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FISCAL IMPACT REPORT

ORIGINAL DATE 2/21/17

SPONSOR Stewart LAST UPDATED _____ HB _____

SHORT TITLE Local Option Property Tax for Schools SB 454

ANALYST Liu

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
		See Fiscal Implications	Recurring	Local Operational School Fund

(Parenthesis () Indicate Revenue Decreases)

Relates to HB184, SB35

SOURCES OF INFORMATION

LFC Files
Legislative Education Study Committee (LESC) Files

Responses Received From
Public School Facilities Authority (PSFA)

No Responses Received From
Taxation and Revenue Department (TRD)
Department of Finance and Administration (DFA)
Public Education Department (PED)

SUMMARY

Synopsis of Bill

Senate Bill 454 proposes to create the Local Operational School Levy, which would allow a local school board to adopt a resolution authorizing the imposition of a property tax for school district operational purposes. The tax would be imposed upon the taxable value of property in the school district, not to exceed \$4.00 on each \$1,000 (or four mill) of taxable value of property in the school district and the tax must be submitted and approved by a majority of voters in the district.

The tax cannot exceed two mills or be for a period of more than 10 years at each election. The bill's provision would have DFA certify the tax, and be imposed, administered, collected in accordance with the provisions of the Oil and Gas Ad Valorem Production Tax Act, the Oil and

Gas Equipment Ad Valorem Tax Act, the Copper Production Ad Valorem Tax Act, and the Property Tax Code. DFA shall not certify the tax rate for any school district in any year in which PED notifies DFA that the imposition of taxes or the use of the revenues would result in the dis-equalization of public school state aid in accordance with federal law.

The bill provides the requirements for the conduct of the election, stating that the question shall be submitted to voters at the first regular school district election following the adoption of the resolution. However, if the local school board deems it necessary, a special school district election can be called to submit the initial question of the authorization of the tax. The requirements for the election are pursuant to the School Election Law.

The bill would also create the “local operational school fund” in the state Treasury. The amounts in the fund and the interest earned from investing the fund are to be appropriated for the purposes of the Local Operational School Levy Act. The state would provide a guarantee for a school district that has imposed a tax pursuant to the Local Operational School Tax Levy Act equal to 2.5 percent of the tax rate, multiplied by the first reporting date program cost.

The state distribution for a school district is an amount that shall not exceed the state guarantee for that school district and is equal to the amount by which the state guarantee exceeds the revenue from the tax imposed in that school district. If a school district is entitled to a state distribution, the secretary shall distribute the calculated amount from the fund to the school district no later than June 30. If revenue received from the imposition of the Act tax exceeds the state guarantee for the school year, the local school board shall remit to the fund by June 30 an amount equal to the sum of the amounts derived from the calculations set forth within the bill. If the balance in the local operational school fund in any fiscal year is insufficient to pay the sum of the distribution amounts determined to be due to all the school districts entitled to a distribution, the amount necessary to pay all distribution amounts in full shall be transferred from the state-support reserve fund.

FISCAL IMPLICATIONS

Provisions of this bill would not be applicable until FY19 and determining which school districts would impose the tax is indeterminate. As such, the following model of statewide fiscal impacts of this bill should be considered best-case scenarios without adjustment for future taxable values. Using calculations based on 2015-2016 program cost and 2016 taxable values and assuming all school districts imposed the 2 mill levy, the bill would have generated a local operational school levy state guarantee of \$120.3 million and could have generated local tax revenue of \$113.4 million. Under this scenario, \$8.7 million would be remitted to the “Local Operation School Fund” and made available for redistribution to districts that generate less than the guarantee. Moving school districts that generated less than the guarantee to the guarantee level would have required an estimated \$17.4 million from other sources.

SIGNIFICANT ISSUES

The bill proposes a process for local school boards to request voter approval for a local property tax for the operation of a school district. It creates a mechanism designed to encourage voters to approve a levy and retain all or most of the revenue generated along with formulas allowing the distribution of “excess revenue” through the “Local Operational School Fund.” This proposal seeks to maximize voter approval of levies for support of public schools, increase the revenue

available to all school districts, and maintain New Mexico’s federal designation as an equalized state.

To qualify as an equalized state, New Mexico must meet federal requirements or lose the ability to legally take credit for a percent of Impact Aid receipts. New Mexico statutes require that the state take credit for 75 percent of the local half-mill levy, forest reserve and eligible Impact Aid funds. To qualify as an equalized state, the state must maintain a disparity as calculated using a federal formula. Allowing districts to impose local option tax for operational purposes could cause a disparity greater than that allowed by federal law. Imposition of the local levy would necessitate that calculations be made on a by-district basis, and the amount of credits could be reduced. As prescribed by federal law, the disparity factor is calculated on the second preceding year fiscal expenditures.

If all school districts imposed the 2 mill levy under provisions of this bill, staff analysis estimates the state would be able to maintain its federal designation as an equalized state, thereby allowing the state to continue taking credit for eligible Impact Aid (P.L. 874) funds, which in FY16 totaled \$75.4 million. However, it is not practical to determine how many school districts would impose the tax and whether this disparity would require DFA to not certify the tax rate. The bill prohibits DFA from certifying the tax rate for “any school district in the state” any year in which PED notifies DFA that the imposition of taxes or the use of the revenues would result in the dis-equalization of public school state aid in accordance with federal law. It is unclear if the phrase “any school district in the state” refers to a statewide restriction on imposition of the tax or whether the restriction will apply only to selected districts.

PSFA notes if voters approve a local operational school levy, school districts would have additional funds available for their operations. With additional funds available, school districts would therefore be able to possibly allocate some of those additional funds to the maintenance of their facilities.

RELATIONSHIP

This bill relates to HB184, which requires school districts to distribute a proportionate share of property tax revenue to charter schools, and SB35, which makes an appropriation to public schools.

SL/sb