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SENATE BILL 305

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Carlos R. Cisneros

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; AMENDING THE EDUCATIONAL
RETIREMENT ACT; INCREASING EMPLOYEE CONTRIBUTIONS; ESTABLISHING
RETIREMENT ELIGIBILITY REQUIREMENTS FOR PERSONS WHO BECOME
MEMBERS OF THE RETIREMENT PLAN ON OR AFTER JULY 1, 2012.

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

SECTION 1. Section 22-11-21 NMSA 1978 (being Laws 1967,
Chapter 16, Section 144, as amended) is amended to read:

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

A. Except as provided in Subsection C of this
section, each member shall make contributions to the fund
according to the following schedule:

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

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

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

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

10 (5) ~~[on and after]~~ from July 1, 2008 through
11 June 30, 2013, an amount equal to seven and nine-tenths percent
12 of the member's annual salary, except that for members whose
13 annual salary is greater than twenty thousand dollars
14 (\$20,000):

15 (a) from July 1, 2009 through June 30,
16 2011, the member contribution rate shall be nine and four-
17 tenths percent of the member's annual salary;

18 (b) from July 1, 2011 through June 30,
19 2012, the member contribution rate shall be eleven and fifteen-
20 hundredths percent of the member's annual salary; and

21 (c) from July 1, 2012 through June 30,
22 2013, the member contribution rate shall be nine and four-
23 tenths percent of the member's annual salary;

24 (6) from July 1, 2013 through June 30, 2014,
25 an amount equal to nine and nine-tenths percent of the member's

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1 annual salary;

2 (7) from July 1, 2014 through June 30, 2015,
3 an amount equal to ten and four-tenths percent of the member's
4 annual salary;

5 (8) from July 1, 2015 through June 30, 2016,
6 an amount equal to ten and nine-tenths percent of the member's
7 annual salary; and

8 (9) on and after July 1, 2016, an amount equal
9 to eleven and three-tenths percent of the member's annual
10 salary.

11 B. Except as provided in Subsection C of this
12 section, each local administrative unit shall make an annual
13 contribution to the fund according to the following schedule:

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

17 (2) from July 1, 2005 through June 30, 2006, a
18 sum equal to nine and forty-hundredths percent of the annual
19 salary of each member employed by the local administrative
20 unit;

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

25 (4) from July 1, 2007 through June 30, 2008, a

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1 sum equal to ten and ninety-hundredths percent of the annual
2 salary of each member employed by the local administrative
3 unit;

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

8 (6) from July 1, 2009 through June 30, 2011, a
9 sum equal to ten and nine-tenths percent of the annual salary
10 of each member employed by the local administrative unit,
11 except that for members whose annual salary is twenty thousand
12 dollars (\$20,000) or less, the local administrative unit shall
13 contribute twelve and four-tenths percent of the member's
14 annual salary;

15 (7) from July 1, 2011 through June 30, 2012, a
16 sum equal to nine and fifteen-hundredths percent of the annual
17 salary of each member employed by the local administrative
18 unit, except that for members whose annual salary is twenty
19 thousand dollars (\$20,000) or less, the local administrative
20 unit shall contribute twelve and four-tenths percent of the
21 member's annual salary;

22 (8) from July 1, 2012 through June 30, 2013, a
23 sum equal to ten and nine-tenths percent of the annual salary
24 of each member employed by the local administrative unit,
25 except that for members whose annual salary is twenty thousand

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1 dollars (\$20,000) or less, the local administrative unit shall
2 contribute twelve and four-tenths percent of the member's
3 annual salary;

4 (9) from July 1, 2013 through June 30, 2014, a
5 sum equal to thirteen and fifteen-hundredths percent of the
6 annual salary of each member employed by the local
7 administrative unit; and

8 (10) on and after July 1, 2014, a sum equal to
9 thirteen and nine-tenths percent of the annual salary of each
10 member employed by the local administrative unit.

11 C. If, in a calendar year, the salary of a member,
12 initially employed by a local administrative unit on or after
13 July 1, 1996, equals the annual compensation limit set pursuant
14 to Section 401(a)(17) of the Internal Revenue Code of 1986, as
15 amended, then:

16 (1) for the remainder of that calendar year,
17 no additional member contributions or local administrative unit
18 contributions for that member shall be made pursuant to this
19 section; provided that no member shall be denied service credit
20 solely because contributions are not made by the member or on
21 behalf of the member pursuant to the provisions of this
22 subsection; and

23 (2) the amount of the annual compensation
24 limit shall be divided into four equal portions, and, for
25 purposes of attributing contributory employment and crediting

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1 service credit, each portion shall be attributable to one of
2 the four quarters of the calendar year."

3 SECTION 2. A new section of the Educational Retirement
4 Act is enacted to read:

5 "[NEW MATERIAL] RETIREMENT ELIGIBILITY--INITIAL MEMBERSHIP
6 ON OR AFTER JULY 1, 2012.--

7 A. A member who initially became a member on or
8 after July 1, 2012 or a member who was a member at any time
9 prior to that date and had, before that date, been refunded all
10 member contributions pursuant to Subsection A of Section
11 22-11-15 NMSA 1978, shall be eligible for retirement benefits
12 pursuant to the Educational Retirement Act when one of the
13 following conditions occurs:

14 (1) the member is at least fifty-five years of
15 age and has thirty or more years of earned service credit;

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

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

24 B. A member shall be subject to the provisions of
25 this section as they existed at the beginning of the member's

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1 last cumulated four quarters of earned service credit,
2 regardless of later amendment."

3 SECTION 3. Section 22-11-30 NMSA 1978 (being Laws 1967,
4 Chapter 16, Section 153, as amended by Laws 2009, Chapter 286,
5 Section 3 and by Laws 2009, Chapter 288, Section 17) is amended
6 to read:

7 "22-11-30. RETIREMENT BENEFITS.--

8 A. Retirement benefits for a member retired
9 pursuant to the Educational Retirement Act on or before June
10 30, 1967 shall be paid monthly and shall be one-twelfth of a
11 sum equal to one and one-half percent of the first four
12 thousand dollars (\$4,000) of the member's average annual salary
13 and one percent of the remainder of the member's average annual
14 salary multiplied by the number of years of the member's total
15 service credit.

16 B. Retirement benefits for a member retired
17 pursuant to the Educational Retirement Act on or after July 1,
18 1967 but on or before June 30, 1971 shall be paid monthly and
19 shall be one-twelfth of a sum equal to one and one-half percent
20 of the first six thousand six hundred dollars (\$6,600) of the
21 member's average annual salary and one percent of the remainder
22 of the member's average annual salary multiplied by the number
23 of years of the member's total service credit.

24 C. Retirement benefits for a member retired
25 pursuant to the Educational Retirement Act on or after July 1,

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1 1971 but on or before June 30, 1974 shall be paid monthly and
2 shall be one-twelfth of a sum equal to one and one-half percent
3 of the member's average annual salary multiplied by the number
4 of years of the member's total service credit.

5 D. Retirement benefits for a member retired
6 pursuant to the Educational Retirement Act on or before
7 June 30, 1974 but returning to employment on or after July 1,
8 1974 for a cumulation of one or more years shall be computed
9 pursuant to Subsection E of this section. Retirement benefits
10 for a member retired pursuant to the Educational Retirement Act
11 on or before June 30, 1974 but returning to employment on or
12 after July 1, 1974 for a cumulation of less than one year shall
13 be computed pursuant to Subsection A of this section if the
14 member's date of last retirement was on or before June 30, 1967
15 or pursuant to Subsection B of this section if the member's
16 date of last retirement was on or after July 1, 1967 but not
17 later than June 30, 1971 or pursuant to Subsection C of this
18 section if the member's date of last retirement was on or after
19 July 1, 1971 but not later than June 30, 1974.

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

24 (1) one and one-half percent of the member's
25 average annual salary multiplied by the number of years of

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1 service credit for:

2 (a) prior employment; and

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

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

9 (a) contributory employment;

10 (b) allowed service credit for service
11 performed after July 1, 1957; and

12 (c) United States military service
13 credit for service performed prior to July 1, 1957 and
14 purchased pursuant to Paragraph (3) of Subsection A of Section
15 22-11-34 NMSA 1978.

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

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1 G. Retirement benefits for a member age sixty or
2 over, retired pursuant to Section 22-11-23 NMSA 1978 on or
3 after July 1, 1991, shall be paid monthly and shall be one-
4 twelfth of a sum equal to two and thirty-five hundredths
5 percent of the member's average annual salary multiplied by the
6 number of years of the member's total service credit; provided
7 that this subsection shall not apply to any member who was
8 retired in any of the four consecutive quarters ending on June
9 30, 1991 without having accumulated at least one year earned
10 service credit beginning on or after July 1, 1991.

11 H. Retirement benefits for a member, retired
12 pursuant to Section 22-11-23.1 NMSA 1978 or Section 2 of this
13 2012 act, shall be paid monthly and shall be one-twelfth of a
14 sum equal to two and thirty-five hundredths percent of the
15 member's average annual salary multiplied by the number of
16 years of the member's total service credit; provided that the
17 benefit for a member retiring pursuant to Paragraph (3) of
18 Subsection A of Section 22-11-23.1 NMSA 1978 or Paragraph (3)
19 of Subsection A of Section 2 of this 2012 act shall be reduced
20 by:

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

25 (2) one and eight-tenths percent for each one-

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1 fourth, or portion thereof, year that retirement occurs prior
2 to the member's sixtieth birthday.

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

10 J. Unless otherwise required by the provisions of
11 the Internal Revenue Code of 1986, members shall begin
12 receiving retirement benefits by age seventy and six months, or
13 upon termination of employment, whichever occurs later."