F I S C A L   I M P A C T   R E P O R T

ORIGINAL DATE 2/13/08
SPONSOR HVEC **LAST UPDATED** **HJR** 8/HVECS

SHORT TITLE Land Grant Fund Education Distribution, CA **SB**

ANALYST Schardin

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	**FY09**		
	$34,897.2	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	**FY09**	**FY10**		
	$34,897.2	$56,765.1	Recurring	General Fund
	$7,061.6	$11,451.7	Recurring	Other LGPF Beneficiaries

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to HB241 and HB311, Conflicts with SJR 18

SOURCES OF INFORMATION
LFC Files

SUMMARY

Synopsis of HVEC Substitute

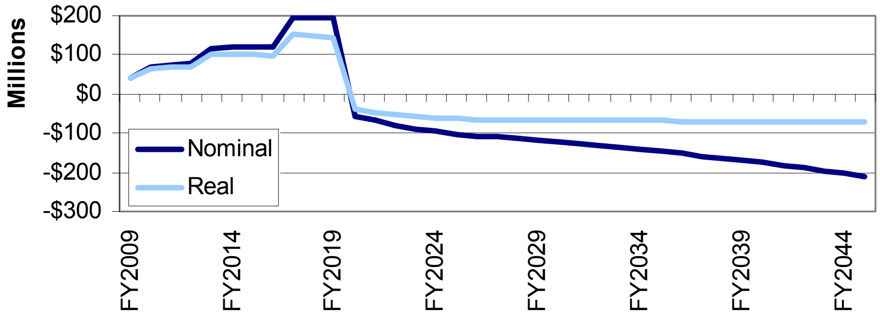
The House Voters and Elections Committee substitute for House Joint Resolution 8 would ask voters to amend the New Mexico Constitution to temporarily increase the distribution from the land grant permanent fund (LGPF) to 6.5 percent of the fund's five-year average market value. Under current law, the distribution is equal to 5.8 percent through FY12, 5.5 percent from FY13 through FY16, and 5.0 percent thereafter. The resolution would increase the distribution to 6.5 percent from FY09 through FY19, and then would return to 5 percent. Unless a special election is called prior, the proposal would be sent to voters on November 4, 2008 (see Technical Issues).

FISCAL IMPLICATIONS

The LFC's fiscal impact analysis assumes that the resolution would be passed by voters on November 4, 2008. Under that scenario, the increased distribution from the LGPF would go into effect at that date, resulting in a fiscal impact for the last eight months of FY09 (see Technical Issues). However, the fiscal impact could begin sooner if a special election is scheduled. The LFC estimate also assumes investments of the LGPF corpus will earn 8.2 percent net of fees, and that contributions to the fund will follow the state's consensus oil and gas price and volume forecast.

The figure below illustrates that increasing the distribution rate to 6.5 percent will result in higher distributions from FY09 through FY19, but lower distributions from then on. From FY09 through FY19 the fiscal impact of the resolution grows larger each year because it increases the distribution to 6.5 percent, while under current law the distribution would gradually phase back down from 5.8 percent to 5 percent. In FY20, the percent distribution would return to 5.0 percent, the same as it would be under current law. However, because the corpus of the fund will be smaller due to higher distributions in FY09 through FY19, distributions from the fund will be smaller in FY19 than under current law. This means that in FY20 and every year thereafter, the general fund and all other LGPF beneficiaries will receive less revenue from the LGPF than they would under current law.

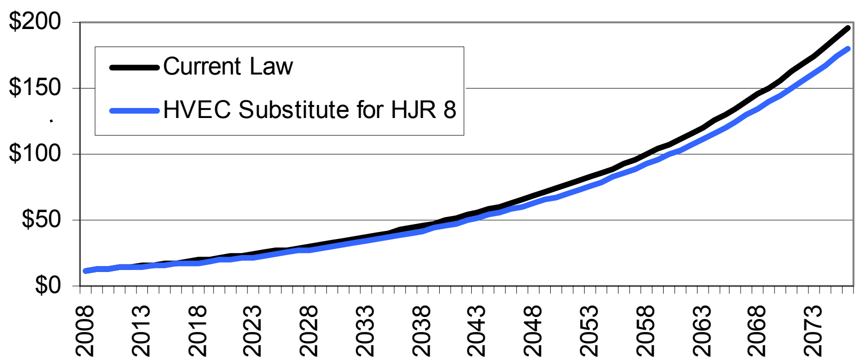
Change in Annual Distributions to All Beneficiaries
Resulting from HVEC Substitute for HJR8



Source: LFC Files. Real distributions calculated based on 3 percent discount rate.

The figure below illustrates the projected difference in the LGPF's nominal market value that will result from temporarily increasing the fund's distribution rate to 6.5 percent of its five-year average market value.

Projected Market Value of LGPF, at Calendar Year End



Source: LFC Files

The table below contains the estimated fiscal impact of the resolution in both nominal and real terms through FY2050.

Fiscal Impact of HJR 8 (HVEC Substitute)

	Fiscal Impact of HJR 8: Nominal			**Fiscal Impact of HJR 8: in 2009 dollars**		
	General Fund	Other Beneficiaries	Total	General Fund	Other Beneficiaries	Total
FY2009	$34,897,232	$7,061,593	$41,958,825	$34,897,232	$7,061,593	$41,958,825
FY2010	$56,765,164	$11,451,694	$68,216,859	$55,111,810	$11,118,150	$66,229,960
FY2011	$60,707,018	$12,209,546	$72,916,565	$57,222,187	$11,508,669	$68,730,856
FY2012	$64,130,892	$12,858,707	$76,989,599	$58,688,851	$11,767,539	$70,456,390
FY2013	$96,792,749	$19,407,646	$116,200,395	$85,999,104	$17,243,442	$103,242,546
FY2014	$99,429,557	$19,936,344	$119,365,901	$85,768,809	$17,197,266	$102,966,075
FY2015	$100,658,763	$20,182,809	$120,841,573	$84,300,130	$16,902,785	$101,202,915
FY2016	$100,651,362	$20,181,325	$120,832,687	$81,838,768	$16,409,264	$98,248,032
FY2017	$163,403,423	$32,763,567	$196,166,989	$128,992,171	$25,863,862	$154,856,033
FY2018	$163,854,679	$32,854,047	$196,708,726	$125,580,968	$25,179,891	$150,760,859
FY2019	$162,721,221	$32,626,780	$195,348,001	$121,079,870	$24,277,389	$145,357,259
FY2020	($46,640,151)	($9,351,687)	($55,991,838)	($33,693,838)	($6,755,858)	($40,449,695)
FY2021	($56,641,043)	($11,356,938)	($67,997,982)	($39,726,888)	($7,965,528)	($47,692,416)
FY2022	($65,939,052)	($13,221,256)	($79,160,309)	($44,901,286)	($9,003,032)	($53,904,318)
FY2023	($74,066,323)	($14,850,833)	($88,917,156)	($48,966,565)	($9,818,150)	($58,784,715)
FY2024	($80,523,714)	($16,145,586)	($96,669,300)	($51,685,108)	($10,363,237)	($62,048,345)
FY2025	($85,104,780)	($17,064,123)	($102,168,903)	($53,034,485)	($10,633,797)	($63,668,283)
FY2026	($88,652,946)	($17,775,556)	($106,428,502)	($53,636,490)	($10,754,504)	($64,390,994)
FY2027	($92,139,679)	($18,474,671)	($110,614,350)	($54,122,350)	($10,851,922)	($64,974,273)
FY2028	($95,621,261)	($19,172,754)	($114,794,015)	($54,531,469)	($10,933,954)	($65,465,423)
FY2029	($99,149,555)	($19,880,202)	($119,029,758)	($54,896,705)	($11,007,186)	($65,903,891)
FY2030	($102,766,266)	($20,605,379)	($123,371,645)	($55,241,932)	($11,076,406)	($66,318,338)
FY2031	($106,498,110)	($21,353,640)	($127,851,751)	($55,580,565)	($11,144,305)	($66,724,870)
FY2032	($110,358,432)	($22,127,663)	($132,486,095)	($55,917,707)	($11,211,904)	($67,129,611)
FY2033	($114,354,981)	($22,929,000)	($137,283,981)	($56,255,073)	($11,279,549)	($67,534,622)
FY2034	($118,494,485)	($23,759,000)	($142,253,485)	($56,593,626)	($11,347,431)	($67,941,057)
FY2035	($122,783,035)	($24,618,885)	($147,401,920)	($56,933,846)	($11,415,647)	($68,349,493)
FY2036	($127,226,437)	($25,509,820)	($152,736,256)	($57,275,949)	($11,484,242)	($68,760,191)
FY2037	($131,830,473)	($26,432,962)	($158,263,435)	($57,620,035)	($11,553,233)	($69,173,268)
FY2038	($136,601,037)	($27,389,495)	($163,990,532)	($57,966,153)	($11,622,633)	($69,588,786)
FY2039	($141,544,198)	($28,380,634)	($169,924,832)	($58,314,335)	($11,692,446)	($70,006,781)
FY2040	($146,666,219)	($29,407,636)	($176,073,856)	($58,664,602)	($11,762,677)	($70,427,279)
FY2041	($151,973,581)	($30,471,801)	($182,445,382)	($59,016,970)	($11,833,329)	($70,850,299)
FY2042	($157,472,996)	($31,574,473)	($189,047,469)	($59,371,452)	($11,904,405)	($71,275,858)
FY2043	($163,171,414)	($32,717,047)	($195,888,461)	($59,728,064)	($11,975,908)	($71,703,972)
FY2044	($169,076,037)	($33,900,967)	($202,977,004)	($60,086,817)	($12,047,841)	($72,134,657)
FY2045	($175,194,329)	($35,127,729)	($210,322,058)	($60,447,724)	($12,120,205)	($72,567,930)
FY2046	($181,534,021)	($36,398,883)	($217,932,904)	($60,810,800)	($12,193,005)	($73,003,804)
FY2047	($188,103,125)	($37,716,035)	($225,819,160)	($61,176,056)	($12,266,241)	($73,442,297)
FY2048	($194,909,943)	($39,080,852)	($233,990,794)	($61,543,506)	($12,339,917)	($73,883,423)
FY2049	($201,963,076)	($40,495,056)	($242,458,132)	($61,913,163)	($12,414,036)	($74,327,199)
FY2050	($209,271,438)	($41,960,435)	($251,231,874)	($62,285,040)	($12,488,600)	($74,773,640)

SIGNIFICANT ISSUES

The 2007 funding formula study task force sponsored the original House Joint Resolution 8 as a way of providing additional funding for a new public school funding formula.

The funding formula study task force proposed the new funding formula contained in House Bill 241 to address concerns that New Mexico’s current funding formula does not meet the constitutional requirement to provide a uniform system of free public schools sufficient for the education of all school aged children. The funding formula study task force findings indicate that New Mexico’s education system is currently under-funded by $332 million per year, or 14.5 percent.

The LGPF was established by the Ferguson Act of 1898 and confirmed by the Enabling Act for New Mexico in 1910. Together, these acts transferred about 9.2 million surface acres of federal lands and 13.1 million of federal mineral interests to the territory of New Mexico. These lands were to be held in trust for the benefit of public schools and 19 other state institutions.

The LGPF corpus consists of proceeds from the sale of state lands, royalties from natural resource production, and 5 percent of the proceeds from the sale of federal public lands in New Mexico. Rental, bonus and other public land income are also distributed to the state and the 19 other trust beneficiaries. The common school fund (a subset of the general fund) is the beneficiary of around 83 percent of income from the LGPF. As of December 31, 2007, the market value of the LGPF was $10.7 billion.

After adoption of a constitutional amendment in 1994, the distribution to LGPF beneficiaries was 4.7 percent of the fund's five-year average market value. Then in 2003, the legislature passed and the voters approved Senate Joint Resolution 6, which increased the base distribution to LGPF beneficiaries from 4.7 to 5 percent of the fund's five-year average market value, plus an additional 0.8 percent in FY05 to FY12, and an additional 0.5 percent from FY13 to FY16. The additional distributions from FY05 to FY16 were earmarked to implement and maintain educational reforms. The 2003 resolution also included a safeguard for the LGPF corpus by directing that in FY05 to FY16, the additional 0.5 and 0.8 percent distributions earmarked for education would not occur if the fund's five-year average market value fell below $5.8 million. Finally, the 2003 resolution provided that the legislature could suspend the additional 0.5 and 0.8 percent distributions earmarked for education by a three-fifths majority vote.

The committee substitute for House Joint Resolution 8 would increase the distribution to 6.5 percent of the fund's five-year market value from FY09 to FY19.

RELATIONSHIP

The committee substitute for House Joint Resolution 8 relates to House Bill 241, which includes public school funding formula changes recommended by the funding formula study task force, and to House Bill 311, which is also recommended by the funding formula study task force and would increase the state gross receipts and compensating tax rates by 0.5 percent and distribute the additional revenue to the public school fund.

The committee substitute for House Joint Resolution 8 conflicts with Senate Joint Resolution 18, which amends the same section of the state constitution to make a one-time distribution of $500 million from the LGPF.

TECHNICAL ISSUES

The resolution would increase the distribution from the LGPF in FY09 from 5.8 to 6.5 percent. If the resolution is approved by voters on November 4, 2008, it can only affect distributions in the last eight months of FY09. If the resolution is passed by the voters, it is unclear whether distributions in the first four months of FY09 will need to be adjusted retroactively. If the resolution is interpreted to impact distributions in the first four months of FY09, the FY09 fiscal impact of the bill would be higher.

SLO argues that increasing payments from the LGPF is unconstitutional. Section 9 of the federal Enabling Act of 1910, which has been deemed part of the New Mexico Constitution (*State ex rel. Interstate Stream Commission v. Reynolds*), states that only the interest from the LGPF is to be paid out to beneficiaries, and that it is unlawful to distribute any principal of the fund.

In addition, SLO finds fault with the resolution's language, which provides that distribution from the LGPF shall be used "to supplement the state's efforts to provide a sufficient education pursuant to Article 12, Section 1" of the New Mexico Constitution. SLO notes that the Enabling Act restricts that monies distributed from the LGPF may only be spent on the specific benefit of the common schools.

ALTERNATIVES

The resolution increases funding for public education in the next few decades at the expense of future generations. Increasing current education funding by increasing taxes on or decreasing services to the current population would be fairer, from an intergenerational standpoint.

POSSIBLE QUESTIONS

Although this proposal will increase funding available for public education from FY09 to FY19, it will decrease funding available for public education in years to come. How will the state deal with an education funding shortfall at that point?

SS/nt:bb