

1 SENATE JOINT RESOLUTION 5

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

3 INTRODUCED BY

4 Roberto "Bobby" J. Gonzales

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8 ENDORSED BY THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

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10 A JOINT RESOLUTION

11 PROPOSING AN AMENDMENT TO ARTICLE 20 OF THE CONSTITUTION OF NEW
12 MEXICO BY ADDING A NEW SECTION TO PROHIBIT THE EXPENDITURE OR
13 ENCUMBRANCE OF TRUST FUNDS CREATED FOR PUBLIC EMPLOYEES RETIREE
14 HEALTH CARE FOR ANY PURPOSE EXCEPT FOR THE SOLE AND EXCLUSIVE
15 BENEFIT OF THE TRUST BENEFICIARIES; PROVIDING FOR THE
16 ADMINISTRATION OF THE TRUST FUNDS; AFFIRMING CERTAIN PROPERTY
17 RIGHTS.

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

20 SECTION 1. It is proposed to amend Article 20 of the
21 constitution of New Mexico by adding a new section to read:

22 "A. All funds, assets, proceeds, income,
23 contributions, gifts and payments from any source whatsoever
24 paid into or held by a public employees retiree health care
25 system created by the laws of this state shall be held in a

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1 retiree health care trust fund to be administered and invested
2 for the sole and exclusive benefit of the members, retirees and
3 other beneficiaries. Expenditures from the trust fund shall
4 only be made for the benefit of the trust fund beneficiaries
5 and for expenses of administering the public employees retiree
6 health care system. The trust fund shall never be used,
7 diverted, loaned, assigned, pledged, invested, encumbered or
8 appropriated for any other purpose. To the extent consistent
9 with the provisions of this section, the trust fund shall be
10 invested and the public employees retiree health care system
11 administered as provided by law.

12 B. The board of the public employees retiree health
13 care system shall be the trustees of the trust fund, and the
14 board has the sole and exclusive fiduciary duty and
15 responsibility for administration and investment of the trust
16 fund.

17 C. The board of the public employees retiree health
18 care system has the sole and exclusive power and authority to
19 adopt actuarial assumptions based upon the recommendations made
20 by an independent actuary with whom it contracts. The
21 legislature shall not enact any law that alters the funding
22 formula for a retiree health care plan unless the legislature
23 preserves benefits and provides adequate funding.

24 D. Upon meeting the minimum service requirements of
25 an applicable retiree health care plan created by law for

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1 employees of the state and any of its institutions or political
2 subdivisions, a member of a retiree health care plan shall
3 acquire a vested property right with due process protections
4 under the applicable provisions of the constitution of New
5 Mexico and United States constitution.

6 E. Nothing in this section shall be construed to
7 prohibit modifications to retiree health care plans that
8 enhance or preserve the actuarial soundness of the trust fund
9 or individual retiree health care plan."

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