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

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

(1) a spouse;

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

(a) a natural child;

(b) a legally adopted child;

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

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

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

(4) a surviving spouse defined as follows:

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

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

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

G. "eligible employer" means either:

(1) a "retirement system employer", which means an institution of higher education, a school district or other entity participating in the public school insurance authority, a state agency, state court, magistrate court, municipality, county or public entity, each of which is affiliated under or covered by 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

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

H. "eligible retiree" means:

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

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

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

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

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

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

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

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

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

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

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

(a) falls within the definition of a retiree, has made contributions to the fund for at least five
years prior to retirement and whose eligible employer during that period of time made contributions as a participant in the Retiree Health Care Act on the person's behalf, unless that person retires on or before July 1, 1995, in which event the time period required for employee and employer contributions shall become the period of time between July 1, 1990 and the date of retirement, and who is certified to be a retiree by the educational retirement director, the executive secretary of the public employees retirement board or the governing authority of an independent public employer;

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

(c) is a retiree who: 1) was at the
time of retirement an employee of an eligible employer who
exercised the option not to be a participating employer
pursuant to the Retiree Health Care Act, but which eligible
employer subsequently elected after January 1, 1993 to become
a participating employer; 2) has made contributions to the
fund for at least five years prior to retirement and whose
eligible employer during that period of time made
contributions as a participant in the Retiree Health Care Act
on the person's behalf, unless that person retires prior to
the eligible employer's election to become a participating
employer or less than five years after the date participation
begins when the participation date begins before
July 1, 2009, in which event the time period required for
employee and employer contributions shall become the period
of time, if any, between the date participation begins and
the date of retirement or when the participation date begins
on or after July 1, 2009, in which event the person and
employer shall contribute to the fund an amount equal to the
full actuarial present value of the accrued benefits as
determined by the authority; and 3) is certified to be a
retiree by the educational retirement director, the executive
director of the public employees retirement board or the
governing authority of an independent public employer;
(4) a "legislative member", which means a
person who is not a retiree and who served as a member of the
New Mexico legislature for at least two years, but is no
longer a member of the legislature and is certified to be
such by the legislative council service; or

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

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

J. "group health insurance" means coverage that
includes but is not limited to life insurance, accidental
death and dismemberment, hospital care and benefits, surgical
care and treatment, medical care and treatment, dental care,
eye care, obstetrical benefits, prescribed drugs, medicines
and prosthetic devices, medicare supplement, medicare
carveout, medicare coordination and other benefits, supplies
and services through the vehicles of indemnity coverages,
health maintenance organizations, preferred provider
organizations and other health care delivery systems as
provided by the Retiree Health Care Act and other coverages
considered by the board to be advisable;

K. "ineligible dependents" includes:

(1) those dependents created by common law relationships;

(2) dependents while in active military service;

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

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

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

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

N. "public entity" means a flood control authority, economic development district, council of
governments, regional housing authority, conservancy district
or other special district or special purpose government; and

O. "retiree" means a person who:

(1) is receiving:

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

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

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

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

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

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

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

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