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FISCAL IMPACT REPORT

SPONSOR:	Gorham	DATE TYPED:	02/9/00	HB	
SHORT TITLE:	Jumpstart in Education Act			SB	416
				ANALYST:	Baca

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY00	FY01	FY00	FY01		
See below*				Recurring	General Fund

**The effective date for the bill is July 1, 2002, or fiscal year 2003. The expenditures will be recurring and funded from the general fund.*

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC files, State Department of Education (SDE)

SUMMARY

Synopsis of Bill

Senate Bill 416 is cited as the Jump Start in Education Act. It creates a voucher program for eligible students who choose to attend an eligible private school kindergarten, defines "eligible students," spells out the process that eligible students and eligible private school kindergartens must follow if they wish to participate in the program, mandates that SDE calculate the "redemption" value of the vouchers to be used, amends the duties of the State Board of Education (SBE) to include the determination of rules and policies for the operation of the act, and assigns the duties of the SDE and State Superintendent of Public Instruction.

Significant Issues

A key element of the bill is the definition of an eligible student. An eligible student is defined as a child who is five years old at 12:01 am on August 31 of the school year in which the child will participate in the program and a child who did not receive special education services the previous school year.

Current law defines an eligible student as one who is five years of age at 12:01 a.m. on September 1 of the year in which program participation is sought.

The bill addresses the respective responsibilities of participating private schools, the SBE, the SDE and the State Superintendent of Public Instruction in some detail. The bill also mandates the factors to be used in calculating the value of a voucher, the process to be used in redeeming it, and time lines for the SDE to redeem vouchers. The requirements of the bill include timely notification to parents and local boards of education. (See attachment for outline of the bill's salient features.)

FISCAL IMPLICATIONS

The bill's fiscal impact is indeterminate. It is not possible at this time to project the number of additional students that will enter the public funding system. The SDE analysis indicates enrollments in public school kindergartens have shown little change during the past several years so the increased costs would come from students whose families would "normally" enroll them in private kindergartens.

The SDE analysis states that the average number of units per kindergarten child is 0.939. Because the bill excludes students with special needs, the average number of units per child is 0.818 when all special education units are removed from the calculation. SDE staff calculates that the redemption value of the voucher would be an estimated \$2,238.28 including \$226 for transportation using the 1999-2000 unit value of \$2,460. The actual value of the voucher would vary among districts because of each district's at-risk index and transportation allocation.

ADMINISTRATIVE IMPLICATIONS

The administrative impact on SDE is significant. The issuance and redemption of vouchers would create an additional, heavy workload for the fiscal office while program monitoring activities would further tax the agency's program staff. Notification of parents along with the review of applications and ensuring compliance with SBE rules would also require considerable staff and time.

CONFLICT/DUPLICATION/COMPANIONSHIP/RELATIONSHIP

SDE staff concludes there is a potential conflict between SB 416 and the Open Enrollment Act and the Charter Schools Act because both address enrollment procedures at variance with those in the bill.

TECHNICAL ISSUES

SDE staff suggests the following issues be examined:

- reconsideration of attempts in the bill to incorporate substantive law by reference, e.g., provisions of Title VI,
- definition of the terms "qualified independent auditor,"

- clarification of Section 7(E) regarding redemption of the voucher - a private school or school district;
- requiring that the private school notify a school district when a child is disenrolled, and
- ensuring that provisions of the law regarding nonpayment until services are rendered be observed.

SDE staff also suggests that the bill clearly state that the value of the voucher will not exceed the tuition and fees charged nonparticipating children.

OTHER SUBSTANTIVE ISSUES

The SDE analysis suggests the bill may be subject to challenge as potentially violative of both the state and federal constitutions and cites a New Mexico Attorney General's opinion that concludes "that the use of public money to provide parents of private school children with tuition assistance raises substantial constitutional questions, most significantly Article XII, Section 3, which proscribes the use of public money for the support of private schools, and the antidonation clause of Article IX, Section 14."

The exclusion of students with special needs also raises some questions concerning issues of parental choice and fairness, and, thus potentially open to challenge.

LB/prr:gm

ATTACHMENT

SENATE BILL 416, THE JUMP START EDUCATION ACT

SALIENT FEATURES

The salient features of the SB 416 are outlined below:

To be eligible to participate in the program, the private school must:

- Notify the State Superintendent of Public Instruction and the local board of its intent to participate in the program and provide an estimate of the number of students it will have space for the following year,
- Meet all health and safety laws and codes that apply to public school kindergartens,
- Comply with applicable federal statutes, e.g., Title VI which prohibits discrimination on the basis of race, color or national origin in federally assisted programs;
- Not discriminate between students in the program and others enrolled in the school,
- Accept students participating in the program on a random basis, and
- Comply with requirements for participation established by the SBE.

A participating private school must also follow the notification procedures mandated by the bill.

The SDE is required to determine the value of the voucher by calculating what the student would generate through the State Equalization Guarantee (SEG), exclusive of size adjustment and training and experience factors and through the public school transportation formula, if applicable. SDE is also required to pay voucher installments on redeemed vouchers.

The duties assigned to the State Superintendent include:

- Make recommendations to the SBE concerning procedures and rules necessary to fully implement the Jump Start in Education Act,
- Administer the program, including the issuance and redemption of vouchers;
- Ensure parents are notified annually of private school kindergartens participating in the program, and
- Monitor the performance of children participating in the program.