

1 HOUSE BILL 269

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

3 INTRODUCED BY

4 Mimi Stewart

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10 AN ACT

11 RELATING TO PENSIONS; AMENDING THE EDUCATIONAL RETIREMENT ACT;  
12 PROVIDING FOR AN INCREASE IN EMPLOYEE CONTRIBUTIONS; INCREASING  
13 AGE AND SERVICE REQUIREMENTS FOR RETIREMENT OF NON-VESTED  
14 MEMBERS.

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

17 SECTION 1. Section 22-11-21 NMSA 1978 (being Laws 1967,  
18 Chapter 16, Section 144, as amended) is amended to read:

19 "22-11-21. CONTRIBUTIONS--MEMBERS--LOCAL ADMINISTRATIVE  
20 UNITS.--

21 A. Except as provided in Subsection C of this  
22 section, each member shall make contributions to the fund  
23 according to the following schedule:

24 (1) through June 30, 2005, an amount equal to  
25 seven and six-tenths percent of the member's annual salary;

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1 (2) from July 1, 2005 through June 30, 2006,  
2 an amount equal to seven and six hundred seventy-five  
3 thousandths percent of the member's annual salary;

4 (3) from July 1, 2006 through June 30, 2007,  
5 an amount equal to seven and seventy-five hundredths percent of  
6 the member's annual salary;

7 (4) from July 1, 2007 through June 30, 2008,  
8 an amount equal to seven and eight hundred twenty-five  
9 thousandths percent of the member's annual salary; ~~and~~

10 (5) ~~on and after~~ from July 1, 2008 through  
11 June 30, 2013, an amount equal to seven and nine-tenths percent  
12 of the member's annual salary, except that for members whose  
13 annual salary is greater than twenty thousand dollars  
14 (\$20,000):

15 (a) from July 1, 2009 through June 30,  
16 2011, the member contribution rate shall be nine and four-  
17 tenths percent of the member's annual salary;

18 (b) from July 1, 2011 through June 30,  
19 2012, the member contribution rate shall be eleven and fifteen-  
20 hundredths percent of the member's annual salary; and

21 (c) from July 1, 2012 through June 30,  
22 2013, the member contribution rate shall be nine and four-  
23 tenths percent of the member's annual salary; and

24 (6) on and after July 1, 2013, nine and four-  
25 tenths percent of the member's annual salary; provided,

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1 however, that if the local administrative unit's annual  
2 contribution per member in Paragraph (9) of Subsection B of  
3 this section is reduced to a sum less than thirteen and  
4 fifteen-hundredths percent of the member's annual salary from  
5 July 1, 2013 through June 30, 2014, the member contribution  
6 rate from July 1, 2013 through June 30, 2014 shall be seven and  
7 nine-tenths percent of the member's annual salary.

8 B. Except as provided in Subsection C of this  
9 section, each local administrative unit shall make an annual  
10 contribution to the fund according to the following schedule:

11 (1) through June 30, 2005, a sum equal to  
12 eight and sixty-five hundredths percent of the annual salary of  
13 each member employed by the local administrative unit;

14 (2) from July 1, 2005 through June 30, 2006, a  
15 sum equal to nine and forty-hundredths percent of the annual  
16 salary of each member employed by the local administrative  
17 unit;

18 (3) from July 1, 2006 through June 30, 2007, a  
19 sum equal to ten and fifteen-hundredths percent of the annual  
20 salary of each member employed by the local administrative  
21 unit;

22 (4) from July 1, 2007 through June 30, 2008, a  
23 sum equal to ten and ninety-hundredths percent of the annual  
24 salary of each member employed by the local administrative  
25 unit;

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1 (5) from July 1, 2008 through June 30, 2009, a  
2 sum equal to eleven and sixty-five hundredths percent of the  
3 annual salary of each member employed by the local  
4 administrative unit;

5 (6) from July 1, 2009 through June 30, 2011, a  
6 sum equal to ten and nine-tenths percent of the annual salary  
7 of each member employed by the local administrative unit,  
8 except that for members whose annual salary is twenty thousand  
9 dollars (\$20,000) or less, the local administrative unit shall  
10 contribute twelve and four-tenths percent of the member's  
11 annual salary;

12 (7) from July 1, 2011 through June 30, 2012, a  
13 sum equal to nine and fifteen-hundredths percent of the annual  
14 salary of each member employed by the local administrative  
15 unit, except that for members whose annual salary is twenty  
16 thousand dollars (\$20,000) or less, the local administrative  
17 unit shall contribute twelve and four-tenths percent of the  
18 member's annual salary;

19 (8) from July 1, 2012 through June 30, 2013, a  
20 sum equal to ten and nine-tenths percent of the annual salary  
21 of each member employed by the local administrative unit,  
22 except that for members whose annual salary is twenty thousand  
23 dollars (\$20,000) or less, the local administrative unit shall  
24 contribute twelve and four-tenths percent of the member's  
25 annual salary;

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1 (9) from July 1, 2013 through June 30, 2014, a  
2 sum equal to thirteen and fifteen-hundredths percent of the  
3 annual salary of each member employed by the local  
4 administrative unit; and

5 (10) on and after July 1, 2014, a sum equal to  
6 thirteen and nine-tenths percent of the annual salary of each  
7 member employed by the local administrative unit.

8 C. If, in a calendar year, the salary of a member,  
9 initially employed by a local administrative unit on or after  
10 July 1, 1996, equals the annual compensation limit set pursuant  
11 to Section 401(a)(17) of the Internal Revenue Code of 1986, as  
12 amended, then:

13 (1) for the remainder of that calendar year,  
14 no additional member contributions or local administrative unit  
15 contributions for that member shall be made pursuant to this  
16 section; provided that no member shall be denied service credit  
17 solely because contributions are not made by the member or on  
18 behalf of the member pursuant to the provisions of this  
19 subsection; and

20 (2) the amount of the annual compensation  
21 limit shall be divided into four equal portions, and, for  
22 purposes of attributing contributory employment and crediting  
23 service credit, each portion shall be attributable to one of  
24 the four quarters of the calendar year."

25 SECTION 2. Section 22-11-23 NMSA 1978 (being Laws 1981,

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1 Chapter 293, Section 2, as amended by Laws 2009, Chapter 286,  
2 Section 1 and by Laws 2009, Chapter 288, Section 14) is amended  
3 to read:

4 "22-11-23. RETIREMENT ELIGIBILITY [~~INITIAL MEMBERSHIP~~  
5 ~~PRIOR TO JULY 1, 2010~~].--

6 A. The retirement eligibility for a member who has  
7 five or more years of service credit on or before June 30, 2012  
8 and who [~~either was a member on June 30, 2010, or was a member~~  
9 ~~at any time prior to~~] on or before that date [~~and~~] had [~~not, on~~  
10 ~~that date~~] been refunded all member contributions pursuant to  
11 Subsection A of Section 22-11-15 NMSA 1978 and had restored all  
12 of the refunded contributions, is as follows:

13 (1) a member shall be eligible for retirement  
14 benefits pursuant to the Educational Retirement Act when either  
15 of the following conditions occurs:

16 (a) the sum of the member's age and  
17 years of earned service credit equals seventy-five; or

18 (b) upon completion of five years of  
19 earned service credit and upon becoming sixty-five years of  
20 age;

21 (2) a member under sixty years of age eligible  
22 to retire under Paragraph (1) of this subsection may retire and  
23 receive retirement benefits pursuant to the Educational  
24 Retirement Act that the member would be eligible to receive if  
25 the member were to retire at the age of sixty years reduced by

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1 six-tenths of one percent for each one-fourth, or portion  
2 thereof, year that retirement occurs prior to the member's  
3 sixtieth birthday but after the fifty-fifth birthday, and one  
4 and eight-tenths percent for each one-fourth, or portion  
5 thereof, year that retirement occurs prior to age fifty-five;  
6 or

7 (3) a member under sixty years of age  
8 acquiring twenty-five or more years of earned and allowed  
9 service credit may retire and receive retirement benefits  
10 pursuant to the Educational Retirement Act computed on the same  
11 basis as if the member were sixty years of age.

12 B. A member shall be subject to the provisions of  
13 Paragraphs (2) and (3) of Subsection A of this section as they  
14 existed at the beginning of the member's last cumulated four  
15 quarters of earned service credit, regardless of later  
16 amendment."

17 SECTION 3. Section 22-11-23.1 NMSA 1978 (being Laws 2009,  
18 Chapter 286, Section 2 and Laws 2009, Chapter 288, Section 15)  
19 is amended to read:

20 "22-11-23.1. RETIREMENT ELIGIBILITY [~~INITIAL MEMBERSHIP~~  
21 ~~ON OR AFTER JULY 1, 2010~~].--

22 A. A member who [~~initially became a member on or~~  
23 ~~after July 1, 2010~~] does not have five or more years of service  
24 credit on or before June 30, 2012 or a member who was a member  
25 at any time prior to that date and had, before that date, been

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1 refunded all member contributions pursuant to Subsection A of  
2 Section 22-11-15 NMSA 1978 and had not restored all of the  
3 refunded contributions, shall be eligible for retirement  
4 benefits pursuant to the Educational Retirement Act when one of  
5 the following conditions occurs:

6 (1) the member is [~~any~~] age fifty-five or  
7 older and has thirty or more years of earned service credit;

8 (2) the member is at least [~~sixty-seven~~]  
9 sixty-five years of age and has five or more years of earned  
10 service credit; or

11 (3) the member is at least fifty-five years of  
12 age and the sum of the member's age and years of earned service  
13 credit equals at least eighty; provided that a member who  
14 retires pursuant to this paragraph shall be subject to the  
15 benefit reductions provided in Paragraphs (1) and (2) of  
16 Subsection H of Section 22-11-30 NMSA 1978.

17 B. A member shall be subject to the provisions of  
18 this section as they existed at the beginning of the member's  
19 last cumulated four quarters of earned service credit,  
20 regardless of later amendment."

21 SECTION 4. Section 22-11-27 NMSA 1978 (being Laws 1967,  
22 Chapter 16, Section 150, as amended) is amended to read:

23 "22-11-27. DEFERRED RETIREMENT--RESTRICTION.--

24 A. A member eligible for retirement may continue in  
25 employment and shall continue to pay contributions as provided

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1 by the Educational Retirement Act.

2 ~~[B. A member may terminate his employment and~~  
3 ~~retire at any time after his age and his earned service credit~~  
4 ~~equal the sum of seventy-five if the contributions he member~~  
5 ~~has made are left in the fund.~~

6 ~~C. A member having five years or more of earned~~  
7 ~~service credit may terminate his employment and retire at any~~  
8 ~~time after reaching the age of sixty-five years if the~~  
9 ~~contributions he has made are left in the fund.]~~

10 B. Provided that the contributions the member has  
11 made are left in the fund, a member who is eligible to retire  
12 pursuant to Subsection A of Section 22-11-23 NMSA 1978 may  
13 terminate employment and retire at any time:

14 (1) if the sum of the member's age and years  
15 of earned service credit equals at least seventy-five; or

16 (2) after the member has at least five years  
17 of earned service credit and is at least sixty-five years of  
18 age.

19 C. Provided that the contributions the member has  
20 made are left in the fund, a member who is eligible to retire  
21 pursuant to Subsection A of Section 22-11-23.1 NMSA 1978 may  
22 terminate employment and retire at any time:

23 (1) if the member is age fifty-five years of  
24 age or older and has thirty or more years of earned service  
25 credit;

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