

1 SENATE BILL 315

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO PUBLIC EMPLOYEE RETIREMENT; INCLUDING CERTAIN STATE  
12 POLICE DIVISION OFFICERS UNDER THE STATE POLICE MEMBER,  
13 CORRECTIONAL OFFICER MEMBER AND PROBATION AND PAROLE OFFICER  
14 MEMBER COVERAGE PLAN 1; PROVIDING FOR AN ELECTION PERTAINING TO  
15 THE ADOPTION OF THE STATE POLICE MEMBER, CORRECTIONAL OFFICER  
16 MEMBER AND PROBATION AND PAROLE OFFICER MEMBER COVERAGE PLAN 1;  
17 PROVIDING FOR THE ADJUSTMENT OF CERTAIN SERVICE CREDIT EARNED  
18 PRIOR TO THE ADOPTION OF THE STATE POLICE MEMBER, CORRECTIONAL  
19 OFFICER MEMBER AND PROBATION AND PAROLE OFFICER MEMBER COVERAGE  
20 PLAN 1; MAKING APPROPRIATIONS.

21  
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

23 SECTION 1. Section 10-11-2 NMSA 1978 (being Laws 1987,  
24 Chapter 253, Section 2, as amended) is amended to read:

25 "10-11-2. DEFINITIONS.--As used in the Public Employees  
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1 Retirement Act:

2 A. "accumulated member contributions" means the  
3 amounts deducted from the salary of a member and credited to  
4 the member's individual account, together with interest, if  
5 any, credited to that account;

6 B. "affiliated public employer" means the state and  
7 any public employer affiliated with the association as provided  
8 in the Public Employees Retirement Act, but does not include an  
9 employer pursuant to the Magistrate Retirement Act, the  
10 Judicial Retirement Act or the Educational Retirement Act;

11 C. "association" means the public employees  
12 retirement association established under the Public Employees  
13 Retirement Act;

14 D. "coverage plan funded ratio" means the ratio of  
15 the actuarial value of the assets of a coverage plan to the  
16 actuarial accrued liability of the association for payments  
17 from the coverage plan, as determined by the association's  
18 actuaries;

19 E. "disability retired member" means a retired  
20 member who is receiving a pension pursuant to the disability  
21 retirement provisions of the Public Employees Retirement Act;

22 F. "disability retirement pension" means the  
23 pension paid pursuant to the disability retirement provisions  
24 of the Public Employees Retirement Act;

25 G. "educational retirement system" means that

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1 retirement system provided for in the Educational Retirement  
2 Act;

3 H. "employee" means any employee of an affiliated  
4 public employer;

5 I. "federal social security program" means that  
6 program or those programs created and administered pursuant to  
7 the act of congress approved August 14, 1935, Chapter 531, 49  
8 Stat. 620, as that act may be amended;

9 J. "final average salary" means the final average  
10 salary calculated in accordance with the provisions of the  
11 applicable coverage plan;

12 K. "form of payment" means the applicable form of  
13 payment of a pension provided for in Section 10-11-117 NMSA  
14 1978;

15 L. "former member" means a person who was  
16 previously employed by an affiliated public employer, who has  
17 terminated that employment and who has received a refund of  
18 member contributions;

19 M. "fund" means the funds included under the Public  
20 Employees Retirement Act;

21 N. "member" means a currently employed,  
22 contributing employee of an affiliated public employer, or a  
23 person who has been but is not currently employed by an  
24 affiliated public employer, who has not retired and who has not  
25 received a refund of member contributions; "member" also

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1 includes the following:

2 (1) "adult correctional officer member" means  
3 a member who is employed as an adult correctional officer or an  
4 adult correctional officer specialist by a state correctional  
5 facility of the corrections department or its successor agency;

6 (2) "adult probation and parole officer  
7 member" means a member who is employed as a probation and  
8 parole officer by the corrections department or its successor  
9 agency;

10 (3) "juvenile correctional officer member"  
11 means a member who is employed as a juvenile correctional  
12 officer by the children, youth and families department or its  
13 successor agency;

14 (4) "juvenile probation and parole officer  
15 member" means a member who is employed as a probation and  
16 parole officer by the children, youth and families department  
17 or its successor agency;

18 (5) "municipal detention officer member" means  
19 a member who is employed by an affiliated public employer other  
20 than the state and who has inmate custodial responsibilities at  
21 a facility used for the confinement of persons charged with or  
22 convicted of a violation of a law or ordinance;

23 (6) "municipal fire member" means any member  
24 who is employed as a full-time nonvolunteer firefighter by an  
25 affiliated public employer and who has taken the oath

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1 prescribed for firefighters;

2 (7) "municipal police member" means any member  
3 who is employed as a police officer by an affiliated public  
4 employer, other than the state, and who has taken the oath  
5 prescribed for police officers; and

6 (8) "state police member" means a member who  
7 is an officer of the New Mexico state police division and who  
8 has taken the oath prescribed for such officers [~~except that a~~  
9 ~~state police member~~] and shall [~~not~~] include a member who is an  
10 officer of the New Mexico state police division and who was  
11 certified and commissioned [~~as of June 30, 2015~~] in the former  
12 motor transportation division or the former special  
13 investigations division of the department of public safety;

14 O. "membership" means membership in the  
15 association;

16 P. "pension" means a series of monthly payments to  
17 a retired member or survivor beneficiary as provided in the  
18 Public Employees Retirement Act;

19 Q. "public employer" means the state, any  
20 municipality, city, county, metropolitan arroyo flood control  
21 authority, economic development district, regional housing  
22 authority, soil and water conservation district, entity created  
23 pursuant to a joint powers agreement, council of government,  
24 conservancy district, irrigation district, water and sanitation  
25 district, water district and metropolitan water board,

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1 including the boards, departments, bureaus and agencies of a  
2 public employer, so long as these entities fall within the  
3 meaning of governmental plan as that term is used in Section  
4 414(d) of the Internal Revenue Code of 1986, as amended;

5 R. "refund beneficiary" means a person designated  
6 by the member, in writing, in the form prescribed by the  
7 association, as the person who would be refunded the member's  
8 accumulated member contributions payable if the member dies and  
9 no survivor pension is payable or who would receive the  
10 difference between pension paid and accumulated member  
11 contributions if the retired member dies before receiving in  
12 pension payments the amount of the accumulated member  
13 contributions;

14 S. "retire" means to:

15 (1) terminate employment with all employers  
16 covered by any state system or the educational retirement  
17 system; and

18 (2) receive a pension from a state system or  
19 the educational retirement system;

20 T. "retired member" means a person who has met all  
21 requirements for retirement and who is receiving a pension from  
22 the fund;

23 U. "retirement board" means the retirement board  
24 provided for in the Public Employees Retirement Act;

25 V. "salary" means the base salary or wages paid a  
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1 member, including longevity pay, for personal services rendered  
2 an affiliated public employer. "Salary" shall not include  
3 overtime pay, allowances for housing, clothing, equipment or  
4 travel, payments for unused sick leave, unless the unused sick  
5 leave payment is made through continuation of the member on the  
6 regular payroll for the period represented by that payment, and  
7 any other form of remuneration not specifically designated by  
8 law as included in salary for Public Employees Retirement Act  
9 purposes. Salary in excess of the limitations set forth in  
10 Section 401(a)(17) of the Internal Revenue Code of 1986, as  
11 amended, shall be disregarded. The limitation on compensation  
12 for eligible employees shall not be less than the amount that  
13 was allowed to be taken into account under the state retirement  
14 system acts in effect on July 1, 1993. For purposes of this  
15 subsection, "eligible employee" means an individual who was a  
16 member of a state system before the first plan year beginning  
17 after December 31, 1995;

18 W. "state system" means the retirement programs  
19 provided for in the Public Employees Retirement Act, the  
20 Magistrate Retirement Act and the Judicial Retirement Act;

21 X. "state retirement system acts" means  
22 collectively the Public Employees Retirement Act, the  
23 Magistrate Retirement Act, the Judicial Retirement Act and the  
24 Volunteer Firefighters Retirement Act; and

25 Y. "survivor beneficiary" means a person who

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1 receives a pension or who has been designated to be paid a  
2 pension as a result of the death of a member or retired  
3 member."

4 SECTION 2. TEMPORARY PROVISION--STATE POLICE MEMBER,  
5 CORRECTIONAL OFFICER MEMBER AND PROBATION AND PAROLE OFFICER  
6 MEMBER COVERAGE PLAN 1--STATE POLICE MEMBERS--ELECTION.--On or  
7 before December 30, 2021, the retirement board provided for in  
8 the Public Employees Retirement Act shall conduct an election  
9 to submit to state police members currently contributing under  
10 state general member coverage plan 3 the question of adopting  
11 state police member, correctional officer member and probation  
12 and parole officer member coverage plan 1 and counting any  
13 credited service served since July 1, 2015 under state general  
14 member coverage plan 3 as credited service under state police  
15 member, correctional officer member and probation and parole  
16 officer member coverage plan 1. The election shall be  
17 conducted in accordance with procedures adopted by the  
18 retirement board, and the retirement board shall certify the  
19 results of the election to the secretary of state on or before  
20 January 1, 2022.

21 SECTION 3. TEMPORARY PROVISION--STATE POLICE MEMBERS--  
22 ADJUSTMENT OF CREDITED SERVICE.--Provided that the state police  
23 members currently contributing under state general member  
24 coverage plan 3 adopt the question provided in Section 2 of  
25 this 2021 act, the public employees retirement association

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1 shall count credited service served under state general member  
2 coverage plan 3 between July 1, 2015 and the date the election  
3 is certified as credited service under state police member,  
4 correctional officer member and probation and parole officer  
5 member coverage plan 1.

6 SECTION 4. APPROPRIATION.--Five million dollars  
7 (\$5,000,000) is appropriated from the general fund to the  
8 public employees retirement association for expenditure in  
9 fiscal year 2022 and subsequent fiscal years to offset the  
10 actuarial costs incurred from counting credited service served  
11 by state police members under state general member coverage  
12 plan 3 as credited service under state police member,  
13 correctional officer member and probation and parole officer  
14 member coverage plan 1. Any unexpended or unencumbered balance  
15 remaining at the end of a fiscal year shall not revert to the  
16 general fund.

17 SECTION 5. APPROPRIATION.--Three hundred forty thousand  
18 dollars (\$340,000) is appropriated from the general fund to the  
19 retiree health care fund for expenditure in fiscal year 2022  
20 and subsequent fiscal years to offset the costs incurred from  
21 counting credited service served by state police members under  
22 state general member coverage plan 3 as credited service under  
23 state police member, correctional officer member and probation  
24 and parole officer member coverage plan 1. Any unexpended or  
25 unencumbered balance remaining at the end of a fiscal year

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1 shall not revert to the general fund.

2 SECTION 6. EFFECTIVE DATE.--The effective date of the  
3 provisions of this act is July 1, 2021.

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