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HOUSE BILL 616

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Luciano "Lucky" Varela

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; AMENDING THE EDUCATIONAL
RETIREMENT ACT TO LIMIT CONTRIBUTIONS FOR MEMBERS WHOSE
SALARIES EXCEED A CERTAIN FEDERAL LIMIT; ENSURING THAT SERVICE
CREDIT WILL NOT BE AND HAS NOT BEEN DIMINISHED BY FEDERALLY
IMPOSED CONTRIBUTION LIMITS; AUTHORIZING DEPOSITS INTO THE
EDUCATIONAL RETIREMENT FUND NECESSARY TO HOLD THE FUND
HARMLESS; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION
OF LAW IN LAWS 1999.

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

Section 1. Section 22-11-21 NMSA 1978 (being Laws 1967,
Chapter 16, Section 144, as amended) is amended to read:

"22-11-21. CONTRIBUTIONS--MEMBERS--LOCAL ADMINISTRATIVE
UNITS.--

A. Except as provided in Subsection C of this

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1 section, each member shall make contributions to the fund
2 according to the following schedule:

3 (1) through June 30, 2005, an amount equal to
4 seven and six-tenths percent of the member's annual salary;

5 (2) from July 1, 2005 through June 30, 2006,
6 an amount equal to seven and six hundred seventy-five
7 thousandths percent of the member's annual salary;

8 (3) from July 1, 2006 through June 30, 2007,
9 an amount equal to seven and seventy-five hundredths percent of
10 the member's annual salary;

11 (4) from July 1, 2007 through June 30, 2008,
12 an amount equal to seven and eight hundred twenty-five
13 thousandths percent of the member's annual salary; and

14 (5) on and after July 1, 2008, an amount equal
15 to seven and nine-tenths percent of the member's annual salary.

16 B. Except as provided in Subsection C of this
17 section, each local administrative unit shall make an annual
18 contribution to the fund according to the following schedule:

19 (1) through June 30, 2005, a sum equal to
20 eight and sixty-five hundredths percent of the annual salary of
21 each member employed by the local administrative unit;

22 (2) from July 1, 2005 through June 30, 2006, a
23 sum equal to nine and forty-hundredths percent of the annual
24 salary of each member employed by the local administrative
25 unit;

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1 (3) from July 1, 2006 through June 30, 2007, a
2 sum equal to ten and fifteen-hundredths percent of the annual
3 salary of each member employed by the local administrative
4 unit;

5 (4) from July 1, 2007 through June 30, 2008, a
6 sum equal to ten and ninety-hundredths percent of the annual
7 salary of each member employed by the local administrative
8 unit;

9 (5) from July 1, 2008 through June 30, 2009, a
10 sum equal to eleven and sixty-five hundredths percent of the
11 annual salary of each member employed by the local
12 administrative unit;

13 (6) from July 1, 2009 through June 30, 2010, a
14 sum equal to twelve and four-tenths percent of the annual
15 salary of each member employed by the local administrative
16 unit;

17 (7) from July 1, 2010 through June 30, 2011, a
18 sum equal to thirteen and fifteen-hundredths percent of the
19 annual salary of each member employed by the local
20 administrative unit; and

21 (8) on and after July 1, 2011, a sum equal to
22 thirteen and nine-tenths percent of the annual salary of each
23 member employed by the local administrative unit.

24 C. If, in a calendar year, the salary of a member,
25 initially employed by a local administrative unit on or after

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1 July 1, 1996, equals the annual compensation limit set pursuant
2 to Section 401(a)(17) of the Internal Revenue Code of 1986, as
3 amended, then:

4 (1) for the remainder of that calendar year,
5 no additional member contributions or local administrative unit
6 contributions for that member shall be made pursuant to this
7 section; provided that no member shall be denied service credit
8 solely because contributions are not made by the member or on
9 behalf of the member pursuant to the provisions of this
10 subsection; and

11 (2) the amount of the annual compensation
12 limit shall be divided into four equal portions and, for
13 purposes of attributing contributory employment and crediting
14 service credit, each portion shall be attributable to one of
15 the four quarters of the calendar year."

16 Section 2. Section 22-11-47 NMSA 1978 (being Laws 1991,
17 Chapter 118, Section 5, as amended by Laws 1999, Chapter 261,
18 Section 2 and also by Laws 1999, Chapter 274, Section 3) is
19 amended to read:

20 "22-11-47. ALTERNATIVE RETIREMENT PLAN--ELECTION OF
21 COVERAGE.--

22 A. Beginning October 1, 1991, any employee of the
23 university of New Mexico, New Mexico state university, New
24 Mexico institute of mining and technology, New Mexico highlands
25 university, eastern New Mexico university or western New Mexico

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1 university who is eligible to become a participant may make
2 within ninety days of that date an irrevocable election to
3 participate in the alternative retirement plan. Beginning
4 October 1, 1999, an employee of [~~Albuquerque technical-~~
5 ~~vocational institute~~] central New Mexico community college,
6 Clovis community college, Luna [~~vocational-technical institute,~~
7 ~~Mesa technical~~] community college, Mesalands community college,
8 New Mexico junior college, northern New Mexico [~~state school~~]
9 college, San Juan college or Santa Fe community college who is
10 eligible to become a participant may make an irrevocable
11 election to participate in the alternative retirement plan
12 within ninety days of the initial date. Thereafter, any
13 employee who is eligible to become a participant may make
14 within the first ninety days of employment with a qualifying
15 state educational institution an irrevocable election to
16 participate in the alternative retirement plan. Any employee
17 who makes the irrevocable election shall become a participant
18 the first day of the first pay period following the election.
19 Any employee who fails to make the irrevocable election within
20 ninety days of October 1, 1991 or October 1, 1999, whichever is
21 applicable, or within the first ninety days of employment with
22 a qualifying state educational institution shall become or
23 remain a regular member if that employee is eligible to be a
24 regular member.

25 B. Until the time an employee who is eligible to

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1 become a participant elects to participate in the alternative
2 retirement plan, that employee shall be a regular member.

3 C. When an employee elects to become a participant,
4 any employer and employee contributions made as a regular
5 member shall be withdrawn from the fund and applied instead
6 toward the alternative retirement plan as if the participant
7 had been participating in the alternative retirement plan from
8 the commencement of employment with the qualifying state
9 educational institution.

10 ~~[D. Notwithstanding the provisions of Subsections~~
11 ~~A through C of this section, a member who first becomes a~~
12 ~~clinical faculty member of the university of New Mexico~~
13 ~~health sciences center on or after July 1, 1999, who does not~~
14 ~~elect to participate in the alternative retirement plan and~~
15 ~~whose base salary, as specified in the member's annual~~
16 ~~faculty contract, does not exceed the limitations set forth~~
17 ~~in Section 401(a)(17) of the Internal Revenue Code of 1986,~~
18 ~~as amended, in any contract year shall become a participant~~
19 ~~in the alternative retirement plan with respect to any amount~~
20 ~~by which the limitations set forth in Section 401(a)(17) of~~
21 ~~the Internal Revenue Code of 1986, as amended, or the~~
22 ~~member's total salary, whichever is less, exceeds the~~
23 ~~member's base salary. Those members shall be deemed to be~~
24 ~~both members of the educational retirement plan and~~
25 ~~participants in the alternative retirement plan.]"~~

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