LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS

Bill Number: **SB 602** **52nd Legislature, 1st Session, 2015**

Tracking Number: **.198999.1**

Short Title: **Equalization Guarantee & Federal Funds**

Sponsor(s): **Senator George K. Muñoz**

Analyst: **Ian Kleats** **Date:** **March 6, 2015**

Bill Summary:

SB 602 amends the *Public School Finance Act* to eliminate deductions in the State Equalization Guarantee (SEG) distribution for school districts receiving federal revenue through the federal Impact Aid program.

If enacted, SB 602 would become effective on June 19, 2015 – 90 days after the end of the legislative session (see "Technical Issues," below).

Fiscal Impact:

SB 602 does not contain an appropriation.

Fiscal Issues:

According to the Public Education Department (PED) FY 15 preliminary funded run, SB 602 would result in a reduction of statewide program cost of $40.1 million[1]. If SB 602 were enacted without additional appropriations or other provisions to compensate for the foregone revenue, the preliminary FY 15 unit value of $4005.75 would decrease accordingly to $3,942.02.

If SB 602 had been law prior to the start of school year 2014-2015:

- without an appropriation or other source of additional funds, PED would have decreased the preliminary unit value by $63.73 (from $4,005.75 to $3,942.02) based on PED's preliminary funded run for FY 15;
- 76 school districts, including 12 school district receiving Impact Aid, and all 97 charter schools would have received a smaller share of SEG funding than they would have with no change to current law;
- 13 school districts and no charter schools would have received a larger share of SEG funding than they would have with no change to current law;

---

[1] In its analysis of SB 602, PED uses FY 14 as the basis for its estimates, stating that PED expects FY 15 Impact Aid funding to exceed the $43.3 million of Impact Aid funding for FY 14. However, because data from the FY 15 preliminary funded run were necessary to conduct further analysis on the distributional effects of SB 602 through the SEG, budgeted Impact Aid funding from that report are used in this narrative.

- the largest positive percentage change of 53.98 percent would go to Zuni Public Schools; and
- the largest negative percentage change of -1.67 percent would come from Jal Public Schools.

Additionally, because the administrative withholding from charter schools is a percentage of the charter school's SEG distribution and all charter schools would have smaller SEG distributions, the amount withheld for administrative support by PED from state-chartered charter schools and by school districts from locally chartered charter schools would decrease.

<u>Technical Issues</u>:

As noted above, if enacted, SB 602 would become effective on June 19, 2015 – 90 days after the end of the legislative session. The provisions would affect SEG distributions for FY 15, and could potentially have the following consequences:

- credit against the SEG could not be taken for federal Impact Aid received in FY 15;
- PED would be required to correspondingly increase the SEG entitlement for all school districts receiving Impact Aid;
- the SEG distribution of the Public School Fund may not have sufficient funds to ensure the full payment of school district and charter school entitlements; and
- PED would be unable to revise the unit value downward, subject to limitations in the *General Appropriations Act of 2014*.

The sponsor may wish to consider including an effective date of July 1, 2015 or later to ensure that the provisions of the bill do not become effective in FY 15.

<u>Substantive Issues</u>:

The Indian Affairs Department bill analysis suggests that Impact Aid is often an extremely important source of revenue for school districts that serve children living on Indian reservations and other Indian lands, because these districts frequently have a very small local property tax base from which to raise revenue for schools.

Future Impact Aid Awards

A letter from the Director of Impact Aid at the US Department of Education (USDE), regarding a similar bill from a previous legislative session, notes the following pertinent information:

- the disparate treatment of certain school districts, or a single school district, could call into question whether the state violates the general prohibition in section 8009(a) of the law;
- such disparate treatment could also affect the eligibility of a district for payments under section 8003 of the law; and
- the Impact Aid eligibility regulations provide in relevant part that a local educational agency is eligible only if "the state provides funds for the education of those children on the same basis as all other public school children in the State."

Thus, it appears that the enactment of SB 602 may generate potentially significant unintended consequences at the local level in the relationship between districts currently receiving Impact

Aid distributions and USDE; disparate treatment could be argued because 75 percent credit against the SEG would continue to be taken for:

- other federal revenue sources, namely forest reserve funding; and
- the local property tax levy that is dedicated to operational purposes.

Background:

Impact Aid

The federal Impact Aid law (originally known as PL 874) was signed into law by President Harry S. Truman in 1950 to provide assistance to school districts that experience an adverse financial impact due to federal activity or presence. This impact is usually caused by the federal ownership of non-taxable land, or the burden of providing an equal education to a district's "federally connected" children. The three types of federally connected children are:

- children residing on Indian lands;
- military children; and
- children residing in federal low-rent housing projects.

Federally connected students can reduce a school district's taxable financial base if their parents or guardians:

- pay no income taxes or vehicle license fees;
- live on non-taxable federal property;
- shop at stores that do not generate taxes; or
- work on non-taxable federal land.

Impact Aid provides a payment to school districts in lieu of these lost taxes. Impact Aid is one of the only federal education programs in which discretionary funds go directly into a school district's general operating fund to be used as the local school board sees fit.

According to provisions in the federal *Elementary and Secondary Education Act* (ESEA) pertaining to Impact Aid:

- funds are provided directly to school districts on the basis of statutory criteria provided in grant applications submitted to the USDE;
- payments under the program are made for:
    - federal acquisition of real property located within the school district;
    - membership and attendance counts of federally connected children; and
    - construction, repairs, maintenance, and modernization of facilities to eligible local educational agencies (LEAs); and

- payments made under the program are considered general aid, and they may be employed at the discretion of the LEA, except for those funds awarded for:
    - federally connected children with disabilities; and
    - facility construction, repairs, and modernization.

State Law and Impact Aid

The *Public School Finance Act*:

- defines "federal revenue" in the SEG distribution as receipts to the school district derived from the following:
  - 75 percent of the school district's share of forest reserve funds; and
  - 75 percent of grants from the federal government as "PL 874 funds" or "impact aid"; and

- requires the calculation to determine the final SEG distribution for school districts to deduct the federal revenue from the total program cost of a school district.

Committee Referrals:

SEC/SFC

Related Bills:

HB 162 *Fed Revenue Deduction for Some Schools*
HB 492 *Equalization Guarantee & Federal Funds*