

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number:** SB 150

**50th Legislature, 1st Session, 2011**

**Tracking Number:** .183156.3

**Short Title:** Research Park Royalties to Pre-K Fund

**Sponsor(s):** Senators John Sapien and Eric G. Griego

**Analyst:** Craig J. Johnson

**Date:** February 13, 2011

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**Bill Summary:**

SB 150 adds a new section to the *University Research Park and Economic Development Act* to require university research parks annually to distribute a total of 8.0 percent of royalties from technological innovations to the two New Mexico PreK funds:

- 4.0 percent of royalties to the Public Pre-Kindergarten Fund; and
- 4.0 percent of royalties to the Children, Youth and Families Pre-Kindergarten Fund.<sup>1</sup>

**Fiscal Impact:**

Given that licensing revenues vary from year to year and there are a variety of licensing agreements (one-time, recurring, exclusive, non-exclusive, etc.) it is difficult to predict the fiscal impact of SB 150.

**Substantive Issues:**

Analysis from the University of New Mexico (UNM) notes that SB 150 would be diverting funds at the University and Health Sciences Center that are currently reinvested (as is required by the *Bayh-Dole Act*) into scientific research and education.

- It is initially unclear whether enacting this legislation is possible given the regulations outlined in the *Bayh-Dole Act*. As the vast majority of university patents and licensable intellectual property have roots in federally sponsored research, the specific regulations regarding licensing revenues must be carefully considered.
- In brief, the *Bayh-Dole Act* requires that “universities must share with the inventor(s) a portion of any revenue received from licensing the invention. Any remaining revenue, after expenses, must be used to support scientific research or education.” It is not immediately clear whether the proposed allocation of licensing revenues as articulated in SB 150 constitutes “scientific research or education” as outlined in the *Bayh-Dole Act*.

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<sup>1</sup> The term “royalties” includes all income received by universities or those universities’ research park corporations for a license of technological innovations, but it does not include payments for research, development, or reimbursement of patent costs.

## **Background:**

The purpose of the *University Research Park and Economic Development Act* is to promote the public welfare and prosperity of the people of New Mexico, foster state economic development, forge links between higher education and business and industry, and to advance science, research, conservation, health care and economic development within New Mexico. Both UNM and New Mexico State University have established research parks.

In 2005, legislation endorsed by the Legislative Education Study Committee was enacted to establish the *Pre-Kindergarten Act*, creating a voluntary program of pre-kindergarten services for four-year-old children offered by public schools, tribes or pueblos, Head Start centers, and licensed private providers. The New Mexico PreK program is administered jointly by the Public Education Department (PED) and the Children, Youth and Families Department (CYFD). The *Pre-Kindergarten Act* reimburses service providers on a per-child basis, and it creates two non-reverting funds: the Public Pre-Kindergarten Fund, administered by PED, and the Children, Youth and Families Pre-Kindergarten Fund, administered by CYFD.

Since 2005, the Legislature has appropriated over \$98.8 million to implement New Mexico PreK, including over \$6.0 million in federal Temporary Assistance for Needy Families (TANF) funds and approximately \$17.0 million for classrooms. For FY 11, the Legislature approved total funding of approximately \$17.0 million; and PED and CYFD have approved 92 programs serving a total of approximately 4,400 children statewide.

Annual external evaluations of the program since school year 2005-2006 have found that New Mexico PreK improves children's readiness for kindergarten in the key academic areas of vocabulary, math, and early literacy.

## **Related Bills:**

SB 167a *Equal Pre-K Program Appropriations*