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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/11/11

SPONSOR Sapient LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Research Park Royalties to Pre-K Fund SB 150

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### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	FY12	FY13		
	*(\$64.0)		Recurring	Various University General Funds
	*\$32.0		Recurring	Public Pre-K
	*\$32.0		Recurring	CYFD Pre-K

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Education Department (PED)  
New Mexico State University (NMSU)  
University of New Mexico (UNM)

### SUMMARY

#### Synopsis of Bill

Senate Bill 150 (SB 150) enacts a new section of the University Research Park and Economic Development Act (Act) to require a university that forms a research park corporation, on an annual basis, distribute eight percent of its royalties from technological innovations to the Public prekindergarten (PreK) Fund and Children, Youth and Families (CYFD) PreK Funds. Royalties means all income received by universities or those universities' research park corporations for a license of technological innovations, but does not include payments for research, development, or reimbursement of patent costs.

### FISCAL IMPLICATIONS

The bill diverts 8% of royalties earned from the commercialization of university intellectual property as follows: 4% to the Public PreK Fund and 4% to the CYFD PreK Fund. The revenue impact affects different funds that offset one another as reflected in the table above.

UNM reports that for the past several years 8% would have amounted to the following (dollars in thousands):

- FY06 – 62.5
- FY07 – 57.5
- FY08 – 45.1
- FY09 – 64.3
- FY10 – 302.2\*

\*The large amount of licensing revenues in FY10 were non-recurring revenues resulting from several non-exclusive licenses of a single suite of patents.

## **SIGNIFICANT ISSUES**

The bill will provide an incremental amount of recurring funding to State PreK Funds. Given the variability of licensing revenues, it is difficult to accurately predict the actual fiscal impact.

Universities report that the NM Research Park and Economic Development Act (NMRPEDA) companies are intended to diversify the funding base for universities in furtherance of its teaching, research and service mission.

The Pre-Kindergarten Act enacted in 2005 provided that CYFD and PED cooperate in the development and implementation of voluntary PreK programs. The Act also created non-reverting PreK Funds. In FY11, PED allocated \$6,416,374 in PreK funds to provide pre-kindergarten services to 2,121 four-year-olds in 86 Pre-K classrooms. As a result of budget reductions to the PreK budget, 323 fewer children are being served this year.

## **PERFORMANCE IMPLICATIONS**

Many university patents and licensable intellectual property have roots in federally-sponsored research. 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 constitutes “scientific research or education”.

## **OTHER SUBSTANTIVE ISSUES**

PreK begins to close the achievement gap between students and helps meet the vision of a seamless education system that begins in pre-kindergarten and continues through higher education. Studies show that PreK is having significant, positive effects on children's learning in the areas of language, literacy, and math skills.

The purpose of the Act is to 1) promote the public welfare and prosperity of the people of New Mexico, 2) foster economic development within New Mexico, 3) forge links between New Mexico’s educational institutions, business and industrial communities and government through the development of research parks on university real property, 4) engage in other cooperative ventures of innovative technological significance that will advance education, science, research, conservation, health care or economic development within New Mexico, or 5) engage in other cooperative ventures of innovative technological significance that will advance education, science, research, conservation, health care or economic development within New Mexico.

**TECHNICAL ISSUES**

There may be confusion if universities consider licensing fees non-royalty income.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Funding for PreK programs will remain the same.

AHO/bym