

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill No: HJR 8

48th Legislature, 2nd Session, 2008

Short Title: Land Grant Fund Education Distribution, CA

Sponsor (s): Representative Mimi Stewart and Others

Analyst: Kathleen Forrer

Date: January 25, 2008

FOR THE FUNDING FORMULA STUDY TASK FORCE

Bill Summary:

HJR 8 proposes to amend Article 12, Section 7 of the New Mexico Constitution to:

- increase the annual base distribution rate for all beneficiaries of the Land Grant Permanent Fund from 5.0 percent to 6.5 percent of the average of the year-end market values of the fund for the immediately preceding five calendar years;
- remove the language that provides for temporary additional annual distributions of 0.8 percent from FY 05 through FY 12 and 0.5 percent for FY 13 through FY 16 “to implement and maintain educational reforms”;
- remove the provision that no temporary additional annual distributions may be made in any fiscal year in which the average of the year-end market values of the fund for the immediately preceding five calendar years is less than \$5.8 billion;
- remove the provision stipulating that the Legislature, by a three-fifths vote in each house, may suspend any additional annual distribution (this language refers to the additional distributions for educational reforms; the proposed 6.5 percent is not an “additional” distribution); and
- add language specifying that the distribution from the Permanent School Fund “shall be used to provide a sufficient education pursuant to Article 12, Section 1” of the New Mexico Constitution¹.

Implementation would require voter approval in the next general election (2008) or a special election called for that purpose.

Fiscal Impact:

As a resolution, HJR 8 does not contain an appropriation.

According to the State Investment Council (SIC), there are 20 beneficiaries of the Land Grant Permanent Fund; however, the public schools receive the largest portion of the annual distribution—83.09 percent². Derived from SIC data, the following table shows the projected distributions for

¹ Article 12, Section 1 of the New Mexico Constitution states: “A uniform system of free public schools sufficient for the education of, and open to, all the children of school age in the state shall be established and maintained.”

² Following is a list of the 20 beneficiaries and the distribution rate applied to each: Common (Public) Schools (83.09 percent); University of New Mexico (1.64 percent); University of New Mexico Saline Lands (0.01 percent); New Mexico State University (0.45 percent); Western New Mexico University (0.03 percent); New Mexico Highlands University (0.03 percent); Northern New Mexico Community College (0.02 percent); Eastern New Mexico University (0.09 percent); New Mexico Institute of Mining and Technology (0.19 percent); New Mexico Military Institute (3.49

public schools from the Permanent School Fund based on the current annual base distribution rates and on the proposed 6.5 percent annual base distribution rate in HJR 8:

**PROJECTED DISTRIBUTIONS FOR PUBLIC SCHOOLS
A Comparison Based on Current Rates and the Projected Rate in HJR 8**

Fiscal Year	Current Distribution Rates	Current Estimated Distributions*	HJR 8 Proposed Distribution Rate	HJR 8 Projected Distributions*	Increase in Distribution
2009	5.8%	\$432.9			
2010	5.8%	\$468.6	6.5%	\$525.1	\$56.5
2011	5.8%	\$503.5	6.5%	\$564.2	\$60.7
2012	5.8%	\$538.4	6.5%	\$603.2	\$64.8
2013	5.5%	\$536.8	6.5%	\$634.8	\$98.0
2014	5.5%	\$560.9	6.5%	\$663.1	\$102.2
2015	5.5%	\$585.0	6.5%	\$691.3	\$106.4
2016	5.5%	\$608.2	6.5%	\$718.7	\$110.5
2017	5.0%	\$574.2	6.5%	\$746.1	\$172.0

*Based on 83.09 percent of the total distributions.

The SIC notes that the estimates upon which the preceding table is based do not take into account “the extremely volatile changes currently being experienced in the equities marketplace, or take into account the possibility of a year (or more) of negative returns and accompanying effects of such a downturn on the 5-year Fund average upon which distributions are based.”

The SIC reports that, as of December 31, 2007, the market value of the Land Grant Permanent Fund is approximately \$10.66 billion, and the five-year moving average of the year-end market values is \$8.99 billion.

Issues:

Land Grant Permanent Fund

The *Fergusson Act of 1898* and the *Enabling Act of 1910* were the primary federal legislative vehicles for the transfer by the United States of 13.4 million acres of federal land to the Territory of New Mexico. The acts stipulate that such lands are to be held in trust for the benefit of public schools and 19 other specifically identified state institutions. The Commissioner of Public Lands and the State Land Office are the trustees for the original 13.4 million acres of mineral resources and the remaining 8.75 acres of surface land. The Commissioner of Public Lands leases the trust lands for mineral exploration and grazing rights, and under certain conditions, may also sell or exchange trust properties. Royalties and income from the sales of land are transferred to the Land Grant Permanent Fund and are then invested by the State Investment Office.

Prior to 1997, U. S. congressional approval was required for any change to the way in which distributions were made from the Land Grant Permanent Fund. However, in 1997, Congress approved amendments to the federal *Enabling Act of 1910*, one of which specified that future distributions “shall be made as provided in Article 12, Section 7 of the Constitution of the State of New Mexico.”

percent); New Mexico Boys School (0.01 percent); Miners’ Hospital of New Mexico (1.09 percent); New Mexico State Hospital (0.24 percent); New Mexico State Penitentiary (2.0 percent); New Mexico School for the Deaf (2.07 percent); New Mexico School for the Blind and Visually Impaired (2.07 percent); Charitable Penal and Reform Institutions (0.89 percent); Water Reservoirs (1.09 percent); Improvement of the Rio Grande (0.3 percent); and Public Buildings Capitol (1.18 percent).

The last changes to Article 12, Section 7 occurred in 2003, when voters approved a constitutional amendment that increased the annual distribution from the permanent fund to the fund's beneficiaries (including public schools) from 4.7 percent to 5.0 percent of the average market value over the past five years. In addition to the permanent increase to 5.0 percent, the amendment also provided an additional 0.8 percent annual distribution from FY 05 to FY 12 (for a total distribution of 5.8 percent) and an additional 0.5 percent annual distribution from FY 13 to FY 16 (for a total distribution of 5.5 percent) to be used for education reform as provided by law. In FY 17, the distribution reverts to 5.0 percent.

The amendment included safeguards against depletion of the fund by suspending distribution of fund dollars if the five-year average of the fund goes below \$5.8 billion and by allowing the Legislature, at any time by a three-fifths majority vote of each house, to suspend any additional distribution.

Background

- After several vetoed appropriations to fund a study of the Public School Funding Formula, in 2005, the Legislative Education Study Committee (LESC) endorsed legislation that was enacted to create a Funding Formula Study Task Force.
- In 2006 the Legislature extended the term of the task force through December 2007 and appropriated dollars for an independent study of the funding formula.
- In order to carry out its charge, in August 2006, the task force selected American Institutes for Research (AIR), headquartered in Palo Alto, California, to conduct an independent study of the funding formula.
- Based on the tasks identified in the Request for Proposals (RFP) and other discussions, the contractor provided several recommendations regarding a new public school funding formula based on the concept of educational sufficiency. The formula developed by the contractor includes four measures of student need (poverty, English language learners, special education, and mobility), school size and school district size, and an Index of Staff Qualifications that incorporates the three-tiered licensure structure for teachers. The contractor also provided the task force with the estimated cost of implementing those recommendations.
- On January 7, 2008, the task force adopted a discussion draft of a bill that incorporated the contractor's recommendations regarding the funding formula and considered a number of proposals designed to fund the costs associated with implementation.
- On January 14, 2008, the LESC endorsed the task force recommendations to implement a new public school funding formula. However, the LESC took no action on the funding proposals, which were not yet available in final form.

Related Bills:

Funding Formula Task Force

HB 51 *Corporate Income Tax to Public School Fund*

HB 229 *End Yield Control on School Mill Levy*

HB 398 *Supplemental Public School Funding*

HB 241a *Public School Funding Formula Changes*

HB 311 *Increase Gross Receipts & Send to School Fund*

Other

HJR 10 *Statewide Millage Rate for School Funds, CA*