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HOUSE JOINT RESOLUTION 11

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

GARY K. KING

A JOINT RESOLUTION

**PROPOSING AN AMENDMENT TO THE CONSTITUTION OF NEW MEXICO TO
PROHIBIT THE EXPENDITURE OR ENCUMBRANCE OF TRUST FUNDS CREATED
FOR PUBLIC EMPLOYEE RETIREMENT FOR ANY PURPOSE EXCEPT FOR THE
SOLE AND EXCLUSIVE BENEFIT OF THE TRUST BENEFICIARIES;
PROVIDING FOR THE ADMINISTRATION OF THE TRUST FUNDS; AFFIRMING
CERTAIN PROPERTY RIGHTS.**

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

**Section 1. It is proposed to amend Article 20 of the
constitution of New Mexico by adding a new Section 22 to read:**

**"A. All funds, assets, proceeds, income,
contributions, gifts and payments from any source whatsoever
paid into or held by a public employees retirement system or
an educational retirement system created by the laws of this
state shall be held by each respective system in a trust fund**

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

11 B. The retirement board of the public employees
12 retirement system and the board of the educational retirement
13 system shall be the trustees for their respective systems and
14 have the sole and exclusive fiduciary duty and responsibility
15 for administration and investment of the trust fund held by
16 their respective systems. The retirement board of the public
17 employees retirement system shall consist of no fewer than
18 seven members who shall be elected by the members or retirees
19 of that system, in a manner provided by law, and up to two ex-
20 officio members who may be provided by law. The board of the
21 educational retirement system shall be selected in a manner
22 provided by law.

23 C. The board of each system shall employ a
24 director and such other professional, technical, clerical and
25 other personnel as are required for the operation of its

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1 system. The board of each system shall fix the compensation
2 for its employee services. In addition to any other
3 contractors deemed necessary to administer its system, the
4 board of each system shall contract with an independent
5 actuary. Each board shall have the sole and exclusive power
6 and authority to adopt actuarial assumptions for their system
7 based upon the recommendations made by the independent actuary
8 with whom it contracts. The legislature shall not enact any
9 law that increases the benefits paid by either system in any
10 manner or changes the funding formula for any retirement plan
11 unless adequate sources of funding are provided in accordance
12 with a prior certification of the cost by the board of the
13 affected system based on accepted actuarial standards.

14 D. Upon meeting the minimum service requirements
15 of an applicable retirement plan created by law for employees
16 of the state or any of its political subdivisions or
17 institutions, a member of a plan shall acquire a vested
18 property right with due process protections under the
19 applicable provisions of the New Mexico and United States
20 constitutions.

21 E. Nothing in this section shall be construed to
22 prohibit modifications to retirement benefits that enhance or
23 preserve the actuarial soundness of an affected trust fund or
24 individual retirement plan. "

25 Section 2. The amendment proposed by this resolution

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1 shall be submitted to the people for their approval or
2 rejection at the next general election or at any special
3 election prior to that date which may be called for that
4 purpose.

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1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998
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6 February 5, 1998
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8 Mr. Speaker:
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10 Your VOTERS AND ELECTIONS COMMITTEE, to whom has
11 been referred
12

13 HOUSE JOINT RESOLUTION 11
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15 has had it under consideration and reports same with
16 recommendation that it DO PASS, and thence referred to the
17 JUDICIARY COMMITTEE.

18 Respectfully submitted,
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22 _____
23 Edward C. Sandoval, Chairman
24
25

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998

3 HVEC/HJR 11

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4 Adopted _____ Not Adopted _____

5
6 (Chief Clerk)

(Chief Clerk)

7
8 Date _____

9
10 The roll call vote was 11 For 0 Against

11 Yes: 11

12 Excused: Sanchez

13 Absent: None

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1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998

3
4 February 17, 1998

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6
7 Mr. Speaker:

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9 Your JUDICIARY COMMITTEE, to whom has been referred

10 HOUSE JOINT RESOLUTION 11

11
12 has had it under consideration and reports same with
13 recommendation that it DO PASS, amended as follows:

14
15 1. On page 1, lines 12 and 13, strike "TRUST FUNDS
16 CREATED FOR PUBLIC EMPLOYEE RETIREMENT" and insert in lieu
17 thereof "RETIREMENT TRUST FUNDS, CREATED FOR PUBLIC EMPLOYEES
18 AND EMPLOYEES OF PUBLIC SCHOOLS, COLLEGES AND UNIVERSITIES,".

19
20 2. On page 2, line 16, after the period strike the
21 remainder of the line and all of lines 17 through 22.

22
23 3. On page 2, lines 23 through 25, and on page 3, lines 1
24 through 13, strike Subsection C in its entirety and insert in
25 lieu thereof:

"C. A retirement board shall have the sole and

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exclusive power and authority to adopt actuarial assumptions for its system based upon the recommendations made by an independent actuary with whom it contracts. The legislature shall not enact any law that increases the benefits paid by the system in any manner or changes the funding formula for a retirement plan unless adequate funding is provided."

4. On page 3, line 22, strike "benefits" and insert in lieu thereof "plans".,

and thence referred to the APPROPRIATIONS AND FINANCE COMMITTEE.

Respectfully submitted,

Thomas P. Foy, Chairman

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998

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4 Adopted _____ Not Adopted _____
5 (Chief Clerk) (Chief Clerk)

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7 Date _____

8
9 The roll call vote was 9 For 0 Against

10 Yes: 9

11 Excused: Carpenter, Garcia, Larrañaga, Sanchez

12 Absent: None

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