

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number:** HJR 20

**50th Legislature, 2nd Session, 2012**

**Tracking Number:** .188424.1

**Short Title:** 51 Percent of Appropriations for Schools, CA

**Sponsor(s):** Representative Rick Miera and Others

**Analyst:** Kevin Force

**Date:** January 31, 2012

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**Bill Summary:**

HJR 20 proposes to amend Article 12 of the Constitution of New Mexico to add a new Section 16, which would require that the Legislature annually appropriate “at least 51 percent of all General Fund appropriations” for the support of public school and pre-kindergarten programs.

The amendment proposed by the resolution, if passed, would be submitted to the voters for their approval at the next general election or special election that is called for that purpose.

**Fiscal Impact:**

HJR 20 would require that that the Legislature, every year, appropriate 51 percent of all General Fund appropriations for the support of public school and pre-K programs.

**Fiscal Issues:**

Because HJR 20 would require that 51 percent of *all* General Fund appropriations go to public schools and pre-K programs, it appears that it would have financial ramifications for the other recipients of General Fund appropriations in New Mexico.

According to the Department of Finance and Administration (DFA) analysis of SJR 12, which is identical to HJR 20:

- If approved by the voters, the fiscal impact would not be affected until FY 14.
- According to the December 2011 consensus revenue forecast, total General Fund recurring revenue in FY 14 will be \$5.842 billion.
- The amount available for public schools and pre-kindergarten programs would be \$2.979 billion.
- The amounts available in FY 15 and FY 16 would be about \$3.08 billion and \$3.14 billion respectively.
- In FY 12, the amount appropriated for public schools was approximately 44 percent of General Fund appropriations, or 47 percent, if the appropriation to the Children, Youth and Families Department is included.
- An additional \$233 million would be appropriated to public schools and pre-K programs under in FY 14.

- The equivalent amounts in FY 15 and FY 16 would be \$241 million and \$245 million respectively.
- This appropriation would have to be offset by decreases in funding to other programs or agencies.

In its analysis of SJR 12, the Office of the State Auditor (OSA) notes that:

- while impossible to predict the exact effects, the proposed amendment would have a significant impact upon OSA;
- it is unknown how the remaining 49 percent of General Fund appropriations would be distributed among state agencies; and
- there would certainly be a “drastic decrease to the OSA’s operating budget and . . . devastating fiscal implications.”

According to the analysis of SJR 12 submitted by the Administrative Office of the Courts (AOC):

- the proposed amendment would have no apparent, direct fiscal effect on the Judiciary;
- the public schools received about 43 percent of the General Fund appropriation for FY 12, and the Legislative Finance Committee (LFC) proposed that the public schools receive over 42 percent for FY 13, so that a change to 51 percent would be a substantial increase;
- if the public schools would receive a substantially larger share of the General Fund each year than they already receive, the Judiciary’s budget will consequently be significantly reduced because it does not get significant additions from local and federal contributions; and
- such budget decreases to the Judiciary would result in significant reductions in public service, endangering the Judiciary’s ability to execute its constitutional requirements.

According to the Public Education Department (PED) analysis of SJR 12, a joint resolution identical to HJR 20:

- The December 2011 consensus revenue estimate indicates that projected General Fund revenue for FY 13 will be approximately \$5.69 billion.
- Assuming that the appropriation will be distributed to the public schools and pre-K programs as HJR 20 directs, about \$2.9 billion would be available for those funds in 2013.
- The current Executive recommendation includes 42.25 percent for public school support and 0.15 percent for the pre-kindergarten program, which, under HJR 20 would result in an increase of 8.6 percent, or \$4.98 million to public schools and pre-K programs in FY 13.

### **Technical Issues:**

According to the Attorney General’s Office (AG) analysis of SJR 12:

- Federal funds are not subject to appropriation, and the resolution is unclear regarding the amount of federal funds for public school support to be considered in determining whether the required 51 percent appropriation has been achieved.

- In Section 1 of the joint resolution, the phrase, “the subsequent fiscal year” should be “each fiscal year.”

**Substantive Issues:**

According to the DFA analysis of SJR 12:

- This proposal would decrease the flexibility of future legislatures to channel funding where it is most needed.
- The General Fund is estimated to grow at a rate of 2.0 to 3.0 percent, whereas the population growth rate of persons under 18 was only 2.0 percent in the last 10 years according to the US Census Bureau.
- If General Fund revenues increase at a rate faster than the student and pre-school populations, the appropriation to public schools and pre-K programs might be greater than what is actually needed.

According to the AG, the remedy for failure to appropriate as required by the joint resolution is not clear:

- Would the courts order the legislature to appropriate as required, or
- Would the governor be ordered to veto appropriations to other agencies, either pro rata or at her discretion, in order to fulfill the requirements of the proposed amendment?

According to OSA, if the resolution is approved, the agency would not be able to maintain current staff levels, and would have to make deep cuts to its FTEs, including auditors. Thus, the agency will not be able to fulfill its duties:

- to ensure that the more than 1,000 governmental entities that receive and expend public monies are audited annually; and
- to uncover waste, fraud and abuse in government.

According to the AOC:

- the proposed increase in public school funding would have significant effects on other statutory requirements;
- school funding is a complex amalgam of local, state and federal contributions, a substantial portion of which is the statutory requirement of equalization guarantees under the *Public School Finance Act*;
- a significant increase in state funding will have to be accounted for in the funding formulas for all school districts;
- as a result of greater state funding, local funding, based on local tax revenue, may be decreased in response; and
- the courts are participating in performance-based funding and the proposed amendment may affect performance measures of the district courts in:
  - cases disposed of as a percent of cases filed, and
  - percent change in cases filings by case type.

According to the PED analysis of SJR 12, the joint resolution is unclear as to which specific funds that support public school and pre-K programs would be the beneficiaries of the 51 percent appropriation from the General Fund.

**Background:**

According to PED:

- in FY 12, of the approximately \$5.53 million in General Fund revenue, 42.38 percent of the General Fund went to public school support and the pre-kindergarten program, of which 42.26 percent was appropriated for public school support and 0.11 percent was appropriated for pre-K programs;
- the FY 13 LFC recommendation includes 42.35 percent for public school support and 0.19 percent for the pre-kindergarten program; and
- the FY 13 House Education Committee recommendation includes 42.34 percent for public school support and 0.19 percent for the pre-kindergarten program.

The General Fund appropriation of 51 percent required by the proposed amendment would be an increase of nearly 8.5 percent, a significant increase over the reported recommendations.

**Related Bills:**

HB 21 *Limit on Land Grant Funds in Some Investments*

HJR 1 *Preserve Land Grant Permanent Fund, CA*

HJR 2 *Land Grant Fund Annual Distribution, CA*

HJR 15 *Permanent Funds for Education, CA* (Identical to SJR 9)

SJR 4a *Land Grant Permanent Fund Changes, CA*

SJR 9 *Permanent Funds for Education, CA* (Identical to HJR 15)

SJR 12 *51 Percent of Appropriations for Schools, CA* (Identical to HJR 20)