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LEGISLATIVE EDUCATION STUDY COMMITTEE

BILL ANALYSIS

53rd Legislature, 2nd Session, 2018

Bill Number HJR1 **Sponsor** Maestas, A./Martínez, J./Garcia Richard

Tracking Number .209168.3 **Committee Referrals** HEC/HJC

Short Title Land Grant Fund Distributions, CA

Analyst McCorquodale **Original Date** 1/19/18
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BILL SUMMARY

Synopsis of Bill

House Joint Resolution 1 (HJR1) 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 1 percent. In FY20 and FY21, the increase will be allocated for educational programs and early childhood educational services. In FY22 and subsequent years, the increase will only be used for early childhood educational services.

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

FISCAL IMPACT

House joint resolutions do not carry appropriations.

HJR1 would amend Article XII, Section 7 of the Constitution of the State of New Mexico to 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 \$10 billion dollars. The joint resolution proposes to split the additional distribution as follows:

- 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;
- In FY21, the percentages for maintaining educational programs and early childhood educational services would flip a 0.3 percent distribution of funds to implement and maintain educational programs and a 0.7 percent of distribution funds used for early childhood educational services; and

- 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 at the 5 percent rate will 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 the 21 beneficiaries of the LGPF and receive about 85 percent of the distribution. The remaining 15 percent of the additional distribution to the other beneficiaries would not be used for educational programs or early childhood educational services. If HJR1 were in place for FY20, total projected distributions for FY20 would be \$954 million consisting of:

- \$795 million for a base distribution to beneficiaries of 5 percent;
- \$94.7 million for an additional distribution of 0.7 percent to implement and maintain educational programs to public schools;
- \$40.6 million for an additional distribution of 0.3 percent for early childhood educational services to public schools; and
- \$23.7 million additional distribution to the other LGPF beneficiaries that are not educational entities or have a mission unrelated to early childhood education.

Based on Table 1, SIC estimates LGPF distributions will increase 5 percent between FY21 and FY22.

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY20	FY21	FY22		
(\$159,069.00)	(\$167,439.00)	(\$175,986.00)	Recurring	LGPF
\$40,608.00	\$99,737.00	\$149,755.00	Recurring	General Fund (Early Childhood)
\$94,752.00	\$42,745.00	\$0.00	Recurring	General Fund (Educational)
\$23,709.00	\$24,957.00	\$26,231.00	Recurring	Other LGPF Beneficiaries

Parenthesis () indicate expenditure decreases.

Source: SIC

The SIC indicated the projection assumes annual inflows of \$495 million and investment returns of 7 percent with additional distributions of 1 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 will determine the distribution for FY20. Table 2, on page 3, demonstrates the increased distribution will result in slower growth of the LGPF. After 12 years, the fund will be \$29 million less than it would be with a 5 percent distribution rate. 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

Corresponding Fiscal Year	LGPF Value Current (5%) in billions	LGPF Distribution at 5%	LGPF Value with HJR1 (6%) in billions	LGPF Distribution at 6%
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

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

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 on Attachment 1, on page 7, are either not educational organizations or have missions unrelated to early childhood educational services. Those beneficiaries, which have a constitutionally established claim to certain percentages of the distribution may have to waive the additional distribution, or accept the additional 1 percent with the full knowledge that money cannot be used for early learning educational services could result in legal action. 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.

While the Public Education Department (PED) serves 4-year-old students in state-funded prekindergarten programs and special education services for some 3- and 4-year-old students, the department does not serve students birth through 3-years-old. However, the additional funds can be used to bolster PED’s prekindergarten program and used for students who enter kindergarten

and participate in K3 Plus, an extended school-year program. HJRI only appears to address serving more clients and it is unclear if the increased distributions could be used for early childhood education teacher preparation. Many public schools currently do not offer prekindergarten services and would need adequate professional development and strategic planning to ensure the implementation of effective programs once the funding is provided.

State Funding for Early Childhood Education. The Legislature has increased funding for early childhood education services by \$133 million since FY12. New Mexico's early childhood education and care system begins prenatally and extends through age 8. These programs include child care for families; Early Head Start and Head Start; prekindergarten; Family, Infants, and Toddlers (FIT); home visiting for new families; and Women, Infants, and Children (WIC).

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 adults 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 one of the 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. Ranked 49th in 2017, New Mexico is challenged more than most states by the consequences of poverty on its children.

Children who experience toxic stress – whether it is the result of poverty, instability, abuse or neglect, or other adverse childhood experiences – can experience impaired brain development, especially in the areas of the brain dedicated to higher-order skills. High-quality early childhood education can reduce the toxic developmental effects of poverty and childhood trauma by providing children with rich social experiences needed to succeed in school.

The National Conference of State Legislatures' international study of successful school systems found strong programs for early childhood, with extra support for struggling students. According to the Center on International Education Benchmarking (CIEB), a program of the National Center on Education and the Economy (NCEE) that conducts research on the world's most successful education systems, early childhood education and care found numerous commonalities in high performing countries. Low-income families have subsidized care for infants. Most have ongoing publicly funded parent support, with a special focus on disadvantaged and immigrant families. They all provide social and health services for all families. They all have prekindergarten programs, many free and universal. Finally, most offer subsidized training and education for those working with young children. The early childhood education workforce in these high-performing countries require a bachelor's degree and in some cases, a master's degree in early childhood education. Assistants who work with these teachers are required to have certification in early childhood development. New Mexico does not require teachers in all state-funded prekindergarten classrooms to have a bachelor's degree that specializes in early childhood education and does not require teacher's assistants to have at least a child development associate degree or equivalent credential based coursework.

The Legislative Finance Committee’s (LFC) 2017 *Early Childhood Accountability Report* indicates prekindergarten programs have a positive impact on student literacy. Third-grade reading and math scores on the Partnership for Assessment of Readiness for College and Careers (PARCC) assessment were higher for students who participated in prekindergarten than their peers who did not. LFC found the effect persisted through fifth grade. Additionally, LFC found the achievement gap was nearly eliminated by kindergarten for low-income students who participated in prekindergarten and K-3 Plus, an extended school year program for students in kindergarten through third grade compared with students who did not participate.

According to Volume I of the LFC Report for FY19, New Mexico has demonstrated leadership in increased investment in early care and education. However, the system is not large enough to provide universal services. LFC estimates total statewide funding needed for all early childhood educational services is approximately \$190 million. However, improved leadership, coordination, and oversight are needed. LFC noted additional funding should be targeted to both serve more clients and improve quality.

SIGNIFICANT ISSUES

The Office of the Attorney General states both Section 8 of the federal Enabling Act of 1910 and Article XII, Section 3 of the New Mexico constitution prohibit the use of LGPF for any sectarian or private school and require schools receiving LGPF distributions remain under the control of the state. Additionally, the Attorney General notes unless Congress amends the Enabling Act, the Legislature does not have authority to propose amendments to the constitution or enact laws that add a private or sectarian entity to the list of designated land grant beneficiaries. Furthermore, any proposed constitutional amendment to increase distributions from the LGPF for early childhood learning programs would be allowable if the increased distributions were limited to those programs provided by public schools. It is important to note that New Mexico’s early childhood education and care system spans several state agencies: Children, Youth and Families Department, Department of Health, Human Services Department, and PED.

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 \$10 billion at calendar end of any given year. The SIC indicates the resiliency of this protection renders itself ineffective. Because the fund balance has been higher than \$10 billion since 2010, the fund would need to lose substantial value before the five-year average actually trips the proposed safety indicated in HJR1. See Attachment 2 on page 8.

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, 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

HJR2, Land Grant Fund for Public Safety, CA, seeks an additional 0.5 percent annual LGPF distributions for public safety.

HJR3, Severance Tax Fund for Public Safety, CA, seeks an additional 0.5 percent annual Severance Tax Permanent Fund (STPF) 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
- Legislative Finance Committee
- Office of the Attorney General
- State Investment Council

CMC/rab

Table 3
FY17 (unaudited) LGPF Balance and Income Distribution Summary

Institution	Percent of Fund	Distribution	Ending Balance (Book Value)	Educational Programs	Early Educational Services
Public Schools	84.8%	(\$541,553,064)	\$13,829,968,010	Y	Y
University of NM	1.3%	(\$8,514,456)	\$214,912,359	Y	Y
UNM Saline Lands	0.0%	(\$285,455)	\$7,292,624	N	N
NM State University	0.4%	(\$2,705,732)	\$68,102,133	Y	Y
Western NM University	0.0%	(\$158,441)	\$3,996,270	Y	Y
NM Highlands University	0.0%	(\$157,623)	\$3,975,763	Y	Y
Northern NM College	0.0%	(\$127,771)	\$3,227,086	Y	N
Eastern NM University	0.1%	(\$493,586)	\$12,462,213	Y	Y
NM Inst. Mining & Tech	0.2%	(\$1,204,282)	\$30,462,790	Y	N
NM Military Institute	3.1%	(\$19,588,299)	\$494,634,711	Y	N
NM Boys School	0.0%	(\$34,947)	\$876,613	Y	N
DHI Miners Hospital	0.9%	(\$5,645,610)	\$142,356,387	N	N
NM State Hospital	0.3%	(\$2,114,369)	\$54,203,241	N	N
NM State Penitentiary	1.9%	(\$12,069,513)	\$305,241,922	Y	N
NM School for the Deaf	1.9%	(\$11,943,794)	\$301,934,648	Y	Y
School for Visually Impaired	1.9%	(\$11,918,496)	\$301,302,063	Y	Y
Charitable Penal & Reform	0.8%	(\$5,016,585)	\$126,323,699	N	N
Water Reservoir	1.0%	(\$6,320,881)	\$159,090,617	N	N
Improve Rio Grande	0.2%	(\$1,414,189)	\$35,593,009	N	N
Public Bldgs. Cap. Inc.	1.1%	(\$6,798,552)	\$172,530,783	N	N
Carrie Tingley Hospital	0.0%	(\$8,812)	\$221,028	N	N
Total		(\$638,074,458)	\$16,268,707,971		

Source: State Investment Council and LFC

