

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**HOUSE BILL 195**

**46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004**

**INTRODUCED BY**

**John A. Heaton**

**AN ACT**

**RELATING TO PUBLIC EMPLOYEES; CLARIFYING THE DEFINITION OF  
"PUBLIC EMPLOYER" IN THE PUBLIC EMPLOYEES RETIREMENT ACT;  
AMENDING A SECTION OF THE NMSA 1978.**

**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  
any, credited to that account;**

**B. "affiliated public employer" means the state and  
any public employer affiliated with the association as provided**

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 in the Public Employees Retirement Act, but does not include an  
2 employer pursuant to the Magistrate Retirement Act, the  
3 Judicial Retirement Act or the Educational Retirement Act;

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

7 D. "disability retired member" means a retired  
8 member who is receiving a pension pursuant to the disability  
9 retirement provisions of the Public Employees Retirement Act;

10 E. "disability retirement pension" means the  
11 pension paid pursuant to the disability retirement provisions  
12 of the Public Employees Retirement Act;

13 F. "educational retirement system" means that  
14 retirement system provided for in the Educational Retirement  
15 Act;

16 G. "employee" means any employee of an affiliated  
17 public employer;

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

22 I. "final average salary" means the final average  
23 salary calculated in accordance with the provisions of the  
24 applicable coverage plan;

25 J. "form of payment" means the applicable form of

underscored material = new  
[bracketed material] = delete

1 payment of a pension provided for in Section 10-11-117 NMSA  
2 1978;

3 K. "former member" means a person who was  
4 previously employed by an affiliated public employer, who has  
5 terminated that employment and who has received a refund of  
6 member contributions;

7 L. "fund" means the funds included under the Public  
8 Employees Retirement Act;

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

15 (1) "adult correctional officer member" means  
16 a member who is an adult correctional officer or an adult  
17 correctional officer specialist employed by a correctional  
18 facility of the corrections department or its successor agency;

19 (2) "hazardous duty member" means a member who  
20 is a juvenile correctional officer employed by the children,  
21 youth and families department or its successor agency;

22 (3) "municipal detention officer member" means  
23 a member who is employed by an affiliated public employer other  
24 than the state and who has inmate custodial responsibilities at  
25 a facility used for the confinement of persons charged with or

. 149019. 1

underscored material = new  
[bracketed material] = delete

1 convicted of a violation of a law or ordinance;

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

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

10 (6) "state police member" means any member who  
11 is an officer of the New Mexico state police and who has taken  
12 the oath prescribed for such officers;

13 N. "membership" means membership in the  
14 association;

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

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

. 149019. 1

underscored material = new  
[bracketed material] = delete

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

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

13 R. "retire" means to:

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

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

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

22 T. "retirement board" means the retirement board  
23 provided for in the Public Employees Retirement Act;

24 U. "salary" means the base salary or wages paid a  
25 member, including longevity pay, for personal services rendered

underscored material = new  
[bracketed material] = delete

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

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

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

24 X. "survivor beneficiary" means a person who  
25 receives a pension or who has been designated to be paid a

underscored material = new  
[bracketed material] = delete

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

pension as a result of the death of a member or retired member. "