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SENATE BILL 580

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

INTRODUCED BY

Leonard Lee Rawson

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; PROVIDING THAT CERTAIN
EMPLOYEES WITH QUALIFYING RETIREMENT PLANS MAY ELECT TO BE
EXEMPT FROM THE PROVISIONS OF THE EDUCATIONAL RETIREMENT ACT.

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:

(1) a participant ~~[coming within the
provisions of the Educational Retirement Act];~~ or

(2) an employee of the physical science
laboratory at New Mexico state university who elects to be
exempt pursuant to Section 22-11-46 NMSA 1978;

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B. "regular member" means:

(1) a person regularly employed as a teaching, nursing or administrative employee of a state educational institution, except for:

(a) a participant; or

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

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

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

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

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1 (5) a person regularly employed by the
2 department of education or the board holding a standard or
3 substandard certificate issued by the state board at the time
4 of commencement of such employment;

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

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

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

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

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

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1 E. "beneficiary" means a person having an
2 insurable interest in the life of a member or a participant
3 designated by written instrument duly executed by the member
4 or participant and filed with the director to receive a
5 benefit pursuant to the Educational Retirement Act that may be
6 received by someone other than the member or participant;

7 F. "employment" means employment by a local
8 administrative unit that qualifies a person to be a member or
9 participant;

10 G. "service employment" means employment that
11 qualifies a person to be a regular member;

12 H. "provisional service employment" means
13 employment that qualifies a person to be a provisional member;

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

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

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

1 benefits;

2 L. "allowed service credit" means that period of
3 time during which a member has performed certain nonservice
4 employment with which he may be accredited, as provided in the
5 Educational Retirement Act, for the purpose of computing
6 retirement or disability benefits;

7 M. "retirement benefit" means an annuity paid
8 monthly to members whose employment has been terminated by
9 reason of their age;

10 N. "disability benefit" means an annuity paid
11 monthly to members whose employment has been terminated by
12 reason of a disability;

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

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

15 Q. "director" means the educational retirement
16 director;

17 R. "medical authority" means a medical doctor
18 within the state or as provided in Subsection D of Section
19 22-11-36 NMSA 1978 either designated or employed by the board
20 to examine and report on the physical condition of applicants
21 for or recipients of disability benefits;

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

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1 T. "actuarial equivalent" means a sum paid as a
2 current or deferred benefit that is equal in value to a
3 regular benefit, computed upon the basis of interest rates and
4 mortality tables;

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

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

18 W. "participant" means:

19 (1) a person regularly employed as a faculty
20 or professional employee of the university of New Mexico, New
21 Mexico state university, New Mexico institute of mining and
22 technology, New Mexico highlands university, eastern New
23 Mexico university or western New Mexico university who first
24 becomes employed with such an educational institution on or
25 after July 1, 1991, or a person regularly employed as a

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1 faculty or professional employee of the Albuquerque technical-
2 vocational institute, Clovis community college, Luna
3 vocational-technical institute, Mesa technical college, New
4 Mexico junior college, northern New Mexico state school, San
5 Juan college or Santa Fe community college who is first
6 employed by the institution on or after July 1, 1999 and who
7 elects, pursuant to Section 22-11-47 NMSA 1978, to participate
8 in the alternative retirement plan; and

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

16 X. "salary" means the compensation or wages paid
17 to a member or participant by any local administrative unit
18 for services rendered; and

19 Y. "alternative retirement plan" means the
20 retirement plan provided for in Sections 22-11-47 through
21 22-11-52 NMSA 1978. "

22 Section 2. A new section of the Educational Retirement
23 Act, Section 22-11-46 NMSA 1978, is enacted to read:

24 "22-11-46. [NEW MATERIAL] EXEMPTION FROM COVERAGE--
25 EMPLOYEES OF THE PHYSICAL SCIENCE LABORATORY WITH QUALIFYING

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1 RETIREMENT PLANS. - -

2 A. An employee of the physical science laboratory
3 at New Mexico state university may elect to be exempt from
4 membership pursuant to the Educational Retirement Act if:

5 (1) the application for the exemption is
6 filed with the director on forms provided by the board;

7 (2) the election is made:

8 (a) no later than September 30, 2001
9 for an employee who was employed by the laboratory on January
10 1, 2000 and had less than five years of contributory
11 employment on January 1, 2000; or

12 (b) within nine months of beginning
13 employment with the laboratory, if the employee was initially
14 hired after January 1, 2000; and

15 (3) the employee shows, pursuant to a rule
16 adopted by the board, that the employee is a member of a
17 designated retirement plan that meets the requirement for a
18 qualifying plan pursuant to the Internal Revenue Code of 1986
19 or its amendments.

20 B. An election filed pursuant to Subsection A of
21 this section shall be approved by the director if he finds
22 that the requirements of that subsection have been met. Upon
23 approval by the director:

24 (1) the employee shall be removed as a
25 member;

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1 (2) the employee shall receive no retirement,
2 death or other benefit from the fund except as provided in
3 this section;

4 (3) the director shall transfer an amount
5 equal to the total of the employee's and the employer's
6 previous contributions to the fund plus interest at the
7 average rate earned by the fund during the preceding five
8 fiscal years to the employee's designated qualifying plan;

9 (4) each employee shall contribute to the
10 designated qualifying plan a minimum amount equal to three
11 percent of the employee's salary. The contribution shall be
12 deducted from the employee's salary by New Mexico state
13 university as the salary is paid and forwarded monthly to the
14 designated qualifying plan; and

15 (5) New Mexico state university may
16 contribute on behalf of the employee a matching contribution
17 up to the contribution that would have been required of the
18 university if the employee were a regular member. The
19 contribution shall be made monthly by the university to the
20 designated qualifying plan. "

21 Section 3. EFFECTIVE DATE. -- The effective date of the
22 provisions of this act is July 1, 2001.