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FISCAL IMPACT REPORT

ORIGINAL DATE 01/31/12

SPONSOR Nava LAST UPDATED _____ HB _____

SHORT TITLE 51 Percent Of Appropriations For Schools, Ca SJR 12

ANALYST Walker-Moran

APPROPRIATION (dollars in thousands)

Appropriation					Recurring or Nonrecurring	Fund Affected
FY12	FY13	FY14	FY15	FY16		
\$0.0	\$0.0	\$457,500.0	\$472,770.0	\$481,940.0	Recurring	Public School Support General Fund
\$0.0	\$0.0	(\$457,500.0)	(\$472,770.0)	(\$481,940.0)	Recurring	All other Agencies General Fund

(Parenthesis () Indicate Revenue Decreases)

Duplicates HJR 20

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)
 Department of Finance and Administration (DFA)
 Attorney General's Office (AGO)
 Department of Information Technology (DoIT)
 Office of the State Auditor (OSA)
 Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

Senate Joint Resolution 12 proposes to amend Article 12 of the Constitution of New Mexico by adding a new Section 16 to require that not less than 51 percent of all general appropriations for the operations of state government be made for support of public schools and pre-kindergarten programs. The amendment shall 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.

FISCAL IMPLICATIONS

This bill may be counter to the LFC tax policy principle of adequacy. According to the LFC staff General Fund Recurring Appropriation Outlook for FY14 and FY15, December 2011 forecasted revenues will be insufficient to cover growing recurring appropriations.

Since there is no fixed implementation date, this analysis assumes that the resolution will be submitted at the next general election in November 2012. The changes will be made to the FY14 state budget.

The FY12 appropriations were \$5,416.9 million. The Public School Support and Pre-Kindergarten program (PSS) Appropriation was \$2,338.4 million or 43 percent of appropriations. If the PSS appropriation is increased to 51 percent of appropriations this would add \$424.2 million or 8 percent. According to the December 5, 2011 Consensus Revenue Estimate, recurring revenues will be \$5,841.8 million in FY14, \$6,036.8 million in FY15 and \$6,153.9 million in FY16. Under the new 51 percent proposal in HJR 20, PSS will be appropriated about \$2,979.3 million in FY14, \$3,078.8 million in FY15 and \$3,138.5 million in FY16. The estimated gain to PSS is \$457.5 million in FY14, \$472.8 million in FY15, and \$481.9 million in FY16. The estimated loss to all other agencies who receive GF is \$457.5 million in FY14, \$472.8 million in FY15, and \$481.9 million in FY16.

By increasing general fund to PSS, all other agencies who receive general fund will be required to decrease their budgets. This will have a severe impact on all agencies. It is unclear whether adding additional appropriation to PSS will increase educational outcomes.

There are several options the Legislature can take:

1. Cut all agencies' general fund budgets by 8 percent;
2. Prioritize agencies and cut each one by a different percent to achieve the total eight percent cut;
3. Raise taxes by 16 percent to replace the lost revenues.

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

SIGNIFICANT ISSUES

According to DFA, this proposal would decrease the flexibility of future legislatures to channel funding where it is most needed. If general fund revenues increase at a rate faster than the student and pre-school populations, the appropriation to public schools and PreK programs could be greater than the need for funding. The general fund is estimated to grow at a rate of 2 percent to 3 percent, whereas the population growth rate of persons under 18 was only 2 percent in the last 10 years according to the U.S. Census Bureau.

The Attorney General's Office points to a significant legal issues - the remedy is unclear should the legislature fail to sufficiently appropriate. For example, would a court order the legislature to appropriate more money or order the governor to veto appropriations to other agencies, either pro rata or as her discretion determines, to meet the percentage requirement.

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If this Resolution is passed and approved, the Office of the State Auditor will not be able to carry out its duties to audit governmental entities that receive and expend public monies.

According to the Administrative Office of the Courts, the increase in public school funding that this joint resolution would put to the voters would have significant effects on other statutory requirements. School funding is a complex amalgam of local, state and federal contributions. A substantial part of such funding is the statutory requirement of equalization guarantees under NMSA 1978, Section 22-8-25. A significant increase in state funding will have to be accounted for in the funding formulas for all the school districts. In addition, a foreseeable consequence is that local funding, based as it is on local tax revenues, will decrease in response to greater state funding.

ADMINISTRATIVE IMPLICATIONS

The Public Education Department (PED) administers the public school support fund and the pre-kindergarten fund. Administrative implications for the PED should be minimal.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Public schools and kindergarten programs in New Mexico would continue to have to operate within the funding levels that are currently allocated.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy:** Revenue should be adequate to fund needed government services.
2. **Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity:** Different taxpayers should be treated fairly.
4. **Simplicity:** Collection should be simple and easily understood.
5. **Accountability:** Preferences should be easy to monitor and evaluate

EWM/svb