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HOUSE BILL 239

**49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010**

INTRODUCED BY

Rick Miera

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; PREVENTING A NEGATIVE  
CONSUMER PRICE INDEX ADJUSTMENT FROM REDUCING A MEMBER'S  
CURRENT BENEFIT.

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

Section 1. Section 22-11-31 NMSA 1978 (being Laws 1979,  
Chapter 333, Section 2, as amended) is amended to read:

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

A. For the purposes of this section:

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

(2) "annuity" means any benefit payable under  
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 be  
16 adjusted annually and cumulatively commencing on July 1 of the  
17 year in which a member attains the age of sixty-five or on July  
18 1 following the year a member retires, whichever is later. The  
19 annuity shall be adjusted by applying an adjustment factor that  
20 results in ~~[either]~~ an adjustment equal to one-half of the  
21 percentage increase ~~[or decrease]~~ of the consumer price index  
22 between the next preceding calendar year and the preceding  
23 calendar year, except that the adjustment shall not exceed four  
24 percent, in absolute value, nor be less than two percent, in  
25 absolute value. In the event that the percentage increase ~~[or~~

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1 ~~decrease~~] of the consumer price index is less than two percent,  
2 in absolute value, the adjustment factor shall be the same as  
3 the percentage increase [~~or decrease~~] of the consumer price  
4 index. [~~No negative adjustment in the retirement benefit shall~~  
5 ~~reduce the member's benefit below that which he received upon~~  
6 ~~the date of his retirement.~~] Annuities shall not be decreased  
7 in the event that there is a decrease in the consumer price  
8 index between the next preceding calendar year and the  
9 preceding calendar year.

10 C. A retired member whose benefit is subject to  
11 adjustment under the provisions of the Educational Retirement  
12 Act in effect prior to July 1, 1984 shall have [~~his~~] the  
13 member's annuity readjusted annually and cumulatively under the  
14 provisions of that act in effect prior to July 1, 1984 until  
15 July 1 of the year in which [~~he~~] the member attains the age of  
16 sixty-five, when [~~he~~] the member shall have [~~his~~] the annuity  
17 readjusted annually and cumulatively under the provisions of  
18 this section. A member who retires after attaining the age of  
19 sixty-five shall have [~~his~~] the member's annuity adjusted  
20 annually and cumulatively commencing on July 1 of the year  
21 following [~~his~~] the member's retirement.

22 D. A retired member who returns to work shall be  
23 subject to the provisions of this section as they exist at the  
24 time of [~~his~~] the member's final retirement.

25 E. Benefits of a member who is on a disability

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1 status in accordance with Section 22-11-35 NMSA 1978 or a  
2 member who the board certifies was disabled at regular  
3 retirement shall be adjusted in accordance with Subsections B  
4 and C of this section, except that the benefits shall be  
5 adjusted annually and cumulatively commencing on July 1 of the  
6 third full year following the year in which the member was  
7 approved by the board for disability or retirement.

8 F. The board shall adjust the benefits of each  
9 person receiving an annuity as of June 30, 1999. The  
10 adjustment shall be made on July 1, 1999 on the basis of an  
11 increase of two dollars (\$2.00) per month for each year since  
12 the member's last retirement plus an increase of one dollar  
13 (\$1.00) per month for each year of credited service at the time  
14 of the last retirement."

15 Section 2. EFFECTIVE DATE.--The effective date of the  
16 provisions of this act is July 1, 2010.