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SENATE BILL 528

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY
Leonard Tsosie

AN ACT

RELATING TO EDUCATION; ENACTING THE FRONTIER TEACHER ACT;
ESTABLISHING RETIREMENT INCENTIVES FOR A FRONTIER TEACHER;
AMENDING SECTIONS OF THE EDUCATIONAL RETIREMENT ACT; MAKING AN
APPROPRIATION; DECLARING AN EMERGENCY.

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

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 3 of this act may be cited as the "Frontier Teacher
Act".

Section 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Frontier Teacher Act:

A. "student-specific assessment" means a three-part
test given annually from grades kindergarten through twelve and
measuring:

- (1) student competence in mathematics, English

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1 and literacy skills as measured in the first month of the
2 school year;

3 (2) student competence in mathematics, English
4 and literacy skills as measured during the final month of the
5 school year; and

6 (3) the difference between the first month and
7 the final month assessment as defined in this section; and

8 B. "frontier" means an area:

9 (1) with a population density of twenty-five
10 persons or less per square mile as measured by the most recent
11 national census; and

12 (2) that includes a student whose residence is
13 ten miles from the school campus.

14 Section 3. [NEW MATERIAL] FRONTIER TEACHER INCENTIVE.--

15 A. The public education department shall award a
16 one-time frontier teacher incentive to a teacher who:

17 (1) has completed ten years of service as a
18 teacher in a frontier area; and

19 (2) has a student whose student-specific
20 assessment demonstrates that the student has improved by two
21 grade levels.

22 B. The public education department shall notify the
23 educational retirement board and the local administrative unit
24 when it awards the incentive to a frontier teacher.

25 C. The educational retirement board shall

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1 promulgate rules pursuant to the Frontier Teacher Act.

2 Section 4. Section 22-2C-4 NMSA 1978 (being Laws 2003,
3 Chapter 153, Section 13, as amended) is amended to read:

4 "22-2C-4. STATEWIDE ASSESSMENT AND ACCOUNTABILITY
5 SYSTEM--INDICATORS--REQUIRED TESTS--ALTERNATIVE TESTS--LIMITS
6 ON ALTERNATIVES TO ENGLISH LANGUAGE READING TEST.--

7 A. The department shall establish a statewide
8 assessment and accountability system that is aligned with the
9 state academic content and performance standards and that
10 measures adequate yearly progress for each student, public
11 school and school district. Adequate yearly progress shall be
12 determined primarily by student academic achievement, as
13 demonstrated by statewide standards-based academic performance
14 tests; however, the department may include other indicators of
15 adequate yearly progress, including graduation rates for high
16 schools and attendance for elementary and middle schools.

17 B. The academic assessment program for adequate
18 yearly progress shall test student achievement as follows by
19 the school year indicated:

20 (1) for grades three through nine and for
21 grade eleven, standards-based academic performance tests in
22 mathematics, reading and language arts and social studies by
23 the 2005-2006 school year; provided that testing in ninth grade
24 and testing in social studies shall not occur until the
25 legislature has provided funding for test development and

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1 implementation;

2 (2) for grades three through nine, standards-
3 based academic performance writing assessment with the writing
4 assessment scoring criteria applied to the extended response
5 writing portions of the language arts criterion-referenced
6 tests by the 2005-2006 school year; and

7 (3) for one of grades three through five and
8 six through nine and for grade eleven, standards-based academic
9 performance tests in science by the 2007-2008 school year.

10 C. The department shall involve appropriate
11 licensed school employees in the development of the standards-
12 based academic performance tests.

13 D. All students shall participate in the academic
14 assessment program. The department shall adopt standards for
15 reasonable accommodations in academic testing for students with
16 disabilities and limited English proficiency, including when
17 and how accommodations may be applied. The legislative
18 education study committee shall review the standards prior to
19 adoption by the department.

20 E. Students who have been determined to be limited
21 English proficient may be allowed to take the standards-based
22 academic performance test in their primary language. A student
23 who has attended school for three consecutive years in the
24 United States shall participate in the English language reading
25 test unless granted a waiver by the department based on

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1 criteria established by the department. An English language
2 reading test waiver may be granted only for a maximum of two
3 additional years and only on a case-by-case basis.

4 F. The department shall establish a statewide
5 student-specific assessment that measures the grade level
6 attainment of a student during the first month and during the
7 final month of a grade level in mathematics, English and
8 literacy."

9 Section 5. Section 22-11-2 NMSA 1978 (being Laws 1967,
10 Chapter 16, Section 126, as amended) is amended to read:

11 "22-11-2. DEFINITIONS.--As used in the Educational
12 Retirement Act:

13 A. "member" means an employee, except for a
14 participant or a retired member, coming within the provisions
15 of the Educational Retirement Act;

16 B. "regular member" means:

17 (1) a person regularly employed as a teaching,
18 nursing or administrative employee of a state educational
19 institution, except for:

20 (a) a participant; or

21 (b) all employees of a general hospital
22 or outpatient clinics thereof operated by a state educational
23 institution named in Article 12, Section 11 of the constitution
24 of New Mexico;

25 (2) a person regularly employed as a teaching,

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1 nursing or administrative employee of a junior college or
2 community college created pursuant to Chapter 21, Article 13
3 NMSA 1978, except for a participant;

4 (3) a person regularly employed as a teaching,
5 nursing or administrative employee of a technical and
6 vocational institute created pursuant to the Technical and
7 Vocational Institute Act, except for a participant;

8 (4) a person regularly employed as a teaching,
9 nursing or administrative employee of the New Mexico boys'
10 school, the New Mexico girls' school, the Los Lunas medical
11 center or a school district or as a licensed school employee of
12 a state institution or agency providing an educational program
13 and holding a license issued by the department, except for a
14 participant;

15 (5) a person regularly employed by the
16 department holding a license issued by the department at the
17 time of commencement of such employment;

18 (6) a member classified as a regular member in
19 accordance with the rules of the board;

20 (7) a person regularly employed by the New
21 Mexico activities association holding a license issued by the
22 department at the time of commencement of such employment; or

23 (8) a person regularly employed by a regional
24 education cooperative holding a license issued by the
25 department at the time of commencement of such employment;

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1 C. "provisional member" means a person not eligible
2 to be a regular member but who is employed by a local
3 administrative unit designated in Subsection B of this section;
4 provided, however, that employees of a general hospital or
5 outpatient clinics thereof operated by a state educational
6 institution named in Article 12, Section 11 of the constitution
7 of New Mexico are not provisional members;

8 D. "frontier teacher" means a member who has
9 received a frontier teacher incentive from the department;

10 ~~[D.]~~ E. "local administrative unit" means an
11 employing agency however constituted that is directly
12 responsible for the payment of compensation for the employment
13 of members or participants;

14 ~~[E.]~~ F. "beneficiary" means a person having an
15 insurable interest in the life of a member or a participant
16 designated by written instrument duly executed by the member or
17 participant and filed with the director to receive a benefit
18 pursuant to the Educational Retirement Act that may be received
19 by someone other than the member or participant;

20 ~~[F.]~~ G. "employment" means employment by a local
21 administrative unit that qualifies a person to be a member or
22 participant;

23 ~~[G.]~~ H. "service employment" means employment that
24 qualifies a person to be a regular member;

25 ~~[H.]~~ I. "provisional service employment" means

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1 employment that qualifies a person to be a provisional member;

2 [~~I.~~] J. "prior employment" means employment
3 performed prior to the effective date of the Educational
4 Retirement Act that would be service employment or provisional
5 service employment if performed thereafter;

6 [~~J.~~] K. "service credit" means that period of time
7 with which a member is accredited for the purpose of
8 determining [~~his~~] the member's eligibility for and computation
9 of retirement or disability benefits;

10 [~~K.~~] L. "earned service credit" means that period
11 of time during which a member was engaged in employment or
12 prior employment with which [~~he~~] the member is accredited for
13 the purpose of determining [~~his~~] the member's eligibility for
14 retirement or disability benefits;

15 [~~L.~~] M. "allowed service credit" means that period
16 of time during which a member has performed certain nonservice
17 employment with which [~~he~~] the member may be accredited, as
18 provided in the Educational Retirement Act, for the purpose of
19 computing retirement or disability benefits;

20 [~~M.~~] N. "retirement benefit" means an annuity paid
21 monthly to members whose employment has been terminated by
22 reason of their age;

23 [~~N.~~] O. "disability benefit" means an annuity paid
24 monthly to members whose employment has been terminated by
25 reason of a disability;

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1 ~~[P.]~~ P. "board" means the educational retirement
2 board;

3 ~~[P.]~~ Q. "fund" means the educational retirement
4 fund;

5 ~~[Q.]~~ R. "director" means the educational retirement
6 director;

7 ~~[R.]~~ S. "medical authority" means a medical doctor
8 within the state or as provided in Subsection D of Section
9 22-11-36 NMSA 1978 either designated or employed by the board
10 to examine and report on the physical condition of applicants
11 for or recipients of disability benefits;

12 ~~[S.]~~ T. "actuary" means a person trained and
13 regularly engaged in the occupation of calculating present and
14 projected monetary assets and liabilities under annuity or
15 insurance programs;

16 ~~[T.]~~ U. "actuarial equivalent" means a sum paid as
17 a current or deferred benefit that is equal in value to a
18 regular benefit, computed upon the basis of interest rates and
19 mortality tables;

20 ~~[U.]~~ V. "contributory employment" means employment
21 for which contributions have been made by both a member and a
22 local administrative unit pursuant to the Educational
23 Retirement Act;

24 ~~[V.]~~ W. "qualifying state educational institution"
25 means the university of New Mexico, New Mexico state

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1 university, New Mexico institute of mining and technology, New
2 Mexico highlands university, eastern New Mexico university,
3 western New Mexico university, Albuquerque technical-vocational
4 institute, Clovis community college, Luna [~~vocational-technical~~
5 ~~institute, Mesa technical~~] community college, Mesalands
6 community college, New Mexico junior college, northern New
7 Mexico state school, San Juan college and Santa Fe community
8 college;

9 [W-] X. "participant" means:

10 (1) a person regularly employed as a faculty
11 or professional employee of the university of New Mexico, New
12 Mexico state university, New Mexico institute of mining and
13 technology, New Mexico highlands university, eastern New Mexico
14 university or western New Mexico university who first becomes
15 employed with such an educational institution on or after July
16 1, 1991, or a person regularly employed as a faculty or
17 professional employee of the Albuquerque technical-vocational
18 institute, Clovis community college, Luna [~~vocational-technical~~
19 ~~institute, Mesa technical~~] community college, Mesalands
20 community college, New Mexico junior college, northern New
21 Mexico state school, San Juan college or Santa Fe community
22 college who is first employed by the institution on or after
23 July 1, 1999 and who elects, pursuant to Section 22-11-47 NMSA
24 1978, to participate in the alternative retirement plan; and

25 (2) a person regularly employed who performs

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1 research or other services pursuant to a contract between a
2 qualifying state educational institution and the United States
3 government or any of its agencies who elects, pursuant to
4 Section 22-11-47 NMSA 1978, to participate in the alternative
5 retirement plan, provided that the research or other services
6 are performed outside the state;

7 ~~[X.]~~ Y. "salary" means the compensation or wages
8 paid to a member or participant by any local administrative
9 unit for services rendered. "Salary" includes payments made
10 for annual or sick leave and payments for additional service
11 provided to related activities, but does not include payments
12 for sick leave not taken unless the payment for the unused sick
13 leave is made through continuation of the member on the regular
14 payroll for the period represented by that payment and does not
15 include allowances or reimbursements for travel, housing, food,
16 equipment or similar items;

17 ~~[Y.]~~ Z. "alternative retirement plan" means the
18 retirement plan provided for in Sections 22-11-47 through
19 22-11-52 NMSA 1978; and

20 ~~[Z.]~~ AA. "retired member" means a person whose
21 employment has been terminated by reason of age and who is
22 receiving or is eligible to receive retirement benefits."

23 Section 6. Section 22-11-21 NMSA 1978 (being Laws 1967,
24 Chapter 16, Section 144, as amended) is amended to read:

25 "22-11-21. CONTRIBUTIONS--MEMBERS--LOCAL ADMINISTRATIVE
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1 UNITS.--

2 A. Each member shall make contributions to the fund
3 according to the following schedule:

4 (1) through June 30, 2005, an amount equal to
5 seven and six-tenths percent of the member's annual salary;

6 (2) from July 1, 2005 through June 30, 2006,
7 an amount equal to seven and six hundred seventy-five
8 thousandths percent of the member's annual salary;

9 (3) from July 1, 2006 through June 30, 2007,
10 an amount equal to seven and seventy-five hundredths percent of
11 the member's annual salary;

12 (4) from July 1, 2007 through June 30, 2008,
13 an amount equal to seven and eight hundred twenty-five
14 thousandths percent of the member's annual salary; and

15 (5) on and after July 1, 2008, an amount equal
16 to seven and nine-tenths percent of the member's annual salary.

17 B. Each local administrative unit shall make an
18 annual contribution to the fund according to the following
19 schedule:

20 (1) through June 30, 2005, a sum equal to
21 eight and sixty-five hundredths percent of the annual salary of
22 each member employed by the local administrative unit;

23 (2) from July 1, 2005 through June 30, 2006, a
24 sum equal to nine and forty-hundredths percent of the annual
25 salary of each member employed by the local administrative

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1 unit;

2 (3) from July 1, 2006 through June 30, 2007, a
3 sum equal to ten and fifteen-hundredths percent of the annual
4 salary of each member employed by the local administrative
5 unit;

6 (4) from July 1, 2007 through June 30, 2008, a
7 sum equal to ten and ninety-hundredths percent of the annual
8 salary of each member employed by the local administrative
9 unit;

10 (5) from July 1, 2008 through June 30, 2009, a
11 sum equal to eleven and sixty-five hundredths percent of the
12 annual salary of each member employed by the local
13 administrative unit;

14 (6) from July 1, 2009 through June 30, 2010, a
15 sum equal to twelve and four-tenths percent of the annual
16 salary of each member employed by the local administrative
17 unit;

18 (7) from July 1, 2010 through June 30, 2011, a
19 sum equal to thirteen and fifteen-hundredths percent of the
20 annual salary of each member employed by the local
21 administrative unit; and

22 (8) on and after July 1, 2011, a sum equal to
23 thirteen and nine-tenths percent of the annual salary of each
24 member employed by the local administrative unit.

25 C. Each local administrative unit shall make an

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1 annual contribution to the fund for a frontier teacher in an
2 increment as defined by regulation of the board beginning with
3 the calendar year in which the award is made."

4 Section 7. APPROPRIATION.--Ten thousand dollars (\$10,000)
5 is appropriated from the general fund to the public education
6 department for expenditure in fiscal years 2006 and 2007 to
7 promote awareness among teachers and local administrative units
8 of the frontier teacher incentive. Any unexpended or
9 unencumbered balance remaining at the end of fiscal year 2007
10 shall revert to the general fund.

11 Section 8. EMERGENCY.--It is necessary for the public
12 peace, health and safety that this act take effect immediately.

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