AN ACT

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

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

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1   except as otherwise provided in this section.   This section

2   shall not affect any rights a provisional member may have

3   [under] pursuant to the provisions of the federal Social

4   Security Act.   This option to exempt must be exercised within

5   one year of employment according to the [regulations] rules

6   adopted by the board.   Any provisional member exempting

7   himself pursuant to this section shall be entitled to a refund

8   of any contributions made pursuant to the Educational

9   Retirement Act prior to the exercise of the exemption.

10   B.   A provisional member not exempt from the

11   coverage of the Educational Retirement Act shall have the

12   right to earned service-credit for periods of employment

13   subsequent to July 1, 1957 and prior to July 1, 1961; provided

14   that all contributions at the rates in effect during that

15   period of employment are paid.   If a provisional member

16   chooses to make the contributions for that period, the local

17   administrative unit employing a member during that period

18   shall pay the employer's contribution at the rate in effect

19   during that period of employment.   Contributions prior to July

20   1, 1961 by both the provisional member and the local

21   administrative unit shall bear interest at the rate of three

22   percent a year from July 1, 1961 until paid.

23   C.   A provisional member exempt from the coverage

24   of the provisions of the Educational Retirement Act shall have

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

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1   the first two weeks following the beginning of each school

2   year, such provisional member shall be informed by the local

3   administrative unit in writing of his right to revoke the

4   exemption and shall sign a statement to the effect that he

5   does or does not wish to revoke the exemption. A copy of such

6   statement shall be kept in the personnel file of the

7   provisional member. Any provisional member who revokes his

8   exemption from coverage shall have the right to acquire earned

9   service-credit for periods of employment during which the

10   exemption or exemptions were in force, under the following

11   conditions:

12   (1)   both the member and the administrative

13   unit contributions, at the rate in effect during the periods

14   of employment and applied to the earnings of the member during

15   such periods, shall be paid to the fund, together with

16   interest, at a rate equal to the actuarial assumption rate by

17   the board;

18   (2)   member and administrative unit

19   contributions, together with interest, may both be paid by the

20   member; or

21   (3)   if the member tenders payment of his

22   contributions, together with interest, the local

23   administrative unit by whom he was employed may, but shall not

24   be obligated to, pay the administrative unit contributions,

25   together with interest; and

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1   (4)   the right of a member to acquire earned

2   service credit in accordance with this subsection shall expire

3   on June 30, 2002.

4   D.   A provisional member employed by the board, the

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

6   the northern New Mexico state school, the New Mexico school

7   for the visually handicapped, the New Mexico girls' school,

8   the New Mexico boys' school or the Los Lunas mental hospital

9   shall have the option of qualifying for coverage under either

10   the Educational Retirement Act or the public employees

11   retirement association of New Mexico.   This option shall be

12   exercised by filing a written election with both the

13   educational retirement director and the [director] executive

14   secretary of the public employees retirement association of

15   New Mexico.   This election shall be made within six months

16   after employment and shall be irrevocable regardless of

17   subsequent employment or reemployment in any administrative

18   unit enumerated in this subsection.   Until this election is

19   made, the provisional member shall be covered and shall be

20   required to make contributions under the Educational

21   Retirement Act."

22   Section 2.   Section 22-11-21.3 NMSA 1978 (being Laws

23   1998, Chapter 38, Section 1) is amended to read:

24   "22-11-21.3.   PICK UP--ROLLOVER.--

25   A.   Commencing on July 1, 1998, each local

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1   administrative unit may, solely for the purpose of compliance

2   with Section 414(h) of the Internal Revenue Code, pick up, for

3   the purposes specified in that section, member contributions

4   permitted by Paragraph (4) of Subsection A of Section 22-11-34

5   NMSA 1978; Subsection C of Section 22-11-33 NMSA 1978; and

6   Subsection C of Section 22-11-17 NMSA 1978.   Member

7   contributions picked up under the provisions of this

8   subsection shall be treated as local administrative unit

9   contributions for purposes of determining income tax

10   obligations under the Internal Revenue Code; however, such

11   picked-up member contributions shall be included in the

12   determination of the member's gross annual salary for all

13   other purposes under federal and state laws.   Member

14   contributions picked up under this section shall continue to

15   be designated member contributions for all purposes of the

16   Educational Retirement Act and shall be considered as part of

17   the member's annual salary for purposes of determining the

18   amount of the member's contribution.   The provisions of this

19   section are voluntary, and the member shall have no option

20   concerning the pick up to receive the contributed amounts

21   directly instead of having them paid by the local

22   administrative unit to the fund.   The contribution may be paid

23   through the administrative unit's payroll deduction.

24   B.   Commencing July 1, 1998, the [educational

25   retirement] board may accept rollover contributions from other

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1   retirement funds solely for and subject to the restrictions

2   set forth in Subsection B of Section 22-11-34 NMSA 1978,

3   <u>Section 22-11-17 NMSA 1978</u> and applicable restrictions set

4   forth in the Internal Revenue Code for pension plan

5   qualification."

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FORTY-FOURTH LEGISLATURE

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FIRST SESSION, 1999

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February 15, 1999

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Mr. Speaker:

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

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HOUSE BILL 117

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has had it under consideration and reports same with

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recommendation that it **DO PASS**, and thence referred to the

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APPROPRIATIONS AND FINANCE COMMITTEE.

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Respectfully submitted,

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Rick Miera, Chairman

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HEC/HB 117   Page 8

Adopted _____   Not Adopted _____

(Chief Clerk)   (Chief Clerk)

Date _____

The roll call vote was _9_ For _0_ Against

Yes: 9

Excused: Blanton, Burpo, Dana, Hamilton, Macko, Marquardt, Williams

Absent: None

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

February 20, 1999

Mr. Speaker:

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

HOUSE BILL 117

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

Respectfully submitted,

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Max Coll, Chairman

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Adopted _____   Not Adopted _____

(Chief Clerk)   (Chief Clerk)

Date _____

The roll call vote was __12__ For __0__ Against

Yes: 12

Excused: Abeyta, Marquardt, Parsons, Wallace, Watchman

Absent: None

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4 **FORTY-FOURTH LEGISLATURE**

5 **FIRST SESSION, 1999**

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8 March 10, 1999

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Mr. President:

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11   Your **PUBLIC AFFAIRS COMMITTEE**, to whom has been

12 referred

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14 **HOUSE BILL 117**

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has had it under consideration and reports same with

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recommendation that it **DO PASS**, and thence referred to the

17 **FINANCE COMMITTEE.**

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19 Respectfully submitted,

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24 **Shannon Robinson, Chairman**

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4 Adopted_____ Not

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6   (Chief Clerk)   (Chief Clerk)

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11 The roll call vote was __5__ For __0__ Against

12 Yes: 5

13 No: 0

14 Excused: Feldman, Ingle, Stockard, Smith

15 Absent: None

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FORTY-FOURTH LEGISLATURE

FIRST SESSION, 1999

March 13, 1999

Mr. President:

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

HOUSE BILL 117

has had it under consideration and reports same with

recommendation that it **DO PASS**.

Respectfully submitted,

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Ben D. Altamirano, Chairman

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          (Chief Clerk)   (Chief Clerk)
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The roll call vote was _7_ For _0_ Against
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Yes: 7
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No: 0
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Excused: Eisenstadt, Griego, Ingle, Lyons, Rodriguez, Tsosie
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Absent: None
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