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SENATE BILL 51

**50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

INTRODUCED BY

George K. Munoz

ENDORSED BY THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

RELATING TO PENSIONS; AMENDING THE EDUCATIONAL RETIREMENT ACT;  
PROVIDING THAT RETIREES WHO RETURN TO WORK AND DO NOT SUSPEND  
THEIR RETIREMENT BENEFITS ARE NOT REQUIRED TO PAY EMPLOYEE  
CONTRIBUTIONS TO THE EDUCATIONAL RETIREMENT FUND.

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 CONTINUED--  
ADMINISTRATIVE UNIT CONTRIBUTIONS.--

A. Except as provided in Subsections B and F of  
this section, beginning January 1, 2002 and continuing until  
January 1, 2022, a retired member may begin employment at a  
local administrative unit and shall not be required to suspend  
retirement benefits if the member has not rendered service to a

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1 local administrative unit for at least twelve consecutive  
2 months after the date of retirement. If the retired member  
3 returns to employment without first completing twelve  
4 consecutive months of retirement, the retired member shall  
5 remove himself or herself from retirement.

6 B. A retired member who was retired on or before  
7 January 1, 2001 and has not since suspended or been required to  
8 suspend retirement benefits pursuant to the Educational  
9 Retirement Act may, at any time prior to January 1, 2022,  
10 return to employment for a local administrative unit and shall  
11 not be required to suspend retirement benefits.

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

18 D. A retired member shall not be eligible to return  
19 to employment pursuant to Subsection A, B or F of this section  
20 unless an application to return to work, on a form prescribed  
21 by the board, has been submitted to, and approved by, the board  
22 and the applicant has complied with such other rules as  
23 promulgated by the board.

24 E. A retired member who returns to employment  
25 pursuant to Subsection A, B or F of this section shall not be

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1 required to pay to the fund [~~an amount equal to~~] the member  
2 contributions that would be required pursuant to Section  
3 22-11-21 NMSA 1978 if the retired member was a non-retired  
4 employee [~~and~~]. The local administrative unit employing the  
5 retired member shall pay to the fund an amount equal to the  
6 local administrative unit contributions that would be required  
7 pursuant to that section. [~~Payments made by a retired member~~  
8 ~~pursuant to this subsection shall not be refunded.~~]

9 F. Beginning July 1, 2003 and continuing until  
10 January 1, 2022, a retired member who retired on or before  
11 January 1, 2001, who subsequently voluntarily suspended or was  
12 required to suspend retirement benefits and who has not  
13 rendered service to a local administrative unit for at least  
14 ninety days may begin employment at a local administrative unit  
15 without suspending retirement benefits if the retired member  
16 was not employed by a local administrative unit for an  
17 additional twelve or more consecutive months after the initial  
18 date of the retirement; provided that the ninety-day period  
19 shall not include any part of a summer or other scheduled break  
20 or vacation period.

21 G. Both the retired member who returns to  
22 employment and the local administrative unit that employs the  
23 retired member shall make contributions to the retiree health  
24 care fund in the amount specified in Subsections A and B of  
25 Section 10-7C-15 NMSA 1978.

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H. As used in Subsections A and F of this section:

(1) "rendered service to a local administrative unit" includes employment by a local administrative unit, whether full or part time; substitute teaching; voluntarily performing duties for a local administrative unit that would otherwise be, or in the past have been, performed by a paid employee or independent contractor; or performing duties for a local administrative unit as an independent contractor or an employee of an independent contractor; and

(2) "local administrative unit" includes any entity incorporated, formed or otherwise organized by, or subject to the control of, a local administrative unit, whether or not the entity is created for profit or nonprofit purposes."