



STATE OF WEST VIRGINIA
DEPARTMENT OF REVENUE

STATE CAPITOL
CHARLESTON, WEST VIRGINIA

DAVE HARDY
CABINET SECRETARY

OFFICE OF THE SECRETARY

Memorandum

To: Hank Hager
Counsel
Senate Committee on Education

From: Mark Muchow *MBM*
Deputy Cabinet Secretary
West Virginia Department of Revenue

Re: West Virginia Student Success Act of 2019

The following is an analysis of the tax-related provisions within the draft version of the West Virginia Student Success Act of 2019.

Personal Income Tax Credit

This proposed bill creates a Personal Income Tax credit of up to \$250 for the purchase of supplementary education materials or professional development costs incurred by a classroom teacher, classroom aide, autism mentor, braille specialist, early childhood classroom assistant, paraprofessional, sign language assistant teacher, educational sign language interpreter or sign language support specialist employed by a public or private school. However, the bill is silent on a number of other provisions, including but not limited to if the teacher must be a West Virginia resident or if the teacher must teach in a West Virginia school. For the purpose of this analysis, we assume a qualifying teacher must teach in a West Virginia-based public or private primary or secondary school. If the tax credit was effective for tax years beginning on or after January 1, 2020, the revenue loss from this credit would be \$5.9 million per year beginning in FY2021.

The new tax credit for teachers would result in an increase in costs to the State Tax Department of \$56,000 in FY2021 and \$40,000 in subsequent fiscal years. If the provisions of the bill were changed to allow the credit for tax years beginning on or after January 1, 2019, the costs would be \$56,000 in FY2020 and \$40,000 in subsequent tax years.

Language of the proposed bill does not provide sufficient guidance as to residency or school location requirements. As written, the proposed bill does not appear to limit the tax credit to school personnel in this State. It is plausible that a West Virginia resident who works in a neighboring state may qualify. The term "qualified educational expenses" is broadly defined.

Property Tax Levy Rate Changes

The bill would also provide additional authority for county boards of education to elect to increase their regular levy Property Tax rates up to their constitutional maximums if they receive voter approval to implement such policy change. If all county boards of education increased their levy rates to the new maximums, Property Tax revenue for county school boards would initially increase by up to a maximum of \$110 million, or an 18.3 percent increase in regular levy tax rates, by as early as FY2022. We are unable to determine how many school boards would elect to increase their levy rates or by how much. Given the requirement for prior voter approval, such change may take more than one year to implement for county boards of education. Some boards of education might elect to offer their proposed regular levy rate increases in exchange for some decrease in current excess levy rates. A permanent increase in regular levy rates requires a one-time vote, whereas excess levies must be renewed once every five years by popular vote. Given historical trends, votes to increase tax rates will be most prevalent among those counties with larger than average shares of industrial property.

The bill voids the provisions of Code §11-8-6f (a) and (b), pertaining to the formula for determining regular state-wide levy rates, effectively removing the Legislature's discretion to establish state-wide rates to accommodate changes – upward or downward – in the aggregate value of property, beginning with tax year 2020 and fiscal year 2021.

The language of the proposed procedure for increasing the county levies may be flawed insofar as it requires a majority vote of all registered voters in the county to effect an increase in the levy rate, by its reference to “a majority vote of the voters of the county.” In a similar context, the State Constitution uses the formula “approved by a majority of the votes cast for and against.”

Cc: Dale Steager
State Tax Commissioner

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