



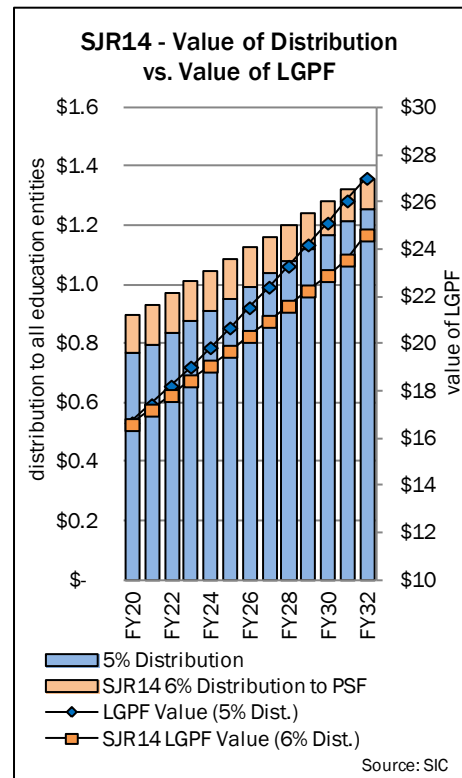
If SJR14 is approved in a special election before FY19, the new distributions would begin in FY19, resulting in what SIC projects to be \$124.6 million for that fiscal year. The provisions of SB256/SECS would take effect in FY20, making a special election for this purpose unlikely.

Currently, 5 percent distributions are made annually from the LGPF to educational bodies, including public schools, universities, and constitutionally-created schools. SJR14 would increase the distribution to the “common schools” portion of the fund to 6 percent, while other beneficiaries would continue to receive 5 percent distributions. The common schools portion of the fund is worth approximately 85 percent of the fund. SIC determined the amount of the distribution from the fund by determining the distribution at 5.85 percent of the fund, effectively distributing 6 percent to common schools, and 5 percent to other beneficiaries.

**SJR 14 - Value of Distribution vs. Value of LGPF**  
(in millions)

	Current 5% Dist.	SJR14 6% Dist. To PSF	Cumulative Increase in LGPF Dist.	LGPF Value (5% Dist.)	SJR14 LGPF Value (6% Dist.)	Cumulative Decrease in LGPF Value
FY19	\$733.9	\$858.5	\$124.6	\$15,924	\$15,924	\$0
FY20	\$766.9	\$896.3	\$254.0	\$16,680	\$16,617	(\$63)
FY21	\$796.2	\$928.4	\$386.2	\$17,447	\$17,253	(\$194)
FY22	\$834.6	\$969.3	\$520.9	\$18,234	\$17,897	(\$337)
FY23	\$873.5	\$1,008.8	\$656.2	\$19,041	\$18,547	(\$494)
FY24	\$912.6	\$1,047.4	\$791.0	\$19,862	\$19,201	(\$661)
FY25	\$952.9	\$1,085.0	\$923.1	\$20,700	\$19,859	(\$841)
FY26	\$993.9	\$1,123.3	\$1,052.5	\$21,554	\$20,524	(\$1,030)
FY27	\$1,035.8	\$1,161.9	\$1,178.6	\$22,425	\$21,195	(\$1,230)
FY28	\$1,078.5	\$1,200.8	\$1,300.9	\$23,313	\$21,872	(\$1,441)
FY29	\$1,122.1	\$1,240.0	\$1,418.8	\$24,217	\$22,556	(\$1,661)
FY30	\$1,166.5	\$1,279.7	\$1,532.0	\$25,140	\$23,247	(\$1,893)
FY31	\$1,211.7	\$1,319.6	\$1,639.9	\$26,080	\$23,945	(\$2,135)
FY32	\$1,257.9	\$1,360.1	\$1,742.1	\$27,038	\$24,640	(\$2,398)

Source: SIC



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According to SIC analysis on SJR14, the impact of drawing from the LGPF results in immediate revenue to the general fund, but diminishes the long-term growth of the LGPF. This is shown in the table and corresponding graph above. The value of the LGPF is contingent on its purchasing power and its ability to make positive returns on investment. SIC’s analysis assumes annual inflows of \$400 million and gross investment returns of 7 percent on the projected closing value of the LGPF on December 31, 2017. Based on these assumptions, by FY31, while public schools will have received \$1.7 billion in increased funds, the corpus value of the LGPF will have grown by about \$2.4 billion *less* than it would have with a 5 percent distribution.

SIC expects lower-than-average rate on both oil and gas revenues and returns on investments for the next 7 to 10 years. This means that a larger distribution from the LGPF has a higher potential to limit the growth of the fund. Reduced fund growth equates to less growth in the distribution to educational entities. If the LGPF is growing, the constitutional 5 percent allocation to schools is growing at the same rate. According to SIC, if the fund experiences steady growth, there will be a point in about 25 years where the 5 percent allocation would have been greater than the 6 percent allocation in SJR14.

The additional distribution to public schools would fund the provisions of a companion bill, SB256. The Senate Education Committee substitute for SB256 (SB256/SECS) would incur a \$128.9 million cost to fully fund increasing the number of instructional hours for kindergarten through 5<sup>th</sup> grade from 990 instructional hours to 1,127.5 instructional hours per year, and for 6<sup>th</sup> grade from 990 to 1,080 hours per year. The bill increases funding formula cost differentials for each of these grades in proportionally with the increase in instructional time. Other administrative costs would be incurred by the bill (e.g. transportation), increasing the cost above \$128.9 million.

The constitutional amendment requires approval by voters in an election, in either a general election or a special statewide election. Section 1-16-13 NMSA 1978 requires the Secretary of State (SOS) to print the full text of each proposed constitutional amendment, in both Spanish and English, in an amount equal to 10 percent of the registered voters in the state. The SOS is also constitutionally required to publish the full text of each proposed constitutional amendment once a week for four weeks preceding the election in newspapers in every county in the state. LFC staff estimate each constitutional amendment may cost up to \$50 thousand in printing and advertising costs based on 2016 actual expenditures.

## **SUBSTANTIVE ISSUES**

Research on extended school days has shown that increasing the amount of instructional time is most effective when the quality of instructional time is also improved. During the 2016 interim, the Legislative Finance Committee (LFC) published a program evaluation of time-on-task. In it, LFC highlights the importance of academic learning time (ALT), or the amount of time students spend actively engaged in meaningful learning at school. Surveys cited in the report show that New Mexico students lose 32 percent, or an average of 62 days, of ALT per year. According to the report, ALT is lost to nonteaching duties, administrative duties, standardized assessment preparation, student absences, and other distractions. The report also notes current state policies do not do enough to maximize time-on-task, although the Public Education Department's (PED) response letter indicates NMTEACH teacher evaluations hold teachers accountable for their attendance, and that the truancy and dropout prevention coaches and middle school social worker programs are increasing time-on-task by improving student attendance.

SJR14 states that an additional distribution would be made specifically from the "permanent school fund," rather than the LGPF at large. The intent of this section is to only increase the distribution for the portion of the fund that affects public schools, since the other beneficiaries would not be required to increase their instructional hours. The permanent school fund accounts for 85 percent of the LGPF, with the remaining 15 percent of funds supporting other educational entities like universities and the constitutionally-created schools.

This practice is unprecedented, and is not currently how the SIC or State Land Office (SLO) understands distributions from the LGPF. Because the revenues for the permanent school fund are tied to specific lands, distributing 6 percent for public schools would require tracking the permanent school fund revenues separately. Currently, all revenues are combined into a single corpus, 5 percent of which is distributed to each beneficiary in an amount proportional to their contribution to the fund. Current SIC and SLO practices may need to be altered to disentangle the revenues specific to "common schools" in a separate corpus. This is a significant administrative implication, but it would allow the state to make 6 percent distributions to

common schools from that corpus only, while maintaining 5 percent distributions from a separate corpus for other beneficiaries.

SIC analysis notes that this type of distribution could cause legal issues about which entities are entitled to LGPF funds. Since the drawing from the permanent school fund would reduce the fund revenues, SJR14 may reduce the corpus value of the fund, decreasing the distribution to other beneficiaries of the fund, while not providing them with the benefits of increased short-term revenue. Following this logic, SJR14 shouldn't be an issue of legal entitlement to the funds:

- The permanent school fund is created under Article 12 Section 2 of the New Mexico Constitution. The Constitution designates the proceeds of certain tracts of land constitute public school funds.
- The “fund” distributed in Article 12 Section 7 is the LGPF, which includes the permanent school as a sub-fund. LGPF beneficiaries are entitled to a proportional distribution of the fund. The common schools portion of the fund is worth 85 percent of the LGPF, so 85 percent of the distribution goes to public schools.
- Subsidiary funds are currently treated as separate funds. Similar to the State Support Reserve Fund or the Tobacco Settlement Fund within the general fund, the permanent school fund can be tracked – and, indeed, distributed – separately from the LGPF.

A 2003 constitutional amendment provided a 0.8 percent increased distribution of the LGPF to all beneficiaries from FY06 through FY12, and a 0.5 percent additional distribution from FY13 through FY16 for the purpose of implementing educational reforms. Unlike the 2003 amendment, SJR14 does not have a “sunset” provision. The increased distribution would be permanent unless the constitution is amended at a later date. Also unlike the 2003 amendment, SJR14 clearly states a distribution is only to be made from the permanent school fund.

SJR14 would need a three-fifths majority vote in both the House and Senate to suspend the additional distributions. The additional distributions would be automatically suspended if the five-year average value of the LGPF falls below \$10 billion. SIC analysis notes a 5-year average below \$10 billion is unlikely.

The constitutional amendment in SJR14 would become effective if approved by a majority of voters in the state of New Mexico. Unless a special election is called for the purpose of approving SJR14, SJR14 would be on the ballot in November 2018. If this were the case, the 2019-2020 school year (FY20) would be the first school year that would receive the increased distribution.

## **TECHNICAL ISSUES**

The “safety valve” clause, which would end the additional distribution if the rolling five-year average of the LGPF falls below \$10 billion, may not have the intended effect. As the LFC fiscal impact report explains, the LGPF could technically be reduced to \$0 in FY19, and the five-year average would remain above \$10 billion. A more practical safety valve would be one that activates if the year-end corpus value of the LGPF drops below \$10 billion.

## **OTHER SIGNIFICANT ISSUES**

SIC reports that the vast majority of other states with permanent funds and similar university endowments are taking a more conservative approach to fund spending policies. The following lists states with permanent funds and their corresponding distributions:

- Alabama, which distributes 5 percent of rolling 3-year average;
- Alaska, which formulaically distributes about 5 percent, but principal may not be spent;
- Arizona, which distributes 2.5 percent;
- Idaho, which distributes 4 percent;
- Montana, which distributes 2.2 percent;
- North Dakota Legacy Fund, from which distributions may begin in June 2017;
- Wyoming, which distributes 5 percent;
- Texas, which distributes 3.3 percent;
- Utah, which distributes the fund's interest & dividends only.

### **CONSEQUENCE OF NOT ENACTING THE BILL**

Due to a contingency clause in SB256, if SJR14 is not enacted, SB256 will not be enacted. If SJR14 passes but SB256 does not pass, the Legislature will need to pass a bill prior to the FY20 enactment of SJR14 that increases the number of instructional hours for students to comply with the intent of the Constitution.

### **RELATED BILLS**

Companion to SB256/SECS, which increases the minimum instructional hours and days in the school year for students in kindergarten through 6<sup>th</sup> grade beginning in FY20.

Conflicts with SJR3 and HJR1, which propose an amendment to Article 12, Section 7 of the New Mexico Constitution to provide for an additional annual distribution of 1.5 percent of the LGPF, which would be used to fund early childhood education services.

Conflicts with HJR2, which proposes an amendment to Article 12, Section 7 of the New Mexico Constitution to provide for a one-time distribution of \$7 billion from the LGPF to fund economic stimulus programs (\$1 billion would go to early childhood services).

### **SOURCES OF INFORMATION**

- LESC Files
- SIC
- LFC

**TCB/rab**