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SENATE BILL 344

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,  
2000**

INTRODUCED BY

Mary Jane Garcia

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; PROVIDING FOR A DEFERRED  
RETIREMENT OPTION PLAN FOR CERTAIN EMPLOYEES.

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

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

"22-11-21. CONTRIBUTIONS--MEMBERS--LOCAL ADMINISTRATIVE  
UNITS.--Except as provided in Section 22-11-30.2 NMSA 1978:

A. each member shall make contributions to the  
fund in the amount of seven and six-tenths percent of his  
annual salary; and

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

~~C. Beginning July 1, 1993 and thereafter]~~

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1           B. each local administrative unit shall make a  
2 yearly contribution to the fund of a sum equal to eight and  
3 sixty-five hundredths percent of the annual salary of each  
4 member employed by the local administrative unit."

5           Section 2. A new section of the Educational Retirement  
6 Act, Section 22-11-30.2 NMSA 1978, is enacted to read:

7           "22-11-30.2. [NEW MATERIAL] DEFERRED RETIREMENT OPTION  
8 PLAN.--

9           A. On or after October 1, 2000, a member who  
10 remains in contributory employment may make an irrevocable  
11 election with the director to participate in a deferred  
12 retirement option plan if:

13                       (1) the member is a certified school  
14 employee as defined in Section 22-1-2 NMSA 1978;

15                       (2) the member has twenty-eight years or  
16 more of service credit; and

17                       (3) the election is made on a form  
18 prescribed by the director and specifies:

19                               (a) the period for which the member  
20 agrees to participate in the plan; provided that the period  
21 shall be in annual increments and shall not be more than five  
22 years; and

23                               (b) that the member has either selected  
24 deferred retirement option Plan One or deferred retirement  
25 option Plan Two.

          B. If the member selects deferred retirement  
option Plan One, during the period the member participates in

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1 the plan:

2 (1) the member's salary shall be determined  
3 through negotiations between the member and the local  
4 administrative unit;

5 (2) the member's contribution to the fund  
6 shall equal seven and seventy-six hundredths percent of the  
7 member's annual salary;

8 (3) the local administrative unit shall make  
9 no contribution to the fund;

10 (4) no additional service credit shall be  
11 accredited; and

12 (5) every month the member shall receive an  
13 amount equal to the retirement benefit that the member would  
14 have received that month if the member had retired at the  
15 time of making the election under Subsection A of this  
16 section.

17 C. If the member selects deferred retirement  
18 option Plan Two:

19 (1) during the period the member  
20 participates in the plan:

21 (a) the member shall continue to  
22 receive a salary based upon the appropriate placement on the  
23 district salary schedule;

24 (b) the member shall make no  
25 contribution to the fund;

(c) the local administrative unit's  
contributions to the fund shall equal eight and one-tenth

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1 percent of the member's annual salary;

2 (d) no additional service credit shall  
3 be accredited; and

4 (e) every month, the director shall  
5 transfer to a deferred retirement option account, created for  
6 the member within the fund, an amount equal to the retirement  
7 benefit that the member would have received that month if the  
8 member had retired at the time of making the election under  
9 Subsection A of this section;

10 (2) if the member dies while participating  
11 in the plan or after participation but before retirement, the  
12 member's beneficiary shall be paid the total amount credited  
13 to the member's deferred retirement option account plus  
14 interest at the average rate earned by the fund during the  
15 preceding five fiscal years; and

16 (3) upon retirement pursuant to the  
17 Educational Retirement Act, the member shall be paid the  
18 total amount credited to the member's deferred retirement  
19 option account plus interest at the average rate earned by  
20 the fund during the preceding five fiscal years.

21 D. Any salary paid to a member while participating  
22 in a deferred retirement option plan shall be excluded when  
23 calculating the member's average annual salary pursuant to  
24 Subsection H of Section 22-11-30 NMSA 1978.

25 E. A member terminates participation in a deferred  
retirement option plan by:

(1) retirement;

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(2) death; or

(3) expiration of the period for which the member elected to participate in the plan.

F. A payment made pursuant to this section is in addition to any retirement benefit otherwise payable pursuant to the Educational Retirement Act."