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

Bill Number	<u>HJR10</u>	Sponsor	<u>Gallegos, DY/Garcia Richard</u>
Tracking Number	<u>.210043.3</u>	Committee Referrals	<u>HEC/HLELC/HJC</u>
Short Title	<u>Permanent Education Emergency Fund, CA</u>		
Analyst	<u>Simon</u>	Original Date	<u>2/2/18</u>
		Last Updated	<u></u>

BILL SUMMARY

Synopsis of Bill

House Joint Resolution 10 (HJR10) proposed an amendment to the New Mexico constitution to transfer an estimated \$36.7 million from the permanent school fund to the newly created “permanent education emergency reserve fund” (PEERF). PEERF would provide additional funds for appropriation to public schools in years where general fund revenue collections fall by at least 5 percent.

HJR10 would propose the amendment at the next general election or at any special election prior to that date.

FISCAL IMPACT

If approved by the voters, HJR10 would transfer 0.25 percent of the 2017 year-end market value of the permanent school fund to the PEERF. According to the State Investment Council (SIC), based on the 2017 year-end amount, the transfer would equal \$36,737,570.

HJR10 would allow the Legislature to appropriate PEERF funds above \$36 million if general fund revenue forecasts are predicting a 5 percent decline in general fund revenue versus the prior year. Money in the fund would be invested in the same manner as money in the permanent school fund. SIC notes there are short-term risks involved with the transfer. In the early years of the PEERF, a negative market environment could reduce PEERF below its \$36 million minimum value. SIC is forecasting returns below their historic average over the next seven to 10 years. However, SIC notes there is potential for the PEERF to grow over time. If returns over 10 years averaged 7 percent and no distributions were made from the fund, PEERF would have a value of \$73 million, \$37 million of which would be available to use in a downturn.

The State Land Office (SLO) notes that transferring money from the permanent school fund would reduce the amount available for the annual 5 percent distributions. Based on a \$36.7 million estimated transfer on January 1, 2019, the Legislative Finance Committee estimates HJR10 would have a negative impact on the general fund of \$331.8 thousand in FY21; and \$758.6 thousand in

FY22. The negative impact grows in the second year because the Land Grant Permanent Fund (LGPF) distributions are based on the average year-end market value of the fund for the previous five years. In addition, any investment earning on the \$36 million transferred would be credited to the PEERF and not the LGPF, reducing future annual distributions.

SUBSTANTIVE ISSUES

HJR10 would create an emergency reserve fund for public education and would maintain \$36 million of the \$36.7 million transferred from future appropriation. HJR10 would not alter the beneficiaries of the permanent school fund. The Legislature could only appropriate money from the PEERF to the beneficiaries of the permanent school fund.

PEERF funds could only be appropriated by the Legislature if general fund revenue forecasts were predicting a decline of 5 percent or more. Between 2009 and 2017, this has occurred twice, in FY09 and FY16, based on December consensus revenue forecasts from each year.

SIC notes that, unlike other legislation involving the LGPF, HJR10 would only apply to the largest component, the permanent school fund. According to SIC, the permanent school fund had a 2017 year-end market value of \$14.965 billion. The permanent school fund is only one component of the \$17.288 billion LGPF. About 85 percent of LGPF distributions go to public schools.

OTHER SUBSTANTIVE ISSUES

SLO notes that, unlike other proposed constitutional amendments affecting the LGPF, HJR10 does not state that the proposed amendment would not become effective without the consent of the U.S. Congress. SLO states “Enacting further changes in the LGPF without the consent of Congress likely violates the Enabling Act.” However, two previous amendments involving the LGPF did not contain this requirement. House Joint Resolution 16 (2014) increased the duty of care for management and investment of the fund, and Senate Joint Resolution 6 (2003) increased annual distributions from the LGPF. Those amendments were approved by voters and became effective November 4, 2014 and September 23, 2003, respectively.

RELATED BILLS

HJR10 relates to HJR1, Land Grant Fund Distributions, CA; HJR2, Land Grant Fund for Public Safety, CA; SJR2, Land Grant Funds for Education, CA; SJR11; Permanent Funds for Longer School Year, CA; SJR15, State Trust Beneficiary Reserve Fund, CA.

SOURCES OF INFORMATION

- LESC Files
- Legislative Finance Committee
- State Investment Council
- State Land Office

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