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HOUSE BILL 33

**53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

INTRODUCED BY

Roberto "Bobby" J. Gonzales and Tomás E. Salazar

AN ACT

RELATING TO DEFERRED COMPENSATION; AMENDING THE DEFERRED  
COMPENSATION ACT TO UPDATE DEFINITIONS, INVESTMENT OPTIONS,  
TRANSMISSION METHOD AND FILING AND NOTIFICATION REQUIREMENTS.

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

**SECTION 1.** Section 10-7A-2 NMSA 1978 (being Laws 1981,  
Chapter 155, Section 2, as amended) is amended to read:

"10-7A-2. DEFINITIONS.--As used in the Deferred  
Compensation Act:

A. "board" means the public [~~employees~~] employees  
retirement board;

B. "local public body" means all political  
subdivisions of the state, their agencies, instrumentalities  
and institutions;

C. "local public employee" means any officer or

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1 employee to whom a local public body pays a salary for services  
2 rendered;

3 D. "deferred compensation carriers" means any  
4 corporation, partnership or persons [~~who provide investment~~  
5 ~~options~~] providing administrative, recordkeeping or investment  
6 consulting services to participants in deferred compensation  
7 plans pursuant to funding agreements; and

8 E. "state employee" means any officer or employee  
9 to whom the state pays a salary for services rendered."

10 SECTION 2. Section 10-7A-3 NMSA 1978 (being Laws 1984,  
11 Chapter 127, Section 988.1, as amended) is amended to read:

12 "10-7A-3. DEFERRED COMPENSATION PLAN--STATE AND LOCAL  
13 PUBLIC [~~BODY~~] EMPLOYEES.--

14 A. After the effective date of the Deferred  
15 Compensation Act, the board shall review and approve deferred  
16 compensation plans for participation by state and local public  
17 employees. A deferred compensation plan shall provide for the  
18 method of transfer of funds to a plan through written or  
19 electronic salary reduction agreements with state and local  
20 public employees and shall provide for deferral of only those  
21 salary amounts upon which income taxes are eligible for  
22 deferral pursuant to federal law.

23 B. Compensation deferred under any deferred  
24 compensation plan shall be included with current income for  
25 purposes of computing retirement contributions and benefits.

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1 C. Amounts by which salary is reduced shall be  
2 transmitted [~~to the state treasurer or his designated agent who~~  
3 ~~shall then transfer such amounts directly~~] to the approved  
4 deferred compensation carrier.

5 D. Local public employees may [~~through formal~~  
6 ~~action of their governing boards~~] participate in a deferred  
7 compensation plan selected by [~~such governing board~~] their  
8 local public body employer after it takes formal action  
9 conforming to board requirements. If the plan selected is  
10 different from the plan approved by the board, the board shall  
11 have no responsibility concerning the plan. If the plan  
12 selected is that approved by the board pursuant to Section  
13 10-7A-5 NMSA 1978, [~~participation by employees of the local~~  
14 ~~public body so selecting is effected pursuant to~~] the  
15 provisions of Section 10-7A-8 NMSA 1978 shall apply."

16 SECTION 3. Section 10-7A-5 NMSA 1978 (being Laws 1984,  
17 Chapter 127, Section 988.2, as amended) is amended to read:

18 "10-7A-5. DEFERRED COMPENSATION PLAN--APPROVAL.--

19 A. The board shall review proposals providing  
20 investment options to participants of a deferred compensation  
21 plan submitted by deferred compensation carriers [~~which~~] that  
22 have been engaged for a minimum of three years in the business  
23 of funding public employee deferred compensation plans  
24 authorized by 26 U.S.C. Section 457 and approve [~~not more than~~  
25 ~~four such~~] proposals [~~which~~] that are consistent with the goals

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1 of providing state or local public employees with an investment  
2 that, in the opinion of the board, is safe and will provide a  
3 reasonable return to the employees upon their reaching the  
4 appropriate age or date at which they may begin receiving funds  
5 from the deferred compensation plan.

6 B. The type of deferred compensation investment  
7 options that may be approved include

8 ~~[(1) life insurance or annuity contracts with~~  
9 ~~insurance companies licensed to conduct such business in New~~  
10 ~~Mexico;~~

11 ~~(2)] mutual funds, including stock, bond or~~  
12 ~~capital preservation funds [and money market funds;~~

13 ~~(3) deferred compensation investment options~~  
14 ~~of New Mexico banks or savings and loan associations, such~~  
15 ~~banks or savings and loan associations to provide, as security~~  
16 ~~for participants' funds, collateral, such as U.S. treasury~~  
17 ~~securities or other liquid securities, for amounts of~~  
18 ~~participants' funds in excess of applicable depository~~  
19 ~~insurance; and~~

20 ~~(4) other deferred compensation investment~~  
21 ~~options, including those created by the board not requiring~~  
22 ~~funding agreements with deferred compensation carriers, deemed]~~  
23 ~~or any other investments determined by the board to fulfill the~~  
24 ~~goals of providing viable deferred compensation for state or~~  
25 ~~local public employees."~~

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