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AN ACT  
RELATING TO EDUCATIONAL RETIREMENT; ALLOWING CERTAIN RETIREES  
TO RETURN TO WORK WITHOUT A SUSPENSION OF RETIREMENT  
BENEFITS.

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

SECTION 1. Section 22-11-25.1 NMSA 1978 (being Laws  
2001, Chapter 283, Section 2, as amended) is amended to read:

"22-11-25.1. RETURN TO EMPLOYMENT--BENEFITS--  
CONTRIBUTIONS.--

A. Except as otherwise provided in Subsections B,  
F, H and I of this section, until January 1, 2024, a retired  
member who begins employment with a local administrative unit  
at a level greater than one-quarter full-time employee,  
regardless of salary level, is required to suspend the  
member's retirement benefits until the end of that employment  
unless the member has not rendered service to a local  
administrative unit for at least twelve consecutive months  
after the date of retirement.

B. Until January 1, 2024, a retired member who  
retired on or before January 1, 2001, has not suspended or  
been required to suspend retirement benefits pursuant to the  
Educational Retirement Act and returns to employment with a  
local administrative unit is not required to suspend the  
member's retirement benefits.

1 C. A retired member who returns to employment with  
2 a local administrative unit in accordance with this section  
3 is entitled to receive retirement benefits during that  
4 employment but is not entitled to acquire or purchase service  
5 credit for that employment.

6 D. A retired member may return to employment with  
7 a local administrative unit only if the member submits an  
8 application to return to work, on a form prescribed by the  
9 board, the board approves the application and the applicant  
10 complies with other application rules promulgated by the  
11 board.

12 E. A retired member who returns to employment  
13 pursuant to Subsection A, B, F or I of this section shall  
14 make nonrefundable contributions to the fund as would be  
15 required by Section 22-11-21 NMSA 1978 if the retired member  
16 were a non-retired employee. The local administrative unit  
17 employing the retired member shall likewise make  
18 contributions as would be required by that section.

19 F. Until January 1, 2024, a retired member who  
20 retired on or before January 1, 2001, who suspended or was  
21 required to suspend retirement benefits under the Educational  
22 Retirement Act is not required to suspend the member's  
23 retirement benefits if the retired member has not rendered  
24 service to a local administrative unit for an additional  
25 twelve or more consecutive months, not including any part of

1 a summer or other scheduled break or vacation period, after  
2 the initial date of retirement.

3 G. A retired member who returns to employment with  
4 a local administrative unit shall make contributions to the  
5 retiree health care fund during the period of that employment  
6 and in the amount specified in Section 10-7C-15 NMSA 1978.  
7 The local administrative unit employing the retired member  
8 shall likewise make contributions during the period of that  
9 employment and in the amount specified in that section.

10 H. A retired member may return to employment with  
11 a local administrative unit without a suspension of the  
12 member's retirement benefits; provided that:

13 (1) the retired member has not rendered  
14 service to a local administrative unit for at least ninety  
15 days after the date of retirement;

16 (2) prior to the date of retirement, or  
17 within ninety days after the date of retirement, the retired  
18 member did not enter into any formal or informal agreement  
19 with a local administrative unit or with any contractor  
20 providing services to a local administrative unit to return  
21 to employment; and

22 (3) the retired member earns a salary of  
23 less than fifteen thousand dollars (\$15,000) per year.

24 I. A retired member may return to employment with  
25 a local administrative unit without a suspension of the

1 member's retirement benefits; provided that:

2 (1) the retired member has not rendered  
3 service to a local administrative unit for at least ninety  
4 days after the date of retirement; and

5 (2) the retired member returns to employment  
6 for a period of no more than thirty-six consecutive or  
7 nonconsecutive months pursuant to this subsection.

8 J. As used in this section:

9 (1) "rendered service" includes employment,  
10 whether full or part time; substitute teaching; voluntarily  
11 performing duties that would otherwise be, or in the past  
12 have been, performed by a paid employee or independent  
13 contractor; and performing duties as an independent  
14 contractor or an employee of an independent contractor; and

15 (2) "local administrative unit" includes any  
16 entity incorporated, formed or otherwise organized by, or  
17 subject to the control of, a local administrative unit,  
18 regardless of whether the entity is created for profit or  
19 nonprofit purposes."

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