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SENATE BILL 17

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 1999

INTRODUCED BY

Billy J. McKibben

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; MAKING AN APPROPRIATION.

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~~] which means a  
3 person who is not 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~~] which means a person who  
24 is not a 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 ] which means 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", which means a  
12 person who is not a retiree and who is certified by the  
13 legislative council service to have served as a member of the  
14 New Mexico legislature for at least four years, but is no  
15 longer a member of the legislature;

- 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 PLANS. --

4 A. Each eligible retiree shall pay a monthly  
5 premium for the basic plan in an amount set by the board not  
6 to exceed [~~the sum of~~] fifty dollars (\$50.00) plus the amount,  
7 if any, of the compounded annual increases authorized by the  
8 board, which increases shall not exceed nine percent in any  
9 fiscal year. In addition to the monthly premium for the basic  
10 plan, each current retiree and nonsalaried eligible  
11 participating entity governing authority member who becomes an  
12 eligible retiree shall also pay monthly an additional  
13 participation fee set by the board. That fee shall be five  
14 dollars (\$5.00) plus the amount, if any, of the compounded  
15 annual increases authorized by the board, which increases  
16 shall not exceed nine percent in any fiscal year. The  
17 additional monthly participation fee paid by the current  
18 retirees and nonsalaried eligible participating entity  
19 governing authority members who become eligible retirees shall  
20 be a consideration and a condition for being permitted to  
21 participate in the Retiree Health Care Act. A legislative  
22 member shall pay a monthly premium for any selected plan equal  
23 to one-twelfth of the annual cost of the claims and  
24 administrative costs of that plan allocated to the member by  
25 the board. In addition, a legislative member shall pay the

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1 additional monthly participation fee set by the board pursuant  
2 to this subsection as a consideration and condition for  
3 participation 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 Section 3. Section 10-11-39 NMSA 1978 (being Laws 1987,  
21 Chapter 253, Section 39) is amended to read:

22 "10-11-39. STATE LEGISLATOR MEMBER COVERAGE PLAN 1--  
23 APPLICABILITY.--State legislator member coverage plan 1 is  
24 applicable to state legislators and lieutenant governors whose  
25 service ended before January 1, 1999."

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

3           "10-11-41. STATE LEGISLATOR MEMBER COVERAGE PLAN 1--  
4 AMOUNT OF PENSION--FORM OF PAYMENT A. --

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

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

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

19           "[NEW MATERIAL] STATE LEGISLATOR MEMBER COVERAGE PLAN 2--  
20 APPLICABILITY.--State legislator member coverage plan 2 is  
21 applicable to state legislators and lieutenant governors who  
22 are serving terms of office after December 31, 1998. "

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

25           "[NEW MATERIAL] STATE LEGISLATOR MEMBER COVERAGE PLAN 2--

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1 AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT. -- Under  
2 state legislator member coverage plan 2, the age and service  
3 requirements for normal retirement are:

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

6 B. any age and twelve or more years of credited  
7 service. "

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

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

17 A. for service ending prior to January 1, 2001:

18 (1) an amount equal to the member's  
19 contributions for the first twelve years of credited service  
20 multiplied by a factor of 2.5; and

21 (2) an amount equal to the member's  
22 contributions for the years of credited service in excess of  
23 twelve years multiplied by a factor of 1.0; and

24 B. for service ending after January 1, 2001:

25 (1) an amount equal to the member's

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1 contributions for the first twelve years of credited service  
2 multiplied by a factor of 2.5;

3 (2) an amount equal to the member's  
4 contributions for the next eight years of credited service  
5 multiplied by a factor of 1.0; and

6 (3) an amount equal to the member's  
7 contributions for the years of credited service in excess of  
8 twenty years multiplied by a factor of .25. "

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

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

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

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

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

24 "[NEW MATERIAL] STATE LEGISLATOR MEMBER COVERAGE PLAN 2--  
25 CONTRIBUTIONS FOR SERVICE PRIOR TO 1999. --To be eligible for

1 state legislator member coverage plan 2, a state legislator or  
2 lieutenant governor shall make the necessary contributions for  
3 years of credited service earned prior to January 1, 1999 in  
4 an amount that totals four hundred dollars (\$400) for each  
5 year of credited service. "

6 Section 11. APPROPRIATION. --Six hundred thirty thousand  
7 dollars (\$630,000) is appropriated from the general fund to  
8 the legislative council service for expenditure in fiscal year  
9 2000 for the purpose of carrying out the provisions of  
10 Sections 3 through 10 of this act. Any unexpended or  
11 unencumbered balance remaining at the end of fiscal year 2000  
12 shall not revert to the general fund.

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