



AG: Early-Ed Plan Needs Congress' OK

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BY DEBORAH BAKER

Journal Capitol Bureau

A proposal to dip further into the state's largest permanent fund to expand early childhood programs would not only require voter approval but an OK from Congress, Attorney General Gary King says.

The proposed constitutional amendment squeaked through the House Judiciary Committee on Monday and headed to the House floor, after King's testimony and over the objections of Republicans who said it was too risky and lacked accountability.

Rep. David Chavez, R-Los Lunas, said it would be "headed directly to the courts" if it



KING: Raised concerns during committee meeting

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eventually were enacted.

A coalition of educational, religious and labor groups wants to increase the annual distribution from the \$10 billion fund over the course of a decade — from budget year 2014 to 2023 — and use that money for early childhood education programs operated by the state.

Much of the opposition to the proposal arises from worries about digging any deeper into the Land Grant Permanent Fund, because it would curb the fund's future growth.

But King raised different concerns.

King told the committee he wasn't criticizing the proposal, but that the changes would require the approval of Congress, in the form of an amendment to the 1910 federal Enabling Act.

The act was one of the ways the United States transferred 13.4 million acres of federal land to New Mexico, in anticipation of statehood, to be held in trust.

The Enabling Act specifies how the permanent fund may be spent, on public schools and certain state institutions.

To funnel some of the money, for example, to the Children, Youth and Families Department — which operates some early childhood programs — the Enabling Act would have to be changed, the attorney general said.

"The Enabling Act is a contract between ourselves and the federal government. We can't change our state Constitution to do something not permitted by the Enabling Act," King told the committee.

Supporters of the constitutional change say that won't be a problem.

"There are legal questions, but there are no legal roadblocks," Bill Jordan of New Mexico Voices for Children told the committee.

Supporters say New Mexico

hasn't had trouble getting congressional approval in the past — most recently in 1997 — for Enabling Act changes.

They have already begun talking to the state's congressional delegation about it, according to Miguel Gómez of St. Joseph Community Health, a provider of early childhood programs that is spearheading the effort on behalf of three dozen organizations.

Constitutional amendments have to be approved statewide by voters. If that occurred, the state could then ask Congress for the Enabling Act changes, the backers of the measure said.

The original version of the amendment allowed the increased distribution to go to public schools or to private or religiously affiliated schools. That was changed to programs operated by the state.

Opponents of the proposal include the Greater Albuquerque Chamber of Commerce. President Terri Cole told the committee the business community was "ecstatic" when 2003 changes to the Constitution pumped more money into education. But education in New Mexico remains in crisis, she said, and the state's low rankings remain a barrier to business relocation. She said the proposal lacks accountability.

The measure passed 8-7, with Democrats voting for it and Republicans against.

The Land Grant Permanent Fund gets its income from oil and gas royalties and investment earnings.

Under a 2003 constitutional amendment, 5.5 percent of the fund's average market value is being distributed annually. That's slated to drop to 5 percent in 2016.

The constitutional change would increase the distribution to 7 percent as of the 2013-14 budget year, and keep it that level through the 2023 budget year unless the fund's average value dropped below \$8 billion.