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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 1/23/09  
**LAST UPDATED** 2/16/09     **HB** \_\_\_\_\_

**SPONSOR** Boitano

**SHORT TITLE** Leased Property Tax Exemptions     **SB** 115/aSJC

**ANALYST** Gutierrez

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	NFI – See Narrative			

(Parenthesis ( ) Indicate Revenue Decreases)

Duplicates HB132

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)  
 Department of Finance and Administration (DFA)  
 Attorney General’s Office (AGO)  
 Public Education Department (PED)

### SUMMARY

#### Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to Senate Bill 115 removes the applicability date and adds that these provisions are for property leased to a public school district or public school for the 2010 and subsequent property tax years. It also adds that all savings accruing to the property owner shall pass to the school or school district.

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

#### Synopsis of Original Bill

Senate Bill 115 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.

## DUPLICATION

This bill duplicates House Bill 132.

***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)***

**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 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.

**OTHER SUBSTANTIVE ISSUES**

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. There is talk of extending to 2015 the deadline to be in public buildings and to 30 years the maximum term on the lease purchases.

BLG/mt