

1 SENATE BILL 144

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Craig W. Brandt

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8 FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

9  
10 AN ACT

11 RELATING TO PUBLIC EDUCATION; AMENDING A SECTION OF THE  
12 EDUCATIONAL RETIREMENT ACT TO DEFINE THE TERM "SUBSTITUTE" AND  
13 TO CLARIFY THE MEMBERSHIP STATUS FOR PERSONS EMPLOYED AS  
14 SUBSTITUTES.

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

17 SECTION 1. Section 22-11-2 NMSA 1978 (being Laws 1967,  
18 Chapter 16, Section 126, as amended) is amended to read:

19 "22-11-2. DEFINITIONS.--As used in the Educational  
20 Retirement Act:

21 A. "member" means an employee, except for a  
22 participant or a retired member, coming within the provisions  
23 of the Educational Retirement Act;

24 B. "regular member" means:

25 (1) a person regularly employed as a teaching,

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1 nursing or administrative employee of a state educational  
2 institution, except for:

3 (a) a participant; or

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

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

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

16 (4) a person regularly employed as a teaching,  
17 nursing or administrative employee of the New Mexico boys'  
18 school, the [~~New Mexico~~] girls' [~~school~~] welfare home, the Los  
19 Lunas medical center or a school district or as a licensed  
20 school employee of a state institution or agency providing an  
21 educational program and holding a license issued by the  
22 department, except for a participant or a substitute as defined  
23 in this section;

24 (5) a person regularly employed by the  
25 department holding a license issued by the department at the

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1 time of commencement of such employment;

2 (6) a member classified as a regular member in  
3 accordance with the rules of the board;

4 (7) a person regularly employed by the New  
5 Mexico activities association holding a license issued by the  
6 department at the time of commencement of such employment; or

7 (8) a person regularly employed by a regional  
8 education cooperative holding a license issued by the  
9 department at the time of commencement of such employment;

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

17 D. "local administrative unit" means an employing  
18 agency however constituted that is directly responsible for the  
19 payment of compensation for the employment of members or  
20 participants;

21 E. "beneficiary" means a person having an insurable  
22 interest in the life of a member or a participant designated by  
23 written instrument duly executed by the member or participant  
24 and filed with the director to receive a benefit pursuant to  
25 the Educational Retirement Act that may be received by someone

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1 other than the member or participant;

2 F. "employment" means employment by a local  
3 administrative unit that qualifies a person to be a member or  
4 participant;

5 G. "service employment" means employment that  
6 qualifies a person to be a regular member;

7 H. "provisional service employment" means  
8 employment that qualifies a person to be a provisional member;

9 I. "prior employment" means employment performed  
10 prior to the effective date of the Educational Retirement Act  
11 that would be service employment or provisional service  
12 employment if performed thereafter;

13 J. "service credit" means that period of time with  
14 which a member is accredited for the purpose of determining  
15 [~~his~~] the member's eligibility for and computation of  
16 retirement or disability benefits;

17 K. "earned service credit" means that period of  
18 time during which a member was engaged in employment or prior  
19 employment with which [~~he~~] the member is accredited for the  
20 purpose of determining [~~his~~] the member's eligibility for  
21 retirement or disability benefits;

22 L. "allowed service credit" means that period of  
23 time during which a member has performed certain nonservice  
24 employment with which [~~he~~] the member may be accredited, as  
25 provided in the Educational Retirement Act, for the purpose of

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1 computing retirement or disability benefits;

2 M. "retirement benefit" means an annuity paid  
3 monthly to members whose employment has been terminated by  
4 reason of their age;

5 N. "disability benefit" means an annuity paid  
6 monthly to members whose employment has been terminated by  
7 reason of a disability;

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

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

10 Q. "director" means the educational retirement  
11 director;

12 R. "medical authority" means a medical doctor  
13 within the state or as provided in Subsection D of Section  
14 22-11-36 NMSA 1978 either designated or employed by the board  
15 to examine and report on the physical condition of applicants  
16 for or recipients of disability benefits;

17 S. "actuary" means a person trained and regularly  
18 engaged in the occupation of calculating present and projected  
19 monetary assets and liabilities under annuity or insurance  
20 programs;

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

25 U. "contributory employment" means employment for

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1 which contributions have been made by both a member and a local  
2 administrative unit pursuant to the Educational Retirement Act;

3 V. "qualifying state educational institution" means  
4 the university of New Mexico, New Mexico state university, New  
5 Mexico institute of mining and technology, New Mexico highlands  
6 university, eastern New Mexico university, western New Mexico  
7 university, [~~Albuquerque technical-vocational institute~~]  
8 central New Mexico community college, Clovis community college,  
9 Luna [~~vocational-technical institute, Mesa technical~~] community  
10 college, Mesalands community college, New Mexico junior  
11 college, northern New Mexico state school, San Juan college and  
12 Santa Fe community college;

13 W. "participant" means:

14 (1) a person regularly employed as a faculty  
15 or professional employee of the university of New Mexico, New  
16 Mexico state university, New Mexico institute of mining and  
17 technology, New Mexico highlands university, eastern New Mexico  
18 university or western New Mexico university who first becomes  
19 employed with such an educational institution on or after July  
20 1, 1991, or a person regularly employed as a faculty or  
21 professional employee of the [~~Albuquerque technical-vocational~~  
22 ~~institute~~] central New Mexico community college, Clovis  
23 community college, Luna [~~vocational-technical institute, Mesa~~  
24 ~~technical~~] community college, Mesalands community college, New  
25 Mexico junior college, northern New Mexico state school, San

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1 Juan college or Santa Fe community college who is first  
2 employed by the institution on or after July 1, 1999 and who  
3 elects, pursuant to Section 22-11-47 NMSA 1978, to participate  
4 in the alternative retirement plan; and

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

12 X. "salary" means the compensation or wages paid to  
13 a member or participant by any local administrative unit for  
14 services rendered. "Salary" includes payments made for annual  
15 or sick leave and payments for additional service provided to  
16 related activities, but does not include payments for sick  
17 leave not taken unless the payment for the unused sick leave is  
18 made through continuation of the member on the regular payroll  
19 for the period represented by that payment and does not include  
20 allowances or reimbursements for travel, housing, food,  
21 equipment or similar items;

22 Y. "alternative retirement plan" means the  
23 retirement plan provided for in Sections 22-11-47 through  
24 22-11-52 NMSA 1978; [~~and~~]

25 Z. "retired member" means a person whose employment

1 has been terminated by reason of age and who is receiving or is  
2 eligible to receive retirement benefits; and

3 AA. "substitute" means a person paid as a  
4 substitute in accordance with the rules and procedures adopted  
5 for the uniform system of accounting and budgeting for all  
6 public schools."

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