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

Bill Number	<u>HJR2</u>	Sponsor	<u>Representative McCamley</u>
Tracking Number	<u>.205132.1</u>	Committee Referrals	<u>HLEDC/HLELC/HAFC</u>
Short Title	<u>Land Grant Fund for Economic Stimulus, CA</u>		
Analyst	<u>McCorquodale</u>	Original Date	<u>1/31/17</u>
		Last Updated	<u></u>

BILL SUMMARY

Synopsis of Bill

House Joint Resolution 2 (HJR2) amends Article XII, Section 7 of the Constitution of the State of New Mexico by adding a section to require a withdrawal of \$7 billion from the Land Grant Permanent Fund (LGPF) to provide capital for economic stimulus spending over eight years. The funds would be allocated as follows: \$4 billion for infrastructure and energy projects; \$2 billion for applied research in clean energy and water technologies and technology transfer for such research; and \$1 billion for early childhood services. The amendment proposed by HJR2 would be voted on by the people of New Mexico in the next general or a special election. To become effective, the amendment would require the consent of the U.S. Congress.

FISCAL IMPACT

House joint resolutions do not carry appropriations.

The State Investment Council (SIC) made an assumption of an annual distribution to the general fund of \$875 million over an eight period. Based on data included in Table 1, page 2, the SIC indicates that HJR2 and its \$7 billion withdrawal from the LGPF would increase overall distributions to beneficiaries by \$6.64 billion over eight years. On the ninth year, projected distributions would be \$345 million less per year than if the corpus had not been depleted. Additionally, the average earning potential of the LGPF would be \$566 million lower annually once HJR2 expired. Lastly, the LGPF corpus itself would be \$1.15 billion less at the end of the ninth year compared to when the additional distributions began.

Table 2 LGPF End Year Values and Projections (dollars in billions)

Calendar Year	Corresponding Fiscal Year	LGPF Value Current (5%)	LGPF Distribution at 5%	LGPF Value with HJR2	LGPF Distribution with HJR2
2016	2018	15.17	\$689,176,060	15.17	\$689,176,060
2017	2019	15.92	\$733,873,288	15.05	\$1,600,123,288
2018	2020	16.68	\$766,817,083	14.87	\$1,615,024,583
2019	2021	17.45	\$796,186,052	14.66	\$1,616,569,917
2020	2022	18.23	\$834,484,546	14.43	\$1,616,837,635
2021	2023	19.04	\$873,171,690	14.18	\$1,606,932,258
2022	2024	19.86	\$912,548,845	13.92	\$1,595,630,623
2023	2025	20.7	\$952,750,913	13.65	\$1,583,380,461
2024	2026	21.55	\$993,823,473	13.37	\$1,570,490,223
2025	2027	22.47	\$1,036,230,038	14.02	\$691,374,957
Total Distributions			\$6,863,655,890		\$13,496,363,945

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. Legislative Finance Committee 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

The Attorney General’s Office (AGO) noted the LGPF derives from the Enabling Act grant made specifically to support common schools (compulsory and universal primary and secondary education) with permanent school fund income. Consequently, by directing the additional distributions to be used for infrastructure and energy projects; research for clean energy and water technologies and technology transfer for such research; and for early childhood education, the amendment would significantly expand the range of programs to be supported by the original grant. It is unclear if the proposed distribution under HJR2 would endanger the health of the LGPF.

According to the SIC, it is likely the 21 beneficiaries of the LGPF would pursue litigation challenging the constitutionality of the additional distributions. 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.

HJR2 does not indicate how the new distribution might interact with or override the existing distributions to the 21 LGPF beneficiaries, and whether their percentage based distribution

would be calculated prior to or subsequent to the application of the current distribution formula of 5 percent of the fund’s five-year annual average. Provided that common schools currently receive 84.9 percent of the LGPF distribution, both current and future generations of public school students would forgo hundreds of millions of dollars and later, billions of dollars in school funding to provide for the various economic stimulus outlined in the resolution.

Table 2 FY17 Un-audited LGPF Balance and Distribution

Institutions	LGPF Ownership	January 1, 2017 Beginning Balance
Public Schools	84.9%	\$12,877,298,118.78
New Mexico Military Institute	3.1%	\$465,472,748.12
New Mexico School for the Deaf	1.9%	\$283,906,590.47
School for the Blind and Visually Impaired	1.9%	\$283,304,963.50
New Mexico State Penitentiary	1.9%	\$286,947,852.42
University of New Mexico	1.3%	\$202,278,980.00
Public Buildings	1.1%	\$161,661,460.26
Water reservoir	1.0%	\$150,216,338.28
DHI Miners Hospital	0.9%	\$134,207,601.63
New Mexico State University	0.4%	\$64,291,707.02
New Mexico State Hospital	0.3%	\$50,292,346.95
Improvement of the Rio Grande	0.2%	\$33,607,280.26
New Mexico Institute of Mining and Technology	0.2%	\$28,641,032.21
Eastern New Mexico University	0.1%	\$11,728,677.91
University of New Mexico Saline Lands	0.0%	\$6,786,545.47
Western NM University	0.0%	\$3,766,185.29
New Mexico Highlands University	0.0%	\$3,746,758.88
New Mexico Boys School	0.0%	\$830,441.13
Carrie Tingley Hospital	0.0%	\$209,386.54
Northern New Mexico Community College	0.0%	\$3,037,459.17
Charitable, Penal, and Reform Institutions	0.8%	\$119,234,030.18
Total	100.0%	\$15,171,466,504.47

Source: SIC

TECHNICAL ISSUES

HJR2 does not outline a specific plan of deployment and qualifications for which entities would receive funds from the \$7 billion withdrawal.

OTHER SIGNIFICANT ISSUES

Children, Youth and Families Department (CYFD) noted the New Mexico Constitution and Enabling Act does not support the use of LGPF money for private or sectarian schools, but does support the use of distributions for early childhood services exclusively under the control of the state. Any distribution made pursuant to the amendment in HJR2 must be used by the Public Education Department (PED) for early childhood programs exclusively under the control of the state. However, Section 32A-23-9 NMSA 1978 requires any money appropriated for prekindergarten programs be divided equally between PED and CYFD.

RELATED BILLS

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

SJR3, Permanent Funds for Early Childhood, CA, proposes to increase the LGPF distribution by 1.5 percent to be used for early childhood education services.

HJR1, Permanent Funds for Early Childhood, CA, proposes to increase the LGPF distribution by 1 percent to be used for educational services and early childhood education services.

SOURCES OF INFORMATION

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

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