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_____ BILL

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

DISCUSSION DRAFT

ENDORSED BY THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; MAKING CHANGES TO THE
EDUCATIONAL RETIREMENT ACT; CLARIFYING RESTRICTIONS ON RECEIPT
OF GIFTS; PROVIDING FOR UNCLAIMED MEMBER CONTRIBUTIONS TO BE
DEPOSITED INTO THE EDUCATIONAL RETIREMENT FUND; CLARIFYING
CERTAIN TERMS; ALLOWING FOR A MEMBER ON DISABILITY STATUS WHO
IS OVER SIXTY AND WHO RECEIVES AN ANNUITY ADJUSTMENT TO
CONTINUE RECEIVING THE ANNUITY ADJUSTMENT; REQUIRING PAYMENT OF
ALLOWED SERVICE WITHIN NINETY DAYS; ALLOWING FOR DISCLOSURE OF
MEMBER OR RETIRED MEMBER INFORMATION TO THE PUBLIC EMPLOYEES
RETIREMENT BOARD TO ADMINISTER.

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

SECTION 1. Section 22-11-5.1 NMSA 1978 (being Laws 1999,
Chapter 153, Section 2, as amended) is amended to read:

"22-11-5.1. RESTRICTIONS ON RECEIPT OF GIFTS.--Except for
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1 gifts of food or beverage [~~given~~] consumed in a place of public
2 accommodation [~~consumed~~] at the time of receipt [~~not exceeding~~
3 ~~fifty dollars (\$50.00) for~~] or a single gift of value not
4 exceeding fifty dollars (\$50.00), and the aggregate value of
5 which gifts [~~may~~] shall not exceed one hundred fifty dollars
6 (\$150) in a calendar year, neither a board member nor an
7 employee of the board shall receive or accept anything of value
8 directly or indirectly from a person who:

9 A. has a current contract with the board;

10 B. is a potential bidder, offeror or contractor for
11 the provision of services or personal property to the board;

12 C. is authorized to invest public funds pursuant to
13 state or federal law or is an employee or agent of such a
14 person; or

15 D. is an organization, association or other entity
16 having a membership that includes persons described in
17 Subsections A through C of this section."

18 **SECTION 2.** Section 22-11-11 NMSA 1978 (being Laws 1967,
19 Chapter 16, Section 135, as amended) is amended to read:

20 "22-11-11. EDUCATIONAL RETIREMENT FUND--SUSPENSE FUND.--

21 A. The "educational retirement fund" and the
22 "educational retirement suspense fund" are created.

23 B. The state treasurer shall be the custodian of
24 the funds, and the board shall be the trustee of the funds.

25 C. All membership fees, contributions from members

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1 and local administrative units, securities evidencing the
2 investment of money from the fund, unclaimed member
3 contributions, interest, gifts, grants or bequests shall be
4 deposited in the educational retirement fund.

5 D. All amounts received in satisfaction of a claim
6 brought by private attorneys on behalf of the board shall be
7 deposited into the educational retirement suspense fund. The
8 board shall disburse the compensation due the private
9 attorneys, together with reimbursement for reasonable costs and
10 expenses, in accordance with the terms of the contract with the
11 attorneys. After the disbursements have been made, the balance
12 of each deposit shall be distributed to the educational
13 retirement fund."

14 SECTION 3. Section 22-11-24 NMSA 1978 (being Laws 1967,
15 Chapter 16, Section 147) is amended to read:

16 "22-11-24. RETIREMENT BENEFITS--MINIMUM CONTRIBUTORY
17 EMPLOYMENT.--

18 A. A member [~~must~~] shall have acquired not less
19 than five years of contributory employment to be eligible for
20 retirement benefits pursuant to the Educational Retirement Act.

21 B. A member desiring to retire before having
22 completed five years of contributory employment shall be
23 limited to the maximum benefit [~~he~~] the member would have been
24 entitled to receive under any statute repealed by the
25 Educational Retirement Act. A member may acquire five years or

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1 less of contributory employment by contributing to the fund,
2 for each year of contributory employment desired, a sum equal
3 to the prevailing combined contributions of the member and the
4 local administrative unit in effect at the time the
5 contributory employment is acquired. This contribution shall
6 be computed on the member's average annual salary for the last
7 five years of employment plus an additional sum as interest
8 from the effective date of the Educational Retirement Act as
9 fixed by the board, but not to exceed three percent a year.

10 C. Years of contributory employment purchased
11 pursuant to this section shall not be considered as an addition
12 to service actually performed in computing the sum of the
13 member's retirement benefit.

14 D. The retirement benefits of members retired
15 pursuant to the Educational Retirement Act prior to July 1,
16 1959 and who have acquired contributory employment years by
17 purchase shall be computed upon the basis of the amount paid
18 therefor.

19 E. As used only in this section, "five years of
20 contributory employment" means the member and employer have
21 made contributions through the last business day of the
22 sixtieth month of contributory employment, or if the member is
23 under contract, the member and employer have made contributions
24 for five years through the last business day that the member
25 can provide services under the contract."

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

3 "22-11-31. COST-OF-LIVING ADJUSTMENT--ELIGIBILITY--BASED
4 ON FUNDED RATIO--ADDITIONAL CONTRIBUTIONS.--

5 A. For the purposes of this section:

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

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

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

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

19 (5) "funded ratio" means the ratio of the
20 actuarial value of the assets of the fund to the actuarial
21 accrued liability of the educational retirement system;

22 (6) "median adjusted annuity" means the median
23 value of all annuities and retirement benefits paid pursuant to
24 Section 22-11-29 or 22-11-30 NMSA 1978, as calculated each
25 fiscal year; provided, however, that the benefits paid to a

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1 member pursuant to Section 22-11-38 NMSA 1978 shall not be
2 included in the median adjusted annuity calculation;

3 (7) "next preceding calendar year" means the
4 full calendar year immediately prior to the preceding calendar
5 year; and

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

9 B. On or after July 1, 1984:

10 (1) the annuity of a member who retires
11 pursuant to Subsection A of Section 22-11-23 NMSA 1978 or
12 Subsection A of Section 22-11-23.1 NMSA 1978 shall be adjusted
13 annually and cumulatively commencing on July 1 of the year in
14 which a member attains the age of sixty-five years or on July 1
15 following the year a member retires, whichever is later; and

16 (2) the annuity of a member who retires
17 pursuant to Subsection A of Section 22-11-23.2 NMSA 1978 shall
18 be adjusted annually and cumulatively commencing on July 1 of
19 the year in which the member attains the age of sixty-seven
20 years or on July 1 following the year the member retires,
21 whichever is later.

22 C. Beginning on July 1, 2013 and on each July 1
23 thereafter:

24 (1) if the funded ratio of the fund as
25 reported by the board's actuary in the actuarial valuation

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1 report for the next preceding fiscal year is one hundred
2 percent or greater, the annuity adjustments provided for under
3 Subsection B of this section shall be adjusted by applying an
4 adjustment factor based on the percentage increase of the
5 consumer price index between the next preceding calendar year
6 and the preceding calendar year. The adjustment factor shall
7 be applied as follows:

8 (a) if the percentage increase of the
9 consumer price index is less than two percent in absolute
10 value, the adjustment factor shall be the same amount as the
11 percentage increase of the consumer price index; and

12 (b) if the percentage increase of the
13 consumer price index is two percent or greater in absolute
14 value, the adjustment factor shall be one-half of the
15 percentage increase; except that the adjustment shall not
16 exceed four percent in absolute value nor be less than two
17 percent in absolute value;

18 (2) if the funded ratio of the fund as
19 reported by the board's actuary in the actuarial report for the
20 next preceding fiscal year is greater than ninety percent but
21 less than one hundred percent, except for a member who is on
22 disability status in accordance with Section 22-11-35 NMSA 1978
23 and whose benefit is adjusted as provided in Subsection G of
24 this section or a member who is retired pursuant to Section
25 22-11-38 NMSA 1978, the adjustment factor provided for in

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1 Subsection B of this section shall be applied as follows:

2 (a) if the percentage increase in the
3 consumer price index is less than two percent in absolute
4 value, for a member who has twenty-five or more years of
5 service credit at retirement and whose annuity is less than or
6 equal to the median adjusted annuity for the fiscal year next
7 preceding the adjustment date, the adjustment factor shall be
8 ninety-five percent of the adjustment factor determined
9 pursuant to Subparagraph (a) of Paragraph (1) of this
10 subsection;

11 (b) if the percentage increase in the
12 consumer price index is less than two percent in absolute
13 value, for a member who has less than twenty-five years of
14 service credit at retirement and whose annuity is less than or
15 equal to the median adjusted annuity for the fiscal year next
16 preceding the adjustment date, and for a member whose annuity
17 is greater than the median adjusted annuity for the fiscal year
18 next preceding the adjustment date, the adjustment factor shall
19 be ninety percent of the adjustment factor determined pursuant
20 to Subparagraph (a) of Paragraph (1) of this subsection;

21 (c) if the percentage increase in the
22 consumer price index is greater than or equal to two percent in
23 absolute value for a member who has twenty-five or more years
24 of service credit at retirement and whose annuity is less than
25 or equal to the median adjusted annuity for the fiscal year

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1 next preceding the adjustment date, the adjustment factor shall
2 be ninety-five percent of the adjustment factor determined
3 under Subparagraph (b) of Paragraph (1) of this subsection; and

4 (d) if the percentage increase in the
5 consumer price index is greater than or equal to two percent in
6 absolute value, for a member who has less than twenty-five
7 years of service credit at retirement and whose annuity is less
8 than or equal to the median adjusted annuity for the fiscal
9 year next preceding the adjustment date, and for a member whose
10 annuity is greater than the median adjusted annuity for the
11 fiscal year next preceding the adjustment date, the adjustment
12 factor shall be ninety percent of the adjustment factor
13 determined under Subparagraph (b) of Paragraph (1) of this
14 subsection;

15 (3) if the funded ratio of the fund as
16 reported by the board's actuary in the actuarial valuation
17 report for the next preceding fiscal year is ninety percent or
18 less, except for a member who is on disability status in
19 accordance with Section 22-11-35 NMSA 1978 and whose benefit is
20 adjusted as provided in Subsection G of this section or a
21 member who is retired pursuant to Section 22-11-38 NMSA 1978,
22 the adjustment factor provided for in Subsection B of this
23 section shall be applied as follows:

24 (a) if the percentage increase in the
25 consumer price index is less than two percent in absolute

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1 value, for a member who has twenty-five or more years of
2 service credit at retirement and whose annuity is less than or
3 equal to the median adjusted annuity for the fiscal year next
4 preceding the adjustment date, the adjustment factor shall be
5 ninety percent of the adjustment factor determined pursuant to
6 Subparagraph (a) of Paragraph (1) of this subsection;

7 (b) if the percentage increase in the
8 consumer price index is less than two percent in absolute
9 value, for a member who has less than twenty-five years of
10 service credit at retirement and whose annuity is less than or
11 equal to the median adjusted annuity for the fiscal year next
12 preceding the adjustment date, and for a member whose annuity
13 is greater than the median adjusted annuity for the fiscal year
14 next preceding the adjustment date, the adjustment factor shall
15 be eighty percent of the adjustment factor determined pursuant
16 to Subparagraph (a) of Paragraph (1) of this subsection;

17 (c) if the percentage increase in the
18 consumer price index is greater than or equal to two percent in
19 absolute value for a member who has twenty-five or more years
20 of service credit at retirement and whose annuity is less than
21 or equal to the median adjusted annuity for the fiscal year
22 next preceding the adjustment date, the adjustment factor shall
23 be ninety percent of the adjustment factor determined under
24 Subparagraph (b) of Paragraph (1) of this subsection; and

25 (d) if the percentage increase in the

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1 consumer price index is greater than or equal to two percent in
2 absolute value, for a member who has less than twenty-five
3 years of service credit at retirement and whose annuity is less
4 than or equal to the median adjusted annuity for the fiscal
5 year next preceding the adjustment date, and for a member whose
6 annuity is greater than the median adjusted annuity for the
7 fiscal year next preceding the adjustment date, the adjustment
8 factor shall be eighty percent of the adjustment factor
9 determined under Subparagraph (b) of Paragraph (1) of this
10 subsection; and

11 (4) an annuity shall not be decreased if there
12 is a decrease in the consumer price index between the next
13 preceding calendar year and the preceding calendar year.

14 D. A retired member whose benefit is subject to
15 adjustment under the provisions of the Educational Retirement
16 Act in effect prior to July 1, 1984 shall have the member's
17 annuity readjusted annually and cumulatively under the
18 provisions of that act in effect prior to July 1, 1984 until
19 July 1 of the year in which the member attains the age of
20 sixty-five years, when the member shall have the annuity
21 readjusted annually and cumulatively under the provisions of
22 this section.

23 E. A member who:

24 (1) retires pursuant to Subsection A of
25 Section 22-11-23 NMSA 1978 or Subsection A of Section

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1 22-11-23.1 NMSA 1978 after attaining the age of sixty-five
2 years shall have the member's annuity adjusted as provided in
3 Subsections B and C of this section commencing on July 1 of the
4 year following the member's retirement; or

5 (2) retires pursuant to Subsection A of
6 Section 22-11-23.2 NMSA 1978 after attaining the age of
7 sixty-seven years shall have the member's annuity adjusted as
8 provided in Subsections B and C of this section commencing on
9 July 1 of the year following the member's retirement.

10 F. A retired member who returns to work and
11 suspends retirement shall be subject to the provisions of this
12 section as they exist at the time of the member's latest
13 retirement.

14 G. Benefits of a member who is on a disability
15 status in accordance with Section 22-11-35 NMSA 1978 or a
16 member who is certified by the board as disabled at regular
17 retirement shall be adjusted in accordance with Subsections B
18 and C of this section; ~~except~~ provided that:

19 (1) the benefits shall be adjusted annually
20 and cumulatively commencing on July 1 of the third full year
21 following the year in which the member was approved by the
22 board for disability or retirement; and

23 (2) upon attaining the age of sixty years, a
24 member on a disability status who is receiving an annuity
25 adjustment pursuant to this section shall continue to receive

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1 the annuity adjustment at the rate of benefits received for the
2 disability."

3 SECTION 5. Section 22-11-34 NMSA 1978 (being Laws 1967,
4 Chapter 16, Section 157, as amended) is amended to read:

5 "22-11-34. ALLOWED SERVICE CREDIT.--

6 A. A member shall be certified to have acquired
7 allowed service credit pursuant to the Internal Revenue Code of
8 1986 for those periods of time when the member was:

9 (1) employed prior to July 1, 1967 in a
10 federal educational program within New Mexico, including United
11 States Indian schools and civilian conservation corps camps.

12 This service credit shall be allowed without contribution;

13 (2) engaged in military service that
14 interrupted the member's employment in New Mexico if the member
15 returned to employment within eighteen months following
16 honorable discharge. This service credit shall be allowed
17 without contribution;

18 (3) engaged in United States military service
19 or the commissioned corps of the public health service from
20 which the member was honorably discharged; provided that:

21 (a) the member shall have five years or
22 more of contributory employment to be eligible to purchase
23 allowed service credit pursuant to this paragraph;

24 (b) the member shall contribute to the
25 fund, for each year of service credit the member elects to

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1 purchase, a sum equal to the member's average annual actual
2 salary for the five years preceding the date of the
3 contribution multiplied by the sum of the member contribution
4 rate and the employer contribution rate in effect at the time
5 of the member's written election to purchase, subject to the
6 federal Uniformed Services Employment and Reemployment Rights
7 Act of 1994;

8 (c) full payment shall be made [~~in a~~
9 ~~single lump sum~~] within [~~sixty~~] ninety days of the date that
10 the member is informed of the amount of the payment; and

11 (d) the portion of the purchase cost
12 derived from the employer's contribution rate shall be credited
13 to the fund and, in the event that a member requests a refund
14 of contributions pursuant to Section 22-11-15 NMSA 1978, the
15 member shall not be entitled to a refund of that portion of the
16 purchase cost derived from the employer contribution rate; or

17 (4) employed:

18 (a) in a public school or public
19 institution of higher learning in another state, territory or
20 possession of the United States;

21 (b) in a United States military
22 dependents' school operated by a branch of the armed forces of
23 the United States;

24 (c) as provided in Paragraph (1) of this
25 subsection after July 1, 1967; or

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1 (d) in a private school or institution
2 of higher learning in New Mexico whose education program is
3 accredited or approved by the department at the time of
4 employment.

5 B. Effective July 1, 2001, the member or employer
6 under Paragraph (4) of Subsection A of this section shall
7 contribute to the fund for each year of allowed service credit
8 desired an amount equal to the actuarial value of the service
9 purchased as defined by the board. No allowed service credit
10 shall be purchased pursuant to Paragraph (4) of Subsection A of
11 this section unless the member is currently employed by a local
12 administrative unit.

13 C. No member shall be certified to have acquired
14 allowed service credit:

15 (1) under any single paragraph or the
16 combination of only Paragraphs (1) and (4) or only Paragraphs
17 (2) and (3) of Subsection A of this section in excess of five
18 years; or

19 (2) in excess of ten years for any other
20 combination of Paragraphs (1) through (4) of Subsection A of
21 this section.

22 D. A member receiving service credit under
23 Paragraph (3) or (4) of Subsection A of this section who
24 enrolls in the retiree health care authority shall make
25 contributions pursuant to Subsection C of Section 10-7C-15 NMSA

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1 1978."

2 SECTION 6. Section 22-11-55 NMSA 1978 (being Laws 2009,
3 Chapter 240, Section 1 and Laws 2009, Chapter 248, Section 1,
4 as amended) is amended to read:

5 "22-11-55. DISCLOSURE OF MEMBER OR RETIRED MEMBER
6 INFORMATION--PENALTY.--

7 A. Other than names of members and local
8 administrative units by which a member was employed; dates of
9 employment, retirement and reported death; service credit;
10 reported salary; retirement and disability benefits; and
11 amounts of contributions made by members and local
12 administrative units, neither the board nor its employees or
13 contractors shall allow public inspection or disclosure of any
14 information regarding a member or retired member to anyone
15 except:

16 (1) the member, retired member or the spouse
17 or authorized representative of the member or retired member;

18 (2) other persons specifically identified in a
19 prior release and consent, in the form prescribed by the board,
20 executed by the member, retired member, spouse or authorized
21 representative; ~~[or]~~

22 (3) the attorney general, appropriate law
23 enforcement agencies, the state auditor or the public education
24 department or higher education department, if the information
25 provided relates to contributions, payments or management of

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1 money received by, or the financial controls or procedures of,
2 a local administrative unit; or

3 (4) the public employees retirement board for
4 the purpose of administering the Public Employees Retirement
5 Reciprocity Act.

6 B. No person receiving information disclosed by a
7 violation of Subsection A of this section shall disclose that
8 information to any other person unless authorized by an
9 applicable confidentiality agreement, board rule or state law.

10 C. Whoever knowingly violates a provision of
11 Subsection A or B of this section is guilty of a petty
12 misdemeanor and shall be sentenced in accordance with Section
13 31-19-1 NMSA 1978."