HOUSE BILL 280

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

MARY HELEN GARCIA

AN ACT

RELATING TO EDUCATION; AMENDING THE EDUCATIONAL RETIREMENT ACT
TO ALLOW PROVISIONAL MEMBERS TO ACQUIRE EARNED SERVICE CREDIT
FOR CERTAIN PERIODS OF EMPLOYMENT.

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

Section 1. Section 22-11-17 NMSA 1978 (being Laws 1967,
Chapter 16, Section 141, as amended) is amended to read:

"22-11-17. PROVISIONAL MEMBERSHIP.--

A. A provisional member shall be covered by the
provisions of the Educational Retirement Act but shall have the
option to exempt himself from its coverage. A provisional
member exempting himself from the provisions of the Educational
Retirement Act shall not be entitled to the benefits or coverage
under any other state retirement program except as otherwise
provided in this section. This section shall not affect any

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1   rights a provisional member may have under the provisions of the

2   federal Social Security Act. This option to exempt must be

3   exercised within one year of employment according to the

4   regulations adopted by the board. Any provisional member

5   exempting himself pursuant to this section shall be entitled to

6   a refund of any contributions made pursuant to the Educational

7   Retirement Act prior to the exercise of the exemption.

8   B.   A provisional member not exempt from the coverage

9   of the Educational Retirement Act shall have the right to earned

10   service-credit for periods of employment subsequent to July 1,

11   1957 and prior to July 1, 1961, provided that all contributions

12   at the rates in effect during that period of employment are

13   paid. If a provisional member chooses to make the contributions

14   for that period, the local administrative unit employing a

15   member during that period shall pay the employer's contribution

16   at the rate in effect during that period of employment.

17   Contributions prior to July 1, 1961 by both the provisional

18   member and the local administrative unit shall bear interest at

19   the rate of three percent a year from July 1, 1961 until paid.

20   C.   A provisional member exempt from the coverage of

21   the provisions of the Educational Retirement Act shall have the

22   right to revoke the exemption at any time; however, within the

23   first two weeks following the beginning of each school year,

24   such provisional member shall be informed by the local

25   administrative unit in writing of his right to revoke the

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exemption and shall sign a statement to the effect that he does
or does not wish to revoke the exemption. A copy of such
statement shall be kept by the local administrative unit in the
personnel file of the provisional member. Any provisional
member who revokes his exemption from coverage shall have the
right to acquire earned service-credit for periods of employment
during which the exemption or exemptions were in force, under
the following conditions:

    (1) both the member and the administrative unit
contributions, at the rates in effect during the periods of
employment and applied to the earnings of the member during such
periods, shall be paid to the fund, together with interest, at a
rate equal to the actuarial assumption rate by the board;

    (2) member and administrative unit
contributions, together with interest, may both be paid by the
member; or

    (3) if the member tenders payment of his
contributions, together with interest, the local administrative
unit by whom he was employed may, but shall not be obligated to,
pay the administrative unit contributions, together with
interest; and

    (4) the right of a member to acquire earned
service-credit in accordance with this subsection shall expire
on June 30, 2001.

    D. A provisional member employed by the board, the

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1   department of education, the New Mexico school for the deaf, the

2   northern New Mexico state school, the New Mexico school for the

3   visually handicapped, the New Mexico girls' school, the New

4   Mexico boys' school or the Los Lunas mental hospital shall have

5   the option of qualifying for coverage under either the

6   Educational Retirement Act or the public employees retirement

7   association of New Mexico. This option shall be exercised by

8   filing a written election with both the educational retirement

9   director and the [director] executive secretary of the public

10 employees retirement association of New Mexico. This election

11 shall be made within six months after employment and shall be

12 irrevocable regardless of subsequent employment or reemployment

13 in any administrative unit enumerated in this subsection. Until

14 this election is made, the provisional member shall be covered

15 and shall be required to make contributions under the

16 Educational Retirement Act."

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State of New Mexico

House of Representatives

FORTY-THIRD LEGISLATURE

FIRST SESSION, 1997

February 14, 1997

Mr. Speaker:

Your **EDUCATION COMMITTEE,** to whom has been referred

HOUSE BILL 280

has had it under consideration and reports same with
recommendation that it **DO PASS**, and thence referred to the
APPROPRIATIONS AND FINANCE COMMITTEE.

Respectfully submitted,

_____

Samuel F. Vigil, Chairman

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2 Adopted _____   Not Adopted _____

3

4   (Chief Clerk)   (Chief Clerk)

5   Date _____

6

7 The roll call vote was_8_ For_0_ Against

8 Yes: 8

9 Excused: McSherry, Miera, Nicely, Weeks, S.M. Williams

10 Absent: None

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State of New Mexico
House of Representatives

March 3, 1997

Mr. Speaker:

   Your **APPROPRIATIONS AND FINANCE COMMITTEE,** to
whom has been referred

HOUSE BILL 280

has had it under consideration and reports same with
recommendation that it **DO PASS.**

Respectfully submitted,

_____

Max Coll, Chairman

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1

2 Adopted _____   Not Adopted _____

3

4   (Chief Clerk)   (Chief Clerk)

5   Date _____

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7 The roll call vote was <u>8</u> For <u>4</u> Against

8 Yes: 8

9 No: Bird, Buffett, Marquardt, Pearce

10 Excused: Abeyta, Garcia, M.H., Knowles, Townsend, Wallace

   Absent: None

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<u>Underscored material</u> = new
[bracketed material] = delete

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 15, 1997

Mr. President:

Your **EDUCATION COMMITTEE**, to whom has been referred

HOUSE BILL 280

has had it under consideration and reports same with recommendation that it **DO PASS**, and thence referred to the **FINANCE COMMITTEE.**

Respectfully submitted,

_____

Cynthia Nava, Chairman

Underscored material = new
[bracketed material] = delete

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Adopted_____   Not Adopted_____

           (Chief Clerk)   (Chief Clerk)

              Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Boitano, Duran, Gorham, Rawson

Absent: None

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FORTY-THIRD LEGISLATURE

FIRST SESSION, 1997

March 17, 1997

Mr. President:

Your **FINANCE COMMITTEE**, to whom has been referred

HOUSE BILL 280

has had it under consideration and reports same with

recommendation that it **DO PASS**.

Respectfully submitted,

_____

Ben D. Altamirano, Chairman

Adopted_____ Not Adopted_____

Underscored material = new
[bracketed material] = delete

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(Chief Clerk)   (Chief Clerk)

Date _____

The roll call vote was 6 For 1 Against

Yes: 6

No: Lyons

Excused: Aragon, Campos, Carraro, McKibben

Absent: None

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