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FISCAL IMPACT REPORT

SPONSOR Egolf ORIGINAL DATE 2/23/15
LAST UPDATED _____ HB 382
SHORT TITLE Some Debt Questions To School District Voters SB _____
ANALYST Chavez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI				

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 19 and SB 8

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

Public Education Department (PED)

SUMMARY

Synopsis of Bill

HB 382 amends the Education Technology Equipment Act (ETEA) to give local school boards the option of submitting to voters the question as to whether to incur debt for a lease purchase arrangement for equipment.

If the determination is made to submit a question to the voters, provisions contained in the bill require school boards to follow the procedures contained in the School Election Law.

FISCAL IMPLICATIONS

This bill does not contain an appropriation and has a minimal fiscal impact. School districts are already permitted to submit to voters the question of entering into a lease purchase arrangement; PED notes this bill clarifies the option of having school boards seek voter approval.

PED also notes school districts will incur election costs if they have a separate election for voter approval of education technology notes (ETNs). PED adds there is also be the possibility that certain school districts may not pass these types of elections which would result in a loss of an additional revenue source to pay for technology.

SIGNIFICANT ISSUES

Like other property taxes imposed for school-related expenses (such as SB 9 and HB 33, otherwise known as the Public School Capital Improvement Act and the Public School Buildings Act), ETNs are sold using the district's property tax capacity to generate funds for the purpose of providing technology equipment. However, unlike these other taxes, they are the only property tax under the Public Finance Act that can be imposed without voter approval -- only school board approval is necessary for the issuance of ETNs.

While HB 382 makes the option of school districts to get voter's approval to enter into a lease purchase agreement under the provisions of the ETEA, there is nothing in current law that prohibits a school district currently that precludes districts from doing so. However, this bill also outlines procedures for submitting the question of entering into a vote, should a school board elect to do so. Currently, there are seventeen school districts utilizing financing under the ETEA.

RELATIONSHIP

HB 19 and SB 8 both allow charter schools to have access to ETNs when a school district chooses to enter into a lease purchase arrangement under the ETEA. Both bills as substituted also contain language noting a school district may decide whether to submit to voters the question of entering into a lease purchase arrangement.

TECHNICAL ISSUES

AGO notes the following technical issues:

The language in HB 382 may conflict with the state constitution by imposing certain parameters which would restrict a school district's constitutional authority to enter into lease-purchase arrangements. Article 9, Section 11 of the New Mexico Constitution provides: "A school district may create a debt by entering into a lease-purchase arrangement to acquire education technology equipment without submitting the proposition to a vote of the qualified electors of the district ..." Additionally, current Subsection 6-15A-14(A) states the Educational Technology Equipment Act "shall not be regarded as a derogation of any powers now existing." Page 5, lines 2 to 4 of HB 382, proposed Subsection 6-15A-8(D), provides if the issue is put to voters and the voters reject the question for incurring debt, "the local school board shall not enter into a lease-purchase arrangement for education technology equipment for at least one year." Although the state constitution's grant of authority for districts to enter into lease-purchase arrangements is not explicitly unlimited, some consideration to be given to whether imposing such restrictions as waiting one year after voters reject the question would create an unintended conflict.

AGO also notes the bill would prohibit a district from entering into any lease-purchase arrangement for one year if a question proposing a lease-purchase arrangement is presented to and rejected by the voters and that it is unclear whether the intent is to prohibit districts from entering into a lease-purchase arrangement that is the same as rejected by the voters or if districts are prohibited from entering into any lease-purchase arrangement for any education technology equipment for one year after voters reject any proposed lease-purchase arrangement. If the intent is to prohibit any lease-purchase arrangement for a year, the language does not need revision.