

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR  
HOUSE JOINT RESOLUTION 13

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE 12, SECTION 7 OF THE  
CONSTITUTION OF NEW MEXICO TO ESTABLISH A MINIMUM BALANCE OF  
THE LAND GRANT PERMANENT FUND TO BE MAINTAINED BEFORE ANY  
ADDITIONAL DISTRIBUTIONS ARE PERMITTED; TO EXTEND THE CURRENT  
ONE-HALF PERCENT ADDITIONAL ANNUAL DISTRIBUTION BEYOND FISCAL  
YEAR 2016; AND TO PROVIDE AN ADDITIONAL ANNUAL DISTRIBUTION  
FROM THE PERMANENT SCHOOL FUND, STARTING IN FISCAL YEAR 2016,  
FOR EARLY CHILDHOOD NONSECTARIAN EDUCATION SERVICES  
ADMINISTERED BY THE STATE FOR THE BENEFIT OF CHILDREN BEFORE  
THEY ARE ELIGIBLE TO ATTEND KINDERGARTEN.

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

.193853.1

underscored material = new  
[bracketed material] = delete

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~~] businesspersons of ordinary  
15 prudence, discretion and intelligence exercise in the  
16 management of their own affairs not in regard to speculation  
17 but in regard to the permanent disposition of their funds,  
18 considering the probable income as well as the probable safety  
19 of their capital.

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

- 25 (1) not more than sixty-five percent of the

1 book value of the fund shall be invested at any given time in  
2 corporate stocks;

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

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

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

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

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

19 G. In addition to the annual distribution made  
20 pursuant to Subsection F of this section, unless suspended  
21 pursuant to Subsection [H] I of this section, [~~an~~] additional  
22 annual [~~distribution~~] distributions shall be made pursuant to  
23 the following schedule; provided that no distribution shall be  
24 made pursuant to the provisions of this subsection in any  
25 fiscal year if the average of the year-end market values of the

.193853.1

1 fund for the immediately preceding five calendar years is less  
2 than [~~five billion eight hundred million dollars~~  
3 ~~(\$5,800,000,000)] ten billion dollars (\$10,000,000,000):~~

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

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

20 (3) in fiscal year 2016 and each subsequent  
21 fiscal year, an amount equal to one percent of the average of  
22 the year-end market values of the fund for the immediately  
23 preceding five calendar years; provided that the amount of the  
24 additional distribution derived from the permanent school fund  
25 pursuant to this paragraph shall be used for early childhood

.193853.1

1 education nonsectarian services administered by the state for  
 2 the benefit of children before they are eligible to attend  
 3 kindergarten, as provided by law.

4 H. As used in this section, "early childhood  
 5 education nonsectarian services" means nonsectarian services  
 6 for children until eligible for kindergarten. Such services  
 7 may be provided by a school district, a state contractor, a  
 8 pueblo or tribal entity, the New Mexico school for the blind  
 9 and visually impaired or the New Mexico school for the deaf;  
 10 provided that early childhood education nonsectarian services  
 11 available from the New Mexico school for the blind and visually  
 12 impaired or the New Mexico school for the deaf shall not be  
 13 delivered by a state contractor.

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

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

22 **SECTION 3. CONTINGENT EFFECTIVE DATE.**--The amendment  
 23 proposed by Section 1 of this resolution shall not become  
 24 effective without the consent of the United States congress.