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SENATE BILL 652

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

INTRODUCED BY

Patrick H. Lyons

AN ACT

**RELATING TO RETIREMENT OF LEGISLATORS; CHANGING STATE
LEGISLATOR RETIREMENT COVERAGE; AUTHORIZING FORMER LEGISLATORS
TO PURCHASE GROUP HEALTH INSURANCE COVERAGE PURSUANT TO THE
RETIREE HEALTH CARE ACT; AMENDING AND ENACTING SECTIONS OF THE
NMSA 1978.**

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**

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1 Retirement Act or the Public Employees Retirement Reciprocity
2 Act or an employee of an independent public employer;

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

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

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

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

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

20 (1) a spouse;

21 (2) an unmarried child under the age of
22 nineteen who is:

23 (a) a natural child;

24 (b) a legally adopted child;

25 (c) a stepchild living in the same

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1 household who is primarily dependent on the eligible retiree
2 for maintenance and support;

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

8 (e) a foster child living in the same
9 household;

10 (3) a child described in Subparagraphs (a)
11 through (e) of Paragraph (2) of this subsection who is between
12 the ages of nineteen and twenty-five and is a full-time
13 student at an accredited educational institution; provided
14 that "full-time student" shall be a student enrolled in and
15 taking twelve or more semester hours or its equivalent contact
16 hours in primary, secondary, undergraduate or vocational
17 school or a student enrolled in and taking nine or more
18 semester hours or its equivalent contact hours in graduate
19 school;

20 (4) a dependent child over nineteen who is
21 wholly dependent on the eligible retiree for maintenance and
22 support and who is incapable of self-sustaining employment by
23 reason of mental retardation or physical handicap; provided
24 that proof of incapacity and dependency shall be provided
25 within thirty-one days after the child reaches the limiting

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1 age and at such times thereafter as may be required by the
2 board;

3 (5) a surviving spouse defined as follows:

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

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

9 (6) a surviving dependent child who is the
10 dependent child of a deceased eligible retiree whose other
11 parent is also deceased;

12 G. "eligible employer" means either:

13 (1) a "retirement system employer", which
14 means an institution of higher education, a school district or
15 other entity participating in the public school insurance
16 authority, a state agency, state court, magistrate court,
17 municipality, county or public entity, each of which is
18 affiliated under or covered by the Educational Retirement Act,
19 the Public Employees Retirement Act, the Judicial Retirement
20 Act, the Magistrate Retirement Act or the Public Employees
21 Retirement Reciprocity Act; or

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

25 H. "eligible retiree" means:

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1 (1) a "nonsalaried eligible participating
2 entity governing authority member" who is a person who is not
3 a retiree and who:

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

9 (b) has maintained group health
10 insurance coverage through that member's governing authority
11 if such group health insurance coverage was available and
12 offered to the member during the member's service as a member
13 of the 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) if a person eligible under
18 Subparagraph (a) of this paragraph applies before August 1,
19 1993 to the authority to participate in the program, then he
20 will be eligible to participate notwithstanding the provisions
21 of Subparagraphs (b) and (c) of this paragraph;

22 (2) a "salaried eligible participating entity
23 governing authority member" who is a person who is not a
24 retiree and who:

25 (a) has served with salary as a member

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1 of the governing authority of an employer eligible to
2 participate in the benefits of the Retiree Health Care Act;

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

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

11 (d) if a person eligible under
12 Subparagraph (a) of this paragraph applies before August 1,
13 1993 to the authority to participate in the program, then he
14 will be eligible to participate notwithstanding the provisions
15 of Subparagraphs (b) and (c) of this paragraph; [or]

16 (3) an "eligible participating retiree" who
17 is a person who:

18 (a) falls within the definition of a
19 retiree, has made contributions to the fund for at least five
20 years prior to retirement and whose eligible employer during
21 that period of time made contributions as a participant in the
22 Retiree Health Care Act on the person's behalf, unless that
23 person retires on or before July 1, 1995, in which event the
24 time period required for employee and employer contributions
25 shall become the period of time between July 1, 1990 and the

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1 date of retirement, and who is certified to be a retiree by
2 the educational retirement director, the executive secretary
3 of the public employees retirement board or the governing
4 authority of an independent public employer;

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

18 (c) is a retiree who: 1) was at the
19 time of retirement an employee of an eligible employer who
20 exercised the option not to be a participating employer
21 pursuant to the Retiree Health Care Act, but which eligible
22 employer subsequently elected after January 1, 1993 to become
23 a participating employer; 2) has made contributions to the
24 fund for at least five years prior to retirement and whose
25 eligible employer during that period of time made

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1 contributions as a participant in the Retiree Health Care Act
2 on the person's behalf, unless that person retires less than
3 five years after the date participation begins, in which event
4 the time period required for employee and employer
5 contributions shall become the period of time between the date
6 participation begins and the date of retirement; and 3) is
7 certified to be a retiree by the educational retirement
8 director, the executive secretary of the public employees
9 retirement board or the governing authority of an independent
10 public employer; or

11 (4) a "legislative member" means a person who
12 is not a retiree and who served as a member of the New Mexico
13 legislature for at least four years, but is no longer a member
14 of the legislature and is certified to be such by the
15 legislative council service;

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

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

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1 organizations and other health care delivery systems as
2 provided by the Retiree Health Care Act and other coverages
3 considered by the board to be advisable;

4 K. "ineligible dependents" include but are not
5 limited to:

6 (1) those dependents created by common law
7 relationships;

8 (2) dependents while in active military
9 service;

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

14 (4) anyone not specifically referred to as an
15 eligible dependent pursuant to the rules and regulations
16 adopted by the board;

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

21 M "participating employer" means an eligible
22 employer who has satisfied the conditions for participating in
23 the benefits of the Retiree Health Care Act, including the
24 requirements of Subsection M of Section 10-7C-7 NMSA 1978 and
25 Subsection D or E [~~or G~~] of Section 10-7C-9 NMSA 1978, as

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1 applicable;

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

6 0. "retiree" means a person who:

7 (1) is receiving:

8 (a) a disability or normal retirement
9 benefit or survivor's benefit under the Educational Retirement
10 Act;

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

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

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

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1 Section 2. Section 10-7C-13 NMSA 1978 (being Laws 1990,
2 Chapter 6, Section 13, as amended) is amended to read:

3 "10-7C-13. PAYMENT OF PREMIUMS ON HEALTH CARE
4 PLANS. --

5 A. Each eligible retiree shall pay a monthly
6 premium for the basic plan in an amount set by the board not
7 to exceed fifty dollars (\$50.00) plus the amount, if any, of
8 the compounded annual increases authorized by the board, which
9 increases shall not exceed nine percent in any fiscal year.

10 In addition to the monthly premium for the basic plan, each
11 current retiree and nonsalaried eligible participating entity
12 governing authority member who becomes an eligible retiree
13 shall also pay monthly an additional participation fee set by
14 the board. That fee shall be five dollars (\$5.00) plus the
15 amount, if any, of the compounded annual increases authorized
16 by the board, which increases shall not exceed nine percent in
17 any fiscal year. The additional monthly participation fee
18 paid by the current retirees and nonsalaried eligible
19 participating entity governing authority members who become
20 eligible retirees shall be a consideration and a condition for
21 being permitted to participate in the Retiree Health Care Act.

22 A legislative member shall pay a monthly premium for any
23 selected plan equal to one-twelfth of the annual cost of the
24 claims and administrative costs of that plan allocated to the
25 member by the board. In addition, a legislative member shall

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1 pay the additional monthly participation fee set by the board
2 pursuant to this subsection as a consideration and condition
3 for participating in the Retiree Health Care Act. Eligible
4 dependents shall pay monthly premiums in amounts that with
5 other money appropriated to the fund shall cover the cost of
6 the basic plan for the eligible dependents.

7 B. Eligible retirees and eligible dependents shall
8 pay monthly premiums to cover the cost of the optional plans
9 that they elect to receive, and the board shall adopt rules
10 for the collection of additional premiums from eligible
11 retirees and eligible dependents participating in the optional
12 plans. An eligible retiree or eligible dependent may
13 authorize the authority in writing to deduct the amount of
14 these premiums from the monthly annuity payments, if
15 applicable.

16 C. The participating employers, active employees
17 and retirees are responsible for the financial viability of
18 the program. The overall financial viability is not an
19 additional financial obligation of the state.

20 D. For eligible retirees who become eligible for
21 participation on or after July 1, 2001, the board may
22 determine monthly premiums based on the retirees' years of
23 credited service with participating employers. "

24 Section 3. Section 10-11-39 NMSA 1978 (being Laws 1987,
25 Chapter 253, Section 39) is amended to read:

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1 "10-11-39. STATE LEGISLATOR MEMBER COVERAGE PLAN 1--
2 APPLICABILITY.--State legislator member coverage plan 1 is
3 applicable to state legislators and lieutenant governors who
4 only served terms of office that ended prior to January 1,
5 1999. "

6 Section 4. Section 10-11-41 NMSA 1978 (being Laws 1987,
7 Chapter 253, Section 41) is amended to read:

8 "10-11-41. STATE LEGISLATOR MEMBER COVERAGE PLAN 1--
9 AMOUNT OF PENSION-- FORM OF PAYMENT A. --

10 A. Under state legislator member coverage plan 1,
11 the annual amount of pension under form of payment A is equal
12 to two hundred fifty dollars (\$250) multiplied by credited
13 service as a legislator or lieutenant governor, if the member
14 served as legislator or lieutenant governor after December 31,
15 1959 and his service ended prior to January 1, 1999.

16 B. Under state legislator member coverage plan 1,
17 the annual amount of pension under form of payment A is equal
18 to forty dollars (\$40.00) multiplied by credited service as a
19 legislator or lieutenant governor, if all service as a
20 legislator or lieutenant governor is prior to January 1,
21 1960. "

22 Section 5. A new section of the Public Employees
23 Retirement Act is enacted to read:

24 "[NEW MATERIAL] STATE LEGISLATOR MEMBER COVERAGE PLAN 2--
25 APPLICABILITY.--State legislator member coverage plan 2 is

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1 applicable to state legislators and lieutenant governors who
2 serve after December 31, 1998. "

3 Section 6. A new section of the Public Employees
4 Retirement Act is enacted to read:

5 "[NEW MATERIAL] STATE LEGISLATOR MEMBER COVERAGE PLAN 2--
6 AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT. -- Under
7 state legislator member coverage plan 2, the age and service
8 requirements for normal retirement are:

9 A. age sixty-five years or older and five or more
10 years of credited service; or

11 B. any age and twelve or more years of credited
12 service. "

13 Section 7. A new section of the Public Employees
14 Retirement Act is enacted to read:

15 "[NEW MATERIAL] STATE LEGISLATOR MEMBER COVERAGE PLAN 2--
16 AMOUNT OF PENSION-- FORM OF PAYMENT A. -- Under state legislator
17 member coverage plan 2, the annual amount of pension under
18 form of payment A is equal to the sum of the following amounts
19 calculated by multiplying the member's contributions for the
20 applicable years of credited service as a legislator or
21 lieutenant governor by the applicable factor as follows:

22 A. an amount equal to the member's contributions
23 for the first twelve years of credited service multiplied by a
24 factor of 2.5;

25 B. an amount equal to the member's contributions

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1 for the next eight years of credited service multiplied by a
2 factor of 1.0; and

3 C. an amount equal to the member's contributions
4 for the years of credited service in excess of twenty years
5 multiplied by a factor of .25."

6 Section 8. A new section of the Public Employees
7 Retirement Act is enacted to read:

8 "[NEW MATERIAL] STATE LEGISLATOR MEMBER COVERAGE PLAN 2--
9 MEMBER CONTRIBUTION RATE.--A member under state legislator
10 member coverage plan 2 shall contribute four hundred dollars
11 (\$400) for each year of credited service."

12 Section 9. A new section of the Public Employees
13 Retirement Act is enacted to read:

14 "[NEW MATERIAL] STATE LEGISLATOR MEMBER COVERAGE PLAN 2--
15 STATE CONTRIBUTION RATE.--The state shall contribute amounts
16 sufficient to finance the membership of members under state
17 legislator member coverage plan 2 on an actuarial reserve
18 basis."

19 Section 10. A new section of the Public Employees
20 Retirement Act is enacted to read:

21 "[NEW MATERIAL] STATE LEGISLATOR MEMBER COVERAGE PLAN 2--
22 CONTRIBUTIONS FOR SERVICE PRIOR TO 2001.--To be eligible for
23 state legislator member coverage plan 2, a state legislator or
24 lieutenant governor shall make the necessary contributions for
25 years of credited service earned prior to January 1, 2001 in

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1 an amount that totals four hundred dollars (\$400) for each
2 year of credited service. "

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