

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number:** HJR 22

**52nd Legislature, 2nd Session, 2016**

**Tracking Number:** .202055.5

**Short Title:** Permanent Fund Distributions, CA

**Sponsor(s):** Representatives Idalia Lechuga-Tena and Christine Trujillo

**Analyst:** David Craig

**Date:** February 8, 2016

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**Bill Summary:**

HJR 22 proposes to amend Article 12, 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.

**Fiscal Impact:**

House joint resolutions do not carry appropriations.

According to the State Investment Council (SIC), the impact of HJR 10 for FY17, total distributions would be \$701.8 million, an increase of \$63.8 million over the 5.0 percent distribution scheduled for FY17 after existing additional distributions expire.

According to the State Land Office (SLO) analysis comparing scheduled distribution rates to those proposed by HJR 22, beneficiaries would receive approximately:

- \$515 million more in total distributions during the next 10 years;
- \$1.8 billion less in total distributions over the next 50 years; and
- beneficiaries will start to see a reduction in funds distributed in 23 years.

Under Section 1-16-13 NMSA 1978 and the Constitution of the State of New Mexico, the Secretary of State (SOS) is required to print samples of the text of each constitutional amendment, in both Spanish and English, in an amount equal to 10 percent of the registered voters in the state. SOS is also required to publish them once a week for four weeks preceding the election in newspapers in every county in the state. If the ballot size is greater than one page, front and back, it would increase the cost of conducting the general election. In addition to the cost of the ballot, there will be added time for processing voters to vote and would mean additional ballot printing systems would be required to avoid having lines at voting convenience centers. SOS estimates the cost per constitutional amendment to be \$104,000 based on 2010 actual expenditures.

**At a Glance:**

- HJR 22 will increase revenues for current LGPF beneficiaries.
- HJR 22 may decrease distributions to LGPF beneficiaries in the future if the balance of the fund decreases because of the increased distributions.

### **Detailed Bill Provisions:**

HJR 22 proposes to amend Article 12, Section 7 of the Constitution of the State of New Mexico to increase annual distributions from the LGPF to permanently add:

- an additional 0.5 percent distribution of the five-year average of the end-of-year market value of the fund to be used for early childhood education services administered by the state as provided by law; but
- require the five-year average ending balance of the LGPF to be at least \$10 billion before additional annual distributions are made; and
- continues to allow the Legislature, by a three-fifths' vote of the members elected to each house, to suspend the additional distributions.

### **Substantive Issues:**

The chart below compares the total distribution amount of the five-year average balance of the LGPF under current law and the HJR 22 proposal.

<b>Land Grant Permanent Fund Total Distribution Rate</b>			
<b>Fiscal Year</b>	<b>Current Law</b>	<b>HJR 22</b>	<b>Difference</b>
<b>2016</b>	5.5 percent	5.5 percent	0 percent
<b>2017</b>	5.0 percent	5.5 percent	0.5 percent
<b>2018</b>	5.0 percent	5.5 percent	0.5 percent
<b>2019</b>	5.0 percent	5.5 percent	0.5 percent
<b>2020</b>	5.0 percent	5.5 percent	0.5 percent

SIC indicates, although public education receives nearly 85 percent of the distribution from the LGPF, more than half of the LGPF beneficiaries are not educational entities. HJR 22 increases distributions for all beneficiaries; however, places restrictions on the use of this increased funding on public education beneficiaries, requiring that it be spent on school programs as provided by law. All other beneficiaries will be able to spend the increased distribution at their discretion.

In addition, SIC notes the corpus of the LGPF: must increase to offset inflation; must increase in anticipation of the inevitable decrease to contributions stemming from a revenue source tied to non-renewable resources, and as the corpus of the LGPF increases, annual distribution amounts increase. The SIC analysis showed that the increased distributions negatively impact measures of inter-generational equity. Additionally, SIC notes the requirement, for the five-year average ending balance of the LGPF to be \$10 billion prior to additional distributions, is unlikely to protect the LGPF in times of duress. For example, if the balance were to drop below \$5.0 billion in 2016, the five-year average balance of the LGPF would still be over \$10 billion.

Prior to 1997, approval of the U.S. Congress was required for any change to distributions 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,” indicating that U.S. Congress has given authority to the state to change this section of the constitution. Despite this amendment, in 2003 the Attorney General expressed concern that U.S. Congress “may disapprove of the higher distribution rates because the rates may conflict with existing safeguards for trust funds in the *Enabling Act*.” Therefore, the Attorney General recommended requiring congressional approval

in any proposed constitutional amendment that seeks to increase the distribution rate of the LGPF.

**Related Bills:**

CS/SJR 2 *Permanent Funds for Early Childhood Education, CA*

SJR 3 *Permanent Fund Annual Distributions, CA*

HJR 10 *Permanent Funds for Early Childhood, CA*