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SENATE BILL 666

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Pete Campos

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; PROVIDING FOR A "STATE AGENCY PLAN" FOR CERTAIN EMPLOYEES UNDER THE EDUCATIONAL RETIREMENT ACT.

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

Section 1. Section 22-11-2 NMSA 1978 (being Laws 1967, Chapter 16, Section 126, as amended) is amended to read:

"22-11-2. DEFINITIONS. --As used in the Educational Retirement Act:

A. "member" means ~~[any]~~ an employee, except for a participant coming within the provisions of the Educational Retirement Act;

B. "regular member" means:

(1) a person regularly employed as a teaching, nursing or administrative employee of a state

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1 educational institution, except for:

2 (a) a participant; or

3 (b) all employees of a general hospital  
4 or outpatient clinics thereof operated by a state educational  
5 institution named in Article 12, Section 11 of the  
6 constitution of New Mexico;

7 (2) a person regularly employed as a  
8 teaching, nursing or administrative employee of a junior  
9 college or community college created pursuant to Chapter 21,  
10 Article 13 NMSA 1978, except for a participant;

11 (3) a person regularly employed as a  
12 teaching, nursing or administrative employee of a technical  
13 and vocational institute created pursuant to the Technical and  
14 Vocational Institute Act, except for a participant;

15 (4) a person regularly employed as a  
16 teaching, nursing or administrative employee of the New Mexico  
17 boys' school, the New Mexico girls' school, the Los Lunas  
18 medical center or a school district or as a certified school  
19 instructor of a state institution or agency providing an  
20 educational program and holding a standard or substandard  
21 certificate issued by the state board, except for a  
22 participant;

23 (5) a person regularly employed by the  
24 department of education or the board holding a standard or  
25 substandard certificate issued by the state board at the time

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1 of commencement of such employment;

2 (6) a member classified as a regular member  
3 in accordance with the [~~regulations~~] rules of the board;

4 (7) a person regularly employed by the New  
5 Mexico activities association holding a standard certificate  
6 issued by the state board at the time of commencement of such  
7 employment; or

8 (8) a person regularly employed by a regional  
9 education cooperative holding a standard certificate issued by  
10 the state board at the time of commencement of such  
11 employment;

12 C. "provisional member" means a person not  
13 eligible to be a regular member but who is employed by a local  
14 administrative unit designated in Subsection B of this  
15 section; provided, however, that employees of a general  
16 hospital or outpatient clinics thereof operated by a state  
17 educational institution named in Article 12, Section 11 of the  
18 constitution of New Mexico are not provisional members;

19 D. "local administrative unit" means an employing  
20 agency however constituted that is directly responsible for  
21 the payment of compensation for the employment of members or  
22 participants;

23 E. "beneficiary" means a person having an  
24 insurable interest in the life of a member or a participant  
25 designated by written instrument duly executed by the member

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1 or participant and filed with the director to receive a  
2 benefit pursuant to the Educational Retirement Act that may be  
3 received by someone other than the member or participant;

4 F. "employment" means employment by a local  
5 administrative unit that qualifies a person to be a member or  
6 participant;

7 G. "service employment" means employment that  
8 qualifies a person to be a regular member;

9 H. "provisional service employment" means  
10 employment that qualifies a person to be a provisional member;

11 I. "prior employment" means employment performed  
12 prior to the effective date of the Educational Retirement Act  
13 that would be service employment or provisional service  
14 employment if performed thereafter;

15 J. "service credit" means that period of time with  
16 which a member is accredited for the purpose of determining  
17 his eligibility for and computation of retirement or  
18 disability benefits;

19 K. "earned service credit" means that period of  
20 time during which a member was engaged in employment or prior  
21 employment with which he is accredited for the purpose of  
22 determining his eligibility for retirement or disability  
23 benefits;

24 L. "allowed service credit" means that period of  
25 time during which a member has performed certain nonservice

1 employment with which he may be accredited, as provided in the  
2 Educational Retirement Act, for the purpose of computing  
3 retirement or disability benefits;

4 M. "retirement benefit" means an annuity paid  
5 monthly to members whose employment has been terminated by  
6 reason of their age;

7 N. "disability benefit" means an annuity paid  
8 monthly to members whose employment has been terminated by  
9 reason of a disability;

10 O. "board" means the educational retirement board;

11 P. "fund" means the educational retirement fund;

12 Q. "director" means the educational retirement  
13 director;

14 R. "medical authority" means a medical doctor  
15 within the state or as provided in Subsection D of Section  
16 22-11-36 NMSA 1978 either designated or employed by the board  
17 to examine and report on the physical condition of applicants  
18 for or recipients of disability benefits;

19 S. "actuary" means a person trained and regularly  
20 engaged in the occupation of calculating present and projected  
21 monetary assets and liabilities under annuity or insurance  
22 programs;

23 T. "actuarial equivalent" means a sum paid as a  
24 current or deferred benefit that is equal in value to a  
25 regular benefit, computed upon the basis of interest rates and

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1 mortality tables;

2 U. "contributory employment" means employment for  
3 which contributions have been made by both a member and a  
4 local administrative unit pursuant to the Educational  
5 Retirement Act;

6 V. "qualifying state educational institution"  
7 means the university of New Mexico, New Mexico state  
8 university, New Mexico institute of mining and technology, New  
9 Mexico highlands university, eastern New Mexico university,  
10 western New Mexico university, Albuquerque technical-  
11 vocational institute, Clovis community college, Luna  
12 vocational-technical institute, Mesa technical college, New  
13 Mexico junior college, northern New Mexico state school, San  
14 Juan college and Santa Fe community college;

15 W. "participant" means:

16 (1) a person regularly employed as a faculty  
17 or professional employee of the university of New Mexico, New  
18 Mexico state university, New Mexico institute of mining and  
19 technology, New Mexico highlands university, eastern New  
20 Mexico university or western New Mexico university who first  
21 becomes employed with such an educational institution on or  
22 after July 1, 1991, or a person regularly employed as a  
23 faculty or professional employee of the Albuquerque technical-  
24 vocational institute, Clovis community college, Luna  
25 vocational-technical institute, Mesa technical college, New

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1 Mexico junior college, northern New Mexico state school, San  
2 Juan college or Santa Fe community college who is first  
3 employed by the institution on or after July 1, 1999 and who  
4 elects, pursuant to Section 22-11-47 NMSA 1978, to participate  
5 in the alternative retirement plan; and

6 (2) a person regularly employed who performs  
7 research or other services pursuant to a contract between a  
8 qualifying state educational institution and the United States  
9 government or any of its agencies who elects, pursuant to  
10 Section 22-11-47 NMSA 1978, to participate in the alternative  
11 retirement plan, provided that the research or other services  
12 are performed outside the state;

13 X. "salary" means the compensation or wages paid  
14 to a member or participant by any local administrative unit  
15 for services rendered; [~~and~~]

16 Y. "alternative retirement plan" means the  
17 retirement plan provided for in Sections 22-11-47 through  
18 22-11-52 NMSA 1978;

19 Z. "state agency" means the department of  
20 education, the board, the New Mexico activities association,  
21 the New Mexico boys' school, the New Mexico girls' school, the  
22 Los Lunas medical center or a state agency providing an  
23 educational program;

24 AA. "state agency member" means a member who is  
25 employed by a state agency and who has not elected to be

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1 covered pursuant to the Public Employees Retirement Act; and

2 BB. "state agency plan" means the retirement plan  
3 available for state agency members under the Educational  
4 Retirement Act. "

5 Section 2. Section 22-11-21 NMSA 1978 (being Laws 1967,  
6 Chapter 16, Section 144, as amended) is amended to read:

7 "22-11-21. CONTRIBUTIONS--MEMBERS--LOCAL ADMINISTRATIVE  
8 UNITS. --

9 A. Each member shall make contributions to the  
10 fund in the amount of seven and six-tenths percent of his  
11 annual salary.

12 B. [~~Until June 30, 1993, each local administrative~~  
13 ~~unit shall make a yearly contribution to the fund of a sum~~  
14 ~~equal to seven and six-tenths percent of the annual salary of~~  
15 ~~each member employed by the local administrative unit.~~

16 C. [~~Beginning July 1, 1993 and thereafter]~~ Except  
17 as provided in Subsection C of this section, each local  
18 administrative unit shall make a yearly contribution to the  
19 fund of a sum equal to eight and sixty-five hundredths percent  
20 of the annual salary of each member employed by the local  
21 administrative unit.

22 C. Each state agency shall make a yearly  
23 contribution to the fund of a sum equal to seventeen and  
24 forty-nine hundredths percent of the annual salary of each  
25 state agency member employed by the state agency. "

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1           Section 3.   Section 22-11-23 NMSA 1978 (being Laws 1981,  
2 Chapter 293, Section 2, as amended) is amended to read:

3           "22-11-23.   RETIREMENT ELIGIBILITY. - -

4           A.   Except as provided in Subsection C of this  
5 section, on and after July 1, 1984:

6                   (1) a member shall be eligible for retirement  
7 benefits pursuant to the Educational Retirement Act when  
8 either of the following conditions occurs:

9                           (a) the sum of the member's age and  
10 years of earned service-credit equals seventy-five; or

11                           (b) upon completion of five years of  
12 earned service-credit and upon becoming sixty-five years of  
13 age;

14                   (2) a member under sixty years of age  
15 eligible to retire under Paragraph (1) of this subsection may  
16 retire and receive retirement benefits pursuant to the  
17 Educational Retirement Act that he would be eligible to  
18 receive if he were to retire at the age of sixty years reduced  
19 by six-tenths of one percent for each one-fourth, or portion  
20 thereof, year that retirement occurs prior to the member's  
21 sixtieth birthdate but after the fifty-fifth birthdate, and  
22 one and eight-tenths percent for each one-fourth, or portion  
23 thereof, year that retirement occurs prior to age fifty-five;  
24 or

25                   (3) a member under sixty years of age

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1 acquiring twenty-five or more years of earned and allowed  
2 service-credit may retire and receive retirement benefits  
3 pursuant to the Educational Retirement Act computed on the  
4 same basis as if the member were sixty years of age.

5 B. A member shall be subject to the provisions of  
6 Paragraphs (2) and (3) of Subsection A of this section as they  
7 existed at the beginning of his last cumulated four quarters  
8 of earned service-credit, regardless of later amendment.

9 C. A state agency member who has accumulated three  
10 or more years service credit with a state agency after July 1,  
11 2001 is not eligible pursuant to Subsection A of this section  
12 but may retire under the state agency plan with the following  
13 age and service requirements:

14 (1) age sixty-five years or older and five or  
15 more years of service credit;

16 (2) age sixty-four years and eight or more  
17 years of service credit;

18 (3) age sixty-three years and eleven or more  
19 years of service credit;

20 (4) age sixty-two years and fourteen or more  
21 years of service credit;

22 (5) age sixty-one years and seventeen or more  
23 years of service credit;

24 (6) age sixty years and twenty or more years  
25 of service credit; and

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1    (7) any age and twenty-five or more years of  
2 service credit. "

3                        Section 4. Section 22-11-25 NMSA 1978 (being Laws 1967,  
4 Chapter 16, Section 148) is amended to read:

5                        "22-11-25. RETIREMENT--REEMPLOYMENT.--

6                        A. A member retired pursuant to the provisions of  
7 the Educational Retirement Act may remove himself from  
8 retirement status by returning to employment. A reemployed  
9 member shall make regular contributions pursuant to the  
10 Educational Retirement Act. Upon termination of reemployment,  
11 the member shall be eligible for retirement benefits again  
12 based upon all service-credit acquired subject to Subsection D  
13 of this section. In no case shall the retirement benefits be  
14 less than the member was receiving prior to his reemployment.  
15 Except as provided in Subsection B of this section, the member  
16 shall not receive greater retirement benefits than he was  
17 receiving prior to his reemployment unless he has not less  
18 than five years of employment subsequent to July 1, 1957 with  
19 all contributions required by the Educational Retirement Act  
20 having been paid on the earnings derived through this  
21 employment.

22                        B. A member retired pursuant to the provisions of  
23 the Educational Retirement Act returning to employment for not  
24 less than one year after July 1, 1957 and prior to July 1,  
25 1963 shall be eligible for retirement benefits pursuant to

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1 this section if the following conditions occur:

2 (1) the member's contributions on the salary  
3 earned during that period of reemployment ~~[must]~~ shall be paid  
4 at the rate which was in effect at that time. If this  
5 contribution is made, the local administrative unit employing  
6 the member during that period shall pay the local  
7 administrative ~~[units]~~ unit's contribution at the rate in  
8 effect at that time; and

9 (2) the member shall have fulfilled the five-  
10 year contributory employment requirement specified in Section  
11 ~~[77-9-23 New Mexico Statutes Annotated, 1953 Compilation]~~  
12 22-11-24 NMSA 1978.

13 C. At the time of retirement following a period of  
14 reemployment, the member's retirement benefits shall be paid  
15 in accordance with the terms of the option selected at the  
16 time of the first retirement. A member qualified to retire  
17 pursuant to this section after having reentered employment  
18 after retiring prior to July 1, 1957 shall be eligible to  
19 retire under the options specified in Section ~~[77-9-28 New~~  
20 ~~Mexico Statutes Annotated, 1953 Compilation]~~ 22-11-29 NMSA  
21 1978.

22 D. A member who did not retire pursuant to the  
23 state agency plan but is reemployed as a state agency member  
24 shall not retire pursuant to the state agency plan unless the  
25 member is employed by the state agency for three or more years

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1 after July 1, 2001. A member who did retire pursuant to the  
2 state agency plan but is reemployed by a local administrative  
3 unit other than a state agency shall retire pursuant to the  
4 state agency plan and have the retirement benefit determined  
5 pursuant to Subsection K of Section 22-11-30 NMSA 1978."

6 Section 5. Section 22-11-30 NMSA 1978 (being Laws 1967,  
7 Chapter 16, Section 153, as amended) is amended to read:

8 "22-11-30. RETIREMENT BENEFITS. --

9 A. Retirement benefits for a member retired  
10 pursuant to the Educational Retirement Act on or before June  
11 30, 1967 shall be paid monthly and shall be one-twelfth of a  
12 sum equal to one and one-half percent of the first four  
13 thousand dollars (\$4,000) of the member's average annual  
14 salary and one percent of the remainder of the member's  
15 average annual salary multiplied by the number of years of the  
16 member's total service credit.

17 B. Retirement benefits for a member retired  
18 pursuant to the Educational Retirement Act on or after July 1,  
19 1967 but on or before June 30, 1971 shall be paid monthly and  
20 shall be one-twelfth of a sum equal to one and one-half  
21 percent of the first six thousand six hundred dollars (\$6,600)  
22 of the member's average annual salary and one percent of the  
23 remainder of the member's average annual salary multiplied by  
24 the number of years of the member's total service credit.

25 C. Retirement benefits for a member retired

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1 pursuant to the Educational Retirement Act on or after July 1,  
2 1971 but on or before June 30, 1974 shall be paid monthly and  
3 shall be one-twelfth of a sum equal to one and one-half  
4 percent of the member's average annual salary multiplied by  
5 the number of years of the member's total service credit.

6 D. Retirement benefits for a member retired  
7 pursuant to the Educational Retirement Act on or before June  
8 30, 1974 but returning to employment on or after July 1, 1974  
9 for a cumulation of one or more years shall be computed  
10 pursuant to Subsection E of this section. Retirement benefits  
11 for a member retired pursuant to the Educational Retirement  
12 Act on or before June 30, 1974 but returning to employment on  
13 or after July 1, 1974 for a cumulation of less than one year  
14 shall be computed pursuant to Subsection A of this section if  
15 his date of last retirement was on or before June 30, 1967 or  
16 pursuant to Subsection B of this section if his date of last  
17 retirement was on or after July 1, 1967 but not later than  
18 June 30, 1971 or pursuant to Subsection C of this section if  
19 his date of last retirement was on or after July 1, 1971 but  
20 not later than June 30, 1974.

21 E. Retirement benefits for a member age sixty or  
22 over, retired pursuant to the Educational Retirement Act on or  
23 after July 1, 1974 but not later than June 30, 1987, shall be  
24 paid monthly and shall be one-twelfth of a sum equal to:

- 25 (1) one and one-half percent of the member's

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1 average annual salary multiplied by the number of years of  
2 service credit for:

3 (a) prior employment; and

4 (b) allowed service credit for service  
5 performed prior to July 1, 1957, except United States military  
6 service credit purchased pursuant to Paragraph (3) of  
7 Subsection A of Section 22-11-34 NMSA 1978; plus

8 (2) two percent of the member's average  
9 annual salary multiplied by the number of years of service  
10 credit for:

11 (a) contributory employment;

12 (b) allowed service credit for service  
13 performed after July 1, 1957; and

14 (c) United States military service  
15 credit for service performed prior to July 1, 1957 and  
16 purchased pursuant to Paragraph (3) of Subsection A of Section  
17 22-11-34 NMSA 1978.

18 F. Retirement benefits for a member age sixty or  
19 over, retired pursuant to the Educational Retirement Act on or  
20 after July 1, 1987 but not later than June 30, 1991, shall be  
21 paid monthly and shall be one-twelfth of a sum equal to two  
22 and fifteen hundredths percent of the member's average annual  
23 salary multiplied by the number of years of the member's total  
24 service credit; provided that this subsection shall not apply  
25 to any member who was retired in any of the four quarters

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1 ending on June 30, 1987 without having accumulated not less  
2 than 1.0 years earned service credit after June 30, 1987.

3 G. Except as provided in Subsections J and K of  
4 this section, retirement benefits for a member age sixty or  
5 over, retired pursuant to the Educational Retirement Act on or  
6 after July 1, 1991, shall be paid monthly and shall be one-  
7 twelfth of a sum equal to two and thirty-five hundredths  
8 percent of the member's average annual salary multiplied by  
9 the number of years of the member's total service credit;  
10 provided that this subsection shall not apply to any member  
11 who was retired in any of the four consecutive quarters ending  
12 on June 30, 1991 without having accumulated at least one year  
13 earned service credit beginning on or after July 1, 1991.

14 H. Except as provided in Subsection J of this  
15 section, a member's average annual salary, pursuant to this  
16 section, shall be computed on the basis of the last five years  
17 for which contribution was made or upon the basis of any  
18 consecutive five years for which contribution was made by the  
19 member, whichever is higher.

20 I. Members shall begin receiving retirement  
21 benefits by age seventy and six months, or upon termination of  
22 employment, whichever occurs later.

23 J. Except as provided in Subsection K of this  
24 section, retirement benefits for a state agency member,  
25 retired pursuant to the state agency plan on or after July 1,



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1 2004, shall be paid monthly and shall be one-twelfth of a sum  
2 equal to three percent of the member's average annual salary  
3 multiplied by the number of years of the member's total  
4 service credit; provided that:

5 (1) this subsection does not apply to a  
6 member who has not accumulated at least three years as a state  
7 agency member after July 1, 2001;

8 (2) the annual benefit paid to a member under  
9 this subsection shall not exceed eighty percent of the  
10 member's average annual salary; and

11 (3) an average annual salary, for purposes of  
12 this subsection, shall be computed on the basis of the last  
13 three years for which contribution was made or upon the basis  
14 of any consecutive three years for which contribution was made  
15 by the member, whichever is higher.

16 K. The retirement benefit for a member whose total  
17 service credit includes three or more years accumulated after  
18 July 1, 2001 with a state agency and service credit  
19 accumulated with a local administrative unit other than a  
20 state agency shall be the sum of:

21 (1) the benefit calculated pursuant to  
22 Subsection J of this section using the average annual salary  
23 for that section and the service credit accumulated with the  
24 state agency; and

25 (2) the benefit calculated pursuant to

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1 Subsection G of this section using an average annual salary as  
2 defined in Subsection H of this section and the service credit  
3 accumulated with the other local administrative unit."

4 Section 6. Section 22-11-31 NMSA 1978 (being Laws 1979,  
5 Chapter 333, Section 2, as amended) is amended to read:

6 "22-11-31. COST-OF-LIVING ADJUSTMENT--ADDITIONAL  
7 CONTRIBUTIONS.--

8 A. For the purposes of this section:

9 (1) "adjustment factor" means a  
10 multiplicative factor computed to provide an annuity  
11 adjustment pursuant to the provisions of Subsection B of this  
12 section;

13 (2) "annuity" means any benefit payable under  
14 the Educational Retirement Act or the Public Employees  
15 Retirement Reciprocity Act as a retirement benefit, disability  
16 benefit or survivor benefit;

17 (3) "calendar year" means the full twelve  
18 months beginning January 1 and ending December 31;

19 (4) "consumer price index" means the average  
20 of the monthly consumer price indexes for a calendar year for  
21 the entire United States for all items as published by the  
22 United States department of labor;

23 (5) "next preceding calendar year" means the  
24 full calendar year immediately prior to the preceding calendar  
25 year; and

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1 (6) "preceding calendar year" means the full  
2 calendar year preceding the July 1 on which a benefit is to be  
3 adjusted.

4 B. On or after July 1, 1984, each annuity shall be  
5 adjusted annually and cumulatively commencing on July 1 of the  
6 year in which a member attains the age of sixty-five or on  
7 July 1 following the year a member retires, whichever is  
8 later. The annuity shall be adjusted by applying an  
9 adjustment factor that results in either an adjustment equal  
10 to one-half of the percentage increase or decrease of the  
11 consumer price index between the next preceding calendar year  
12 and the preceding calendar year, except that the adjustment  
13 shall not exceed four percent, in absolute value, nor be less  
14 than two percent, in absolute value. In the event that the  
15 percentage increase or decrease of the consumer price index is  
16 less than two percent, in absolute value, the adjustment  
17 factor shall be the same as the percentage increase or  
18 decrease of the consumer price index. No negative adjustment  
19 in the retirement benefit shall reduce the member's benefit  
20 below that which he received upon the date of his retirement.

21 C. A retired member whose benefit is subject to  
22 adjustment under the provisions of the Educational Retirement  
23 Act in effect prior to July 1, 1984 shall have his annuity  
24 readjusted annually and cumulatively under the provisions of  
25 that act in effect prior to July 1, 1984 until July 1 of the

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1 year in which he attains the age of sixty-five, when he shall  
2 have his annuity readjusted annually and cumulatively under  
3 the provisions of this section. A member who retires after  
4 attaining the age of sixty-five shall have his annuity  
5 adjusted annually and cumulatively commencing on July 1 of the  
6 year following his retirement.

7 D. A retired member who returns to work shall be  
8 subject to the provisions of this section as they exist at the  
9 time of his final retirement.

10 E. Benefits of a member who is on a disability  
11 status in accordance with Section 22-11-35 NMSA 1978 or a  
12 member who the board certifies was disabled at regular  
13 retirement shall be adjusted in accordance with Subsections B  
14 and C of this section, except that the benefits shall be  
15 adjusted annually and cumulatively commencing on July 1 of the  
16 third full year following the year in which the member was  
17 approved by the board for disability or retirement.

18 F. The board shall adjust the benefits of each  
19 person receiving an annuity as of June 30, 1999. The  
20 adjustment shall be made on July 1, 1999 on the basis of an  
21 increase of two dollars (\$2.00) per month for each year since  
22 the member's last retirement plus an increase of one dollar  
23 (\$1.00) per month for each year of credited service at the  
24 time of the last retirement.

25 G. Except as provided in Subsection E of Section

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1 22-11-31.1 NMSA 1978, the provisions of this section do not  
2 apply to cost-of-living increases for retired state agency  
3 members who retire pursuant to the state agency plan."

4 Section 7. A new section of the Educational Retirement  
5 Act, Section 22-11-31.1 NMSA 1978, is enacted to read:

6 "22-11-31.1. [NEW MATERIAL] STATE AGENCY PLAN-- COST-OF-  
7 LIVING ADJUSTMENT. --

8 A. The amount of pension payable to a qualified  
9 pension recipient shall be increased three percent each July

10 1. The amount of the increase shall be determined by  
11 multiplying the amount of pension inclusive of all prior  
12 adjustments by three percent.

13 B. A qualified pension recipient is:

14 (1) a retired member under the state agency  
15 plan who has been retired for at least two full calendar years  
16 from the effective date of the latest retirement prior to July  
17 1 of the year in which the pension is being adjusted;

18 (2) a retired member under the state agency  
19 plan who has attained age sixty-five years and been retired  
20 for at least one full calendar year from the effective date of  
21 the latest retirement prior to July 1 of the year in which the  
22 pension is being adjusted;

23 (3) a disability retired member under the  
24 state agency plan who has been retired for at least one full  
25 calendar year from the effective date of the latest retirement

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1 prior to July 1 of the year in which the pension is being  
2 adjusted;

3 (4) a survivor beneficiary of a state agency  
4 member who has received a survivor pension for at least two  
5 full calendar years; or

6 (5) a survivor beneficiary of a deceased  
7 retired member under the state agency plan who otherwise would  
8 have been retired at least two full calendar years from the  
9 effective date of the latest retirement prior to July 1 of the  
10 year in which the pension is being adjusted.

11 C. A qualified pension recipient may decline an  
12 increase in a pension by giving the association written notice  
13 of the decision to decline the increase at least thirty days  
14 prior to the date the increase would take effect.

15 D. The cost-of-living increases under this section  
16 apply only to the portion of a retirement benefit calculated  
17 under the state agency plan. The cost-of-living increase for  
18 any portion of a retirement benefit calculated pursuant to  
19 Subsection G of Section 22-11-30 NMSA 1978 shall be determined  
20 pursuant to Section 22-11-31 NMSA 1978. "

21 Section 8. EFFECTIVE DATE. -- The effective date of the  
22 provisions of this act is July 1, 2001.