

LFC Requester:	Sunny Liu
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

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{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment** _____
Correction _____ **Substitute** _____

Date Feb. 2, 2024
Bill No: SB 273

Sponsor: Sen. William P. Soules
Short Title: GENERAL & LAND FUNDS FOR SCHOOLS

Agency Name and Code State Land Office - 539
Number: _____
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
None	None		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
None	None	None		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	No fiscal impact	No fiscal impact	No fiscal impact			

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act: Relates to HB 2

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

This bill would direct that the earnings derived from state trust lands for the benefit of the common schools and distributed from the state lands maintenance fund to the common school current fund shall not be used to supplant general fund support for public schools. The bill would further direct that state lands maintenance fund distributions be allocated each fiscal year to the school districts separate from the state equalization guarantee distribution.

FISCAL IMPLICATIONS

None

SIGNIFICANT ISSUES

SB 272 appears to be aimed at ensuring that income from state trust lands generated on behalf of the public schools, in accordance with the restrictions of the Enabling Act, goes to the intended beneficiary (common school) and is not offset by a reduction in general funds. This effort is consistent with the purpose of the state land trust in generating revenue for the purpose of supporting specific beneficiaries and not revenue for the state in general. Currently, general fund appropriations for public schools are often reduced to reflect trust earnings for the common schools (other state funds), which seems inconsistent with the original intent of granting lands to the state to support education.

State trust lands exist as a result of grants made by the United States in the Ferguson Act of 1898 and the Enabling Act of 1910 totaling approximately 13 million acres. The majority of these grants were made “for the support of the common schools,” meaning primary public schools, while additional grants were made so support specific universities, hospitals and other public purposes and institutions, as reflected in the various funds established in NMSA 1978, Section 19-1-7.

The Enabling Act directed, and the State of New Mexico consented and agreed, that the granted lands “shall be . . . held in trust, . . . for the several objects specified in the respective granting and confirmatory provisions, and that the natural products and money proceeds of any of said lands shall be subject to the same trusts as the lands producing the same.” The trust restrictions are interpreted narrowly to achieve the purposes Congress intended, *see State ex rel. King v.*

Lyons, 2011-NMSC-004, ¶ 43, and the trust duties can be, and from time to time have been, enforced by the United States Attorney General. See, e.g., *United States v. State of N.M.*, 536 F.2d 1324 (10th Cir. 1976) (enforcement action re misallocation of funds from lands granted for purposes of constructing and maintaining a “a miners’ hospital for disabled miners”); NMAG Op. No. 1988-21 (Mar. 21, 1988) (discussing operation of Miners’ Hospital as charitable trust from res consisting of the income derived from Ferguson Act and Enabling Act land grants for purposes of a miners’ hospital); NMAG Op. No. 2012 (Jan. 26, 2012) (concluding that CYFD was not authorized to funds from lands granted for purposes of constructing and maintaining a boys’ school reformatory for purposes not contemplated under the Enabling Act).

Proceeds from state trust lands are treated differently depending on whether they involve a permanent depletion of a resource. Land sales and royalties are transferred to the Land Grant Permanent Fund (LGPF) for investment and eventual distribution by the State Investment Council (SIC), and rentals and other income is distributed on a monthly basis to the respective beneficiaries via the Land Maintenance Fund.

When state trust lands are sold, the proceeds from the sale of the associated land are transferred to the Land Grant Permanent Fund on behalf of the specific beneficiary or beneficiaries assigned to the land. See N.M. Const. art. XII, § 2 (providing that the permanent school fund shall consist of the proceeds from sale of school lands and earnings from investment of the proceeds); NMSA 1978, § 19-1-18 (1996) (providing that sale proceeds from all trust lands are to be distributed to the respective permanent fund associated with the land). Similarly, royalties from the production of oil, gas and minerals from state trust lands are, pursuant to Section 19-1-18, transferred to the LGPF.

Thus, when there has been a permanent disposition of the land or a product of the land (such as oil, gas or minerals), the proceeds from that disposition are transferred by the New Mexico State Land Office (NMSLO) to the LGPF. At the end of each month, the NMSLO transfers to the State Investment Council all royalties and sale proceeds with supporting information to credit the appropriate beneficiary. Permanent fund investments are made by the state investment officer, see NMSA 1978, § 6-8-6 (1981), and the SIC transfers funds monthly from the permanent fund through the secretary of the Department of Finance and Administration (DFA) to the fund’s beneficiary as provided in N.M. Const. art. XII, § 7 (providing for annual distribution of a percentage of the 5-year average year-end market value of the permanent fund). See NMSA 1978, § 19-1-20 (1996).

Rentals and income other than proceeds from a permanent disposition are distributed under the Land Maintenance Fund to the income or current fund associated with the trust land, after NMSLO expenses are paid, pursuant to legislative appropriation. See NMSA 1978, §§ 19-1-11 (1989) (providing for state lands maintenance fund), 19-1-12 (1989) (providing for payment of NMSLO expenses from state lands maintenance fund), § 19-1-18 (1996) (providing for distribution of rentals etc. to income and current fund). Funds are transferred to beneficiaries through the DFA secretary to the fund’s beneficiary. See NMSA 1978, § 19-1-20 (1996).

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

The bill would provide that common school income from the Land Maintenance Fund would supplement general fund support of public schools. It would not similarly do so for earnings distributed from the Land Grant Permanent Fund.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS