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**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**54th Legislature, 1st Session, 2019**

<b>Bill Number</b>	<u>HB621</u>	<b>Sponsor</b>	<u>Gallegos, DY</u>
<b>Tracking Number</b>	<u>.210989.4</u>	<b>Committee Referrals</b>	<u>HEC/HAFC</u>
<b>Short Title</b>	<u>Permanent Education Reserve Fund</u>		
<b>Analyst</b>	<u>Simon</u>	<b>Original Date</b>	<u>2/22/19</u>
		<b>Last Updated</b>	<u>2/24/19</u>

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**BILL SUMMARY**

Synopsis of Bill

House Bill 621 (HB621) would create the permanent education emergency reserve fund and appropriate \$60 million to the fund in FY20. Money in the fund would be available for appropriation if the consensus general fund revenue forecast showed a decline in revenue of at least 5 percent from the previous year, provided at least \$60 million remains in the fund.

**FISCAL IMPACT**

HB621 would appropriate \$60 million from the general fund to the newly created permanent education emergency reserve fund in FY20. Funds in the permanent education emergency reserve fund would be invested by the State Investment Council (SIC), allowing the fund to grow over time. SIC analysis indicates if the fund is managed in a manner similar to the Land Grant Permanent Fund, SIC would expect average annual returns of 7 percent. SIC states assuming the fund was allowed to grow for 10 years without being used for appropriations, the fund could double in value. However, SIC also states the permanent education emergency reserve fund could require more liquidity, which could reduce expected returns. HB621 would not provide a regular revenue stream for the permanent education emergency reserve fund, meaning interest earnings would be the only source of revenue for the fund.

HB621 would allow the Legislature to appropriate from the permanent education emergency fund if consensus general fund revenue estimates show a decline of 5 percent or more in the current or the next fiscal year. Unlike other reserve funds, assets in the fund would be earmarked for public education, and could be appropriated to the state equalization guarantee (SEG) distribution.

HB621 would only allow the Legislature to appropriate what the fund has earned in interest – under the bill; the \$60 million corpus would remain in the fund. This could limit the impact the fund would have on possible cuts to public education in an economic downturn. During the FY17 revenue downturn, the final program unit value was cut by 1.5 percent from the preliminary unit value, saving an estimated \$37.8 million and \$25 million was cut from public school transportation

and instructional materials. While HB621 could have helped to offset some of these reductions, it is unlikely the fund's interest earning would be sufficient to offset the entire amount.

## **SUBSTANTIVE ISSUES**

State law currently allows for other reserve funds, including the tobacco settlement permanent fund; the tax stabilization reserve fund, sometimes called the state's "rainy day fund;" and the state support reserve fund, which is meant to augment appropriations to the SEG distribution if federal and local revenue credits are below the amount anticipated by the Public Education Department. Laws 2017 (1st Special Session), Chapter 3, transitioned the tax stabilization reserve into the state's "rainy day fund" by capturing windfalls in oil and gas revenue and allowing balances to accumulate in the reserve. Under current law, if the operating reserve exceeds 8 percent of recurring general fund appropriations, the amount over 8 percent is transferred to the tax stabilization reserve. As a result, \$526.8 million was transferred to the tax stabilization reserve in FY18. According to the Legislative Finance Committee (LFC), an additional \$146 million could be transferred into the tax stabilization reserve in FY19, based on spending levels in the House Appropriations and Finance Committee Substitute for House Bills 2 and 3.

According to the LFC, balances in the tax stabilization reserve are available for appropriation under two circumstances:

- The governor declares it necessary because of a shortfall, with approval of a majority of the House and Senate; or
- By a two-thirds majority vote in both the House and Senate.

In FY19, public school appropriations accounted for 44.2 percent of general fund appropriations. While funds in the tax stabilization reserve are not earmarked specifically for public education, it is likely funding appropriated from the reserve would at least partially be directed to public education.

## **TECHNICAL ISSUES**

LFC suggests the bill should be conditional upon "the most recent legislative-executive consensus forecast" rather than "a legislative-executive consensus forecast." LFC also suggests language to clarify whether or not the new education reserve should be considered part of general fund reserve balances.

## **RELATED BILLS**

Senate Bill 401 would transfer federal mineral leasing payments above the five-year average to the tax stabilization reserve, providing an additional revenue source for the state's reserve funds.

## **SOURCES OF INFORMATION**

- LESC Files
- State Investment Council
- Legislative Finance Committee

**JWS/mhg**