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SENATE BILL 216

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

John Arthur Smith

FOR THE LEGISLATIVE FINANCE COMMITTEE

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; LIMITING THE APPLICABILITY
OF A CERTAIN SECTION OF THE NMSA 1978 THAT PROVIDES FOR
CONTINUED BENEFITS UPON A RETURN TO EMPLOYMENT; RECONCILING
DIFFERENT AMENDMENTS TO A CERTAIN SECTION OF THE NMSA 1978.

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 by Laws 2003, Chapter 80,
Section 1 and by Laws 2003, Chapter 145, Section 1) is amended
to read:

"22-11-25.1. RETURN TO EMPLOYMENT-- BENEFITS CONTINUED--
ADMINISTRATIVE UNIT CONTRIBUTIONS. --

A. Except as provided in Subsections B and E of
this section, beginning January 1, 2002 and continuing [~~until~~
~~January 1, 2012~~] through June 30, 2005, a retired member may

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

10 B. A retired member who was retired on or before
11 January 1, 2001, has not since suspended or been required to
12 suspend retirement benefits pursuant to the Educational
13 Retirement Act and is reemployed by a local administrative unit
14 prior to July 1, 2005 may continue employment at the local
15 administrative unit and shall not be required to suspend
16 retirement benefits.

17 C. A retired member who returns to employment
18 during retirement pursuant to Subsection A, ~~[or]~~ B or E of this
19 section is entitled to continue to receive retirement benefits
20 but is not entitled to acquire service credit or to acquire or
21 purchase service credit in the future for the period of the
22 retired member's reemployment with a local administrative unit.

23 D. A retired member who returns to employment
24 pursuant to ~~[Subsections A or B]~~ Subsection A, B or E of this
25 section shall not make contributions to the fund as specified

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1 in the Educational Retirement Act; however, the local
2 administrative unit's contributions as specified in that act
3 shall be paid to the fund as if the retired member was a non-
4 retired employee.

5 E. Beginning July 1, 2003 and continuing [~~until~~
6 ~~January 1, 2012~~] through June 30, 2005, a retired member who
7 retired on or before January 1, 2001 and who has not been
8 employed as an employee or independent contractor by a local
9 administrative unit for at least ninety days may begin
10 employment at a local administrative unit without suspending
11 retirement benefits if the retired member was not employed by a
12 local administrative unit for an additional twelve or more
13 consecutive months after the initial date of the retirement;
14 provided that the ninety-day period shall not include any part
15 of a summer or other scheduled break or vacation period.

16 F. A member, retired pursuant to the provisions of
17 the Educational Retirement Act, who returns to employment with
18 a local administrative unit pursuant to the provisions of this
19 section shall not be required to suspend retirement benefits
20 whether the member remains employed by the local administrative
21 unit or is employed by another local administrative unit at any
22 time in the future; provided, however, that, if the member
23 voluntarily suspends retirement benefits at any time, the
24 member shall be subject to the provisions of this section only
25 if the member would be eligible to do so based upon the

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effective date of the member's most recent retirement."