LFC Requester:	Dawn Iglesias

AGENCY BILL ANALYSIS
2018 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

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{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION
{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original X **Amendment** X
Correction ___ **Substitute** ___

Date 02/01/18
Bill No: HJR1hec

Sponsor: Rep. Antonio Maestas
Rep. Javier Martinez
Short Title: LAND GRANT FUND DISTRIBUTIONS, CA

Agency Code: 924
Person Writing Marian Rael
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SECTION II: FISCAL IMPACT

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY20	**FY21**	**FY22**		
($159,069)	**($167,439)**	**($175,986)**	Recurring	LGPF
$40,608	$99,737	$149,755	Recurring	General Fund (Early Childhood)
$94,752	$42,745	$0	Recurring	General Fund (Educational)
$23,709	$24,957	$26,231	Recurring	Other LGPF beneficiaries

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates Proposed Appropriations in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

House Joint Resolution 1, as amended by the House Education Committee, amends the state constitution to provide for an additional distribution from the Land Grant Permanent Fund (LGPF) of one percent of average of the year-end market values of the fund for the immediately preceding five calendar years, beginning in fiscal year 2020 (FY20).

For FY20, provisions require 70 percent of the additional distribution be used for implementation and maintenance of educational programs administered by the state, as provided by law and 30 percent of the additional distribution be used for early childhood educational services administered by the state as provided by law.

For FY21, provisions require 30 percent of the additional distribution be used for implementation and maintenance of educational programs administered by the state, as provided by law and 70 percent of the additional distribution be used for early childhood educational services administered by the state as provided by law.

For FY22 and beyond, provisions require the total additional distribution to be used for early childhood educational services administered by the state, as provided by law.

HJR 1 defines early childhood education services as nonsectarian and nondenominational services for children until they are eligible for kindergarten, and indicates services may be provided by a school district or entity of an Indian nation, tribe or pueblo. As a constitutional amendment, upon passage, HJR 1 will be submitted to the voters for approval at the next general election or any special election prior to that date. HJR 1 contains a contingent effective date requiring consent of the U.S. Congress before provisions become effective.

FISCAL IMPLICATIONS

According to the State Investment Council (SIC), provisions of HJR1 would result in an increase of approximately $94.7 million in FY20 and $42.7 million in FY21 for educational services in the state, presumably through the public school funding formula (or state equalization guarantee (SEG). The fund is administered by the SIC according to the Uniform Prudent Investor Act. Current provisions in law allow for:

- the additional distribution to be suspended in the event that the year-end market value for the LGPF falls below $10 billion (i.e. the "safety valve"); and
- the Legislature to suspend any additional distribution by a three-fifths' vote of the members elected to each chamber.

Historically, increased distributions from the LGPF have been used by legislative budgeteers to supplant existing general fund appropriations to education and have not been used to increase funding to the total education funding pot.

The SIC is also projecting an increased distribution over current projections for FY 20 of approximately $167.4 million more to beneficiaries and proposed sources. Additional distributions from the LGPF reduce the amount invested and returned to the year-end market value, meaning that future generations of beneficiaries will receive fewer distribution amounts than they would otherwise receive. The amount the LGPF receives from investments and is therefore reinvested to recognize compounding returns is sometimes termed the "corpus" of the fund. The concept of fair benefits to both current and future generations of LGPF beneficiaries is sometimes termed "inter-generational equity".

SIGNIFICANT ISSUES

The Executive has been very clear in not supporting a raid of the permanent fund to unnecessarily expand government. Early childhood spending on targeted programs has proven to be effective and the executive budget recommendation reflects these priorities.

Though often termed "rainy day" funds, the LGPF was designed to be an endowment fund. Distributions used annually support a number of programs from the General Fund, and changes to distributions will impact current or future beneficiaries as they may receive less than they would otherwise receive. Additional distributions also put amounts distributed at risk if economic conditions (market forces) negatively impact the LGPF.

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Another area of concern is that the increase in distributions to be used for the implementation and maintenance of educational programs administered by the state declines in FY21 and disappears in FY22. These programs are recurring annually and if expenditures for these programs are reduced or disappear, school districts and charter schools would be left "holding the bag" for funding these programs and the associated staff tied to these programs. The legislative education committees have traditionally been adamant that unfunded mandates should not be considered. This has the potential of being an incredibly large unfunded mandate after the first two years of funding.

HJR 1 does not indicate specific programs that the additional funds distributed should be directed to. For example, it is unclear if the additional distribution for implementation and maintenance of educational programs administered by the state would flow through the State Equalization Guarantee (SEG) or be directed via the appropriation process. For the purposes of this analysis it is assumed it will flow through the SEG or be otherwise distributed to educational programs PED administers. Additionally, rapidly increasing funding for early childhood educational services administered by the state could cause increased competition for the dollars within existing programs or a rapid expansion of the program where quality may suffer.

PERFORMANCE IMPLICATIONS

The New Mexico PreK Program (32A-23-1 NMSA 1978) provides for *voluntary* pre-kindergarten services to four-year-old children in the state. The program shall address the total development needs for preschool children including physical, cognitive, social and emotional needs and also, health care, nutrition, safety and multicultural sensitivity.

ADMINISTRATIVE IMPLICATIONS

The PED would be required to create additional personnel in the Literacy and Early Childhood, Procurement and Fiscal Grants Management Bureaus to support, monitor and fund additional early childhood programs.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HJR 1 conflicts with budget proposals for the General Appropriation Act where both the Executive and the Legislative Finance Committee have proposed early childhood program funding.

TECHNICAL ISSUES

It is unclear if omitting the current language of an “average of” one percent (page 4, line 2) in the proposed new language for the additional distribution from the LGPF was intentional or not. The differences in financial impact between the two are quite large as distributing one percent of five year-end market values would at least double the current distribution.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Early childhood programs will continue to be phased on a basis of sustained growth in the program that allows PED staff to ensure quality in program delivery. Future LGPF beneficiaries will receive additional monies.

AMENDMENTS