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SENATE JOINT RESOLUTION 4

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Carlos R. Cisneros

ENDORSED BY THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

A JOINT RESOLUTION

PROPOSING TO AMEND ARTICLE 12, SECTION 7 OF THE CONSTITUTION OF
NEW MEXICO TO PRESERVE THE LAND GRANT PERMANENT FUNDS BY
INCREASING THE DUTY OF CARE AND CHANGING THE LIMITATIONS ON
INVESTMENT.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. It is proposed to amend Article 12, Section 7
of the constitution of New Mexico to read:

"A. As used in this section, "fund" means the
permanent school fund described in Article 12, Section 2 of
this ~~[article]~~ constitution and all other permanent funds
derived from lands granted or confirmed to the state by the act
of congress of June 20, 1910, entitled "An act to enable the
people of New Mexico to form a constitution and state
government and be admitted into the union on an equal footing

underscoring material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 with the original states.".

2 B. The fund shall be invested by the state
3 investment officer in accordance with policy regulations
4 promulgated by the state investment council.

5 C. In making investments, the state investment
6 officer, under the supervision of the state investment council,
7 shall ~~[exercise the judgment and care under the circumstances~~
8 ~~then prevailing that businessmen of ordinary prudence,~~
9 ~~discretion and intelligence exercise in the management of their~~
10 ~~own affairs not in regard to speculation but in regard to the~~
11 ~~permanent disposition of their funds, considering the probable~~
12 ~~income as well as the probable safety of their capital]~~ invest
13 and manage the fund in accordance with the Uniform Prudent
14 Investor Act.

15 D. The legislature may establish criteria for
16 investing the fund if the criteria are enacted by a
17 three-fourths' vote of the members elected to each house, but
18 investment of the fund is subject to the following
19 restrictions:

20 (1) not more than sixty-five percent of the
21 book value of the fund shall be invested at any given time in
22 corporate stocks;

23 (2) not more than ten percent of the voting
24 stock of a corporation shall be held; and

25 (3) stocks eligible for purchase shall be

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1 restricted to those stocks of businesses listed upon a national
2 stock exchange or included in a nationally recognized list of
3 stocks [~~and~~

4 ~~(4) not more than fifteen percent of the book~~
5 ~~value of the fund may be invested in international securities~~
6 ~~at any single time].~~

7 E. All additions to the fund and all earnings,
8 including interest, dividends and capital gains from investment
9 of the fund shall be credited to the fund.

10 F. Except as provided in Subsection G of this
11 section, the annual distributions from the fund shall be five
12 percent of the average of the year-end market values of the
13 fund for the immediately preceding five calendar years.

14 G. In addition to the annual distribution made
15 pursuant to Subsection F of this section, unless suspended
16 pursuant to Subsection H of this section, an additional annual
17 distribution shall be made pursuant to the following schedule;
18 provided that no distribution shall be made pursuant to the
19 provisions of this subsection in any fiscal year if the average
20 of the year-end market values of the fund for the immediately
21 preceding five calendar years is less than five billion eight
22 hundred million dollars (\$5,800,000,000):

23 (1) in fiscal years 2005 through 2012, an
24 amount equal to eight-tenths percent of the average of the
25 year-end market values of the fund for the immediately

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~~[bracketed material] = delete~~

1 preceding five calendar years; provided that any additional
2 distribution from the permanent school fund pursuant to this
3 paragraph shall be used to implement and maintain educational
4 reforms as provided by law; and

5 (2) in fiscal years 2013 through 2016, an
6 amount equal to one-half percent of the average of the year-end
7 market values of the fund for the immediately preceding five
8 calendar years; provided that any additional distribution from
9 the permanent school fund pursuant to this paragraph shall be
10 used to implement and maintain educational reforms as provided
11 by law.

12 H. The legislature, by a three-fifths' vote of the
13 members elected to each house, may suspend any additional
14 distribution provided for in Subsection G of this section."

15 SECTION 2. The amendment proposed by this resolution
16 shall be submitted to the people for their approval or
17 rejection at the next general election or at any special
18 election prior to that date that may be called for that
19 purpose.