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FISCAL IMPACT REPORT

SPONSOR Stewart **ORIGINAL DATE** 02/12/14
LAST UPDATED _____ **HJR** 11

SHORT TITLE Additional Statewide Millage for Schools, CA **SB** _____

ANALYST Gudgel

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY14	FY15	FY16		
	\$109,000.0	\$109,000.0	Recurring	Common School Fund/State Equalization Guarantee

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		>\$46.0		>\$46.0	Nonrecurring	Election Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

House Joint Resolution 11 proposes an amendment to Article 8 of Section 2 of the New Mexico Constitution to authorize an additional tax on property statewide of 2 mills that would be dedicated to public schools through the state equalization guarantee distribution. The

House Joint Resolution 11 – Page 2

amendment increases the millage from 20 to 22. The two additional mills will be imposed statewide, deposited in the common school current fund and distributed to public schools through the state equalization guarantee (SEG) distribution. Money raised through the two-mill levy may not be used to supplant the state's general fund effort to fund public education.

Additionally, the joint resolution removes existing language that authorizes the passage of additional taxes to be levied outside of the limitations on the constitution when approved by a majority of the qualified electors of a taxing district "who paid a property tax therein during the preceding year" voting on such proposition. The amendment, if approved, would grant all authorized electors the ability to vote on additional taxes.

This proposed amendment is to be submitted to the voters at the next general election or at any special election prior to that date which may be called for that purpose.

FISCAL IMPLICATIONS

Increased Mills for Common School Fund

PED estimates the imposition of an additional 2 mills statewide will result in the collection of \$109 million from property tax owners annually. This calculation is based on the final assessed valuations of 2013 for the State of New Mexico.

Constitutional Amendment

Under Section 1-16-13 NMSA 1978 and the NM constitution, the SOS is required to print samples of the text of each constitutional amendment, in both Spanish and English, in an amount equal to ten percent of the registered voters in the state. The SOS is also required to publish them once a week for four weeks preceding the election in newspapers in every county in the state. In 2012, the cost for the 2012 General Election ballots was \$46,000 per constitutional amendment. However, if the ballot size is greater than one page, front and back, it would increase the cost of conducting the general election. In addition to the cost of the ballot, there will be added time for processing voters to vote and would mean additional ballot printing systems would be required to avoid having lines at voting convenience centers.

SIGNIFICANT ISSUES

The purpose of the bill is to increase funding for public education to be distributed through the funding formula.

The constitutional amendment would impose an additional 2 mill property tax on all residential and non-residential property statewide to be deposited to the common school current fund to be distributed through the state equalization guarantee (SEG) distribution, resulting in increased taxes for property owners.

Receipts in the common school current fund are primarily from Land Grant Permanent Fund distributions made pursuant to Section 7 of Article XII of the New Mexico Constitution. The receipts of the common school current fund are transferred to the current school fund then the unencumbered receipts in the Current School Fund are transferred to the public school fund pursuant to Section 22-8-23 NMSA 1978. Section 22-8-14 authorizes the public school fund to be distributed to school districts and state-chartered charter schools for the following: state equalization guarantee distribution; transportation distribution; and supplemental distributions

including out-of-state tuition to school districts, emergency, and program enrichment. Balances remaining in the public school fund at the end of the fiscal year revert to the general fund unless otherwise provided by law.

ADMINISTRATIVE IMPLICATIONS

PED notes the department would continue to work with the Department of Finance and Administration (DFA) and the Taxation and Revenue Department (TRD) along with statewide municipalities to ensure that proper tax rates are set. The administrative impact should be minimal.

TECHNICAL ISSUES

The inclusion of the phrase “provided that the money raised through the two-mill levy shall not be used to supplant the state’s general fund effort to fund public education” is vague and subject to interpretation and legal challenge. PED’s analysis notes that because of the nuances of the various funds that make up the general fund, it is unclear whether the additional revenues generated will actually result in increased appropriations to the state equalization guarantee.

Paragraph B of Section 7-37-7 NMSA 1978, authorizes, for the use of each school district for general operating purposes, a rate of fifty cents (\$0.50) for each one thousand dollars (\$1,000) of net taxable value of both residential and nonresidential property allocated to the school district. School districts received approximately \$18.4 million pursuant to the 0.5 mill levy in FY13. The Department of Finance and Administration analysis indicates this section of law would need to be amended to reflect a rate of two dollars and fifty cents (\$2.50) for each one thousand dollars (\$1,000) of net taxable value of both residential and nonresidential property allocated to the school district. The 0.5 mill levy is received directly by school districts and is not deposited in the common school fund for distribution through the state equalization guarantee (SEG) distribution; therefore increasing this section to 2.5 mills does not have the effect of transferring the funding to the common school fund.

OTHER SUBSTANTIVE ISSUES

For FY14, approximately 42.6 percent of recurring general fund revenues were appropriated for the benefit of public schools. This represents \$2,576.6 million dollars. Of that amount, 92 percent will be distributed through the state equalization guarantee (SEG) distribution. The Legislature is currently considering increasing funding for public schools in FY15 by \$150.5 million.

ALTERNATIVES

Law already requires funds in the common school current fund to transfer to the current school fund to then transfer to the public school fund to be used for public school support. One of the permissive uses of the public school fund is the state equalization guarantee distribution. The Legislature may wish to consider eliminating language included on page 2, line 11 beginning with “and distributed” through line 12 to the semicolon.