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

ORIGINAL DATE 2/12/08
SPONSOR Nava **LAST UPDATED** **HB**

SHORT TITLE Permanent Fund Money for Funding Formula **SJR** 18

ANALYST Schardin

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	415,850.9	Nonrecurring	General Fund
	(See Narrative for Impacts in FY10 and Beyond)	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	FY09	FY10		
	415,850.9		Nonrecurring	General Fund
		(4,826.3)	Recurring	General Fund
	84,149.1		Nonrecurring	Other LGPF Beneficiaries
		(973.7)	Recurring	Other LGPF Beneficiaries

(Parenthesis ( ) Indicate Revenue Decreases)

Conflicts with HJR8, Relates to HB241 and HB311

SOURCES OF INFORMATION
LFC Files

Responses Received From
Department of Finance and Administration (DFA)
State Land Office (SLO)
State Investment Council (SIC)
Attorney General's Office (AGO)
Public Education Department (PED)

SUMMARY

Synopsis of Bill

Senate Joint Resolution 18 would ask voters to amend the state constitution to allow a $500 million supplemental distribution from the Land Grant Permanent Fund (LGPF) in FY09. This distribution would occur in addition to the scheduled distribution of 5.8 percent of the five-year average market value of the LGPF that will take place under current law.

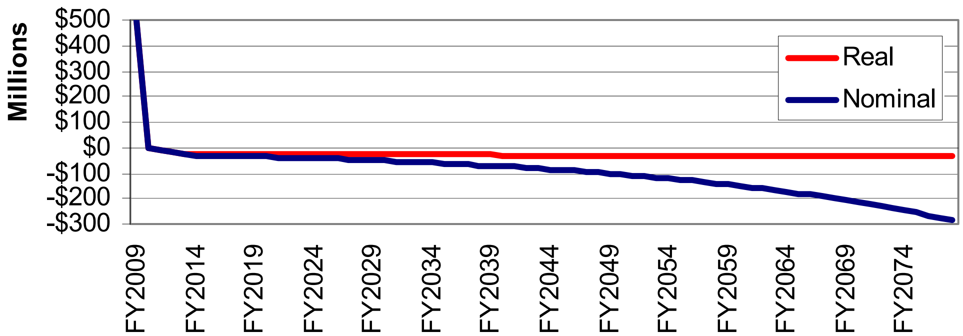
The provisions of the resolution would become effective upon approval by the voters of the state at the next general election (November 4, 2008) or any special election called prior to that date.

FISCAL IMPLICATIONS

The fiscal impact of this resolution depends on when the supplemental distribution of $500 million from the LGPF would take place. The bill states that the distribution would take place in FY09, but does not state a specific date. For the purposes of this analysis, it is assumed the resolution would be approved by voters on November 4, 2008 and the distribution would occur on or before December 31, 2008. 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.

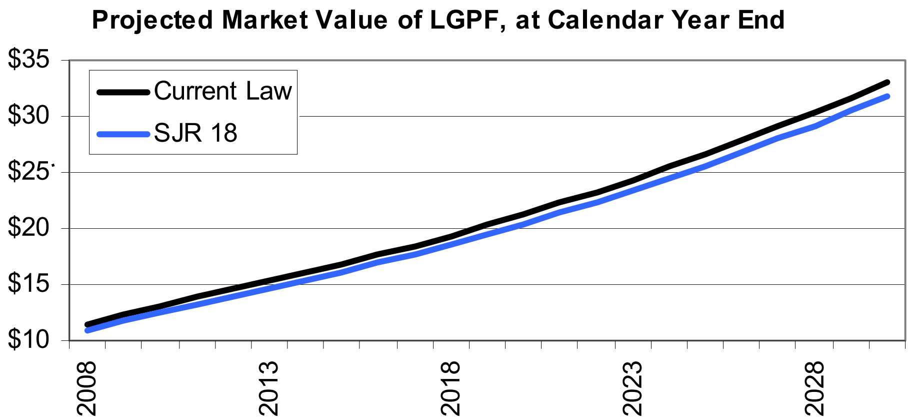
The figure below illustrates that the resolution will result in an additional $500 million distribution to all LGPF beneficiaries in FY09. Beneficiaries will receive lower distributions in FY10 and beyond because the fund's five-year average market value will be smaller as a result of the $500 million distribution. This means that in FY10 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 SJR18



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 distributing an additional $500 million from the LGPF by December 31, 2008. The difference widens as time passes because of the lost compound interest on the $500 million that would otherwise have remained in the LGPF corpus for reinvestment.



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 SJR 18

	Fiscal Impact of SJR 18: Nominal			Fiscal Impact of SJR 18: in 2009 dollars		
	General Fund	Other Beneficiaries	Total	General Fund	Other Beneficiaries	Total
FY2009	$415,850,921	$84,149,079	$500,000,000	$415,850,921	$84,149,079	$500,000,000
FY2010	($4,826,343)	($973,657)	($5,800,000)	($4,685,770)	($945,298)	($5,631,068)
FY2011	($10,025,589)	($2,016,371)	($12,041,960)	($9,450,079)	($1,900,623)	($11,350,702)
FY2012	($15,570,316)	($3,121,961)	($18,692,277)	($14,249,045)	($2,857,037)	($17,106,082)
FY2013	($20,307,959)	($4,071,893)	($24,379,852)	($18,043,359)	($3,617,824)	($21,661,183)
FY2014	($26,108,160)	($5,234,875)	($31,343,034)	($22,521,128)	($4,515,649)	($27,036,777)
FY2015	($27,547,290)	($5,523,431)	($33,070,721)	($23,070,422)	($4,625,786)	($27,696,208)
FY2016	($28,835,897)	($5,781,806)	($34,617,703)	($23,446,223)	($4,701,137)	($28,147,360)
FY2017	($27,274,367)	($5,468,708)	($32,743,074)	($21,530,637)	($4,317,048)	($25,847,685)
FY2018	($28,268,648)	($5,668,068)	($33,936,717)	($21,665,565)	($4,344,102)	($26,009,667)
FY2019	($29,246,137)	($5,864,062)	($35,110,199)	($21,761,873)	($4,363,413)	($26,125,286)
FY2020	($30,248,287)	($6,065,000)	($36,313,287)	($21,852,006)	($4,381,485)	($26,233,491)
FY2021	($31,303,418)	($6,276,562)	($37,579,980)	($21,955,588)	($4,402,254)	($26,357,842)
FY2022	($32,419,228)	($6,500,289)	($38,919,517)	($22,075,916)	($4,426,381)	($26,502,297)
FY2023	($33,588,471)	($6,734,731)	($40,323,203)	($22,205,937)	($4,452,451)	($26,658,387)
FY2024	($34,801,270)	($6,977,906)	($41,779,176)	($22,337,611)	($4,478,852)	($26,816,463)
FY2025	($36,059,143)	($7,230,119)	($43,289,261)	($22,470,866)	($4,505,571)	($26,976,437)
FY2026	($37,363,331)	($7,491,618)	($44,854,949)	($22,605,430)	($4,532,552)	($27,137,982)
FY2027	($38,715,110)	($7,762,659)	($46,477,769)	($22,741,047)	($4,559,744)	($27,300,791)
FY2028	($40,115,955)	($8,043,539)	($48,159,494)	($22,877,569)	($4,587,118)	($27,464,686)
FY2029	($41,567,553)	($8,334,595)	($49,902,147)	($23,014,946)	($4,614,663)	($27,629,609)
FY2030	($43,071,712)	($8,636,190)	($51,707,902)	($23,153,168)	($4,642,377)	($27,795,545)
FY2031	($44,630,319)	($8,948,701)	($53,579,020)	($23,292,229)	($4,670,260)	($27,962,489)
FY2032	($46,245,334)	($9,272,523)	($55,517,857)	($23,432,129)	($4,698,311)	($28,130,440)
FY2033	($47,918,793)	($9,608,064)	($57,526,858)	($23,572,871)	($4,726,531)	($28,299,402)
FY2034	($49,652,812)	($9,955,747)	($59,608,559)	($23,714,459)	($4,754,920)	($28,469,380)
FY2035	($51,449,579)	($10,316,012)	($61,765,591)	($23,856,898)	($4,783,480)	($28,640,379)
FY2036	($53,311,365)	($10,689,314)	($64,000,679)	($24,000,193)	($4,812,212)	($28,812,405)
FY2037	($55,240,523)	($11,076,124)	($66,316,648)	($24,144,349)	($4,841,116)	($28,985,465)
FY2038	($57,239,492)	($11,476,932)	($68,716,423)	($24,289,370)	($4,870,194)	($29,159,564)
FY2039	($59,310,796)	($11,892,243)	($71,203,039)	($24,435,263)	($4,899,447)	($29,334,709)
FY2040	($61,457,053)	($12,322,583)	($73,779,637)	($24,582,031)	($4,928,875)	($29,510,906)
FY2041	($63,680,977)	($12,768,496)	($76,449,473)	($24,729,682)	($4,958,480)	($29,688,161)
FY2042	($65,985,377)	($13,230,545)	($79,215,921)	($24,878,219)	($4,988,263)	($29,866,481)
FY2043	($68,373,165)	($13,709,313)	($82,082,478)	($25,027,648)	($5,018,224)	($30,045,873)
FY2044	($70,847,359)	($14,205,407)	($85,052,766)	($25,177,975)	($5,048,366)	($30,226,341)
FY2045	($73,411,086)	($14,719,453)	($88,130,539)	($25,329,205)	($5,078,689)	($30,407,894)
FY2046	($76,067,585)	($15,252,100)	($91,319,686)	($25,481,343)	($5,109,193)	($30,590,537)
FY2047	($78,820,215)	($15,804,022)	($94,624,237)	($25,634,395)	($5,139,881)	($30,774,277)
FY2048	($81,672,453)	($16,375,917)	($98,048,369)	($25,788,366)	($5,170,754)	($30,959,120)
FY2049	($84,627,903)	($16,968,506)	($101,596,409)	($25,943,263)	($5,201,812)	($31,145,074)
FY2050	($87,690,301)	($17,582,539)	($105,272,840)	($26,099,089)	($5,233,056)	($31,332,145)

SIGNIFICANT ISSUES

According to DFA, the $500 million nonrecurring distribution from the LGPF would be used to implement the new public school funding formula proposed in House Bill 241. However, the language in the bill does not specifically limit use of the funding for that purpose.

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 amended the constitution to increase 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.

CONFLICT, RELATIONSHIP

Senate Joint Resolution 18 conflicts with House Joint Resolution 8, which would amend the same part of the state constitution to permanently increase the percentage distribution from the LGPF to its beneficiaries to 6.5 percent of the five-year average market value.

Senate Joint Resolution 18 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.

TECHNICAL ISSUES

While the resolution would provide an additional $500 million distribution from the LGPF in FY09, it does not state the specific date on which that distribution is to occur. The resolution should be amended to state a specific distribution date.

In an analysis of House Joint Resolution 8, SLO argued 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.

While the title of the bill indicates that the one-time distribution from the LGPF will be used to implement the new public school funding formula, the language of the bill does not state a specific use of the $500 million.

SS/mt