

1 SENATE BILL 252

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

3 INTRODUCED BY

4 John Arthur Smith

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10 AN ACT

11 RELATING TO HIGHER EDUCATION; TRANSFERRING CONTROL AND
12 OVERSIGHT OF LUNA COMMUNITY COLLEGE TO NEW MEXICO HIGHLANDS
13 UNIVERSITY IF LUNA COMMUNITY COLLEGE LOSES ITS ACCREDITATION;
14 PROVIDING FOR THE ACCEPTANCE OF CREDITS EARNED AT LUNA
15 COMMUNITY COLLEGE BY NEW MEXICO HIGHLANDS UNIVERSITY.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. Section 21-3-7 NMSA 1978 (being Laws 1893,
19 Chapter 19, Section 6, as amended) is amended to read:

20 "21-3-7. POWERS--SUPERINTENDENT--STUDIES--ADMISSION OF
21 STUDENTS.--~~[SEC. 172. Said]~~

22 A. The boards of regents of New Mexico highlands
23 university and western New Mexico university shall have full
24 and complete power and control over their respective ~~[normal~~
25 ~~schools]~~ universities. Each board shall employ a

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1 superintendent or principal for [~~such school~~] the university
2 who shall have the supervision and control of the [~~school~~]
3 university under such rules [~~and regulations~~] as may be
4 provided by [~~such~~] the board. [~~Such~~] The board shall determine
5 and provide as to what branches of learning shall be taught in
6 [~~such school~~] the university and [~~the~~] their classification and
7 order [~~of the same~~] and shall also direct the number of
8 teachers that shall be employed and [~~shall~~] determine the
9 compensation to be paid to the superintendent and teachers.
10 [~~Such~~] The board shall also prescribe upon what terms and
11 conditions pupils shall be admitted to [~~such school~~] the
12 university, but no pupils shall be admitted who are not
13 residents of this state, except on payment of a tuition fee to
14 be prescribed by the board of regents for each term.

15 B. The board of regents of New Mexico highlands
16 university shall have full and complete power and control over
17 the institution previously named Luna community college. All
18 pupils at the institution previously named Luna community
19 college shall be admitted to New Mexico highlands university,
20 and all credits earned by pupils at the institution previously
21 named Luna community college shall be counted as credits earned
22 at New Mexico highlands university. All degrees and
23 certificates issued by the institution previously named Luna
24 community college may be issued by New Mexico highlands
25 university."

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1 SECTION 2. Section 21-13-4.2 NMSA 1978 (being Laws 2005,
2 Chapter 193, Section 1) is amended to read:

3 "21-13-4.2. NAME CHANGE.--

4 A. [~~Luna vocational-technical institute shall be~~
5 ~~known as "Luna community college", and]~~ Mesa technical college
6 shall be known as "Mesalands community college" and shall be
7 organized as provided in Chapter 21, Article 13 NMSA 1978.

8 B. The [~~governing board of the Luna vocational-~~
9 ~~technical institute shall be the governing board of Luna~~
10 ~~community college, and the]~~ governing board of [~~the~~] Mesa
11 technical college shall be the governing board of the Mesalands
12 community college.

13 C. All taxes levied to pay any principal and
14 interest on bonds of [~~the Luna vocational-technical institute~~
15 ~~or]~~ Mesa technical college for operating, maintaining and
16 providing facilities shall continue in effect until dissolution
17 pursuant to procedures set forth in Chapter 21, Article 13 NMSA
18 1978.

19 D. All references in law to [~~the~~] Luna
20 vocational-technical institute [~~shall be construed to be~~
21 ~~references]~~ or to Luna community college shall be construed to
22 be references to New Mexico highlands university, and all
23 references in law to [~~the~~] Mesa technical college shall be
24 construed to be references to Mesalands community college."

25 SECTION 3. Section 22-11-2 NMSA 1978 (being Laws 1967,
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1 Chapter 16, Section 126, as amended) is amended to read:

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

4 A. "member" means an employee, except for a
5 participant or a retired member, coming within the provisions
6 of the Educational Retirement Act;

7 B. "regular member" means:

8 (1) a person regularly employed by a state
9 educational institution, except for:

10 (a) a participant; or

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

15 (2) a person regularly employed by a junior
16 college or community college created pursuant to Chapter 21,
17 Article 13 NMSA 1978, except for a participant;

18 (3) a person regularly employed by a technical
19 and vocational institute created pursuant to the Technical and
20 Vocational Institute Act, except for a participant;

21 (4) a person regularly employed by the
22 New Mexico boys' school, the girls' welfare home, the Los Lunas
23 medical center or a school district or as a licensed school
24 employee of a state institution or agency providing an
25 educational program and holding a license issued by the

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1 department, except for a participant;

2 (5) a person regularly employed by the
3 department holding a license issued by the department at the
4 time of commencement of such employment;

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

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

10 (8) a person regularly employed by a regional
11 education cooperative holding a license issued by the
12 department at the time of commencement of such employment;

13 C. "provisional member" means a person described in
14 Section 22-11-17 NMSA 1978;

15 D. "local administrative unit" means an employing
16 agency however constituted that is directly responsible for the
17 payment of compensation for the employment of members or
18 participants;

19 E. "beneficiary" means a person having an insurable
20 interest in the life of a member or a participant designated by
21 written instrument duly executed by the member or participant
22 and filed with the director to receive a benefit pursuant to
23 the Educational Retirement Act that may be received by someone
24 other than the member or participant;

25 F. "employment" means employment by a local

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1 administrative unit that qualifies a person to be a member or
2 participant;

3 G. "service employment" means employment that
4 qualifies a person to be a regular member;

5 H. "provisional service employment" means
6 employment that qualifies a person to be a provisional member;

7 I. "prior employment" means employment performed
8 prior to the effective date of the Educational Retirement Act
9 that would be service employment or provisional service
10 employment if performed thereafter;

11 J. "service credit" means that period of time with
12 which a member is accredited for the purpose of determining the
13 member's eligibility for and computation of retirement or
14 disability benefits;

15 K. "earned service credit" means that period of
16 time during which a member was engaged in employment or prior
17 employment with which the member is accredited for the purpose
18 of determining the member's eligibility for retirement or
19 disability benefits;

20 L. "allowed service credit" means that period of
21 time during which a member has performed certain nonservice
22 employment with which the member may be accredited, as provided
23 in the Educational Retirement Act, for the purpose of computing
24 retirement or disability benefits;

25 M. "retirement benefit" means an annuity paid

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1 monthly to members whose employment has been terminated by
2 reason of their age;

3 N. "disability benefit" means an annuity paid
4 monthly to members whose employment has been terminated by
5 reason of a disability;

6 O. "board" means the educational retirement board;

7 P. "fund" means the educational retirement fund;

8 Q. "director" means the educational retirement
9 director;

10 R. "medical authority" means a medical doctor or
11 medical review panel designated or employed by the board to
12 examine medical records and report on the medical condition of
13 applicants for or recipients of disability benefits;

14 S. "actuary" means a person trained and regularly
15 engaged in the occupation of calculating present and projected
16 monetary assets and liabilities under annuity or insurance
17 programs;

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

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

25 V. "qualifying state educational institution" means

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

8 W. "participant" means:

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

24 (2) a person regularly employed who performs
25 research or other services pursuant to a contract between a

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

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

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

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

22 SECTION 4. Section 22-11-47 NMSA 1978 (being Laws 1991,
23 Chapter 118, Section 5, as amended) is amended to read:

24 "22-11-47. ALTERNATIVE RETIREMENT PLAN--ELECTION OF
25 COVERAGE.--

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1 A. Beginning October 1, 1991, any employee of the
2 university of New Mexico, New Mexico state university, New
3 Mexico institute of mining and technology, New Mexico highlands
4 university, eastern New Mexico university or western New Mexico
5 university who is eligible to become a participant may make
6 within ninety days of that date an election to participate in
7 the alternative retirement plan. Beginning October 1, 1999, an
8 employee of central New Mexico community college, Clovis
9 community college, [~~Luna community college~~] Mesalands community
10 college, New Mexico junior college, northern New Mexico
11 college, San Juan college or Santa Fe community college who is
12 eligible to become a participant may make an election to
13 participate in the alternative retirement plan within ninety
14 days of the initial date. Thereafter, any employee who is
15 eligible to become a participant may make within the first
16 ninety days of employment with a qualifying state educational
17 institution an election to participate in the alternative
18 retirement plan. Any employee who makes the election shall
19 become a participant the first day of the first pay period
20 following the election. Any employee who fails to make the
21 election within ninety days of October 1, 1991 or October 1,
22 1999, whichever is applicable, or within the first ninety days
23 of employment with a qualifying state educational institution
24 shall become or remain a regular member if that employee is
25 eligible to be a regular member and shall not later be eligible

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1 to elect to be a participant, regardless of whether the
2 employee subsequently is employed in another position that is
3 eligible for participation in the alternative retirement plan.
4 Except as provided in Subsection D of this section, an election
5 to become a participant is irrevocable.

6 B. Until the time an employee who is eligible to
7 become a participant elects to participate in the alternative
8 retirement plan, that employee shall be a regular member.

9 C. When an employee elects to become a participant,
10 any employer and employee contributions made as a regular
11 member shall be withdrawn from the fund and applied instead
12 toward the alternative retirement plan as if the participant
13 had been participating in the alternative retirement plan from
14 the commencement of employment with the qualifying state
15 educational institution.

16 D. On July 1, 2009, any participant who has made
17 contributions to the alternative retirement plan for a
18 cumulative total of seven years or more shall have a one-time
19 option of electing to become a regular member. Thereafter,
20 once a participant has made contributions to the alternative
21 retirement plan for a cumulative total of seven years, a
22 participant shall have a one-time option of electing to become
23 a regular member. Participants electing to become regular
24 members shall exercise that option within one hundred twenty
25 days of the date of becoming eligible to elect to become a

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1 regular member. Any amounts on deposit in an employee's
2 alternative retirement plan account when a participant becomes
3 a regular member shall remain on deposit with the contractor or
4 carrier subject to that plan's provisions, unless otherwise
5 provided by law. An employee who elects to become a regular
6 member under this subsection shall use the date on which the
7 employee was first employed with a qualifying state educational
8 institution for purposes of determining any retirement
9 eligibility requirement, provided that the employee:

10 (1) may not purchase service credit for
11 periods of employment during which the employee participated in
12 the alternative retirement plan; and

13 (2) shall acquire not less than five years of
14 contributory employment as a regular member as provided for in
15 Section 22-11-24 NMSA 1978 to be eligible for retirement
16 benefits pursuant to the Educational Retirement Act.

17 E. The board shall approve the positions at each
18 qualifying state educational institution that are eligible for
19 participation in the alternative retirement plan."

20 SECTION 5. TEMPORARY PROVISION--LUNA COMMUNITY COLLEGE
21 BOARD OF TRUSTEES--ABOLISHED.--The board of trustees of Luna
22 community college is abolished.

23 SECTION 6. TEMPORARY PROVISION--TRANSFER OF PROPERTY,
24 CONTRACTS AND STATUTORY REFERENCES.--

25 A. On the effective date of this act, all real

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1 property, buildings, furnishings, assets, equipment, functions,
2 appropriations, money, records, furniture, equipment, supplies
3 and other property directly related to Luna community college
4 shall be transferred to New Mexico highlands university.

5 B. On the effective date of this act, all
6 contracts, contractual obligations and liabilities related to
7 Luna community college shall be transferred to New Mexico
8 highlands university.

9 C. On the effective date of this act, all statutory
10 references to Luna community college shall be deemed to be
11 references to New Mexico highlands university.

12 SECTION 7. CONTINGENT EFFECTIVE DATE--NOTIFICATION.--The
13 effective date of the provisions of this act is July 2, 2018 if
14 Luna community college is no longer accredited by an
15 accrediting agency approved by the higher education department
16 on or before July 2, 2018. The higher education department
17 shall notify the New Mexico compilation commission and the
18 director of the legislative council service immediately upon
19 the department's knowledge that Luna community college is no
20 longer accredited by an accrediting agency approved by the
21 department.