

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number:** SJR 3a

**52nd Legislature, 2nd Session, 2016**

**Tracking Number:** .202725.4

**Short Title:** Permanent Fund Annual Distributions, CA

**Sponsor(s):** Senator Michael Padilla

**Analyst:** David Craig

**Date:** February 15, 2016

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**AS AMENDED**

**The Senate Finance Committee amendments provide for the 0.8 percent increase to be an additional distribution that takes place for 10 years and require the five-year average ending balance of the Land Grant Permanent Fund to be at least \$12 billion before this additional annual distribution is made.**

**Original Bill Summary:**

SJR 3 amends Article XII, Section 7 of the Constitution of the State of New Mexico to increase annual distributions from the Land Grant Permanent Fund (LGPF) to 5.8 percent.

**Fiscal Impact:**

Senate joint resolutions do not carry appropriations.

According to the State Investment Council (SIC) and Legislative Finance Committee (LFC), the impact of SJR 3 for FY17, total distributions would be \$740.2 million, an increase of \$102.4 million over the 5.0 percent distribution scheduled for FY17 after existing additional distributions expire.

Under Section 1-16-13 NMSA 1978 and the New Mexico constitution, the Secretary of State (SOS) is required to print samples of the text of each constitutional amendment, in both Spanish and English, in an amount equal to 10 percent of the registered voters in the state. SOS is also required to publish them once a week for four weeks preceding the election in newspapers in every county in the state. If the ballot size is greater than one page, front and back, it would increase the cost of conducting the general election. In addition to the cost of the ballot, there will be added time for processing voters to vote and would mean additional ballot printing systems would be required to avoid having lines at voting convenience centers. SOS estimates the cost per constitutional amendment to be \$104,000 based on 2010 actual expenditures.

**At a Glance:**

- SJR 3 will increase revenues for current LGPF beneficiaries.
- SJR 3 may decrease distributions to LGPF beneficiaries in the future if the balance of the fund decreases because of the increased distributions.

### **Detailed Original Bill Provisions:**

SJR 3 proposes to amend Article XII, Section 7 of the Constitution of the State of New Mexico to increase annual distributions from the LGPF to permanently increase the distribution of the five-year average of the end-of-year market value of the LGPF to 5.8 percent. SJR 3 removes provisions related to additional distributions, including requirements for the five-year average ending balance of the LGPF to be at least \$10 billion before additional annual distributions are made and allowing the Legislature, by a three-fifths' vote of the members elected to each house, to suspend the additional distributions.

If SJR 3 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.

### **Substantive Issues:**

The chart below compares the total distribution amount of the five-year average balance of the LGPF under current law and the SJR 3 proposal. Although the difference between the policy proposal of SJR 3 and current law is 0.8 percent, the actual increase year-to-year is 0.3 percent as the current FY16 distribution including temporary additional distributions is 5.5 percent.

<b>Land Grant Permanent Fund Total Distribution Rate</b>			
<b>Fiscal Year</b>	<b>Current Law</b>	<b>SJR 3</b>	<b>Difference</b>
<b>2016</b>	5.5 percent	5.5 percent	0 Percent
<b>2017</b>	5.0 percent	5.8 percent	0.8 percent
<b>2018</b>	5.0 percent	5.8 percent	0.8 percent
<b>2019</b>	5.0 percent	5.8 percent	0.8 percent
<b>2020</b>	5.0 percent	5.8 percent	0.8 percent

SIC notes the principal, or corpus, of the LGPF: must increase to offset inflation; must increase in anticipation of the inevitable decrease to contributions stemming from a revenue source tied to non-renewable resources; and as the corpus of the LGPF increases, annual distribution amounts increase. The SIC analysis shows that the increased distributions negatively impact measures of inter-generational equity.

The LFC analysis indicates that provisions of the federal *Enabling Act* required certain state trust land provisions be incorporated into the state constitution, and the state is prohibited from changing those provisions without the consent of the U.S. Congress. Prior to 1997, approval of the U.S. Congress was required for any change to distributions from the LGPF. 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,” indicating that the U.S. Congress has given authority to the state to change this section of the Constitution.

Despite this amendment, in 2003 the Attorney General expressed concern that U.S. Congress “may disapprove of the higher distribution rates because the rates may conflict with existing safeguards for trust funds in the *Enabling Act*.” Therefore, the Attorney General recommended requiring Congressional approval in any proposed Constitutional Amendment that seeks to increase the distribution rate of the LGPF.

**Related Bills:**

CS/SJR 2 *Permanent Funds for Childhood Education, CA*  
HJR 10 *Permanent Funds for Early Childhood, CA*  
HJR 22 *Permanent Fund Distributions, CA*