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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
53rd Legislature, 1st Session, 2017

Bill Number SJR18 **Sponsor** Sapien

Tracking Number .206476.2 **Committee Referrals** SRC/SJC/SFC

Short Title Severance Tax Money for Early Childhood, CA

Analyst McCorquodale **Original Date** 2/28/17

Last Updated _____

BILL SUMMARY

Synopsis of Bill

Senate Joint Resolution 18 (SJR18) proposes to amend Article 8, Section 10 of the New Mexico constitution by requiring an additional distribution of 0.8 percent of the average year-end market values of the severance tax permanent fund (STPF) to the general fund specifically for early childhood education and care programs. The constitutional amendment would be submitted for approval by voters of New Mexico at the next general election or in a special election.

FISCAL IMPACT

Joint resolutions do not carry appropriations.

The STPF inflows are determined by both the severance taxes collected from oil and gas, and the statutory formula that allocates the percentage of those taxes for bonding capacity. What is not used for bond debt maintenance and new bond issuance capacity then flows into the permanent fund.

STPF Values and Distributions (dollars in millions)

Fiscal Year of Distribution	Current Rate (4.7%)		SJR18 Rate (5.5%)		Difference	
	Value of STPF	STPF Distribution	Value of STPF	STPF Distribution	Value of STPF	STPF Distribution
2019	\$4,766.5	\$217.4	\$4,766.5	\$217.4		
2020	\$4,895.0	\$221.4	\$4,895.0	\$259.2	\$37.70	
2021	\$5,026.3	\$224.6	\$5,007.5	\$262.6	\$75.70	(\$18.85)
2022	\$5,162.5	\$230.5	\$5,104.6	\$268.9	\$114.10	(\$57.90)
2023	\$5,303.3	\$236.4	\$5,203.1	\$274.7	\$152.40	(\$99.80)
2024	\$5,446.5	\$242.8	\$5,301.8	\$280.6	\$190.20	(\$1,446.50)
2025	\$5,593.1	\$249.4	\$5,401.1	\$286.2	\$227.00	(\$1,920.30)
2026	\$5,742.8	\$256.1	\$5,501.1	\$291.6	\$262.50	(\$2,417.70)
2027	\$5,895.5	\$263.0	\$5,601.9	\$297.1	\$296.60	(\$2,934.70)
2028	\$6,051.1	\$270.1	\$5,703.9	\$302.6	\$329.20	(\$3,471.90)
2029	\$6,210.0	\$277.2	\$5,807.0	\$308.2	\$360.10	(\$4,028.90)
2030	\$6,371.7	\$284.5	\$5,911.2	\$313.8	\$389.30	(\$4,606.30)
2031	\$6,536.9	\$292.0	\$6,016.5	\$319.4	\$416.80	(\$5,204.20)
2032	\$6,705.2	\$299.6	\$6,122.9	\$325.2		(\$5,823.20)

Parenthesis () indicate expenditure decreases.

Source: LFC

The table on page one demonstrates projected STPF values and distributions for the next 14 fiscal years at both the current rate at 4.7 percent and the resolution's rate at 5.5 percent. The Legislative Finance Committee (LFC) explained the net investment returns are assumed to be at 6.45 percent (6.75 percent gross), and the average inflow over the past 15 years is \$35 million per year. The analysis indicated that during the 15-year period, the contributions from the severance tax bonding fund to the severance tax permanent fund have been volatile, ranging from annual contributions of under one hundred dollars (\$100), to more than \$125 million depending on the year.

According to the New Mexico State Investment Council (SIC), under SJR18, the STPF would deliver an additional \$416 million, or just under an additional \$35 million per year to the general fund. The SIC noted that as a result of the additional distribution of 0.8 percent, the STPF would have a projected \$582 million less in its corpus at the end of a dozen years. The SIC noted the difference is a recurring expense, which grows at an accelerated rate with each passing year, due to diminished earnings and lack of compound interest due to the money being spent instead of reinvested.

The SIC explained that under SJR18, the STPF's diminished value of \$582 million will result in lower earnings and compound interest on an annual basis. The annual earnings on \$582 million at 6.45 percent (net) are \$10.7 million. While the STPF appears to grow under either distribution rate, the benefits provided by the distribution of 0.8 percent are short-term, with the long-term result being diminished benefits for the general fund.

The constitutional amendment in SJR18 requires approval by voters in a 2018 statewide election, in either a general election or a special statewide election. Section 1-16-13 NMSA 1978 requires the Secretary of State (SOS) to print the full text of each proposed constitutional amendment, in Spanish and English, in an amount equal to 10 percent of the registered voters in the state. The SOS is also constitutionally required to publish the full text of each proposed constitutional amendment once a week for four weeks preceding the election in newspapers in every county in the state. LFC staff estimate each constitutional amendment may cost up to fifty thousand dollars (\$50,000) in printing and advertising costs based on 2016 actual expenditures.

SUBSTANTIVE ISSUES

According to the Office of the Attorney General (OAG), if passed by the voters, SJR18 could have the potential to be in conflict with the Anti-Donation Clause due to the vague authorization of specifically targeting funds towards childhood education programs. The OAG advises the Legislature to ensure the funds are only appropriated to public entities to avoid potential violations with the Anti-Donation Clause. However, a significant portion of early childhood care and educational services are currently provided by contracting with private providers through the Children, Youth and Families Department (CYFD), the Department of Health (DOH), and the Public Education Department (PED). LFC indicated if this constitutional amendment were passed by the voters then the Legislature could appropriate subsequent funding to state agencies to expand early childhood programs.

LFC reported New Mexico's early childhood programs currently serve children and families prenatally through third grade at a cost of nearly \$250 million annually. Early childhood services are provided by CYFD, PED, and DOH and focus on safety, physical care, behavioral health, developmental screening, parental support, and prekindergarten for 3- and 4-year-olds. LFC indicated these programs have proven to reduce more expensive and typically less effective

remediation later in life. New Mexico's investment in early childhood services is beginning to realize returns in investments, including increased reading and math competency for low-income children, reduced special education designations, and more consistent utilization of early well-child visits which should improve long term outcomes for children at risk.

LFC indicated that despite significant, targeted investments by the Legislature for New Mexico's early childhood service programs, the state remains behind most other states in many indicators of child well-being. LFC's 2015 Gap Analysis and Spending Plan report examined home-visiting, prekindergarten, childcare, and K-3 Plus (an extended school-year for students in kindergarten through third grade) for gaps in services, barriers to program expansion, and potential funding options.

LFC stated that while home-visiting has achieved successes in some high-risk New Mexico communities, developing community relationships and infrastructure continues to be a barrier to expansion. The majority of at-risk children remain underserved, and the state lacks sufficient information about whether the program is reaching the targeted population.

LFC estimates remaining statewide funding needs for all early childhood services is close to \$190 million. If SJR18 was passed by the voters, the additional distribution from the STPF would be greater than \$190 million. To close service gaps and continue improving early childhood outcomes, targeted interventions are needed, such as focusing state-funded home-visiting services to at-risk, low-income families in high-need communities. Additional funding is needed to grow at a rate to both serve more clients and improve quality.

CYFD noted the importance of funding early childhood education and child care services from a consistent source; however the department is concerned about the potential fluctuation of the proposed revenue stream.

TECHNICAL ISSUES

The Legislature may wish to consider a sunset clause in the event the additional 0.8 percent distribution negatively impacts the corpus of the fund.

RELATED BILLS

SB182, Early Childhood Land Grant Act, proposes to create an early childhood land grant permanent fund and the early childhood income fund.

HJR1/aHJC, Permanent Funds for Early Childhood, CA, proposes to increase the LGPF distribution by 1 percent to be used for early childhood education services.

HJR 2, Land Grant Fund for Economic Stimulus, CA, proposes to withdraw \$7 billion from the LGPF to provide economic stimulus programs to include \$1 billion for early childhood services.

SOURCES OF INFORMATION

- Children, Youth and Families Department
- Legislative Education Study Committee Files
- Legislative Finance Committee
- Office of Attorney General