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FISCAL IMPACT REPORT

SPONSOR Papen ORIGINAL DATE 2/06/17
 LAST UPDATED _____ HB _____

SHORT TITLE Early Childhood Land Grant Act SB 182

ANALYST Armstrong/Kludt

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
	Unknown		Recurring	Early Child Land Grant Income Fund
	Unknown		Recurring	Early Child Land Grant Permanent Fund

(Parenthesis () Indicate Revenue Decreases)

Relates to HJR1, HJR3, SJR3, SJR14, SJR18

SOURCES OF INFORMATION

LFC Files

Responses Received From

State Land Office (SLO)

Office of the Attorney General (OAG)

Children, Youth and Families Department (CYFD)

State Investment Council (SIC)

SUMMARY

Synopsis of Bill

Senate Bill 182 (SB182), the Early Childhood Land Grant Act, creates the Early Childhood Land Grant Permanent Fund (“permanent fund”) and the Early Childhood Land Grant Income Fund (“income fund”). The permanent fund would receive any revenue generated from unleased federal subsurface mineral rights transferred to New Mexico after the effective date of SB182. The bill provides that revenue generated from such lands in counties with a population over 140 thousand are exempt from this requirement.

The permanent fund is to be invested by SIC. Interest, dividends, and capital gains from the permanent fund are distributed to the income fund annually but unspent balances revert to the

permanent fund at the end of each fiscal year. SB182 provides use of the income fund is subject to legislative appropriation for nonsectarian services for children from birth until the age of kindergarten eligibility and SLO operations in managing the transferred federal mineral rights.

FISCAL IMPLICATIONS

The fiscal impacts of SB182 are unknown for a variety of reasons. The potential federal rights to be transferred to the state are speculative at this time and the amount of revenue that could come from such rights is unclear. Transfer of these federal rights is contingent on congressional action and legislation to do so has not been introduced. According to SLO analysis, between 5.3 million acres and 6.5 million acres are under consideration for transfer. However, the quality of the federal mineral rights is unknown. SLO commissioned a study by the Petroleum Recovery Resource Center at New Mexico Tech concerning the feasibility and advisability of the state land office assuming ownership and management of unleased federal split estate minerals and expects to present findings during the current legislative session.

Under federal law, the state receives 48 percent of Bureau of Land Management (BLM) oil and gas revenues. SLO analysis notes any transfer would likely be conditioned on containing such revenue sharing for the first 10 years.

SIGNIFICANT ISSUES

According to BLM, the agency has 9.5 million acres of split estate mineral rights in New Mexico, meaning the federal government owns the subsurface rights while the surface is privately owned. These subsurface acres are currently unleased by BLM, and SLO believes federal processes are hindering the efficient lease and revenue generation. However, SLO's analysis does not detail which BLM processes are preventing leasing and production or what SLO would do differently to generate revenue more quickly.

In addition to the 48 percent of revenues from BLM lands shared with the state, 2 percent is retained to support BLM operations, 40 percent is deposited in the U.S. Treasury's reclamation fund, and the remainder goes to the U.S. Treasury's general fund. Under SB182, all revenues would be deposited in the permanent fund with annual earnings available for appropriation, with 95 percent available for early childhood services and 5 percent for administrative costs. This distribution does not account for restoration or remediation.

The bill defines "early childhood services" as "nonsectarian services for children from birth until the age of kindergarten eligibility." This definition excludes early childhood programs that occur before birth, including home visiting services which begin prenatally.

Early Childhood Issues. Volume I of the LFC Report for Fiscal Year 2018 discusses in detail the increased funding commitment to early childhood education. New Mexico continues to show leadership in increased investment in early care and education. Despite significant focus on early childhood programs, New Mexico is among the three lowest-ranked states in the Annie E. Casey Foundation's annual *Kids Count Data Book*, which ranks states according to 16 child well-being measures, primarily because of the large number of children in need of services.

Early childhood funding has grown by more than 80 percent since FY12. However, improved leadership, coordination, and oversight are needed. By investing in early childhood programs,

taxpayers may save more over time through decreased juvenile delinquency, criminal activity and educational remediation. Strategic investments, along with careful attention to implementation and monitoring performance, could improve the social and cognitive skills of children, with benefits extending throughout a child's life.

For additional information regarding current funding and capacity estimates see Legislative Finance Committee (LFC) Volumes 1, 2 and 3.

ADMINISTRATIVE IMPLICATIONS

In addition to the transfer of federal rights to the state requiring additional administrative resources, SLO management of an additional 5.3 million to 6.5 million acres of mineral estate would entail substantial additional administrative resources.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Joint Resolution 1, House Joint Resolution 2, Senate Joint Resolution 3, Senate Joint Resolution 14, and Senate Joint Resolution 18 seek additional distributions from either the Land Grant Permanent Fund or the Severance Tax Permanent Fund for early childhood or educational programs.

TECHNICAL ISSUES

The bill provides all revenues generated from the mineral rights be deposited in the permanent fund. Investment earnings are to be distributed to the income fund each fiscal year and unexpended balances revert back to the permanent fund at the end of the year. The structure of the annual distribution from the permanent fund to the income fund is problematic.

- First, it is unclear if the annual distribution to the income fund in the “amount equal to the interest, dividends and capital gains of the early childhood land grant permanent fund” means the cumulative or annual investment earnings. It is also unclear if funds that were distributed to the income fund and reverted to the permanent fund at the end of a fiscal year are to be distributed back to the income fund for the next year. While the funds were originally from investment earnings, the bill does not clearly provide for how reversions will be accounted for in calculating distributions.
- Second, while SB182 protects the corpus of the permanent fund by limiting distributions to investment earnings, it could also result in undesirable fluctuations in the revenue available for legislative appropriation for early childhood services. Generally, other permanent funds distribute to income funds based on a five-year average balance which smoothes the revenue source and protects against volatility. Amending the bill to provide for distributions based on an average of prior-year earnings would address this concern.

The bill's language regarding legislative appropriations of the income fund appears to conflict with itself. On page 5, line 17, the bill states that the Legislature “may” appropriate the income fund. However, language on page 5, lines 20 and 21, and page 6, lines 1 and 2, states that 95 percent and 5 percent “shall” be appropriated annually for early childhood services and SLO's administrative costs, respectively.

On page 4, lines 13 through 15, SB182 exempts money generated in counties with a population over 140 thousand from the provisions regarding the permanent fund. The intent and effect of this exemption is unclear. SLO does expect that the transfer would not include mineral estate located in Bernalillo, Santa Fe, or Doña Ana counties, and states the exemption is thus unnecessary. As written, the bill allows for rights in those counties to be managed and developed by SLO but does not provide for the distribution of revenues from this potential production.

POSSIBLE QUESTIONS

Would revenues that would otherwise be distributed to other beneficiaries be used to initially manage the rights? Does this comply with federal and state law regarding use of trust land revenues?

How would SLO management of these split estates differ from BLM management? How would this result in increased or more immediate revenue for New Mexico?

How do BLM lease terms differ from SLO lease terms, e.g. length, lease payment, royalty rate?

Does SLO have a plan for funding restoration and remediation after development and production of these split-estate rights?

Is the intent for cumulative or annual investment earnings to be available for appropriation?

Why does the distribution to the income fund differ from other, similar funds?

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