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HOUSE BILL 16

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

INTRODUCED BY

SAMUEL F. VIGIL

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  
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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."

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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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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

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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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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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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

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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~~



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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."

# State of New Mexico

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**State of New Mexico**  
**House of Representatives**

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

January 29, 1996

Mr. Speaker:

Your EDUCATION COMMITTEE, to whom has been referred

HOUSE BILL 16

has had it under consideration and reports same with  
recommendation that it DO PASS, and thence referred to the  
APPROPRIATIONS AND FINANCE COMMITTEE.

Respectfully submitted,

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Samuel F. Vigil, Chairman

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FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

HEC/HB 16

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 8 For 1 Against

Yes: 8

No: Dolliver

Excused: Charley, Weeks

Absent: Nicely

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# State of New Mexico House of Representatives

FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

January 29, 1996

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 116

has had it under consideration and reports same with  
recommendation that it DO PASS, and thence referred to the  
APPROPRIATIONS AND FINANCE COMMITTEE.

Respectfully submitted,

---

Cisco McSorley, Chairman

FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996

HJC/HB 116

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 8 For 3 Against

Yes: 8

No: Christensen, Gubbels, Larranaga

Excused: Alwin, Sanchez, R. G.

Absent: None

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