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SENATE BILL 390

**55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

INTRODUCED BY  
Mimi Stewart

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; EXTENDING CERTAIN RETURN-  
TO-WORK PROVISIONS.

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

SECTION 1. Section 22-11-25.1 NMSA 1978 (being Laws 2001,  
Chapter 283, Section 2, as amended) is amended to read:

"22-11-25.1. RETURN TO EMPLOYMENT--BENEFITS--  
CONTRIBUTIONS.--

A. Except as otherwise provided in Subsections B, F  
and H of this section, until January 1, [2022] 2024, a retired  
member who begins employment with a local administrative unit  
at a level greater than one-quarter full-time employee,  
regardless of salary level, is required to suspend the member's  
retirement benefits until the end of that employment unless the  
member has not rendered service to a local administrative unit

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1 for at least twelve consecutive months after the date of  
2 retirement.

3 B. Until January 1, [~~2022~~] 2024, a retired member  
4 who retired on or before January 1, 2001, has not suspended or  
5 been required to suspend retirement benefits pursuant to the  
6 Educational Retirement Act and returns to employment with a  
7 local administrative unit is not required to suspend the  
8 member's retirement benefits.

9 C. A retired member who returns to employment with  
10 a local administrative unit in accordance with this section is  
11 entitled to receive retirement benefits during that employment  
12 but is not entitled to acquire or purchase service credit for  
13 that employment.

14 D. A retired member may return to employment with a  
15 local administrative unit only if the member submits an  
16 application to return to work, on a form prescribed by the  
17 board, the board approves the application and the applicant  
18 complies with other application rules promulgated by the board.

19 E. A retired member who returns to employment  
20 pursuant to Subsection A, B or F of this section shall make  
21 nonrefundable contributions to the fund as would be required by  
22 Section 22-11-21 NMSA 1978 if the retired member were a non-  
23 retired employee. The local administrative unit employing the  
24 retired member shall likewise make contributions as would be  
25 required by that section.

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1 F. Until January 1, [2022] 2024, a retired member  
2 who retired on or before January 1, 2001, who suspended or was  
3 required to suspend retirement benefits under the Educational  
4 Retirement Act is not required to suspend the member's  
5 retirement benefits if the retired member has not rendered  
6 service to a local administrative unit for an additional twelve  
7 or more consecutive months, not including any part of a summer  
8 or other scheduled break or vacation period, after the initial  
9 date of retirement.

10 G. A retired member who returns to employment with  
11 a local administrative unit shall make contributions to the  
12 retiree health care fund during the period of that employment  
13 and in the amount specified in Section 10-7C-15 NMSA 1978. The  
14 local administrative unit employing the retired member shall  
15 likewise make contributions during the period of that  
16 employment and in the amount specified in that section.

17 H. A retired member may return to employment with a  
18 local administrative unit without a suspension of the member's  
19 retirement benefits; provided that:

20 (1) the retired member has not rendered  
21 service to a local administrative unit for at least ninety days  
22 after the date of retirement;

23 (2) prior to the date of retirement, or within  
24 ninety days after the date of retirement, the retired member  
25 did not enter into any formal or informal agreement with a

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1 local administrative unit or with any contractor providing  
2 services to a local administrative unit to return to  
3 employment; and

4 (3) the retired member earns a salary of less  
5 than fifteen thousand dollars (\$15,000) per year.

6 I. As used in this section:

7 (1) "rendered service" includes employment,  
8 whether full or part time; substitute teaching; voluntarily  
9 performing duties that would otherwise be, or in the past have  
10 been, performed by a paid employee or independent contractor;  
11 and performing duties as an independent contractor or an  
12 employee of an independent contractor; and

13 (2) "local administrative unit" includes any  
14 entity incorporated, formed or otherwise organized by, or  
15 subject to the control of, a local administrative unit,  
16 regardless of whether the entity is created for profit or  
17 nonprofit purposes."