LFC Requester:	Dawn Iglesias

AGENCY BILL ANALYSIS
2018 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{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** ____
Correction ___ **Substitute** ____

Date 02/07/18
Bill No: HJR10

Sponsor: Rep. Doreen Y. Gallegos
Rep. Stephanie Garcia Richard

Short Title: PERMANENT EDUCATION EMERGENCY FUND, CA

Agency Code: 924

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		
($43,220.67)	$0	Nonrecurring	LGPF
$43,220.67	$0	Nonrecurring	Perm. Ed. Emerg. Reserve Fund (Proposed)

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY18	FY19	FY20		

(Parenthesis ( ) Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HJR 10 creates a new permanent education emergency reserve fund by distributing one-fourth percent of the 2017 year-end market value to the permanent school fund (colloquially, the Land Grant Permanent Fund, or LGPF) to be invested in the same way as money in the LGPF. HJR 10 allows the legislature to appropriate from the fund if the market value of the fund is $36 million or more and the forecast for the general fund revenue for the current or following fiscal year shows a decline of five percent or more from its previous fiscal year level. Amounts appropriated must be lesser than the market value of the new permanent emergency reserve fund and $36 million.

FISCAL IMPLICATIONS

HJR 10 creates a new Permanent Education Emergency Reserve Fund designed to stabilize education funding from fluctuations in General Fund revenues by using one-fourth percent of the 2017 year-end market value of the LGPF. According to the State Investment Council's (SIC's) December monthly holding report, the 2017 calendar year end market value of the LGPF was $17,288,268,690. A transfer of 0.25% of this amount would result in $43,220,671.73 being transferred from the LGPF to the proposed fund.

Though often termed a "rainy day fund", the LGPF acts more as a state trust for future education needs based upon revenues primarily from non-renewable resources. Distributions, or in the case of HJR10 redirection, of funds from the LGPF decrease the amount available to future beneficiaries because it decreases the size of the fund that is invested and therefore returns earned on that investment. When the state diverts funds from the LGPF it is placing other needs or policy goals over the benefits that saving and building the corpus of the fund provides to future generations.

SIGNIFICANT ISSUES

HJR 10 does not tie the General Fund revenue forecast to a calendar date to determine if a five percent decline occurred. Similarly, it is unclear when the timing of appropriation occurs; whether this is when budget proposals are submitted, the beginning of session, House

Appropriations and Finance Committee action or concurrence, or signature by the Governor. For these reasons it is unclear if the most timely revenue forecast would be available at time of appropriation. For example, in FY18 the most recent General Fund Revenue forecast prior to Executive budget development was the August 2017 consensus forecast that showed revenues to fall $122 million below FY18 appropriated levels. The December forecast revised this General Fund revenue picture upward after Executive budget recommendations were developed and instead, $199 million in new money is available for FY19 appropriations. Additionally, in recent years there has been a practice of a mid-session update to the forecast, which may revise the General Fund revenue forecast up or down yet another time.

It is unclear, in a year like 2017 where a deficit turned into a surplus rather quickly, whether appropriators would be able to access the Permanent Education Emergency Reserve Fund prior to the start of session when it may not have been necessary. Without better clarification of either the timing of the General Fund consensus revenue forecast being used or what defines the time of appropriation, it is unclear what triggers the five percent decline and allows for appropriations from the proposed fund. HJR 10 also does not clarify who would make a determination that the declined; whether it is the Executive or Legislative branches or the Consensus Revenue Forecasting group.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

In FY 17 the beneficiaries of the LGPF include the following: Common Schools (school districts and charter schools), the University of New Mexico, the University Saline Lands, New Mexico State University, Western New Mexico University, New Mexico Highlands University, Northern New Mexico Community College, Eastern New Mexico University, New Mexico Institute of Mining & Technology, New Mexico Military Institute, New Mexico Boys School (CYFD), New Mexico Miners' Colfax Medical Center, Carrie Tingley Hospital, New Mexico Behavioral Health Institute, New Mexico Penitentiary, New Mexico School for the Deaf, New Mexico School for the Blind & Visually Impaired, Charitable, Penal & Reform, Water Reservoirs (OSE), Rio Grande Improvements (OSE), the State Parks Division and Public Buildings. Under the provisions of HJR 10 many of these beneficiaries would receive a distribution from the proposed Permanent Education Emergency Reserve Fund but may not have a program mission aligned to education.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

HJR 10 does not specify what year-end 2017 market value of the LGPF (state fiscal year or calendar year) the calculation of the transfer should be performed upon. This analysis assumes a calendar year-end as this mirrors other proposed constitutional amendments proposing distributions from the LGPF. The sponsors may consider inserting "calendar" in front of "year-end" on page 1, line 22.

HJR 10 does not specify which General Fund revenue forecast should be used, nor does it define the "time of appropriation" (v.s. "Significant Issues"), leaving open to interpretation what data source will inform the calculation of a five percent decline in General Fund revenues and allow the Legislature to appropriate from the proposed fund. The sponsors may consider clarifying what data sources inform the calculation and when the calculation is performed.

HJR10 indicates that if the market value of the fund is $36 million or more, the legislature may appropriate money from the fund to the beneficiaries of the LGPF less $36 million. In an instance where there is exactly $36 million, the Legislature would be allowed to appropriate $0. The sponsors may wish to remove the language "is thirty-six million dollars ($36,000,000) or more" on page 2, lines 5-6 and instead insert language similar to "more than thirty-six million dollars ($36,000,000)."

OTHER SUBSTANTIVE ISSUES

If HJR 10 passes, the amendment proposed by the resolution is to be submitted to the voters for their approval or rejection at the next general election or at any special election prior to that date that is called for that purpose. That could be as early as November 2018, requiring the transfer to take place in FY19.

ALTERNATIVES

The sponsors may wish to consider whether or not the creation of a new fund to smooth the availability of education revenues requires a constitutional amendment or whether this could be accomplished via a new non-reverting fund in state statute.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS