

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 716

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

INTRODUCED BY

Cynthia L. Nava

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; PROVIDING FOR RETURN TO
EMPLOYMENT; CONTINUING RETIREMENT BENEFITS; AMENDING THE
EDUCATIONAL RETIREMENT ACT; MAKING AN APPROPRIATION.

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

Section 1. Section 22-11-2 NMSA 1978 (being Laws 1967,
Chapter 16, Section 126, as amended) is amended to read:

"22-11-2. DEFINITIONS.--As used in the Educational
Retirement Act:

A. "member" means ~~[any]~~ an employee, except for a
participant or a retired member, coming within the provisions
of the Educational Retirement Act;

B. "regular member" means:

(1) a person regularly employed as a
teaching, nursing or administrative employee of a state

underscored material = new
[bracketed material] = delete

1 educational institution, except for:

2 (a) a participant; or

3 (b) all employees of a general hospital
4 or outpatient clinics thereof operated by a state educational
5 institution named in Article 12, Section 11 of the
6 constitution of New Mexico;

7 (2) a person regularly employed as a
8 teaching, nursing or administrative employee of a junior
9 college or community college created pursuant to Chapter 21,
10 Article 13 NMSA 1978, except for a participant;

11 (3) a person regularly employed as a
12 teaching, nursing or administrative employee of a technical
13 and vocational institute created pursuant to the Technical and
14 Vocational Institute Act, except for a participant;

15 (4) a person regularly employed as a
16 teaching, nursing or administrative employee of the New Mexico
17 boys' school, the New Mexico girls' school, the Los Lunas
18 medical center or a school district or as a certified school
19 instructor of a state institution or agency providing an
20 educational program and holding a standard or substandard
21 certificate issued by the state board, except for a
22 participant;

23 (5) a person regularly employed by the
24 department of education or the board holding a standard or
25 substandard certificate issued by the state board at the time

underscored material = new
[bracketed material] = delete

1 of commencement of such employment;

2 (6) a member classified as a regular member
3 in accordance with the [~~regulations~~] rules of the board;

4 (7) a person regularly employed by the New
5 Mexico activities association holding a standard certificate
6 issued by the state board at the time of commencement of such
7 employment; or

8 (8) a person regularly employed by a regional
9 education cooperative holding a standard certificate issued by
10 the state board at the time of commencement of such
11 employment;

12 C. "provisional member" means a person not
13 eligible to be a regular member but who is employed by a local
14 administrative unit designated in Subsection B of this
15 section; provided, however, that employees of a general
16 hospital or outpatient clinics thereof operated by a state
17 educational institution named in Article 12, Section 11 of the
18 constitution of New Mexico are not provisional members;

19 D. "local administrative unit" means an employing
20 agency however constituted that is directly responsible for
21 the payment of compensation for the employment of members or
22 participants;

23 E. "beneficiary" means a person having an
24 insurable interest in the life of a member or a participant
25 designated by written instrument duly executed by the member

underscored material = new
[bracketed material] = delete

1 or participant and filed with the director to receive a
2 benefit pursuant to the Educational Retirement Act that may be
3 received by someone other than the member or participant;

4 F. "employment" means employment by a local
5 administrative unit that qualifies a person to be a member or
6 participant;

7 G. "service employment" means employment that
8 qualifies a person to be a regular member;

9 H. "provisional service employment" means
10 employment that qualifies a person to be a provisional member;

11 I. "prior employment" means employment performed
12 prior to the effective date of the Educational Retirement Act
13 that would be service employment or provisional service
14 employment if performed thereafter;

15 J. "service credit" means that period of time with
16 which a member is accredited for the purpose of determining
17 his eligibility for and computation of retirement or
18 disability benefits;

19 K. "earned service credit" means that period of
20 time during which a member was engaged in employment or prior
21 employment with which he is accredited for the purpose of
22 determining his eligibility for retirement or disability
23 benefits;

24 L. "allowed service credit" means that period of
25 time during which a member has performed certain nonservice

1 employment with which he may be accredited, as provided in the
2 Educational Retirement Act, for the purpose of computing
3 retirement or disability benefits;

4 M. "retirement benefit" means an annuity paid
5 monthly to members whose employment has been terminated by
6 reason of their age;

7 N. "disability benefit" means an annuity paid
8 monthly to members whose employment has been terminated by
9 reason of a disability;

10 O. "board" means the educational retirement board;

11 P. "fund" means the educational retirement fund;

12 Q. "director" means the educational retirement
13 director;

14 R. "medical authority" means a medical doctor
15 within the state or as provided in Subsection D of Section
16 22-11-36 NMSA 1978 either designated or employed by the board
17 to examine and report on the physical condition of applicants
18 for or recipients of disability benefits;

19 S. "actuary" means a person trained and regularly
20 engaged in the occupation of calculating present and projected
21 monetary assets and liabilities under annuity or insurance
22 programs;

23 T. "actuarial equivalent" means a sum paid as a
24 current or deferred benefit that is equal in value to a
25 regular benefit, computed upon the basis of interest rates and

underscored material = new
[bracketed material] = delete

1 mortality tables;

2 U. "contributory employment" means employment for
3 which contributions have been made by both a member and a
4 local administrative unit pursuant to the Educational
5 Retirement Act;

6 V. "qualifying state educational institution"
7 means the university of New Mexico, New Mexico state
8 university, New Mexico institute of mining and technology, New
9 Mexico highlands university, eastern New Mexico university,
10 western New Mexico university, Albuquerque technical-
11 vocational institute, Clovis community college, Luna
12 vocational-technical institute, Mesa technical college, New
13 Mexico junior college, northern New Mexico state school, San
14 Juan college and Santa Fe community college;

15 W. "participant" means:

16 (1) a person regularly employed as a faculty
17 or professional employee of the university of New Mexico, New
18 Mexico state university, New Mexico institute of mining and
19 technology, New Mexico highlands university, eastern New
20 Mexico university or western New Mexico university who first
21 becomes employed with such an educational institution on or
22 after July 1, 1991, or a person regularly employed as a
23 faculty or professional employee of the Albuquerque technical-
24 vocational institute, Clovis community college, Luna
25 vocational-technical institute, Mesa technical college, New

. 136742. 1

underscored material = new
[bracketed material] = delete

1 Mexico junior college, northern New Mexico state school, San
2 Juan college or Santa Fe community college who is first
3 employed by the institution on or after July 1, 1999 and who
4 elects, pursuant to Section 22-11-47 NMSA 1978, to participate
5 in the alternative retirement plan; and

6 (2) a person regularly employed who performs
7 research or other services pursuant to a contract between a
8 qualifying state educational institution and the United States
9 government or any of its agencies who elects, pursuant to
10 Section 22-11-47 NMSA 1978, to participate in the alternative
11 retirement plan, provided that the research or other services
12 are performed outside the state;

13 X. "salary" means the compensation or wages paid
14 to a member or participant by any local administrative unit
15 for services rendered; [~~and~~]

16 Y. "alternative retirement plan" means the
17 retirement plan provided for in Sections 22-11-47 through
18 22-11-52 NMSA 1978; and

19 Z. "retired member" means a person whose
20 employment has been terminated by reason of age and who is
21 receiving or is eligible to receive retirement benefits. "

22 Section 2. A new section of the Educational Retirement
23 Act is enacted to read:

24 "[NEW MATERIAL] RETURN TO EMPLOYMENT-- BENEFITS
25 CONTINUED-- ADMINISTRATIVE UNIT CONTRIBUTIONS. --

. 136742. 1

underscored material = new
[bracketed material] = delete

1 A. Effective January 1, 2002, a retired member may
2 begin employment at a local administrative unit and shall not
3 be required to suspend retirement benefits if the member has
4 not been employed as an employee or independent contractor by
5 a local administrative unit for at least twelve consecutive
6 months from the date of retirement to the commencement of
7 employment or re-employment with a local administrative unit.
8 If the retired member returns to employment without first
9 completing twelve consecutive months of retirement, the
10 retired member shall remove himself from retirement.

11 B. A retired member who returns to employment
12 during retirement pursuant to Subsection A of this section is
13 entitled to continue to receive retirement benefits but is not
14 entitled to acquire service credit or to acquire or purchase
15 service credit in the future for the period of the retired
16 member's re-employment with a local administrative unit.

17 C. A retired member who returns to employment
18 shall not make contributions to the fund as specified in the
19 Educational Retirement Act; however, the administrative unit's
20 contributions as specified in that act shall be paid to the
21 fund as if the retired member was a non-retired employee. "

22 Section 3. APPROPRIATION. -- One hundred twenty-one
23 thousand five hundred dollars (\$121,500) is appropriated from
24 the general fund to the educational retirement board for
25 expenditure in fiscal year 2002 to fund three full-time-

underscored material = new
[bracketed material] = delete

1 equivalent employees to carry out the provisions of this act.
2 Any unexpended or unencumbered balance remaining at the end of
3 fiscal year 2002 shall revert to the general fund.