

LFC Requester:	Becerra
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**AGENCY BILL ANALYSIS
2021 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

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{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date 3/4/2021
Bill No: HJR11

Sponsor: Reps. Zachary J. Cook & Rebecca Dow
Short Title: PUBLIC FUNDS FOR PRIVATE SCHOOLS, CA

Agency Name and Code PED - 924
Number: _____
Person Writing: John Sena
Phone: 505-570-7816 **Email** John.Sena@state.nm.us

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY21	FY22		
N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23		
N/A	N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Undetermined	Undetermined	Undetermined	Undetermined	Undetermined	Undetermined

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HJR1, Permanent Fund for Early Childhood, CA; HJR7, School Funding for Home of Private School, CA; SJR1, Funds for Teacher Salaries and Instruction; SJR 9, Repeal Anti-Donation, CA; SJR17, Right to Quality Education, CA; and SJR19, State Funds for Private Schools.

Duplicates/Relates to Appropriation in the General Appropriation Act- N/A

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Joint Resolution 11 (HJR11) proposes to amend Articles 4, 9, and 12 of the New Mexico Constitution to allow the state to divert certain public school funds to the parents or legal guardians of children to support their education at private or sectarian schools.

FISCAL IMPLICATIONS

HJR11 does not contain an appropriation.

The actual effect the proposed constitutional amendments would have upon public school funding would depend upon what legislation might be enacted under newly ratified constitutional provisions if HJR11 were passed by the legislature and ratified by the people. The proposed amendments, of themselves, would only set the stage for potential statutory changes that might redirect educational funding to the entities and individuals listed in the joint resolution. However, permitting funds currently reserved to the public schools be distributed to religious or private schools certainly would reduce the amount of funding otherwise available for the public schools, the only question is in what amount.

SIGNIFICANT ISSUES

HJR11 proposes amending Article 4, Section 31, of the state constitution – which currently prohibits the legislature from making appropriations for charitable or other benevolent purposes, to any person, corporation, association, or institution not under the absolute control of the state – by adding language that exempts entities provided for in Articles 9 and 12 of the state constitution.

Additionally, the joint resolution proposes adding an exception to Article 9, Section 14, of the state constitution, – widely known as the anti-donation clause – to allow the state to provide public school funding to parents or guardians of school-age children for educational purposes.

HJR11 proposes amending Article 12, Section 3 to permit public educational funds, other than those arising from distributions from the land grant permanent fund, be used to support religious

and private elementary, secondary, and postsecondary schools.

As a proposed amendment to the state constitution, HJR11 must pass each chamber of the legislature with a simple majority to be referred to voters for consideration at the next regular election or special election for the purpose of considering the amendment. Without any provision requiring submission of the proposed amendment to Congress for approval, the proposed changes to the state constitution cannot be effectuated.

School Funding Issues

HJR11 proposes to amend Articles 4, 9, and 12 of the New Mexico Constitution to permit public school funds to be provided to parents or legal guardians of any school-age children.

Specifically, the joint resolution would amend Article 4, Section 31 of the constitution, which bars an appropriation to any person or institution not under the total control of the state, by specifically including language exempting appropriations for educational purposes.

Article 9, Section 14 of the constitution – the “anti-donation clause” – generally prohibits states, counties, school districts, and municipalities from making any donation or financial provision for an person or private enterprise, but provides for certain exceptions. HJR11 proposes to add a new exemption permitting public funds to go to parents or legal guardians of children for educational purposes.

Article 12, Section 3 of the state constitution generally prohibits any funds appropriated or collected for educational purposes from being used for the support of any sectarian, denominational, or private elementary, secondary, or postsecondary school. HJR11 proposes to abolish language to that section that denies those funds being used for the support of private elementary or secondary schools. While the other amendments proposed by HJR11 are limited to educational purposes for children, the proposed amendment to Article 12, Section 3 would also allow certain educational funds go to postsecondary schools.

PERFORMANCE IMPLICATIONS

None at this time, pending any enacted legislation pursuant to the proposed constitutional amendments.

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HJR11 relates to HJR1, Permanent Fund for Early Childhood, CA; HJR7, School Funding for Home of Private School, CA; SJR1, Funds for Teacher Salaries and Instruction; SJR 9, Repeal Anti-Donation, CA; SJR17, Right to Quality Education, CA; and SJR19, State Funds for Private Schools.

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

N/A

AMENDMENTS

N/A