

SIC notes that, from a long-term, multi-decade perspective, an endowment fund like the LGPF that distributes 5 percent of its corpus will ultimately deliver more money to New Mexico education overall than a fund distributing an additional 1 percent. This is a result of increased investment gains over time. SIC notes the LGPF would deliver approximately \$3.7 billion additional funds to beneficiaries after 25 years relative to a 5 percent distribution but would have lost an estimated \$10 billion in earnings value. While additional distributions from the LGPF would produce more revenue for the permanent school fund in the short term, the additional 1 percent distribution would reduce the amount of funds available for future investment, therefore reducing future distributions. The question for the Legislature to consider is whether the added cost over the long run is an appropriate trade-off for the added benefits SJR1 is expected to deliver in the short run.

Additional Distribution Suspension. Language in the New Mexico Constitution, relative to additional annual LGPF distribution, prohibited additional annual distribution from the LGPF if its average year-end market value for the preceding five years was less than \$10 billion. The average year-end market value for the preceding five years, when including the year-end value for 2020, totals about \$18 billion, as shown by the chart below:

Land Grant Permanent Fund Net Assets (2016-2020)	
2016	\$15.2
2017	\$17.3
2018	\$17.1
2019	\$18.6
2020	\$21.6
5-Year Average	\$18

Source: SIC and LESC Analysis

The Legislature should note the \$10 billion threshold to suspend additional distributions may be too low to protect the fund given the average balances over the past five years. To use an extreme example, if the fund dropped to \$500 million in 2021, the five-year average year-end market value of the fund over fiscal years 2017, 2018, 2019, 2020, and 2021 would still be \$15 billion, well above the \$10 billion threshold, and the annual distribution would still be required. The following chart uses actual year-end fund balances for 2017-2020, and an example of \$500 million for 2021:

Land Grant Permanent Fund Net Assets "Safety Valve" Example (2017-2021)	
2017	\$17.3
2018	\$17.1
2019	\$18.6
2020	\$21.6
2021	\$0.5
5-Year Average	\$15

Source: SIC and LESC Analysis

The Legislature may want to consider using an ending balance of \$10 billion for a single year instead of a five-year average to trigger suspension of the annual distribution; alternatively, the Legislature could also consider using a three-year average to trigger suspension of the annual

distribution. Given the fact that the current “safety valve” is not activated even with this extreme example, it appears that funds could deteriorate slowly over a long period of time before this provision is enacted to protect the fund.

Other Costs. SJR1 passage would incur additional one-time costs related to bringing the measure to voters, either in a special election or during a general election. Under Section 1-16-4 NMSA 1978 and the New Mexico Constitution, the Secretary of State 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. The agency is also required to publish them once a week for four weeks preceding the election in newspapers in every county in the state. The estimated cost per constitutional amendment is \$150 thousand to \$200 thousand depending on the size and number of ballots and if additional ballot stations are needed.

SUBSTANTIVE ISSUES

Responding to the *Martinez and Yazzie Sufficiency Lawsuit.* In the consolidated *Martinez-Yazzie* education sufficiency lawsuit, the 1st Judicial District Court ruled the state failed to provide equitable programs targeted to meet the specific needs of at-risk students, defined as economically disadvantaged, English learners, Native American students, and students with disabilities. These groups account for the vast majority of the student population in New Mexico. By increasing funding to public schools, the bill could provide funds to address remedies proposed by the *Martinez-Yazzie* plaintiffs. Remedies noted by the plaintiffs relating to public schools included increasing funding for quality prekindergarten, programs extending learning time, dual-language programs, culturally and linguistically relevant education, social services, small class sizes, and sufficient funding for teaching recruitment, retention, and training. SJR1 may help New Mexico resolve ongoing litigation regarding the sufficiency and uniformity of the public education system in New Mexico by directly providing additional funds for teacher salaries and instructional purposes, two findings of the court.

Teacher Salaries. If approved, the amendment would increase the annual distributions from the permanent school fund by 1 percentage point to increase revenue to the general fund for expenditure on teacher salaries and instructional purposes. The average salary for New Mexico teachers grew twice as fast in FY20 than in any other state, from an average of \$47,826 to an average of \$54,256, an increase of 13.4 percent, according to the National Education Association. Despite these significant increases, New Mexico did not jump ahead of other states in the region; New Mexico started at a lower base and other states also increased salaries. In recent years, a number of states in the Southwest, traditionally the lowest paid region for public school teachers, have increased salaries faster than in the rest of the country. In the last five years, average teacher salaries in New Mexico increased by \$7,631, but the bulk of that, \$6,430 was in FY20. The FY22 LESC budget recommendation includes a \$35.2 million general fund appropriation to the public schools funding formula to increase educator salaries by an average of 1.5 percent. State Investment Council estimates passage of SJR1 and subsequent approval by voters would deliver millions of dollars to the state’s general fund to use for increased teacher salaries and instructional purposes. This is similar to the 2003 constitutional amendments for educational reforms that was used to implement New Mexico’s three-tiered teacher’s salary system still in place today.

Average Teacher Salary, FY20

State	Average Teacher Salary	5-Year Percent Change	5-Year Change in Average Salary
U.S. Average	\$63,645	2.15%	\$5,292
Colorado	\$57,269	4.25%	\$2,925
Texas	\$57,091	5.49%	\$12,848
Nevada	\$56,672	1.29%	-\$31
New Mexico	\$54,256	13.44%	\$7,631
Oklahoma	\$54,038	3.13%	\$8,721
Utah	\$52,819	1.85%	\$6,130
Arizona	\$50,381	0.85%	\$2,925

Source: National Education Association

Background and History of the LGPF. In anticipation of New Mexico’s pending statehood, the United States transferred 13.4 million acres of federal land to the then-Territory of New Mexico via the Ferguson Act of 1898 and the Enabling Act of 1910 to be held in trust for the benefit of “common schools” (public schools) and other identified state institutions. Currently, the LGPF has 21 beneficiaries. See **Attachment A, Land Grant Permanent Fund Balance and Income Distribution for FY20**. Public school districts receive about 85 percent of LGPF distributions through the permanent school fund. The LGPF is funded by income from nonrenewable resources, such as oil and gas revenues that make up over 90 percent of contributions and was designed to provide for future generations when those resources are exhausted. It is one of the largest sovereign wealth funds in the country, with a balance of \$22.6 billion at the end of calendar year 2020. Currently, 5 percent of the LGPF five-year average year-end balance is distributed to 21 beneficiaries based on the tracts of land designated to each beneficiary. In FY20, LGPF distributions totaled \$783 million, with about \$638 million distributed to public schools. The Legislature has contemplated versions of this initiative since 2011.

Congressional Approval. The Enabling Act specifies distributions to the permanent school fund are for the sole use of “the maintenance of the common schools of the state.” Original language in SJR1 is unlikely to require congressional approval because the additional distribution allocated to the permanent school fund benefits a named beneficiary. A 2012 Attorney General opinion states, “A proposed constitutional amendment to increase distributions from the LGPF for early childhood learning programs would be permissible only if the increased distributions were limited to early childhood learning programs provided by the public schools.” SJR1 simply provides a 1 percent increase in distribution to the permanent school fund, a named beneficiary.

TECHNICAL ISSUES

The State Land Office notes it is unclear how the proposed amendment would be applied to the fiscal year in which it is adopted or if the increase would start only in the next full fiscal year.

OTHER SIGNIFICANT ISSUES

Definitions. SJR1 adds definitions to Article XII, Section 7, of the constitution for the Enabling Act and the Ferguson Act to allow for concise references to those laws. SJR1 also replaces the term “fund” with “land grant permanent funds” to allow for distinction between the permanent school fund, which is the largest component of the land grant permanent funds, and other funds governed by this article.

RELATED BILLS

House Joint Resolution 1 seeks to amend Article XII, Section 7, of the New Mexico Constitution to provide an additional 1 percent distribution from the permanent school fund of the land grant permanent fund be earmarked for early childhood education services.

SOURCES OF INFORMATION

- LESC Files
- State Investment Council (SIC)
- State Land Office (SLO)
- Office of the Attorney General (OAG)

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