



The Legislature
of the
State of New Mexico

49th Legislature, 1st Session

LAWS 2009

CHAPTER 286

HOUSE BILL 631, as amended

Introduced by
REPRESENTATIVE RHONDA S. KING
REPRESENTATIVE RICK MIERA



Chapter 286

AN ACT

1
2 RELATING TO EDUCATIONAL RETIREMENT; AMENDING THE EDUCATIONAL
3 RETIREMENT ACT TO CHANGE RETIREMENT ELIGIBILITY FOR MEMBERS
4 FIRST EMPLOYED ON OR AFTER JULY 1, 2010.

5
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

7 Section 1. Section 22-11-23 NMSA 1978 (being Laws 1981,
8 Chapter 293, Section 2, as amended) is amended to read:

9 "22-11-23. RETIREMENT ELIGIBILITY--INITIAL MEMBERSHIP
10 PRIOR TO JULY 1, 2010.--

11 A. The retirement eligibility for a member who
12 either was a member on June 30, 2010, or was a member at any
13 time prior to that date and had not, on that date, been
14 refunded all member contributions pursuant to Subsection A of
15 Section 22-11-15 NMSA 1978, is as follows:

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

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

21 (b) upon completion of five years of
22 earned service-credit and upon becoming sixty-five years of
23 age;

24 (2) a member under sixty years of age
25 eligible to retire under Paragraph (1) of this subsection may

1 retire and receive retirement benefits pursuant to the
2 Educational Retirement Act that the member would be eligible
3 to receive if the member were to retire at the age of sixty
4 years reduced by six-tenths of one percent for each one-
5 fourth, or portion thereof, year that retirement occurs prior
6 to the member's sixtieth birthday but after the fifty-fifth
7 birthday, and one and eight-tenths percent for each one-
8 fourth, or portion thereof, year that retirement occurs prior
9 to age fifty-five; or

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

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

20 Section 2. A new section of the Educational Retirement
21 Act, Section 22-11-23.1 NMSA 1978, is enacted to read:

22 "22-11-23.1. RETIREMENT ELIGIBILITY--INITIAL MEMBERSHIP
23 ON OR AFTER JULY 1, 2010.--

24 A. A member who initially became a member on or
25 after July 1, 2010 or a member who was a member at any time

1 prior to that date and had, before that date, been refunded
2 all member contributions pursuant to Subsection A of Section
3 22-11-15 NMSA 1978, shall be eligible for retirement benefits
4 pursuant to the Educational Retirement Act when one of the
5 following conditions occurs:

6 (1) the member is any age and has thirty or
7 more years of earned service credit;

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

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

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

19 Section 3. Section 22-11-30 NMSA 1978 (being Laws 1967,
20 Chapter 16, Section 153, as amended) is amended to read:

21 "22-11-30. RETIREMENT BENEFITS.--

22 A. Retirement benefits for a member retired
23 pursuant to the Educational Retirement Act on or before
24 June 30, 1967 shall be paid monthly and shall be one-twelfth
25 of a sum equal to one and one-half percent of the first four

1 thousand dollars (\$4,000) of the member's average annual
2 salary and one percent of the remainder of the member's
3 average annual salary multiplied by the number of years of the
4 member's total service credit.

5 B. Retirement benefits for a member retired
6 pursuant to the Educational Retirement Act on or after July 1,
7 1967 but on or before June 30, 1971 shall be paid monthly and
8 shall be one-twelfth of a sum equal to one and one-half
9 percent of the first six thousand six hundred dollars (\$6,600)
10 of the member's average annual salary and one percent of the
11 remainder of the member's average annual salary multiplied by
12 the number of years of the member's total service credit.

13 C. Retirement benefits for a member retired
14 pursuant to the Educational Retirement Act on or after July 1,
15 1971 but on or before June 30, 1974 shall be paid monthly and
16 shall be one-twelfth of a sum equal to one and one-half
17 percent of the member's average annual salary multiplied by
18 the number of years of the member's total service credit.

19 D. Retirement benefits for a member retired
20 pursuant to the Educational Retirement Act on or before
21 June 30, 1974 but returning to employment on or after July 1,
22 1974 for a cumulation of one or more years shall be computed
23 pursuant to Subsection E of this section. Retirement benefits
24 for a member retired pursuant to the Educational Retirement
25 Act on or before June 30, 1974 but returning to employment on

1 or after July 1, 1974 for a cumulation of less than one year
2 shall be computed pursuant to Subsection A of this section if
3 the member's date of last retirement was on or before June 30,
4 1967 or pursuant to Subsection B of this section if the
5 member's date of last retirement was on or after July 1, 1967
6 but not later than June 30, 1971 or pursuant to Subsection C
7 of this section if the member's date of last retirement was on
8 or after July 1, 1971 but not later than June 30, 1974.

9 E. Retirement benefits for a member age sixty or
10 over, retired pursuant to the Educational Retirement Act on or
11 after July 1, 1974 but not later than June 30, 1987, shall be
12 paid monthly and shall be one-twelfth of a sum equal to:

13 (1) one and one-half percent of the member's
14 average annual salary multiplied by the number of years of
15 service credit for:

16 (a) prior employment; and

17 (b) allowed service credit for service
18 performed prior to July 1, 1957, except United States military
19 service credit purchased pursuant to Paragraph (3) of
20 Subsection A of Section 22-11-34 NMSA 1978; plus

21 (2) two percent of the member's average
22 annual salary multiplied by the number of years of service
23 credit for:

24 (a) contributory employment;

25 (b) allowed service credit for service

1 performed after July 1, 1957; and

2 (c) United States military service
3 credit for service performed prior to July 1, 1957 and
4 purchased pursuant to Paragraph (3) of Subsection A of Section
5 22-11-34 NMSA 1978.

6 F. Retirement benefits for a member age sixty or
7 over, retired pursuant to the Educational Retirement Act on or
8 after July 1, 1987 but not later than June 30, 1991, shall be
9 paid monthly and shall be one-twelfth of a sum equal to two
10 and fifteen hundredths percent of the member's average annual
11 salary multiplied by the number of years of the member's total
12 service credit; provided that this subsection shall not apply
13 to any member who was retired in any of the four quarters
14 ending on June 30, 1987 without having accumulated not less
15 than 1.0 years earned service credit after June 30, 1987.

16 G. Retirement benefits for a member age sixty or
17 over, retired pursuant to Section 22-11-23 NMSA 1978 on or
18 after July 1, 1991, shall be paid monthly and shall be one-
19 twelfth of a sum equal to two and thirty-five hundredths
20 percent of the member's average annual salary multiplied by
21 the number of years of the member's total service credit;
22 provided that this subsection shall not apply to any member
23 who was retired in any of the four consecutive quarters ending
24 on June 30, 1991 without having accumulated at least one year
25 earned service credit beginning on or after July 1, 1991.

1 H. Retirement benefits for a member, retired
2 pursuant to Section 22-11-23.1 NMSA 1978, shall be paid
3 monthly and shall be one-twelfth of a sum equal to two and
4 thirty-five hundredths percent of the member's average annual
5 salary multiplied by the number of years of the member's total
6 service credit; provided that the benefit for a member
7 retiring pursuant to Paragraph (3) of Subsection A of Section
8 22-11-23.1 NMSA 1978 shall be reduced by:

9 (1) six-tenths of one percent for each one-
10 fourth, or portion thereof, year that retirement occurs prior
11 to the member's sixty-fifth birthday but after the sixtieth
12 birthday; and

13 (2) one and eight-tenths percent for each
14 one-fourth, or portion thereof, year that retirement occurs
15 prior to the member's sixtieth birthday.

16 I. A member's average annual salary, pursuant to
17 this section, shall be computed on the basis of the last five
18 years for which contribution was made or upon the basis of any
19 consecutive five years for which contribution was made by the
20 member, whichever is higher; provided, however, that lump-sum
21 payments made after July 1, 2010 of accrued sick leave or
22 annual leave shall be excluded from the calculation of salary.

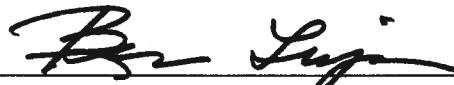
23 J. Unless otherwise required by the provisions of
24 the Internal Revenue Code of 1986, members shall begin
25 receiving retirement benefits by age seventy and six months,

1 or upon termination of employment, whichever occurs later."

2 Section 4. EFFECTIVE DATE.--The effective date of the
3 provisions of this act is July 1, 2010. _____

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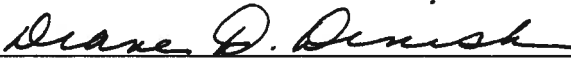
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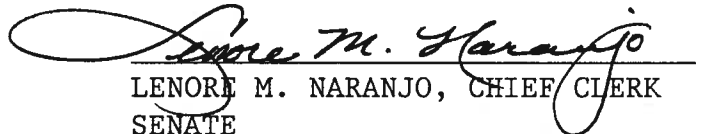
BEN LUJAN, SPEAKER
HOUSE OF REPRESENTATIVES



STEPHEN R. ARIAS, CHIEF CLERK
HOUSE OF REPRESENTATIVES



DIANE D. DENISH, PRESIDENT
SENATE



LENORE M. NARANJO, CHIEF CLERK
SENATE

Approved by me this 10th day of April, 2009



BILL RICHARDSON, GOVERNOR
STATE OF NEW MEXICO

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OFFICE