

1 SENATE BILL 173

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

4 David M. Gallegos and Antonio Maestas and Joshua N. Hernandez

10 AN ACT

11 RELATING TO PUBLIC EMPLOYEE RETIREMENT; INCLUDING PUBLIC SAFETY  
12 TELECOMMUNICATORS AS POLICE MEMBERS UNDER THE PUBLIC EMPLOYEES  
13 RETIREMENT ACT; PROVIDING FOR ELECTIONS PERTAINING TO THE  
14 ADOPTION OF THE POLICE MEMBER COVERAGE PLANS FOR CURRENT PUBLIC  
15 SAFETY TELECOMMUNICATORS.

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

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

20 "10-11-2. DEFINITIONS.--As used in the Public Employees  
21 Retirement Act:

22 A. "accumulated member contributions" means the  
23 amounts deducted from the salary of a member and credited to  
24 the member's individual account, together with interest, if  
25 any, credited to that account;

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1           B. "affiliated public employer" means the state and  
2 any public employer affiliated with the association as provided  
3 in the Public Employees Retirement Act, but does not include an  
4 employer pursuant to the Magistrate Retirement Act, the  
5 Judicial Retirement Act or the Educational Retirement Act;

6           C. "association" means the public employees  
7 retirement association established under the Public Employees  
8 Retirement Act;

9           D. "coverage plan funded ratio" means the ratio of  
10 the actuarial value of the assets of a coverage plan to the  
11 actuarial accrued liability of the association for payments  
12 from the coverage plan, as determined by the association's  
13 actuaries;

14           E. "disability retired member" means a retired  
15 member who is receiving a pension pursuant to the disability  
16 retirement provisions of the Public Employees Retirement Act;

17           F. "disability retirement pension" means the  
18 pension paid pursuant to the disability retirement provisions  
19 of the Public Employees Retirement Act;

20           G. "educational retirement system" means that  
21 retirement system provided for in the Educational Retirement  
22 Act;

23           H. "employee" means any employee of an affiliated  
24 public employer;

25           I. "federal social security program" means that

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1 program or those programs created and administered pursuant to  
2 the act of congress approved August 14, 1935, Chapter 531, 49  
3 Stat. 620, as that act may be amended;

4 J. "final average salary" means the final average  
5 salary calculated in accordance with the provisions of the  
6 applicable coverage plan;

7 K. "form of payment" means the applicable form of  
8 payment of a pension provided for in Section 10-11-117 NMSA  
9 1978;

10 L. "former member" means a person who was  
11 previously employed by an affiliated public employer, who has  
12 terminated that employment and who has received a refund of  
13 member contributions;

14 M. "fund" means the funds included under the Public  
15 Employees Retirement Act;

16 N. "member" means a currently employed,  
17 contributing employee of an affiliated public employer, or a  
18 person who has been but is not currently employed by an  
19 affiliated public employer, who has not retired and who has not  
20 received a refund of member contributions; "member" also  
21 includes the following:

22 (1) "adult correctional officer member" means  
23 a member who is employed as an adult correctional officer or an  
24 adult correctional officer specialist by a state correctional  
25 facility of the corrections department or its successor agency;

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1 (2) "adult probation and parole officer  
2 member" means a member who is employed as a probation and  
3 parole officer by the corrections department or its successor  
4 agency;

5 (3) "juvenile correctional officer member"  
6 means a member who is employed as a juvenile correctional  
7 officer by the children, youth and families department or its  
8 successor agency;

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

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

18 (6) "municipal fire member" means any member  
19 who is employed as a full-time nonvolunteer firefighter by an  
20 affiliated public employer, other than the state, and who has  
21 taken the oath prescribed for firefighters;

22 (7) "municipal police member" means any member  
23 who is employed as a:

24 (a) police officer by an affiliated  
25 public employer, other than the state, and who has taken the

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1 oath prescribed for police officers; or

2 (b) public safety telecommunicator by an  
3 affiliated public employer, other than the state;

4 (8) "state fire member" means any member who  
5 is employed as a nonvolunteer firefighter of the state and who  
6 has taken the oath prescribed for firefighters; and

7 (9) "state police member" means a member who  
8 is:

9 (a) an officer of the New Mexico state  
10 police division and who has taken the oath prescribed for such  
11 officers and shall include a member who is an officer of the  
12 New Mexico state police division and who was certified and  
13 commissioned in the former motor transportation division or the  
14 former special investigations division of the department of  
15 public safety; or

16 (b) a public safety telecommunicator  
17 employed by the state;

18 O. "membership" means membership in the  
19 association;

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

23 Q. "public employer" means the state, any  
24 municipality, city, county, metropolitan arroyo flood control  
25 authority, economic development district, regional housing

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1 authority, soil and water conservation district, entity created  
2 pursuant to a joint powers agreement, council of government,  
3 conservancy district, irrigation district, water and sanitation  
4 district, water district and metropolitan water board,  
5 including the boards, departments, bureaus and agencies of a  
6 public employer, so long as these entities fall within the  
7 meaning of governmental plan as that term is used in Section  
8 414(d) of the Internal Revenue Code of 1986, as amended;

9 R. "refund beneficiary" means a supplemental needs  
10 trust or a natural person designated by the member, in writing,  
11 in the form prescribed by the association, as the trust or  
12 person that would be refunded the member's accumulated member  
13 contributions payable if the member dies and no survivor  
14 pension is payable or that would receive the difference between  
15 pension paid and accumulated member contributions if the  
16 retired member dies before receiving in pension payments the  
17 amount of the accumulated member contributions;

18 S. "retire" means to:

19 (1) terminate employment with all employers  
20 covered by any state system or the educational retirement  
21 system; and

22 (2) receive a pension from a state system or  
23 the educational retirement system;

24 T. "retired member" means a person who has met all  
25 requirements for retirement and who is receiving a pension from

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1 the fund;

2 U. "retirement board" means the retirement board  
3 provided for in the Public Employees Retirement Act;

4 V. "salary" means the base salary or wages paid a  
5 member, including longevity pay, for personal services rendered  
6 an affiliated public employer. "Salary" shall not include  
7 overtime pay, unless the overtime payment is required for a  
8 regular scheduled tour of duty as set forth in Section 207(k)  
9 of Title 29 of the United States Code and is made on the  
10 regular payroll for the period represented by that payment,  
11 allowances for housing, clothing, equipment or travel, payments  
12 for unused sick leave, unless the unused sick leave payment is  
13 made through continuation of the member on the regular payroll  
14 for the period represented by that payment, and any other form  
15 of remuneration not specifically designated by law as included  
16 in salary for Public Employees Retirement Act purposes. Salary  
17 in excess of the limitations set forth in Section 401(a)(17) of  
18 the Internal Revenue Code of 1986, as amended, shall be  
19 disregarded. The limitation on compensation for eligible  
20 employees shall not be less than the amount that was allowed to  
21 be taken into account under the state retirement system acts in  
22 effect on July 1, 1993. For purposes of this subsection,  
23 "eligible employee" means an individual who was a member of a  
24 state system before the first plan year beginning after  
25 December 31, 1995;

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1           W. "state system" means the retirement programs  
2 provided for in the Public Employees Retirement Act, the  
3 Magistrate Retirement Act and the Judicial Retirement Act;

4           X. "state retirement system acts" means  
5 collectively the Public Employees Retirement Act, the  
6 Magistrate Retirement Act, the Judicial Retirement Act and the  
7 Volunteer Firefighters Retirement Act;

8           Y. "supplemental needs trust" means a valid third-  
9 party irrevocable trust that is authorized by the federal  
10 Social Security Act, as amended, for the sole benefit and  
11 lifetime of a trust beneficiary who is disabled and is created  
12 for the purpose of providing, accounting for or receiving  
13 supplemental assets that do not supplant, impair or diminish  
14 any benefits or assistance of any federal, state or other  
15 government entity for which the beneficiary would otherwise be  
16 eligible; and

17           Z. "survivor beneficiary" means a supplemental  
18 needs trust or a natural person that receives a pension or that  
19 has been designated to be paid a pension as a result of the  
20 death of a member or retired member."

21           SECTION 2. TEMPORARY PROVISION--MUNICIPAL POLICE MEMBER  
22 COVERAGE PLAN 5--PUBLIC SAFETY TELECOMMUNICATORS--ELECTION.--On  
23 or before December 30, 2025, the retirement board provided for  
24 in the Public Employees Retirement Act shall conduct an  
25 election to submit to municipal police members currently

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1 contributing under a municipal general member coverage plan the  
2 question of adopting municipal police member coverage plan 5.  
3 The election shall be conducted in accordance with procedures  
4 adopted by the retirement board, and the retirement board shall  
5 certify the results of the election to the secretary of state  
6 on or before January 1, 2026.

7           **SECTION 3. TEMPORARY PROVISION--STATE PUBLIC SAFETY**  
8 **MEMBER COVERAGE PLAN 1--PUBLIC SAFETY TELECOMMUNICATORS--**  
9 **ELECTION.--**On or before December 30, 2025, the retirement board  
10 provided for in the Public Employees Retirement Act shall  
11 conduct an election to submit to state police members currently  
12 contributing under state general member coverage plan 3 the  
13 question of adopting state public safety member coverage plan  
14 1. The election shall be conducted in accordance with  
15 procedures adopted by the retirement board, and the retirement  
16 board shall certify the results of the election to the  
17 secretary of state on or before January 1, 2026.