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NEW MEXICO STATEHOOD AND ENABLING ACT AMENDMENTS OF 1997

MAY 15, 1997.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 430]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 430) to amend the Act of June 20, 1910, to protect the permanent trust funds of the State of New Mexico from erosion due to inflation and modify the basis on which distributions are made from those funds, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE MEASURE

The purpose of S. 430 is to provide the consent of the United States to certain amendments made by the State of New Mexico to its Constitution relating to investments in and expenditures from the permanent fund of the State for schools and to make the necessary amendments to the Enabling Act for the Admission of the State of New Mexico (Act of June 20, 1910, 36 Stat. 557) to accommodate the changes to the New Mexico Constitution.

BACKGROUND AND NEED

The Federal Government has generally provided a series of benefits to new States as part of the admissions process. In the case of 30 States, those benefits included the grant of lands. New Mexico received slightly over 3 million acres for a variety of purposes, including, among other purposes, retirement of the Territorial debt and maintenance of hospitals and schools. In addition, New Mexico

received 5 percent of the proceeds of the sale of public lands for the support of public schools.

Section 2 of the Enabling Act required New Mexico to agree to all the limitations that accompanied the various grants and prohibited any Constitutional amendment without the consent of Congress. Among the limitations are restrictions on investments and requirements to disburse the income from the permanent funds. In 1957 the Enabling Act was amended to delete a requirement that a separate fund be established for each purpose for which grants were made and that all moneys must be invested in "safe interest-bearing securities". That change enabled New Mexico to invest in corporate stocks, but did not specify how distribution would be handled from returns. Since dividends on stocks are generally lower than interest on bonds, maintenance of annual payments limited investment in stocks. The effect was to diminish the real value of the corpus of the permanent fund.

In 1995 a Permanent Funds Study Committee released a report on the portfolio of the permanent fund and recommended a series of amendments to the State Constitution to provide for greater flexibility and broader diversification of the investments in order to preserve the corpus of the fund against inflation and maintain the income stream for the beneficiaries. The new method would still be more conservative than that used by many educational institutions. At the present time, New Mexico has 58 percent of its investment in domestic bonds while the average for all public endowments is 28 percent and for those with more than $400 million, only 18 percent. The new distribution method was approved by 68 percent of the voters in the 1996 general election as a Constitutional amendment and the 1997 State legislature has revised pertinent investment statutes. In order for those actions to take effect, however, Congress must amend the Enabling Act and consent to the amendments.

LEGISLATIVE HISTORY

S. 430 was introduced on March 12, 1997 by Senators Domenici and Bingaman and referred to the Committee on Energy and Natural Resources. A companion measure, H.R. 1051, was introduced the same day in the House of Representatives and referred to the Resources Committee. A hearing was held by the Committee on S. 430 on May 5, 1997. At the business meeting on May 14, 1997, the Committee on Energy and Natural Resources ordered S. 430 favorably reported, without amendment, by a unanimous voice vote of a quorum present.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on May 14, 1997, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 430 without amendment.

SECTION-BY-SECTION ANALYSIS

The provisions of the legislation are self-explanatory. Subsection (a) provides a short title. Subsection (b) amends sections 7, 9, and

10 of the Enabling Act to conform with the Constitutional amendments adopted by the voters in New Mexico. Subsection (c) provides an express consent of Congress to the amendments made by the State of New Mexico to its Constitution

COST AND BUDGETARY CONSIDERATIONS

An estimate of the cost of this measure has been requested from the Congressional Budget Office, but has not been received as of the date of filing of this report. When the estimate is received, the Chairman will have it printed in the Congressional Record for the advice of the Senate. No authorizations are contained in this measure, therefore the Committee does not believe that there are any costs to the Federal Government associated with enactment of this legislation. Similarly, this legislation approves amendments to the New Mexico Constitution and makes necessary changes to Federal law to permit those amendments to go into effect. Therefore the Committee does not believe that there are any unfunded mandates contained in this measure.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 430. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 430, as ordered reported.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of the Interior setting forth Executive agency recommendations relating to S. 430 is set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, May 2, 1997.

Hon. FRANK MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As requested, we have reviewed S. 430, a bill to amend the Act of June 20, 1910 to protect the permanent trust funds of the State of New Mexico from erosion due to inflation and modify the basis on which distributions are made from those funds.

S. 430 relates entirely to New Mexico's use of its funds. We have no involvement in that process and no comments on or objections to the bill.

The Office of Management and Budget has advised that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

JANE LYDER,
Legislative Counsel.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 430, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF JUNE 20, 1910 (36 STAT. 557, CHAPTER 310)

CHAP. 310.—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 with the original States; and to enable the people of Arizona to form a constitution and state government and be admitted into the Union on an equal footing with the original States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the qualified electors of the Territory of New Mexico are hereby authorized to vote for and choose delegates to form a constitutional convention for said Territory for the purpose of framing a constitution for the proposed State of New Mexico. Said convention shall consist of one hundred delegates;

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SEC. 7. That in lieu of the grant of land for purposes of internal improvements made to new States by the eighth section of the Act of September fourth, eighteen hundred and forty-one, and in lieu of the swamp-land grant made by the Act of September twenty-eighth, eighteen hundred and fifty, and section twenty-four hundred and seventy-nine of the Revised Statutes, and in lieu of the grant of thirty thousand acres of each Senator and Representative in Congress, made by the Act of July second, eighteen hundred and sixty-two; Twelfth Statutes at Large, page five hundred and three, which grants are hereby declared not to extend to the said State, and in lieu of the grant of saline lands heretofore made to the Territory of New Mexico for university purposes by section three of the Act of June twenty-first, eighteen hundred and ninety-eight, which is hereby repealed, except to the extent of such approved selections of such saline lands as may have been made by said Territory prior to the passage of this Act, the following grants of lands are hereby made, to wit:

For university purposes, two hundred thousand acres; for legislative, executive, and judicial public buildings heretofore erected in said Territory or to be hereafter erected in the proposed State, and for the payment of the bonds heretofore or hereafter issued therefor, one hundred thousand acres; for insane asylums, one hundred thousand acres; for penitentiaries, one hundred thousand acres; for schools and asylums for the deaf, dumb, and the blind, one hun-

dred thousand acres; for miners' hospitals for disabled miners, fifty thousand acres; for normal schools, two hundred thousand acres; for state charitable, penal, and reformatory institutions, one hundred thousand acres; for agricultural and mechanical colleges, one hundred and fifty thousand acres; and the national appropriation heretofore annually paid for the agricultural and mechanical college to said Territory shall, until further order of Congress, continue to be paid to said State for the use of said institution; for school of mines, one hundred and fifty thousand acres; for military institutes, one hundred thousand acres; and for the payment of the bonds and accrued interest thereon issued by Grant and Santa Fe Counties, New Mexico, which said bonds were validated, approved, and conformed by Act of Congress of January sixteenth, eighteen hundred and ninety-seven (Twenty-ninth statutes, page four hundred and eighty-seven), one million acres: *Provided,* That if there shall remain any of the one million acres of land so granted, or of the proceeds of the sale or lease thereof, or rents, issues, or profits therefrom, after the payment of said debts, such remainder of lands and the proceeds of sales thereof shall be added to and become a part of the permanent school fund of said State, [the income therefrom only to be used] *distributions from which shall be made in accordance with the first paragraph of section 10 and shall be used for the maintenance of the common schools of said State.*

SEC. 8. That the schools, colleges, and universities provided for in this Act shall forever remain under the exclusive control of the said State, and no part of the proceeds arising from the sale or disposal of any lands granted herein for educational purposes shall be used for the support of any sectarian or denominational school, college, or university.

SEC. 9. That five per centum of the proceeds of sales of public lands lying within said State, which shall be sold by the United States subsequent to the admission of said State into the Union, after deducting all the expenses incident to such sales, shall be paid to the said State to be used as a permanent inviolable fund, [the interest of which only shall be expended] *distributions from which shall be made in accordance with the first paragraph of section 10 and shall be expended for the support of the common schools within said State.*

SEC. 10. That it is hereby declared that all lands hereby granted, including those which, having been heretofore granted to the said Territory, are hereby expressly transferred and confirmed to the said State, shall be by the said State held in trust, to be disposed of in whole or in part only in manner as herein provided and for the several objects specified in the respective granting and confirmatory provisions, and that the natural products and money proceeds of any of said lands shall be subject to the same trusts as the lands producing the same *The trust funds, including all interest, dividends, other income, and appreciation in the market value of assets of the funds shall be prudently invested on a total rate of return basis. Distributions from the trust funds shall be made as*

provided in Article 12, Section 7 of the Constitution of the State of New Mexico.

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