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**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**53rd Legislature, 2nd Session, 2018**

<b>Bill Number</b>	<u>HJR2</u>	<b>Sponsor</b>	<u>Ely</u>
<b>Tracking Number</b>	<u>.209052.5</u>	<b>Committee Referrals</b>	<u>HCPAC/HLEC/HJC</u>
<b>Short Title</b>	<u>Land Grant Permanent Fund for Public Safety, CA</u>		
<b>Analyst</b>	<u>McCorquodale</u>	<b>Original Date</b>	<u>1/23/18</u>
		<b>Last Updated</b>	<u></u>

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**BILL SUMMARY**

Synopsis of Bill

House Joint Resolution 2 (HJR2) amends Article XII, Section 7 of the Constitution of the State of New Mexico to increase annual distributions from the Land Grant Permanent Fund (LGPF) by 0.5 percent for the immediately preceding five years. The additional distribution would be directed to criminal justice and public safety purposes including education programs, law enforcement, district attorneys, public defenders, courts, correctional facilities and programs, pre-trial and post-trial services, and behavioral health and substance abuse programs. The additional funds would only be distributed from the LGPF if the balance of the five-year average exceeded \$15 billion.

The constitutional amendment requires approval of voters in either a general or special 2018 statewide election. To become effective, the amendment would require consent of Congress.

**FISCAL IMPACT**

House joint resolutions to not carry appropriations.

According to the State Investment Council (SIC), a FY20 projected LGPF distribution at the 5 percent rate would total \$795 million based on the 5-year average. In FY20, the LGPF is estimated to have a value of \$18.2 billion. Public schools are one of 21 beneficiaries of the LGPF and receive about 85 percent of the distribution. As the resolution is written, the remaining 15 percent of the additional distribution to the other beneficiaries (see Attachment 1, page 5) would be targeted to fund criminal justice and public safety. If HJR2 were in place, total projected distributions for FY20 would be \$883 million consisting of:

- \$795 million for a base distribution to beneficiaries of 5 percent;
- \$74.8 million for an additional distribution of 0.5 percent for public schools; and
- \$13.2 million for an additional distribution of 0.5 percent to the other LGPF beneficiaries for criminal justice and public safety.

SIC estimates LGPF distribution will increase 5 percent between FY21 and FY22 as shown on Table 1.

**Table 1**  
**LGPF Estimated Revenue**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY20	FY21	FY22		
(\$79,512.00)	(\$83,724.00)	(\$88,109.00)	Recurring	LGPF
\$67,585.00	\$71,165.00	\$74,893.00	Recurring	General Fund (Education)
\$11,926.00	\$12,559.00	\$13,216.00	Recurring	Other LGPF Beneficiaries

Parenthesis ( ) indicate expenditure decreases.

Source: SIC

The SIC indicated that the projection assumes annual inflows of \$495 million and investment returns of 7 percent with additional distributions of .5 percent beginning in FY20. The LGPF value of \$18.2 billion is projected for the end of 2018; the average year-end fund balances of 2014 through 2018 would determine the distribution for FY20. Table 2 demonstrates the increased distribution would result in slower growth of the LGPF. The SIC explained a reduction in the value of the corpus would result in a diminished capacity to participate in positive investment return environments.

**Table 2**  
**LGPF End Year Values and Projections**

Corresponding Fiscal Year	LGPF Value Current (5%) in billions	LGPF Distribution at 5%	LGPF Value with HJR1 (5.5%) in billions	LGPF Distribution at 5.5%
FY20	\$ 18.2	\$ 795,170,300.0	\$ 18.2	\$ 954,414,615.0
FY21	\$ 19.2	\$ 841,966,786.0	\$ 19.1	\$ 1,009,405,729.0
FY22	\$ 20.2	\$ 899,596,558.0	\$ 19.9	\$ 1,075,583,091.0
FY23	\$ 21.2	\$ 959,722,158.0	\$ 20.8	\$ 1,142,492,367.0
FY24	\$ 22.2	\$ 1,009,418,117.0	\$ 21.6	\$ 1,194,377,115.0
FY25	\$ 23.4	\$ 1,060,212,308.0	\$ 22.4	\$ 1,244,846,339.0
FY26	\$ 24.4	\$ 1,112,213,477.0	\$ 23.3	\$ 1,294,787,892.0
FY27	\$ 25.5	\$ 1,165,469,531.0	\$ 24.1	\$ 1,345,143,837.0
FY28	\$ 26.6	\$ 1,220,066,687.0	\$ 25.9	\$ 1,447,817,503.0
FY29	\$ 27.8	\$ 1,220,066,687.0	\$ 25.0	\$ 1,396,074,674.0
FY30	\$ 29.1	\$ 1,333,827,400.0	\$ 26.8	\$ 1,500,531,572.0
FY31	\$ 30.3	\$ 1,393,141,924.0	\$ 27.7	\$ 1,554,277,733.0

Source: SIC

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. SOS staff estimate each constitutional amendment may cost up to \$19 thousand in printing and advertising costs based on 2016 actual expenditures.

## SUBSTANTIVE ISSUES

Since the inception of statehood, the LGPF was intended to help pay for public education. It appears HJR2 is trying to create a new beneficiary for the LGPF in the name of public safety and criminal justice and reassign spending priorities for the existing 21 LGPF beneficiaries. According to SIC, if HJR2 is approved by the voters and Congress, it would be a drastic change in public policy, and would permanently change how the state uses its constitutionally protected funds.

Additionally, the 21 beneficiaries that have a constitutionally established claim to certain percentages of the distribution may have to waive the additional distribution or accept the additional 0.5 percent knowing that the money would not be used for public safety and criminal justice and could result in legal action. While HJR2 seeks an additional 0.5 percent distribution from the LGPF for criminal justice and public safety, the majority of the 21 beneficiaries do not have a mission related to public safety and criminal justice. Of the five potential beneficiaries with any connection to criminal justice issues in their core missions currently have a 3.84 percent share of the LGPF distributions (highlighted on Attachment 1 on page 5).

The language included in the joint resolution is similar to the 2003 constitutional amendment that increased distributions to 5.8 percent, then 5.5 percent, and earmarked the increased distribution for public schools to be used for education reforms. All other beneficiaries received the additional 0.8 percent and 0.5 percent distributions and were not required to use those distributions for education reforms.

SIC indicates there will likely be legal challenges from those opposed to spending the public schools' and other beneficiaries' portion of the LGPF on public safety and criminal justice issues relegated to general fund appropriations.

***School to Prison Pipeline.*** From a long-term perspective, it may be more effective to invest in children before they enter the criminal justice system. According to Education Week, there is a link between dropping out of school and going to prison. The report indicated increased population in federal prisons costs taxpayers \$28 thousand per year, per prisoner. Minority male students are more likely to be disciplined in school with expulsions which leads to dropping out of school. The report noted 61 percent of the incarcerated population in the United States are black or Latino. Nearly 68 percent of all men in federal prison never earned a high-school diploma. While New Mexico's statewide four-year cohort graduation rate of 71 percent in FY16 was an improvement, it was still well below the national average of 84 percent. New Mexico needs to focus on improving education by providing early interventions from birth through 12th grade; in school mediation to support students' life skills; and an early warning system to track students most at risk for dropping out of school. Additionally, New Mexico must provide a variety of pathways for college and career attainment.

## TECHNICAL ISSUES

SIC notes the current 5-year average of the LGPF as of December 31, 2017 is \$14.94 billion, meaning at this time HJR2 would not qualify to make additional distributions because it is below \$15 billion. Because of the critical date given the need to pass by voters in the fall of 2018 to enact the amendment, it is probable the LGPF will exceed \$15 billion for its 5-year average at the end of calendar year 2018.

As HJR2 is written, it appears to fund criminal justice and public safety through the existing LGPF beneficiaries other than public schools.

**RELATED BILLS**

HJR1, Land Grant Fund Distributions, CA, seeks an additional 1 percent annual LGPF distributions for early childhood educational services.

HJR3, Severance Tax Fund for Public Safety, CA, seeks an additional 0.5 percent annual Severance Tax Permanent Fund distribution.

SJR2, Land Grant Funds for Education, CA, seeks to increase LGPF distributions by 1.5 percent for education.

SJR3, Early Childhood Education Dept., CA, seeks to create the Early Childhood Education Department.

**SOURCES OF INFORMATION**

- LESC Files
- State Investment Council

**CMC/rab**

## FY17 Un-audited Land Grant Permanent Fund Balance and Income Distribution

FY17 Un-audited Land Grant Permanent Fund Balance and Income Distribution	LGPF Ownership	January 1, 2017 Beginning Balance	Educational Programs
Public Schools	84.9%	\$12,877,298,118.78	Y
New Mexico Military Institute	3.1%	\$465,472,748.12	Y
New Mexico School for the Deaf	1.9%	\$283,906,590.47	Y
School for the Blind and Visually Impaired	1.9%	\$283,304,963.50	Y
New Mexico State Penitentiary	1.9%	\$286,947,852.42	Y
University of New Mexico	1.3%	\$202,278,980.00	Y
Public Buildings	1.1%	\$161,661,460.26	N
Water reservoir	1.0%	\$150,216,338.28	N
DHI Miners Hospital	0.9%	\$134,207,601.63	N
New Mexico State University	0.4%	\$64,291,707.02	Y
New Mexico State Hospital	0.3%	\$50,292,346.95	N
Improvement of the Rio Grande	0.2%	\$33,607,280.26	N
New Mexico Institute of Mining and Technology	0.2%	\$28,641,032.21	Y
Eastern New Mexico University	0.1%	\$11,728,677.91	Y
University of New Mexico Saline Lands	0.0%	\$6,786,545.47	N
Western NM University	0.0%	\$3,766,185.29	Y
New Mexico Highlands University	0.0%	\$3,746,758.88	Y
New Mexico Boys School	0.0%	\$830,441.13	Y
Carrie Tingley Hospital	0.0%	\$209,386.54	N
Northern New Mexico Community College	0.0%	\$3,037,459.17	Y
Charitable, Penal, and Reform Institutions	0.8%	\$119,234,030.18	N
<b>Total</b>	<b>100.0%</b>	<b>\$15,171,466,504.47</b>	

Source: SIC