

LESC bill analyses are available on the New Mexico Legislature website (www.nmlegis.gov). Bill analyses are prepared by LESC staff for standing education committees of the New Mexico Legislature. LESC does not assume any responsibility for the accuracy of these reports if they are used for other purposes.

LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
53rd Legislature, 1st Session, 2017

Bill Number	<u>SB454</u>	Sponsor	<u>Stewart</u>
Tracking Number	<u>.207249.1</u>	Committee Referrals	<u>SEC/SFC</u>
Short Title	<u>Local Option Property Tax For Schools</u>		
Analyst	<u>Simon</u>	Original Date	<u>2/21/2017</u>
		Last Updated	<u></u>

BILL SUMMARY

Synopsis of Bill

Senate Bill 454 (SB454) would enact the Local Operational School Levy Act and allow local school boards to submit for voter approval a property tax of up to four mills for school district operations.

FISCAL IMPACT

The fiscal impact of SB454 will depend on the number of school districts that approve a local operational school levy. Using FY16 property values and school district program costs, if all school districts statewide imposed a two mill operational levy, school districts would generate \$113.4 million in local property taxes. For school districts with lower property values to receive the full amount guaranteed by SB454's equalization formula, the Legislature would need to appropriate \$17.4 million or those school districts would have distributions reduced proportional to their guarantee amount. If all school districts levied the maximum of four mills, schools would generate \$261.6 million; \$226.9 million would be from property taxes and \$34.7 would need to be appropriated by the Legislature.

Only school districts that impose a local operational school levy would be guaranteed funding based on a calculation that considers the school district's tax rate and program cost as determined by the public school funding formula. School districts that raise more in property taxes than their guarantee would remit a portion of the excess amount to a state fund for distribution to school districts that do not raise enough to meet their guaranteed funding level with property taxes. This redistribution of funds is designed to ensure the state continues to qualify as an equalized state so that the state may take credit for federal Impact Aid as part of the public school funding formula.

The U.S. Department of Education (ED) certifies a state as equalized if per pupil disparity in school district revenues is less than 25 percent between the 95th and 5th percentile. Using FY16 school district revenues, if all school districts statewide had imposed a two mill operational levy, the disparity between the 95th and 5th percentile would increase from 18.5 percent without the

levy to 19.1 percent with the levy. In FY16, the state took a 75 percent credit for \$72.4 million in federal Impact Aid received by school districts.

To comply with federal law, a state can only take credit for federal Impact Aid payments in the same proportion that it takes credit for local tax revenues. Currently, New Mexico takes credit for 75 percent of federal operational Impact Aid and for 75 percent of the half mill levy for operational purposes. SB454 would not take the same 75 percent credit and but would provide for a mechanism to equalize funding for school districts that adopt a local operational levy. The Public Education Department (PED) notes that because SB454 does not specifically take credit for 75 percent of the local operational school levy, SB454 would likely result in the ED not certifying the state as eligible to take credit for federal impact aid. If the state is not certified to take credit for Impact Aid, statewide program cost would be reduced by \$54.3 million unless the Legislature increased appropriations to the state equalization guarantee (SEG) distribution.

SUBSTANTIVE ISSUES

SB454 would increase the amount of property taxes voters in a school district could authorize for school district operational expenditures from the current \$0.50 per \$1,000 of taxable value (0.5 mills) to a total of \$4.50 per \$1,000 of taxable value (4.5 mills). Unlike the current 0.5 mill levy, the public school funding formula would not take credit for property taxes raised under the proposed Local Operational School Levy Act. Instead, school districts that levy the tax would receive a guaranteed amount based on the rate imposed by the voters and the program cost of the school district.

The local operational school levy may not exceed four mills and no more than two mills may be imposed at one election. A local operational school levy cannot last for more than 10 years without re-approval by the voters. If a local school board submits a local operational school levy to the voters and the voters do not approve the tax, the school board must wait two years before proposing another local operational school levy. Voters must be notified of the proposed use of the revenues, but SB454 limits school districts to operational expenses, as defined by PED.

SB454 would not allow a local operational school levy if the imposition of the tax would mean the state could not take credit for federal Impact Aid received by school districts. As part of New Mexico's equalized funding formula, the state reduces the state equalization guarantee distribution for school districts that receive certain revenues, including the current 0.5 mill operational levy and federal Impact Aid. Federal law requires the per pupil spending disparity between students at the 95th and 5th percentile be no more than 25 percent. New Mexico was certified as an equalized state for FY17 using school district revenues from FY15. At that time the disparity between the 95th and 5th percentile was 15.7 percent. If the imposition of a local operational school levy would increase that disparity to more than 25 percent, federal law would not allow the state to take credit for federal Impact Aid. In FY16, PED took credit for \$72.4 million in federal Impact Aid.

To maintain an equalized system of education finance, SB454 ensures that any school district that imposes a local operational school levy will receive a guaranteed amount, based on the school district's program cost and the tax rate imposed. The state guarantee for a school district is calculated as follows:

$$.025 * (\text{mills imposed}) * (\text{first reporting date program cost}) = \text{state guarantee}$$

SB454 creates the local operational school fund. School districts that levy more than their state guarantee pay a portion of the excess raised into the local operational school fund. Only school districts that levy the tax are eligible for funds from the local operational school fund. School districts that do not raise enough from local property taxes would receive a distribution from the fund to meet their state guarantee. In order for school districts to levy the property tax, the secretary of public education would be required to certify the local operational school fund would have sufficient revenue to ensure all school districts received their state guarantee.

SB454 allows school districts that generate more than their state guarantee to keep a portion of the amount over the guarantee. School districts would keep:

- 100 percent of the amount between 100 and 125 percent of the state guarantee;
- 75 percent of the amount between 125 and 150 percent of the state guarantee;
- 50 percent of the amount between 150 and 175 percent of the state guarantee; and
- 25 percent of the amount over 175 percent of the state guarantee.

If school district remittances to the local operational school fund are insufficient to pay the state guarantees to each school district, the difference will be paid from the state-support reserve fund. The state support reserve fund was created to ensure there are sufficient funds to make full state equalization guarantee distributions in the event that actual SEG credits for state or local revenues are less than expected. Generally, the state-support reserve fund is not needed to ensure school districts receive funding based on the final unit value. In years when the state-support reserve fund is not needed to make SEG distributions but the local operational school fund has insufficient funds for distributions to school districts, the amount necessary to pay the state guarantee would be transferred to the local operational school fund. If funds available are still insufficient, distributions from the local operational school fund would be reduced proportionally.

The Public School Facilities Authority notes additional operational funds may allow school districts to spend more on maintenance of school facilities. While school districts would not be required to spend additional money on facilities maintenance, those school districts that choose to invest in maintenance would increase the effective life of their facilities.

ADMINISTRATIVE IMPLICATIONS

SB454 would interconnect school districts' property tax systems through remittances to and distributions from the local operational school fund. For school districts that are not able to raise their entire guarantee from local property taxes, the decisions of voters in other school districts could limit the funds available for redistribution from the local operational school fund. School districts that are more likely to remit funds to the local operational school fund may be less willing to impose the tax, meaning less would be available for redistribution without additional appropriations. The Legislature may choose to appropriate additional funds to the local operational school fund to assist those districts, but, if the local operational school fund were to become dependent on appropriations from the Legislature, a locally imposed tax could be blocked if the governor vetoed an appropriation to the local operational school fund and the secretary of public education certified there would be insufficient funds to pay distributions from the local operational school fund.

SB454 has the potential to inject uncertainty into school districts' budget processes. Current law requires school districts to submit operating budgets for the following school year by April 15

and PED must approve those budgets prior to July 1. If PED notifies the Department of Finance and Administration (DFA) prior to July 1 that there are not sufficient funds available in the local operational school fund for distributions to meet school districts' state guarantees, the tax would not be imposed. In this situation, school districts may have to reduce their budget after they have been approved by PED.

Further, SB454 provides that a school district's state guarantee for the local operational school levy be based on the program cost calculation using membership from the first reporting date of the current school year. The first reporting date occurs in October and PED does not certify that number until December, nearly half way through the fiscal year. School districts that overestimate their state guarantee from the local operational school fund could experience a budget reduction halfway through the school year.

PED notes the ED certification that the state is eligible to consider federal Impact Aid payments uses data from two years earlier. Were ED to determine New Mexico was not eligible to take credit for Impact Aid payments, the state would remain ineligible to take credit for two fiscal years after PED notified DFA.

SB454 appears to provide flexibility for taking credit for federal Impact Aid funds to comply with federal law. Federal law only allows a state to take credit for federal Impact Aid in proportion to the credit taken for local tax revenue. PED has told LESC staff that the department would not be able to satisfy the proportionality requirement of federal law by changing the credit taken for federal Impact Aid based on the local operational school levy because SB454 does not explicitly take credit for 75 percent of the revenue raised by school districts. LESC staff is researching this with federal officials.

TECHNICAL ISSUES

SB454 would require school districts to remit excess taxes collected to the local operational school fund by June 30 but PED is also required to make distributions from the local operational school fund by June 30. This may not allow PED sufficient time to both collect and make payments from the local operational school fund.

On page 8, lines 12 through 14, SB454 would prevent a school district from imposing a local operational school levy if the share of local property tax revenue covered under a state equalization program is less than 80 percent total local property tax revenue. An earlier version of this bill (SB130 from the 1998 regular legislative session) contains the same language. At that time, the state took credit for 95 percent of operational federal Impact Aid and 95 percent of local property taxes. In 1999, the credit was changed to 75 percent. The sponsor may wish to lower this percentage to at least 75 percent or remove this provision entirely.

OTHER SIGNIFICANT ISSUES

Current law authorizes a property tax of up to 0.5 mills for school district operating purposes. In FY16, all school districts levied some property tax for operational purposes, but not all school districts levied the full 0.5 mill. The statewide average was 0.32 for residential property and 0.47 for non-residential property. Only three school districts (Central Consolidated Schools, Vaughn Municipal Schools, and Zuni Public Schools) levy the full 0.5 mills for residential property, although 40 school districts levy 0.5 mills for non-residential property. Statewide, school districts generated \$19.7 million in property taxes in FY16; to take credit for those property

taxes, the state reduced each school district's SEG distribution by 75 percent of the school districts local property tax collections.

Allowing school districts the option of raising additional significant revenues outside the public school funding formula may impact the equity of New Mexico's public education system. The New Mexico constitution requires the state to ensure access to "a uniform system of free public school sufficient for the education of, and open to, all children of school age." New Mexico is currently subject to two funding formula lawsuits that allege the state has violated the uniformity and sufficiency guaranteed by the constitution. Allowing school districts to levy additional taxes may help to resolve issues related to the sufficiency of public education funding but if not every school district chooses to levy a tax, SB454 may not improve the uniformity of the public school system, particularly if significant funding is appropriated to the local operational school fund and distributed only to those school districts that levy a tax.

RELATED BILLS

SB454 relates to SB135/SECS, Charter Schools in School Districts, which includes state-chartered charter schools in the calculation of "federal revenue" and would require PED to take credit for federal Impact Aid received by state-chartered charter schools (page 12, line 19 through page 13, line 22).

SB454 relates to House Bill 69a, Education Technology Improvements & Admin, which allows school districts to ask voters for a property tax of up to two mills for education technology improvements.

SOURCES OF INFORMATION

- LESC Files
- PSFA

JWS/rab

Amount of Funding Generated By SB454 With A Two Mill Levy

	School District	2 Mill Levy	State Guarantee	Amount Remitted	State Distribution	Total Generated By School District	
1	ALAMOGORDO	\$1,587,915	\$1,953,876	\$0	\$365,961	\$1,953,876	1
2	ALBUQUERQUE	\$31,522,457	\$34,005,005	\$0	\$2,482,548	\$34,005,005	2
3	ANIMAS	\$76,750	\$114,264	\$0	\$37,514	\$114,264	3
4	ARTESIA	\$3,228,839	\$1,370,874	\$879,396	\$0	\$2,349,443	4
5	AZTEC	\$1,210,096	\$1,142,704	\$0	\$0	\$1,210,096	5
6	BELEN	\$1,217,303	\$1,490,079	\$0	\$272,776	\$1,490,079	6
7	BERNALILLO	\$1,252,039	\$1,155,031	\$0	\$0	\$1,252,039	7
8	BLOOMFIELD	\$1,447,268	\$1,094,995	\$19,631	\$0	\$1,427,637	8
9	CAPITAN	\$815,873	\$229,202	\$354,052	\$0	\$461,821	9
10	CARLSBAD	\$4,634,060	\$2,706,339	\$456,422	\$0	\$4,177,638	10
11	CARRIZOZO	\$129,525	\$94,206	\$2,942	\$0	\$126,583	11
12	CENTRAL CONS.	\$1,641,274	\$2,303,766	\$0	\$662,492	\$2,303,766	12
13	CHAMA VALLEY	\$285,903	\$218,252	\$3,272	\$0	\$282,631	13
14	CIMARRON	\$861,998	\$251,265	\$363,825	\$0	\$498,173	14
15	CLAYTON	\$301,777	\$237,160	\$1,332	\$0	\$300,446	15
16	CLOUDCROFT	\$385,452	\$178,582	\$88,184	\$0	\$297,268	16
17	CLOVIS	\$1,594,323	\$2,911,958	\$0	\$1,317,635	\$2,911,958	17
18	COBRE CONS.	\$524,391	\$592,710	\$0	\$68,319	\$592,710	18
19	CORONA	\$123,797	\$73,277	\$11,521	\$0	\$112,277	19
20	CUBA	\$258,848	\$285,672	\$0	\$26,824	\$285,672	20
21	DEMING	\$1,147,170	\$1,953,936	\$0	\$806,766	\$1,953,936	21
22	DES MOINES	\$73,185	\$75,707	\$0	\$2,522	\$75,707	22
23	DEXTER	\$177,127	\$411,378	\$0	\$234,252	\$411,378	23
24	DORA	\$50,877	\$136,337	\$0	\$85,461	\$136,337	24
25	DULCE	\$586,637	\$312,560	\$88,347	\$0	\$498,289	25
26	ELIDA	\$53,212	\$80,177	\$0	\$26,966	\$80,177	26
27	ESPANOLA	\$1,170,914	\$1,552,491	\$0	\$381,577	\$1,552,491	27
28	ESTANCIA	\$224,369	\$317,248	\$0	\$92,878	\$317,248	28
29	EUNICE	\$1,232,590	\$305,446	\$580,815	\$0	\$651,775	29
30	FARMINGTON	\$2,969,330	\$3,863,935	\$0	\$894,605	\$3,863,935	30
31	FLOYD	\$37,377	\$117,777	\$0	\$80,400	\$117,777	31
32	FT. SUMNER	\$165,838	\$163,237	\$0	\$0	\$165,838	32
33	GADSDEN	\$1,840,955	\$5,060,083	\$0	\$3,219,128	\$5,060,083	33
34	GALLUP	\$1,712,078	\$4,339,387	\$0	\$2,627,309	\$4,339,387	34
35	GRADY	\$18,664	\$84,550	\$0	\$65,886	\$84,550	35
36	GRANTS	\$633,113	\$1,449,659	\$0	\$816,546	\$1,449,659	36
37	HAGERMAN	\$78,634	\$223,197	\$0	\$144,563	\$223,197	37
38	HATCH	\$165,535	\$467,220	\$0	\$301,685	\$467,220	38
39	HOBBS	\$2,785,562	\$3,357,050	\$0	\$571,488	\$3,357,050	39
40	HONDO	\$76,108	\$93,801	\$0	\$17,693	\$93,801	40
41	HOUSE	\$28,616	\$68,817	\$0	\$40,201	\$68,817	41
42	JAL	\$1,926,837	\$203,660	\$1,216,010	\$0	\$710,826	42
43	JEMEZ MOUNTAIN	\$459,136	\$155,095	\$169,870	\$0	\$289,266	43
44	JEMEZ VALLEY	\$180,320	\$209,303	\$0	\$28,983	\$209,303	44
45	LAKE ARTHUR	\$96,597	\$86,081	\$0	\$0	\$96,597	45
46	LAS CRUCES	\$6,441,023	\$8,900,088	\$0	\$2,459,065	\$8,900,088	46
47	LAS VEGAS CITY	\$541,051	\$694,643	\$0	\$153,592	\$694,643	47
48	LOGAN	\$128,117	\$154,884	\$0	\$26,766	\$154,884	48
49	LORDSBURG	\$262,139	\$230,613	\$0	\$0	\$262,139	49
50	LOS ALAMOS	\$1,374,785	\$1,352,633	\$0	\$0	\$1,374,785	50
51	LOS LUNAS	\$1,655,393	\$2,845,400	\$0	\$1,190,007	\$2,845,400	51
52	LOVING	\$340,247	\$271,189	\$315	\$0	\$339,932	52
53	LOVINGTON	\$1,280,945	\$1,495,323	\$0	\$214,378	\$1,495,323	53
54	MAGDALENA	\$61,570	\$198,959	\$0	\$137,389	\$198,959	54

Amount of Funding Generated By SB454 With A Two Mill Levy

School District	2 Mill Levy	State Guarantee	Amount Remitted	State Distribution	Total Generated By School District
55 MAXWELL	\$39,788	\$82,173	\$0	\$42,385	\$82,173
56 MELROSE	\$63,089	\$101,812	\$0	\$38,724	\$101,812
57 MESA VISTA	\$157,597	\$182,042	\$0	\$24,444	\$182,042
58 MORA	\$202,229	\$211,250	\$0	\$9,021	\$211,250
59 MORIARTY	\$1,085,477	\$899,425	\$0	\$0	\$1,085,477
60 MOSQUERO	\$194,221	\$62,331	\$75,544	\$0	\$118,678
61 MOUNTAINAIR	\$136,330	\$143,522	\$0	\$7,192	\$143,522
62 PECOS	\$261,644	\$278,852	\$0	\$17,208	\$278,852
63 PEÑASCO	\$107,069	\$193,079	\$0	\$86,010	\$193,079
64 POJOAQUE	\$346,791	\$690,912	\$0	\$344,121	\$690,912
65 PORTALES	\$562,815	\$1,057,755	\$0	\$494,940	\$1,057,755
66 QUEMADO	\$182,303	\$92,585	\$32,569	\$0	\$149,733
67 QUESTA	\$377,717	\$226,900	\$32,865	\$0	\$344,852
68 RATON	\$308,641	\$390,126	\$0	\$81,485	\$390,126
69 RESERVE	\$93,001	\$96,521	\$0	\$3,520	\$96,521
70 RIO RANCHO	\$4,283,110	\$6,014,945	\$0	\$1,731,835	\$6,014,945
71 ROSWELL	\$2,078,976	\$3,608,253	\$0	\$1,529,277	\$3,608,253
72 ROY	\$16,535	\$58,945	\$0	\$42,410	\$58,945
73 RUIDOSO	\$1,351,567	\$703,090	\$222,699	\$0	\$1,128,869
74 SAN JON	\$30,690	\$92,376	\$0	\$61,686	\$92,376
75 SANTA FE	\$12,425,691	\$5,012,681	\$3,680,002	\$0	\$8,745,689
76 SANTA ROSA	\$205,918	\$291,470	\$0	\$85,552	\$291,470
77 SILVER CITY CONS.	\$1,157,732	\$1,150,277	\$0	\$0	\$1,157,732
78 SOCORRO	\$347,572	\$683,667	\$0	\$336,094	\$683,667
79 SPRINGER	\$79,755	\$101,530	\$0	\$21,774	\$101,530
80 TAOS	\$2,273,897	\$1,118,278	\$447,360	\$0	\$1,826,537
81 TATUM	\$191,447	\$186,196	\$0	\$0	\$191,447
82 TEXICO	\$173,989	\$249,804	\$0	\$75,815	\$249,804
83 TRUTH OR CONSEQ.	\$624,788	\$532,487	\$0	\$0	\$624,788
84 TUCUMCARI	\$224,042	\$415,266	\$0	\$191,224	\$415,266
85 TULAROSA	\$191,354	\$389,149	\$0	\$197,795	\$389,149
86 VAUGHN	\$147,076	\$81,240	\$18,912	\$0	\$128,164
87 WAGON MOUND	\$66,508	\$66,844	\$0	\$337	\$66,844
88 WEST LAS VEGAS	\$374,178	\$684,808	\$0	\$310,630	\$684,808
89 ZUNI	\$4,815	\$516,579	\$0	\$511,764	\$516,579
TOTAL	\$113,444,294	\$120,308,255	\$8,745,884	\$26,099,418	\$130,797,827

Total Revenue Needed From Other Sources:

\$17,353,534

Source: LESC analysis