

1 SENATE BILL 115

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Stuart Ingle

5  
6  
7  
8 ENDORSED BY THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

9  
10 AN ACT

11 RELATING TO PENSIONS; AMENDING THE EDUCATIONAL RETIREMENT ACT;  
12 INCREASING CERTAIN MEMBERS' CONTRIBUTION RATES; CHANGING THE  
13 BENEFITS FOR NEW MEMBERS BY IMPOSING A MINIMUM RETIREMENT AGE,  
14 DELAYING THE COST-OF-LIVING ADJUSTMENT ELIGIBILITY AND  
15 INCREASING THE AGE AND SERVICE RETIREMENT REQUIREMENTS.

16  
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

20 "22-11-21. CONTRIBUTIONS--MEMBERS--LOCAL ADMINISTRATIVE  
21 UNITS.--

22 A. Except as provided in Subsection [E] D of this  
23 section, [~~each~~] for a member whose annual salary is greater  
24 than twenty thousand dollars (\$20,000), the member shall make  
25 contributions to the fund according to the following schedule:

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1                   ~~[(1) through June 30, 2005, an amount equal to~~  
2                   ~~seven and six-tenths percent of the member's annual salary;~~

3                   ~~(2) from July 1, 2005 through June 30, 2006,~~  
4                   ~~an amount equal to seven and six hundred seventy-five~~  
5                   ~~thousandths percent of the member's annual salary;~~

6                   ~~(3) from July 1, 2006 through June 30, 2007,~~  
7                   ~~an amount equal to seven and seventy-five hundredths percent of~~  
8                   ~~the member's annual salary;~~

9                   ~~(4) from July 1, 2007 through June 30, 2008,~~  
10                  ~~an amount equal to seven and eight hundred twenty-five~~  
11                  ~~thousandths percent of the member's annual salary; and~~

12                  ~~(5) on and after July 1, 2008, an amount equal~~  
13                  ~~to seven and nine-tenths percent of the member's annual salary,~~  
14                  ~~except that for members whose annual salary is greater than~~  
15                  ~~twenty thousand dollars (\$20,000):~~

16                         ~~(a) from July 1, 2009 through June 30,~~  
17                         ~~2011, the member contribution rate shall be nine and four-~~  
18                         ~~tenths percent of the member's annual salary;~~

19                         ~~(b) from July 1, 2011 through June 30,~~  
20                         ~~2012, the member contribution rate shall be eleven and fifteen-~~  
21                         ~~hundredths percent of the member's annual salary; and~~

22                         ~~(c) from July 1, 2012 through June 30,~~  
23                         ~~2013, the member contribution rate shall be nine and four-~~  
24                         ~~tenths of the member's annual salary;]~~

25                         (1) from July 1, 2013 through June 30, 2014,

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1 the member contribution rate shall be ten and one-tenth percent  
2 of the member's annual salary; and

3 (2) on and after July 1, 2014, the member  
4 contribution rate shall be ten and seven-tenths percent of the  
5 member's annual salary.

6 B. On and after July 1, 2008, for a member whose  
7 annual salary is twenty thousand dollars (\$20,000) or less, the  
8 member contribution rate shall be seven and nine-tenths percent  
9 of the member's annual salary.

10 ~~[B-]~~ C. Except as provided in Subsection ~~[G]~~ D of  
11 this section, each local administrative unit shall make an  
12 annual contribution to the fund according to the following  
13 schedule:

14 ~~[(1) through June 30, 2005, a sum equal to~~  
15 ~~eight and sixty-five hundredths percent of the annual salary of~~  
16 ~~each member employed by the local administrative unit;~~

17 ~~(2) from July 1, 2005 through June 30, 2006, a~~  
18 ~~sum equal to nine and forty hundredths percent of the annual~~  
19 ~~salary of each member employed by the local administrative~~  
20 ~~unit;~~

21 ~~(3) from July 1, 2006 through June 30, 2007, a~~  
22 ~~sum equal to ten and fifteen hundredths percent of the annual~~  
23 ~~salary of each member employed by the local administrative~~  
24 ~~unit;~~

25 ~~(4) from July 1, 2007 through June 30, 2008, a~~

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1 ~~sum equal to ten and ninety-hundredths percent of the annual~~  
2 ~~salary of each member employed by the local administrative~~  
3 ~~unit;~~

4 ~~(5) from July 1, 2008 through June 30, 2009, a~~  
5 ~~sum equal to eleven and sixty-five hundredths percent of the~~  
6 ~~annual salary of each member employed by the local~~  
7 ~~administrative unit;~~

8 ~~(6) from July 1, 2009 through June 30, 2011, a~~  
9 ~~sum equal to ten and nine-tenths percent of the annual salary~~  
10 ~~of each member employed by the local administrative unit,~~  
11 ~~except that for members whose annual salary is twenty thousand~~  
12 ~~dollars (\$20,000) or less, the local administrative unit shall~~  
13 ~~contribute twelve and four-tenths percent of the member's~~  
14 ~~annual salary;~~

15 ~~(7) from July 1, 2011 through June 30, 2012, a~~  
16 ~~sum equal to nine and fifteen-hundredths percent of the annual~~  
17 ~~salary of each member employed by the local administrative~~  
18 ~~unit, except that for members whose annual salary is twenty~~  
19 ~~thousand dollars (\$20,000) or less, the local administrative~~  
20 ~~unit shall contribute twelve and four-tenths percent of the~~  
21 ~~member's annual salary;~~

22 ~~(8) from July 1, 2012 through June 30, 2013, a~~  
23 ~~sum equal to ten and nine-tenths percent of the annual salary~~  
24 ~~of each member employed by the local administrative unit,~~  
25 ~~except that for members whose annual salary is twenty thousand~~

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1 ~~dollars (\$20,000) or less, the local administrative unit shall~~  
2 ~~contribute twelve and four-tenths percent of the member's~~  
3 ~~annual salary;~~

4 ~~(9)]~~ (1) from July 1, 2013 through June 30,  
5 2014, a sum equal to thirteen and fifteen-hundredths percent of  
6 the annual salary of each member employed by the local  
7 administrative unit; and

8 ~~(10)]~~ (2) on and after July 1, 2014, a sum  
9 equal to thirteen and nine-tenths percent of the annual salary  
10 of each member employed by the local administrative unit.

11 ~~(6-)]~~ D. If, in a calendar year, the salary of a  
12 member, initially employed by a local administrative unit on or  
13 after July 1, 1996, equals the annual compensation limit set  
14 pursuant to Section 401(a)(17) of the Internal Revenue Code of  
15 1986, as amended, then:

16 (1) for the remainder of that calendar year,  
17 no additional member contributions or local administrative unit  
18 contributions for that member shall be made pursuant to this  
19 section; provided that no member shall be denied service credit  
20 solely because contributions are not made by the member or on  
21 behalf of the member pursuant to the provisions of this  
22 subsection; and

23 (2) the amount of the annual compensation  
24 limit shall be divided into four equal portions, and, for  
25 purposes of attributing contributory employment and crediting

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1 service credit, each portion shall be attributable to one of  
2 the four quarters of the calendar year."

3 SECTION 2. Section 22-11-23 NMSA 1978 (being Laws 1981,  
4 Chapter 293, Section 2, as amended by Laws 2009, Chapter 286,  
5 Section 1 and by Laws 2009, Chapter 288, Section 14) is amended  
6 to read:

7 "22-11-23. RETIREMENT ELIGIBILITY--INITIAL MEMBERSHIP  
8 PRIOR TO JULY 1, 2010.--

9 A. ~~[The retirement eligibility for]~~ A member who  
10 ~~[either]~~ was a member on June 30, 2010, or was a member at any  
11 time prior to that date and had not, on that date, been  
12 refunded all member contributions pursuant to Subsection A of  
13 Section 22-11-15 NMSA 1978, ~~[is as follows:]~~

14 ~~(1) a member shall be eligible for retirement~~  
15 ~~benefits pursuant to the Educational Retirement Act when either~~  
16 ~~of the following conditions occurs:~~

17 ~~(a) the sum of the member's age and~~  
18 ~~years of earned service credit equals seventy-five; or~~

19 ~~(b) upon completion of five years of~~  
20 ~~earned service credit and upon becoming sixty-five years of~~  
21 ~~age;~~

22 ~~(2) a member under sixty years of age eligible~~  
23 ~~to retire under Paragraph (1) of this subsection may retire and~~  
24 ~~receive retirement benefits pursuant to the Educational~~  
25 ~~Retirement Act that the member would be eligible to receive if~~

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1 ~~the member were to retire at the age of sixty years reduced by~~  
2 ~~six-tenths of one percent for each one-fourth, or portion~~  
3 ~~thereof, year that retirement occurs prior to the member's~~  
4 ~~sixtieth birthday but after the fifty-fifth birthday, and one~~  
5 ~~and eight-tenths percent for each one-fourth, or portion~~  
6 ~~thereof, year that retirement occurs prior to age fifty-five;~~  
7 ~~or~~

8 ~~(3) a member under sixty years of age~~  
9 ~~acquiring twenty-five or more years of earned and allowed~~  
10 ~~service credit may retire and receive retirement benefits~~  
11 ~~pursuant to the Educational Retirement Act computed on the same~~  
12 ~~basis as if the member were sixty years of age] shall be~~  
13 eligible for retirement benefits when:

14 (1) the member is any age and has twenty-five  
15 or more years of earned and allowed service credit;

16 (2) the member is at least sixty-five years of  
17 age and has five or more years of earned service credit; or

18 (3) the sum of the member's age and years of  
19 earned service credit equals at least seventy-five; provided  
20 that a member who retires pursuant to this paragraph shall be  
21 subject to the benefit reductions provided in Subsection G of  
22 Section 22-11-30 NMSA 1978.

23 B. A member shall be subject to the provisions of  
24 [Paragraphs (2) and (3) of] Subsection A of this section as  
25 they existed at the beginning of the member's last cumulated

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1 four quarters of earned service credit, regardless of later  
2 amendment."

3 SECTION 3. Section 22-11-23.1 NMSA 1978 (being Laws 2009,  
4 Chapter 286, Section 2 and Laws 2009, Chapter 288, Section 15)  
5 is amended to read:

6 "22-11-23.1. RETIREMENT ELIGIBILITY--INITIAL MEMBERSHIP  
7 ON OR AFTER JULY 1, 2010.--

8 A. A member who initially became a member on or  
9 after July 1, 2010, or a member who was a member at any time  
10 prior to that date and had, before that date, been refunded all  
11 member contributions pursuant to Subsection A of Section  
12 22-11-15 NMSA 1978, shall be eligible for retirement benefits  
13 pursuant to the Educational Retirement Act when [~~one of the~~  
14 ~~following conditions occurs~~]:

15 (1) the member is any age and has thirty or  
16 more years of earned service credit;

17 (2) the member is at least sixty-seven years  
18 of age and has five or more years of earned service credit; or

19 (3) the sum of the member's age and years of  
20 earned service credit equals at least eighty; provided that a  
21 member who retires pursuant to this paragraph shall be subject  
22 to the benefit reductions provided in [~~Paragraphs (1) and (2)~~  
23 ~~of~~] Subsection H of Section 22-11-30 NMSA 1978.

24 B. A member shall be subject to the provisions of  
25 this section as they existed at the beginning of the member's

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1 last cumulated four quarters of earned service credit,  
2 regardless of later amendment."

3 SECTION 4. A new section of the Educational Retirement  
4 Act, Section 22-11-23.2 NMSA 1978, is enacted to read:

5 "22-11-23.2. [NEW MATERIAL] RETIREMENT ELIGIBILITY  
6 MEMBERSHIP ON OR AFTER JULY 1, 2013.--

7 A. A member who initially became a member on or  
8 after July 1, 2013 or a member who was a member at any time  
9 prior to July 1, 2013 and had, before that date, been refunded  
10 all member contributions pursuant to Subsection A of Section  
11 22-11-15 NMSA 1978, and had not restored all refunded  
12 contributions and interest before July 1, 2013, shall be  
13 eligible for retirement benefits when:

14 (1) the member is any age and has thirty or  
15 more years of earned service credit; provided that the benefits  
16 of a member who retires pursuant to this paragraph prior to  
17 attaining the age of fifty-five years shall be reduced to an  
18 amount equal to the actuarial equivalent of the benefit the  
19 member would receive if the member had retired at the age of  
20 fifty-five years. The board shall recalculate the actuarial  
21 factors on which benefits are reduced no less frequently than  
22 every ten years beginning July 1, 2013. The benefits of a  
23 retired member that have been reduced at the time of retirement  
24 pursuant to this paragraph shall not be subject to further  
25 change based upon the board's recalculation of the actuarial

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1 factors;

2 (2) the member is at least sixty-seven years  
3 of age and has five or more years of earned service credit; or

4 (3) the sum of the member's age and years of  
5 earned service credit equals at least eighty; provided that a  
6 member who retires pursuant to this paragraph shall be subject  
7 to the benefit reductions provided in Subsection I of Section  
8 22-11-30 NMSA 1978.

9 B. A member shall be subject to the provisions of  
10 this section as they existed at the beginning of the member's  
11 last cumulated four quarters of earned service credit,  
12 regardless of later amendment."

13 SECTION 5. Section 22-11-27 NMSA 1978 (being Laws 1967,  
14 Chapter 16, Section 150, as amended) is amended to read:

15 "22-11-27. DEFERRED RETIREMENT--RESTRICTION.--

16 A. A member who is eligible for retirement may  
17 continue in employment and shall continue to pay contributions  
18 as provided by the Educational Retirement Act.

19 B. ~~[A member]~~ Provided that the contributions that  
20 the member has made are left in the fund, a member eligible for  
21 retirement benefits pursuant to the provisions of Section  
22 22-11-23, 22-11-23.1 or 22-11-23.2 NMSA 1978 may terminate  
23 [his] employment and retire at any time [after his age and his  
24 earned service credit equal the sum of seventy-five if the  
25 contributions he has made are left in the fund.

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1           ~~C. A member having five years or more of earned~~  
2 ~~service credit may terminate his employment and retire at any~~  
3 ~~time after reaching the age of sixty-five years if the~~  
4 ~~contributions he has made are left in the fund] upon satisfying~~  
5 ~~the applicable age and earned service requirements for~~  
6 ~~retirement.~~

7           ~~[D. No]~~ C. A member shall not be on a retirement  
8 status while engaged in employment unless the employment falls  
9 within ~~[exceptions]~~ an exception established by statute or rule  
10 of the board."

11           SECTION 6. Section 22-11-30 NMSA 1978 (being Laws 1967,  
12 Chapter 16, Section 153, as amended by Laws 2009, Chapter 286,  
13 Section 3 and by Laws 2009, Chapter 288, Section 17) is amended  
14 to read:

15           "22-11-30. RETIREMENT BENEFITS--REDUCTIONS---

16           A. Retirement benefits for a member retired  
17 pursuant to the Educational Retirement Act on or before  
18 June 30, 1967 shall be paid monthly and shall be one-twelfth of  
19 a sum equal to one and one-half percent of the first four  
20 thousand dollars (\$4,000) of the member's average annual salary  
21 and one percent of the remainder of the member's average annual  
22 salary multiplied by the number of years of the member's total  
23 service credit.

24           B. Retirement benefits for a member retired  
25 pursuant to the Educational Retirement Act on or after July 1,

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1 1967 but on or before June 30, 1971 shall be paid monthly and  
2 shall be one-twelfth of a sum equal to one and one-half percent  
3 of the first six thousand six hundred dollars (\$6,600) of the  
4 member's average annual salary and one percent of the remainder  
5 of the member's average annual salary multiplied by the number  
6 of years of the member's total service credit.

7 C. Retirement benefits for a member retired  
8 pursuant to the Educational Retirement Act on or after July 1,  
9 1971 but on or before June 30, 1974 shall be paid monthly and  
10 shall be one-twelfth of a sum equal to one and one-half percent  
11 of the member's average annual salary multiplied by the number  
12 of years of the member's total service credit.

13 D. Retirement benefits for a member retired  
14 pursuant to the Educational Retirement Act on or before  
15 June 30, 1974 but returning to employment on or after July 1,  
16 1974 for a cumulation of one or more years shall be computed  
17 pursuant to Subsection E of this section. Retirement benefits  
18 for a member retired pursuant to the Educational Retirement Act  
19 on or before June 30, 1974 but returning to employment on or  
20 after July 1, 1974 for a cumulation of less than one year shall  
21 be computed pursuant to Subsection A of this section if the  
22 member's date of last retirement was on or before June 30, 1967  
23 or pursuant to Subsection B of this section if the member's  
24 date of last retirement was on or after July 1, 1967 but not  
25 later than June 30, 1971 or pursuant to Subsection C of this

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1 section if the member's date of last retirement was on or after  
2 July 1, 1971 but not later than June 30, 1974.

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

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

10 (a) prior employment; and

11 (b) allowed service credit for service  
12 performed prior to July 1, 1957, except United States military  
13 service credit purchased pursuant to Paragraph (3) of  
14 Subsection A of Section 22-11-34 NMSA 1978; plus

15 (2) two percent of the member's average annual  
16 salary multiplied by the number of years of service credit for:

17 (a) contributory employment;

18 (b) allowed service credit for service  
19 performed after July 1, 1957; and

20 (c) United States military service  
21 credit for service performed prior to July 1, 1957 and  
22 purchased pursuant to Paragraph (3) of Subsection A of Section  
23 22-11-34 NMSA 1978.

24 F. Retirement benefits for a member age sixty or  
25 over, retired pursuant to the Educational Retirement Act on or

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1 after July 1, 1987 but not later than June 30, 1991, shall be  
2 paid monthly and shall be one-twelfth of a sum equal to two and  
3 fifteen hundredths percent of the member's average annual  
4 salary multiplied by the number of years of the member's total  
5 service credit; provided that this subsection shall not apply  
6 to any member who was retired in any of the four quarters  
7 ending on June 30, 1987 without having accumulated not less  
8 than 1.0 years earned service credit after June 30, 1987.

9 G. Retirement benefits for a member [~~age sixty or~~  
10 ~~over, retired~~] who retires pursuant to Section 22-11-23 NMSA  
11 1978 on or after July 1, 1991 shall be paid monthly and shall  
12 be one-twelfth of a sum equal to two and thirty-five hundredths  
13 percent of the member's average annual salary multiplied by the  
14 number of years of the member's total service credit; provided  
15 that:

16 (1) the benefit for a member who retires  
17 pursuant to Paragraph (3) of Subsection A of Section 22-11-23  
18 NMSA 1978 shall be reduced by:

19 (a) six-tenths percent for each  
20 one-fourth, or portion thereof, year that retirement occurs  
21 prior to the member attaining the age of sixty years but after  
22 the member attains the age of fifty-five years; and

23 (b) one and eight-tenths percent for  
24 each one-fourth, or portion thereof, year that retirement  
25 occurs prior to the member attaining the age of fifty-five

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1 years;

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

7 (3) a member shall be subject to the  
8 provisions of Paragraph (1) of this subsection as they existed  
9 at the beginning of the member's last cumulated four quarters  
10 of earned service credit, regardless of later amendment.

11 H. Retirement benefits for a member [~~retired~~] who  
12 retires pursuant to Section 22-11-23.1 NMSA 1978 shall be paid  
13 monthly and shall be one-twelfth of a sum equal to two and  
14 thirty-five 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:

17 (1) the benefit for a member [~~retiring~~] who  
18 retires pursuant to Paragraph (3) of Subsection A of Section  
19 22-11-23.1 NMSA 1978 shall be reduced by:

20 [~~(1)~~] (a) six-tenths [~~of one~~] percent  
21 for each one-fourth, or portion thereof, year that retirement  
22 occurs prior to the [~~member's sixty-fifth birthday~~] member  
23 attaining the age of sixty-five years but after the [~~sixtieth~~  
24 ~~birthday~~] member attains the age of sixty years; and

25 [~~(2)~~] (b) one and eight-tenths percent

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1 for each one-fourth, or portion thereof, year that retirement  
2 occurs prior to the [~~member's sixtieth birthday~~] member  
3 attaining the age of sixty years; and

4 (2) a member shall be subject to the  
5 provisions of Paragraph (1) of this subsection as they existed  
6 at the beginning of the member's last cumulated four quarters  
7 of earned service credit, regardless of later amendment.

8 I. Retirement benefits for a member who retires  
9 pursuant to Section 22-11-23.2 NMSA 1978 shall be paid monthly  
10 and shall be one-twelfth of a sum equal to two and thirty-five  
11 hundredths percent of the member's average annual salary  
12 multiplied by the number of years of the member's total service  
13 credit; provided that:

14 (1) the benefit for a member retiring pursuant  
15 to Paragraph (3) of Subsection A of Section 22-11-23.2 NMSA  
16 1978 shall be reduced by:

17 (a) six-tenths percent for each  
18 one-fourth, or portion thereof, year that retirement occurs  
19 prior to the member attaining the age of sixty-five years but  
20 after the member attains the age of sixty years; and

21 (b) one and eight-tenths percent for  
22 each one-fourth, or portion thereof, year that retirement  
23 occurs prior to the member attaining the age of sixty years;  
24 and

25 (2) a member shall be subject to the

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1 provisions of Paragraph (1) of this subsection as they existed  
2 at the beginning of the member's last cumulated four quarters  
3 of earned service credit, regardless of later amendment.

4 [~~F.~~] J. A member's average annual salary, pursuant  
5 to this section, shall be computed on the basis of the last  
6 five years for which contribution was made or upon the basis of  
7 any consecutive five years for which contribution was made by  
8 the member, whichever is higher; provided, however, that lump-  
9 sum payments made after July 1, 2010 of accrued sick leave or  
10 annual leave shall be excluded from the calculation of salary.

11 [~~J.~~] K. Unless otherwise required by the provisions  
12 of the Internal Revenue Code of 1986, members shall begin  
13 receiving retirement benefits by age seventy years and six  
14 months, or upon termination of employment, whichever occurs  
15 later."

16 SECTION 7. Section 22-11-31 NMSA 1978 (being Laws 1979,  
17 Chapter 333, Section 2, as amended) is amended to read:

18 "22-11-31. COST-OF-LIVING ADJUSTMENT--ELIGIBILITY--  
19 ADDITIONAL CONTRIBUTIONS.--

20 A. For the purposes of this section:

21 (1) "adjustment factor" means a multiplicative  
22 factor computed to provide an annuity adjustment pursuant to  
23 the provisions of Subsection B of this section;

24 (2) "annuity" means any benefit payable under  
25 the Educational Retirement Act or the Public Employees

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1 Retirement Reciprocity Act as a retirement benefit, disability  
2 benefit or survivor benefit;

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

5 (4) "consumer price index" means the average  
6 of the monthly consumer price indexes for a calendar year for  
7 the entire United States for all items as published by the  
8 United States department of labor;

9 (5) "next preceding calendar year" means the  
10 full calendar year immediately prior to the preceding calendar  
11 year; and

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

15 B. On or after July 1, 1984 [~~each annuity shall~~]:

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

22 (2) the annuity of a member who retires  
23 pursuant to Subsection A of Section 22-11-23.2 NMSA 1978 shall  
24 be adjusted annually and cumulatively commencing on July 1 of  
25 the year in which the member attains the age of sixty-seven

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1 years or on July 1 following the year the member retires,  
2 whichever is later.

3 C. The annuity adjustments provided for under  
4 Subsection B of this section shall be adjusted by applying an  
5 adjustment factor [~~that results in an adjustment equal to one-~~  
6 ~~half of the percentage increase 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 of~~  
11 ~~the consumer price index is less than two percent, in absolute~~  
12 ~~value, the adjustment factor shall be the same as the~~  
13 ~~percentage increase of the consumer price index. Annuities~~  
14 ~~shall not be decreased in the event that there is a decrease in~~  
15 ~~the consumer price index between the next preceding calendar~~  
16 ~~year and the preceding calendar year] based on the percentage  
17 increase of the consumer price index between the next preceding  
18 calendar year and the preceding calendar year. The adjustment  
19 factor shall be applied as follows:~~

20 (1) if the percentage increase of the consumer  
21 price index is less than two percent in absolute value, the  
22 adjustment factor shall be the same amount as the percentage  
23 increase of the consumer price index;

24 (2) if the percentage increase of the consumer  
25 price index is two percent or greater in absolute value, the

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1 adjustment factor shall be one-half of the percentage increase;  
2 except that the adjustment shall not exceed four percent in  
3 absolute value nor be less than two percent in absolute value;  
4 and

5 (3) an annuity shall not be decreased if there  
6 is a decrease in the consumer price index between the next  
7 preceding calendar year and the preceding calendar year.

8 ~~[G.]~~ D. A retired member whose benefit is subject  
9 to adjustment under the provisions of the Educational  
10 Retirement Act in effect prior to July 1, 1984 shall have the  
11 member's annuity readjusted annually and cumulatively under the  
12 provisions of that act in effect prior to July 1, 1984 until  
13 July 1 of the year in which the member attains the age of  
14 sixty-five, when the member shall have the annuity readjusted  
15 annually and cumulatively under the provisions of this section.

16 E. A member who ~~[retires]~~:

17 (1) retires pursuant to Subsection A of  
18 Section 22-11-23 NMSA 1978 or Subsection A of Section  
19 22-11-23.1 NMSA 1978 after attaining the age of sixty-five  
20 years shall have the member's annuity adjusted annually and  
21 cumulatively commencing on July 1 of the year following the  
22 member's retirement; and

23 (2) retires pursuant to Subsection A of  
24 Section 22-11-23.2 NMSA 1978 after attaining the age of  
25 sixty-seven years shall have the member's annuity adjusted

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1 annually and cumulatively commencing on July 1 of the year  
2 following the member's retirement.

3 ~~[D-]~~ F. A retired member who returns to work shall  
4 be subject to the provisions of this section as they exist at  
5 the time of the member's final retirement.

6 ~~[E-]~~ G. Benefits of a member who is on a disability  
7 status in accordance with Section 22-11-35 NMSA 1978 or a  
8 member who is certified by the board ~~[certifies was]~~ as  
9 disabled at regular retirement shall be adjusted in accordance  
10 with Subsections B, ~~[and]~~ C and D of this section, except that  
11 the benefits shall be adjusted annually and cumulatively  
12 commencing on July 1 of the third full year following the year  
13 in which the member was approved by the board for disability or  
14 retirement.

15 ~~[F-]~~ H. The board shall adjust the benefits of each  
16 person receiving an annuity as of June 30, 1999. The  
17 adjustment shall be made on July 1, 1999 on the basis of an  
18 increase of two dollars (\$2.00) per month for each year since  
19 the member's last retirement plus an increase of one dollar  
20 (\$1.00) per month for each year of credited service at the time  
21 of the last retirement."

22 **SECTION 8. EFFECTIVE DATE.**--The effective date of the  
23 provisions of this act is July 1, 2013.