AN ACT

RELATING TO EDUCATIONAL RETIREMENT; PROVIDING PAYMENTS ON BEHALF OF CERTAIN RETIRED MEMBERS AND CERTAIN REEMPLOYED MEMBERS WHO DIE BEFORE RECOUPING THE AMOUNT OF THEIR CONTRIBUTIONS PLUS INTEREST.

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

Section 1. Section 22-11-26 NMSA 1978 (being Laws 1967, Chapter 16, Section 149, as amended) is amended to read:

"22-11-26. DEATH DURING REEMPLOYMENT.--If a member dies during a period of reemployment following retirement pursuant to the Educational Retirement Act, the benefits to be paid shall be determined according to the following:

A. if the member did not elect to exercise Option B or C pursuant to Section 22-11-29 NMSA 1978 at the time of first retirement, the member's beneficiary or estate shall

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1   receive [~~the difference, if any, between the member's total~~

2   ~~contribution and total benefits received prior to last~~

3   ~~reemployment, plus contributions made by the member during the~~

4   ~~period of last reemployment~~] an amount equal to the sum of the

5   member's contributions, including contributions made by the

6   member during the period of last reemployment, plus

7   accumulated interest at the average rate earned by the fund

8   during the preceding five fiscal years, less the total

9   benefits received prior to the last reemployment; or

10   B.   if a retirement benefit has been paid to the

11 member pursuant to either Option B or Option C of Section

12 22-11-29 NMSA 1978 prior to reemployment, the reemployed

13 member shall be considered as retiring on the day preceding

14 the date of death, and the benefits due the surviving

15 beneficiary, computed as of that date, shall be commenced

16 effective on the date of death in accordance with the terms of

17 the option elected."

18   Section 2.   Section 22-11-29 NMSA 1978 (being Laws 1967,

19 Chapter 16, Section 152, as amended) is amended to read:

20   "22-11-29.   RETIREMENT BENEFIT OPTIONS.--

21   A.   Upon retirement pursuant to the Educational

22 Retirement Act, a member may elect, and such election shall be

23 irrevocable, to receive the actuarial equivalent of his

24 retirement benefit, as provided in Section 22-11-30 NMSA 1978,

25 to be effective on his retirement in any one of the following

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1   optional forms:

2   (1)   OPTION B.   A reduced annuity payable

3   during the member's life with provision that upon the member's

4   death the same annuity shall be continued during the life of

5   and paid to the beneficiary designated by the member in

6   writing at the time of electing this option; or

7   (2)   OPTION C.   A reduced annuity payable

8   during the member's life with provision that upon the member's

9   death one-half of this same annuity shall be continued during

10   the life of and paid to the beneficiary designated by the

11   member in writing at the time of electing this option.

12   B.   In the case of Options B and C of Subsection A

13   of this section, the actuarial equivalent of the member's

14   retirement benefit shall be computed on the basis of the lives

15   of both the member and the beneficiary.

16   C.   In the event that the named beneficiary of a

17   retired member who elected Option B or C at the time of

18   retirement predeceases the retired member, the annuity of the

19   retired member shall be adjusted by adding an amount equal to

20   the amount by which the annuity of the retired member was

21   reduced at retirement as a result of the election of Option B

22   or C.   The adjustment authorized in this subsection shall be

23   made as follows:

24   (1)   beginning on the first month following

25   the month in which the named beneficiary of a retiree dies

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1 applicable to an annuity received by a retiree who retires

2 after June 30, 1987; or

3   (2) beginning on July 1, 1987 applicable to

4 an annuity received by a retiree who retired prior to July 1,

5 1987 and otherwise qualifies for the adjustment; provided,

6 however, no adjustment shall be made retroactively.

7   D. In the event of the death of the member who has

8 not retired and who has completed at least five years' earned

9 service credit, the member shall be considered as retiring on

10 the first day of the month following the date of death, and

11 the benefits due the surviving beneficiary, computed as of

12 that date, shall, except as provided in Subsection G of this

13 section, be commenced effective on the first day of such month

14 in accordance with the terms of Option B. In lieu of the

15 provisions of Option B, the surviving beneficiary may elect to

16 receive payment of all the contributions made by the member,

17 plus interest at the rate earned by the fund during the

18 preceding fiscal year reduced by the sum of any disability

19 benefits previously received by the member, or the surviving

20 beneficiary may choose to defer receipt of the survivor's

21 benefit to whatever age the beneficiary chooses up to the time

22 the member would have attained age sixty. If the benefit is

23 thus deferred, it shall be calculated as though the member had

24 retired on the first day of the month in which the beneficiary

25 elects to receive the benefit. In the event of the death of

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1   the beneficiary after the death of the member and prior to the

2   date on which the beneficiary has elected to receive the

3   beneficiary's benefit, the estate of the beneficiary shall be

4   entitled to a refund of the member's contributions plus

5   interest at the rate earned by the fund during the preceding

6   fiscal year, reduced by the sum of any disability benefits

7   previously received by the member.

8   E.   In the case of death of a retired member who

9   did not elect either Option B or C and before the benefits

10   paid to him have equaled the [amount] sum of his accumulated

11   contributions to the fund plus accumulated interest at the

12   average rate earned by the fund during the preceding five

13   fiscal years, the balance shall be paid to the beneficiary

14   designated in writing to the director by the member or, if no

15   beneficiary was designated, to the estate of the member.

16   F.   No benefit shall be paid pursuant to this

17   section if the member's contributions have been refunded

18   pursuant to Section 22-11-15 NMSA 1978.

19   G.   In the case of death of a member with less than

20   five years' earned service credit or death of a member who has

21   filed with the director a notice rejecting the provisions of

22   Subsection C of this section, which notice shall be revocable

23   by the member at any time prior to retirement, the member's

24   contributions to the fund plus interest at the rate earned by

25   the fund during the preceding fiscal year shall be paid to the

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1   beneficiary designated in writing to the director by the

2   member or, if no beneficiary was designated, to the estate of

3   the member.

4   H.   Any elections of either Option B or C of

5   Subsection A of this section on file with the director by

6   members who have not retired prior to June 30, 1984 are void."

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FORTY-FOURTH LEGISLATURE

FIRST SESSION, 1999

February 24, 1999

Mr. Speaker:

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

HOUSE BILL 353

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,

_____

Rick Miera, Chairman

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Adopted _____   Not Adopted _____

                (Chief Clerk)   (Chief Clerk)

                        Date _____

The roll call vote was __13__ For __0__ Against

Yes: 13

Excused: Burpo, Marquardt, Wright

Absent: None

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underscored material = new
[bracketed material] = delete

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

February 27, 1999

Mr. Speaker:

Your **APPROPRIATIONS AND FINANCE COMMITTEE,** to whom has been referred

HOUSE BILL 353

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

Respectfully submitted,

_____

Max Coll, Chairman

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Adopted _____   Not Adopted _____

(Chief Clerk)   (Chief Clerk)

Date _____

The roll call vote was 12 For 0 Against

Yes: 12

Excused: Coll, Larrañaga, Marquardt, Varela, Watchman

Absent: None

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4   **FORTY-FOURTH LEGISLATURE**
5   **FIRST SESSION, 1999**
6
7
8   March 11, 1999
9
Mr. President:
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11   Your **EDUCATION COMMITTEE**, to whom has been referred
12
13   **HOUSE BILL 353**
14
has had it under consideration and reports same with
15
recommendation that it **DO PASS**.
16
17   Respectfully submitted,
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22   _____
23   **Cynthia Nava, Chairman**
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Adopted_____ Not

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Adopted_____

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          (Chief Clerk)   (Chief Clerk)

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7

          Date _____

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The roll call vote was 7 For 1 Against

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Yes: 7

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No: Boitano

12

Excused: Duran, Jennings

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Absent: None

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