

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; AMENDING THE EDUCATIONAL RETIREMENT ACT TO CHANGE RETIREMENT ELIGIBILITY FOR MEMBERS FIRST EMPLOYED ON OR AFTER JULY 1, 2010.

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

Section 1. Section 22-11-23 NMSA 1978 (being Laws 1981, Chapter 293, Section 2, as amended) is amended to read:

"22-11-23. RETIREMENT ELIGIBILITY--INITIAL MEMBERSHIP PRIOR TO JULY 1, 2010.--

A. The retirement eligibility for a member who either was a member on June 30, 2010, or was a member at any time prior to that date and had not, on that date, been refunded all member contributions pursuant to Subsection A of Section 22-11-15 NMSA 1978, is as follows:

(1) a member shall be eligible for retirement benefits pursuant to the Educational Retirement Act when either of the following conditions occurs:

(a) the sum of the member's age and years of earned service-credit equals seventy-five; or

(b) upon completion of five years of earned service-credit and upon becoming sixty-five years of age;

(2) a member under sixty years of age eligible to retire under Paragraph (1) of this subsection may

retire and receive retirement benefits pursuant to the Educational Retirement Act that the member would be eligible to receive if the member were to retire at the age of sixty years reduced by six-tenths of one percent for each one-fourth, or portion thereof, year that retirement occurs prior to the member's sixtieth birthday but after the fifty-fifth birthday, and one and eight-tenths percent for each one-fourth, or portion thereof, year that retirement occurs prior to age fifty-five; or

(3) a member under sixty years of age acquiring twenty-five or more years of earned and allowed service credit may retire and receive retirement benefits pursuant to the Educational Retirement Act computed on the same basis as if the member were sixty years of age.

B. A member shall be subject to the provisions of Paragraphs (2) and (3) of Subsection A of this section as they existed at the beginning of the member's last cumulated four quarters of earned service-credit, regardless of later amendment."

Section 2. A new section of the Educational Retirement Act, Section 22-11-23.1 NMSA 1978, is enacted to read:

"22-11-23.1. RETIREMENT ELIGIBILITY--INITIAL MEMBERSHIP ON OR AFTER JULY 1, 2010.--

A. A member who initially became a member on or after July 1, 2010 or a member who was a member at any time

prior to that date and had, before that date, been refunded all member contributions pursuant to Subsection A of Section 22-11-15 NMSA 1978, shall be eligible for retirement benefits pursuant to the Educational Retirement Act when one of the following conditions occurs:

(1) the member is any age and has thirty or more years of earned service credit;

(2) the member is at least sixty-seven years of age and has five or more years of earned service credit; or

(3) the sum of the member's age and years of earned service credit equals at least eighty; provided that a member who retires pursuant to this paragraph shall be subject to the benefit reductions provided in Paragraphs (1) and (2) of Subsection H of Section 22-11-30 NMSA 1978.

B. A member shall be subject to the provisions of this section as they existed at the beginning of the member's last cumulated four quarters of earned service credit, regardless of later amendment."

Section 3. Section 22-11-30 NMSA 1978 (being Laws 1967, Chapter 16, Section 153, as amended) is amended to read:

"22-11-30. RETIREMENT BENEFITS.--

A. Retirement benefits for a member retired pursuant to the Educational Retirement Act on or before June 30, 1967 shall be paid monthly and shall be one-twelfth of a sum equal to one and one-half percent of the first four

thousand dollars (\$4,000) of the member's average annual salary and one percent of the remainder of the member's average annual salary multiplied by the number of years of the member's total service credit.

B. Retirement benefits for a member retired pursuant to the Educational Retirement Act on or after July 1, 1967 but on or before June 30, 1971 shall be paid monthly and shall be one-twelfth of a sum equal to one and one-half percent of the first six thousand six hundred dollars (\$6,600) of the member's average annual salary and one percent of the remainder of the member's average annual salary multiplied by the number of years of the member's total service credit.

C. Retirement benefits for a member retired pursuant to the Educational Retirement Act on or after July 1, 1971 but on or before June 30, 1974 shall be paid monthly and shall be one-twelfth of a sum equal to one and one-half percent of the member's average annual salary multiplied by the number of years of the member's total service credit.

D. Retirement benefits for a member retired pursuant to the Educational Retirement Act on or before June 30, 1974 but returning to employment on or after July 1, 1974 for a cumulation of one or more years shall be computed pursuant to Subsection E of this section. Retirement benefits for a member retired pursuant to the Educational Retirement Act on or before June 30, 1974 but returning to employment on

or after July 1, 1974 for a cumulation of less than one year shall be computed pursuant to Subsection A of this section if the member's date of last retirement was on or before June 30, 1967 or pursuant to Subsection B of this section if the member's date of last retirement was on or after July 1, 1967 but not later than June 30, 1971 or pursuant to Subsection C of this section if the member's date of last retirement was on or after July 1, 1971 but not later than June 30, 1974.

E. Retirement benefits for a member age sixty or over, retired pursuant to the Educational Retirement Act on or after July 1, 1974 but not later than June 30, 1987, shall be paid monthly and shall be one-twelfth of a sum equal to:

(1) one and one-half percent of the member's average annual salary multiplied by the number of years of service credit for:

(a) prior employment; and

(b) allowed service credit for service performed prior to July 1, 1957, except United States military service credit purchased pursuant to Paragraph (3) of Subsection A of Section 22-11-34 NMSA 1978; plus

(2) two percent of the member's average annual salary multiplied by the number of years of service credit for:

(a) contributory employment;

(b) allowed service credit for service

performed after July 1, 1957; and

(c) United States military service credit for service performed prior to July 1, 1957 and purchased pursuant to Paragraph (3) of Subsection A of Section 22-11-34 NMSA 1978.

F. Retirement benefits for a member age sixty or over, retired pursuant to the Educational Retirement Act on or after July 1, 1987 but not later than June 30, 1991, shall be paid monthly and shall be one-twelfth of a sum equal to two and fifteen hundredths percent of the member's average annual salary multiplied by the number of years of the member's total service credit; provided that this subsection shall not apply to any member who was retired in any of the four quarters ending on June 30, 1987 without having accumulated not less than 1.0 years earned service credit after June 30, 1987.

G. Retirement benefits for a member age sixty or over, retired pursuant to Section 22-11-23 NMSA 1978 on or after July 1, 1991, shall be paid monthly and shall be one-twelfth of a sum equal to two and thirty-five hundredths percent of the member's average annual salary multiplied by the number of years of the member's total service credit; provided that this subsection shall not apply to any member who was retired in any of the four consecutive quarters ending on June 30, 1991 without having accumulated at least one year earned service credit beginning on or after July 1, 1991.

H. Retirement benefits for a member, retired pursuant to Section 22-11-23.1 NMSA 1978, shall be paid monthly and shall be one-twelfth of a sum equal to two and thirty-five hundredths percent of the member's average annual salary multiplied by the number of years of the member's total service credit; provided that the benefit for a member retiring pursuant to Paragraph (3) of Subsection A of Section 22-11-23.1 NMSA 1978 shall be reduced by:

(1) six-tenths of one percent for each one-fourth, or portion thereof, year that retirement occurs prior to the member's sixty-fifth birthday but after the sixtieth birthday; and

(2) one and eight-tenths percent for each one-fourth, or portion thereof, year that retirement occurs prior to the member's sixtieth birthday.

I. A member's average annual salary, pursuant to this section, shall be computed on the basis of the last five years for which contribution was made or upon the basis of any consecutive five years for which contribution was made by the member, whichever is higher; provided, however, that lump-sum payments made after July 1, 2010 of accrued sick leave or annual leave shall be excluded from the calculation of salary.

J. Unless otherwise required by the provisions of the Internal Revenue Code of 1986, members shall begin receiving retirement benefits by age seventy and six months,

or upon termination of employment, whichever occurs later."

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010. \_\_\_\_\_

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