

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; AMENDING THE EDUCATIONAL
RETIREMENT ACT TO INCREASE THE NUMBER OF INSTITUTIONS WHOSE
EMPLOYEES MAY PARTICIPATE IN THE ALTERNATIVE RETIREMENT PLAN.

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

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

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

A. "member" means any employee, except for a
participant coming within the provisions of the Educational
Retirement Act;

B. "regular member" means:

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

(a) a participant; or

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

(2) a person regularly employed as a
teaching, nursing or administrative employee of a junior
college or community college created pursuant to Chapter 21,

Article 13 NMSA 1978, except for a participant;

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

(4) a person regularly employed as a teaching, nursing or administrative employee of the New Mexico boys' school, the New Mexico girls' school, the Los Lunas medical center or a school district or as a certified school instructor of a state institution or agency providing an educational program and holding a standard or substandard certificate issued by the state board, except for a participant;

(5) a person regularly employed by the department of education or the board holding a standard or substandard certificate issued by the state board at the time of commencement of such employment;

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

(7) a person regularly employed by the New Mexico activities association holding a standard certificate issued by the state board at the time of commencement of such employment; or

(8) a person regularly employed by a regional education cooperative holding a standard certificate

issued by the state board at the time of commencement of such employment;

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

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

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

F. "employment" means employment by a local administrative unit that qualifies a person to be a member or participant;

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

H. "provisional service employment" means

employment that qualifies a person to be a provisional member;

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

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

K. "earned service credit" means that period of time during which a member was engaged in employment or prior employment with which he is accredited for the purpose of determining his eligibility for retirement or disability benefits;

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

M. "retirement benefit" means an annuity paid monthly to members whose employment has been terminated by reason of their age;

N. "disability benefit" means an annuity paid monthly to members whose employment has been terminated by

reason of a disability;

O. "board" means the educational retirement board;

P. "fund" means the educational retirement fund;

Q. "director" means the educational retirement director;

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

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

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

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

V. "qualifying state educational institution" means the university of New Mexico, New Mexico state

university, New Mexico institute of mining and technology,
New Mexico highlands university, eastern New Mexico
university, western New Mexico university, Albuquerque
technical-vocational institute, Clovis community college,
Luna vocational-technical institute, Mesa technical college,
New Mexico junior college, northern New Mexico state school,
San Juan college and Santa Fe community college;

W. "participant" means:

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

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

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

X. "salary" means the compensation or wages paid to a member or participant by any local administrative unit for services rendered; and

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

Section 2. Section 22-11-47 NMSA 1978 (being Laws 1991, Chapter 118, Section 5) is amended to read:

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

A. Beginning October 1, 1991, any employee of the university of New Mexico, New Mexico state university, New Mexico institute of mining and technology, New Mexico highlands university, eastern New Mexico university or western New Mexico university who is eligible to become a participant may make within ninety days of that date an irrevocable election to participate in the alternative retirement plan. Beginning October 1, 1999, an employee of Albuquerque technical-vocational institute, Clovis community college, Luna vocational-technical institute, Mesa technical

college, New Mexico junior college, northern New Mexico state school, San Juan college or Santa Fe community college who is eligible to become a participant may make an irrevocable election to participate in the alternative retirement plan within ninety days of the initial date. Thereafter, any employee who is eligible to become a participant may make within the first ninety days of employment with a qualifying state educational institution an irrevocable election to participate in the alternative retirement plan. Any employee who makes the irrevocable election shall become a participant the first day of the first pay period following the election. Any employee who fails to make the irrevocable election within ninety days of October 1, 1991 or October 1, 1999, whichever is applicable, or within the first ninety days of employment with a qualifying state educational institution shall become or remain a regular member if that employee is eligible to be a regular member.

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

C. When an employee elects to become a participant, any employer and employee contributions made as a regular member shall be withdrawn from the fund and applied instead toward the alternative retirement plan as if the participant had been participating in the alternative

retirement plan from the commencement of employment with the qualifying state educational institution."

Section 3. Section 22-11-49 NMSA 1978 (being Laws 1991, Chapter 118, Section 7) is amended to read:

"22-11-49. ALTERNATIVE RETIREMENT PLAN--
CONTRIBUTIONS.--

A. Each participant shall contribute an amount equal to the percent of the participant's salary that the participant would have been required to contribute as a regular member. The contribution shall be made in the manner provided for by the board.

B. Each qualifying state educational institution shall contribute on behalf of each participant an amount of the participant's salary equal to the contribution that would have been required of the employer if the participant was, instead, a regular member. Of the contribution made by a qualifying state educational institution on behalf of a participant beginning October 1, 1991, or October 1, 1999, whichever is applicable, a sum equal to three percent of the annual salary of each participant shall be contributed to the fund, and the remainder of the contribution shall be paid to the alternative retirement plan as provided by the board; provided, however, that on July 1 following any report by the actuary to the board that concludes that less than three percent of the contributions made by a qualifying state

educational institution on behalf of its participants is required to satisfy the unfunded actuarial liability attributable to the participation of the participants in the alternative retirement plan, the three percent shall be reduced to the percentage determined by the actuary.

C. Contributions required by the provisions of this section may be made by a reduction in salary or by a public employer pick-up pursuant to any applicable provision of the Internal Revenue Code of 1986, as amended."

Section 4. Section 22-11-51 NMSA 1978 (being Laws 1991, Chapter 118, Section 9) is amended to read:

"22-11-51. BENEFITS.--No retirement, death or other benefit shall be paid by the board from the fund for services credited under the alternative retirement plan. Such benefits are payable to participants or their beneficiaries only by the appropriate alternative retirement plan contractor or carrier in accordance with the terms of the applicable contracts or certificates provided, however, that retirement benefits shall be paid in the form of a lifetime income and, except for death benefits, single sum cash payments shall not be permitted.
