

1 SENATE BILL 454

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Mimi Stewart

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10 AN ACT

11 RELATING TO PUBLIC SCHOOLS; PROVIDING FOR A LOCAL OPTION
12 PROPERTY TAX FOR SCHOOL DISTRICT OPERATIONAL PURPOSES; CREATING
13 A FUND; PROVIDING FOR DISTRIBUTION; AMENDING AND ENACTING
14 SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
18 through 7 of this act may be cited as the "Local Operational
19 School Levy Act".

20 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
21 Local Operational School Levy Act:

22 A. "department" means the public education
23 department;

24 B. "first reporting date program costs" means
25 program costs, as defined in the Public School Finance Act, for

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1 any school district as calculated using membership, as defined
2 in the Public School Finance Act, on the first reporting date
3 of the applicable school year in that school district;

4 C. "local school board" means the governing body of
5 a school district;

6 D. "operational purposes" means those expenditure
7 categories for the general operation of a school district that
8 are defined in department rules for uniform financial
9 accounting and budgeting for school districts;

10 E. "secretary" means the secretary of public
11 education; and

12 F. "taxable value of property" means the sum of the
13 following:

14 (1) the "net taxable value", as that term is
15 defined in the Property Tax Code, of property subject to
16 taxation under the Property Tax Code;

17 (2) the "assessed value" of "products" as
18 those terms are defined in the Oil and Gas Ad Valorem
19 Production Tax Act;

20 (3) the "assessed value" of "equipment" as
21 those terms are defined in the Oil and Gas Production Equipment
22 Ad Valorem Tax Act; and

23 (4) the "taxable value" of "copper mineral
24 property" as those terms are defined in the Copper Production
25 Ad Valorem Tax Act.

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1 SECTION 3. [NEW MATERIAL] LOCAL SCHOOL BOARD--

2 AUTHORIZATION TO IMPOSE A TAX FOR SCHOOL DISTRICT OPERATIONAL
3 PURPOSES--RESOLUTION--ELECTION REQUIRED.--

4 A. A local school board may adopt a resolution
5 authorizing, for school district operational purposes, the
6 imposition of a property tax upon the taxable value of property
7 in the school district. The total tax imposition that may be
8 authorized under the Local Operational School Levy Act shall
9 not exceed a rate of four dollars (\$4.00) on each one thousand
10 dollars (\$1,000) of taxable value of property in the school
11 district.

12 B. The tax authorized pursuant to Subsection A of
13 this section shall not be imposed unless the question of
14 authorizing the imposition of the tax is submitted to the
15 voters of the district. The local school board shall not
16 submit to the voters at any one election a question authorizing
17 the imposition of a tax under the Local Operational School Levy
18 Act at a rate greater than two dollars (\$2.00) on each one
19 thousand dollars (\$1,000) of taxable value of property in the
20 school district or for a period of more than ten years.

21 C. During the three years prior to the expiration
22 of any period during which a tax has been authorized to be
23 imposed pursuant to the Local Operational School Levy Act, the
24 local school board may adopt a resolution under Subsection A of
25 this section and submit to the voters of the school district

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1 the question of authorizing the imposition of a tax under that
2 act for an additional period not to exceed ten years with the
3 tax to be certified and first imposed for the period
4 immediately succeeding the last year of the period the tax was
5 previously authorized to be imposed.

6 D. Any resolution adopted pursuant to Subsection A
7 of this section shall specify:

8 (1) the rate of the proposed tax;

9 (2) the date on which a referendum will be
10 held to submit the question of imposition of the tax to the
11 voters of the school district;

12 (3) the period of time for which the tax is
13 authorized to be imposed; and

14 (4) the proposed use of the revenues from the
15 proposed tax.

16 E. The local school board shall mail a copy of the
17 resolution authorizing a tax pursuant to Subsection A of this
18 section to the secretary within two weeks following its
19 adoption by the local school board.

20 F. Any amounts received by the school district
21 under the provisions of the Local Operational School Levy Act
22 shall be expended only for operational purposes of the school
23 district.

24 SECTION 4. [NEW MATERIAL] CONDUCT OF ELECTION--BALLOT.--

25 A. The question of authorizing the imposition of a

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1 tax under the Local Operational School Levy Act shall be
2 submitted to the voters at the first regular school district
3 election following the adoption of a resolution pursuant to
4 Section 3 of the Local Operational School Levy Act. However,
5 if a local school board deems it necessary, it may call a
6 special school district election to submit to the voters the
7 initial question of the authorization of a tax under the Local
8 Operational School Levy Act. Thereafter, the question of
9 authorizing the imposition of any additional tax under the
10 Local Operational School Levy Act shall be submitted to the
11 voters only at regular school district elections.

12 B. The proclamation calling the election shall be
13 filed and published as required under the School Election Law
14 and shall specify:

15 (1) the date on which the election will be
16 held;

17 (2) the question of whether the imposition of
18 a property tax for school district operational purposes shall
19 be authorized pursuant to the Local Operational School Levy Act
20 at a rate not to exceed the rate specified in the authorizing
21 resolution and for the period specified in that resolution;

22 (3) the precincts in each county in which the
23 election is to be held and the location of each polling place;

24 (4) the hours that each polling place will be
25 open; and

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1 (5) the date and time of the closing of the
2 registration books by the county clerk as required by law.

3 C. The ballot shall include the information
4 specified in Paragraph (2) of Subsection B of this section and
5 shall present the voter the choice of voting "for the local
6 operational school levy" or "against the local operational
7 school levy".

8 D. The election shall be held, conducted and
9 canvassed pursuant to the School Election Law.

10 E. The local school board shall notify the
11 secretary of the results of the election immediately upon
12 completion of the canvass.

13 F. Any resolution authorizing a tax pursuant to the
14 Local Operational School Levy Act shall be adopted by a date
15 necessary to ensure that the results of the election on the
16 question of imposing the tax shall be certified no later than
17 June 15 of the property tax year for which the tax rates will
18 first be certified.

19 SECTION 5. [NEW MATERIAL] IMPOSITION OF TAX--
20 CERTIFICATION BY THE DEPARTMENT OF FINANCE AND ADMINISTRATION--
21 DISCONTINUANCE OF TAX.--

22 A. If a majority of the voters voting on the
23 question votes for a local operational school levy pursuant to
24 a resolution adopted under the Local Operational School Levy
25 Act, the tax shall be imposed for the earliest period for which

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1 the tax rate may be certified, except as otherwise provided in
2 that act. The tax rate shall be certified by the department of
3 finance and administration and shall be imposed, administered
4 and collected in accordance with the provisions of the Oil and
5 Gas Ad Valorem Production Tax Act, the Oil and Gas Production
6 Equipment Ad Valorem Tax Act, the Copper Production Ad Valorem
7 Tax Act and the Property Tax Code.

8 B. If a majority of the voters voting on the
9 question votes against a local operational school levy, the tax
10 shall not be imposed. The local school board shall not again
11 adopt a resolution authorizing the imposition of a tax under
12 the Local Operational School Levy Act for at least two years
13 after the date of the resolution that the voters rejected.

14 C. The department of finance and administration
15 shall not certify the tax rates for taxes authorized pursuant
16 to the Local Operational School Levy Act in any year in which
17 the secretary certifies by July 1 of that year that money in
18 the local operational school fund for the next school year is
19 not sufficient to meet the demands on the fund. The tax rates
20 authorized but not certified shall be certified in the first
21 succeeding year for which the necessary appropriation to the
22 local operational school fund for the next school year has been
23 made.

24 D. The department of finance and administration
25 shall not certify the tax rate for a tax authorized pursuant to

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1 the Local Operational School Levy Act for any school district
2 in the state in any year in which the public education
3 department notifies the department of finance and
4 administration by August 1 that the imposition of the taxes or
5 the use of revenues from the taxes would result in:

6 (1) the failure to qualify for certification
7 by the secretary of the United States department of education
8 as having in effect for the tax year in which the tax would
9 otherwise be imposed, administered and collected a program of
10 state aid that equalizes expenditures for free public education
11 among local educational agencies in the state; or

12 (2) when computed according to 20 U.S.C.
13 7709(d)(1), a proportion of less than eighty percent in any
14 school district.

15 E. The local school board may discontinue by
16 resolution the imposition of any tax authorized pursuant to the
17 Local Operational School Levy Act. The discontinuance
18 resolution shall be mailed to the department of finance and
19 administration and the secretary no later than June 15 of the
20 year in which a tax rate pursuant to that act is not to be
21 certified.

22 SECTION 6. [NEW MATERIAL] LOCAL OPERATIONAL SCHOOL FUND
23 CREATED--APPROPRIATION.--There is created in the state treasury
24 the "local operational school fund". The fund shall be
25 invested as other state funds are invested. Earnings on

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1 balances in the local operational school fund shall be credited
2 to the fund, and amounts in the fund are appropriated for the
3 purposes of the Local Operational School Levy Act.

4 SECTION 7. [NEW MATERIAL] STATE GUARANTEE--STATE
5 DISTRIBUTION--REMITTANCE OF EXCESS AMOUNTS.--

6 A. The state guarantee for a school district that
7 has imposed a tax pursuant to the Local Operational School Levy
8 Act shall be an amount equal to the product obtained by
9 multiplying two and one-half percent by the tax rate certified
10 pursuant to that act and multiplying that product by the first
11 reporting date program cost for the school year beginning in
12 any year a tax rate under that act is certified for that school
13 district.

14 B. The state distribution for a school district for
15 a school year is an amount that shall not exceed the state
16 guarantee for that school district and that is equal to the
17 amount by which the state guarantee exceeds the revenue from
18 the tax imposed in that school district pursuant to the Local
19 Operational School Levy Act received during the period
20 beginning June 1 of the year during which a tax rate under that
21 act is certified for the school district and ending May 31 of
22 the next year. If a school district is entitled to a state
23 distribution, the secretary shall distribute the calculated
24 amount from the local operational school fund to the school
25 district not later than June 30 of the calendar year following

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1 the year during which the tax rate was certified.

2 C. If the revenue received during the period June 1
3 to May 31 from the imposition of the tax authorized by the
4 Local Operational School Levy Act exceeds the state guarantee
5 for the school year during which the revenue was received, the
6 local school board shall remit to the local operational school
7 fund by June 30 of the school year an amount equal to the sum
8 of the amounts derived from the following three calculations:

9 (1) one-fourth of the amount of revenue that
10 exceeds one hundred twenty-five percent of the state guarantee
11 but is less than one hundred fifty percent of the state
12 guarantee;

13 (2) one-half of the amount of revenue that is
14 one hundred fifty percent or more of the state guarantee but
15 less than one hundred seventy-five percent of the state
16 guarantee; and

17 (3) three-fourths of the amount of revenue
18 that is one hundred seventy-five percent or more of the state
19 guarantee.

20 D. If the balance in the local operational school
21 fund in any fiscal year is insufficient to pay the sum of the
22 distribution amounts determined to be due to all the school
23 districts entitled to a distribution, the amount necessary to
24 pay all distribution amounts in full shall be transferred from
25 the state-support reserve fund to the local operational school

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1 fund for distribution to school districts as required pursuant
2 to this section. However, if there is not a sufficient balance
3 in the state-support reserve fund to pay both the full state
4 equalization guarantee distribution and the state distributions
5 under this section, the state equalization guarantee
6 distribution shall be made in full and, based on the amount
7 available in the local operational school fund, each state
8 distribution amount due pursuant to this section shall be
9 reduced proportionately.

10 E. Distributions to school districts made pursuant
11 to the Local Operational School Levy Act shall be supplemental
12 to state equalization guarantee distributions made pursuant to
13 the Public School Finance Act. In no fiscal year shall the
14 amount of state funding pursuant to the Public School Finance
15 Act be reduced because of the imposition in one or more school
16 districts of a tax under the Local Operational School Levy Act.
17 The absence of a distribution to a school district under the
18 Local Operational School Levy Act shall not affect the amount
19 of any state equalization guarantee distributions to that
20 school district pursuant to the Public School Finance Act.

21 SECTION 8. Section 22-8-25 NMSA 1978 (being Laws 1981,
22 Chapter 176, Section 5, as amended) is amended to read:

23 "22-8-25. STATE EQUALIZATION GUARANTEE DISTRIBUTION--
24 DEFINITIONS--DETERMINATION OF AMOUNT.--

25 A. The state equalization guarantee distribution is
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1 that amount of money distributed to each school district to
2 ensure that its operating revenue, including its local and
3 federal revenues as defined in this section, is at least equal
4 to the school district's program cost. For state-chartered
5 charter schools, the state equalization guarantee distribution
6 is the difference between the state-chartered charter school's
7 program cost and the two percent withheld by the department for
8 administrative services.

9 B. "Local revenue", as used in this section, means
10 seventy-five percent of receipts to the school district derived
11 from that amount produced by a school district property tax
12 applied at the rate of fifty cents (\$.50) to each one thousand
13 dollars (\$1,000) of net taxable value of property allocated to
14 the school district and to the assessed value of products
15 severed and sold in the school district as determined under the
16 Oil and Gas Ad Valorem Production Tax Act and upon the assessed
17 value of equipment in the school district as determined under
18 the Oil and Gas Production Equipment Ad Valorem Tax Act.

19 C. "Federal revenue", as used in this section,
20 excludes amounts that, if taken into consideration in the
21 computation of the state equalization guarantee distribution,
22 will result, pursuant to federal law or regulations, in the
23 reduction or elimination of federal school funding otherwise
24 receivable by the school district and means:

25 (1) receipts to the school district [~~excluding~~

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1 ~~amounts that, if taken into account in the computation of the~~
2 ~~state equalization guarantee distribution, result, under~~
3 ~~federal law or regulations, in a reduction in or elimination of~~
4 ~~federal school funding otherwise receivable by the school~~
5 ~~district]~~ derived from the following:

6 ~~[(1)]~~ (a) seventy-five percent of the
7 school district's share of forest reserve funds distributed in
8 accordance with Section 22-8-33 NMSA 1978; and

9 ~~[(2)]~~ (b) seventy-five percent of grants
10 from the federal government as assistance to those areas
11 affected by federal activity authorized in accordance with
12 Title 20 of the United States Code, commonly known as "PL 874
13 funds" or "impact aid"; or

14 (2) with respect to a school district that
15 received PL 874 funds and for which a proportion of less than
16 seventy-five percent is calculated for the purpose of taking PL
17 874 funds into consideration in determining the state
18 equalization guarantee distribution, that lesser proportion of
19 receipts to the school district derived from grants from the
20 federal government as assistance to those areas affected by
21 federal activity authorized in accordance with Title 20 of the
22 United States Code.

23 D. To determine the amount of the state
24 equalization guarantee distribution, the department shall:

25 (1) calculate the number of program units to

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1 which each school district or charter school is entitled using
2 an average of the MEM on the second and third reporting dates
3 of the prior year; or

4 (2) calculate the number of program units to
5 which a school district or charter school operating under an
6 approved year-round school calendar is entitled using an
7 average of the MEM on appropriate dates established by the
8 department; or

9 (3) calculate the number of program units to
10 which a school district or charter school with a MEM of two
11 hundred or less is entitled by using an average of the MEM on
12 the second and third reporting dates of the prior year or the
13 fortieth day of the current year, whichever is greater; and

14 (4) using the results of the calculations in
15 Paragraph (1), (2) or (3) of this subsection and the
16 instructional staff training and experience index from the
17 October report of the prior school year, establish a total
18 program cost of the school district or charter school;

19 (5) for school districts, calculate the local
20 and federal revenues as defined in this section;

21 (6) deduct the sum of the calculations made in
22 Paragraph (5) of this subsection from the program cost
23 established in Paragraph (4) of this subsection;

24 (7) deduct the total amount of guaranteed
25 energy savings contract payments that the department determines

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1 will be made to the school district from the public school
2 utility conservation fund during the fiscal year for which the
3 state equalization guarantee distribution is being computed;
4 and

5 (8) deduct ninety percent of the amount
6 certified for the school district by the department pursuant to
7 the Energy Efficiency and Renewable Energy Bonding Act.

8 E. Reduction of a school district's state
9 equalization guarantee distribution shall cease when the school
10 district's cumulative reductions equal its proportional share
11 of the cumulative debt service payments necessary to service
12 the bonds issued pursuant to the Energy Efficiency and
13 Renewable Energy Bonding Act.

14 F. The amount of the state equalization guarantee
15 distribution to which a school district is entitled is the
16 balance remaining after the deductions made in Paragraphs (6)
17 through (8) of Subsection D of this section.

18 G. The state equalization guarantee distribution
19 shall be distributed prior to June 30 of each fiscal year. The
20 calculation shall be based on the local and federal revenues
21 specified in this section received from June 1 of the previous
22 fiscal year through May 31 of the fiscal year for which the
23 state equalization guarantee distribution is being computed.
24 In the event that a school district or charter school has
25 received more state equalization guarantee funds than its

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1 entitlement, a refund shall be made by the school district or
2 charter school to the state general fund."

3 SECTION 9. Section 22-8-31 NMSA 1978 (being Laws 1967,
4 Chapter 16, Section 84, as amended) is amended to read:

5 "22-8-31. STATE-SUPPORT RESERVE FUND.--

6 A. The "state-support reserve fund" is created.

7 B. The state-support reserve fund shall be used
8 only to augment the appropriations for the state equalization
9 guarantee distribution and the distribution pursuant to the
10 Local Operational School Levy Act in order to [~~insure~~] ensure,
11 to the extent of the amount undistributed in the fund, that the
12 maximum figures for such [~~distribution~~] distributions
13 established by law shall not be reduced.

14 C. The undistributed money in the state-support
15 reserve fund shall be invested by the state treasurer in
16 interest-bearing securities of the United States government or
17 in certificates of deposit in qualified banks and in savings
18 and [~~loans~~] loan associations whose deposits are insured with
19 an agency of the United States. The state treasurer may
20 deposit money from the state-support reserve fund or any other
21 fund in one or more accounts with any such bank or federally
22 insured savings and loan association, but the state treasurer,
23 in any official capacity, shall not deposit money from [~~said~~]
24 that fund or any other fund in any one [~~such~~] federally insured
25 savings and loan association the aggregate of which would

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1 exceed the amount of federal savings and loan insurance
2 corporation insurance for a single public account. Income from
3 these investments shall be periodically credited to the general
4 fund.

5 D. At least forty-five days before the money is
6 needed, the [~~chief~~] secretary shall notify the state treasurer
7 in writing of the amount that will be needed for the state
8 equalization guarantee distribution. At least twenty-five days
9 before the money is needed, the secretary shall notify the
10 state treasurer in writing of the amount that will be needed
11 for transfer to the local operational school fund for
12 distribution pursuant to the Local Operational School Levy Act.
13 The state treasurer shall transfer to the local operational
14 school fund the amount requested or the remaining unencumbered
15 balance in the state-support reserve fund after the state
16 equalization guarantee distribution amount has been subtracted,
17 whichever is less.

18 E. In the event that local or federal revenues as
19 defined in Section [~~77-6-19 NMSA 1953~~] 22-8-25 NMSA 1978 are
20 received after May 31 of the fiscal year for which the state
21 equalization guarantee distribution is being computed and it is
22 therefore necessary to use money from the state-support reserve
23 fund to augment the appropriation for the state equalization
24 guarantee distribution, the [~~chief~~] secretary, upon receipt by
25 the school district of the delayed local or federal revenues,

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1 shall deduct the appropriate amount from the current state
2 equalization guarantee distribution to that school district and
3 reimburse the state-support reserve fund in the amount of the
4 deduction.

5 F. It is the intent of the legislature that the
6 state-support reserve fund be reimbursed in the amount of the
7 yearly distribution by appropriation in the year following the
8 distribution so that the fund at the beginning of each fiscal
9 year shall have a credit balance of at least ten million
10 dollars (\$10,000,000).

11 G. Distribution from [~~this~~] the state-support
12 reserve fund shall be made in the same manner and on the same
13 basis as the state equalization guarantee distribution."