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AN ACT
RELATING TO RETIREE HEALTH CARE; AMENDING CERTAIN DEFINITIONS
IN THE RETIREE HEALTH CARE ACT TO CONFORM TO THE FEDERAL
PATIENT PROTECTION AND AFFORDABLE CARE ACT; REPEALING
PROVISIONS OF LAW RELATING TO THE DISCOUNT PRESCRIPTION DRUG
PROGRAM.

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

SECTION 1. Section 10-7C-4 NMSA 1978 (being Laws 1990,
Chapter 6, Section 4, as amended) is amended to read:

"10-7C-4. DEFINITIONS.--As used in the Retiree Health
Care Act:

A. "active employee" means an employee of a public
institution or any other public employer participating in
either the Educational Retirement Act, the Public Employees
Retirement Act, the Judicial Retirement Act, the Magistrate
Retirement Act or the Public Employees Retirement Reciprocity
Act or an employee of an independent public employer;

B. "authority" means the retiree health care
authority created pursuant to the Retiree Health Care Act;

C. "basic plan of benefits" means only those
coverages generally associated with a medical plan of
benefits;

D. "board" means the board of the retiree health
care authority;

1 E. "current retiree" means an eligible retiree who
2 is receiving a disability or normal retirement benefit under
3 the Educational Retirement Act, the Public Employees
4 Retirement Act, the Judicial Retirement Act, the Magistrate
5 Retirement Act, the Public Employees Retirement Reciprocity
6 Act or the retirement program of an independent public
7 employer on or before July 1, 1990;

8 F. "eligible dependent" means a person obtaining
9 retiree health care coverage based upon that person's
10 relationship to an eligible retiree as follows:

11 (1) a spouse;

12 (2) a child under the age of twenty-six who
13 is:

14 (a) a natural child;

15 (b) a legally adopted child;

16 (c) a stepchild living in the same
17 household who is primarily dependent on the eligible retiree
18 for maintenance and support;

19 (d) a child for whom the eligible
20 retiree is the legal guardian and who is primarily dependent
21 on the eligible retiree for maintenance and support, as long
22 as evidence of the guardianship is evidenced in a court order
23 or decree; or

24 (e) a foster child living in the same
25 household;

1 (3) a dependent child over twenty-six who is
2 wholly dependent on the eligible retiree for maintenance and
3 support and who is incapable of self-sustaining employment by
4 reason of intellectual disability or physical handicap;
5 provided that proof of incapacity and dependency shall be
6 provided within thirty-one days after the child reaches the
7 limiting age and at such times thereafter as may be required
8 by the board;

9 (4) a surviving spouse defined as follows:

10 (a) "surviving spouse" means the spouse
11 to whom a retiree was married at the time of death; or

12 (b) "surviving spouse" means the spouse
13 to whom a deceased vested active employee was married at the
14 time of death; or

15 (5) a surviving dependent child who is the
16 dependent child of a deceased eligible retiree and whose
17 other parent is also deceased;

18 G. "eligible employer" means either:

19 (1) a "retirement system employer", which
20 means an institution of higher education, a school district
21 or other entity participating in the public school insurance
22 authority, a state agency, state court, magistrate court,
23 municipality, county or public entity, each of which is
24 affiliated under or covered by the Educational Retirement
25 Act, the Public Employees Retirement Act, the Judicial

1 Retirement Act, the Magistrate Retirement Act or the Public
2 Employees Retirement Reciprocity Act; or

3 (2) an "independent public employer", which
4 means a municipality, county or public entity that is not a
5 retirement system employer;

6 H. "eligible retiree" means:

7 (1) a "nonsalaried eligible participating
8 entity governing authority member", which means a person who
9 is not a retiree and who:

10 (a) has served without salary as a
11 member of the governing authority of an employer eligible to
12 participate in the benefits of the Retiree Health Care Act
13 and is certified to be such by the executive director of the
14 public school insurance authority;

15 (b) has maintained group health
16 insurance coverage through that member's governing authority
17 if such group health insurance coverage was available and
18 offered to the member during the member's service as a member
19 of the governing authority; and

20 (c) was participating in the group
21 health insurance program under the Retiree Health Care Act
22 prior to July 1, 1993; or

23 (d) notwithstanding the provisions of
24 Subparagraphs (b) and (c) of this paragraph, is eligible
25 under Subparagraph (a) of this paragraph and has applied

1 before August 1, 1993 to the authority to participate in the
2 program;

3 (2) a "salaried eligible participating
4 entity governing authority member", which means a person who
5 is not a retiree and who:

6 (a) has served with salary as a member
7 of the governing authority of an employer eligible to
8 participate in the benefits of the Retiree Health Care Act;

9 (b) has maintained group health
10 insurance through that member's governing authority, if such
11 group health insurance was available and offered to the
12 member during the member's service as a member of the
13 governing authority; and

14 (c) was participating in the group
15 health insurance program under the Retiree Health Care Act
16 prior to July 1, 1993; or

17 (d) notwithstanding the provisions of
18 Subparagraphs (b) and (c) of this paragraph, is eligible
19 under Subparagraph (a) of this paragraph and has applied
20 before August 1, 1993 to the authority to participate in the
21 program;

22 (3) an "eligible participating retiree",
23 which means a person who:

24 (a) falls within the definition of a
25 retiree, has made contributions to the fund for at least five

1 years prior to retirement and whose eligible employer during
2 that period of time made contributions as a participant in
3 the Retiree Health Care Act on the person's behalf, unless
4 that person retires on or before July 1, 1995, in which event
5 the time period required for employee and employer
6 contributions shall become the period of time between
7 July 1, 1990 and the date of retirement, and who is certified
8 to be a retiree by the educational retirement director, the
9 executive secretary of the public employees retirement board
10 or the governing authority of an independent public employer;

11 (b) falls within the definition of a
12 retiree, retired prior to July 1, 1990 and is certified to be
13 a retiree by the educational retirement director, the
14 executive secretary of the public employees retirement
15 association or the governing authority of an independent
16 public employer; but this paragraph does not include a
17 retiree who was an employee of an eligible employer who
18 exercised the option not to be a participating employer
19 pursuant to the Retiree Health Care Act and did not after
20 January 1, 1993 elect to become a participating employer;
21 unless the retiree: 1) retired on or before June 30, 1990;
22 and 2) at the time of retirement, did not have a retirement
23 health plan or retirement health insurance coverage available
24 from the retiree's employer; or

25 (c) is a retiree who: 1) was at the

1 time of retirement an employee of an eligible employer who
2 exercised the option not to be a participating employer
3 pursuant to the Retiree Health Care Act, but which eligible
4 employer subsequently elected after January 1, 1993 to become
5 a participating employer; 2) has made contributions to the
6 fund for at least five years prior to retirement and whose
7 eligible employer during that period of time made
8 contributions as a participant in the Retiree Health Care Act
9 on the person's behalf, unless that person retires prior to
10 the eligible employer's election to become a participating
11 employer or less than five years after the date participation
12 begins when the participation date begins before
13 July 1, 2009, in which event the time period required for
14 employee and employer contributions shall become the period
15 of time, if any, between the date participation begins and
16 the date of retirement or when the participation date begins
17 on or after July 1, 2009, in which event the person and
18 employer shall contribute to the fund an amount equal to the
19 full actuarial present value of the accrued benefits as
20 determined by the authority; and 3) is certified to be a
21 retiree by the educational retirement director, the executive
22 director of the public employees retirement board or the
23 governing authority of an independent public employer;

24 (4) a "legislative member", which means a
25 person who is not a retiree and who served as a member of the

1 New Mexico legislature for at least two years, but is no
2 longer a member of the legislature and is certified to be
3 such by the legislative council service; or

4 (5) a "former participating employer
5 governing authority member", which means a person, other than
6 a nonsalaried eligible participating entity governing
7 authority member or a salaried eligible participating entity
8 governing authority member, who is not a retiree and who
9 served as a member of the governing authority of a
10 participating employer for at least four years but is no
11 longer a member of the governing authority and whose length
12 of service is certified by the chief executive officer of the
13 participating employer;

14 I. "fund" means the retiree health care fund;

15 J. "group health insurance" means coverage that
16 includes but is not limited to life insurance, accidental
17 death and dismemberment, hospital care and benefits, surgical
18 care and treatment, medical care and treatment, dental care,
19 eye care, obstetrical benefits, prescribed drugs, medicines
20 and prosthetic devices, medicare supplement, medicare
21 carveout, medicare coordination and other benefits, supplies
22 and services through the vehicles of indemnity coverages,
23 health maintenance organizations, preferred provider
24 organizations and other health care delivery systems as
25 provided by the Retiree Health Care Act and other coverages

1 considered by the board to be advisable;

2 K. "ineligible dependents" includes:

3 (1) those dependents created by common law
4 relationships;

5 (2) dependents while in active military
6 service;

7 (3) parents, aunts, uncles, brothers,
8 sisters, grandchildren and other family members left in the
9 care of an eligible retiree without evidence of legal
10 guardianship; and

11 (4) anyone not specifically referred to as
12 an eligible dependent pursuant to the rules adopted by the
13 board;

14 L. "participating employee" means an employee of a
15 participating employer, which employee has not been expelled
16 from participation in the Retiree Health Care Act pursuant to
17 Section 10-7C-10 NMSA 1978;

18 M. "participating employer" means an eligible
19 employer who has satisfied the conditions for participating
20 in the benefits of the Retiree Health Care Act, including the
21 requirements of Subsection M of Section 10-7C-7 NMSA 1978 and
22 Subsection D or E of Section 10-7C-9 NMSA 1978, as
23 applicable;

24 N. "public entity" means a flood control
25 authority, economic development district, council of

1 governments, regional housing authority, conservancy district
2 or other special district or special purpose government; and

3 O. "retiree" means a person who:

4 (1) is receiving:

5 (a) a disability or normal retirement
6 benefit or survivor's benefit pursuant to the Educational
7 Retirement Act;

8 (b) a disability or normal retirement
9 benefit or survivor's benefit pursuant to the Public
10 Employees Retirement Act, the Judicial Retirement Act, the
11 Magistrate Retirement Act or the Public Employees Retirement
12 Reciprocity Act; or

13 (c) a disability or normal retirement
14 benefit or survivor's benefit pursuant to the retirement
15 program of an independent public employer to which that
16 employer has made periodic contributions; or

17 (2) is not receiving a survivor's benefit
18 but is the eligible dependent of a person who received a
19 disability or normal retirement benefit pursuant to the
20 Educational Retirement Act, the Public Employees Retirement
21 Act, the Judicial Retirement Act, the Magistrate Retirement
22 Act or the Public Employees Retirement Reciprocity Act."

23 SECTION 2. Section 10-7C-5 NMSA 1978 (being Laws 1990,
24 Chapter 6, Section 5, as amended by Laws 2002, Chapter 75,
25 Section 1 and by Laws 2002, Chapter 80, Section 1) is amended

1 to read:

2 "10-7C-5. AUTHORITY CREATED.--There is created the
3 "retiree health care authority", which is established to
4 provide for comprehensive group health insurance programs
5 under the Retiree Health Care Act."

6 SECTION 3. REPEAL.--Sections 10-7C-17 through 10-7C-19
7 NMSA 1978 (being Laws 2002, Chapter 75, Section 2 and Laws
8 2002, Chapter 80, Section 2; Laws 2002, Chapter 75, Section 3
9 and Laws 2002, Chapter 80, Section 3; and Laws 2002, Chapter
10 75, Section 4 and Laws 2002, Chapter 80, Section 4, as
11 amended) are repealed.

12 SECTION 4. EFFECTIVE DATE.--The effective date of the
13 provisions of this act is July 1, 2021. _____

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