as to the success of the outdoor classroom program will be issued.

**PED:**

There is a growing focus on developing standards-based outdoor education programs among non-profit and governmental non-formal educators (e.g., Audubon Society, Forestry Division, U.S. National Parks, etc.). The PED’s Rural Education Division and the Math and Science Bureau have been working with the State Parks to implement pilot outdoor classroom projects with \$250.0 that was appropriated to the PED in 2007 through HB2, page 241, lines 4-7. Those funds are being used to provide student transportation to state parks, teacher professional development on the use of state parks as outdoor classrooms and implementing outdoor classroom small projects in rural schools. If this recurring funding source becomes available, the New Mexico State Parks could be positioned as a key partner in coordinating the educational efforts of many governmental and non-governmental entities to provide more coherent, consistent outdoor education for school children and their teachers.

This legislation supports Goal 1 of PED’s A Strategic Action Plan for Advancing Math and Science Education in New Mexico 2007-2010 : “Increase student interest, participation and achievement in math and science” and Goal 3: “Establish effective collaborations with internal and external partners”.

(PED, 2007).

#### References

PED. (2007). A strategic action plan for advancing math and science education in New Mexico 2007-2010. Santa Fe, NM: Public Education Department. Retrieved January 18, 2008, [http://www.ped.state.nm.us/div/math\\_science/dl/MathSciStrategicPlan%20fv.pdf](http://www.ped.state.nm.us/div/math_science/dl/MathSciStrategicPlan%20fv.pdf).

PED. (2005). Making schools work outdoors: Educación al aire libre. Santa Fe, NM: Public Education Dept.

### **TECHNICAL ISSUES**

#### TRD:

The bill exempts instrumentalities of the armed forces but does not address purchases made by NM governmental agencies such as schools, or purchases by nonprofits.

The bill requires filing and payment of the tax following the occurrence of the taxable event. If a taxpayer files no return, the assumption is that they did not have a taxable transaction. This precludes the Department from sending out non-filer notices and makes it difficult to audit. Gross receipts taxpayers must file a return in each report period after they are registered even if they have no tax liability in that reporting period.

#### EMNRD:

Section 7.A. appropriates money and income of the Leave No Child Inside Fund to the Energy, Minerals and Natural Resources Department “for its state parks division, in conjunction with the public education department” to accomplish certain activities. Because appropriations are not made in conjunction with another department, it is recommended the sentence be clarified by adding the words “to conduct” before “in conjunction.”

### **ADMINISTRATIVE IMPACT**

According to TRD, this proposal will have a large administrative impact. The initial setup of this new tax program is estimated to cost approximately \$150,000. New “television tax” report forms, and instructions will have to be created and published. Initiation of intense taxpayer education will be required, which will include a publication mailed out to all current taxpayers that might be affected. Equipment used to process and image returns will be reconfigured and programmed to handle the new “television tax” returns. Systems will be required to program the new tax program into the GenTax system. DFA will create the new Leave No Child Inside fund requiring distribution program changes in the Taxation and Revenue Department’s Financial Distributions Bureau. Monthly processing and filing will require 6 FTEs in TRD’s Revenue Processing Division at a cost of approximately \$140,000.

### **ALTERNATIVES**

EMNRD recommends that on page 4, line 3, before the words, “in conjunction,” add the words “to conduct”.

NF/mt:bb