

Duplicates/Conflicts with/Companion to/Relates to: SJR3

Duplicates/Relates to Appropriation in the General Appropriation Act: Relates to PreK in HB2

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: HJR1 proposes an amendment to Article 12, section 7 of the constitution of New Mexico, subject to the approval of the legislature, to provide for additional annual distributions of the permanent funds, including distributions from the permanent school fund in FY20 and FY21 for educational programs and early childhood educational services and in subsequent years for early childhood educational services.

House Joint Resolution 1 amends the constitution of New Mexico to increase the distribution from the Land Grant Permanent Fund to do the following:

- To establish a minimum five-year average year-end market value of the Land Grant Permanent Fund of twelve billion dollars before any additional distributions are permitted.
- If approved by voters in a statewide referendum, the state constitution would be amended to require the Land Grant Permanent Fund (LGPF) annual distributions in FY20 to increase from the current base level of 5%, to a new base of 5.7%, and be used for “the implementation and maintenance of educational programs administered by the state as provided by law”. For FY21, the annual distribution for “educational programs” will decrease to 0.3%, to a new base of 5.3%.
- For FY20, provide a 0.3 percent additional annual distribution from the permanent school fund, to fund nonsectarian early childhood education programs administered by the state for the benefit of children before they are eligible to attend kindergarten. This would raise the total distribution from the fund to 6%. For FY21, the additional annual distribution for “early childhood educational programs” would increase to 0.7%; which, combined with the decrease in the percentage for educational programs above, would keep the total distribution at 6%.
- For FY22 and each subsequent fiscal year, one percent of the year-end market values of the fund for the immediately preceding five calendar years shall be used for early childhood educational services. As there is no mention of other “educational programs” this will maintain the fund distribution at 6%.
- A three-fifths majority in both the House and Senate can vote to suspend the additional distributions, and the additional distribution would be suspended should the 5-year LGPF average drop below \$12 billion.
- The amendment must be submitted to the people for their approval or rejection at the next general election or at any special election prior to that date that may be called for that purpose.
- The amendment shall not become effective without the consent of the United States congress.

HJR1 defines “early childhood educational services” as nonsectarian services for children not yet eligible for kindergarten. These services may be provided by a school district (charter schools are not addressed), an entity of an Indian nation, tribe, or pueblo; the New Mexico School for the Blind and Visually Impaired or the New Mexico School for the Deaf; provided that

- Early childhood education services available from the New Mexico School for the Blind and Visually Impaired or the New Mexico School for the Deaf shall not be delivered by a state contractor.

- Funds are allocated to increase the availability and quality of early childhood education and not to supplant existing early childhood educational service providers
 - school districts providing early childhood educational services use the funds to strengthen and expand programs in low-income communities first
 - school districts contract only with educational service providers that have employment standards that are comparable to the public schools' employment standards. The resolution is not clear if "employment standards" includes equal degree and professional licensure requirements, and/or salary and benefit plans. The language in the resolution is also not clear whether the districts are required to contract with early childhood service providers.

FISCAL IMPLICATIONS

- Revenue impacts were received from the State Investment Council. The balance of the fund at the end of FY2016 was \$14.9 billion, with a distribution of \$689 million.
- The fund is operated as an endowment fund with distributions used annually to support a number of programs funded from the general fund.
- The fund is administered by the state investment council in accordance with the Uniform Prudent Investor Act.
- The joint resolution provides for increasing the distribution from the land grant permanent fund to 6 percent.
- A safety valve provision is included that in the event balances in the fund fall below a five year average of \$12 billion, the distributions would not be made.
- PED would require additional program and fiscal staff to assist in the implementation of these services.
- This resolution has the potential to drastically reduce the value of the fund.

SIGNIFICANT ISSUES

- The Executive has been very clear in not supporting a raid of the permanent fund to unnecessarily expand government. Early childhood spending on targeted programs has proven to be effective and the executive recommendation includes funding, and in the past funding increases, for many of these programs.
- It is unclear whether the demand for such early childhood programs exists to spend such a large amount of new funds. The Executive has encouraged an incremental approach to increasing early childhood programs such as kindergarten and K-3 Plus. This allows these programs to expand to meet demand and allow infrastructure to grow enough to serve that demand.
- The land grant permanent fund is generally referred to as a "rainy day" fund and looked upon as a safety valve for the state. In actuality, the fund is operated as an endowment fund with distributions used annually to support a number of programs funded from the general fund.
- Additional distributions could put these recurring revenues at risk if economic conditions were to fall.
- The joint resolution also does not specify what programs these funds should be directed to which may cause various entities to vie to get a portion of the funds available. Accountability for results may suffer as a number of weak programs may be allocated dollars.
- HJR1 makes a progressive distribution from 0.3% in FY20 to 1% in FY22 and thereafter for the purpose of early childhood programs for children not yet eligible for school.
- HJR1 makes no mention of the role of a state agency in distributing the funds, but does reference "early childhood programs administered by the state".

- In FY20, the resolution makes a .7% distribution from the permanent school fund to implement and maintain educational reforms, which drops to .3% in FY21 and is eliminated in subsequent years. These “educational reforms” are not defined further.
- The amendment contained in this resolution is subject to approval or rejection by voters at the next general election. If SJR2 passes during this legislative session, the constitution would be amended after voter approval.

New Mexico PreK

The New Mexico PreK Program (Children’s Code, 32A-23-1-8) provides *voluntary* pre-kindergarten services to four-year-old children in the state. The program shall address the total developmental needs of preschool children including physical, cognitive, social and emotional needs and, also, health care, nutrition, safety and multicultural sensitivity.

In FY2017, \$22,913,616.00 was allocated to 54 school districts, 14 of which are served through two regional education cooperatives, and 6 state charter schools to serve 5,223 four-year olds in 233 classrooms at 144 school sites, with 1,371 receiving extended-day services. Due to receiving the same appropriation as FY16, only applications for continuing programs were accepted at the same rate of funding as for FY16. However, districts and charters were allowed to adjust the number of children served at particular school sites, and the number of children served in extended-day classrooms to address community need.

ADMINISTRATIVE IMPLICATIONS

The PED would require additional personnel in the Literacy and Early Childhood, Procurement, and Fiscal Grants Management bureaus to support, monitor and fund additional early childhood programs.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This resolution is in companionship with SJR3, but differs in the following:

- SJR3 increases the distribution for early childhood education services to 1.5%, resulting in a 6.5% total annual distribution from the fund
- SJR3 limits distributions if the five year average balance fall below \$10 billion
- SJR3 includes “through a state agency” in the list of eligible service providers, but does not include “school district”.
- SJR3 does not mention contractors.
- SJR3 does not specify a fiscal year in which distributions will begin

TECHNICAL ISSUES

Charter schools are not addressed in this resolution.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

None identified

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If HJR1 is not enacted, early childhood programs will continue to receive funding from the General

Appropriation Act.

AMENDMENTS

None at this time