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# LEGISLATIVE EDUCATION STUDY COMMITTEE
# BILL ANALYSIS
### 53rd Legislature, 1st Session, 2017

**Bill Number** HJR1/aHJC/aHFl#1 **Sponsor** Maestas, A. & Martínez, J.

**Tracking Number** .205365.2 **Committee Referrals** HEC/HLELC/HJC;SRC/SFC

**Short Title** Permanent Funds for Early Childhood, CA

**Original Date** 1/26/17

**Analyst** McCorquodale **Last Updated** 3/10/17

## BILL SUMMARY

Synopsis of House Floor Amendment #1

House Floor Amendment #1 to House Joint Resolution 1 (HJR1/aHJC/aHFl#1) limits the additional distribution from the Land Grant Permanent Fund to 1 percent beginning in FY22. The 1 percent distribution would end in 2032 rather than continuity in perpetuity.

Synopsis of HJC Amendment

House Judiciary Committee amendment to House Joint Resolution 1 (HJR1/aHJC) removes provisions in Subsection 1(H) that: require the use of additional funds to increase the availability and quality of early childhood education; prohibit new distributions from supplanting existing funding for early childhood educational services; and prioritize distribution of funds to low-income communities to strengthen and expand early childhood educational services.

Additionally, the amendment removes provisions requiring school districts to contract only with early childhood educational providers that have employment standards comparable to public schools' employment standards. It also removes provisions requiring school districts to give procurement preference to contractors that are locally owned; minority-owned; women-owned; that partner with public community schools; or that participate in programs that assist students to transition into kindergarten, or in programs intended to align early childhood education services with kindergarten through 12th grade public education. HJR1/aHJC also removes provisions requiring early childhood educational services be delivered by a state contractor for the New Mexico School for the Blind and Visually Impaired.

Synopsis of Original Bill

House Joint Resolution 1 (HJR1) amends Article XII, Section 7 of the Constitution of the State of New Mexico to permanently increase annual distributions from the Land Grant Permanent Fund (LGPF) by 1 percent for the purposes of educational programs and early childhood educational services beginning in FY20.

## FISCAL IMPACT

House joint resolutions do not carry appropriations.

The House Appropriations and Finance Committee substitute for House Bill 2 for FY18 includes $21 million in general fund revenue and $3.5 million in federal Temporary Assistance for Needy Families (TANF) funds for prekindergarten programs. Since FY12, the Legislature has appropriated $100 million for state-funded prekindergarten programs. Funding for early childhood education has remained flat since FY16.

HJR1 would amend Article XII, Section 7 of the Constitution of the State of New Mexico to permanently increase annual distributions for purposes of implementing and maintaining educational programs and funding for early childhood educational services provided by the state. The joint resolution proposes a 1 percent additional distribution if the average of the year-end market values of the LGPF for the immediately preceding five calendar years is at least $12 billion dollars. The joint resolution proposes to split the additional distribution as follows:

- Beginning in FY20, an additional 0.7 percent distribution of funds to implement and maintain educational programs, and a 0.3 percent distribution of funds used for early childhood educational services;
- Beginning in FY21, the percentages for maintaining educational programs and early childhood educational services would flip; 0.3 percent distribution of funds to implement and maintain educational programs, and a 0.7 percent of the funds shall be used for early childhood educational services; and
- Beginning in FY22, and each subsequent fiscal year, a 1 percent distribution of funds for early childhood educational services.

According to the State Investment Council (SIC), FY20 projected LGPF distributions total $767 million at the current 5 percent rate. This indicates the five-year average balance of the LGPF was approximately $16.68 billion. If HJR1 were in place for FY20, projected total distributions for FY20 would be $920.2 million consisting of:

- $767 million for a base distribution to beneficiaries of 5 percent;
- $91.1 million for an additional distribution of 0.7 percent to implement and maintain educational programs;
- $39 million for an additional distribution of 0.3 percent for early childhood educational services; and
- $23.2 million additional distribution to the other LGPF beneficiaries (see **Table 3**, page 5).

Based on **Table 1**, estimated LGPF revenue for the additional 1 percent distribution for FY21 and FY22 indicates a 3 percent increase.

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

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|---|---|---|---|---|
| FY20 | FY21 | FY22 | | |
| ($153,372.70) | ($158,329.70) | ($163,140.90) | Recurring | LGPF |
| $39,053.90 | $94,071.00 | $138,470.70 | Recurring | General Fund (Early Childhood) |
| $91,125.80 | $40,316.10 | $0.00 | Recurring | General Fund (Educational) |
| $23,193.00 | $23,942.60 | $24,670.20 | Recurring | Other LGPF Beneficiaries |

Parenthesis () indicate expenditure decreases. Source: SIC

The SIC indicated the projection assumes annual inflows of $400 million and investment returns of 7 percent with additional distributions of 1 percent beginning in FY20. The starting value of $16.68 billion is projected for the end of 2018, which determines the distribution for FY20. **Table 2**, below, demonstrates that after 12 years, the higher distribution rate will decrease the corpus of the fund, thus decreasing its value for each subsequent fiscal year. The SIC explained a reduction in the value of the corpus will result in a diminished capacity to participate in positive investment return environments.

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

| Calendar Year | Corresponding Fiscal Year | ($B) LGPF Value Current (5%) | LGPF Distribution at 5% | ($B) LGPF Value with HJR1 (6%) | LGPF Distribution at 6% |
|---|---|---|---|---|---|
| **2018** | **2020** | 16.68 | $766,863,713 | 16.68 | $920,236,456 |
| **2019** | **2021** | 17.45 | $796,249,788 | 17.37 | $954,579,510 |
| **2020** | **2022** | 18.23 | $824,565,983 | 18 | $997,706,836 |
| **2021** | **2023** | 19.04 | $873,256,624 | 18.63 | $1,039,163,583 |
| **2022** | **2024** | 19.86 | $912,636,751 | 19.26 | $1,079,140,302 |
| **2023** | **2025** | 20.7 | $952,841,351 | 19.89 | $1,117,624,202 |
| **2024** | **2026** | 21.55 | $993,916,104 | 20.52 | $1,155,430,777 |
| **2025** | **2027** | 22.43 | $1,035,824,647 | 21.16 | $1,193,380,959 |
| **2026** | **2028** | 23.31 | $1,078,546,437 | 21.8 | $1,231,494,650 |
| **2027** | **2029** | 24.22 | $1,122,097,844 | 22.45 | $1,269,833,927 |
| **2028** | **2030** | 25.14 | $1,166,493,441 | 23.1 | $1,308,443,788 |
| **2029** | **2031** | 26.08 | $1,211,747,978 | 23.76 | $1,347,351,430 |

Source: SIC

The constitutional amendment requires approval by voters in a 2018 statewide election, in either a general election or a special statewide election. 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. LFC staff estimate each constitutional amendment may cost up to fifty thousand dollars ($50,000) in printing and advertising costs based on 2016 actual expenditures.

**SUBSTANTIVE ISSUES**

HJR1 defines “early childhood services” as nonsectarian services for children until they are eligible for kindergarten.

In Section G, page 5, the joint resolution outlines provisions requiring the use of additional funds to increase the availability and quality of early childhood education. The new distributions must not supplant existing funding for early childhood educational services. The provisions also include prioritizing distribution of funds in low-income communities to strengthen and expand early childhood educational services.

Additionally, provisions in HJR1 require school districts to contract only with early childhood educational providers that have employment standards comparable to public schools’ employment standards. Also, school districts must give preference to contractors in the procurement process that are locally owned; minority-owned; women-owned; partnering with public community schools; participating in programs that assist students to transition into kindergarten; or participating in programs intended to align early childhood education services with kindergarten through 12th grade public education. Provisions also require that early childhood educational services are not delivered by a state contractor for the New Mexico School for the Blind and Visually Impaired.

While HJR1 provides a list of requirements for the use of the additional funds, it does not specify a plan for deployment of funds and who will oversee how these funds are spent. Furthermore, HJR1 specifies that 1 percent of the additional annual LGPF distributions shall be used for implementing and maintaining educational programs and early childhood educational services, yet more than a quarter of the LGPF beneficiaries listed are either not educational facilities or have missions unrelated to educational programs or early childhood educational programs.

The SIC indicated language in HJR1 would not allow these beneficiaries (UNM Saline Lands, New Mexico Technical Institute, New Mexico Military Institute, DHI Miners Hospital, New Mexico State Hospital, State Penitentiary, Charitable, Penal, and Reform Institutions, Water Reservoir, Improvement of the Rio Grande, Public Buildings, the Carrie Tingley Hospital) to legally have access to the additional 1 percent of the funds and could result in costly litigation, or these beneficiaries would have to essentially waive a portion of their rightful share of the LGPF. However, language in HJR1 requires the additional 1 percent distributed to the permanent school fund be used for educational programs and early childhood education services. It appears the other beneficiaries will receive their additional 1 percent and would not be obligated to use it for early childhood services. The language included in the joint resolution is similar to the language 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.

**Table 3**
**FY17 Un-audited Land Grant Permanent Fund Balance and Income Distribution**

| Institutions | LGPF Ownership | January 1, 2017 Beginning Balance | Educational Programs | Early Educational Services |
|---|---|---|---|---|
| Public Schools | 84.9% | $12,877,298,118.78 | Y | Y |
| New Mexico Military Institute | 3.1% | $465,472,748.12 | Y | N |
| New Mexico School for the Deaf | 1.9% | $283,906,590.47 | Y | Y |
| School for the Blind and Visually Impaired | 1.9% | $283,304,963.50 | Y | Y |
| New Mexico State Penitentiary | 1.9% | $286,947,852.42 | Y | N |
| University of New Mexico | 1.3% | $202,278,980.00 | Y | Y |
| Public Buildings | 1.1% | $161,661,460.26 | N | N |
| Water reservoir | 1.0% | $150,216,338.28 | N | N |
| DHI Miners Hospital | 0.9% | $134,207,601.63 | N | N |
| New Mexico State University | 0.4% | $64,291,707.02 | Y | Y |
| New Mexico State Hospital | 0.3% | $50,292,346.95 | N | N |
| Improvement of the Rio Grande | 0.2% | $33,607,280.26 | N | N |
| New Mexico Institute of Mining and Technology | 0.2% | $28,641,032.21 | Y | N |
| Eastern New Mexico University | 0.1% | $11,728,677.91 | Y | Y |
| University of New Mexico Saline Lands | 0.0% | $6,786,545.47 | N | N |
| Western NM University | 0.0% | $3,766,185.29 | Y | Y |
| New Mexico Highlands University | 0.0% | $3,746,758.88 | Y | ? |
| New Mexico Boys School | 0.0% | $830,441.13 | Y | N |
| Carrie Tingley Hospital | 0.0% | $209,386.54 | N | 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 | N |
| **Total** | **100.0%** | **$15,171,466,504.47** | **13** | **7** |

Source: SIC

The Department of Finance and Administration (DFA) stressed the LGPF is required by law to benefit public schools and other beneficiaries indefinitely. DFA said the LGPF is not and was never intended to be a “rainy day” fund. The LGPF is funded by income from non-renewable natural resources and was designed to provide a steady revenue source for future generations of New Mexico children even after those resources are exhausted.

***Early Childhood Issues.*** The Pew Charitable Trusts, a nonprofit, nonpartisan organization providing analysis to improve public policy, indicated high-quality prekindergarten increases a child’s chances of succeeding in school and in life. The foundation stated children who attend high-quality early learning programs are less likely to be retained, need special education services, and more likely to graduate from high school. Additionally, children who participate in a high-quality prekindergarten program have higher-earning opportunities as an adult and are less likely to become dependent on welfare or be incarcerated.

While New Mexico has significantly heightened its focus on early childhood programs, the state 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.

According to Volume I of the LFC Report for FY18, New Mexico has demonstrated leadership in increased investment in early care and education. LFC indicated early childhood funding has grown by more than 80 percent since FY12. However, improved leadership, coordination, and oversight are needed. LFC noted strategic investments, together 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.

## TECHNICAL ISSUES

According to SIC, the resolution includes language that protects the fund from the burden of additional distributions during times of financial stress if the five-year average of the fund drops below $12 billion at calendar end of any given year. The SIC indicates the resiliency of this protection renders itself ineffective. For example, the LGPF would have to lose more than $12.5 billion next year (leaving the corpus value at $2.5 billion), before the five-year average actually trips the proposed safety indicated in HJR1.

While HJR1 defines “early childhood educational services,” it is not clear what is included in “educational programs.”

## ALTERNATIVES

Established in 2006, the Nebraska Early Childhood Education Endowment Fund, also known as Sixpence, is a public and private venture with the Nebraska Department of Education providing $40 million from the Nebraska Permanent School Fund and another $20 million from private donations. The $40 million from the permanent school fund remains in the cash reserve fund for purposes of investment and the accrued interest is distributed to help fund early childhood educational services. The programs are administered through the Nebraska Children and Families Foundation.

Created in 1992, the Georgia Lottery proceeds are used to fund specific education programs that comprise tuition grants, scholarships or loans to undergraduate college students for attendance at eligible Georgia colleges, universities or technical colleges; the Georgia Pre-kindergarten Program for all four year olds; and capital outlay projects for schools, universities, colleges, and technical schools in the state.

## RELATED BILLS

HJR 2, Land Grant Fund for Economic Stimulus, CA, proposes to withdraw $7 billion from the LGPF to provide economic stimulus programs to include $1 billion for early childhood services.

SB182, Early Childhood Land Grant Act, proposes to create an early childhood land grant permanent fund and the early childhood income fund.

SJR 3, Permanent Funds for Early Childhood, CA, proposes to increase the LGPF distribution by 1.5 percent to be used for early childhood education services.

## SOURCES OF INFORMATION

- LESC Files
- Department of Finance and Administration
- Legislative Finance Committee
- State Investment Council

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