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HOUSE JOINT RESOLUTION 21

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

INTRODUCED BY

Rick Miera

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF NEW MEXICO TO TEMPORARILY INCREASE THE DISTRIBUTION FROM THE LAND GRANT PERMANENT FUNDS, TO ESTABLISH THE "PUBLIC SCHOOL SUPPORT ENHANCEMENT FUND", TO REQUIRE THAT THE PUBLIC SCHOOL PORTION OF THE DISTRIBUTION FROM THE PERMANENT SCHOOL FUND BE DEPOSITED INTO THE "PUBLIC SCHOOL SUPPORT ENHANCEMENT FUND" TO BE DISTRIBUTED BY LAW AND TO REQUIRE THAT A PORTION OF THE INCREASED DISTRIBUTION FROM THE PERMANENT SCHOOL FUND BE USED TO IMPLEMENT AND MAINTAIN EDUCATIONAL PROGRAMS FOR CHILDREN FROM BIRTH TO FIVE YEARS OF AGE.

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

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1 permanent school fund described in Article 12, Section 2 of
2 this [~~article~~] constitution and all other permanent funds
3 derived from lands granted or confirmed to the state by the act
4 of congress of June 20, 1910, entitled "An act to enable the
5 people of New Mexico to form a constitution and state
6 government and be admitted into the union on an equal footing
7 with the original states."

8 B. The fund shall be invested by the state
9 investment officer in accordance with policy regulations
10 promulgated by the state investment council.

11 C. In making investments, the state investment
12 officer, under the supervision of the state investment council,
13 shall exercise the judgment and care under the circumstances
14 then prevailing that businessmen of ordinary prudence,
15 discretion and intelligence exercise in the management of their
16 own affairs not in regard to speculation but in regard to the
17 permanent disposition of their funds, considering the probable
18 income as well as the probable safety of their capital.

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

24 (1) not more than sixty-five percent of the
25 book value of the fund shall be invested at any given time in

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1 corporate stocks;

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

4 (3) stocks eligible for purchase shall be
5 restricted to those stocks of businesses listed upon a national
6 stock exchange or included in a nationally recognized list of
7 stocks; and

8 (4) not more than fifteen percent of the book
9 value of the fund may be invested in international securities
10 at any single time.

11 E. All additions to the fund and all earnings,
12 including interest, dividends and capital gains from investment
13 of the fund shall be credited to the fund.

14 F. ~~[Except as provided in Subsection G of this~~
15 ~~section, the]~~ For fiscal years 2013 and 2024 and subsequent
16 fiscal years, annual distributions from the fund shall be
17 ~~[five]~~ five and eight-tenths percent of the average of the
18 year-end market values of the fund for the immediately
19 preceding five calendar years. For fiscal years 2014 through
20 2023, annual distributions from the fund shall be seven percent
21 of the average of the year-end market values of the fund for
22 the immediately preceding five calendar years.

23 G. ~~[In addition to]~~ The annual distribution made
24 pursuant to Subsection F of this section, unless suspended or
25 modified pursuant to Subsection H of this section, ~~[an~~

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1 ~~additional annual distribution shall be made pursuant to the~~
2 ~~following schedule; provided that no distribution shall be made~~
3 ~~pursuant to the provisions of this subsection in any fiscal~~
4 ~~year if the average of the year-end market values of the fund~~
5 ~~for the immediately preceding five calendar years is less than~~
6 ~~five billion eight hundred million dollars (\$5,800,000,000):~~

7 ~~(1) in fiscal years 2005 through 2012, an~~
8 ~~amount equal to eight-tenths percent of the average of the~~
9 ~~year-end market values of the fund for the immediately~~
10 ~~preceding five calendar years; provided that any additional~~
11 ~~distribution from the permanent school fund pursuant to this~~
12 ~~paragraph shall be used to implement and maintain educational~~
13 ~~reforms as provided by law; and~~

14 ~~(2) in fiscal years 2013 through 2016, an~~
15 ~~amount equal to one-half percent of the average of the year-end~~
16 ~~market values of the fund for the immediately preceding five~~
17 ~~calendar years; provided that any additional distribution from~~
18 ~~the permanent school fund pursuant to this paragraph shall be~~
19 ~~used to implement and maintain educational reforms as provided~~
20 ~~by law.~~

21 ~~H. The legislature, by a three-fifths' vote of the~~
22 ~~members elected to each house, may suspend any additional~~
23 ~~distribution provided for in Subsection G of this section.]~~
24 shall be made as follows:

25 (1) in fiscal year 2013, an amount equal to

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1 five and eight-tenths percent of the average of the year-end
2 market values of the fund for the immediately preceding five
3 calendar years shall be deposited to the public school support
4 enhancement fund for distribution according to law;

5 (2) in fiscal year 2014, an amount equal to:

6 (a) six and one-half percent of the
7 average of the year-end market values of the fund for the
8 immediately preceding five calendar years shall be deposited to
9 the public school support enhancement fund for distribution
10 according to law; and

11 (b) an additional one-half percent of
12 the distribution from the permanent school fund shall be used
13 to implement and maintain early learning educational programs
14 for children from birth to five years old;

15 (3) in fiscal year 2015, an amount equal to:

16 (a) six percent of the year-end market
17 values of the fund for the immediately preceding five calendar
18 years shall be deposited to the public school support
19 enhancement fund for distribution according to law; and

20 (b) one percent of the distribution from
21 the permanent school fund shall be used to implement and
22 maintain early learning educational programs for children from
23 birth to five years old;

24 (4) in fiscal years 2016 through 2023, an
25 amount equal to:

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1 (a) five and one-half percent of the
2 average of the year-end market values of the fund for the
3 immediately preceding five calendar years shall be deposited to
4 the public school support enhancement fund for distribution
5 according to law; and

6 (b) one and one-half percent of the
7 distribution from the permanent school fund shall be used to
8 implement and maintain early learning educational programs for
9 children from birth to five years old; and

10 (5) in fiscal year 2024 and each subsequent
11 fiscal year, an amount equal to five and eight-tenths percent
12 of the average of the year-end market values of the fund for
13 the immediately preceding five calendar years; provided that
14 any distribution from the permanent school fund pursuant to
15 this paragraph shall be deposited to the public school support
16 enhancement fund for distribution by law.

17 H. No distribution shall be made to implement and
18 maintain early learning educational programs for children from
19 birth to five years old for any fiscal year in which the
20 average of the year-end market values of the fund for the
21 immediately preceding five calendar years is less than five
22 billion eight hundred million dollars (\$5,800,000,000).

23 I. The "public school support enhancement fund" is
24 created in the state treasury to provide a mechanism to
25 supplement, rather than supplant, public school funding. The

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1 fund consists of distributions from the permanent school fund,
2 appropriations by the legislature, gifts, grants and donations.
3 The fund shall be administered by the public education
4 department. Money in the fund is appropriated to the state
5 equalization guarantee to supplement the annual general fund
6 appropriation contingent on the current fiscal year's general
7 fund appropriation's being at least ninety-five percent of the
8 previous fiscal year's appropriation. Any unexpended or
9 unencumbered balance remaining in the public school support
10 enhancement fund and any interest that may accrue to the fund
11 shall not revert at the end of the fiscal year but shall remain
12 to the credit of the fund."

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