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SENATE BILL 38

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Mary Jane M. Garcia

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; AMENDING A SECTION OF THE
EDUCATIONAL RETIREMENT ACT TO REMOVE CERTAIN RESTRICTIONS ON THE
PURCHASE OF SERVICE CREDIT FOR MILITARY SERVICE.

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

Section 1. Section 22-11-34 NMSA 1978 (being Laws 1967, Chapter 16, Section 157,
as amended) is amended to read:

"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]~~ July 1, 1967 in 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.

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1 This service credit shall be allowed without contribution;

2 (3) engaged in United States military service or the commissioned
3 corps of the public health service from which he was honorably discharged if he contributes to
4 the fund a sum equal to ten and one-half percent of his average annual salary for that period of
5 time for which he has acquired earned service credit pursuant to the Educational Retirement Act
6 and subject to the federal Uniformed Services Employment and Reemployment Rights Act of
7 1994 for each year of service credit he desires to purchase. Average annual salary shall be
8 determined in accordance with rules promulgated by the board but shall always be based on
9 actual salaries earned by the member where the actual salaries can be ascertained by the board.
10 The employer's contributions for service credit shall not be paid by the employer [~~The purchase~~
11 ~~of service credit provided in this section shall be carried out by the member within three years~~
12 ~~after the date of the member's employment following service~~]; or

13 (4) employed:

14 (a) in a public school or public institution of higher learning in
15 another state, territory or possession of the United States;

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

18 (c) as provided in Paragraph (1) of this subsection after [~~the~~
19 ~~effective date of the Educational Retirement Act~~] July 1, 1967; or

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

23 B. The member or employer under Paragraph (4) of Subsection A of this
24 section shall contribute to the fund for each year of allowed service credit desired an amount
25 equal to twelve percent of the member's annual salary at the time payment is made if the
member is employed or twelve percent times the member's annual salary during the member's

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

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

17 (1) under any single paragraph or the combination of only Paragraphs
18 (1) and (4) or only Paragraphs (2) and (3) of Subsection A of this section in excess of five
19 years; or

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

22 D. The provisions of this section are made applicable to the services described
23 prior to as well as after [the effective date of the Educational Retirement Act] July 1, 1967."
24

25 - 3 -

1 **FORTY-FOURTH LEGISLATURE**

2 **FIRST SESSION, 1999**

3
4
5
6 March 8, 1999

7
8 Mr. President:

9
10 Your **PUBLIC AFFAIRS COMMITTEE**, to whom has been referred

11
12 **SENATE BILL 38**

13
14 has had it under consideration and reports same **WITHOUT RECOMMENDATION**, and
15 hence referred to the **EDUCATION COMMITTEE**.
16

17
18 Respectfully submitted,

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22 _____
23 **Shannon Robinson, Chairman**
24

25 Adopted _____ Not Adopted _____

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**FORTY-SECOND LEGISLATURE
SECOND SESSION**

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KEYBOARD(TYPE SLUGS)

(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Feldman, Ingle, Stockard, Smith

Absent: None

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**FORTY-SECOND LEGISLATURE
SECOND SESSION**

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KEYBOARD(TYPE SLUGS)

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**FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999**

SB 38/a

March 14, 1999

Mr. President:

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

SENATE BILL 38

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

1. On page 2, line 9, after "discharged" strike the remainder of the line, strike all of lines 10 through 19 and strike line 20 up to the bracket.
2. On page 3, line 13, after "(4)" insert "or the member under Paragraph (3)".

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**FORTY-SECOND LEGISLATURE
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~~KEYBOARD~~(TYPE SLUGS)

Page 7

3. On page 4, line 1, after "(4)" insert "or the member under Paragraph (3)".

4. On page 4, line 4, after "Paragraph" insert "(3) or".

and thence referred to the **FINANCE COMMITTEE.**

Respectfully submitted,

Cynthia Nava, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

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**FORTY-SECOND LEGISLATURE
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KEYBOARD(TYPE SLUGS)

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**FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999**

SEC/SB 38

Page 2

The roll call vote was 8 For 0 Against

Yes: 8

No: 0

Excused: Garcia, Lopez

Absent: None

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KEYBOARD(TYPE SLUGS)

Page 9

**FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999**

March 17, 1999

Mr. President:

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

SENATE BILL 38, as amended

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

Respectfully submitted,

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**FORTY-SECOND LEGISLATURE
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KEYBOARD(TYPE SLUGS)

Page 10

Ben D. Altamirano, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

No: 0

Excused: Carraro, Ingle, McKibben, Rodriguez, Smith, Tsosie

Absent: None

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**FORTY-SECOND LEGISLATURE
SECOND SESSION**

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KEYBOARD(TYPE SLUGS)

Page 11

**FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999**

March 17, 1999

Mr. President:

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

SENATE BILL 38, as amended

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

Respectfully submitted,

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**FORTY-SECOND LEGISLATURE
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KEYBOARD(TYPE SLUGS)

Page 12

Ben D. Altamirano, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

No: 0

Excused: Carraro, Ingle, McKibben, Rodriguez, Smith, Tsosie

Absent: None

S0038FC1

.125307.1

underscored material = new
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