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HOUSE BILL 168

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Dani ce R. Pi craux

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

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- 1 educational institution, except for:
- 2 (a) a participant; or
- 3 (b) all employees of a general hospital
- 4 or outpatient clinics thereof operated by a state educational
- 5 institution named in Article 12, Section 11 of the
- 6 constitution of New Mexico;
- 7 (2) a person regularly employed as a
- 8 teaching, nursing or administrative employee of a junior
- 9 college or community college created pursuant to Chapter 21,
- 10 Article 13 NMSA 1978, except for a participant;
- 11 (3) a person regularly employed as a
- 12 teaching, nursing or administrative employee of a technical
- 13 and vocational institute created pursuant to the Technical and
- 14 Vocational Institute Act, except for a participant;
- 15 (4) a person regularly employed as a
- 16 teaching, nursing or administrative employee of the New Mexico
- 17 boys' school, the New Mexico girls' school, the Los Lunas
- 18 medical center or a school district or as a certified school
- 19 instructor of a state institution or agency providing an
- 20 educational program and holding a standard or substandard
- 21 certificate issued by the state board, except for a
- 22 participant;
- 23 (5) a person regularly employed by the
- 24 department of education or the board holding a standard or
- 25 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 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 regional
9 education cooperative holding a standard certificate issued by
10 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 local
14 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 the
18 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

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1 or participant and filed with the director to receive a
2 benefit pursuant to the Educational Retirement Act that may be
3 received by someone other than the member or participant;

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

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

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

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

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

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

24 L. "allowed service credit" means that period of
25 time during which a member has performed certain nonservice

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1 employment with which he may be accredited, as provided in the
2 Educational Retirement Act, for the purpose of computing
3 retirement or disability benefits;

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

7 N. "disability benefit" means an annuity paid
8 monthly to members whose employment has been terminated by
9 reason of a disability;

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

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

12 Q. "director" means the educational retirement
13 director;

14 R. "medical authority" means a medical doctor
15 within the state or as provided in Subsection D of Section
16 22-11-36 NMSA 1978 either designated or employed by the board
17 to examine and report on the physical condition of applicants
18 for or recipients of disability benefits;

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

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

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1 mortality tables;

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

6 V. "qualifying state educational institution"
7 means the university of New Mexico, New Mexico state
8 university, New Mexico institute of mining and technology, New
9 Mexico highlands university, eastern New Mexico university
10 [~~and~~], western New Mexico university, Albuquerque technical-
11 vocational institute, Clovis community college, Luna
12 vocational-technical institute, Mesa technical college, New
13 Mexico junior college, New Mexico military institute, New
14 Mexico school for the deaf, New Mexico school for the visually
15 handicapped, northern New Mexico state school, San Juan
16 college and Santa Fe community college;

17 W. "participant" means:

18 (1) a person regularly employed as a faculty
19 or professional employee of [~~a qualifying state educational~~
20 ~~institution~~] the university of New Mexico, New Mexico state
21 university, New Mexico institute of mining and technology, New
22 Mexico highlands university, eastern New Mexico university or
23 western New Mexico university who first becomes employed with
24 such an educational institution on or after July 1, 1991, or a
25 person regularly employed as a faculty or professional

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1 employee of the Albuquerque technical-vocational institute,
2 Clovis community college, Luna vocational-technical institute,
3 Mesa technical college, New Mexico junior college, New Mexico
4 military institute, New Mexico school for the deaf, New Mexico
5 school for the visually handicapped, northern New Mexico state
6 school, San Juan college or Santa Fe community college who is
7 first employed by the institution on or after July 1, 1999 or
8 who is ineligible for retirement benefits pursuant to Section
9 22-11-24 NMSA 1978 as of July 1, 1999, and who elects,
10 pursuant to Section 22-11-47 NMSA 1978, to participate in the
11 alternative retirement plan; and

12 (2) a person regularly employed who performs
13 research or other services pursuant to a contract between a
14 qualifying state educational institution and the United States
15 government or any of its agencies who elects, pursuant to
16 Section 22-11-47 NMSA 1978, to participate in the alternative
17 retirement plan, provided that the research or other services
18 are performed outside the state;

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

22 Y. "alternative retirement plan" means the
23 retirement plan provided for in Sections 22-11-47 through
24 22-11-52 NMSA 1978. "

25 Section 2. Section 22-11-47 NMSA 1978 (being Laws 1991,

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1 Chapter 118, Section 5) is amended to read:

2 "22-11-47. ALTERNATIVE RETIREMENT PLAN-- ELECTION OF
3 COVERAGE. --

4 A. Beginning October 1, 1991, any employee of the
5 university of New Mexico, New Mexico state university, New
6 Mexico institute of mining and technology, New Mexico
7 highlands university, eastern New Mexico university or western
8 New Mexico university who is eligible to become a participant
9 may make within ninety days of that date an irrevocable
10 election to participate in the alternative retirement plan.
11 Beginning October 1, 1999, an employee of Albuquerque
12 technical-vocational institute, Clovis community college, Luna
13 vocational-technical institute, Mesa technical college, New
14 Mexico junior college, New Mexico military institute, New
15 Mexico school for the deaf, New Mexico school for the visually
16 handicapped, northern New Mexico state school, San Juan
17 college or Santa Fe community college who is eligible to
18 become a participant may make an irrevocable election to
19 participate in the alternative retirement plan within ninety
20 days of the initial date. Thereafter, any employee who is
21 eligible to become a participant may make within the first
22 ninety days of employment with a qualifying state educational
23 institution an irrevocable election to participate in the
24 alternative retirement plan. Any employee who makes the
25 irrevocable election shall become a participant the first day

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1 of the first pay period following the election. Any employee
2 who fails to make the irrevocable election within ninety days
3 of October 1, 1991 or October 1, 1999, whichever is
4 applicable, or within the first ninety days of employment with
5 a qualifying state educational institution shall become or
6 remain a regular member if that employee is eligible to be a
7 regular member. An employee who elects to participate in the
8 alternative retirement plan shall qualify for the refund
9 pursuant to Section 22-11-15 NMSA 1978, but the refund shall
10 be paid to the alternative retirement plan.

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

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

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

23 "22-11-49. ALTERNATIVE RETIREMENT PLAN-- CONTRIBUTIONS. --

24 A. Each participant shall contribute an amount
25 equal to the percent of the participant's salary that the

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1 participant would have been required to contribute as a
2 regular member. The contribution shall be made in the manner
3 provided for by the board.

4 B. Each qualifying state educational institution
5 shall contribute on behalf of each participant an amount of
6 the participant's salary equal to the contribution that would
7 have been required of the employer if the participant was,
8 instead, a regular member. Of the contribution made by a
9 qualifying state educational institution on behalf of a
10 participant beginning October 1, 1991, or October 1, 1999,
11 whichever is applicable, a sum equal to three percent of the
12 annual salary of each participant shall be contributed to the
13 fund, and the remainder of the contribution shall be paid to
14 the alternative retirement plan as provided by the board;
15 provided, however, that on July 1 following any report by the
16 actuary to the board that concludes that less than three
17 percent of the contributions made by a qualifying state
18 educational institution on behalf of its participants is
19 required to satisfy the unfunded actuarial liability
20 attributable to the participation of the participants in the
21 alternative retirement plan, the three percent shall be
22 reduced to the percentage determined by the actuary.

23 C. Contributions required by the provisions of
24 this section may be made by a reduction in salary or by a
25 public employer pick-up pursuant to any applicable provision

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1 of the Internal Revenue Code of 1986, as amended. "

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

4 "22-11-51. BENEFITS. --No retirement, death or other
5 benefit shall be paid by the board from the fund for services
6 credited under the alternative retirement plan. Such benefits
7 are payable to participants or their beneficiaries only by the
8 appropriate alternative retirement plan contractor or carrier
9 in accordance with the terms of the applicable contracts or
10 certificates [~~provided, however, that retirement benefits~~
11 ~~shall be paid in the form of a lifetime income and, except for~~
12 ~~death benefits, single sum cash payments shall not be~~
13 ~~permitted~~]. "

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3
4
5
6 February 17, 1999

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8 Mr. Speaker:

9
10 Your EDUCATION COMMITTEE, to whom has been referred

11
12 HOUSE BILL 168

13
14 has had it under consideration and reports same with
15 recommendation that it DO PASS, amended as follows:

16 1. On page 6, line 13, strike "New Mexico military
17 institute, New", strike line 14 in its entirety and on line
18 15, strike "handicapped,".

19
20 2. On page 7, line 3, strike the second occurrence of
21 "New Mexico", strike line 4 in its entirety and on line 5,
22 strike "school for the visually handicapped,".

23
24 3. On page 7, line 7, strike the second occurrence of
25 "or", strike line 8 in its entirety and on line 9, strike
"22-11-24 NMSA 1978 as of July 1, 1999,".

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1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3 HEC/HB 168

Page 13

4 4. On page 8, line 14, strike "New Mexico military
5 institute, New", strike line 15 in its entirety and on line
6 16, strike "handicapped,".

7
8 5. On page 9, line 7, after the period strike the
9 remainder of the line and strike lines 8 through 10 in their
10 entirety.

11 6. On page 11, lines 10 through 13, strike the
12 brackets and line-through.,

13
14 and thence referred to the APPROPRIATIONS AND FINANCE
15 COMMITTEE.

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17 Respectfully submitted,

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22 Rick Mi era, Chai rman
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HEC/HB 168

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 12 For 0 Against

Yes: 12

Excused: Blanton, Hamilton, Knauer, Marquardt

Absent: None

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J: \99BillSWP\H0168

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1 FORTY- FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3
4 February 23, 1999

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6
7 Mr. Speaker:

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9 Your APPROPRIATIONS AND FINANCE COMMITTEE, to
10 whom has been referred

11 HOUSE BILL 168, as amended

12
13 has had it under consideration and reports same with
14 recommendation that it DO PASS.

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16 Respectfully submitted,

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20 _____
21 Max Coll, Chair man
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

Page 16

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 13 For 0 Against

Yes: 13

Excused: Garcia, M H., Larrañaga, Salazar, Watchman

Absent: None

J: \99BillSWP\H0168

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

March 11, 1999

Mr. President:

Your EDUCATION COMMITTEE, to whom has been referred

HOUSE BILL 168, as amended

has had it under consideration and reports same with
recommendation that it DO PASS.

Respectfully submitted,

Cynthia Nava, Chairman

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Adair, Duran, Gorham, Jennings

Absent: None

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[bracketed material] = delete