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SENATE BILL 500

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

INTRODUCED BY

Michael S. Sanchez

AN ACT

RELATING TO PUBLIC EMPLOYEES; AMENDING THE PUBLIC EMPLOYEES
RETIREMENT ACT TO PROVIDE FOR JUVENILE CORRECTIONAL OFFICERS;
RECONCILING CONFLICTING VERSIONS OF LAWS 2003.

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

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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

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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"~~] "juvenile
20 correctional officer" means a member who is a juvenile
21 correctional officer employed by the children, youth and
22 families department or its successor agency;

23 (3) "municipal detention officer member" means
24 a member who is employed by an affiliated public employer other
25 than the state and who has inmate custodial responsibilities at

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1 a facility used for the confinement of persons charged with or
2 convicted of a violation of a law or ordinance;

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

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

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

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

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

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

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

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

14 R. "retire" means to:

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

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

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

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

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

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

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

25 X. "survivor beneficiary" means a person who

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1 receives a pension or who has been designated to be paid a
2 pension as a result of the death of a member or retired
3 member."

4 Section 2. Section 10-11-27 NMSA 1978 (being Laws 1987,
5 Chapter 253, Section 27, as amended by Laws 2003, Chapter 268,
6 Section 9 and by Laws 2003, Chapter 269, Section 1) is amended
7 to read:

8 "10-11-27. STATE POLICE MEMBER, ADULT CORRECTIONAL
9 OFFICER MEMBER AND JUVENILE CORRECTIONAL OFFICER MEMBER
10 COVERAGE PLAN 1--APPLICABILITY.--

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

25 B. State police member, adult correctional officer

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1 member and juvenile correctional officer member coverage plan 1
2 is applicable to adult correctional officer members in the
3 first full pay period after July 1, 2004 if the retirement
4 board certifies to the secretary of state that, of those adult
5 correctional officer members to be covered under state police
6 member, adult correctional officer member and juvenile
7 correctional officer member coverage plan 1, a majority of the
8 members voting have voted to approve adoption of that plan at
9 an election conducted pursuant to Laws 2003, Chapter 268,
10 Section 16.

11 C. State police member, adult correctional officer
12 member and juvenile correctional officer member coverage plan 1
13 is applicable to juvenile correctional officer members in the
14 first full pay period after July 1, 2005 if the retirement
15 board certifies to the secretary of state that, of those
16 juvenile correctional officer members to be covered under state
17 police member, adult correctional officer member and juvenile
18 correctional officer member coverage plan 1, a majority of the
19 members voting have voted to approve adoption of that plan at
20 an election."

21 Section 3. Section 10-11-27.1 NMSA 1978 (being Laws 2003,
22 Chapter 268, Section 10) is amended to read:

23 "10-11-27.1. STATE POLICE MEMBER, ~~AND~~ ADULT
24 CORRECTIONAL OFFICER MEMBER AND JUVENILE CORRECTIONAL OFFICER
25 MEMBER COVERAGE PLAN 1--SERVICE CREDIT REQUIRED.--

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1 Notwithstanding the provisions of Section 10-11-27 NMSA 1978,
2 to qualify for payment under state police member, [~~and~~] adult
3 correctional officer member and juvenile correctional officer
4 member coverage plan 1, an adult correctional officer member
5 shall have eighteen months of service credit earned under the
6 state police member and adult correctional officer member
7 coverage plan 1 subsequent to July 1, 2004. A juvenile
8 correctional officer member shall have eighteen months' service
9 credit earned under the state police member, adult correctional
10 officer member and juvenile correctional officer member
11 coverage plan 1 subsequent to July 1, 2005."

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

14 "10-11-28. STATE POLICE MEMBER, [~~AND~~] ADULT CORRECTIONAL
15 OFFICER MEMBER AND JUVENILE CORRECTIONAL OFFICER MEMBER
16 COVERAGE PLAN 1--AGE AND SERVICE REQUIREMENTS FOR NORMAL
17 RETIREMENT.--Under state police member, [~~and~~] adult
18 correctional officer member and juvenile correctional officer
19 member coverage plan 1, the age and service requirements for
20 normal retirement are:

21 A. age sixty-five years or older and five or more
22 years of credited service;

23 B. age sixty-four years and eight or more years of
24 credited service;

25 C. age sixty-three years and eleven or more years

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1 of credited service;

2 D. age sixty-two years and fourteen or more years
3 of credited service;

4 E. age sixty-one years and seventeen or more years
5 of credited service;

6 F. age sixty years and twenty or more years of
7 credited service; or

8 G. any age and twenty-five or more years of
9 credited service."

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

12 "10-11-29. STATE POLICE MEMBER, [~~AND~~] ADULT CORRECTIONAL
13 OFFICER MEMBER AND JUVENILE CORRECTIONAL OFFICER MEMBER
14 COVERAGE PLAN 1--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under
15 state police member, [~~and~~] adult correctional officer member
16 and juvenile correctional officer member coverage plan 1, the
17 amount of pension under form of payment A is equal to three
18 percent of final average salary multiplied by credited service.
19 The amount shall not exceed eighty percent of the final average
20 salary."

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

23 "10-11-30. STATE POLICE MEMBER, [~~AND~~] ADULT CORRECTIONAL
24 OFFICER MEMBER AND JUVENILE CORRECTIONAL OFFICER MEMBER
25 COVERAGE PLAN 1--FINAL AVERAGE SALARY.--Under state police

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1 member, [~~and~~] adult correctional officer member and juvenile
2 correctional officer member coverage plan 1, the final average
3 salary is one thirty-sixth of the greatest aggregate amount of
4 salary paid a member for thirty-six consecutive months of
5 credited service. Under state police member, [~~and~~] adult
6 correctional officer member and juvenile correctional officer
7 member coverage plan 1, if a state police member has less than
8 thirty-six months of credited service, the final average salary
9 is the aggregate amount of salary paid a member for the
10 member's period of credited service divided by the member's
11 credited service."

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

14 "10-11-31. STATE POLICE MEMBER, [~~AND~~] ADULT CORRECTIONAL
15 OFFICER MEMBER AND JUVENILE CORRECTIONAL OFFICER MEMBER
16 COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE.--A member under
17 state police member, [~~and~~] adult correctional officer member
18 and juvenile correctional officer member coverage plan 1 shall
19 contribute seven and six-tenths percent of salary."

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

22 "10-11-32. STATE POLICE MEMBER, [~~AND~~] ADULT CORRECTIONAL
23 OFFICER MEMBER AND JUVENILE CORRECTIONAL OFFICER MEMBER
24 COVERAGE PLAN 1--STATE CONTRIBUTION RATE.--The state shall
25 contribute twenty-five and one-tenth percent of the salary of

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1 each member under state police member, [~~and~~] adult correctional
2 officer member and juvenile correctional officer member
3 coverage plan 1."

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