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HOUSE BILL 70

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Miguel P. Garcia

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; AMENDING SECTION OF THE EDUCATIONAL RETIREMENT ACT TO REMOVE CERTAIN RESTRICTIONS ON THE PURCHASE OF SERVICE CREDIT FOR MILITARY SERVICE.

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

Section 1. Section 22-11-34 NMSA 1978 (being Laws 1967, Chapter 16, Section 157, as amended) is amended to read:

"22-11-34. ALLOWED SERVICE CREDIT. --

A. A member shall be certified to have acquired allowed service credit pursuant to the Internal Revenue Code of 1986 for those periods of time when he was:

- (1) employed prior to [~~the effective date of the Educational Retirement Act~~] July 1, 1967 in a federal educational program within New Mexico, including United States Indian schools and civilian conservation corps camps. This

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1 service credit shall be allowed without contribution;

2 (2) engaged in military service that
3 interrupted his employment in New Mexico if he returned to his
4 employment within eighteen months following honorable
5 discharge. This service credit shall be allowed without
6 contribution;

7 (3) engaged in United States military service
8 or the commissioned corps of the public health service from
9 which he was honorably discharged if he contributes to the
10 fund a sum equal to ten and one-half percent of his average
11 annual salary for that period of time for which he has
12 acquired earned service credit pursuant to the Educational
13 Retirement Act and subject to the federal Uniformed Services
14 Employment and Reemployment Rights Act of 1994 for each year
15 of service credit he desires to purchase. Average annual
16 salary shall be determined in accordance with rules
17 promulgated by the board but shall always be based on actual
18 salaries earned by the member where the actual salaries can be
19 ascertained by the board. The employer's contributions for
20 service credit shall not be paid by the employer [~~The purchase~~
21 ~~of service credit provided in this section shall be carried~~
22 ~~out by the member within three years after the date of the~~
23 ~~member's employment following service]; or~~

24 (4) employed:

25 (a) in a public school or public

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1 institution of higher learning in another state, territory or
2 possession of the United States;

3 (b) in a United States military
4 dependents' school operated by a branch of the armed forces of
5 the United States;

6 (c) as provided in Paragraph (1) of
7 this subsection after [~~the effective date of the Educational~~
8 ~~Retirement Act~~] July 1, 1967; or

9 (d) in a private school or institution
10 of higher learning in New Mexico whose education program is
11 accredited or approved by the state board at the time of
12 employment.

13 B. The member or employer under Paragraph (4) of
14 Subsection A of this section shall contribute to the fund for
15 each year of allowed service credit desired an amount equal to
16 twelve percent of the member's annual salary at the time
17 payment is made if the member is employed or twelve percent
18 times the member's annual salary during the member's last year
19 of employment if the member is not employed at the time of
20 payment. Contributions paid for the member who is not
21 employed shall bear interest at the average rate earned by the
22 fund during the five-fiscal-year period immediately preceding
23 the date of payment. Such interest shall run from the date
24 the member last terminated employment to the date of payment.
25 Effective July 1, 2001, the member or employer under Paragraph

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1 (4) of Subsection A of this section shall contribute to the
2 fund for each year of allowed service credit desired an amount
3 equal to the actuarial value of the service purchased as
4 defined by the board. Payment pursuant to Paragraph (4) of
5 Subsection A of this section may be made in installments, at
6 the discretion of the board, over a period not to exceed one
7 year and, if the sum paid does not equal the amount required
8 for any full year of allowed service credit, the member shall
9 acquire allowed service credit for that period of time that is
10 proportionate to the payment made. Half credit may be allowed
11 without contribution for not more than ten years of the
12 educational service described by Subparagraph (a) of Paragraph
13 (4) of Subsection A of this section if that service was prior
14 to June 13, 1953 and if the member was employed in New Mexico
15 prior to June 13, 1953 in a position covered by the
16 Educational Retirement Act or a law repealed thereby.

17 C. No member shall be certified to have acquired
18 allowed service credit:

19 (1) under any single paragraph or the
20 combination of only Paragraphs (1) and (4) or only Paragraphs
21 (2) and (3) of Subsection A of this section in excess of five
22 years; or

23 (2) in excess of ten years for any other
24 combination of Paragraphs (1) through (4) of Subsection A of
25 this section.

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D. The provisions of this section are made applicable to the services described prior to as well as after ~~[the effective date of the Educational Retirement Act]~~ July 1, 1967. "