

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR  
SENATE BILL 248

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

AN ACT

RELATING TO RETIREMENT FOR ADULT CORRECTIONAL OFFICERS;  
REVISING THE STATE POLICE MEMBER COVERAGE PLAN 1 TO INCLUDE  
ADULT CORRECTIONAL OFFICERS; PROVIDING FOR AN ELECTION;  
AMENDING AND ENACTING SECTIONS OF THE PUBLIC EMPLOYEES  
RETIREMENT ACT.

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

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

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

A. "accumulated member contributions" means the  
amounts deducted from the salary of a member and credited to  
the member's individual account, together with interest, if

1 any, credited to that account;

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

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

10 D. "disability retired member" means a retired  
11 member who is receiving a pension pursuant to the disability  
12 retirement provisions of the Public Employees Retirement Act;

13 E. "disability retirement pension" means the  
14 pension paid pursuant to the disability retirement provisions  
15 of the Public Employees Retirement Act;

16 F. "educational retirement system" means that  
17 retirement system provided for in the Educational Retirement  
18 Act;

19 G. "employee" means any employee of an affiliated  
20 public employer;

21 H. "federal social security program" means that  
22 program or those programs created and administered pursuant to  
23 the act of congress approved August 14, 1935, Chapter 531, 49  
24 Stat. 620, as that act may be amended;

1 I. "final average salary" means the final average  
2 salary calculated in accordance with the provisions of the  
3 applicable coverage plan;

4 J. "form of payment" means the applicable form of  
5 payment of a pension provided for in Section 10-11-117 NMSA  
6 1978;

7 K. "former member" means a person who was  
8 previously employed by an affiliated public employer, who has  
9 terminated that employment and who has received a refund of  
10 member contributions;

11 L. "fund" means the funds included under the Public  
12 Employees Retirement Act;

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

19 (1) "adult correctional officer member" means  
20 a member who is an adult correctional officer or an adult  
21 correctional officer specialist employed by a corrections  
22 facility of the corrections department or its successor agency;

23 ~~[(1)]~~ (2) "hazardous duty member" means [a  
24 ~~state policeman who is a member and who is a juvenile or adult~~

1 ~~correctional officer employed by a corrections facility of the~~  
2 ~~corrections department or its successor agency] a member who is  
3 a juvenile correctional officer employed by the children, youth  
4 and families department or its successor agency;~~

5 [(2)] (3) "municipal fire member" means any  
6 member who is employed as a full-time nonvolunteer firefighter  
7 by an affiliated public employer and who has taken the oath  
8 prescribed for firefighters;

9 [(3)] (4) "municipal police member" means any  
10 member who is employed as a police officer by an affiliated  
11 public employer, other than the state, and who has taken the  
12 oath prescribed for police officers; and

13 [(4)] (5) "state police member" means any  
14 member who is an officer of the New Mexico state police and who  
15 has taken the oath prescribed for such officers;

16 N. "membership" means membership in the  
17 association;

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

21 P. "public employer" means the state, any  
22 municipality, city, county, metropolitan arroyo flood control  
23 authority, economic development district, regional housing  
24 authority, soil and water conservation district, entity created  
25

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

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

17 R. "retire" means to:

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

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

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

1 the fund;

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

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

22 V. "state system" means the retirement programs  
23 provided for in the Public Employees Retirement Act, the  
24 Magistrate Retirement Act and the Judicial Retirement Act;

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underscored material = new  
[bracketed material] = delete

1           W. "state retirement system acts" means  
 2 collectively the Public Employees Retirement Act, the  
 3 Magistrate Retirement Act, the Judicial Retirement Act and the  
 4 Volunteer Firefighters Retirement Act; and

5           X. "survivor beneficiary" means a person who  
 6 receives a pension or who has been designated to be paid a  
 7 pension as a result of the death of a member or retired  
 8 member."

9           Section 2. Section 10-11-27 NMSA 1978 (being Laws 1987,  
 10 Chapter 253, Section 27) is amended to read:

11           "10-11-27. STATE POLICE MEMBER AND ADULT CORRECTIONAL  
 12 OFFICER MEMBER COVERAGE PLAN 1--APPLICABILITY.--

13           A. State police member and adult correctional  
 14 officer member coverage plan 1 is applicable to state police  
 15 members who are not specifically covered by another coverage  
 16 plan and adult correctional officer members. The credited  
 17 service of a state police member who has held the permanent  
 18 rank of patrolman or sergeant and does not hold an exempt rank  
 19 or who is assigned to the aircraft division as a pilot or an  
 20 adult correctional officer member shall have actual credited  
 21 service increased by twenty percent for the purposes of state  
 22 police member and adult correctional officer member coverage  
 23 plan 1.

24           B. State police member and adult correctional  
 25

1 officer member coverage plan 1 is applicable to adult  
2 correctional officer members in the first full pay period after  
3 July 1, 2002 if the retirement board certifies to the secretary  
4 of state that, of those adult correctional officer members to  
5 be covered under state police member and adult correctional  
6 officer member coverage plan 1, a majority of the members  
7 voting has voted to approve adoption of this plan at an  
8 election conducted pursuant to Section 9 of this act."

9 Section 3. A new Section 10-11-27.1 NMSA 1978 is enacted  
10 to read:

11 "10-11-27.1. [NEW MATERIAL] STATE POLICE MEMBER AND ADULT  
12 CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--SERVICE CREDIT  
13 REQUIRED. --Notwithstanding the provisions of Section 10-11-27  
14 NMSA 1978, to qualify for payment under state police member and  
15 adult correctional officer member coverage plan 1, an adult  
16 correctional officer member shall have three years of service  
17 credit earned under the state police member and adult  
18 correctional officer member coverage plan 1 subsequent to July  
19 1, 2001. "

20 Section 4. Section 10-11-28 NMSA 1978 (being Laws 1987,  
21 Chapter 253, Section 28) is amended to read:

22 "10-11-28. STATE POLICE MEMBER AND ADULT CORRECTIONAL  
23 OFFICER MEMBER COVERAGE PLAN 1--AGE AND SERVICE REQUIREMENTS  
24 FOR NORMAL RETIREMENT. --Under state police member and adult  
25



1 correctional officer member coverage plan 1, the age and  
2 service requirements for normal retirement are:

3 A. age sixty-five years or older and five or more  
4 years of credited service;

5 B. age sixty-four years and eight or more years of  
6 credited service;

7 C. age sixty-three years and eleven or more years  
8 of credited service;

9 D. age sixty-two years and fourteen or more years  
10 of credited service;

11 E. age sixty-one years and seventeen or more years  
12 of credited service;

13 F. age sixty years and twenty or more years of  
14 credited service; or

15 G. any age and twenty-five or more years of  
16 credited service. "

17 Section 5. Section 10-11-29 NMSA 1978 (being Laws 1987,  
18 Chapter 253, Section 29) is amended to read:

19 "10-11-29. STATE POLICE MEMBER AND ADULT CORRECTIONAL  
20 OFFICER MEMBER COVERAGE PLAN 1--AMOUNT OF PENSION-- FORM OF  
21 PAYMENT A. --Under state police member and adult correctional  
22 officer member coverage plan 1, the amount of pension under  
23 form of payment A is equal to three percent of final average  
24 salary multiplied by credited service. The amount shall not  
25

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[bracketed material] = delete

1 exceed eighty percent of the final average salary. "

2 Section 6. Section 10-11-30 NMSA 1978 (being Laws 1987,  
3 Chapter 253, Section 30) is amended to read:

4 "10-11-30. STATE POLICE MEMBER AND ADULT CORRECTIONAL  
5 OFFICER MEMBER COVERAGE PLAN 1--FINAL AVERAGE SALARY.--Under  
6 state police member and adult correctional officer member  
7 coverage plan 1, the final average salary is one thirty-sixth  
8 of the greatest aggregate amount of salary paid a member for  
9 thirty-six consecutive months of credited service. Under state  
10 police member and adult correctional officer member coverage  
11 plan 1, if a member has less than thirty-six months of credited  
12 service, the final average salary is the aggregate amount of  
13 salary paid a member for the member's period of credited  
14 service divided by the member's credited service. "

15 Section 7. Section 10-11-31 NMSA 1978 (being Laws 1987,  
16 Chapter 253, Section 31) is amended to read:

17 "10-11-31. STATE POLICE MEMBER AND ADULT CORRECTIONAL  
18 OFFICER MEMBER COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE.--A  
19 member under state police member and adult correctional officer  
20 member coverage plan 1 shall contribute seven and six-tenths  
21 percent of salary. "

22 Section 8. Section 10-11-32 NMSA 1978 (being Laws 1987,  
23 Chapter 253, Section 32) is amended to read:

24 "10-11-32. STATE POLICE MEMBER AND ADULT CORRECTIONAL  
25

1 OFFICER MEMBER COVERAGE PLAN 1--STATE CONTRIBUTION RATE. --The  
 2 state shall contribute twenty-five and one-tenth percent of the  
 3 salary of each member under state police member and adult  
 4 correctional officer member coverage plan 1. "

5 Section 9. TEMPORARY PROVISION--STATE POLICE MEMBER AND  
 6 ADULT CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--ELECTION. --  
 7 On or before October 1, 2001, the retirement board shall  
 8 conduct an election to submit to adult correctional officer  
 9 members currently contributing under hazardous duty coverage  
 10 plan 2 the question of adopting a state police member and adult  
 11 correctional officer member coverage plan 1. The election  
 12 shall be conducted in accordance with procedures adopted by the  
 13 retirement board, and the retirement board shall certify the  
 14 results of the election to the secretary of state on or before  
 15 November 1, 2001.

16 Section 10. EFFECTIVE DATE.--The effective date of the  
 17 provisions of this act is July 1, 2001.