

LFC Requester:	Gudgel, Rachel
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**AGENCY BILL ANALYSIS
2014 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

And

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original X **Amendment**
Correction **Substitute**

Date January 7, 2014
Bill No: HB37-305 Jan 9

Sponsor: Rep. Eliseo Lee Alcon
Short Equalization Distribution to
Title: Certain Schools

Reviewing N.M. Attorney General's Office
Person Writing Charles B. Kraft, AAG
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SECTION II: FISCAL IMPACT **FOR LFC OFFICIAL PURPOSES******
AGO STAFF SHOULD LEAVE SHADED AREAS BLANK

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY14	FY15		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Relates to HB 13.

Duplicates/Relates to Appropriation in the General Appropriation Act: Unknown.

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY14	FY15	FY16		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to: Unknown.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Opinion Letter. This is a staff analysis in response to the agency’s committee’s or legislator’s request.

BILL SUMMARY

Summary Synopsis:

HB 37 prohibits the state from factoring into the State Equalization Guarantee monies from the federal Impact Aid program received by a school district that is located entirely within the boundaries of Indian reservation or pueblo grant land. Specifically, the bill amends the Public School Finance Act insofar that it adds to Section 22-8-25(D)(6): “provided that no deductions for federal revenues pursuant to Paragraph (2) of Subsection C of this section shall be made for school districts located entirely within the boundaries of recognized Indian reservations or pueblo grant lands.” This language prohibits deductions from taking place in the mandated calculation in Section 22-8-25(D)(6) if the school district is entirely within Indian land and those deductions were made pursuant to Section 22-8-25(C)(2).

FISCAL IMPLICATIONS WITH ENACTING THIS BILL

N/A

SIGNIFICANT LEGAL ISSUES

As was noted in the FIR for HB 245 from the 2013 legislative session (HB 245 is reintroduced in this year’s legislative session as HB 37), an unintended consequence of this bill is that New Mexico may not meet the disparity test required in order to take credit for seventy-five percent of the basic impact aid payments to districts. If this were to occur, the state would immediately be liable for an additional \$52.7 million needed to keep the unit value stable. This would also mean that the state would cease to be an equalized state, resulting in students from different parts of the state with similar need generating differing dollar amounts.

There is also the possibility for a legal challenge. As noted in the FIR for HB 245, Zuni School District appears to be the only school district whose funding formula would be affected by this bill. As such, the requirement that a school district be located entirely within the recognized boundaries of an Indian reservation or pueblo grant land could be challenged as an arbitrary distinction/limitation. However, the possibility of a legal challenge on this point is reduced if there are more school districts that would actually be affected by implementation of HB 37.

PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL

N/A

ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS INTRODUCED THIS SESSION

House Bill 13 is related.

TECHNICAL ISSUES OR DRAFTING ERROR

The bill does not provide for a remedy if there are deductions for federal revenues pursuant to Paragraph (2) of Subsection C. The bill could be read as one that has a cancelling-out effect of Section 22-8-25(D)(6) if there are deductions for federal revenues pursuant to Paragraph (2) of Subsection C. In contrast however, the bill could also be read as one that requires the calculator to take note of the amount of deductions for federal revenues pursuant to Paragraph (2) of Subsection C and not include that amount in the calculation mandated in Section 22-8-25(D)(6).

OTHER SUBSTANTIVE LEGAL ISSUES

N/A

ALTERNATIVES TO ENACTING THIS BILL

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS NEEDED TO IMPROVE THIS BILL

N/A