

1 SENATE BILL 303

2 **44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 200**

3 INTRODUCED BY

4 Leonard Lee Rawson

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10 AN ACT

11 RELATING TO EDUCATIONAL RETIREMENT; PROVIDING THAT CERTAIN
12 EMPLOYEES WITH QUALIFYING RETIREMENT PLANS MAY ELECT TO BE
13 EXEMPT FROM THE PROVISIONS OF THE EDUCATIONAL RETIREMENT ACT.
14

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

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

18 "22-11-2. DEFINITIONS.--As used in the Educational
19 Retirement Act:

20 A. "member" means [~~any~~] an employee, except for:
21 [~~a participant coming within the provisions of the~~
22 ~~Educational Retirement Act]~~

23 (1) a participant; or

24 (2) an employee of the physical science
25 laboratory at New Mexico state university who elects to be
exempt pursuant to Section 22-11-46 NMSA 1978;

B. "regular member" means:

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- (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

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1 of commencement of such employment;

2 (6) a member classified as a regular member
3 in accordance with the [~~regulations~~] rules of the board;

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

8 (8) a person regularly employed by a
9 regional education cooperative holding a standard certificate
10 issued by the state board at the time of commencement of such
11 employment;

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

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

23 E. "beneficiary" means a person having an
24 insurable interest in the life of a member or a participant
25 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

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1 be received by someone other than the member or participant;

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

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

7 H. "provisional service employment" means
8 employment that qualifies a person to be a provisional
9 member;

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

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

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

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

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

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

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

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

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

11 R. "medical authority" means a medical doctor
12 within the state or as provided in Subsection D of Section
13 22-11-36 NMSA 1978 either designated or employed by the board
14 to examine and report on the physical condition of applicants
15 for or recipients of disability benefits;

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

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

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

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1 V. "qualifying state educational institution"
2 means the university of New Mexico, New Mexico state
3 university, New Mexico institute of mining and technology,
4 New Mexico highlands university, eastern New Mexico
5 university, western New Mexico university, Albuquerque
6 technical-vocational institute, Clovis community college,
7 Luna vocational-technical institute, Mesa technical college,
8 New Mexico junior college, northern New Mexico state school,
9 San Juan college and Santa Fe community college;

10 W. "participant" means:

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

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

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

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

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

12 Section 2. A new section of the Educational Retirement
13 Act, Section 22-11-46 NMSA 1978, is enacted to read:

14 "22-11-46. [NEW MATERIAL] EXEMPTION FROM COVERAGE--
15 EMPLOYEES OF THE PHYSICAL SCIENCE LABORATORY WITH QUALIFYING
16 RETIREMENT PLANS.--

17 A. An employee of the physical science laboratory
18 at New Mexico state university may elect to be exempted from
19 membership pursuant to the Educational Retirement Act if:

20 (1) the application for the exemption is
21 filed with the director on forms promulgated by the board;

22 (2) the election is made:

23 (a) no later than September 30, 2000
24 for an employee who was employed by the laboratory on January
25 1, 2000 and had less than five years of contributory
employment on January 1, 2000; or

(b) within nine months of beginning

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1 employment with the laboratory, if the employee was initially
2 hired after January 1, 2000; and

3 (3) the employee shows, pursuant to rule of
4 the board, that the employee is a member of a designated
5 retirement plan that meets the requirement for a qualifying
6 plan pursuant to the Internal Revenue Code of 1986, as
7 amended.

8 B. An election filed pursuant to Subsection A of
9 this section shall be approved by the director if he finds
10 that the requirements of that subsection have been met. Upon
11 approval by the director:

12 (1) the employee shall be removed as a
13 member;

14 (2) the employee shall receive no
15 retirement, death or other benefit from the fund except as
16 provided in this section;

17 (3) the director shall transfer an amount
18 equal to the total of the employee's and the employer's
19 previous contributions to the fund plus interest at the
20 average rate earned by the fund during the preceding five
21 fiscal years to the employee's designated qualifying plan;

22 (4) each employee shall contribute to the
23 designated qualifying plan a minimum amount equal to three
24 percent of the employee's salary. The contribution shall be
25 deducted from the employee's salary by New Mexico state
university as the salary is paid and forwarded monthly to the
designated qualifying plan; and

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1 (5) New Mexico state university may
2 contribute on behalf of the employee a matching contribution
3 up to the contribution that would have been required of the
4 university if the employee were a regular member. The
5 contribution shall be made monthly by the university to the
6 designated qualifying plan."

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