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

<b>Bill Number</b>	<u>HJR8</u>	<b>Sponsor</b>	<u>Maestas</u>
<b>Tracking Number</b>	<u>.210867.2</u>	<b>Committee Referrals</b>	<u>HSEIC/HJC</u>
<b>Short Title</b>	<u>State Penitentiary and Land Grant Funds, CA</u>		
<b>Analyst</b>	<u>Simon</u>	<b>Original Date</b>	<u>2/21/2019</u>
		<b>Last Updated</b>	<u></u>

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**BILL SUMMARY**

Synopsis of Joint Resolution

House Joint Resolution 8 (HJR8) proposes an amendment to the New Mexico Constitution to require that revenue from land grants originally assigned to state penitentiaries be used for the support and aid of the public schools. The resolution would be submitted to the voters at the next general election or at a special election and would become effective only with the consent of the United States Congress.

**FISCAL IMPACT**

The Legislative Finance Committee (LFC) estimates HJR8 would result in about \$5.5 million in annual royalty revenue generated for the penitentiary's trust being deposited in the permanent school fund to support public schools. In addition, monthly distributions from the land maintenance fund, which receives payments for the use of renewable resources of state trust land, would be directed to the general fund for appropriation to public schools. LFC notes that FY19 income from the land maintenance fund was unusually high, with about \$34 million due to two large land sales; however, LFC expects annual income in future years to return to about \$1.5 million annually.

While HJR8 could provide an additional revenue source to increase appropriations to public schools, the New Mexico Corrections Department (NMCD) notes about half of the state penitentiary's operating budget is due to income from the land grant permanent fund and the land maintenance fund. However, LFC notes HJR8 does not address the ownership of the \$323.1 million penitentiary permanent fund, which distributed \$12.8 million to NMCD in FY18 and is expected to grow to \$16 million by FY22. LFC does not expect HJR8 to impact this annual distribution in the absence of companion legislation.

If passed, HJR8 would incur additional one-time costs related to bringing the measure to voters, either in a special election or through a scheduled statewide referendum. Section 1-16-13 NMSA 1978 requires the Secretary of State (SOS) to print the full text of each proposed constitutional amendment, in both 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. LFC staff estimate each constitutional amendment may cost from \$50 thousand to \$100 thousand in printing and advertising costs based on 2016 actual expenditures, the most recent year in which data was available.

## **SUBSTANTIVE ISSUES**

On July 20, 2018, the First Judicial District Court issued an initial decision and order on the consolidated *Martinez v. New Mexico* and *Yazzie v. New Mexico* lawsuits. On December 20, 2018, the court issued its Findings of Facts and Conclusions of Law in the consolidated lawsuit. In its decision, the district court found educational services in public schools are insufficiently funded. Costs to bring the state into compliance with the consolidated *Martinez* and *Yazzie* lawsuit could be considerable, as a plaintiff group has suggested more than \$1 billion is needed to comply with the court ruling. The court found current public school support to be inadequate, noting, “simply put, the outputs reflect a systemic failure to provide an adequate education as required by the New Mexico Constitution.” This means public school appropriations in future years will likely need to be increased to achieve necessary outputs. However, additional revenue that would be available for public education as a result of HJR8 would be modest.

The New Mexico Attorney General’s Office (AG) notes Attorney General Opinion 12-03 suggests transferring trust land from one beneficiary to another would require the consent of Congress. Section 5 of the resolution notes the amendment would only become effective with the consent of Congress. The State Investment Council notes that previous attempts to change beneficiary ownership of the land grant permanent fund have led to legal challenges. The AG notes if the constitutional amendment is approved, state statutes referencing the “penitentiary income fund” and the “penitentiary permanent fund” may need to be amended.

## **SOURCES OF INFORMATION**

- LESC Files
- Legislative Finance Committee
- Corrections Department
- Office of the Attorney General

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