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HOUSE BILL 357

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Kandy Cordova

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; AMENDING THE EDUCATIONAL  
RETIREMENT ACT TO PROVIDE FOR INCREASED RETIREMENT BENEFITS,  
INCREASED CONTRIBUTION RATES FROM LOCAL ADMINISTRATIVE UNITS  
AND DIFFERENT COST-OF-LIVING ADJUSTMENTS.

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.--

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

B. [~~Until June 30, 1993~~] Unless adjusted pursuant  
to Section 22-11-21.4 NMSA 1978, each local administrative

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1 unit shall make a yearly contribution to the fund of a sum  
2 equal to ~~[seven and six tenths]~~ sixteen and fifty-nine  
3 hundredths percent of the annual salary of each member  
4 employed by the local administrative unit.

5 ~~[C. Beginning July 1, 1993 and thereafter, each~~  
6 ~~local administrative unit shall make a yearly contribution to~~  
7 ~~the fund of a sum equal to eight and sixty-five hundredths~~  
8 ~~percent of the annual salary of each member employed by the~~  
9 ~~local administrative unit.]"~~

10 Section 2. A new section of the Educational Retirement  
11 Act, Section 22-11-21.4 NMSA 1978, is enacted to read:

12 "22-11-21.4. [NEW MATERIAL] CALCULATION OF CONTRIBUTION  
13 RATE. --No later than December 31, 2002, the board shall  
14 calculate the local administrative unit contribution rate  
15 actuarially necessary to fund retirement benefits and  
16 disability benefits pursuant to the Educational Retirement  
17 Act. If the rate calculated differs from the rate specified  
18 in Subsection B of Section 22-11-21 NMSA 1978, then, after  
19 certification of the calculated rate to the state  
20 superintendent, the local administrative unit contribution  
21 rate shall be adjusted to the rate calculated pursuant to this  
22 section. "

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

25 "22-11-30. RETIREMENT BENEFITS. --

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1           A. Retirement benefits for a member retired  
2 pursuant to the Educational Retirement Act on or before June  
3 30, 1967 shall be paid monthly and shall be one-twelfth of a  
4 sum equal to one and one-half percent of the first four  
5 thousand dollars (\$4,000) of the member's average annual  
6 salary and one percent of the remainder of the member's  
7 average annual salary multiplied by the number of years of the  
8 member's total service credit.

9           B. Retirement benefits for a member retired  
10 pursuant to the Educational Retirement Act on or after July 1,  
11 1967 but on or before June 30, 1971 shall be paid monthly and  
12 shall be one-twelfth of a sum equal to one and one-half  
13 percent of the first six thousand six hundred dollars (\$6,600)  
14 of the member's average annual salary and one percent of the  
15 remainder of the member's average annual salary multiplied by  
16 the number of years of the member's total service credit.

17           C. Retirement benefits for a member retired  
18 pursuant to the Educational Retirement Act on or after July 1,  
19 1971 but on or before June 30, 1974 shall be paid monthly and  
20 shall be one-twelfth of a sum equal to one and one-half  
21 percent of the member's average annual salary multiplied by  
22 the number of years of the member's total service credit.

23           D. Retirement benefits for a member retired  
24 pursuant to the Educational Retirement Act on or before June  
25 30, 1974 but returning to employment on or after July 1, 1974

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

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

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

20 (a) prior employment; and  
21 (b) allowed service credit for service  
22 performed prior to July 1, 1957, except United States military  
23 service credit purchased pursuant to Paragraph (3) of  
24 Subsection A of Section 22-11-34 NMSA 1978; plus

25 (2) two percent of the member's average

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

- 3 (a) contributory employment;  
4 (b) allowed service credit for service  
5 performed after July 1, 1957; and  
6 (c) United States military service  
7 credit for service performed prior to July 1, 1957 and  
8 purchased pursuant to Paragraph (3) of Subsection A of Section  
9 22-11-34 NMSA 1978.

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

20 G. Retirement benefits for a member age sixty or  
21 over, retired pursuant to the Educational Retirement Act on or  
22 after July 1, 1991 but not later than June 30, 2003, shall be  
23 paid monthly and shall be one-twelfth of a sum equal to two  
24 and thirty-five hundredths percent of the member's average  
25 annual salary multiplied by the number of years of the

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1 member's total service credit; provided that this subsection  
2 shall not apply to any member who was retired in any of the  
3 four consecutive quarters ending on June 30, 1991 without  
4 having accumulated at least one year earned service credit  
5 beginning on or after July 1, 1991.

6 H. Retirement benefits for a member age sixty or  
7 over, retired pursuant to the Educational Retirement Act on or  
8 after July 1, 2003, shall be paid monthly and shall be one-  
9 twelfth of a sum equal to three percent of the member's  
10 average annual salary multiplied by the number of years of the  
11 member's total service credit; provided that:

12 (1) the retirement benefit shall not exceed  
13 eighty percent of the average annual salary; and

14 (2) this subsection shall not apply to a  
15 member who has not accumulated at least one and one-half years  
16 of earned service credit beginning on or after July 1, 2003.

17 A member who does not qualify for the retirement benefit  
18 pursuant to this subsection because of the requirement of this  
19 paragraph shall be deemed to retire pursuant to Subsection G  
20 of this section.

21 ~~[H.]~~ I. A member's average annual salary, pursuant  
22 to Subsections A through G of this section, shall be computed  
23 on the basis of the last five years for which contribution was  
24 made or upon the basis of any consecutive five years for which  
25 contribution was made by the member, whichever is higher. A

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1 member's average annual salary, pursuant to Subsection H of  
2 this section, shall be computed on the basis of the last three  
3 years for which contribution was made or upon the basis of any  
4 consecutive three years for which contribution was made by the  
5 member, whichever is higher. Members shall begin receiving  
6 retirement benefits by age seventy and six months, or upon  
7 termination of employment, whichever occurs later. "

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

10 "22-11-31. COST-OF-LIVING ADJUSTMENT [~~ADDITIONAL~~  
11 ~~CONTRIBUTIONS~~]. --

12 A. For the purposes of this section:

13 [~~(1)~~] "~~adjustment factor~~" ~~means a~~  
14 ~~multiplicative factor computed to provide an annuity~~  
15 ~~adjustment pursuant to the provisions of Subsection B of this~~  
16 ~~section;~~

17 ~~(2)]~~ (1) "annuity" means any benefit payable  
18 under the Educational Retirement Act or the Public Employees  
19 Retirement Reciprocity Act as a retirement benefit, disability  
20 benefit or survivor benefit; and

21 [~~(3)~~] (2) "calendar year" means the full  
22 twelve months beginning January 1 and ending December 31.

23 [~~(4)~~] "~~consumer price index~~" ~~means the average~~  
24 ~~of the monthly consumer price indexes for a calendar year for~~  
25 ~~the entire United States for all items as published by the~~

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1 ~~United States department of labor;~~

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

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

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

25 ~~C. A retired member whose benefit is subject to~~



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1 ~~adjustment under the provisions of the Educational Retirement~~  
2 ~~Act in effect prior to July 1, 1984 shall have his annuity~~  
3 ~~readjusted annually and cumulatively under the provisions of~~  
4 ~~that act in effect prior to July 1, 1984 until July 1 of the~~  
5 ~~year in which he attains the age of sixty-five, when he shall~~  
6 ~~have his annuity readjusted annually and cumulatively under~~  
7 ~~the provisions of this section. A member who retires after~~  
8 ~~attaining the age of sixty-five shall have his annuity~~  
9 ~~adjusted annually and cumulatively commencing on July 1 of the~~  
10 ~~year following his retirement.~~

11 ~~D. A retired member who returns to work shall be~~  
12 ~~subject to the provisions of this section as they exist at the~~  
13 ~~time of his final retirement.]~~

14 B. On each July 1, an annuity shall be increased  
15 cumulatively by three percent if:

16 (1) the retired member has been retired for  
17 at least two full calendar years after the effective date of  
18 the latest retirement; or

19 (2) the retired member has attained the age  
20 of sixty-five years and has been retired for at least one full  
21 calendar year after the effective date of the latest  
22 retirement.

23 ~~[E.]~~ C. Benefits of a member who is on a  
24 disability status in accordance with Section 22-11-35 NMSA  
25 1978 or a member who the board certifies was disabled at

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1 regular retirement shall be adjusted in accordance with  
2 [~~Subsections B and C~~] Subsection B of this section, except  
3 that the benefits shall be adjusted annually and cumulatively  
4 commencing on July 1 [~~of the third full year following the~~  
5 ~~year~~] after at least one full calendar year in which the  
6 member was approved by the board for disability or retirement.

7 [~~F. The board shall adjust the benefits of each~~  
8 ~~person receiving an annuity as of June 30, 1999. The~~  
9 ~~adjustment shall be made on July 1, 1999 on the basis of an~~  
10 ~~increase of two dollars (\$2.00) per month for each year since~~  
11 ~~the member's last retirement plus an increase of one dollar~~  
12 ~~(\$1.00) per month for each year of credited service at the~~  
13 ~~time of the last retirement.]"~~

14 Section 5. EFFECTIVE DATE. -- The effective date of the  
15 provisions of Sections 1, 3 and 4 of this act is July 1, 2003.