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SENATE BILL 346

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

CYNTHIA NAVA

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; AMENDING SECTIONS OF THE
EDUCATIONAL RETIREMENT ACT PERTAINING TO RETIREMENT BENEFITS,
COST-OF-LIVING ADJUSTMENTS AND EMPLOYER CONTRIBUTIONS.

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

Section 1. Section 22-11-11 NMSA 1978 (being Laws 1967,
Chapter 16, Section 135) is amended to read:

"22-11-11. EDUCATIONAL RETIREMENT FUND. --

- A. The "educational retirement fund" is created.
- B. The state treasurer shall be the custodian of the fund, and the board shall be the trustee of the fund.
- C. [~~All membership fees~~] Contributions from members and local administrative units, securities evidencing the investment of money from the fund, interest, gifts, grants or bequests shall be deposited in the fund."

Underscored material = new
[bracketed material] = delete

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

3 "22-11-21. CONTRIBUTIONS--MEMBERS--LOCAL ADMINISTRATIVE
4 UNITS.--

5 A. Each member shall make contributions to the fund
6 in the amount of seven and six-tenths percent of his annual
7 salary.

8 B. ~~[Until June 30, 1993]~~ Beginning July 1, 1996,
9 each local administrative unit shall make a yearly contribution
10 to the fund of a sum equal to ~~[seven and six-tenths]~~ ten and
11 sixty-five hundredths percent of the annual salary of each
12 member employed by the local administrative unit.

13 ~~[C. Beginning July 1, 1993 and thereafter, each~~
14 ~~local administrative unit shall make a yearly contribution to~~
15 ~~the fund of a sum equal to eight and sixty-five hundredths~~
16 ~~percent of the annual salary of each member employed by the~~
17 ~~local administrative unit.]~~

18 C. Beginning July 1, 1997, each local administrative
19 unit shall make a yearly contribution to the fund of a sum equal
20 to eleven and nine-tenths percent of the annual salary of each
21 member employed by the local administrative unit.

22 D. Beginning July 1, 1998, each local administrative
23 unit shall make a yearly contribution to the fund of a sum equal
24 to thirteen and fifteen hundredths percent of the annual salary
25 of each member employed by the local administrative unit."

Underscored material = new
[bracketed material] = delete

1 Section 3. Section 22-11-30 NMSA 1978 (being Laws 1967,
2 Chapter 16, Section 153, as amended) is amended to read:

3 "22-11-30. RETIREMENT BENEFITS. --

4 A. Retirement benefits for a member retired pursuant
5 to the Educational Retirement Act on or before June 30, 1967
6 shall be paid monthly and shall be one-twelfth of a sum equal to
7 one and one-half percent of the first four thousand dollars
8 (\$4,000) of the member's average annual salary and one percent
9 of the remainder of the member's average annual salary
10 multiplied by the number of years of the member's total service-
11 credit.

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

20 C. Retirement benefits for a member retired pursuant
21 to the Educational Retirement Act on or after July 1, 1971 but
22 on or before June 30, 1974 shall be paid monthly and shall be
23 one-twelfth of a sum equal to one and one-half percent of the
24 member's average annual salary multiplied by the number of years
25 of the member's total service-credit.

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Underscored material = new
[bracketed material] = delete

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

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

20 (1) one and one-half percent of the member's
21 average annual salary multiplied by the number of years of
22 service-credit for:

- 23 (a) prior employment; and
24 (b) allowed service-credit for service
25 performed prior to July 1, 1957, except United States military

Underscored material = new
[bracketed material] = delete

1 service credit purchased pursuant to Paragraph (3) of Subsection
2 A of Section 22-11-34 NMSA 1978; plus

3 (2) two percent of the member's average annual
4 salary multiplied by the number of years of service-credit for:

5 (a) contributory employment;

6 (b) allowed service-credit for service
7 performed after July 1, 1957; and

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

12 F. Retirement benefits for a member age sixty or
13 over, retired pursuant to the Educational Retirement Act on or
14 after July 1, 1987 but not later than June 30, 1991, shall be
15 paid monthly and shall be one-twelfth of a sum equal to two and
16 fifteen hundredths percent of the member's average annual salary
17 multiplied by the number of years of the member's total service-
18 credit; provided that this subsection shall not apply to any
19 member who was retired in any of the four quarters ending on
20 June 30, 1987 without having accumulated not less than 1.0 years
21 earned service after June 30, 1987.

22 G. Retirement benefits for a member age sixty or
23 over, retired pursuant to the Educational Retirement Act on or
24 after July 1, 1991, but not later than June 30, 1996, shall be
25 paid monthly and shall be one-twelfth of a sum equal to two and

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Underscored material = new
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1 thirty-five hundredths percent of the member's average annual
2 salary multiplied by the number of years of the member's total
3 service-credit; provided that this subsection shall not apply to
4 any member who was retired in any of the four consecutive
5 quarters ending on June 30, 1991 without having accumulated at
6 least one year earned service beginning on or after July 1,
7 1991.

8 H. Retirement benefits for a member age sixty or
9 over, retired pursuant to the Educational Retirement Act on or
10 after July 1, 1996 shall be paid monthly and shall be one-
11 twelfth of a sum equal to two and five-tenths percent of the
12 member's average annual salary multiplied by the number of years
13 of the member's total service-credit; provided that this
14 subsection shall not apply to any member who was retired in any
15 of the four consecutive quarters ending on June 30, 1996 without
16 having accumulated at least one year earned service beginning on
17 or after July 1, 1996.

18 [~~H.-~~] I. A member's average annual salary, pursuant
19 to this section, shall be computed on the basis of the last five
20 years for which contribution was made or upon the basis of any
21 consecutive five years for which contribution was made by the
22 member, whichever is higher. Members shall begin receiving
23 retirement benefits by age seventy and six months, or upon
24 termination of employment, whichever occurs later. "

25 Section 4. Section 22-11-31 NMSA 1978 (being Laws 1979,

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Underscored material = new
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1 Chapter 333, Section 2, as amended) is amended to read:

2 "22- 11- 31. COST-OF-LIVING ADJUSTMENT-- ADDITIONAL
3 CONTRIBUTIONS. --

4 A. For the purposes of this section:

5 (1) "adjustment factor" means a multiplicative
6 factor computed to provide an annuity adjustment pursuant to the
7 provisions of Subsection B of this section;

8 (2) "annuity" means any benefit payable under
9 the Educational Retirement Act or the [~~Retirement Reciprocity~~
10 Act] Public Employees Retirement Reciprocity Act as a retirement
11 benefit, disability benefit or survivor benefit;

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

14 (4) "consumer price index" means the average of
15 the monthly consumer price indexes for a calendar year for the
16 entire United States for all items as published by the United
17 States department of labor;

18 (5) "next preceding calendar year" means the
19 full calendar year immediately prior to the preceding calendar
20 year; and

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

24 B. On or after [~~July 1, 1984~~] July 1, 1996, each
25 annuity shall be adjusted annually and cumulatively commencing

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

17 ~~[C. A retired member whose benefit is subject to~~
18 ~~adjustment under the provisions of the Educational Retirement~~
19 ~~Act in effect prior to July 1, 1984 shall have his annuity~~
20 ~~readjusted annually and cumulatively under the provisions of~~
21 ~~that act in effect prior to July 1, 1984 until July 1 of the~~
22 ~~year in which he attains the age of sixty-five, when he shall~~
23 ~~have his annuity readjusted annually and cumulatively under the~~
24 ~~provisions of this section. A member who retires after~~
25 ~~attaining the age of sixty five shall have his annuity adjusted~~

Underscored material = new
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1 ~~annually and cumulatively commencing on July 1 of the year~~
2 ~~following his retirement.]~~

3 C. On or after July 1, 1997, each annuity shall be
4 adjusted annually and cumulatively commencing on July 1 of the
5 year in which a member attains the age of sixty-three or on July
6 1 following the year a member retires, whichever is later. The
7 annuity shall be adjusted by applying the adjustment factor that
8 results in either an adjustment equal to sixty-five percent of
9 the percentage increase or decrease of the consumer price index
10 between the next preceding calendar year and the preceding
11 calendar year, except that the adjustment shall not be less than
12 two percent in absolute value. In the event that the percentage
13 increase or decrease of the consumer price index is less than
14 two percent in absolute value, the adjustment factor shall be
15 the same as the percentage increase or decrease of the consumer
16 price index. No negative adjustment in the retirement benefit
17 shall reduce the member's benefit below that which he received
18 upon the date of his retirement.

19 D. On or after July 1, 1998, each annuity shall be
20 adjusted annually and cumulatively commencing on July 1 of the
21 year in which a member attains the age of sixty-two or on July 1
22 following the year a member retires, whichever is later. The
23 annuity shall be adjusted by applying the adjustment factor that
24 results in either an adjustment equal to seventy-five percent of
25 the percentage increase or decrease of the consumer price index

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1 between the next preceding calendar year and the preceding
2 calendar year, except that the adjustment shall not be less than
3 two percent in absolute value. In the event that the percentage
4 increase or decrease of the consumer price index is less than
5 two percent in absolute value, the adjustment factor shall be
6 the same as the percentage increase or decrease of the consumer
7 price index. No negative adjustment in the retirement benefit
8 shall reduce the member's benefit below that which he received
9 upon the date of his retirement.

10 E. A retired member whose benefit is subject to
11 adjustment under a provision of the Educational Retirement Act
12 that has been repealed shall continue to receive the adjustment
13 until the retired member becomes eligible for adjustment under
14 the provisions of Subsections B through D of this section.

15 ~~[D.]~~ E. A retired member who returns to work shall
16 be subject to the provisions of this section as they exist at
17 the time of his final retirement.

18 ~~[E.]~~ G. Benefits of a member who is on a disability
19 status in accordance with Section 22-11-35 NMSA 1978 or a member
20 whom the board certifies was disabled at regular retirement
21 shall be adjusted in accordance with Subsections B ~~[and C]~~
22 through D of this section, except that the benefits shall be
23 adjusted annually and cumulatively commencing on July 1 of the
24 third full year following the year in which the member was
25 approved by the board for disability or retirement

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[~~F. The board shall adjust the benefits of each person receiving an annuity as of June 30, 1991. The adjustment shall be made on July 1, 1991 on the basis of an increase of two dollars (\$2.00) per month for each year since the member's last retirement plus an increase of one dollar (\$1.00) per month for each year of credited service at the time of retirement.~~] or the age set forth in Subsections B through D of this section, as applicable, whichever is sooner."

1 FORTY- SECOND LEGISLATURE

2 SECOND SESSION, 1996

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4
5
6 JANUARY 26, 1996

7
8 Mr. President:

9
10 Your COMMITTEES' COMMITTEE, to whom has been referred

11
12 SENATE BILL 346

13
14 has had it under consideration and finds same to be GERMANE, PURSUANT
15 TO CONSTITUTIONAL PROVISIONS, and thence referred to the EDUCATION
16 COMMITTEE.
17

18
19 Respectfully submitted,

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25 _____
SENATOR MANNY M. ARAGON, Chairman

Underscored material = new
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Adopted _____ Not Adopted _____

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(Chief Clerk)

(Chief Clerk)

Date _____

S0346CC1

1 FORTY-SECOND LEGISLATURE

2 SECOND SESSION, 1996

3 SB 346/a

4
5
6 February 3, 1996

7
8 Mr. President:

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10 Your EDUCATION COMMITTEE, to whom has been referred

11
12 SENATE BILL 346

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14 has had it under consideration and reports same with recommendation that

15 it DO PASS, amended as follows:

16
17
18 1. On page 2, line 10, strike "ten" and insert in lieu thereof
19 "nine".

20
21 2. On page 2, line 20, strike "nine-tenths" and insert in lieu
22 thereof "four-tenths",

23
24 and thence referred to the FINANCE COMMITTEE.

25
Respectfully submitted,

**FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996**

SEC/SB 346

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Carlos R. Cisneros, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

No: 0

Excused: Benavides, Scott

Absent: None

**FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996**

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