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SENATE BILL 22

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

Cynthia Nava

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; ALLOWING FOR THE PICK UP  
AND ROLLOVER OF CERTAIN CONTRIBUTIONS.

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

Section 1. A new section of the Educational Retirement  
Act is enacted to read:

" [NEW MATERIAL] PICK UP--ROLLOVER. --

A. Commencing on July 1, 1998, each local  
administrative unit may, solely for the purpose of compliance  
with Section 414(h) of the Internal Revenue Code, pick up, for  
the purposes specified in that section, member contributions  
permitted by Paragraph 4 of Subsection A of Section 22-11-34  
NMSA 1978. Member contributions picked up under the  
provisions of this subsection shall be treated as local  
administrative unit contributions for purposes of determining

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1 income tax obligations under the Internal Revenue Code;  
2 however, such picked-up member contributions shall be included  
3 in the determination of the member's gross annual salary for  
4 all other purposes under federal and state laws. Member  
5 contributions picked up under this section shall continue to  
6 be designated member contributions for all purposes of the  
7 Educational Retirement Act and shall be considered as part of  
8 the member's annual salary for purposes of determining the  
9 amount of the member's contribution. The provisions of this  
10 section are voluntary, and the member shall have no option  
11 concerning the pick up to receive the contributed amounts  
12 directly instead of having them paid by the local  
13 administrative unit to the fund.

14 B. Commencing July 1, 1998, the educational  
15 retirement board may accept rollover contributions from other  
16 retirement funds solely for and subject to the restrictions  
17 set forth in Subsection B of Section 22-11-34 NMSA 1978 and  
18 applicable restrictions set forth in the Internal Revenue Code  
19 for pension plan qualification. "

1 FORTY-THIRD LEGISLATURE  
2 SECOND SESSION, 1998  
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6 January 22, 1998  
7

8 Mr. President:  
9

10 Your COMMITTEES' COMMITTEE, to whom has been referred  
11

12 SENATE BILL 22  
13

14 has had it under consideration and finds same to be GERMANE, in  
15 accordance with constitutional provisions, and thence referred to  
16 the EDUCATION COMMITTEE.  
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18  
19 Respectfully submitted,  
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25 \_\_\_\_\_  
Manny M. Aragon, Chairman

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

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(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

S0022CC1

1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

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4  
5 January 27, 1998

6  
7 Mr. President:

8  
9 Your EDUCATION COMMITTEE, to whom has been referred

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11 SENATE BILL 22

12  
13 has had it under consideration and reports same with recommendation  
14 that it DO PASS, and thence referred to the FINANCE COMMITTEE.  
15

16  
17 Respectfully submitted,

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22 Cynthia Nava, Chairman  
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25 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

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Date \_\_\_\_\_

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Boitano, Duran, Garcia, Rodriguez

Absent: None

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1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

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5  
6 February 2, 1998

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8 Mr. President:

9  
10 Your FINANCE COMMITTEE, to whom has been referred

11  
12 SENATE BILL 22

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

16  
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18 Respectfully submitted,

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22 \_\_\_\_\_  
23 Ben D. Altamirano, Chairman  
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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

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Date \_\_\_\_\_

The roll call vote was 6 For 0 Against

Yes: 6

No: None

Excused: Aragon, Carraro, Ingle, Lyons, McKibben

Absent: None

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Underscored material = new  
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1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

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5  
6 February 16, 1998

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8 Mr. Speaker:

9  
10 Your EDUCATION COMMITTEE, to whom has been referred

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12 SENATE BILL 22

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14 has had it under consideration and reports same with  
15 recommendation that it DO PASS, amended as follows:

16 1. On page 2, between lines 19 and 20, insert:

17  
18 "Section 2. A new section of the Educational Retirement Act  
19 is enacted to read:

20  
21 "NEW MATERIAL CORRECTION OF ERRORS AND OMISSIONS--ESTOPPEL.--

22  
23 A. If an error or omission in an application for retirement  
24 or its supporting documents results in an overpayment to a member or  
25 the beneficiary of a member, the board shall correct the error or  
omission and adjust all future payments accordingly. The board shall  
recover all overpayments that are made.

1 FORTY-THIRD LEGISLATURE  
2 SECOND SESSION, 1998

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4 B. A member or the beneficiary of a member who is paid more  
5 than the amount he is owed because he provided fraudulent information  
6 on his application for retirement shall be liable for the repayment  
7 of that amount to the fund, interest on that amount at the rate set  
8 by the board and costs of collection, including attorney fees.  
9 Recovery of overpayments shall extend back to the date of the first  
10 payment that was made based on fraudulent information.

11 C. The board shall not be estopped from acting in  
12 accordance with applicable statutes because of statements of fact or  
13 law made by the board or its employees. "

14  
15 Section 3. Section 22-11-34 NMSA 1978 (being Laws 1967,  
16 Chapter 16, Section 157, as amended) is amended to read:

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3 SB 22

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"22- 11- 34. ALLOWED SERVICE CREDIT. --

A. A member shall be certified to have acquired allowed service credit pursuant to the Internal Revenue Code of 1986 for those periods of time when he was:

(1) employed prior to the effective date of the Educational Retirement Act in ~~[ any ]~~ a federal educational program within New Mexico, including United States Indian schools and civilian conservation corps camps. This service credit shall be allowed without contribution;

(2) engaged in military service that interrupted his employment in New Mexico if he returned to his employment within eighteen months following honorable discharge. This service credit shall be allowed without contribution;

(3) engaged in United States military service or the commissioned corps of the public health service from which he was honorably discharged if he contributes to the fund a sum equal to ten and one-half percent of his average annual salary for that period of time for which he has acquired earned service credit ~~[ under ]~~ pursuant to the Educational Retirement Act and subject to the federal Uniformed Services Employment and Reemployment Rights Act of 1994 for each year of service credit he desires to purchase. Average annual salary shall be determined in accordance with rules promulgated by

. 120331. 2

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4 the board but shall always be based [~~upon~~] on actual salaries earned  
5 by the member where the actual salaries can be ascertained by the  
6 board. The employer's contributions for service credit shall not be  
7 paid by the employer. The purchase of service credit provided in  
8 this section shall be carried out by the member within three years  
9 after the date of the member's employment following service; or

10  
11 (4) employed:

12 (a) in [~~any~~] a public school or public institution  
13 of higher learning in another state, territory or possession of the  
14 United States;

15  
16 (b) in [~~any~~] a United States military dependents'  
17 school operated by a branch of the armed forces of the United States;

18 (c) as provided in Paragraph (1) of this  
19 subsection after the effective date of the Educational Retirement  
20 Act; or

21  
22 (d) in [~~any~~] a private school or institution of  
23 higher learning in New Mexico whose education program is accredited  
24 or approved by the state board at the time of employment.

25 B. The member or employer under Paragraph (4) of Subsection  
A of this section shall contribute to the fund for each year of

FORTY-THIRD LEGISLATURE  
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4 allowed service credit desired an amount equal to twelve percent of  
5 the member's annual salary at the time payment is made if the member  
6 is employed or twelve percent times the member's annual salary during  
7 the member's last year of employment if the member is not employed at  
8 the time of payment. Contributions paid for the member who is not  
9 employed shall bear interest at the average rate earned by the fund  
10 during the five-fiscal-year period immediately preceding the date of  
11 payment. Such interest shall run from the date the member last  
12 terminated employment to the date of payment. Effective July 1,  
13 2001, the member or employer under Paragraph (4) of Subsection A of  
14 this section shall contribute to the fund for each year of allowed  
15 service credit desired an amount equal to the actuarial value of the  
16 service purchased as defined by the board. Payment pursuant to  
17 Paragraph (4) of Subsection A of this section may be made in  
18 installments, at the discretion of the board, over a period [ of] not  
19 to exceed one year and, if the sum paid does not equal the amount  
20 required for any full year of allowed service credit, the member  
21 shall acquire allowed service credit for that period of time [ which]  
22 that is proportionate to the payment made. Half credit may be  
23 allowed without contribution for not more than ten years of the  
24 educational service described by Subparagraph (a) of Paragraph (4) of  
25 Subsection A of this section if that service was prior to June 13,  
1953 and if the member was employed in New Mexico prior to June 13,  
1953 in [any] a position covered by the Educational Retirement Act or  
[any] a law repealed thereby.

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4 C. No member shall be certified to have acquired allowed  
5 service credit:

6  
7 (1) under any single paragraph or the combination of  
8 only Paragraphs (1) and (4) or only Paragraphs (2) and (3) of  
9 Subsection A of this section in excess of five years; or

10  
11 (2) in excess of ten years for any other combination of  
12 Paragraphs (1) through (4) of Subsection A of this section.

13 D. The provisions of this section are made applicable to  
14 the services described prior to as well as after the effective date  
15 of the Educational Retirement Act. "".

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17 Respectfully submitted,

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22 Rick Mi era, Chai rman  
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1 FORTY-THIRD LEGISLATURE  
2 SECOND SESSION, 1998

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4 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
5 (Chief Clerk) (Chief Clerk)

6  
7 Date \_\_\_\_\_

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9 The roll call vote was 8 For 0 Against

10 Yes: 8

11 Excused: Nicely, Trujillo-Knauer, Vigil, Weeks, S.M Williams

12 Absent: None

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