

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; REQUIRING RETIRED MEMBERS WHO RETURN TO WORK TO MAKE CERTAIN NONREFUNDABLE PAYMENTS TO THE EDUCATIONAL RETIREMENT FUND; REDUCING THE PAYMENTS MADE TO THE FUND BY THE LOCAL ADMINISTRATIVE UNITS THAT EMPLOY RETIRED MEMBERS.

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

SECTION 1. Section 22-11-25.1 NMSA 1978 (being Laws 2001, Chapter 283, Section 2, as amended) is amended to read:

"22-11-25.1. RETURN TO EMPLOYMENT--BENEFITS CONTINUED--
ADMINISTRATIVE UNIT CONTRIBUTIONS.--

A. Except as provided in Subsections B and F of this section, beginning January 1, 2002 and continuing until January 1, 2022, a retired member may begin employment at a local administrative unit and shall not be required to suspend retirement benefits if the member has not rendered service to a local administrative unit for at least twelve consecutive months after the date of retirement. If the retired member returns to employment without first completing twelve consecutive months of retirement, the retired member shall remove himself or herself from retirement.

B. A retired member who was retired on or before January 1, 2001 and has not since suspended or been required to suspend retirement benefits pursuant to the Educational

Retirement Act may, at any time prior to January 1, 2022, return to employment for a local administrative unit and shall not be required to suspend retirement benefits.

C. A retired member who returns to employment during retirement pursuant to Subsection A, B or F of this section is entitled to continue to receive retirement benefits but is not entitled to acquire service credit or to acquire or purchase service credit in the future for the period of the retired member's reemployment with a local administrative unit.

D. A retired member shall not be eligible to return to employment pursuant to Subsection A, B or F of this section unless an application to return to work, on a form prescribed by the board, has been submitted to, and approved by, the board and the applicant has complied with such other rules as promulgated by the board.

E. A retired member who returns to employment pursuant to Subsection A, B or F of this section shall pay to the fund an amount equal to the member contributions that would be required pursuant to Section 22-11-21 NMSA 1978 if the retired member was a non-retired employee and the local administrative unit employing the retired member shall pay to the fund an amount equal to the local administrative unit contributions that would be required pursuant to that section.

Payments made by a retired member pursuant to this subsection

shall not be refunded.

F. Beginning July 1, 2003 and continuing until January 1, 2022, a retired member who retired on or before January 1, 2001, who subsequently voluntarily suspended or was required to suspend retirement benefits and who has not rendered service to a local administrative unit for at least ninety days may begin employment at a local administrative unit without suspending retirement benefits if the retired member was not employed by a local administrative unit for an additional twelve or more consecutive months after the initial date of the retirement; provided that the ninety-day period shall not include any part of a summer or other scheduled break or vacation period.

G. Both the retired member who returns to employment and the local administrative unit that employs the retired member shall make contributions to the retiree health care fund in the amount specified in Subsections A and B of Section 10-7C-15 NMSA 1978.

H. As used in Subsections A and F of this section:

(1) "rendered service to a local administrative unit" includes employment by a local administrative unit, whether full or part time; substitute teaching; voluntarily performing duties for a local administrative unit that would otherwise be, or in the past have been, performed by a paid employee or independent

contractor; or performing duties for a local administrative unit as an independent contractor or an employee of an independent contractor; and

(2) "local administrative unit" includes any entity incorporated, formed or otherwise organized by, or subject to the control of a local administrative unit, whether or not the entity is created for profit or nonprofit purposes."

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2011._____