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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/04/18

SPONSOR Stewart LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Statewide Millage for Public Schools, CA SJR 6

ANALYST Liu

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY18	FY19		
	\$0.0 - \$114,300.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY18	FY19	FY20		
	\$0.0 - \$114,300.0	\$0.0 - \$114,300.0	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to HB 63, HB 141, SB 36

Relates to state equalization guarantee appropriation in the General Appropriation Act

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Education Department (PED)

Secretary of State (SOS)

#### No Responses Received From

Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of Bill

Senate Joint Resolution 6 submits to the public at the next general election, or any special election prior to that date, a proposed amendment to Article 8, Section 2 of the New Mexico Constitution. The amendment would authorize an additional statewide millage rate that will be

dedicated to public school funding. If approved, the amendment would increase the current levy limit of 20 mills on every dollar of assessed valuations to 22 mills. The additional two mills would be imposed statewide and used to generate additional dollars for distribution to public schools through the state equalization guarantee (SEG) distribution.

### **FISCAL IMPLICATIONS**

According to PED, the additional two mills would generate approximately \$114.3 million for the public school funding formula, based on 2017 initial assessed valuations.

Under Section 1-16-13 NMSA 1978, SOS is required to print the full text of each proposed constitutional amendment, in both Spanish and English, in an amount equal to 10 percent of the registered voters in the state. SOS is also constitutionally required to publish the full text of each proposed constitutional amendment once a week for four weeks preceding the election in newspapers in every county in the state. In 2016, SOS spent \$245.9 thousand for the required newspaper publications, however, the cost is dependent upon the number and length of the constitutional amendments that are passed. For planning purposes, an estimate of \$47.60 per word may be used to represent the likely costs of publishing each constitutional amendment for the 2018 general election.

The number of constitutional amendments that pass may also impact the page size of the ballot, or if the ballot size is caused to become greater than one page, front and back, which may increase the cost of producing the ballots for the general election. In addition to the cost of the ballot, there may be time added to the voting process, which would require additional ballot printing systems in order to ensure a smooth and efficient voting process within the bounds of national best practices.

### **SIGNIFICANT ISSUES**

PED notes the funds raised through these additional two mills are not to be used to supplant the state's general fund effort to fund public education. Although voter approval would be required to implement the increased levy, the resolution would raise taxes for every property owner in the state. Residential and non-residential property owners would experience potential increases in their tax bills, assuming no decreases occurred to the assessed valuations of their property.

In 2017, First Judicial District Court Judge Sarah Singleton heard oral arguments from the New Mexico Center on Law and Poverty and the Mexican American Legal Defense and Education Fund on whether the state was failing to offer an equal education to low-income, English learner, and Native American students. The plaintiffs cited low test scores for these at-risk groups as evidence of a constitutional violation of sufficient education and noted previous studies that called for \$334.7 million in additional education funding and changes to how the funding formula distributes education dollars. The defense questioned whether students' low achievement was directly caused by the state's negligence in regards to education and noted that positive educational outcomes could not be guaranteed even with a significant financial investment in the state's education system. After oral arguments closed in August, Judge Singleton indicated she might make a decision near the end of FY18. Plaintiffs in New Mexico's current sufficiency lawsuit have sought an additional \$350 million to \$600 million for public schools.

## **ADMINISTRATIVE IMPLICATIONS**

PED notes the bill would deposit the proposed tax proceeds into the common school current fund. Currently the contents of that fund are periodically placed into the current school fund to be placed into the public school fund prior to disbursement through the SEG distribution. Property taxes are payable twice a year: November 10 of the year in which a tax bill is received and April 10 of the following year. The Department of Finance and Administration, in concert with local county treasurers, will need to ensure that amounts related to the statewide property tax increase are properly distributed in the fund so available SEG funding does not fluctuate and no amounts collected are used for any other purpose.

Additionally, PED will need to make an estimate of property taxes that will fund the SEG under the proposed additional two mill provision. PED sets the final unit value on or before January 31 of each fiscal year. Because only half of the property taxes will be received when the final unit value is set, PED will likely be required to develop an estimate of total revenues based on historical collection data and include assumptions for delinquent tax payments.

## **RELATIONSHIP**

This bill relates to House Bill 63 and House Bill 141, which make appropriations to restore school cash balances, and Senate Bill 36, which makes an appropriation to the SEG. This bill also relates to the SEG appropriation in the General Appropriation Act.

## **TECHNICAL ISSUES**

PED recommends amending the resolution on page 2, line 12, to strike the phrase “through the state equalization guarantee distribution” and add the phrase “as provided by law” so as to not inadvertently enshrine the SEG section of state law in the Constitution, as the SEG currently occurs nowhere else in the Constitution and could be removed and replaced in law by future legislators.

## **OTHER SUBSTANTIVE ISSUES**

According to PED, the constitutional limit on property taxes to 20 mills has been in place since 1933. After passage of the Public School Finance Act in 1975, public schools received state funding through a formalized funding formula, but at that time, local school districts still levied as much as 8.975 mills from local property taxes for operations. With passage of the “Big Mac” tax package in 1981, the 8.975 mills allowed to be levied by school districts were transferred to counties and municipalities. The tax package indicated that school districts were then allowed to levy 0.5 mills on all property and oil and gas severances for operations, which has remained in place to this day.

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