

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HJR 2

50th Legislature, 2nd Session, 2012

Tracking Number: .187966.2

Short Title: Land Grant Fund Annual Distribution, CA

Sponsor(s): Representative Jim R. Trujillo and Senator Nancy Rodriguez

Analyst: David Craig

Date: January 31, 2012

Bill Summary:

HJR 2 proposes to amend Article 12, Section 7 of the Constitution of New Mexico to:

- make permanent the change in the distribution percentage paid to the beneficiaries of the Land Grant Permanent Fund (LGPF) for FY 05 to FY 12 (5.8 percent) that was enacted by voters in September 2003; and
- specify that the 0.8 percent of the distribution be used to implement and maintain educational reforms as provided by law.

Among its other provisions, HJR 2:

- increases to \$6.0 billion from \$5.8 billion the threshold of the five-year average market value of the fund below which the additional distribution is discontinued; and
- provides that, by a three-fifths' vote of the members elected to each house, the Legislature may suspend the additional 0.8 percent distribution for educational reform.

If HJR 2 passes, the amendment proposed by the resolution is to be submitted to the voters for their approval or rejection at the next general election or at any special election prior to that date that is called for that purpose.

Fiscal Impact:

HJR 2 does not contain an appropriation.

According to the State Investment Council (SIC) bill analysis; due to the need for electoral mandate, changes to the LGPF distribution rate may not be implemented before FY 14. The table below shows how HJR 2 would change the LGPF distributions.

Land Grant Permanent Fund Distribution Rate		
Fiscal Year	Current Law	HJR 2
2014	5.50%	5.80%
2015	5.50%	5.80%
2016	5.50%	5.80%
2017-2023	5.00%	5.80%

According to the SIC analysis:

- the increased distributions proposed by HJR 2 would result in an estimated additional \$465.1 million to beneficiaries and the General Fund when compared to the distributions in current law;
- the chart below makes the following assumptions regarding LGPF fund value:
 - returns of 7.5 percent per year; and
 - contributions from the State Land Office (SLO) of \$350 million per year; and
- the 7.5 percent investment return is based on the long-term target adopted by the SIC in 2011, and the \$350 million per year is an estimate based on the average prior 10-years contributions to the LGPF from non-renewable energy fees.

The SIC stresses that future estimates have larger variability and a margin of error as the lack of certainty about future years rate of return (subpar or negative returns) and possible diminished oil or gas revenues make estimates less reliable.

**State Investment Council Projected Disbursements of
Land Grand Permanent Fund
(in millions)**

Fiscal Year	Current and Future Distribution (5.8%)	Current Distribution (5.5%)	Current Distribution (5.0%)	Difference in Distributions	LGPF Fund Value (est)
2010	\$525.5				
2011	\$535.9				
2012	\$553.4				
2013 (est)		\$527.1		\$0.0	\$10,082.0
2014 (est)	\$554.9	\$526.2		\$28.7	\$10,618.0
2015 (est)	\$593.6	\$562.9		\$30.7	\$11,206.0
2016 (est)	\$625.0	\$592.8		\$32.2	\$11,818.0
2017 (est)	\$649.9		\$560.9	\$89.0	\$12,440.0
2018 (est)	\$683.3		\$590.8	\$92.5	\$13,109.0
2019 (est)	\$717.7		\$622.5	\$95.2	\$13,826.0
2020 (est)	\$752.7		\$655.9	\$96.8	\$14,563.0
TOTAL				\$465.1	

Source: State Investment Council

The SIC analysis further states, as shown in the table below, that:

- the true impact of the increased distribution to the fund will not be immediately apparent;
- increasing the distribution rate to 5.8 percent would result in an estimated decrease of \$356 million to the corpus of the fund in FY 20 and grow to nearly \$2.5 billion in decreased fund levels by FY 30; and
- this would mean about \$125 million less that could be distributed to education in FY 30 and after.

SIC's Decrease in LGPF Value 2020 - 2030 (in millions)			
Fiscal Year	LGPF Current Law Fund Value (est)	LGPF HJR 2 Fund Value (est)	Estimated Difference
2020 (est)	\$ 14,563	\$ 14,207	\$ (356)
2025 (est)	\$ 20,296	\$ 18,899	\$ (1,397)
2030 (est)	\$ 25,045	\$ 22,590	\$ (2,455)

Source: State Investment Council

The SIC also points out that:

- “past expectations of performance may no longer be viable, and that like many other institutional investors across the country, and upon guidance of investment advisors, the long-term return expectations were reduced from 8.5 percent to 7.5 percent,” and
- “assuming current distributions, average market returns, low to mild inflation rates, and continued strong contributions from oil and gas, the Council believes it can continue to maintain or slightly grow the inflation-adjusted value of the LGPF over time, so that it may provide the same dollar for dollar benefit to tomorrow’s generations of New Mexicans as it does to those today.”

The table below shows LGPF contributions, disbursements, market values, and returns for FY 89 through FY 10.

Date	Beginning Market Value	Contrib	Disburs	\$ Investment Return	Ending Market Value	% Investment Return
Fiscal Year 1989	2,786,201	95,909	252,270	372,361	3,002,201	14.2%
Fiscal Year 1990	3,002,201	104,922	258,961	278,496	3,126,658	9.7%
Fiscal Year 1991	3,126,658	121,159	259,366	354,364	3,342,815	11.3%
Fiscal Year 1992	3,342,815	104,381	261,965	498,843	3,684,074	15.1%
Fiscal Year 1993	3,684,074	122,950	261,546	455,701	4,001,179	12.6%
Fiscal Year 1994	4,001,179	115,598	257,924	-9,996	3,848,857	-0.5%
Fiscal Year 1995	3,848,857	97,299	248,102	625,176	4,323,230	16.0%
Fiscal Year 1996	4,323,230	100,171	246,027	495,049	4,672,423	12.1%
Fiscal Year 1997	4,672,423	147,767	251,228	895,751	5,464,713	18.5%
Fiscal Year 1998	5,464,713	129,981	255,415	1,115,799	6,455,078	21.5%
Fiscal Year 1999	6,455,078	104,747	262,420	1,014,822	7,312,227	15.8%
Fiscal Year 2000	7,312,227	217,905	344,316	745,209	7,931,025	10.2%
Fiscal Year 2001	7,931,025	325,947	322,153	-516,236	7,418,583	-6.6%
Fiscal Year 2002	7,418,583	213,348	283,142	-652,613	6,696,176	-7.9%
Fiscal Year 2003	6,696,176	222,985	332,784	221,267	6,807,644	3.6%
Fiscal Year 2004	6,807,644	269,743	400,746	959,800	7,636,441	14.2%
Fiscal Year 2005	7,636,441	324,689	432,499	722,473	8,251,104	9.7%
Fiscal Year 2006	8,251,104	465,306	477,675	860,293	9,099,028	10.6%
Fiscal Year 2007	9,099,028	449,303	499,512	1,624,378	10,673,196	17.9%
Fiscal Year 2008	10,673,196	460,648	462,235	-401,154	10,270,455	-3.8%
Fiscal Year 2009	10,270,455	480,526	521,521	-2,300,960	7,928,500	-22.4%
Fiscal Year 2010	7,928,500	330,275	525,513	1,113,148	8,846,410	14.0%
Cumulative *	7,928,500	330,275	525,513	1,113,148	8,846,410	14.0%

* Average Annual Return

According to the analysis by the Higher Education Department (HED):

- the estimated decrease of distributions to the state universities and the special schools (New Mexico Military Institute, the New Mexico School for the Deaf and the

New Mexico School for the Blind and Visually Impaired) for FY 13 is approximately \$3.1 million; and

- increased distributions reduce the growth of the corpus of the fund.

Substantive Issues:

Noting that the language in HJR 2 requires the additional distribution be used to “implement and maintain educational reforms as provided by law,” the SIC analysis:

- questions how the non-educational beneficiaries, receiving 16 percent of the distributions, would use distributions to implement and maintain educational reforms; and
- raises concerns about what constitutes an “educational reform” or its “maintenance” in the absence of any definition of these terms in law.

However, current additional distributions are made to these beneficiaries using the same constitutional language.

Background:

During a 2009 interim LESC hearing on the LGPF, the SIC provided the following history:

“The United States transferred 13.4 million acres of federal land to the Territory of New Mexico in anticipation of a grant of statehood. The *Fergusson Act of 1898* and the *Enabling Act of 1910* were the primary federal legislative vehicles for the public land transfers. The acts stipulate that such lands are to be held in trust for the benefit of the public schools and 19 other specifically identified state institutions. The Commissioner of Public Lands and the State Land Office are the trustees for the original 13.4 million acres of mineral resources and the remaining 8.75 million acres of surface land. The Commissioner of Public Lands leases the trust lands for mineral exploration and grazing rights and, under certain conditions, may also sell or exchange trust properties. A substantial portion of royalties and income from the sales of land are transferred to the LGPF and are then invested by the State Investment Office.”

The last changes to Article 12, Section 7 occurred in September 2003, when voters approved a constitutional amendment to:

- effective upon voter approval, increase the annual distribution from the LGPF to the fund’s beneficiaries (including public schools) from 4.7 percent to 5.0 percent of the average of the year-end market values of the fund for the immediately preceding five years;
- provide an additional 0.8 percent annual distribution from FY 05 to FY 12 (for a total distribution of 5.8 percent) and an additional 0.5 percent annual distribution from FY 13 to FY 16 (for a total distribution of 5.5 percent) to be used for education reform as provided by law;
- provide that the above additional distributions shall not be made in any fiscal year if the average of the year-end market values of the fund for the immediately preceding five calendar years is less than \$5.8 billion;
- authorize the Legislature, by a three-fifths’ vote of the members of each house, to suspend any of the additional distributions; and
- revert the distribution to 5.0 percent in FY 17.

Prior to 1997, US congressional approval was required for any change to the way in which distributions were made from the LGPF. However, in 1997 Congress approved amendments to the federal *Enabling Act of 1910*, one of which specified that future distributions “shall be made as provided in Article 12, Section 7 of the Constitution of the State of New Mexico.”

The LGPF beneficiaries and their respective acreage and percent ownership are shown below:

Land Grant Permanent Fund, FY10 Land Ownership by Beneficiary (in acres)

Beneficiary	Mineral	Surface	Total	% Owned
Public (Common) Schools	9,757,464.70	6,764,552.06	16,522,016.76	76.55%
NMMI	158,431.23	135,382.42	293,813.65	1.36%
NM School for the Deaf	104,721.61	86,836.80	191,558.41	0.89%
NM School For the Blind and Visually Impaired	116,928.21	100,545.30	217,473.51	1.01%
Penitentiary of New Mexico	157,538.28	113,798.82	271,337.10	1.26%
UNM	344,754.16	252,546.81	597,300.97	2.77%
Capital Buildings	132,192.29	8,869.01	141,061.30	0.65%
Irrigation (Water) Reservoir	470,192.05	342,466.41	812,658.46	3.77%
Miners' Colfax Medical Center	118,417.11	98,349.80	216,766.91	1.00%
Charitable, Penal and Reform ¹	99,620.27	74,072.83	173,693.10	0.80%
NMSU	254,787.27	194,079.42	448,866.69	2.08%
Rio Grande Improvements	89,202.15	54,220.86	143,423.01	0.66%
Las Vegas Medical Center	163,819.05	101,241.86	265,060.91	1.23%
NM Institute of Mining and Technology	217,810.83	157,963.55	375,774.38	1.74%
ENMU	103,615.96	82,996.05	186,612.01	0.86%
WNMU	115,704.08	77,241.10	192,945.18	0.89%
NM Highlands	115,704.08	77,241.10	192,945.18	0.89%
Northern NM College	115,704.08	77,241.10	192,945.18	0.89%
NM Boys' School	61,969.61	50,694.54	112,664.15	0.52%
UNM Saline Lands	1,502.88	1,044.47	2,547.35	0.01%
Carrie Tingley Hospital	13,062.65	16,699.04	29,761.69	0.14%
State Parks ²	520.00	160.00	680.00	0.00%
TOTALS	12,713,662.55	8,868,243.35	21,581,905.90	

¹ Six institutions own equal shares of lands identified as Charitable, Penal and Reform. They are Carrie Tingley, Las Vegas Medical Center (Behavioral Health Institute), Los Lunas Hospital, Miners' Colfax Medical Center, Penitentiary of NM, NM Boys' School (Youth Diagnostic and Development Center)

² In 1949, the Legislature passed a bill authorizing the Commissioner of Public Lands to lease land for oil, gas and mineral development in state parks with rentals and royalties credited to the state park fund.

Source: State Land Office (SLO) 2010 Annual Report and the SLO website

Related Bills:

- HB 21 *Limit on Land Grant Funds in Some Investments*
- HJR 1 *Preserve Land Grant Permanent Fund, CA*
- SJR 4a *Land Grant Permanent Fund Changes, CA*