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SENATE BILL 278

**44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999**

INTRODUCED BY

Joseph A. Fidel

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; COMPLYING WITH FEDERAL  
INTERNAL REVENUE CODE PROVISIONS.

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

Section 1. A new section of the Educational Retirement  
Act is enacted to read:

" NEW MATERIAL EDUCATIONAL RETIREMENT--QUALIFIED EXCESS  
BENEFIT.--The educational retirement board, by rule, may  
establish and maintain a qualified excess benefit arrangement  
under Section 415(m) of the United States Internal Revenue  
Code of 1986 for employees hired before July 1, 1999. The  
amount of annual benefit that would be payable but for the  
limitation imposed by Section 415 of the United States  
Internal Revenue Code of 1986 to an employee hired before July  
1, 1999 shall be paid from a qualified excess benefit

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1 arrangement established and maintained pursuant to this  
2 section. "

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1 FORTY-FOURTH LEGISLATURE  
2 FIRST SESSION, 1999  
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5  
6 March 5, 1999

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8 Mr. President:

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10 Your PUBLIC AFFAIRS COMMITTEE, to whom has been  
11 referred

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13 SENATE BILL 278

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15 has had it under consideration and reports same with  
16 recommendation that it DO PASS, and thence referred to the  
17 EDUCATION COMMITTEE.

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19 Respectfully submitted,  
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Shannon Robinson, Chairman

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

Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Boitano, Leavell, Stockard, Smith

Absent: None

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1 FORTY-FOURTH LEGISLATURE

SB 278/a

2 FIRST SESSION, 1999

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6 March 16, 1999

7 Mr. President:

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9 Your EDUCATION COMMITTEE, to whom has been referred

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11 SENATE BILL 278

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14 has had it under consideration and reports same with  
15 recommendation that it DO PASS, amended as follows:

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17 1. On page 1, line 12, after "PROVISIONS" insert "  
18 AMENDING AND ENACTING SECTIONS OF THE NMSA 1978".

19 2. On page 2, between lines 2 and 3, insert the following:

20  
21 "Section 2. Section 22-11-21.2 NMSA 1978 (being Laws 1995,  
22 Chapter 148, Section 2) is amended to read:

23  
24 "22-11-21.2. SALARY CALCULATION--LIMITATIONS.--In  
25 establishing a member's average annual salary for determination

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of retirement benefits, salary in excess of limitations set forth in Section 401(a)(17) of the Internal Revenue Code of 1986, as amended, shall be disregarded. The limitation on compensation for eligible employees shall not be less than the amount allowed pursuant to the Educational Retirement Act in effect on July 1, 1993. For purposes of this section, "eligible employee" means an individual who was a member or participant of the educational retirement plan or alternative retirement plan prior to the first plan year beginning after December 31, 1995. For a member who first becomes a clinical faculty member of the university of New Mexico health sciences center on or after July 1, 1999, the limitation on compensation shall not be in excess of the member's base salary as specified in the member's annual faculty contract or the limitations set forth in Section 401(a)(17) of the Internal Revenue Code of 1986, as amended, whichever is less."

Section 3. Section 22-11-47 NMSA 1978 (being Laws 1991, Chapter 118, Section 5) is amended to read:

"22-11-47. ALTERNATIVE RETIREMENT PLAN--ELECTION OF COVERAGE.--

FORTY- FOURTH LEGISLATURE

FIRST SESSION, 1999

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1 A. Beginning October 1, 1991, any employee who is  
2 eligible to become a participant may make within ninety days of  
3 that date an irrevocable election to participate in the  
4 alternative retirement plan. Thereafter, any employee who is  
5 eligible to become a participant may make within the first  
6 ninety days of employment with a qualifying state educational  
7 institution an irrevocable election to participate in the  
8 alternative retirement plan. Any employee who makes the  
9 irrevocable election shall become a participant the first day of  
10 the first pay period following the election. Any employee who  
11 fails to make the irrevocable election within ninety days of  
12 October 1, 1991 or within the first ninety days of employment  
13 with a qualifying state educational institution shall become or  
14 remain a regular member if that employee is eligible to be a  
15 regular member.

16 B. Until the time an employee who is eligible to  
17 become a participant elects to participate in the alternative  
18 retirement plan, that employee shall be a regular member.

19 C. When an employee elects to become a participant,  
20 any employer and employee contributions made as a regular member  
21 shall be withdrawn from the fund and applied instead toward the  
22 alternative retirement plan as if the participant had been  
23 participating in the alternative retirement plan from the  
24 commencement of employment with the qualifying state educational  
25 institution.

26 D. Notwithstanding the provisions of Subsections A  
through C of this section, a member who first becomes a clinical

1 faculty member of the university of New Mexico health sciences  
2 center on or after July 1, 1999, who does not elect to  
3 participate in the alternative retirement plan and whose base  
4 salary, as specified in the member's annual faculty contract,  
5 does not exceed the limitations set forth in Section 401(a)(17)  
6 of the Internal Revenue Code of 1986, as amended, in any  
7 contract year shall become a participant in the alternative  
8 retirement plan with respect to any amount by which the  
9 limitations set forth in Section 401(a)(17) of the Internal  
10 Revenue Code of 1986, as amended, or the member's total salary,  
11 whichever is less, exceeds the member's base salary. Those  
12 members shall be deemed to be both members of the educational  
13 retirement plan and participants in the alternative retirement  
14 plan." ".

15 FORTY- FOURTH LEGI SLATURE  
16 FIRST SESSI ON, 1999

17 SEC/SB 278

Page 3

20 Respectfully submit ted,

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

Adopted \_\_\_\_\_

(Chi ef Clerk)

(Chi ef Clerk)

Date \_\_\_\_\_

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Boi tano, Duran, Garc i a, Rodrigu ez

Absent: None

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

Page 16

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 7 For 1 Against

Yes: 7

No: Stewart

Excused: Luna, Martinez, T. Taylor, Sanchez

Absent: None

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**FORTY- FOURTH LEGISLATURE  
FIRST SESSION, 1999**

**March 19, 1999**

**Mr. Speaker:**

**Your JUDICIARY COMMITTEE, to whom has been referred**

**SENATE BILL 278, as amended**

**has had it under consideration and reports same with  
recommendation that it DO PASS.**

**Respectfully submitted,**

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**R. David Pederson, Chairman**