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AN ACT

RELATING TO EDUCATIONAL RETIREMENT; AUTHORIZING CERTAIN MEMBERS OF THE EDUCATIONAL RETIREMENT BOARD TO APPOINT DESIGNEES TO SERVE ON THE BOARD; SPECIFYING QUALIFICATIONS FOR THE DESIGNEES.

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

SECTION 1. Section 22-11-3 NMSA 1978 (being Laws 1967, Chapter 16, Section 127, as amended) is amended to read:

"22-11-3. EDUCATIONAL RETIREMENT BOARD--MEMBERS--TERMS--VACANCIES.--

A. The "educational retirement board" is created.

B. The board shall be composed of seven members, consisting of the following:

(1) the secretary of public education, or a designee of the secretary who:

(a) is a resident of New Mexico;

(b) is a current employee of the public education department; and

(c) possesses experience relevant to the financial or fiduciary aspects of pension or investment fund management;

(2) the state treasurer, or a designee of the treasurer who:

(a) is a resident of New Mexico;

1 (b) is a current employee of the state  
2 treasurer's office; and

3 (c) possesses experience relevant to  
4 the financial or fiduciary aspects of pension or investment  
5 fund management;

6 (3) one member to be elected for a term of  
7 four years by members of the New Mexico association of  
8 educational retirees;

9 (4) one member to be elected for a term of  
10 four years by the members of the national education  
11 association of New Mexico;

12 (5) one member to be elected for a term of  
13 four years by the New Mexico members of the American  
14 association of university professors; and

15 (6) two members to be appointed by the  
16 governor for terms of four years each. Each member appointed  
17 pursuant to this paragraph shall have a background in  
18 investments, finance or pension fund administration.

19 C. A designee of a board member shall have the  
20 same responsibilities, duties, liabilities and immunities as  
21 the board member, including the indemnification provided by  
22 Subsection H of Section 22-11-13 NMSA 1978. The appointment  
23 of a designee does not relieve the board member of the  
24 member's responsibilities, duties, liabilities and immunities  
25 as a board member, and the board member shall be fully

1 responsible and liable for the actions of the designee while  
2 serving on the board.

3 D. In the initial composition of the board, the  
4 member elected by the members of the American association of  
5 university professors shall serve for a term of three years;  
6 one member appointed by the governor shall serve for a term  
7 of two years; and the other member appointed by the governor  
8 shall serve for a term of one year.

9 E. Vacancies occurring in the terms of office of  
10 those members appointed by the governor or elected by an  
11 association shall be filled either by the governor appointing  
12 or the association electing a new member to fill the  
13 unexpired term."

14 SECTION 2. Section 22-11-13 NMSA 1978 (being Laws 1967,  
15 Chapter 16, Section 137, as amended) is amended to read:

16 "22-11-13. BOARD AUTHORITY TO INVEST THE FUND--PRUDENT  
17 INVESTOR STANDARD--INDEMNIFICATION OF BOARD.--

18 A. The board is authorized to invest or reinvest  
19 the fund in accordance with the Uniform Prudent Investor Act.

20 B. The board shall provide quarterly performance  
21 reports to the legislative finance committee and the  
22 department of finance and administration. Annually, the  
23 board shall ratify and provide its written investment policy,  
24 including any amendments, to the legislative finance  
25 committee and the department of finance and administration.

1           C. The board or its designated agent may enter  
2 into contracts for the temporary exchange of securities for  
3 the use by broker-dealers, banks or other recognized  
4 institutional investors, for periods not to exceed one year,  
5 for a specified fee or consideration. Such a contract shall  
6 not be entered into unless the contract is fully secured by a  
7 collateralized, irrevocable letter of credit running to the  
8 board, cash or equivalent collateral of at least one hundred  
9 two percent of the market value of the securities plus  
10 accrued interest temporarily exchanged. This collateral  
11 shall be delivered to the fiscal agent of New Mexico or its  
12 designee contemporaneously with the transfer of funds or  
13 delivery of the securities. Such contract may authorize the  
14 board to invest cash collateral in instruments or securities  
15 that are authorized fund investments and may authorize  
16 payment of a fee from the fund or from income generated by  
17 the investment of cash collateral to the borrower of  
18 securities providing cash as collateral. The board may  
19 apportion income derived from the investment of cash  
20 collateral to pay its agent in securities lending  
21 transactions.

22           D. Commissions paid for the purchase or sale of  
23 any securities pursuant to the provisions of the Educational  
24 Retirement Act shall not exceed brokerage rates prescribed  
25 and approved by national stock exchanges or by industry

1 practice.

2 E. Securities purchased for the fund shall be held  
3 in the custody of the state treasurer. At the direction of  
4 the board, the state treasurer shall deposit with a bank or  
5 trust company the securities for safekeeping or servicing.

6 F. The board may consult with the state investment  
7 council or the state investment officer; may request from the  
8 state investment council or the state investment officer any  
9 information, advice or recommendations with respect to  
10 investment of the fund; may utilize the services of the state  
11 investment council or the state investment officer; and may  
12 act upon any advice or recommendations of the state  
13 investment council or the state investment officer. The  
14 state investment council or the state investment officer  
15 shall render investment advisory services to the board upon  
16 request and without expense to the board. The board may also  
17 employ the investment management services and related  
18 management services of a trust company or national bank  
19 exercising trust powers or of an investment counseling firm  
20 or brokers for the purchase and sale of securities,  
21 commission recapture and transitioning services and may pay  
22 reasonable compensation for those services from funds  
23 administered by the board.

24 G. The board shall annually provide for its  
25 members no less than eight hours of training in pension fund

1 investing, fiduciary obligations or ethics. A member elected  
2 or appointed to the board who fails to attend the training  
3 for two consecutive years shall be deemed to have resigned  
4 from the board.

5 H. Members of the board, including any designee  
6 authorized by Paragraph (1) or (2) of Subsection B of Section  
7 22-11-3 NMSA 1978, jointly and individually, shall be  
8 indemnified from the fund by the state from all claims,  
9 demands, suits, actions, damages, judgments, costs, charges  
10 and expenses, including court costs and attorney fees, and  
11 against all liability, losses and damages of any nature  
12 whatsoever that members shall or may at any time sustain by  
13 reason of any decision made in the performance of their duties  
14 pursuant to this section."

15 SECTION 3. TEMPORARY PROVISION--APPLICATION OF ACT.--  
16 The amendment in this act to Paragraph (6) of Subsection B of  
17 Section 22-11-3 NMSA 1978 shall apply only to appointments  
18 made after the effective date of this act and shall not affect  
19 the status of existing appointees to the educational  
20 retirement board.