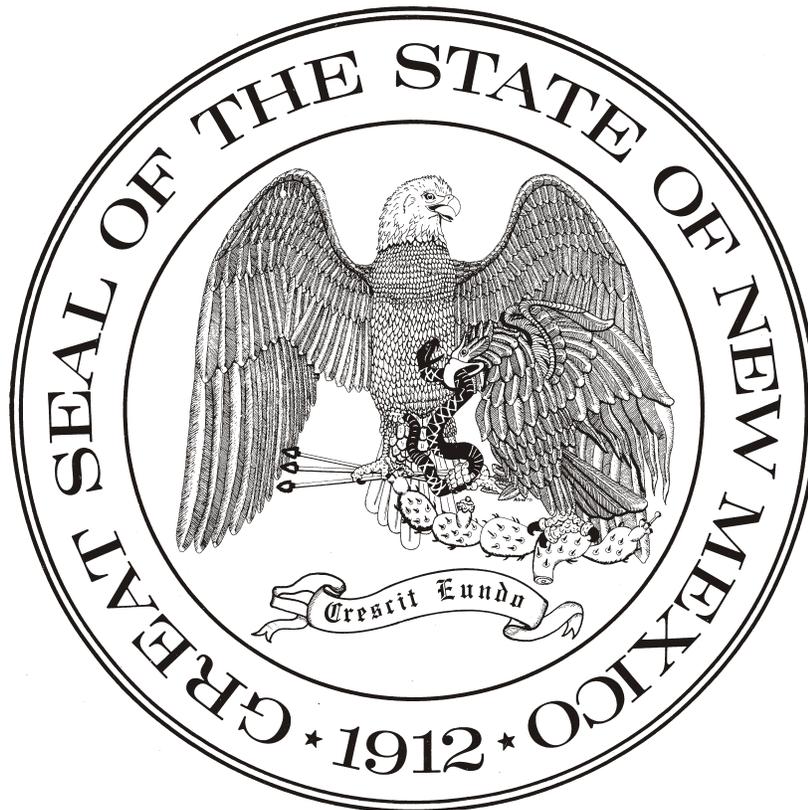


INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

2012 INTERIM

FINAL REPORT



**New Mexico Legislative Council Service
Santa Fe, New Mexico
January, 2013**

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**COMMITTEE MEMBERSHIP, WORK PLAN AND
MEETING SCHEDULE**

**2012 APPROVED
WORK PLAN AND MEETING SCHEDULE
for the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE**

The Investments and Pensions Oversight Committee (IPOC) was created by the New Mexico Legislative Council on May 9, 2012. Committee members are as follows:

Members

Sen. George K. Munoz, Chair	Sen. Carroll H. Leavell
Rep. Henry Kiki Saavedra, Vice Chair	Sen. Steven P. Neville
Rep. David L. Doyle	Sen. Mary Kay Papen
Rep. William "Bill" J. Gray	Sen. John M. Sapien
Sen. Timothy M. Keller	Rep. Jim R. Trujillo
Rep. Larry A. Larrañaga	Rep. Luciano "Lucky" Varela

Advisory Members

Rep. Donald E. Bratton	Rep. Jane E. Powdrell-Culbert
Sen. Carlos R. Cisneros	Rep. William "Bill" R. Rehm
Sen. Tim Eichenberg	Sen. John C. Ryan
Rep. Miguel P. Garcia	Sen. Michael S. Sanchez
Rep. Roberto "Bobby" J. Gonzales	Rep. Sheryl Williams Stapleton
Sen. Stuart Ingle	Rep. Mimi Stewart
Rep. Rhonda S. King	Rep. Shirley A. Tyler
Rep. Patricia A. Lundstrom	Rep. Richard D. Vigil
Sen. William H. Payne	

Work Plan

During the 2012 interim, the IPOC proposes to:

1. receive reports from the Educational Retirement Board (ERB), the Public Employees Retirement Association (PERA) and the New Mexico Retiree Health Care Authority (NMRHCA) on their current projections regarding the solvency of their retirement trust funds and receive testimony from the ERB, the PERA and their actuaries; employee representatives; retirement trust experts; and others regarding viable proposals to ensure the retirement trust funds' long-term solvency;

2. receive testimony on the potential costs and benefits of merging the pension plan administration and investment functions of the PERA and the ERB in order to better provide comparable and sustainable pension benefits to public employees and teachers, improve trust fund investment returns and reduce administrative costs through "economies of scale" and the ability to hire and retain the most qualified staff and/or consultants at less cost;

3. receive reports from the investment entities, the Office of the Attorney General, private

plaintiffs and others regarding the progress of current litigation and of potential claims by the state and the funds regarding "pay-to-play" allegations, investment fraud, etc.;

4. examine the performance of the investment portfolios of the State Investment Council (SIC), the PERA and the ERB and funds in the state treasury in absolute terms and compared to policy benchmarks and comparable funds. This would include the returns on the entire portfolio as well as the return on individual segments, including stocks, bonds, real estate and private equity;

5. receive testimony on the investment policies, practices and returns of the economically targeted investment programs of the SIC, particularly the Private Equity Investment Advisory Committee, the Small Business Investment Corporation and the film loan program;

6. review the manner in which investment policy and associated earning benchmarks were set for the investment funds by the governing bodies and investigate how each agency determines the proportional mix of types of investments, including mutual stock and bond funds, individual stocks and bonds, real estate, private equity, etc. The IPOC will focus on how investment policies for the retirement funds have changed in response to changes in projections regarding program solvency and unfunded liabilities; and

7. form an IPOC subcommittee appointed by the president pro tempore of the senate and the speaker of the house in conjunction with the committee chairs to receive testimony from the PERA, employee representatives, the New Mexico Municipal League and others regarding alternative actions to ensure the continued solvency of the retirement plans for all municipal and state public safety members. This subcommittee will report any recommendations for proposed legislation to the full IPOC no later than October 23, 2012.

**Investments and Pensions Oversight Committee
2012 Approved Meeting Schedule**

<u>Date</u>	<u>Location</u>
June 20	Santa Fe
August 3	Santa Fe
September 4	Santa Fe
October 23	Santa Fe
November 28	Santa Fe

Subcommittee per item 7 of the work plan.

<u>Date</u>	<u>Location</u>
TBD	Santa Fe
TBD	Santa Fe

**Report of the Investments and
Pensions Oversight Committee:
Summary**

INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE 2012 SUMMARY

Introduction

The Investments and Pensions Oversight Committee (IPOC) was created by the New Mexico Legislative Council on May 9, 2012. During this interim, the IPOC focused on the actuarial soundness of the trust funds of the Public Employees Retirement Association (PERA) board, the Educational Retirement Board (ERB) and the Retiree Health Care Authority (RHCA), as well as the investment functions of the PERA, the ERB and the State Investment Council (SIC). The oversight of PERA, ERB and SIC investment functions included not only an examination of overall investment policies and returns, but also testimony on the progress of current or pending litigation involving the state's investment or pension funds. The IPOC also took testimony on the impact on New Mexico's balance sheet of new Governmental Accounting Standards Board (GASB) pension reporting requirements. The oversight by the legislature of investments and pensions began in 2003, with the creation of the State Permanent Fund Task Force by Senate Joint Memorial 14 and continued pursuant to Senate Joint Memorial 13 of the 2005 session. House Bill 212 of the 2006 session would have created a committee much like the IPOC; however, the bill was pocket-vetoed by Governor Bill Richardson. Since 2006, the New Mexico Legislative Council has created the IPOC and its successors.

Summary of Committee Activity

The IPOC received the testimony from the PERA, ERB and RHCA on their increasing unfunded liabilities and, in cooperation with the agencies, developed legislative proposals to ensure the long-term solvency of their respective funds. An IPOC subcommittee was formed to focus solely on solvency proposals for the municipal and state public safety employee retirement plans. The IPOC also took testimony from accounting and bond market experts on the potential impact of increasing unfunded pension and retiree health care liabilities on New Mexico's state finances and bond ratings. The IPOC also heard from SIC, PERA and ERB staff on overall investment performance of each fund and on the investment policies and performance of the SIC's private equity investment program and the Small Business Investment Corporation (SBIC).

The IPOC took testimony at its June 20 meeting from the SIC on recent investment performance and recent policy and management changes. The state investment officer also reported that the SIC hired a law firm on a contingent-fee basis to pursue investment fraud litigation, has served all the defendants it has named and will likely name more defendants. The deputy state investment officer reported that the land grant permanent funds earned 9.45% for the quarter ending March 31, the highest rate among comparable funds for the quarter, but that the funds' long-term growth lags behind the funds' peers.

The RHCA executive director reported an unfunded actuarial liability of \$3.3 billion in the Retiree Health Care Fund. He stated that recent employee contribution increases, reduced premium subsidies for pre-Medicare members, and increased out-of-pocket expenses for all retired members have extended solvency for the fund through 2027.

The executive director of the ERB discussed the actuarial soundness of the ERB's

retirement fund, reporting an unfunded actuarial liability of approximately \$6.3 billion and a funded ratio (actuarial liabilities/actuarial assets) of approximately 60%.

At its August 3 meeting, the IPOC received a report from the ERB and PERA on their recent investment performances and strategies to meet their long-term earnings benchmarks. The ERB's chief investment officer reported an investment return of 2% for the year ending June 30, 2012, an average annual return of 13% for the last three years and an average annual return of 9.3% over the life of the ERB's fund.

The chief investment officer for the PERA reported a return of -.38% for the year ending June 30, 2012, an average annual return of 11.96% over the last three years and an average annual return of 9.6% over the life of the PERA funds.

The executive director of the PERA presented the IPOC with an update on the actuarial soundness of the PERA pension funds and current pension fund proposals. He reported an unfunded liability of approximately \$6.2 billion and average funded ratio for all PERA funds of 65.3%, as of June 30, 2012. Among individual PERA funds, the funded ratio ranges from a high of 167.9% for the Volunteer Firefighters Retirement Fund to a low of 51% for the Judicial Retirement Fund. He stated that House Joint Memorial 19 from the 2012 legislative session requested the PERA to develop a plan to get the PERA's average funded ratio to 100% by 2041 and that the proposal be presented to the IPOC by October 1, 2012. A preliminary plan includes an increase in the vesting period for new employees, a reduction of .5% in the annual pension calculation factor and a delay in when retirees would be subject to a cost-of-living adjustment (COLA). Current and future retirees would see a .5% reduction in the COLA.

IPOC staff and the State Board of Finance bond counsel testified to the committee on the probable impact of new GASB pension reporting requirements on New Mexico state finances and bond ratings.

At its September 7 meeting, the IPOC heard testimony from the executive directors of the PERA and ERB on the status of their efforts to develop legislative proposals to ensure the actuarial soundness of their respective pension funds. The ERB proposal would increase member contribution rates to 10.1% in fiscal year (FY) 2014 and 10.7% in FY 2015. For educational employees hired after July 1, 2013, a minimum retirement age of 55 would be established and the COLA would begin at age 67, instead of the current age 65 start date. A panel, including the chief investment officers of the PERA, SIC and ERB, discussed the relative investment earnings of the three funds.

In the afternoon of September 7, the first meeting of the IPOC Subcommittee on Municipal and State Public Safety Employee Retirement Plans Solvency was held. The PERA executive director presented the current proposal for retirement plan changes, and the executive director of the RHCA outlined the impact of those retirement plan changes to the solvency of the Retiree Health Care Fund. The director of the New Mexico Fraternal Order of Police (NMFOP), the president of the Albuquerque local of the International Association of Firefighters (IAFA) and the legislative director of the Association of Federal, State, County and Municipal Employees (AFSCME) discussed their organizations' views on the proposed retirement plan revisions. The

executive director of the New Mexico Municipal League (NMML) gave the municipal government perspective on the proposed retirement plan changes for municipal employees.

The second meeting of the IPOC Subcommittee on Municipal and State Public Safety Employee Retirement Plans Solvency was held on October 2. IPOC staff updated the subcommittee on recent actions by other states to improve the solvency of employee retirement plans. A round-table discussion was held on the current PERA proposed retirement plan changes. Included in the discussion were the executive director of the PERA, the executive director of the NMML and representatives of the NMFOP, IAFA, AFSCME and other stakeholder groups.

At its October 23 meeting, the IPOC heard a report from the national chair of the GASB on the impact nationwide of the implementation of new accounting rules regarding the reporting of pension liabilities. The new rules are designed to improve the usefulness of reported pension information and to increase the transparency, consistency and comparability of pension information across governments. The committee then heard and discussed legislation proposed for IPOC endorsement by the New Mexico state treasurer, PERA, ERB, RHCA and SIC.

At its November 28 meeting, and at an additional meeting on December 17 approved by the New Mexico Legislative Council, the IPOC was primarily engaged in the consideration of draft legislation proposed for endorsement. The only two informational items were a report from the New Mexico College Savings Plan on its recent investment performance and pending litigation due to steep losses in college savings accounts and a report from the SIC on the investment policies and performance of the SIC's private equity program and the SBIC.

The committee considered draft legislation proposed by the state treasurer clarifying authorized investments of the state treasurer, increasing the percentage of the general fund and bond proceeds that may be invested in the Local Government Investment Pool and making other technical changes related to state treasurer investments. The committee also considered a number of proposed draft bills dealing with SIC investment governance and investment policies. The committee heard proposed solvency legislation from the Administrative Office of the Courts (AOC) for the judicial and magistrate retirement funds. Finally, the committee considered proposed draft solvency legislation for the ERB, PERA and RHCA. After lengthy discussion and debate, the IPOC endorsed the following bills:

(1) PERA retirement plan solvency legislation proposed by the PERA board and amended by the IPOC (.190837.3SA);

(2) ERB retirement plan solvency legislation proposed by the ERB and amended by the IPOC (.190404.5SA);

(3) judicial and magistrate retirement plans solvency legislation proposed by the AOC (.190621.4SA);

(4) a bill to increase employer and employee contributions to the Retiree Health Care Fund as proposed by the RHCA board and amended by the IPOC (.190944.1SA);

(5) a bill to change the membership of the SIC, increase the experience and fiduciary standards for SIC members, allow flexibility in the frequency of meetings and make other technical changes (.190781.1);

(6) a bill to amend the Judicial Retirement Act to have employer contributions to the judicial and magistrate retirement funds come from the general fund and have the portion of civil docket and jury fees that had previously been deposited to the retirement funds be deposited to the general fund and increase contributions to the judicial and magistrate retirement funds (.190544.3SA);

(7) a bill to allow retired chiefs of police and undersheriffs to return to work without suspending their PERA pension benefits (.190849.3);

(8) a bill to allow retired state police officers, municipal police officers and adult correctional officers to return to work without suspending their PERA pension benefits (.190850.1);

(9) a bill to change the judicial and magistrate retirement plans to align more closely to the PERA state general member coverage plan 3 (.190682.2);

(10) a bill to provide that the PERA board would be authorized to set annually, within certain statutory limitations, employee contribution rates and the amount of the COLA (.190476.2);

(11) a bill to clarify and amend the qualified investments for the state treasurer (.190369.2SA); and

(12) a bill to eliminate the Education Trust Board (ETB) and place the investing and administrative duties of the ETB with the SIC (.190831.1).

AGENDAS AND MINUTES OF MEETINGS

TENTATIVE AGENDA
for the
FIRST MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

June 20, 2012
Room 322, State Capitol
Santa Fe

Wednesday, June 20

- 9:00 a.m. **Call to Order**
—Senator George K. Munoz, Chair
—Representative Henry Kiki Saavedra, Vice Chair
- 9:05 a.m. **Update on Recent Investment Performance and Investment Policy and Governance Developments: State Investment Council (SIC)**
—Steve Moise, State Investment Officer, SIC
—Vince Smith, Deputy State Investment Officer, SIC
- 10:30 a.m. **Status Report on Actuarial Soundness of the New Mexico Retiree Health Care Authority (NMRHCA) Fund and Program Reform Proposals**
—Mark Tyndall, Interim Executive Director, NMHRCA
- 11:30 a.m. **Review of State Investment- and Pension-Related Legislation, 2012 Session**
—Tom Pollard, Ph.D., Staff, Investments and Pensions Oversight Committee, Legislative Council Service (LCS)
—Doris Faust, Assistant Director, LCS
- 12:00 noon **Lunch**
- 1:30 p.m. **Status Report on Actuarial Soundness of the Educational Retirement Board (ERB) Pension Fund and Pension Reform Proposals**
—Jan Goodwin, Executive Director, ERB
- 3:00 p.m. **Adoption of IOC Proposed Interim Work Plan**
—Tom Pollard, Ph.D., Staff, Investments and Pensions Oversight Committee, LCS
- 3:30 p.m. **Adjourn**

TENTATIVE AGENDA
for the
SECOND MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

August 3, 2012
Room 322, State Capitol
Santa Fe

Friday, August 3

- 9:00 a.m. **Call to Order**
—Senator George K. Munoz, Chair
—Representative Henry Kiki Saavedra, Vice Chair
- 9:05 a.m. **Update on Recent Investment Performance and Strategy to Meet Long-Term Earnings Benchmark, Educational Retirement Board (ERB)**
—Bob Jacksha, Chief Investment Officer, ERB
—Alan Martin, New England Pension Consultants
- 10:30 a.m. **Update on Recent Investment Performance and Strategy to Meet Long-Term Earnings Benchmark, Public Employees Retirement Association (PERA)**
—Joelle Mevi, Chief Investment Officer, PERA
- 12:00 noon **Lunch**
- 1:30 p.m. **Status Report on Actuarial Soundness of the PERA Pension Fund and Pension Reform Proposals**
—Wayne Propst, Executive Director, PERA
- 3:30 p.m. **Impact of New Governmental Accounting Standards Board Pension Reporting Requirements on New Mexico State Finances and Bond Ratings**
—David Bucholtz, Bond Disclosure Council, New Mexico State Board of Finance
—Tom Pollard, Ph.D., Staff, Investments and Pensions Oversight Committee, Legislative Council Service
- 5:00 p.m. **Adjourn**

TENTATIVE AGENDA
for the
THIRD MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

September 7, 2012
Room 322, State Capitol
Santa Fe

Friday, September 7

- 9:00 a.m. **Call to Order**
—Senator George K. Munoz, Chair
—Representative Henry Kiki Saavedra, Vice Chair
- 9:05 a.m. **Status Report on Development of Proposals to Ensure the Actuarial Soundness of the Educational Retirement Board (ERB) Pension Fund**
—Jan Goodwin, Executive Director, ERB
- 10:00 a.m. **Status Report on Development of Proposals to Ensure the Actuarial Soundness of the Public Employees Retirement System Pension Fund**
—Wayne Propst, Executive Director, Public Employees Retirement Association (PERA)
- 11:00 a.m. **Comparison of the Recent Investment Performance of the ERB, the PERA and the State Investment Council (SIC)**
—Peter van Moorsel, Legislative Finance Committee
—Vince Smith, Deputy State Investment Officer, SIC
—Joelle Mevi, Chief Investment Officer, PERA
—Bob Jacksha, Chief Investment Officer, ERB
- 12:00 noon **Lunch**
- Notice:** **The first meeting of Investments and Pensions Oversight Committee Subcommittee on Municipal and State Public Safety Employee Retirement Plans Solvency will convene at 1:30 p.m.**
- 1:30 p.m. **Presentation on Municipal and State Public Safety Employee Retirement Plan Solvency Proposals**
—Wayne Propst, Executive Director, PERA
—Mark Tyndall, Interim Executive Director, New Mexico Retiree Health Care Authority
- 2:30 p.m. **Employee Association Perspective on Municipal and State Public Safety Employee Retirement Plan Solvency Proposals**

- Dave Heshley, Director, Fraternal Order of Police, New Mexico
- Diego Arencon, President, International Association of Firefighters,
Albuquerque Local
- Carter Bundy, Legislative Director, Association of Federal, State, County and
Municipal Employees

3:30 p.m. **Municipal Government Perspective on Municipal and State Public Safety
Employee Retirement Plan Solvency Proposals**

- Bill Fulginiti, Executive Director, New Mexico Municipal League

4:30 p.m. **Adjourn**

Revised: October 22, 2012

**TENTATIVE AGENDA
for the
FOURTH MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE**

**October 23, 2012
Room 322, State Capitol
Santa Fe**

Tuesday, October 23

- 9:00 a.m. **Call to Order**
—Senator George K. Munoz, Chair
—Representative Henry Kiki Saavedra, Vice Chair
- 9:05 a.m. **Impact of New Governmental Accounting Standards Board (GASB) Rules
Regarding Unfunded Pension Liabilities**
—Robert Attmore, Chair, GASB
—James B. Lewis, State Treasurer
- 10:00 a.m. **Legislation Proposed by the State Treasurer for the Investments and Pensions
Oversight Committee (IPOC) Endorsement**
—James B. Lewis, State Treasurer
—Mark Valdes, Deputy State Treasurer
- 10:30 a.m. **Public Employees Retirement Association (PERA) Board's Proposed Pension
Solvency Legislation**
—Wayne Propst, Executive Director, PERA
—Richard C. Bosson, Justice, New Mexico Supreme Court
- 12:00 noon **Lunch**
- 1:30 p.m. **Educational Retirement Board's (ERB's) Proposed Pension Solvency
Legislation**
—Jan Goodwin, Executive Director, ERB
- 3:00 p.m. **Legislation Proposed by the New Mexico Retiree Health Care Authority
(NMRHCA) for IPOC Endorsement**
—Mark Tyndall, Executive Director, NMRHCA
- 3:30 p.m. **Legislation Proposed by the State Investment Council (SIC) for IPOC
Endorsement**
—Steve Moise, State Investment Officer, SIC

4:15 p.m. **Legislation Proposed by IPOC Members and Others for IPOC Endorsement**

5:00 p.m. **Adjourn**

Revised: November 26, 2012

**TENTATIVE AGENDA
for the
FIFTH MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE**

**November 28, 2012
Room 322, State Capitol
Santa Fe**

Wednesday, November 28

- 9:00 a.m. **Call to Order**
—Senator George K. Munoz, Chair
—Representative Henry Kiki Saavedra, Vice Chair
- 9:05 a.m. **College Savings Plan Recent Investment Performance and Pending Litigation**
—Robert Desiderio, Vice Chair, Education Trust Board of New Mexico
—Jeremy Thiessen, Managing Director, Pension Consulting Alliance, Inc.
—Joe Goldberg, Freedman, Boyd, Hollander, Goldberg, Ives & Duncan, P.A.
- 9:45 a.m. **Legislation Proposed by the State Treasurer for Investments and Pensions Oversight Committee (IPOC) Endorsement**
—James B. Lewis, State Treasurer
—Mark Valdes, Deputy State Treasurer
- 10:00 a.m. **New Mexico Retiree Health Care Authority (NMRHCA) Solvency Legislation Proposed for IPOC Endorsement**
—Mark Tyndall, Executive Director, NMRHCA
- 10:30 a.m. **Educational Retirement Board's (ERB's) Pension Solvency Legislation Proposed for IPOC Endorsement**
—Jan Goodwin, Executive Director, ERB
- 12:00 noon **Working Lunch**
Report on the Investment Policies and Performance of the State Investment Council (SIC) Private Equity Program and New Mexico Small Business Investment Corporation (NMSBIC) Programs
—Steve Moise, State Investment Officer, SIC
—Joseph Badal, Chair, NMSBIC
—Russ Cummins, Executive Director and Investment Advisor, NMSBIC

1:30 p.m. **Legislation Proposed by the SIC for IPOC Endorsement**
—Steve Moise, State Investment Officer, SIC

3:00 p.m. **Additional Legislation Proposed by IPOC Members or Other Legislators for
IPOC Endorsement**

4:00 p.m. **Adjourn**

Revised: December 11, 2012

**TENTATIVE AGENDA
for the
SIXTH MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE**

**December 17, 2012
Room 322, State Capitol
Santa Fe**

Monday, December 17

- 9:00 a.m. **Call to Order**
—Senator George K. Munoz, Chair
—Representative Henry Kiki Saavedra, Vice Chair
- 9:05 a.m. **Legislation Proposed by the State Investment Council (SIC) for Investments and Pensions Oversight Committee (IPOC) Endorsement**
—Steven K. Moise, State Investment Officer, SIC
- 9:45 a.m. **College Savings Plan Recent Investment Performance and Pending Litigation**
—Dr. Jose Z. Garcia, Chair, Education Trust Board of New Mexico
—Jeremy Thiessen, Pension Consulting Alliance, Inc.
—John Boyd, Boyd, Hollander, Goldberg, Urias and Ward
—Kevin B. Deiters, Executive Director, Education Trust Board of New Mexico
- 10:15 a.m. **Educational Retirement Board (ERB) Pension Solvency Legislation Proposed for IPOC Endorsement**
—Jan Goodwin, Executive Director, ERB
- 10:45 a.m. **Public Employees Retirement Association (PERA) Pension Solvency Legislation Proposed for IPOC Endorsement**
—Wayne Propst, Executive Director, PERA
—Richard C. Bosson, Justice, New Mexico Supreme Court
—Arthur Pepin, Director, Administrative Office of the Courts
- 12:45 p.m. **(Working Lunch)**
Additional Legislation Proposed by IPOC Members or Other Legislators for IPOC Endorsement
- 2:30 p.m. **Adjourn**

**MINUTES
of the
FIRST MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE**

**June 20, 2012
Room 322, State Capitol**

The first meeting of the Investments and Pensions Oversight Committee (IPOC) was called to order by Senator George K. Munoz, chair, on Wednesday, June 20, 2012, at 9:15 a.m. in Room 322 of the State Capitol in Santa Fe.

Present

Sen. George K. Munoz, Chair
Rep. William "Bill" J. Gray
Rep. Larry A. Larrañaga
Rep. Jim R. Trujillo
Rep. Luciano "Lucky" Varela

Absent

Rep. Henry Kiki Saavedra, Vice Chair
Rep. David L. Doyle
Sen. Timothy M. Keller
Sen. Carroll H. Leavell
Sen. Steven P. Neville
Sen. Mary Kay Papen
Sen. John M. Sapien

Advisory Members

Sen. Carlos R. Cisneros
Rep. Miguel P. Garcia
Rep. Roberto "Bobby" J. Gonzales
Rep. Rhonda S. King
Rep. Jane E. Powdrell-Culbert
Rep. William "Bill" R. Rehm
Rep. Mimi Stewart
Rep. Shirley A. Tyler
Rep. Richard D. Vigil

Rep. Donald E. Bratton
Sen. Tim Eichenberg
Sen. Stuart Ingle
Rep. Patricia A. Lundstrom
Sen. William H. Payne
Sen. John C. Ryan
Sen. Michael S. Sanchez
Rep. Sheryl Williams Stapleton

Staff

Tom Pollard, Legislative Council Service (LCS)
Doris Faust, LCS
Sean Sullivan, LCS

Guests

The guest list is in the archived meeting file.

Handouts

Copies of all handouts are in the archived meeting file.

Wednesday, June 20

Call to Order

Senator Munoz called the meeting to order at 9:15 a.m. and welcomed the committee and members of the audience to the meeting. He then asked committee members to introduce themselves, which they did.

Update on the Compromise of Public Employees Retirement Association (PERA) Employee Information

Susan Pittard, general counsel, PERA, addressed committee members regarding the stolen laptop with potentially compromising information about PERA employees. She stated that the information on the laptop contained names and banking account information of retirees and beneficiaries, but not social security numbers.

Ms. Pittard added that by the close of business on Tuesday, June 19, 2012, PERA had contacted each retiree and beneficiary on the payroll regarding the incident. Ms. Pittard also stressed that PERA is in contact with an information technology (IT) company that is walking PERA through the data breach notification process.

Ms. Pittard went on to inform committee members that PERA is dealing with the external auditor's insurance company and presently negotiating an agreement with a credit reporting agency to provide retirees a credit monitoring program free of charge. She explained further steps that PERA is taking to assist retirees, including providing customer service and entering into an agreement with financial institutions to provide alerts on banking accounts.

A question was asked as to why auditors must take computers with them, and whether any investment accounts or deferred compensation information was stored on the laptop. Ms. Pittard explained that the laptop did not contain any information regarding deferred compensation. She went on to state that the information on the laptop was not encrypted, which is unacceptable to PERA, and that PERA is investigating the auditor's internal procedures.

Another question was asked as to whether the auditor needed a password to log into the laptop. Ms. Pittard responded that while there were two levels of passwords required to enter into the data files, an IT specialist circumvented these password protections relatively easily on a mock computer. She suggested that anyone with IT skills could likely have accessed the information.

Ms. Pittard stated further that the independent auditing company, Atkinson, is based in Albuquerque and is on the state auditor's list. Further, she affirmed that PERA is determining the costs for labor, customer service, credit alerting and other steps being taken to mitigate the situation, and PERA is working with Atkinson's insurance agency to ensure payment.

**Update on Investment Policy and Governance Developments: State Investment Council
(SIC)**

Steven K. Moise, state investment officer, SIC, introduced himself and his senior management team to the committee. Present senior management included Vince Smith, deputy state investment officer, Evan Land, general counsel, Charles Wollmann, director of communications, and Brent Schipp, chief financial officer.

Mr. Moise first addressed the operational reforms at the SIC and discussed further action the council is taking to institutionalize positive change. Mr. Moise noted that since the SIC was reconstituted by the legislature in 2010, the council has retained a new investment officer and a new management team and has replaced three of four investment advisors, a private equity consultant and a real estate consultant. In addition to governance reforms, Mr. Moise explained that the SIC reduced its earnings expectation from a target of 8.5% to a target of 7.5% and embarked on a three-year portfolio reconstruction in 2011. Mr. Moise asserted that the SIC has traditionally been highly allocated to equities and stocks, but is now trying to shift a portion of the portfolio to real return assets, including real estate, infrastructure, energy and timber. He added that this focus on income-producing real assets would reduce the portfolio's volatility and exposure to equity markets. Mr. Moise noted that in order to accomplish this restructuring, the SIC has retained new, best-in-class managers through a rigorous request for proposals process.

Mr. Moise informed committee members that the SIC had adopted two dozen new policies, including a new code of conduct, code of ethics, mission vision, values statement and a renewed emphasis on transparency. Mr. Moise went on to detail the 2010 recommendations made by an investment consulting firm, EnnisKnupp, noting that the SIC has implemented 55 of the 82 recommendations. He added that the SIC asked the company (now Hewitt-EnnisKnupp) to return and conduct a follow-up study and provide new recommendations. Mr. Moise then explained that of the 11 SIC positions, 10 members are currently serving, including Linda Eitzen, who was appointed by Governor Susana Martinez in May, and Leonard Lee Rawson, who was reappointed by the New Mexico Legislative Council.

Mr. Moise reiterated that preserving and growing the permanent funds are the most important goals of the SIC, and stated that the funds have grown by nearly \$1.5 billion over the last two years. Mr. Moise went on to summarize the distributions from and the contributions to the land grant permanent funds (LGPF) and the Severance Tax Permanent Fund (STPF). Relating to the LGPF, Mr. Moise noted that contributions over the past two years totaling roughly \$883 million have been made to the LGPF from numerous sources, including oil and gas leases, royalty payments and bonus payments. He added that distributions from the LGPF have been about \$1.1 billion over that same time period, meaning that the state is receiving less into the LGPF than it is paying out. Mr. Moise explained that the STPF contributed nearly \$375 million to the general fund over the last two years, while only \$11 million has trickled into the STPF. He indicated that this spread makes it difficult to maintain and impossible to grow the STPF, and that if inflation is taken into account, the corpus of the STPF is actually eroding.

Mr. Moise finished by updating the committee on the SIC's legal matters. Mr. Moise explained that the SIC had hired a law firm on a contingent-fee basis, which has a successful track record in dealing with New York pay-to-play issues. He also added that the SIC is the only governmental entity that is pursuing recoveries. Mr. Moise reported that the SIC has served all of the defendants it has named, and none have been dismissed. He concluded by stating that the SIC will likely name more defendants, and he expressed to the committee that the litigation will last through at least 2014.

A question was asked as to whether the SIC will propose any legislation during the session to fix the issues with the STPF. Mr. Moise responded that there are more structural changes to be made relating to the way the SIC operates, but pointed out that it would be premature to discuss these changes prior to the SIC meeting with EnnisKnupp and the governance committee.

A question was asked concerning the current vacancy on the council. Mr. Moise responded that there should be a governor appointee soon to fill the remaining vacancy.

In response to a question from the committee regarding diversion of severance taxes for the Public School Capital Outlay Fund, Tribal Infrastructure Fund and Water Trust Fund from the STPF, Mr. Moise stated that there are ideas being discussed, but that they have not been vetted by the SIC. However, Mr. Moise mentioned that one worthwhile endeavor could be to gradually increase the percentage of money being directed into the permanent fund.

An inquiry was made into the status of the ongoing litigation, asking specifically about who is prosecuting these cases and whether the statute of limitations is at risk of running out in any of these matters. Mr. Land first noted that there is no statute of limitations if the SIC sues in state court. He went on to explain that while the federal Securities and Exchange Commission could bring a securities fraud case, or the federal Department of Justice or the state attorney general could bring a criminal case, the SIC is the only agency pursuing legal remedies at this time. Mr. Land recounted that the law firm hired by the SIC has incurred over \$5 million in billing, while the SIC has only paid it \$200,000 to cover expenses. Mr. Land expressed that the SIC's goal is to get settlements or guilty verdicts regarding the 18 defendants. He added that the SIC is launching discovery, has survived every motion to dismiss and is moving the case forward without having any defendant dropped from the suit. The committee member questioned whether there is a criminal suit being considered. Mr. Land stated that while there are no criminal cases pending at this point, the SIC is aggressively pursuing the 18 most egregious individuals.

The question was asked as to whether the revenue from land leases was included in the LGPF contribution amount. Mr. Moise stated that this revenue was reflected in the contribution and explained that the sources of revenue to the State Land Office from oil and gas leases include bonus payments, royalties and rental payments. Mr. Smith added that the LGPF earned 9.45% for the quarter ending in March, the highest rate of return among comparable funds in the

country. Mr. Smith reiterated, however, that the goal is not to be the best in the country, but rather consistently earn prudent returns over periods of three, five, 10 and 20 years.

The question was asked as to whether there was any legislation introduced in 2012 regarding the SIC. Mr. Moise stated that SB 53, which ultimately failed in the house, was crafted to remove the governor from the SIC. Mr. Pollard affirmed to the committee that SB 53 was an IPOC-endorsed bill that was designed to remove elected officials from the SIC and replace them with members appointed by these officials. Mr. Smith pointed out that a resolution was also introduced to expand the existing cap on international equity investments from 15% to 25%. He noted that this resolution ultimately died on the last day of the session.

Mr. Moise discussed additional legislation to remove statutory authority for the Private Equity Investment Advisory Committee. Mr. Moise explained that when this committee was created in statute, the legislature believed that it was a new asset class that should have its own vetting process. Mr. Smith added that private equity assets have made their way into the mainstream and stated that New Mexico has 10% of its portfolio in this asset class. He remarked that private equity assets can be handled within the Private Equity Investment Committee. Mr. Land went on to state that the SIC is held to the highest fiduciary standard, which requires a risk analysis of the portfolio as a whole. He explained that if these assets are bifurcated by type, the prudent investor standard is not being complied with.

In response to a question from the committee, Mr. Wollmann discussed distributions from the LGPF. Mr. Wollmann informed the committee that the LGPF has 21 beneficiaries, the largest of which is the Common School Fund, which gets 83% of the distribution. He added that the LGPF distribution rates have been 5.8% since fiscal year (FY) 2005, will drop to 5.5% for FY 2013 through FY 2016 and will reach a base of 5% by FY 2017. Mr. Wollmann stated that the remaining 17% of the LGPF distributions go to various universities, public buildings and prisons. Mr. Wollmann stated that a downward adjustment to 5.5% would result in a dollar reduction of around \$30 million.

Update on Recent Investment Performance: SIC

Mr. Smith explained that although the LGPF earned a high return of 9.45% in the quarter to date, the fund's long-term performance lags behind its peers. He added that the 10-year return target was 5.45%, and the actual return average was 5.55%.

Mr. Smith went on to discuss the asset allocation of the LGPF. Mr. Smith said that, as recently as March of this year, the LGPF was heavily invested in U.S. equities, with 47.98% of the fund being allocated to those assets. He added that over 10 years, these assets only returned an average of 5.27%. Mr. Smith informed the committee that as of June, the state has allocated only 39% to U.S. equities and that the percentage will be reduced to 31% in the near term. He noted that the state is investing more in treasury inflation-protected securities (TIPS) and floating rate debt in order to provide a smoother rate of return. Mr. Smith detailed other allocation changes, including reducing the portfolio allocation in fixed-income assets and increasing the

allocation to absolute return and real estate assets. He stated that this new portfolio was designed to yield a target rate of return of 7.5%.

Mr. Smith continued by detailing the state's asset allocation compared to its peers. He noted that the LGPF is highly allocated to U.S. equities, but the reduction to 31% will bring the state to a level average with its peers. Mr. Smith indicated a desire to become more heavily allocated in international equities and explained the reasoning for the state's low allocation to U.S. fixed income. Mr. Smith also pointed out that the state was above average in its allocation to alternative investments, which include the less volatile real return investments.

Mr. Smith concluded by discussing the investment performance of the LGPF as compared to its public peer funds. Mr. Smith explained that because the LGPF is highly allocated to equities, and equities did well for the first quarter, the LGPF earned 72 basis points over its public peer funds for that quarter. In total, against peer returns, the LGPF earned an additional \$300 million in the first quarter. Mr. Smith indicated that over the past year, the LGPF slightly outperformed public peer plans.

A question was asked about the strategy to shift the portfolio allocation from equities to real assets, considering the recent success of equities. Mr. Smith indicated that the rate of return on real assets is comparable to that projected for stocks, with considerably less volatility. Mr. Smith went on to comment that he sees two bubbles: the bond market and corporate earnings. He stated that these bubbles cannot be sustained, and that because the stock market is based on corporate earnings, returns on equities will likely be tempered in the future.

The SIC was asked to provide the committee with a list of the 52 EnnisKnupp recommendations that have been implemented, as well as an explanation of those recommendations that have not been adopted.

Status Report on the Actuarial Soundness of the New Mexico Retiree Health Care Authority (NMRHCA) Fund and Program Reform Proposals

Mark Tyndall, interim executive director, NMRHCA, introduced himself to the committee. Mr. Tyndall went on to introduce members of the NMRHCA board of directors who were present at the meeting, including Alfredo Santistevan, Tom Sullivan, Jan Goodwin, Jeff Barela and Joe Montano.

Mr. Tyndall began by giving the committee background on the NMRHCA, noting that while the authority started paying claims on its initial 15,000 members in 1991, it was not pre-funded like PERA or the Educational Retirement Board (ERB). He stressed that the statute states that no contractual rights are created and that the benefit may be modified at any time. Mr. Tyndall continued by detailing the membership and various plans offered by the NMRHCA. He stated that the NMRHCA has a FY 2012 budget of \$240 million and provides health insurance to 50,000 total members. Mr. Tyndall explained that although the plans are good, members do have to pay deductibles and out-of-pocket expenses. In addition to these health plans, dental, vision and life insurance plans are offered 100% on a retiree pay basis, meaning there is no

subsidy provided by the NMRHCA. He pointed out that half of the participating employers and employees are from the public school system, and the other half are split evenly between state employees and municipal, county and university (excluding University of New Mexico and New Mexico State University (NMSU)) employees.

Mr. Tyndall informed the committee that as recently as 2007, the NMRHCA benefit fund only had a solvency period through 2014. He explained that in 2007 and 2009, in order to achieve solvency, the board of directors reduced the subsidies for most pre-Medicare members, increased out-of-pocket expenses and increased contributions for active employees. Mr. Tyndall stated that these changes have achieved solvency for the fund through 2027 and reduced the unfunded liability from \$4.1 billion to \$3.3 billion. Mr. Tyndall pointed out that the board's goal of having a 15-year solvency period will be challenging because health care costs continue to increase at a rate faster than external revenue sources. He also mentioned the challenges that are created when active employees contribute less during their career than the average retiree will receive in benefits over the course of retirement. Mr. Tyndall summarized the issues discussed at outreach meetings with current retirees, advocacy groups and unions.

He stated further that based upon the plans and subsidy levels currently in place, the NMRHCA has an actuarial accrued liability (AAL) of about \$3.5 billion. The fund balance is subtracted from the AAL to arrive at an unfunded AAL of \$3.3 billion, which, amortized over 30 years, yields an annual required contribution of \$326 million. Mr. Tyndall provided the legislators a graph indicating the current fund balance projection. This solvency projection revealed that the small fund balance will be eliminated by FY 2018, and that by FY 2022 the deficit will start eating into the corpus of the fund, after which the benefit fund balance will recede quickly.

Mr. Tyndall finished by detailing nine reforms under consideration to attain solvency through 2042. First, Mr. Tyndall discussed removing "family coverage" subsidies for dependents. He explained that the NMRHCA cannot provide tiered coverage in the same way a private employer can. Second, Mr. Tyndall talked about increasing the cost-sharing on prescription coverage in 2013. Third, he mentioned increasing the years of service required to receive maximum subsidy from 20 to 25. Fourth, Mr. Tyndall spoke about making targeted changes to the subsidies provided to those who have not worked as long or paid into the program, including reducing the subsidies to spouses on the pre-Medicare plan from 40% to 30%. Fifth, Mr. Tyndall alluded to changing the structure of pre-Medicare plans to possibly increase deductibles or out-of-pocket maximums. Sixth, he stated that the board is looking at lowering the subsidy level to pre-Medicare retirees from 65% to 60%. Seventh, Mr. Tyndall noted that an enhanced wellness program is being discussed, including providing financial incentives to increase wellness. Eighth, Mr. Tyndall stated that the NMRHCA could implement a graduated minimum age, noting that the average age of an individual entering the plan is 58 years old. Last, Mr. Tyndall discussed legislative action to increase the employer/employee contribution by 2.25%, phased in over five years.

A question was asked as to whether NMSU retirees stay on their health insurance plans after retirement. Mr. Tyndall stated that he believes that is the case and noted that they are not on the NMRHCA plan.

A question was asked as to how private plans compare to the plan offered by the NMRHCA. Mr. Tyndall explained that retirees mostly compare the NMRHCA plan to the plans they are on at retirement, such as the public school insurance plan. He noted that in terms of comparison, the NMRHCA plan is about middle of the road. The legislator went on to inquire into how President Obama's health care plan would impact the NMRHCA. Mr. Tyndall responded that the president's plan would be positive to the retiree health care plan, in part because it creates a national program to help finance health care costs for pre-Medicare retirees. He did state, however, that many of the things in the federal health care plan are already in place in New Mexico.

Status Report on Actuarial Soundness of the ERB Pension Fund and Pension Reform Proposals

Ms. Goodwin, executive director, ERB, introduced herself and the ERB board members present to the committee.

Ms. Goodwin began by describing the changes in the ERB's retirement eligibility standards and benefit structure. She stated that an ERB member is eligible to retire when the member meets one of three eligibility requirements, depending on when the member was hired. Ms. Goodwin stated that members hired prior to July 1, 2010 are eligible to retire if: 1) the member has earned service credit totaling 25 or more years, regardless of age; 2) the member's age and earned service credit add up to 75 or more; or 3) the member's age is 65 or more with at least five years of earned service credit. Ms. Goodwin then informed the committee about the changes to retirement eligibility for those ERB members who were hired on or after July 1, 2010. Members falling into this category are eligible to retire if: 1) the member has earned and allowed service credits totaling 30 or more years, regardless of age; 2) the member's age and earned service credit add up to 80 or more; or 3) the member's age is 67 or more with at least five years of earned service credit. Ms. Goodwin also briefly explained the components that make up the ERB's benefit structure.

Ms. Goodwin went on to discuss the history of ERB contribution rates, retirement benefits and funded status. Ms. Goodwin explained that a significant proportion of total contributions is paid by members, and that in FY 2012, ERB members with a salary over \$20,000 were paying a higher contribution than their employers. Ms. Goodwin then summarized the trend in ERB retirement benefits, noting in particular the ERB's history in providing cost-of-living adjustments (COLAs). She added that the current COLA averages 2% and begins upon the later of age 65 or one year following retirement. Ms. Goodwin concluded her historical overview by detailing the ERB's funded status since 1992. She indicated that the current funded status of 63% is close to the 65% funded status of 1992. Ms. Goodwin explained that, since 2005, the ERB has greatly changed its investment strategy to become more diversified.

Ms. Goodwin continued by addressing the ERB's projected funded status through the end of the decade given the current statutory contribution rates and asset allocations. She explained that unless some action is taken, such as changing the benefit structure, increasing employee contributions or reducing COLAs, the funded status will continue to slide in a negative direction. Ms. Goodwin then briefly mentioned the one-year actuarial status calculated by the investment consulting firm NEPC. This estimation shows that the AAL will continue to increase, and the funded status will decline by slightly over 3%.

Discussion then turned to the ERB's legislative proposals during the 2012 legislative session. Ms. Goodwin informed the committee that the ERB's proposal for the 2012 session set funding goals of 80% funded ($\pm 2\%$) by 2030, and 95% funded ($\pm 5\%$) by 2040. She added that the board recommended a 12.5% COLA reduction, a minimum retirement age of 55 with a 10-year grandfather period and an increase in employee contribution to 9.9%. Ms. Goodwin stated that the IPOC endorsed the ERB's proposal, which became SB 150. An amended version of this bill passed the senate but ultimately died in the house.

Ms. Goodwin finished by summarizing the ERB's interim efforts to meet with stakeholders and develop a proposal for the next legislative session. Ms. Goodwin stated that the ERB has held three stakeholder advisory group meetings, and while few areas of consensus have emerged, one area of potential agreement would be to increase employee contributions. Ms. Goodwin informed the committee that the ERB will have a special board meeting on July 19, 2012 to develop a funding policy. These discussions will center around the actuarial cost method and asset valuation method to be used, funding targets and responses to favorable or unfavorable investment performance. Ms. Goodwin affirmed that these discussions, in conjunction with stakeholder input, would lead to another legislative proposal. The ERB would then seek an IPOC endorsement in the fall of 2012.

Bradley Day, board member, ERB, expressed to the committee that the calculation of the AAL is distorted because of an unrealistically high discount rate. He commented that the real unfunded liability is closer to \$5.7 billion and conjectured that if the ERB plan was in the private sector, it would likely be declared bankrupt by the Pension Benefit Guaranty Corporation. Mr. Day emphasized that using a discount rate of 7.75% provides unreliable projections, and that contrary to the stated 63% funded level, the funded status is actually closer to 30%.

Mr. Day remarked that there would need to be significant benefit changes in order to achieve solvency, including possibly eliminating COLAs or increasing the retirement age to 62. Mr. Day reiterated the issues related to the discount rate, noting that discount rates in the private sector cannot exceed the corporate bond yield, which is typically around 5%.

Beulah Woodfin, board member, ERB, informed the committee that during the board's listening tour, members informed her that they would rather see an increase in contributions than a reduction in benefits. She further stated that Mr. Day was incorrectly comparing the ERB plan to a private sector defined benefit plan, which does not have any employee contributions in many cases. Ms. Woodfin stressed that while members are willing to see an increase in the minimum

age to receive benefits or increased contributions, benefits for current members should be maintained.

Russell Goff, board member, ERB, noted that the board is reviewing the actuary reports and expressed his opinion that elimination of the COLA is not necessary to maintain benefits.

Committee members discussed the reasons why private companies are moving toward defined contribution plans, such as 401(k) plans, and away from defined benefit plans.

A question was asked as to whether most pension plans have COLAs. Ms. Goodwin stated that most private sector plans do not have COLAs. She explained that private sector plans were doing well when investment rates were high, but when they went down, corporations eliminated expenses such as COLAs to avoid showing any liabilities.

Another committee member inquired into the issues relating to growing the fund. Ms. Goodwin stated that the board is focused on reaching the 80% to 90% funding target. Ms. Goodwin also talked about the issues surrounding the discount rate, noting that the actuaries look at the proper discount rate over a long period of time. She also added that investing in a public pension plan is different from investing in a private individual retirement account plan. Public pension plans can pool people together to reduce the longevity risk and are able to invest for a longer period of time than an individual can. Bob Jacksha, chief investment officer, ERB, informed the committee that the most recent quarterly return was 7.2%, while the year-to-date return was around 4%. Mr. Jacksha stated that the 25-year annual return average was around 8%. The committee member emphasized that the fund will not be adequately funded by simply relying on investment earnings and that growing the fund will require increasing contributions.

In response to the discussion concerning increased employee contributions, stakeholders in the audience provided their input to the committee. Stephanie Ly, president, American Federation of Teachers New Mexico, took the position that member contributions should increase from 7.9% to 10%, that there should be no changes to COLAs and that there should be a minimum retirement age of 55. She was also of the opinion that the state should increase its contribution to the pension system. A representative from the American Association of University Professors expressed optimism that a proposal could be structured to reach the 25% annual required contribution, which the actuaries say would pay off the liabilities in the pension system by 2040.

The question was asked as to the role that social security plays in the retirement calculations.

Ms. Goodwin explained that the social security benefit is based on a 35-year work history and that the average benefit is 30% to 40% of the worker's average lifetime earnings. Ms. Goodwin further pointed out that if an ERB member retires with 25 years of service, the retirement percentage rate is 58.75%. This percentage, coupled with social security, often leads to retirees having a larger income when they retire than when they were working.

There was an inquiry from the committee into the possibility of a non-compounding COLA. Ms. Goodwin mentioned that the board looked into a non-compounding COLA with the eligibility changed from 65 years of age to 67, noting that this option would improve solvency. She stated that a simple 2% COLA with a minimum retirement age of 50 and an employee contribution of 9.9% would achieve a 93% funded status by 2040. Another option would be a 1.5% compounding COLA, a minimum retirement age of 55 and an employee contribution of 9.9%, which would achieve 100% funded status by 2040.

Review of State Investment- and Pension-Related Legislation, 2012 Session

Mr. Pollard and Ms. Faust introduced themselves to the committee. Ms. Faust spoke about the pension-related bills and Mr. Pollard discussed the investment-related bills introduced during the 2012 session. A table summarizing this legislation is attached to these minutes.

A discussion followed on the various pieces of legislation.

Adoption of IPOC Proposed Interim Work Plan

Mr. Pollard summarized the IPOC's interim work plan. He stated that the ERB and PERA would be brought back before the committee to discuss whether the investment portion of each of these entities could be combined to reduce fees and achieve economies of scale. Mr. Pollard also proposed that the committee look into the SIC's shift to real return assets, fiduciary issues related to the SIC's private equity advisory and the funding goals of the state's pension plans.

Mr. Pollard noted that SM 18 was a memorial passed by the senate that requested a task force be created to evaluate public safety retirement plans. He explained that the task force could be established by legislative leadership, or a subcommittee of the IPOC could be appointed to receive testimony. Ms. Faust added that these options would be presented to the New Mexico Legislative Council as alternatives.

There was discussion among legislators regarding the creation of a task force versus a subcommittee of IPOC members. Upon a motion duly made and seconded, without objection, the IPOC resolved that a task force would be requested per the memorial, but if the New Mexico Legislative Council does not create a task force, the fallback would be a subcommittee of IPOC members willing to serve.

Upon a motion duly made and seconded, without objection, the IPOC work plan was approved.

There being no further business before the committee, the first meeting of the IPOC adjourned at 3:22 p.m.

**MINUTES
of the
SECOND MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE**

**August 3, 2012
Room 322, State Capitol
Santa Fe**

The second meeting of the Investments and Pensions Oversight Committee (IPOC) for the 2012 interim was called to order by Senator George K. Munoz, chair, on Friday, August 3, 2012, at 9:20 a.m. in Room 322 of the State Capitol in Santa Fe, New Mexico.

Present

Sen. George K. Munoz, Chair
Rep. Henry Kiki Saavedra, Vice Chair
Rep. David L. Doyle
Rep. William "Bill" J. Gray
Rep. Larry A. Larrañaga
Sen. Carroll H. Leavell
Sen. Mary Kay Papen
Sen. John M. Sapien
Rep Jim R. Trujillo
Rep. Luciano "Lucky" Varela

Absent

Sen. Timothy M. Keller
Sen. Steven P. Neville

Advisory Members

Rep Donald E. Bratton
Rep. Miguel P. Garcia
Rep. Roberto "Bobby" J. Gonzales
Rep. Patricia A. Lundstrom
Rep. Jane E. Powdrell-Culbert
Rep. William "Bill" R. Rehm
Rep. Sheryl Williams Stapleton
Rep. Mimi Stewart
Rep. Richard D. Vigil

Sen. Carlos R. Cisneros
Sen. Tim Eichenberg
Sen. Stuart Ingle
Rep. Rhonda S. King
Sen. William H. Payne
Sen. John C. Ryan
Sen. Michael S. Sanchez
Rep. Shirley A. Tyler

Staff

Tom Pollard, Legislative Council Service (LCS)
Doris Faust, LCS
Claudia Armijo, LCS

Guests

The guest list is located in the meeting file.

Handouts

Handouts and written testimony are in the meeting file and posted on the New Mexico legislature web site.

Friday, August 3

Senator Munoz welcomed the committee members and guests. He reminded members that the meeting was being webcast and then asked them to introduce themselves, which they did.

Update on Recent Investment Performance and Strategy to Meet Long-Term Earnings Benchmark of the Educational Retirement Board (ERB)

Bob Jacksha, chief investment officer for the ERB, and Alan Martin, partner at New England Pension Consultants (NEPC), greeted the committee members. Mr. Jacksha began by introducing members of the ERB present for the IPOC meeting, including Mary Lou Cameron, board chair, and State Treasurer James B. Lewis.

Mr. Jacksha told the committee that the ERB's quarterly investment reports are voluminous, and that for purposes of presenting to the committee, he and his staff had narrowed the focus, but would certainly speak about any items the members wanted to discuss. He then turned the presentation over to Mr. Martin, who began by saying that his consulting company, NEPC, advises more than \$400 billion in public funds, including the State of Arizona and Orange County, California.

Mr. Martin next explained that the ERB's investment returns are calculated every period using the methodology of the Bank Administration Institute (BAI) defined performance standards set in 1971. The BAI file format is a colloquial term used to describe a file format for performing electronic cash management balance reporting.

Referring to page two of the ERB handout, *Investment Performance, Evaluation and Projections*, dated Friday, August 3, 2012, Mr. Martin explained that the ERB's returns are calculated on a total return basis, including not only income and dividends but also realized and unrealized gains and losses. He stressed that looking at multiple-year period returns is critical because of the long-term nature of the ERB funds and noted that the average time in the system for an ERB retiree is about 40 years. Returns for a single year, or return numbers by themselves, can tell only part of "the story".

When evaluating the ERB's returns, Mr. Martin said the big question is, "Did we achieve our actuarial target in the long run?". He noted that, unfortunately, the information most desired and useful, yet unavailable, would be what could be expected for future returns. He analogized the job of advising the ERB on investments to being on a sailboat, saying, "We cannot direct the wind, but we can adjust the sails.". With regard to investments, all that can be earned is what the market *potentially* allows.

When evaluating how the ERB funds performed, the consultant looks at multiple benchmarks, time periods and peer groups. The ERB's funds peer groups are all public funds

located in the United States with greater than \$1 billion in assets, a group composed of 63 funds. Another aspect of evaluating portfolio performance requires one to refrain from comparing portfolio performance to a single market, like the Standard & Poor's 500. Comparing the ERB's portfolio performance to that of its peer group provides the optimum comparison.

According to Mr. Martin, the ERB's rank in its peer group of funds for the year ending June 30, 2012 placed it in the top 25%. The ERB's return of 2% was well above the median fund return of 1.1%.

Mr. Jacksha addressed the members regarding the peer comparison graph depicted on page six of the ERB handout. He pointed out that, over a 10-year period, the ERB has performed consistently well against its peer group funds, noting that as of June 30, 2012, the ERB funds' assets were \$93 billion.

Mr. Jacksha next talked about a 2005 statutory change, which allowed the ERB broader investment authority under the *Prudent Investor Rule*. As of October 2007, the ERB made a major shift in investment philosophy, diversifying beyond stocks and bonds, and a new asset allocation plan was implemented beginning in 2008. Along with the new plan came the need to hire additional staff, consultants and managers. The fund did not experience a significant impact on returns as a result of the change in asset allocation until 2009. Over the past three years, the ERB has ranked in the top 10% of the fund universe, and, during that time period, the median public fund returned 11.9% versus the ERB's return of 13.0%. The 1.1% difference per year is worth more than \$300 million in investment earnings over that three-year period.

Mr. Jacksha directed the members' attention to pages nine and 10 of the ERB handout, which depict, graphically and by percentages, the ERB's funds asset allocation of: United States equities, non-U.S. equities, fixed income, alternatives, real estate and cash. The ERB's private equity program, which for the last year made a return of 12.1%, is the number one rated program in the country.

Next, Mr. Martin provided a discussion about risk-adjusted returns. He advised that return calculations are industry standard, involving a time-weighted total return on investments, and risk measures are more varied. He continued explaining that the most common measure observed is the standard deviation of historical return streams, and the constant question is, "What is the best way to compare funds with different variability of results?". The most common answer is the *Sharp Ratio*, calculated by taking the fund's return, minus the risk-free rate, divided by the standard deviation. Using the graphs depicted on pages 13 and 14, Mr. Martin showed the members the ERB's risk-adjusted rate of return over the past three years and past five years, emphasizing that the ERB funds did well for the risk that was taken on investments.

Using the graph on page 15 of the ERB handout, Mr. Jacksha led a discussion about the ERB's attribution analysis. The graph illustrates the impact on the fund's performance that is attributable to the board's policy impact, the asset allocation impact and the fund managers' impact over a 10-year period. When questioned about the impact of low-performing managers,

Mr. Jacksha noted that the ERB places low-performing managers on a "watch status". He cautioned that when reviewing manager impact and performance, it is best to look at it over time, rather than as a snapshot.

Mr. Martin then spoke to the members about how the ERB's asset allocation is developed, explaining that a forward-looking process of projected asset class returns and uncertainty is employed. The consultants and the ERB integrate assets and liabilities to understand the interplay among investment results, contributions and benefits. An effort is made to identify the risk of each contribution to the overall portfolio, and a scenario analysis and a liquidity analysis are performed in an effort to ensure that the fund can pay its liabilities as they become due.

Mr. Martin next explained that the process used to determine a projected return begins with a projection of expected future returns for each separate asset class. This process involves taking into account current, expected and historical market factors. The process begins with a projection of the expected future returns for each asset class, plus the volatility. The future correlation of asset classes is projected and then mathematically combined with the three factors to arrive at projected returns for the next five to seven years.

Mr. Martin noted that the projected returns are outlined on page 18 of the ERB handout, and although the projections have been reviewed by the board's Investment Committee, the projections have not yet been adopted by the board.

Mr. Jacksha continued the discussion by talking about the probability distribution and using the graph on page 19 of the ERB handout to illustrate the standard deviation, or where the ERB expects the fund's performance to be within the range, which is also where one would expect 66% of the returns to be.

He explained the Internal Rate of Return (IRR), which reconciles the beginning dollar amount of an investment, plus cash flows with the ending value. It represents the rate of return on the average dollar involved. Another way to look at it is to say that it is the discount rate that equates the present value of the future cash flows to the amount invested. The Time Weighted Return (TWR) is the return produced by linking the returns for each sub-period, giving equal weight to each time period. This focuses on the return on the first dollar invested and is used primarily to compare manager performance results without including distortion from differences in cash flow. Mr. Jacksha pointed out that the benefit of evaluating returns as time-weighted instead of dollar-weighted is that it provides information that is independent of the dollar amount invested, since the managers do not typically control cash inflows and outflows. Additionally, it is most accurate for managers investing in public stocks and bonds, as well as total fund calculations. Time-weighted measurement is least accurate for measuring private equity or partnership investments, particularly over shorter periods of time. Mr. Jacksha emphasized that one cannot compare IRR to TWRs.

After the presentation, there was a discussion regarding the fact that, with the exception of the two- and three-year periods, the ERB had not attained the 7.75% projected earnings rate in

many of the time periods shorter than 20 years. The discussion culminated in a request from the committee chair for an actuarial projection for the fund run based on a 6.75% earnings and discount rate. Members pointed out that on the previous day, the Indiana state retirement fund had lowered its assumption to a rate that is the lowest in the country for large public plans at 6.75%.

There was a question about whether the board had discussed lowering the discount rate. Mr. Martin explained that the investment numbers and fund balance information, as well as contribution and benefits information, are given to the ERB's actuary, and the actuary recommends the target investment rate of return based on that information. Mr. Jacksha noted that the board had discussed adjusting the target investment rate at its July meeting but had not taken action at that time and would review the issue again in the future. Ms. Cameron explained that the board has examined the target investment rate and has been advised by its actuary that the 7.75% is appropriate. She noted that the board has been discussing changes to the plan and that it takes the task before it very seriously, adding that the board has devoted most of its time to solvency issues over the past two years.

Members inquired about how the new Governmental Accounting Standards Board (GASB) rules impact the reporting of the ERB. Mr. Jacksha stated that his understanding of the new rules is that under the ERB's current plan design, its funded liabilities would continue to be discounted at its assumed actuarial rate, 7.75%, but the unfunded portion of the fund's liabilities would be discounted based on a municipal bond rate, currently somewhere around 4% to 5%. This would mean that, given the ERB's 2012 projected funding ratio, about 60% of its liabilities would be discounted at 7.75% and 40% at the lower rate. The net impact of the change would be to lower the ERB's effective discount rate by at least a full 1%. The committee asked the ERB to prepare an actuarial projection based on the expected impact of the new GASB reporting rules. Mr. Jacksha pointed out that the new GASB standards are a reporting change. He noted that the unfunded liability of the ERB fund has been reported in the past, but just as a footnote. The new GASB requirements change the manner in which the unfunded liability is reported, not the fact that it is reported.

Mr. Jacksha reminded committee members that the board had recommended changes for the pension plan during the last two legislative sessions, but that neither of the recommendations had been passed. As is statutorily mandated, the ERB can only recommend changes to the legislature.

Mr. Jacksha was asked, in reference to the relative performance and longer term returns, why, if the ERB fund performance is good, and it appears to be, is there an unfunded liability problem? He advised that there is an imbalance between benefits and contributions that cannot reasonably be expected to be offset by investment returns. The imbalance was masked by outstanding capital markets performance in the early years of the 29 years that the ERB has records. For example, in two years in the early 1980s, the ERB recorded one year's returns in excess of 20% and another in excess of 30%. In the 1990s, the ERB experienced double-digit

returns year after year. He added that the ERB cannot, and does not, count on returns like this going forward, and it understands that it cannot invest its way out of the situation.

There was a request from a legislator for a breakdown of ERB contributions between the state general fund and federal funds.

Mr. Jacksha closed by assuring the committee that the ERB recognizes the necessity of plan design changes to improve the solvency of the ERB plan.

Update on Recent Investment Performance and Strategy to Meet the Long-Term Earnings Benchmark of the Public Employees Retirement Association (PERA)

Joelle Mevi, chief investment officer for the PERA, addressed the committee, beginning with a discussion of how to measure "relative" fund performance. Referring to page three of the PERA handout, *New Mexico Public Employees Retirement Association, Investment and Pensions Oversight Committee, August 3, 2012*, she said that the PERA fund's performance is compared relative to its benchmark, or its stated target, and relative to its peers, or other funds of similar type and size. The PERA's peer group, also known as peer universe, includes all public funds with assets greater than \$1 billion.

Ms. Mevi reported that as of June 30, 2012, the PERA's 12-month return was negative 38 basis points. The fund's return over a three-year period is 11.96%, and over the life of the fund, it is 9.6%. According to Ms. Mevi, market volatility was the primary factor in the fund's poor performance, but its performance was also hampered by a slowing global economy. She noted that the PERA's hedge funds have been struggling, with less success than had been experienced in previous years, and that equities continue to be a predominant risk. She clarified that all of the PERA's funds are externally managed and that manager impact is a factor on the fund's performance.

Next, Ms. Mevi directed the members' attention to page five of the PERA handout, which depicts the PERA's asset allocation compared to its peers. Notably, the PERA's asset allocation differs widely from peer funds in its allocation of U.S. equities and non-U.S. equities. Additionally, the PERA's cash reflects a much lower percentage than that of its peer universe. She continued on page six of the PERA handout, explaining that the volatility in the capital markets greatly influences the PERA's fund performance. The domestic stock market's rate of return for fiscal year (FY) 2012 was 3.84%. For the same period, the international stock market's rate of return was -13.38%, while the bond market's return was 7.48%.

Referring to page seven of the PERA handout, Ms. Mevi indicated that the graph illustrates the PERA's earnings by asset class, as of June 30, 2012. Since the fund's inception, the earnings on domestic equities are 10.83%, non-U.S. equities have earned 7.34% and fixed income investments have earned 8.01%. Still, recent earnings have been low and have included negative earnings, with the one-year earnings of non-U.S. equities at -12.92%.

Ms. Mevi advised the members that the PERA board reviews the fund's asset allocation about every three years, saying it was last reviewed in May 2010. On page eight of the PERA handout, the graph depicts the changes in the market value of the fund by asset class. The graph clearly depicts a continuing decline in market assets since 2008. The PERA board is considering looking at opportunistic securities, as well as other asset classes not currently in the PERA portfolio.

With regard to the target rate of return used by the PERA, members were advised that until two years ago, the rate of return used by most public funds was 8%. However, in December 2011, a majority of those funds reduced their respective target rates to 7.75%. The PERA board expects the investment rate to trend downward; in fact, as mentioned before, Indiana reduced its fund's target investment rate to 6.75% on August 2, 2012.

There was a discussion about the fund's investment in international equities, and Ms. Mevi stated that historically, the fund has invested heavily in non-U.S. equities. It is expected that there will continue to be growth in emerging markets. She noted that the exposure to emerging markets does carry volatility, particularly with the global economic slowdown of recent years.

When asked whether the ERB investment staff and the PERA staff work together on asset allocation and investment strategies, Ms. Mevi responded that she and Mr. Jacksha work together and that she has also worked closely with other investment staff at the ERB. Members voiced the opinion that the meetings between the ERB staff and the PERA staff should occur more regularly. In response, Ms. Mevi indicated that would be a good idea.

The chair requested that the PERA provide the same information that had been requested for the ERB, as well as actuarial projection of the assets, liabilities and fund solvency information using a target investment rate of 6.75% instead of the fund's 7.75% rate. Ms. Mevi said the PERA would provide the information.

Letter of Appreciation from Attorney Victor Marshall Regarding Pending Litigation *State ex rel. Foy v. Austin Capital Management*.

Mr. Marshall, attorney, thanked the committee for its letter in support of the interlocutory appeal in the *State ex rel. Foy v. Austin Capital Management* case, a case alleging "pay-to-play" wrongdoing by former New Mexico State Investment Council employees. Mr. Marshall reported that the Court of Appeals heard oral arguments in the case on June 19, 2012 and could issue its decision at any time. He opined that if the state wins the interlocutory appeal, it could result in an estimated \$1 billion in additional money recoveries due to the treble damages provision in New Mexico's Fraud Against Taxpayers Act. Members thanked Mr. Marshall for his letter and comments.

Status Report on Actuarial Soundness of the PERA Pension Funds and Pension Reform Proposal

Wayne Propst, executive director, PERA, addressed the committee regarding the solvency of the PERA funds and the board-approved changes to the PERA pension plan. He began by introducing some of the PERA board members in attendance, including Gerald Chavez, PERA

board chair. Mr. Propst provided a handout, *Investments And Pensions Oversight Committee, Senator George K. Munoz, Chair, August 3, 2012*, for the members' review.

Pages one, two and three of the handout provide pie charts illustrating the breakdown of the PERA's membership, including retired and active members. There are a total of 64,195 PERA members, with a total of 29,496 retiree and beneficiary distributions. The pie charts on pages one and two show the breakdown among the PERA's membership of state, municipal, judicial, magistrate, legislative and volunteer firefighter members. The chart on page three reflects the breakdown of all participating employers.

Mr. Propst advised the members that, based upon Representative Trujillo's House Joint Memorial 19 from the 2012 legislative session, the PERA has worked on developing proposed changes to bring the fund's funding status to 100% by the year 2041. The memorial also requested that the PERA present benefit structure changes impacting future, active and retired members to the IPOC by October 1, 2012. As a consequence, the PERA board conducted 32 outreach meetings in 16 cities throughout the state in April and May of 2012. More than 2,000 PERA members and retirees participated in meetings at which the PERA board discussed potential changes to the plan and explained the funding challenges faced by the PERA.

Mr. Propst told the committee that the PERA board met in Alamogordo in May and adopted recommended plan changes that include shared responsibility among retirees, active members, some non-vested members and new hires. He said the changes are not a tepid response nor so minimal that the board would need to readdress the solvency issue again in three to five years.

Mr. Propst explained that the proposed changes impact members by creating two tiers for both non-hazardous duty and hazardous duty members.

The proposed plan changes would result in a two-tier system for non-hazardous duty members as follows:

- tier I includes members initially hired on or before June 30, 2010; and
 - tier II includes members initially hired on or after July 1, 2010.
- Tier II non-hazardous duty members would see the following benefit changes:
1. a 0.5% reduction in their annual pension factor, making their pension factor 2.5%;
 2. retirement eligibility would be based on an age and service Rule of 85, or age 65 with 10 years of service;
 3. a member's final average salary (FAS) would be calculated based upon a five-year FAS;
 4. an eight-year vesting period;

5. a 90% pension maximum benefit; and
6. when eligible, these retirees would receive a 2% compounding cost-of-living adjustment (COLA).

The proposed plan changes would result in a two-tier system for hazardous duty members as follows:

- tier I includes members initially hired on or before June 30, 2010; and
- tier II includes members initially hired on or after July 1, 2010.

Tier II hazardous duty members would see the following benefit changes:

1. a 0.5% reduction in their annual pension factor, making their pension factor 2.5%;
2. retirement eligibility would be based on an age and service Rule of 75, or age 60 with 10 years of service;
3. a member's FAS would be calculated based upon a five-year FAS;
4. a six-year vesting period;
5. a 90% pension maximum benefit; and
6. when eligible, these retirees would receive a 2% compounding COLA.

Additional plan changes adopted by the board would impact current retirees who would receive a reduction in their annual compounding COLA, from 3% to 2%. Mr. Propst noted that this specific change will have the single biggest and most immediate positive impact on the PERA plan's funding level and the unfunded liability.

Another plan change adopted would mean that current active members initially hired on or before June 30, 2010 would receive a reduction in their annual compounding COLA from 3% to 2%. Additionally, for these members, COLA eligibility would begin seven calendar years after the member's retirement as opposed to the current two years. No COLA eligibility change is proposed for tier I members who retire at age 65 or older, or who retire due to disability.

Mr. Propst continued explaining that the PERA board proposes the following contribution changes:

1. Effective July 1, 2013, there will be an increase in employee contributions of 1.5%. He noted that the increase would be accomplished with the removal of the sunset clause enacted when the contribution shift was put in place.
2. Effective July 1, 2014, and continuing for the following two fiscal years, there will be an increase of 0.50% per fiscal year in all statutory employer contribution rates, resulting in a total employer contribution increase of 1.50% in FY 2016. Mr. Propst noted that the proposed employer contribution increases would be the first such increases since 1997 and that the increases would provide a hedge against lower-than-expected return on investments that could be experienced.

Referring to page 12 of the handout, Mr. Propst explained the projected results from the implementation of the board's proposed plan changes. He said that reducing the COLA will result in an immediate \$1.5 billion, or about a 30% reduction in the PERA's unfunded liability. He stressed that all actions, taken together, are expected to result in the PERA being 100% funded by 2031 and 127% funded by 2041. Lastly, he opined that even with all of the proposed changes, the PERA defined benefit plan will provide members with a sound and secure retirement future.

Next, Mr. Propst directed the members' attention to the graph on page 14 of the handout, which depicts the projected funding status of the plan if contribution increases are not implemented, as well as the funding status projected under the board's plan change proposal. If there are no changes made to the plan and there are no contribution increases, the fund is projected to be insolvent in the year 2059. Whereas, if the board's proposed changes are implemented, and even if no contribution increases are put in place, the fund is projected to be 104.7% funded in the year 2039. When asked, Mr. Propst acknowledged that the projections are based upon the PERA fund achieving its target investment rate of 7.75%. However, he referred to page 15 of the handout, which illustrates an investment return scenario whereby the fund would earn a rate of return of only 6.75% from 2011 through 2021 (10 years), and then a projected rate of return of 7.75% thereafter. The chart shows that with the PERA board's recommended plan changes implemented during that time frame, the fund is projected to be funded at 105.2% in the year 2039.

Mr. Propst shared with the committee some of the recent rule changes implemented by the board, noting that there are changes related to the purchase of "air time", a statutory provision allowing PERA members to purchase additional service credit under certain circumstances. Previously, the PERA calculated the cost of purchasing the service credit using the member's last reported hourly wage under the last plan in which the member was employed. Now, the calculation is changed, and it uses the member's highest 36 consecutive monthly average salary as the FAS at the time of the purchase. Using the FAS more accurately reflects the full and actuarial present value of the increase in the member's pension when air time is purchased.

Additionally, the board will exercise discretion regarding the interest rate that will be paid to members who refund their PERA contributions. Previously, the PERA had paid a refund interest rate of 5.25%. However, the board lowered the rate to 2% in June 2012, reflecting the

overall dramatic drop in interest rates in the market today. The board estimates the savings in the first year from lowering the interest rate for refunded contributions to be \$70 million.

Mr. Propst concluded his presentation by telling the members that the PERA board recognizes that meaningful pension reform is needed to ensure retirement benefits for current and future retirees. He said that the board's reform proposal sets one of the most aggressive public pension funding goals in the country and establishes a path to eliminate the plan's unfunded liability and reach 100% funding status in approximately 20 years. He added that the board's proposal builds in significant room to allow for uncertainty in the market and changes according to accounting rules, while still reaching 100% funding status by the year 2041. Mr. Propst opined that with the PERA board's proposed changes, the PERA benefit will remain a reliable source of retirement security for generations of retirees.

Committee members thanked Mr. Propst for his presentation and expressed thanks for the PERA board's commitment to look at plan changes and adoption of the proposed changes. That was followed by a general discussion regarding the need to reach consensus among legislators and stakeholders.

Some members voiced concerns that older retirees who are facing retirement in the near future must be protected from impending changes, since they are planning and relying on their benefits as currently provided. Mr. Propst responded by saying that although the board had discussed a grandfather period, such a provision is not included in the plan changes adopted.

Diego Arencon, president, Albuquerque Area Firefighters Local 244, addressed the members, saying that the PERA board's proposed changes may be close to what the firefighters would accept but that his members want to have more input into proposed plan changes. He added that the firefighter retirees he represents are willing to reduce the COLA by 1% as long as there is a review of it. He closed by requesting a half-day time slot at the IPOC's October meeting to present on the issue.

Members noted a need to clean up the definitions used in the PERA statutes relating to "hazardous duty", "non-hazardous duty", "motor transportation" and "state police" members, noting that perhaps all public safety members that carry a side-arm should not be treated equally.

Some members asked which of the various PERA plans were the most funded and which were the least funded. Mr. Propst replied that the volunteer fire plan is 173% funded and the state police plan is 101% funded, while the least-funded plans are the judicial and magistrate plans. When asked, he further explained that all member benefits are paid out of the plan as a whole and not specifically out of funds allocated to each PERA plan.

Lastly, members asked Mr. Propst and the PERA staff to be prepared to report back to the IPOC as to exactly what the board's proposed changes will do. The members expressed the need for actual data, including information related to what the changes would do with no employer contribution increases implemented.

Members discussed the 2012 memorial requesting the formation of a task force to evaluate the issues facing public safety PERA members. Although no task force will be formed, a subcommittee of the IPOC has been tasked with meeting and discussing the various issues.

Impact of New GASB Pension Reporting Requirements on New Mexico State Finances and Bond Ratings

Mr. Pollard, Ph.D., LCS economist, and David Bucholtz, Bond Disclosure Council, State Board of Finance, presented to the committee regarding the newly instituted GASB reporting standards that apply to public pension plans and go into effect July 1, 2012.

Mr. Pollard referred to the handout, *Background for New Mexico Public Pension Discussion*, and related why discussions and concerns regarding public pensions are happening throughout the country. The U.S. government's financial difficulties have brought more scrutiny of state and local government's finance by investors and rating agencies, which expect cuts in state and local aid to be part of the solution. He noted that:

1. employee pensions are the largest long-term obligation of general fund dollars in most states and, like state general obligation debt, are provided for most state constitutions and, therefore, have payment priority over operating budgets;
2. unfunded pension liabilities grew very rapidly during first decade of the twenty-first century. The stock market boom during the 1990s allowed future retirement benefit increases to be paid from current and projected investment income rather than increased contributions from employers and employees. Stock market crashes in 2001 and 2007 reduced current and projected investment income and left the benefit increases unfunded; and
3. unfunded liabilities negatively affect not only bond ratings and borrowing costs, but also investment by businesses that are looking across states at relatively high unfunded pension liabilities as a predictor of a state's need to cut services and/or raise taxes.

Mr. Pollard stressed, however, that his presentation was not meant to imply that public employee pension benefits must be cut, nor that employee rather than employer contributions should be increased to restore long-term fund solvency. He noted that state budget cuts and a scarcity of comparable defined benefit pension plans in the private sector have contributed to a move by many states in this direction.

Mr. Pollard continued by providing background information related to the Constitution of New Mexico. He noted that several constitutional provisions provide a framework for any proposed changes to the state's pension plans. The pertinent constitutional provisions are as follows:

***Article IX, Section 7.** Prohibits borrowing more than \$200,000 to balance the budget. This section authorizes the state to borrow money not exceeding the sum of \$200,000 in the aggregate to meet casual deficits or failure in revenue, or for necessary expenses.

***Article IX, Section 8.** Authorizes general obligation bonds. Subsection A states that no such law [Authorizing General Obligation Bonds] shall take effect until it shall have been approved by a majority of qualified electors of the state. No debt shall be so created if the total indebtedness of the state would thereby be made to exceed 1% of the assessed valuation of all the property subject to taxation in the state.

***Article VIII, Section 10, Subsection A.** Authorizes severance tax bonds. This subsection states that there shall be deposited in a permanent trust fund known as the "severance tax permanent fund" that part of state revenue derived from excise taxes that have been or shall be designated severance taxes imposed upon the severance of natural resources within this state, in excess of that amount that has been or shall be reserved by statute for the payment of principal and interest on outstanding bonds to which severance tax revenue has been or shall be pledged.

***Article XX, Section 22 (In Part).** This section authorizes a trust fund to be set aside for the "sole and exclusive benefit" of public or educational plan member retirees. It also confers on members of retirement plans meeting minimum service requirements a vested property right in the retirement plan with due process protections under the applicable provisions of the New Mexico and United States constitutions.

This section further states that: "Nothing in this section shall be construed to prohibit modifications to retirement plans that enhance or preserve the actuarial soundness of an affected trust fund or individual retirement plan."

Mr. Pollard noted the chart on page six of the handout that illustrates the funding status of the PERA, ERB and Retiree Health Care Authority (RHCA) funds as of June 30, 2012. The chart reflects that the PERA's funding ratio is 71%, the ERB's is 63% and the RHCA's is 6%.

According to Mr. Pollard, the rating agencies combine bonds and unfunded pension liabilities into new enhanced debt measures. Elaborating, he told the members that Moody's, Standard & Poor's and Fitch have all produced recent analyses and state comparisons on debt measures that combine bonded indebtedness and unfunded pension liabilities into a more meaningful measure.

Pensions are not quite as airtight as bonds, but have state constitutional protection in most states. Like most states, New Mexico's unfunded pension liability is huge compared to its bond debt outstanding as follows:

- New Mexico general obligation bonds outstanding: \$356 million;
- New Mexico severance tax bonds: \$741 million;

- state highway and transportation bonds: \$1.7 billion; and
- unfunded liabilities of the ERB and PERA: \$10.6 billion.

Mr. Pollard next explained that Moody's Investors Service has ranked states according to their combined pension and long-term liabilities, as a percentage of gross domestic product. Accordingly, New Mexico ranks number 15 among the top 20 states.

With regard to the GASB reporting requirements, Mr. Pollard advised that the proposed changes in pension accounting and financial reporting, to be implemented by large pension funds for the year beginning July 2012, mean that:

- unfunded pension liabilities will now appear on the employer's balance sheet, rather than in the notes, and will be reported like long-term debt;
- lower actuarial discount rates will apply for most plans, which will increase actuarial liabilities and pension expenses. Currently, the assumed investment earnings rate (e.g., 7.75%) is used as a discount rate. Under the new rules, if an unfunded liability exists, the AA-bond index rate (around 4% today) will have to be used to discount benefits during that period; and
- shorter amortization periods will be allowed for unfunded liabilities, which will also increase pension expenses. Currently, a 30-year amortization is used. Under the new rules, the average remaining service lives of incumbent employees, which is usually 12 to 15 years, will be used.

According to Mr. Pollard, Moody's proposed on July 2, 2012 its own new public pension reporting standards as follows:

1. accrued actuarial liabilities will be adjusted based on a high-grade long-term corporate bond index discount rate (5.5% for 2010 and 2011);
2. asset smoothing will be replaced with reported market or fair value as of the actuarial reporting date;
3. annual actuarially required pension contributions will be adjusted to reflect the foregoing changes as well as a common amortization period; and
4. multiple-employer cost-sharing plan liabilities will be allocated to specific government employers based on proportionate shares of total plan contributions.

Moody's states the following: "While we [Moody's] do not expect any state ratings to change based on these adjustments alone, we will take rating actions for those local governments whose adjusted liability is outsized relative to their rating category."

Mr. Pollard noted that, although pension shortfalls are large, substantial fund assets provide a limited cushion and time to act, i.e., modest actions now, more drastic actions later. States with relatively large unfunded liabilities that have not taken action (increased contributions and/or reduced benefits) have been downgraded by rating agencies.

Mr. Bucholtz provided the members with a guide created by Brownstein Hyatt Farber Schreck, LLP, entitled *Considerations in Preparing Disclosure in Official Statements Regarding an Issuer's Pension Funding Obligations (Public Defined Benefit Pension Plans)*. Mr. Bucholtz provided the members with a brief overview of the pertinent sections of the guide, emphasizing that New Mexico is in a relatively strong position, since its bonds are paid from specific revenues, severance tax and property tax, and not from the state's general fund. Therefore, pension liabilities do not bear directly on the bond rating for the state's severance tax bonds and general obligation bonds.

The committee approved the minutes from the June 2012 IPOC meeting, and with no further business, it adjourned at 3:40 p.m.

**MINUTES
of the
THIRD MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE**

**September 7, 2012
Room 322, State Capitol
Santa Fe**

The third meeting of the Investments and Pensions Oversight Committee (IPOC) for the 2012 interim was called to order by Senator George K. Munoz, chair, on Friday, September 7, 2012, at 9:15 a.m. in Room 322 at the State Capitol in Santa Fe, New Mexico.

Present

Sen. George K. Munoz, Chair
Rep. Henry Kiki Saavedra, Vice Chair
Rep. Larry A. Larrañaga
Sen. Carroll H. Leavell
Sen. Steven P. Neville
Sen. John M. Sapien
Rep. Jim R. Trujillo
Rep. Luciano "Lucky" Varela

Absent

Rep. David L. Doyle
Rep. William "Bill" J. Gray
Sen. Timothy M. Keller
Sen. Mary Kay Papen

Advisory Members

Rep. Donald E. Bratton
Sen. Carlos R. Cisneros
Rep. Miguel P. Garcia
Rep. Roberto "Bobby" J. Gonzales
Sen. Stuart Ingle
Rep. Rhonda S. King
Sen. William H. Payne
Rep. Jane E. Powdrell-Culbert
Rep. William "Bill" R. Rehm
Rep. Mimi Stewart
Rep. Shirley A. Tyler
Rep. Richard D. Vigil

Sen. Tim Eichenberg
Rep. Patricia A. Lundstrom
Sen. John C. Ryan
Sen. Michael S. Sanchez
Rep. Sheryl Williams Stapleton

Staff

Tom Pollard, Legislative Council Service (LCS)
Doris Faust, LCS
Claudia Armijo, LCS

Guests

The guest list is located in the meeting file.

Handouts

Handouts and written testimony are in the meeting file and posted on the New Mexico Legislature web site.

Friday, September 7

Senator Munoz welcomed the committee members and guests. He reminded members that the meeting was being webcast and then asked them to introduce themselves, which they did.

Status Report on Development of Proposals to Ensure the Actuarial Soundness of the Educational Retirement Board (ERB) Pension Fund

Jan Goodwin, executive director for the ERB, addressed the members. She began by introducing two ERB members present at the meeting, ERB Vice Chair Russell Goff and member J. Thomas McGuckin, Ph.D. Next, Ms. Goodwin reminded the committee members that the statutory provisions of the ERB currently provide three ways that its members can retire:

1. at age 65 with five years of earned service credit;
2. at any age, if the sum of the member's age and earned service credit equals at least 75 (Rule of 75); and
3. at any age, with 25 years of earned service credit (25 and out).

Next, Ms. Goodwin directed the members' attention to the ERB handout, *Status Report on Development of Proposals to Ensure the Actuarial Soundness of the Educational Retirement Board Pension Fund*. She explained that representatives of the ERB plan stakeholders had met on several occasions during the past few months. As a consequence of those meetings, on July 17, 2012, a consensus on a proposal for ERB plan changes was reached. The stakeholders presented their proposal to the ERB at its August 2012 meeting. The stakeholder participants included individuals from 15 groups representing various ERB plan members.

The stakeholder proposal will increase all active members' employee contribution rates to 10.7% in a phased-in process reaching the increased rate in fiscal year (FY) 2015. Additionally, the proposal will create a new Tier 3 of employees hired on and after July 1, 2013. The retirement requirements and benefits for members in Tier 3 will include the following:

1. a minimum retirement age of 55 years;
2. retirement eligibility will occur:
 - a. at age 67 years with five years of earned service credit;
 - b. at any age if the sum of the member's age and years of earned service credit equals at least 80 (Rule of 80); or
 - c. at any age with 30 or more years of earned service credit; and
3. a cost-of-living adjustment (COLA) of 2% annually once the member reaches the age of 67 years.

Ms. Goodwin further explained that the stakeholder proposal is projected to reduce the ERB's unfunded liability. According to those projections, the fund will be 75% funded by the

year 2030 and will reach 100% funded status in the year 2043. Ms. Goodwin noted the various charts and graphs provided in the ERB handout, which illustrate the upward trend in funding status that is anticipated if the stakeholder proposal is enacted by July 1, 2013.

After Ms. Goodwin's presentation, there was a discussion regarding the ERB's 7.75% projected earnings rate and whether that is a realistic rate to use considering the current global financial climate and the ERB's recent actual investment earnings. Bob Jacksha, the ERB's chief investment officer, advised the members that the ERB's gross investment rate of return over the past 10 years was 6.8%. He also noted that the 10-year time period included the volatility and downturns experienced in the financial markets in recent years. Ms. Goodwin explained that discount rates are meant to reflect projected returns over very long periods of time, 30 to 40 years, and over that time frame, the ERB's investment performance has been historically high. She further explained that with recent changes made by the board in the ERB's asset allocation, the fund has experienced increased returns, with less volatility.

In response to questions from members, Ms. Goodwin explained that, although the current ERB statute does not impose a minimum retirement age, ERB retirees are subject to a reduction in pension benefits if they choose to retire before the age of 60 years.

Some members asked if the stakeholder plan's proposed increase in member contribution rates will be applied to members making less than \$20,000 a year, and they urged Ms. Goodwin to ask the board to consider exempting those members from the increased contributions. It was noted that under the stakeholder proposal, employer contribution rates will be 13.9%, the current statutory rate. When asked how much money would be needed to meet the 13.9% employer contributions, Ms. Goodwin responded by saying the increased contributions would require an additional \$75 million from employers, and that amount would be needed beginning in FY 2015.

Members inquired as to the status of the ERB's attempts to be reimbursed by retirees that had received overpayments earlier this year. Ms. Goodwin reported that the ERB has collected roughly \$1 million and still needs to collect about \$600,000. The ERB has taken legal action against those retirees that have refused to repay the money. She added that some of the overpaid retirees have entered into re-payment plans with the ERB.

Status Report on Development of Proposals to Ensure the Actuarial Soundness of the Public Employees Retirement Association (PERA) Retirement Plans

Wayne Propst, executive director for the PERA, addressed the committee regarding a proposal to make necessary changes to the PERA retirement plans. He reminded the members that, based upon Representative Trujillo's House Joint Memorial 19 from the 2012 legislative session, the PERA worked on developing proposed changes to bring the fund's funding status to 100% by the year 2041. The memorial also requested that the PERA present benefit structure changes impacting future, active and retired members to the IPOC by October 1, 2012. As a consequence, the PERA board conducted 32 outreach meetings in 16 cities throughout the state in April and May 2012. More than 2,000 PERA members and retirees participated in the meetings, at which the PERA board discussed potential changes to the plan and explained the funding

challenges faced by the PERA. Mr. Propst noted that the PERA presented the requested information before the October deadline imposed in the memorial, and the proposal contains changes projected to cause the fund to reach 100% by the year 2031, significantly sooner than the year 2041 deadline imposed by the memorial.

Mr. Propst initially presented the proposed plan changes at the IPOC meeting held in August 2012, but he refreshed the members' memories related to the specifics of the proposal, telling them that the PERA board met in Alamogordo in May and adopted recommended plan changes that include shared responsibility among retirees, active members and new hires. He explained that the proposed changes impact members by creating two tiers for both non-public safety members and public safety members.

The proposed plan changes would result in a two-tier system for non-public safety members as follows:

- ★ Tier I includes members initially hired on or before June 30, 2010. Upon retirement, Tier I members will be subject to a reduction in the COLA from the current 3% to 2%, and will, depending on their age at retirement, be required to wait up to seven years prior to receiving the COLA. Tier I members will not be impacted by a .05% decrease in the benefit multiplier affecting the Tier II new hires, nor would Tier I members be subject to the Tier II age and service requirements.
- ★ Tier II, the new-hire non-public safety tier, includes members initially hired on or after July 1, 2010.
- ★ Tier II members would be subject to the following age, service and benefit changes:
 1. a 0.5% reduction in the annual pension multiplier, making the multiplier 2.5%;
 2. retirement eligibility will be based on an age and service *Rule of 85*, meaning that the member would be eligible to retire at any age if the sum of the member's age and years of service credit equals at least 85, or when the member attains the age of 65 years with eight or more years of service credit;
 3. the pension benefit will be calculated based on a five-year final average salary (FAS);
 4. the vesting period will be eight years;
 5. the maximum pension benefit amount will be increased from 80% to 90% to encourage longevity of service; and
 6. after a waiting period of up to seven calendar years post-retirement, depending on the member's age at retirement, the retired Tier II member will receive a 2% annual COLA.

The proposed plan changes would also result in a two-tier system for PERA's public safety members as follows:

- ★ Tier I includes public safety members initially hired on or before June 30, 2010. Upon retirement, Tier I public safety members will be subject to a reduction in the COLA from the current 3% to 2%, and will, depending on their age at retirement, be required to wait up to seven years prior to receiving the COLA. Tier I members will not be impacted by a .05% decrease in the benefit multiplier affecting the Tier II new hires, nor would Tier I members be subject to the Tier II age and service requirements.
- ★ Tier II, the new hires, includes public safety members initially hired on or after July 1, 2010.

Tier II public safety members will be subject to the following age, service and benefit changes:

1. a 0.5% reduction in their annual pension multiplier, making the pension multiplier range from 2.5% to 3.0%, depending on the member's specific retirement plan;
2. retirement eligibility would be based on an age and service *Rule of 75*, meaning that the member may retire at any age if the sum of the member's age and service credit equals at least 75, or when the member attains the age of 60 with six or more years of service;
3. the pension benefit will be calculated based on a five-year FAS;
4. the vesting period will be six years;
5. the maximum pension benefit amount will be increased from 80% to 90% to encourage longevity of service; and
6. after a waiting period of up to seven calendar years post-retirement, and depending on the member's age at retirement, the retired Tier II member will receive a 2% annual COLA.

Lastly, Mr. Propst reminded the members that the PERA board proposes the following contribution changes:

1. effective July 1, 2013, an increase to employee contributions of 1.5%. He noted that the increase would be accomplished with the removal of the sunset clause enacted when the contribution shift was put in place; and
2. effective July 1, 2014, and continuing for the following two FYs, an increase of 0.50% per FY in all statutory employer contribution rates, resulting in a total employer contribution increase of 1.50% at FY 2016. Mr. Propst noted that the proposed employer contribution increases would be the first such increases since 1997, and the increases would provide a hedge against a lower-than-expected return on investments that could be experienced.

Next, Mr. Propst explained that the PERA board is in the process of reviewing the fund's asset allocation study. This is a process that will unfold over the next two to three months. It is likely that the board will be ready to present the asset allocation information at the November IPOC meeting. The investment consultants have advised the board that they may be

recommending a change in the 7.75% investment assumption, but they have not yet made such a recommendation.

Mr. Propst directed the members' attention to the handout *Funded Ratio of PERA Current Plan and Board Reform Proposal Using a 6.75% Assumed Discount*. The graph in the handout depicts the fund's projected funding status with and without the proposed changes to the structure of the PERA plans. Notably, the graph depicts that, under the board's proposed plan changes, the funded status of the fund in the year 2041 is projected to be 72.4%.

There was a discussion concerning the current employee contribution rates for both the ERB and the PERA members. Ms. Goodwin noted that the ERB members' statutory contribution rate is 7.9%, and Mr. Propst noted that the statutory rate for PERA members is currently 8.92%.

Noting that the ERB plan proposal is a stakeholder plan, a discussion ensued regarding whether the PERA board had asked the stakeholders to "sign off" on the board's proposed changes. Mr. Propst replied that the stakeholders had not been asked for such an endorsement, but he pointed out that many of the plan change ideas actually came from those stakeholders.

There was a brief discussion concerning the steps that a prospective retiree from a PERA plan should take when preparing and applying for retirement. Mr. Propst and his general counsel, Susan Pittard, advised that information on the specifics is available through both PERA staff and on PERA's web site.

Members asked for information regarding the legislative retirement plans to be presented at the October 2012 IPOC meeting. One legislator noted that the public-at-large is seeking more transparency. Noting an article published in the *Albuquerque Journal*, which asserted that eliminating the legislators' retirement plans, along with that eliminating the state's statutory obligation to contribute to those plans, could improve the overall solvency of the fund. PERA staff were requested to provide a report regarding the legislative retirement plans and their impact on the solvency of the fund. Mr. Propst responded to the request, saying staff would provide the information.

There was a discussion regarding the prospect of the legislature granting statutory authority for the ERB and PERA boards to adjust the benefits provided under the plans as needed to ensure plan solvency. Members were reminded that a retirement plan member's vested service credit earned under a plan is considered a property right under the Constitution of New Mexico. Ms. Goodwin and Mr. Propst were asked to consider the ramifications of the legislature enacting laws that would make the ERB and the PERA stand-alone agencies.

Senator Munoz requested that PERA staff provide information regarding each individual fund in the PERA. He asked for information related to where each plan stands financially, and he specifically asked for information regarding what the contribution rates would need to be to make each plan's fund solvent on its own.

Comparison of the Recent Investment Performance of the ERB, the PERA and the State Investment Council (SIC)

Peter Van Moorsel, analyst for the Legislative Finance Committee, Vince Smith, deputy director for the SIC, Joelle Mevi, chief investment officer for the PERA, and Mr. Jacksha joined in a discussion comparing the investment returns of the SIC and the state's retirement plans. Their presentations are posted on the legislature's web site for this meeting and are included in the meeting file.

Prior to adjourning the IPOC meeting at 12:25 p.m., the members approved the minutes from the August 3, 2012 meeting.

The First Meeting of the IPOC Subcommittee

Present

Sen. George K. Munoz
Rep. Jane E. Powdrell-Culbert
Rep. Miguel P. Garcia
Rep. William "Bill" J. Gray
Rep. Larry A. Larrañaga
Sen. Carroll H. Leavell

Staff

Tom Pollard, LCS
Doris Faust, LCS
Claudia Armijo, LCS

Municipal and State Public Safety Employee Retirement Plan Solvency Proposals

Mark Tyndall, interim executive director for the New Mexico Retiree Health Care Authority (RHCA), joined Mr. Propst in the discussion concerning solvency issues as they pertain specifically to New Mexico's public safety PERA members. Mr. Propst began by advising those attending the subcommittee meeting that there is a national trend in public employee retirement plans to require new members to work longer, based in large part on the fact that retirees are living longer. According to the National Conference of State Legislatures, 30% of the nation's public safety members are covered by plans that provide for a minimum retirement age of 50 years. He added that in California, the public safety plan was recently changed to require its members to work until they reach at least 57 years of age. Mr. Propst added that the PERA is working on a new mortality study and hopes to present that study at the October IPOC meeting.

Mr. Tyndall apprised the subcommittee members that the RHCA does not include several plans, it is all one plan. He noted that there are some specifics in the plan that apply uniquely to public safety members, who are defined under the RHCA statutes as members of an "enhanced plan". Members of enhanced plans are eligible to retire earlier than members of the other PERA and ERB plans. He also reminded the members that the RHCA will be operating in deficit spending in the year 2019. Mr. Tyndall noted that all of the contributions paid into the Retiree

Health Care Fund degrade the fund, and he opined that all contribution rates need to be increased. He will be presenting a request for .75% employee and 1.50% employer RHCA contribution increases at the October IPOC meeting. He expects the rate increases to be phased in over time and to produce an additional \$30 million for the fund. He also mentioned that even with its 5% funding status, the Retiree Health Care Fund is ranked thirteenth in the nation, a sobering commentary on the solvency of these types of funds. Mr. Propst noted that the biggest impact on the Retiree Health Care Fund stems from disability retirement benefits.

There was a general discussion related to the RHCA board's efforts to change benefits, including setting a minimum retirement age, reducing subsidies, implementing a maximum subsidy, requiring a longer wait-out period before benefits become available and looking at the benefits provided to public safety retirees because their benefits cost more due to the fact that they receive them for a longer period of time.

There were questions related to whether the PERA board had met with municipalities to determine if they are in agreement with the PERA's proposed plan changes. Mr. Propst replied that he was unaware as to the various municipalities' agreement or concerns regarding the proposed changes. Added to that discussion was a conversation regarding introducing a bill again in the upcoming session that would address the docket fee issues related to the judicial and magistrate pension funds. It was speculated that similar bills that had been introduced in previous years would again be introduced. Although passed by the legislature, the bill from last year was not signed by the governor. The general consensus was that it is unknown whether the governor would veto such a proposal again.

Next, there was a discussion related to the portion of the employee contributions that is paid, in many cases, by municipalities. Over the years, municipalities have agreed, whether by resolution or by contract, to "pick up" a portion of the municipal member's employee contributions. The pick-ups vary, but can be as high as 75%. There is concern that in the current fiscal constraints that municipalities and local governments are operating under, those groups may be unable or unwilling to pick up any more of the employee contributions if the rates are increased as proposed in the PERA and RHCA changes. In general, there seemed to be consensus that the proposals should contain language restricting the municipalities from having to pick up any more of the employee contributions.

Members talked about the life expectancies of public safety employees, and it was pointed out that a recent California study concluded that such employees' life expectancy was actually longer than the life expectancy of other general state members.

Employee Perspective on Municipal and State Public Safety Members Retirement Plan Solvency Proposals

David Heshley, director of New Mexico's Fraternal Order of Police, Diego Arencon, president, Area Firefighters Local 244, Carter Bundy, legislative director, Association of Federal, State, County and Municipal Employees, and Lieutenant Ramon D. Jiminez, PERA board member and representative of the New Mexico State Police, addressed the subcommittee.

Mr. Heshley began by reminding the subcommittee members that approximately 90% of the policemen and policewomen in New Mexico do not participate in the federal social security program, meaning they do not make social security contributions and will not receive retirement benefits from the program. He voiced his concern about changes to the PERA plan that would impact public safety members because the job-related issues affecting those members are often stress-related, and perhaps not indicated and measured in mortality studies alone. Without citing a specific study, he asserted that after working as a police officer for 19 or more years, most officers' job performance capacity is diminished greatly. Mr. Heshley said that, although the members he represents would accept a 2% COLA, which reflects a 1% reduction, they would absolutely not accept a seven-year wait-out period to receive the COLA. He said such a requirement is terrible and unacceptable. He offered the opinion that using a five-year FAS to calculate the pension benefit is not fair because his members, like other state employees, have not been getting raises. He said that he was not able to comment affirmatively one way or the other regarding the proposed six-year vesting period.

Mr. Arencon said that the municipal fire PERA members he represents would agree with some of the PERA board's proposed plan changes, to some degree. He added, however, that the municipal fire departments are struggling with retention and hiring issues, saying applications are down. He noted that in 2009, municipal fire positions had 300 applicants, but that in 2011, that number was only 150. He said that his members would be willing to accept an increase in employee contributions, along with a reduction in the COLA if the need for that reduction is revisited and evaluated for an increase in a year or so.

Mr. Jiminez said that as both a PERA board member and a New Mexico State Police officer, he fully supports the board's proposal for changes to the plan.

Mr. Bundy followed that remark by saying that, clearly, the legislators and PERA board and plan members are faced with a difficult task. He opined that the proposed Rule of 75 makes the possibility of retirement for public safety members by age 50 years still feasible. He added that the 3% COLA, which is the current statutory pension adjustment, is not reasonable, since it has been higher than the Consumer Price Index for some time now. He noted, however, that the seven-year wait-out period for retirees to receive the COLA needs to be reconsidered and adjusted downward, noting that if new employees are factored into the equation, the seven-year wait-out period is too long and unnecessary. He opined that, even with the proposed changes, the defined benefit plans offered under the PERA would continue to offer retirement security for New Mexico's public servants.

A final discussion ensued regarding the general trend for police and fire members after working for 20 to 25 years. Most members of the subcommittee seemed in agreement that, although those members retire sometimes as young as age 41 years, it is not likely that they stop working. Rather, they are reemployed with a state or local entity or work in the private sector while receiving their retirement benefits. Subcommittee members voiced a concern that the changes to the state's public pension plans need to be dealt with during the upcoming 2012

legislative session. Not dealing with it then would likely create an even more formidable solvency scenario in following years.

With no further business, the subcommittee adjourned at 3:50 p.m.

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**MINUTES
of the
FOURTH MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE**

**October 23, 2012
State Capitol
Santa Fe, New Mexico**

The fourth meeting of the Investments and Pensions Oversight Committee (IPOC) for the 2012 interim was called to order by Senator George K. Munoz, chair, on Tuesday, October 23, 2012, at 9:10 a.m. at the State Capitol in Santa Fe, New Mexico.

Present

Sen. George K. Munoz, Chair
Rep. Henry Kiki Saavedra, Vice Chair
Sen. Timothy M. Keller
Rep. Larry A. Larrañaga
Sen. Carroll H. Leavell
Sen. John M. Sapien
Rep. Jim R. Trujillo
Rep. Luciano "Lucky" Varela

Absent

Rep. David L. Doyle
Rep. William "Bill" J. Gray
Sen. Steven P. Neville
Sen. Mary Kay Papen

Advisory Members

Rep. Donald E. Bratton
Rep. Miguel P. Garcia
Rep. Roberto "Bobby" J. Gonzales
Rep. Jane E. Powdrell-Culbert
Rep. Mimi Stewart
Rep. Shirley A. Tyler

Sen. Carlos R. Cisneros
Sen. Tim Eichenberg
Sen. Stuart Ingle
Rep. Rhonda S. King
Rep. Patricia A. Lundstrom
Sen. William H. Payne
Rep. William "Bill" R. Rehm
Sen. John C. Ryan
Sen. Michael S. Sanchez
Rep. Sheryl Williams Stapleton
Rep. Richard D. Vigil

Staff

Tom Pollard, Legislative Council Service (LCS)
Doris Faust, LCS
Claudia Armijo, LCS

Guests

The guest list is located in the meeting file.

Handouts

Handouts and written testimony are in the meeting file and posted on the New Mexico Legislature web site.

Tuesday, October 23

Senator Munoz welcomed committee members and guests. He reminded members that the meeting was being webcast and then asked them to introduce themselves, which they did.

Impact of New Governmental Accounting Standards Board (GASB) Rules Regarding Unfunded Pension Liabilities

James B. Lewis, state treasurer, and Robert Attmore, chair for the GASB, made a presentation to the committee on the new GASB rules and how they could affect the reporting of the unfunded liabilities of public pension plans. Treasurer Lewis introduced Mr. Attmore and briefly described Mr. Attmore's professional background and credentials. Treasurer Lewis noted that he had requested a representative from Moody's to speak to the committee, but no one was available due to scheduling conflicts.

Mr. Attmore began by referring to the handout he provided for the members, Governmental Accounting Standards Board Mission, Vision, and Core Values. He relayed the mission, vision and core values of the GASB. The vision is for greater accountability, along with well-informed decision-making accomplished through excellence in public-sector financial reporting. The GASB's mission is to establish and improve the standards of state and local government accounting and financial reporting. This would be accomplished through a comprehensive process encouraging broad participation, with consideration of all stakeholders' views and with oversight by the Financial Accounting Foundation board of trustees. The core values of the GASB focus on independence, meaning the autonomy to pursue best answers free from undue influence or pressure. Additionally, included in the core values are integrity and objectivity.

Referring to the handout, and by way of background, Mr. Attmore explained that in June 2012, the GASB approved a pair of related statements that reflect substantial improvements to the accounting and financial reporting of pensions by state and local governments and pension plans. Statement No. 67, *Financial Reporting for Pension Plans*, addresses financial reporting for state and local government pension plans. Statement No. 68, *Accounting and Financial Reporting for Pensions*, establishes new accounting and financial reporting requirements for governments that provide their employees with pensions.

The guidance contained in these statements will change how governments calculate and report the costs and obligations associated with pensions in important ways. It is designed to improve the usefulness of reported pension information and to increase the transparency, consistency and comparability of pension information across governments.

Statement No. 67 replaces the requirements of Statement No. 25, *Financial Reporting for Defined Benefit Pension Plans and Note Disclosures for Defined Contribution Plans*, for most public employee pension plans. Statement No. 68 replaces the requirements of Statement No. 27, *Accounting for Pensions by State and Local Governmental Employers*, for most government employers. The new statements also replace the requirements of Statement No. 50, *Pension Disclosures*, for those governments and pension plans.

To ensure that the GASB pronouncements continue to be of high quality and are in sync with the continuously evolving government environment, the GASB periodically reexamines its standards. Reexamination typically takes place after a statement has been in place and fully implemented for at least five years. Research on the GASB pension standards indicates opportunities for significant improvement.

Governments provide pension benefits through various types of defined benefit pension plans, which specify the amount of benefits to be provided to the employees after the end of their employment. Single-employer pension plans provide pension benefits to the employees of one employer (a single employer). Multiple-employer pension plans provide pension benefits to the employees of more than one employer. Under an agent multiple-employer pension plan, the assets of a multiple-employer pension plan are pooled for investment purposes but separate accounts are maintained for each individual agent employer so that each agent employer's share of the pooled assets is legally available to pay the pensions of only its employees. In a cost-sharing multiple-employer pension plan, cost-sharing employers share their assets and their obligations to provide pension benefits to their employees, and plan assets can be used to pay the pensions of the employees of any employer that provides pensions through the plan. The new statements address all of these types of plans, as well as defined contribution plans that stipulate the amount to be contributed to employee accounts each year rather than the amount of benefits that will be paid in the future.

The statements apply specifically to governments and pension plans in which a government's contributions to the trust used to administer a pension plan are irrevocable, restricted to paying pension benefits and beyond the reach of creditors. Pension benefits provided through trusts that do not meet those three criteria are not addressed in the new statements, and those pension benefits would continue to be accounted for and reported following Statements Nos. 25, 27 and 50.

It is important to note that the new statements relate to accounting and financial reporting issues only, not to how pension costs and obligations are measured and reported in audited external financial reports. The statements do not address how governments approach pension plan funding or government policy regarding how much money will be contributed to pension plans each year. Until now, there has been a close relationship between how governments fund pensions and how they account for and report information about them, but the new guidance establishes a decided shift from the funding-based approach to an accounting-based approach. The board crafted its new statements with the fundamental belief that funding is squarely a policy decision for elected officials to make as part of the government budget approval process.

A government has an obligation to pay deferred benefits in the future, known as a total pension liability, once they have been earned. When the total pension liability exceeds the pension plan's net assets available for paying benefits, there is a net pension liability. Governments will now be required to report that amount as a liability in their accrual-based financial statements. The pension plan's net position available for paying benefits is to be measured using the same valuation methods that are used by the pension plan for purposes of preparing its financial statements, including measuring investments at fair value.

This is an important change that will more clearly depict the government's financial position. While this information will, in some cases, give the appearance that a government is financially weaker than it was previously, the financial reality of the government's situation will not have changed. Reporting the net pension liability (or asset, if plan net position exceeds the total pension liability) on the face of the financial statements will more clearly portray the government's financial status because the pension liability will be placed on an equal footing with other long-term obligations.

The new pension standards reflect several changes from those currently in place regarding how governments calculate their total pension liability. The measurement process detailed in the new standards involves three essential steps:

1. projecting future benefit payments for current and former employees and their beneficiaries;
2. discounting those payments to their present value; and
3. allocating the present value over past, present and future periods of employee service.

The standards continue the general existing practice of incorporating expectations of future employment-related events into projections of pension benefit payments, such as projected salary increases, and projected years of service, if they affect the amount of pension payments employees will receive. Provisions for automatic cost-of-living adjustments (COLAs) and other automatic benefit changes will also continue to be included in projections. On the other hand, ad hoc COLAs and other ad hoc benefit changes made at the discretion of the government will only be included in projections if they occur with such regularity that they are effectively automatic.

To discount projected pension benefit payments to a present value, governments assume a discount rate. Standards now in effect require governments to apply a discount rate equal to the long-term expected rate of return on the investments of the pension plan. The long-term expected rate of return will continue to be the starting point for the discount rate. However, the new standard makes it clear that this rate should be applied only to available pension plan assets that are expected to be invested using a strategy to achieve that return.

To the extent that a pension plan's net position and projected contributions associated with active and inactive employees, including retirees, is expected to fully cover projected benefit payments for those individuals, the long-term expected rate of return will be used. If there comes a point in the projections when plan net position and contributions related to active and inactive employees are no longer projected to be greater than or equal to projected benefit payments

related to those employees plus administrative expenses, from that point forward, a government would be required to discount the projected benefit payments using a municipal borrowing rate.

Benefit payments, discounted to their present value, are allocated to past, current and future periods. The new standards require all governments to use the entry-age actuarial cost method to allocate present value and to do so as a level percentage of payroll. Under this method, the present value of projected benefits is attributed to employees' expected periods of employment starting from when employees first begin to earn benefits.

A government's net pension liability varies from year to year for a variety of reasons, including actual earnings on plan investments, employee compensation changes, interest on the outstanding pension liability, contributions from employers and employees and actual economic or demographic changes not matching up with assumptions made in the actuarial calculations. When these period-to-period changes should be included in the calculation of the cost of a government's operations as expenses in the accrual-based financial statements is a key issue.

The new standards will better align the recognition of pension expense with the period in which the related benefits are earned. Considered in total, the changes set forth by the GASB will have the overall effect of expense recognition being accelerated. Under the new standards, several causes of change in the net pension liability will be factored into the calculation of pension expense immediately in the period in which the change occurs. They include:

1. benefits earned each year;
2. interest on the total pension liability;
3. changes in benefit terms;
4. projected earnings on plan investments; and
5. changes in plan net position from other than investments.

The effects on the total pension liability of changes in assumptions and differences between assumptions and actual experience are to be recognized initially as deferred outflows of resources or deferred inflows of resources and then introduced into the expense calculation systematically and rationally over the average remaining years of employment of employees. This period is likely to be significantly shorter than the period of up to 30 years over which governments may now recognize portions of their pension expense.

The difference between the expected earnings on plan investments and actual investment earnings is to be recognized as deferred outflows of resources or deferred inflows of resources and included in expense in a systematic and rational manner over a five-year closed period rather than longer periods that are allowed under the current standards.

Under the pension standards now in effect, cost-sharing employers have not been required to present actuarial information about pensions. Instead, information has been required to be presented in the pension plan's own financial statements for all of the participating governments combined.

Through its research, the GASB concluded that the needs of users of information regarding cost-sharing employers do not differ significantly from those interested in single and agent employers. Therefore, the GASB believes it is important to give users of the financial statements of cost-sharing employers access to better, more transparent financial information. Consequently, under the new standards, the GASB requires that cost-sharing governments report a net pension liability, pension expense and pension-related deferred inflows and outflows of resources based on their proportionate share of the collective amounts for all the governments in the plan.

The new standards contain requirements for disclosing information in the notes to the financial statements and presenting required supplementary information (RSI) following the notes. Due to the complexity of the array of pension plan features, the board concluded it is critical that financial statement users have access to certain basic plan information through governments' own financial statements. The board believes that including this information will enhance the usefulness of financial reports for both decision-making and assessing accountability.

All governments participating in a defined benefit pension plan will now include the following information in their note disclosures:

- descriptions of the plan and benefits provided;
- significant assumptions employed in the measurement of the net pension liability;
- descriptions of benefit changes and changes in assumptions;
- assumptions related to the discount rate and the impact on the total pension liability of a one-percentage-point increase and decrease in the discount rate; and
- net pension liability and deferred outflows of resources and deferred inflows of resources.

Single and agent governments also will be required to disclose, for the current period, the beginning and ending balances of the net pension liability and the effects of changes during the period (such as the effects of service cost, benefit changes and actual investment earnings). Single and agent governments will be required to present RSI schedules with the following information for each of the past 10 years:

- the beginning and ending balances of the total pension liability, the plan trust's net position, the net pension liability and their components; and
- total pension liability, the plan's net position, the net pension liability, a ratio of the plan's net position to the total pension liability, the covered-employee payroll and a ratio of the net pension liability as a percentage of the covered-employee payroll.

If a single, agent or cost-sharing government has an actuarially determined annual pension contribution, it is also required to present an RSI schedule with the following information for each of the past 10 years:

1. the actuarially determined annual pension contribution (or if not actuarially determined, then the statutorily determined contribution);
2. the amount of employer contribution actually made;
3. the difference between items one and two, above;

4. the payroll of employees covered by the plan; and
5. a ratio of item two divided by item four, above.

Governments are also now required to present notes to the RSI schedules regarding factors that significantly affect the trends in the schedules. For single and agent employers, significant assumptions also should be disclosed.

Special funding situations are circumstances in which a non-employer contributing entity is legally responsible for contributions directly to a pension plan that is used to provide pensions to the employees of another government and one or both of the following are true:

1. the non-employer is the only entity with a legal obligation to make contributions directly to the plan; and
2. the amount of the contributions for which the non-employer is legally responsible is not dependent upon one or more events unrelated to the pensions.

In a special funding situation, the non-employer has essentially assumed a portion of the employer entity's pension obligation as its own. Consequently, if the non-employer is a government, it will recognize its proportionate share of the net pension liability, pension expense and deferred outflows of resources and deferred inflows of resources related to the employer's pensions in its own financial statements.

The government benefiting from the non-employer's contributions in a special funding situation will calculate its net pension liability, pension expense and deferred outflows of resources and deferred inflows of resources related to pensions prior to the non-employer government's support, but it would recognize in its financial statements only its proportionate share.

Defined contribution plans stipulate the amount to be contributed to an employee's account each year and not the amount of benefits employees will receive after the end of their employment. The new standards generally carry forward the existing requirements regarding defined contribution pensions. Governments will report an expense equal to the amount they are required to contribute for employee service each year and a liability equal to the difference between that required contribution and what the government actually contributes. Governments will also make descriptive disclosures about the plan and its terms and the method by which contributions to the plan are determined.

Statement No. 67 on plan reporting details guidance for financial reporting by defined benefit pension plans administered through trusts that meet the criteria described earlier. This guidance generally carries forward the present framework for the separately issued financial reports of defined benefit pension plans. Statement No. 67 will significantly improve related financial reporting through enhanced note disclosures and new RSI schedules. The statement also details note disclosure requirements for defined contribution pension plans administered through trusts that meet the criteria.

Statement No. 67 will take effect for pension plans in fiscal years beginning after June 15, 2013. Statement No. 68 will take effect for employers and governmental non-employer contributing entities in fiscal years beginning after June 15, 2014. However, the GASB encourages plans and governments to implement the new standards earlier.

There was brief discussion about some of the differences between public and private pension plans, one such difference being that private plans are insured by the Pension Benefit Guaranty Corporation. Members asked about the negative liability reporting aspect of the new GASB standards and how, if at all, that could affect a state's bond rating. Mr. Attmore opined that the reporting agencies already have the unfunded liability information, so changing the manner in which it is reported will likely have little or no impact on states' bond ratings.

Legislation Proposed by the State Treasurer

Treasurer Lewis was joined by Mark Valdez, deputy state treasurer, to discuss proposed legislation the Treasurer's Office would like considered for endorsement by the IPOC. Treasurer Lewis explained that the reference to "treasurer" is mentioned within New Mexico's statutes in excess of 500 times. He said his office would like to propose legislation that, among other things, would provide "clean-up" language, removing the treasurer references where the reference is deemed inappropriate.

Mr. Valdez added that the Treasurer's Office is proposing the language contained in Discussion Draft .190369.2SA, a copy of which was handed out to each committee member. The legislation would clarify authorized investments of the state treasurer, change the name of the Participating Government Investment Fund to the Local Government Investment Pool (LGIP) and increase the percentage of general funds and bond proceeds that can be invested in the LGIP. Mr. Valdez noted that, currently, municipalities and counties have greater autonomy related to investing in municipal bonds than does the state treasurer.

Linda Roseborough, chief investments officer for the Treasurer's Office, joined Treasurer Lewis and Mr. Valdez. She advised that the legislature should consider enacting statutory changes that would help the Treasurer's Office have more flexibility in managing the LGIP, noting that safety, liquidity and returns are the objectives of the Treasurer's Office.

After a brief discussion regarding the costs involved with the proposed changes, the chair said that the IPOC would take action regarding endorsement of the legislation at its November 28 meeting.

Public Employees Retirement Association (PERA) Board's Proposed Pension Solvency Legislation

Wayne Propst, executive director for the PERA, spoke with the members regarding the PERA board's proposal for legislative changes to the PERA pension plan. He introduced several of the PERA board members in attendance at the meeting, including the board chair, Gerald Chavez, and Patricia French, vice chair, as well as board members Roman D. Jimenez, who is a lieutenant with the New Mexico State Police, and Jackie Kohlasch.

Mr. Propst updated the IPOC members on the funding status of the PERA funds, saying that the PERA will report an increase of \$1.2 billion in its unfunded liability as of June 30, 2012. This increase is larger than anticipated by the PERA and was primarily driven by a poor investment performance in fiscal year (FY) 2012. As a result, the funded ratio of the PERA fund has declined to 65.3%. He noted, however, that the investment returns for FY 2013 show improvement.

Mr. Propst had presented the proposed plan changes at the IPOC meeting held in August, but he refreshed the members' memories, telling them that the PERA board met in Alamogordo in May and adopted plan changes that include shared responsibility among retirees, active members, some non-vested members and new hires. The proposed changes affect members by creating two tiers for both non-public safety and public safety members. The plan would result in a two-tier system for non-public safety members as follows:

- tier I includes members initially hired on or before June 30, 2010. Members in this tier would not be affected by a .05% decrease in the benefit multiplier, nor would these members be subject to the tier II age and service requirements; and
- tier II includes members initially hired on or after July 1, 2010. Tier II non-public safety members would see the following benefit changes:
 1. a 0.5% reduction in their annual pension factor, making their pension factor 2.5%;
 2. retirement eligibility would be based on an age and the service "rule of 85", or age 65 with eight years of service;
 3. a tier II member's benefit would be calculated based on a five-year final average salary (FAS);
 4. an eight-year vesting period;
 5. a 90% pension maximum benefit; and
 6. when eligible, these retirees would receive a 2% compounding COLA.

The proposed plan changes would result in a two-tier system for public safety members as follows:

- tier I includes members initially hired on or before June 30, 2010; and
- tier II includes members initially hired on or after July 1, 2010. Tier II public safety members would see the following benefit changes:
 1. a 0.5% reduction in their annual pension factor, making their pension factor 2.5%;
 2. retirement eligibility would be based on an age and service "rule of 75", or age 60 with six years of service;
 3. a member's FAS would be calculated based upon a five-year FAS;
 4. a six-year vesting period;
 5. a 90% pension maximum benefit; and
 6. when eligible, these retirees would receive a 2% compounding COLA.

Additional plan changes adopted by the board would affect current retirees and active members initially, either on or before June 30, 2010. They would receive a reduction in their annual compounding COLA, from 3% to 2%. Mr. Propst noted that this specific change will have the single biggest and most immediate positive impact on the PERA plan's funding level and the unfunded liability. Additionally, for members who are not yet retired, the COLA eligibility would begin seven calendar years after the member's retirement as opposed to the current two years. No COLA eligibility change is proposed for tier I members who retire at age 65 or older or who retire due to disability.

Mr. Propst explained that the PERA board proposes the following contribution changes:

1. effective July 1, 2013, an increase to employee contributions of 1.5%. He noted that the increase would be accomplished with the removal of the sunset clause enacted when the contribution shift was put in place; and
2. effective July 1, 2014, and continuing for the following two fiscal years, an increase of 0.5% per fiscal year in all statutory employer contribution rates, resulting in a total employer contribution increase of 1.5% in FY 2016. Mr. Propst noted that the proposed employer contribution increases would be the first such increases since 1997, and the increases would provide a hedge against a lower-than-expected return on investments.

Committee members thanked Mr. Propst for his presentation and expressed thanks for the PERA board's commitment to look at plan changes and adoption of the proposed changes. That was followed by a general discussion regarding the need to reach consensus among legislators and stakeholders. Mr. Propst stated that the PERA has been working, and will continue to work, with the public safety members that have taken issue with some of the proposed changes. However, he feels it important to note that the evidence from which the PERA board came to its conclusions for plan changes indicates that, unlike what may be commonly believed, the public safety members live as long as the other general PERA members. That fact, coupled with the fact that public safety members retire at a younger age than general members, means that the pension of a public safety member costs the plan more in real dollars. Mr. Propst further noted that despite the greater expense to the plan associated with its public safety membership, the PERA board agreed to impose a retirement rule of 75 for public safety members and a rule of 85 for all other non-public safety PERA members, except judges, magistrates and legislators.

Lastly, Mr. Propst asked the IPOC members to consider that the board built into its plan proposal significant room to allow for uncertainty. He opined that even with the most recent valuation results, which reflect the increased unfunded liability, the fund is expected to reach 100% funded status on or before 2042 if the board's reform proposal is adopted. He added that the fund will continue to improve once the new tier of members begins to retire.

Proposal by the Administrative Office of the Courts (AOC) for Changes to the Judicial Retirement Act and the Magistrate Retirement Act

Justice Richard C. Bosson of the New Mexico Supreme Court, along with Arthur W. Pepin, executive director, AOC, and Oscar Arevalo, fiscal services director, AOC, addressed the committee. Justice Bosson explained that the Judicial Retirement Fund and Magistrate

Retirement Fund are the least funded of all of the PERA plan funds. With this in mind, the judges and magistrates formed a small working group and developed a proposal, although not yet approved, as it remains under discussion. At this point, the judges and magistrates are seeking feedback from the committee so they can prepare draft legislation for presentation at the November 28 IPOC meeting.

The judges and magistrates are considering plan changes that would affect both employees and employer. Among the changes would be a two-year suspension of the COLA, beginning in 2014. After the suspension, the COLA would be tied to the Consumer Price Index. The proposed changes would also include a reduction in earned service credit. Most judges begin their judgeships between the ages of 40 and 50. The proposal would lower the multiplier to 3.5% per year, beginning July 1, 2013, and would apply to all judges and magistrates, not just new members.

Justice Bosson expressed his view that the judges and magistrates are concerned and are willing to work to improve the solvency of the plan. He noted that they understand that their plans are different and that the COLA increases affect low-wage retirees more than the judges and magistrates. Higher wage earners can better afford the impact of suspending a COLA. The proposed changes will be debated by the full court in the next few weeks.

Mr. Pepin reminded the committee members that the judges and magistrates are also seeking a \$15 million appropriation to be distributed between the two funds, with \$11 million going into the Judicial Retirement Fund and \$4 million being appropriated to the Magistrate Retirement Fund.

There was a discussion about whether the proposed changes have been actuarially shown to affect the discrepancy that currently exists between contributions to the funds and the payout of benefits. Mr. Pepin said that he does not yet have the actuarial analysis from the PERA.

Many members expressed concern over the idea that, even after suspending the judges' and magistrates' COLAs for two years, they might then receive a 3% COLA, whereas state general members of the PERA would only receive a 2% COLA under the PERA board's proposal.

Some committee members questioned the fact that the PERA's board proposal does not include changes to the judges' and magistrates' plans, particularly because those plans are among the least funded of all the PERA plans. Mr. Propst acknowledged that the only part of the PERA board's approved changes that affect judges and magistrates would be a reduction in the COLA.

Members expressed serious concerns regarding the \$15 million appropriation and inquired as to how that figure was reached. Mr. Pepin said that the figure represents 20% of the unfunded liability. He said that consideration was given to the size of the funds and the number of retirees. When asked whether he looked at plan changes that would not include the \$15 million appropriation, Mr. Pepin replied that he had not.

Committee members expressed their opinions that the State of New Mexico needs one class of retirees, not more than one. They stressed that employees should not be treated differently. They asked Mr. Propst to provide financial information actuarially related to the judicial and magistrate proposal. Mr. Propst said that he would try to get that information.

Public Safety Members' Input Regarding the PERA Board's Proposed Retirement Plan Changes

The committee heard from representatives of public safety members, including Carter Bundy, legislative director, Association of Federal, State, County and Municipal Employees, Lieutenant Jimenez and Diego Arencon, president, Firefighters Local 244.

Mr. Bundy expressed his opinion that it is important to have a systemic plan, which he believes the PERA board has provided in its proposed legislation. He added that his membership would accept either the rule of 75 or a 25-and-out provision for public safety members.

Kevin Bruno, representing a non-collective bargaining group of the New Mexico State Police Association, said that everyone will be affected by the changes, but his group supports the PERA plan. Other supporters include the Motor Transportation Division of the Department of Public Safety and the New Mexico Association of the Chiefs of Police. Travis Trout, fire chief for the Las Cruces Fire Department, said he was speaking on behalf of both the fire department and the police department in Las Cruces. He said the departments support the PERA proposal, except they do not support the proposal providing that the new tier would affect members going back to July 1, 2010. Instead, they believe the effective date for the new tier should be July 1, 2013.

There was a discussion regarding the overall support of the PERA proposal, with some expressing concerns over the current municipality pick-ups of employee contributions. Regina Romero, intergovernmental relations director for the New Mexico Municipal League (NMML), said she hopes discussions regarding the pick-ups will continue. She noted that New Mexico's larger municipalities contribute 75% of their employee contributions. She added that the NMML supports an effective date of the proposed provisions of July 1, 2013.

David Heshley, director of New Mexico's Fraternal Order of Police, and Mr. Arencon both expressed disagreement with the proposed PERA plan changes. Mr. Arencon said that the PERA board's proposed changes may be close to what the firefighters would accept, but his members want to have more input into proposed plan changes. He added that the firefighters would likely agree to pay the 1.5% employee contribution increase and are willing to reduce the COLA by 1% as long as there is a review of it.

Educational Retirement Board (ERB) Proposed Pension Solvency Legislation

Jan Goodwin, executive director for the ERB, spoke with the members about the ERB's proposal for legislation designed to ensure the solvency of the pension plan. She began by acknowledging the board members present at the meeting, including the chair, Mary Lou Cameron, and Vice Chair Russell Goff. Ms. Goodwin directed the committee members' attention

to the ERB handout dated October 23, 2012, referring them to the chart on page 1, which provides a breakdown of the membership. She noted that the plan currently has 61,673 active members, 35,457 retirees and beneficiaries and 33,011 inactive members.

Ms. Goodwin reminded committee members that the ERB statute currently provides three ways for its members to retire:

1. at age 65, with five years of service credit;
2. at any age, if the sum of the member's age and earned service credit equals at least 75 (rule of 75); and
3. at any age, with 25 years of earned service credit.

Next, Ms. Goodwin directed committee members' attention to the ERB handout and reminded them that the group of stakeholders who were participants in the Educational Retirement Act plan met on several occasions throughout the state. On July 17, 2012, as a consequence of those meetings, a consensus on changes was reached. The stakeholders presented their proposal for plan changes to the ERB at its August 2012 meeting. The group of participants included individuals from 15 groups representing ERB plan stakeholders. The proposal would increase all active members' employee contribution rates to 10.7% in a phased-in process reaching the increased rate in FY 2015. Additionally, the proposal would create a new tier of employees hired on and after July 1, 2013. The retirement age, service requirements and benefits for members in the new tier would include a minimum retirement age of 55. Retirement eligibility would occur:

- at age 67, with five years of earned service credit;
- at any age, if the sum of the member's age and years of earned service credit equals at least 80 (rule of 80); or
- at any age, with 30 or more years of earned service credit.

Additionally, members in the new tier can expect a COLA typically of 2% annually once they reach the age of 67.

Ms. Goodwin further explained that the stakeholder proposal is projected to reduce the ERB's unfunded liability, and according to those projections, the fund would be 75% funded by 2030 and would reach 100% funded status in 2043. Ms. Goodwin noted the various charts and graphs provided in the ERB handout that illustrate the upward trend in the funding ratio anticipated if the stakeholder proposal is enacted after the upcoming 2013 legislative session.

Members asked if the proposed increase in member contributions would be applied to members making less than \$20,000 a year, and they urged Ms. Goodwin to ask the board to consider exempting those members from the increased contributions. It was noted that under the stakeholder proposal, employer contributions rates would be 13.9%, which is the statutory rate. Ms. Goodwin agreed that she would speak to the board about the carve-out for those employees making less than \$20,000 a year. She noted that the board had decided that all employees would pay the 10.7% contribution rate and that the cost of having employees making less than \$20,000

would be about \$7 million annually, but she was waiting for the actual numbers from the actuary.

Committee members thanked Ms. Goodwin for her presentation and for the hard work of the board.

Retiree Health Care Authority (RHCA) Legislative Proposals

Mark Tyndall, executive director for the RHCA, addressed the committee regarding legislation providing for contribution increases to the Retiree Health Care Fund. He said that by year 2018, the RHCA would pay out more money than it takes in. Although the RHCA is better off than it was five years ago, steps need to be taken to ensure solvency.

Mr. Tyndall reported that the RHCA board unanimously approved a five-year strategic plan involving contribution increases. To achieve the contribution increases, the board is seeking legislative support.

There was a broad discussion about whether delaying the employee and employer contribution increases to the Retiree Health Care Fund is a good idea. Mr. Tyndall advised the members that implementing the increases in contributions earlier is acceptable to the board.

State Investment Council (SIC) Legislative Initiatives

Steve Moise, state investment officer, told members that although he did not have legislation to present to the committee, the SIC is working on legislation and would be seeking IPOC endorsement at the November meeting. The drafts and the areas of concern include the structure of the SIC, the removal of all restrictions on investment, the dissolution of the Private Equity Investment Advisory Committee and allowing the SIC to have full budget and personnel autonomy and responsibility.

Mr. Moise explained that to ensure its judiciary responsibility, the SIC needs its budgetary restrictions removed. In prior years, about 10% of the SIC investments were managed in-house. But now, the portion of funds managed in-house is much lower, and using outside management costs significantly more. Additionally, the SIC needs to hire high-quality people, and that means the SIC must be able to pay competitive wages. Mr. Moise said that he is prepared to provide the IPOC with any information needed to justify the SIC requests.

There was a general discussion about personnel issues involving the SIC and other state agencies. Members suggested that the SIC request a budget adjustment.

Some members requested that Mr. Moise ask his staff to electronically send committee members a copy of the Hewitt EnnisKnupp report. Mr. Moise said he would be happy to get the report sent to them, and he mentioned that it is also available on the SIC web site.

There was a discussion about pending court cases and recoveries sought for the State of New Mexico by the SIC. Mr. Moise said that the SIC board is confident in its decision to hire the Day Pitney LLP law firm to handle the litigation. Two defendants, Hank Morris and Alan

Hevesi, have been dismissed as the result of a New Mexico Supreme Court decision. The court said that in New Mexico, a person has to set foot in New Mexico to be sued, and those defendants had not done so.

After a discussion related to the cost of the litigation, Mr. Moise reminded committee members that the litigation is being handled on a contingency basis. He noted that it is important to preserve the state's rights in the litigation.

With no further business, the committee adjourned at 4:00 p.m.

**MINUTES
of the
FIFTH MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE**

**November 28, 2012
State Capitol
Santa Fe, New Mexico**

The fifth meeting of the Investments and Pensions Oversight Committee (IPOC) for the 2012 interim was called to order by Senator George K. Munoz, chair, on Tuesday, November 28, 2012, at 9:15 a.m. at the State Capitol in Santa Fe, New Mexico.

Present

Sen. George K. Munoz, Chair
Sen. Timothy M. Keller
Rep. Larry A. Larrañaga
Sen. Carroll H. Leavell
Sen. Steven P. Neville
Sen. Mary Kay Papen
Sen. John M. Sapien
Rep. Jim R. Trujillo
Rep. Luciano "Lucky" Varela

Absent

Rep. Henry Kiki Saavedra, Vice Chair
Rep. David L. Doyle
Rep. William "Bill" J. Gray

Advisory Members

Rep. Donald E. Bratton
Sen. Carlos R. Cisneros
Rep. Miguel P. Garcia
Rep. Roberto "Bobby" J. Gonzales
Rep. Rhonda S. King
Rep. Jane E. Powdrell-Culbert
Rep. Sheryl Williams Stapleton
Rep. Mimi Stewart
Rep. Shirley A. Tyler
Rep. Richard D. Vigil

Sen. Tim Eichenberg
Sen. Stuart Ingle
Rep. Patricia A. Lundstrom
Sen. William H. Payne
Rep. William "Bill" R. Rehm
Sen. John C. Ryan
Sen. Michael S. Sanchez

Staff

Tom Pollard, Legislative Council Service (LCS)
Doris Faust, LCS
Claudia Armijo, LCS

Guests

The guest list is located in the meeting file.

Handouts

Handouts and written testimony are in the meeting file and posted on the New Mexico Legislature web site.

Tuesday, November 28

Senator Munoz welcomed the committee members and guests. He reminded members that the meeting was being webcast and then asked them to introduce themselves, which they did. Members discussed a possible date for the next IPOC meeting. December 17 was the date selected and agreed upon by the members.

College Savings Plan and Recent Investment Performance and Pending Litigation

Robert Desiderio, vice chair, Education Trust Board (ETB) of New Mexico, Jeremy Thiessen, managing director, Pension Consulting Alliance, Inc. (PCA), and John Boyd, Freedman, Boyd, Hollander, Goldberg, Ives & Duncan, P.A., addressed the committee.

Mr. Thiessen began by providing background information about the PCA, saying it is an independent, full-service investment consulting firm providing a broad range of investment advice to a wide variety of institutional investors. Investment consulting is the PCA's only line of business. The PCA began consulting for the ETB in December 2011. Prior to that, the PCA did not provide consulting services to any 529 college savings programs run by Oppenheimer. Currently, the PCA now provides investment consulting services to eight 529 college savings plans, with total client assets of \$27.7 billion.

The ETB uses the PCA's team of consultants to develop and influence the monitoring and guidelines process. Reports provided by the PCA to the ETB include monthly performance watch reports on underlying mutual funds, monthly investment risk metrics reports, quarterly investment monitoring reports, quarterly watch list review and updated memos and an assessment of Oppenheimer's annual program review.

The New Mexico college savings programs consist of two separate programs: the education plan, sold directly to participants; and the scholars savings plan, sold through investment advisors. Participants in each plan tend to select an age-based option.

Referring to the handout, Mr. Thiessen directed the members' attention to the charts and graphs illustrating the funds' performance as of September 30, 2012.

Mr. Desiderio explained that the education trust plan is known as the 529 plan in state and federal law. Money earned under the plan can be used for tuition, books, room and board and anything related to college.

Mr. Boyd led a discussion about the litigation related to the New Mexico 529 funds. He noted that a settlement with Oppenheimer of \$67 million was recovered for account holders. The amount represents about 60% of the losses. The ETB hired three experts to determine the fairness

of the settlement. However, the class action suit filed before the settlement was reached is still pending. He added that the class has been certified.

Members asked what entity was responsible for hiring Oppenheimer. The ETB made that hiring decision. There was a discussion about whether the account holders are satisfied with Oppenheimer. Members were told that the ETB is looking into management options.

The chair asked that Mr. Desiderio give Mr. Pollard copies of the board's operating expenses. It was noted that Oppenheimer's fees are higher than average.

There was a brief discussion about New Mexico's lottery scholarship program, during which members voiced concerns about its financial future. Some members asked if an additional revenue stream could be used. The members were told that the issue is being researched.

Proposed Legislation from the Treasurer's Office for Endorsement by the IPOC

Committee members were advised that copies of legislation proposed for endorsement could be found in the bound handout.

James B. Lewis, state treasurer, and Mark Valdez, deputy state treasurer, presented to the committee regarding proposed legislation. Treasurer Lewis said that he is in the process of reviewing the proposed initiatives with stakeholders. He said his office would like to propose legislation that, among other things, would provide "clean-up" language, removing the treasurer references where the references are deemed inappropriate.

Mr. Valdez added that the Office of the State Treasurer is proposing the language contained in *Discussion Draft .190369.2SA*, a copy of which was handed out to each committee member. The legislation would clarify authorized investments of the state treasurer, change the name of the *Participating Government Investment Fund* to the *Local Government Investment Pool (LGIP)* and increase the percentage of general funds and bond proceeds that can be invested in the LGIP. Mr. Valdez noted that, currently, municipalities and counties have greater autonomy related to investing in municipal bonds than the state treasurer.

Discussion Draft .190369.2SA was endorsed, without objection, by the committee. Either Senator Munoz or Senator Keller will carry the bill.

New Mexico Retiree Health Care Authority (RHCA) Proposed Legislation for IPOC Endorsement

Mark Tyndall, executive director for the RHCA, presented the proposed legislation by the RHCA. Mr. Tyndall reminded the members that the RHCA was created in 1990 and provides medical coverage to over 50,000 retired public employees and educators. About 300 employers with more than 133,000 employees participate. The RHCA has increased its positive fund balance over the past five years. However, increasing medical costs, and career contributions that do not match benefits, present fundamental challenges requiring additional action. Page 5 of the RHCA handout illustrates the proposed contribution increases for both employees and employers.

Mr. Tyndall explained the impact of the proposed contribution increases, saying that an employee making an annual salary of \$40,000 will have increased contributions of \$3.85 per biweekly pay period, or about \$100 annually over a three-year period. He added that there will be no general fund impact until fiscal year (FY) 2017, at which time employer contributions will increase 0.5% annually for three years. The general fund impact each year will be approximately \$9.9 million, with a total impact of \$29.6 million once fully implemented.

With discussion, and opposition by two committee members, the committee voted to endorse the RHCA legislation.

Educational Retirement Board (ERB) Proposed Pension Solvency Legislation

Jan Goodwin, executive director for the ERB, and Bob Jacksha, chief investment officer for the ERB, spoke with the members about the Educational Retirement Fund performance.

Mr. Jacksha began with a review of the investment portfolio and its performance. He directed the members' attention to the ERB handout dated November 28, 2012. He noted that the value of the fund's assets reached an all-time high of \$9.8 billion on September 30, 2012; the previous high was \$9.6 billion as of September 30, 2007. Investment earnings for the 12 months ending on September 30, 2012 were \$1.4 billion. The fund is ranked, for that same period, in the top 25% of its peer universe. For most time periods evaluated, the fund exceeded the investment target rate of return of 7.75%. Despite the excellent investment performance, changes to the plan need to be implemented to bring the plan into long-term solvency.

Ms. Goodwin began by acknowledging the board members present at the meeting, including Chair Mary Lou Cameron and Vice Chair Russell Goff. Next, Ms. Goodwin referred committee members to the ERB handout dated November 28, 2012. She noted that the plan covered under the Educational Retirement Act currently has 61,673 active members, 35,457 retirees and beneficiaries and 33,011 inactive members.

Next, Ms. Goodwin reminded the committee members that the ERB statute currently provides three ways for its members to retire. Members can retire:

- 1) at age 65 with five years of service credit;
- 2) at any age, if the sum of the member's age and earned service credit equals at least 75 (rule of 75); or
- 3) at any age, with 25 years of earned service credit.

Ms. Goodwin reminded the committee that the stakeholders in the Educational Retirement Act plan met on several occasions and throughout the state. As a consequence of those meetings, on July 17, 2012, a consensus on changes was reached. The stakeholders presented their proposal for plan changes to the ERB at its August 2012 meeting. The group of participants included individuals from 15 groups representing ERB plan stakeholders. The proposal would increase all active members' employee contribution rates to 10.7% in a phased-in process reaching the increased rate in FY 2015. Additionally, the proposal would create a new tier of employees hired on and after July 1, 2013. The retirement age and service requirements and benefits for members

in the new tier would include a minimum retirement age of 55 years. Retirement eligibility would occur:

- 1) at age 67 years with five years of earned service credit;
- 2) at any age if the sum of the member's age and years of earned service credit equals at least 80 (rule of 80); or
- 3) at any age with 30 or more years of earned service credit.

Additionally, members in the new tier can expect a cost-of-living adjustment of typically 2% annually once they reach the age of 67 years.

Ms. Goodwin further explained that the stakeholders' proposal is projected to reduce the ERB's unfunded liability, and according to those projections, the fund would be 75% funded by the year 2030, and would reach 100% funded status in the year 2043. Ms. Goodwin noted the various charts and graphs provided in the ERB handout, which illustrate the upward trend in the funding ratio anticipated if the stakeholders' proposal is enacted after the upcoming 2013 legislative session.

Some members asked if the proposed increase in member contributions would be applied to members making less than \$20,000 a year and urged Ms. Goodwin to ask the board to consider exempting those members from the increased contributions. It was noted that, under the stakeholders' proposal, employer contribution rates would be 13.9%, the statutory rate. Ms. Goodwin said that she did speak to the board about the carve-out for those employees making less than \$20,000 a year. She noted that the board will meet again on December 7, 2012 and will consider any changes to the plan at that time.

The committee members thanked Ms. Goodwin for her presentation and for the hard work of the board. The ERB *Discussion Draft 190404.4SA* was endorsed without objection.

Report on the Investment Policies and Performance of the State Investment Council (SIC) Private Equity Program and the Small Business Investment Corporation (SBIC)

Joseph Badal, chair of the SBIC, Russ Cummins, executive director and investment advisor for the SBIC, and Steve Moise, state investment officer for the SIC, spoke to the members about the SBIC programs.

Mr. Badal reminded the members that the SBIC was formed in 2001 pursuant to the Small Business Investment Act. It was originally founded by an allocation of 1% of the Severance Tax Permanent Fund. The purpose of the SBIC is to make investments to create job opportunities and support new or expanding businesses in New Mexico. It is required to make investments in connection with its cooperative agreement partners. The SBIC has two investments programs:

- 1) the equity program, with \$17.4 million outstanding or committed; and
- 2) the loan program, with \$12.2 million outstanding or committed.

Currently, there is \$5.7 million of uncommitted money.

The SBIC's total original Severance Tax Permanent Fund allocation in 2007 was \$47 million, and the current assets of the SBIC are \$35.2 million as of October 31, 2012. The reduction in assets stems primarily from realized and unrealized losses in the equity program limited partnerships and equity management fund fees.

Mr. Badal continued, saying that the board believes that the equity program may have been an ill-conceived idea, at least in part because it has a high concentration of high-risk investments. He noted that most of the equity investments have been made in the Albuquerque area because it is not typical for such investments to present themselves in the rural areas of the state. Equity investments are often associated with high-technology ventures, not the typical mom-and-pop enterprise.

He continued by saying that investing only in New Mexico companies limits diversification. Equity investments are typically long-term in nature, with a slow turnover of funds for reinvestment purposes.

With regard to the SBIC's lending program, Mr. Badal said that since its inception, and through its lending partners, the SBIC has provided funding for more than 2,400 loans to New Mexico small businesses, supporting more than 5,800 jobs. Additionally, he noted that loans have been made in 31 of New Mexico's 33 counties. Committed capital has been loaned and recycled, providing leverage of the SBIC capital. Interest income has been greater than lending losses, resulting in a net gain for the SBIC's lending program. The SBIC is currently amending loan agreement terms to strengthen its lending practices and to reduce the risk of losses. As a result of more stringent banking regulations, there has been a contraction of bank lending resulting in a funding gap for small businesses in New Mexico; however, the SBIC's lending program is helping to fill that gap.

Mr. Badal advised members that there have been recent changes to the SBIC, including a new board that was appointed by the governor in 2011, and a new executive director and investment advisor selected in 2012. According to Mr. Badal, the new board is both active and engaged. In November 2011, the board held a strategic planning meeting. Then, in August 2012, the SBIC held a meeting in Hobbs on the topic of *Accessing Capital in New Mexico*. Board members have attended community events and meetings with current and potential lending partners and have conducted detailed operational reviews of their lending partners.

Looking forward, the SBIC board plans to expand its lending program and de-emphasize its equity program.

There was a long discussion regarding the equity program. Members asked why the SBIC board did not view it as well-conceived. Mr. Badal reiterated his assessment that the program is not well-suited for businesses in rural or smaller population areas. He repeated that equity ventures usually lend themselves to the high-technology industry or larger businesses and those types of enterprises are typically located in the larger metropolitan areas, such as Albuquerque.

Members asked for the SBIC to consider all options for the equity program, including seeking out smaller enterprises throughout the state.

Mr. Moise began his presentation to the committee by asking that each member read the Hewitt EnnisKnupp memo dated July 24, 2012 and included as a handout. He opined that the memo is a thoughtful piece of information, directly relating to the governance and fiduciary duties of the SIC.

Next, Mr. Moise advised that the SIC would be seeking five legislative initiatives. All five are contained in the handout to the IPOC from the SIC, dated November 28, 2012.

Discussion Draft .190286.5SA (SIC membership) — This bill would increase the experience and fiduciary standards required for appointment to the SIC. The bill would allow flexibility with the frequency of council meetings and notice of those meetings. Additionally, the bill would allow the SBIC to invest its Severance Tax Permanent Fund allocation in the SIC investment pool, rather than in short-term notes or certificates of deposit.

The members discussed the bill and also a similar bill proposed in an earlier session. After discussion, the members made a motion, which was seconded, to merge the current proposal with Senate Bill 53 from the 2012 session. The bill as merged was endorsed by the committee without opposition.

Discussion Draft .190287.2SA (prudent investor standard) — This bill would call for New Mexico voters to approve a constitutional amendment to increase the standard of care under which the land grant permanent funds must be managed, aligning its management with the provisions of the Uniform Prudent Investor Act (UPIA). According to the SIC, dated and arbitrary caps on certain investments would be removed, as they would conflict with the UPIA standard.

Members discussed the merits of the proposed legislation and voiced concerns regarding the voters' abilities to understand the logistics of such a constitutional change. In that regard, members noted that information about the proposed amendment would need to be readily available to voters.

Discussion Draft .190288.4SA (private equity) — This bill would repeal the Private Equity Investment Advisory Committee (PEIAC) as a statutorily established entity. It would also increase experience requirements of New Mexico private equity managers and would remove special dispensation for New Mexico aerospace investments. Additionally, the bill would reduce the acceptable investment exposure to 40% on any one entity and add mandatory reporting requirements to SBIC investments of the Severance Tax Permanent Fund.

Discussion Draft .190289.1SA (SIC budget responsibility) — This bill provides the SIC with flexibility in determining appropriate budget structure and direction needed to fulfill the

council's required fiduciary obligations to manage and grow the \$16 billion in permanent funds while also protecting them from unnecessary risk.

Members were generally not supportive of this SIC initiative. There were concerns about potential abuses, and although members feel confident in Mr. Moise and his work at the SIC, they realize that future state investment officers present a huge "unknown". The members generally maintained that the budget controls are in place for a good reason and help to ensure the public trust. The bill was not endorsed. However, Mr. Moise plans to work with legislators on developing a different concept for the IPOC's consideration at its December 17, 2012 meeting.

Discussion Draft .190290.ISA (SIC personal responsibility) — This bill would exempt SIC employees from restrictions in the Personnel Act. According to Mr. Moise, those restrictions prevent the council from properly hiring and compensating employees at a market rate. The SIC hires individuals that guide potentially hundreds of millions of dollars in public investments, and to get the best and brightest, the SIC needs to pay market-rate wages.

Members discussed the difficulties that all state agencies, not just the SIC, face related to the state personnel system. Some members questioned whether the answer is to work on that system, rather than simply removing agencies from its rules and procedures. Although members were generally sympathetic to the concerns and issues faced by the SIC, the bill was not endorsed. Mr. Moise agreed to bring a revised draft to the December 17 IPOC meeting.

Some members requested that Mr. Moise ask his staff to electronically send committee members a copy of the Hewitt EnnisKnupp report. Mr. Moise said he would be happy to get the report sent to them and mentioned it is also available on the SIC web site.

There was a discussion about the pending court cases and recoveries sought for the State of New Mexico by the SIC. Mr. Moise said that the SIC is confident in its decision to hire the Day Pitney law firm to handle litigation. He said that two defendants had been dismissed as the result of a New Mexico Supreme Court decision. Those defendants are Hank Morris and Alan Hevesi.

After a discussion related to the cost of the litigation, Mr. Moise reminded committee members that the litigation is being handled on a contingency basis. He noted that it is important to preserve the state's rights in the litigation.

Lastly, Mr. Moise said that the SIC would have bill drafts for the IPOC to consider at its November meeting.

With no further business, the committee adjourned at 4:00 p.m.

**MINUTES
of the
SIXTH MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE**

**December 17, 2012
Room 322, State Capitol
Santa Fe**

The sixth meeting of the Investments and Pensions Oversight Committee (IPOC) for the 2012 interim was called to order by Senator George K. Munoz, chair, on Monday, December 17, 2012, at 9:20 a.m. at the State Capitol in Santa Fe, New Mexico.

Present

Sen. George K. Munoz, Chair
Rep. Larry A. Larrañaga
Sen. Steven P. Neville
Sen. Mary Kay Papen
Rep. Luciano "Lucky" Varela

Absent

Rep. Henry Kiki Saavedra, Vice Chair
Rep. David L. Doyle
Rep. William "Bill" J. Gray
Sen. Timothy M. Keller
Sen. Carroll H. Leavell
Sen. John M. Sapien
Rep. Jim R. Trujillo

Advisory Members

Sen. Carlos R. Cisneros
Rep. Miguel P. Garcia
Rep. Rhonda S. King
Sen. William H. Payne
Rep. Jane E. Powdrell-Culbert
Rep. Richard D. Vigil

Rep. Donald E. Bratton
Sen. Tim Eichenberg
Rep. Roberto "Bobby" J. Gonzales
Sen. Stuart Ingle
Rep. Patricia A. Lundstrom
Rep. William "Bill" R. Rehm
Sen. John C. Ryan
Sen. Michael S. Sanchez
Rep. Sheryl Williams Stapleton
Rep. Mimi Stewart
Rep. Shirley A. Tyler

Staff

Tom Pollard, Legislative Council Service (LCS)
Doris Faust, LCS
Claudia Armijo, LCS

Guests

The guest list is located in the meeting file.

Handouts

Handouts and written testimony are in the meeting file and posted on the New Mexico Legislature web site.

Monday, December 17

Senator Munoz welcomed the committee members and guests. He reminded members that the meeting was being webcast and asked them to introduce themselves, which they did. There was not a quorum, so the committee acted as a subcommittee. However, shortly into the meeting, and due to the time-sensitive agenda items before the IPOC, Senator Cisneros and Senator Payne were authorized by Senate President Pro Tempore Timothy Z. Jennings to act as voting members.

Legislation Proposed by the State Investment Council (SIC) for IPOC Endorsement

Steve Moise, state investment officer, SIC, addressed the committee regarding the SIC's proposed legislation. He began by thanking committee members for the conversations they had engaged in concerning possible changes to the SIC. He said he appreciated members' feedback on the bills proposed by the SIC that would increase its budget and personnel autonomy. He added that the SIC is committed to ensuring proper oversight along with flexibility, and he stressed that the SIC must be in a position to pay government market rates for its employees.

Mr. Moise reminded the members that the SIC seeks flexibility in hiring and paying its investment managers. The costs associated with fund management vary depending on the investment asset classes. The SIC also seeks flexibility on personnel issues. It needs to hire the best qualified candidates, and in a competitive industry such as investments, that requires paying a competitive wage. Working under the constraints of the state personnel system makes meeting market wage demands difficult.

Mr. Moise reminded the members that the SIC delegates the day-to-day operational duties to the state investment officer, and as such, he is working closely with the SIC on all of the legislative proposals.

There was a discussion related to the makeup of the SIC staff. Members noted that it has both classified and exempt positions. Mr. Moise said the SIC is seeking flexibility to make any full-time employee classified or exempt as deemed necessary to recruit the best employees. He said the SIC has found qualified investment managers, but it simply cannot offer those candidates enough compensation.

Mr. Moise said that the SIC is already seeking a significant budget increase from its fiscal year (FY) 2013 budget of \$34 million to an FY 2014 budget request of about \$60 million.

There was a discussion comparing the SIC to another instrumentality of the state that is not a state agency, the New Mexico Mortgage Finance Authority (MFA). Mr. Moise noted that the SIC is looking at the MFA and its operation as a possible model for the SIC.

Discussion regarding the SIC's proposed legislation related to the IPOC's endorsements was postponed until later in the meeting.

College Savings Plan Recent Investment Performance and Pending Legislation

Dr. Jose Z. Garcia, secretary of higher education and chair for the Education Trust Board (ETB), Kevin B. Dieters, executive director for the ETB, Jeremy Thiessen, managing director, Pension Consulting Alliance, Inc., and John Boyd, esq., of Freedman, Boyd, Hollander, Goldberg, Ives & Duncan, P.A., addressed the committee regarding the ETB's investment performance and potential legislation.

Dr. Garcia began by explaining that the ETB hired Mr. Dieters as the new executive director and added that the ETB is current on all of its required audits and that the board is fully integrated into the state accounting system.

Dr. Garcia described the five-year performance of both the Education Plan (TEP) and the Scholar's Edge Plan (SEP). He referred to page 2 of the ETB handout dated December 2012. The TEP 18+ five-year annualized performance trailed its median peer by 4.44% per year. The underperformance was due mainly to results of the Core Bond Fund in the years 2008 and 2009. The TEP 18+ 12-month performance ending September 30, 2009 trailed its median peer by 17.68%. The portfolio held a 50% allocation to the Core Bond Fund for part of that period.

The SEP 18+ five-year annualized performance trailed its median peer by 1.02% per year. The underperformance was also attributed to the results of the Core Bond Fund during the years 2008 and 2009. The SEP 18+ 12-month performance ending September 30, 2009 trailed its peers by 8.59%, and the portfolio held a 25% allocation to the Core Bond Fund for part of that time period. Both the TEP and the SEP have shown improved performance relative to their respective peer groups in the years 2011 and 2012.

Next, there was a discussion about the litigation related to the ETB. Mr. Boyd said that there are two lawsuits still pending. He noted that two lawsuits have been dismissed, but the class action suit remains. The class action suit is the *Ping Lu, et al.* case. The class action lawsuit was filed June 25, 2009 in New Mexico state court by the law firms of Rothstein, Donatelli, Hughes, Dahlstrom, Schoenberg & Bienvenu, LLP, and Keller Rohrback, LLP, seeking damages against the ETB for causing catastrophic losses to parents and grandparents who invested in the New Mexico 529 College Savings Plans.

The lawsuit alleges that parents were encouraged to invest in the plans to save for their children's college education and were required to choose investment portfolios based on the age of their children or the amount of risk they wished to assume. Parents investing in the "conservative" and "ultraconservative" portfolios were led to believe that their funds were invested in safe mutual funds that would protect their funds to pay college expenses. However, the ETB invested funds in the OppenheimerFunds Core Bond Fund, which followed an ultra-risky strategy of investing in mortgage-backed securities and other toxic derivatives, using borrowed

funds, in effect turning the bond fund into a hedge fund. This fund suffered catastrophic losses in 2008, losing nearly 40% of its value, whereas comparable bond funds actually increased in value during 2008. As a consequence, parents who invested in what were marketed as the most conservative investments lost nearly half of their investments, just as their children were entering or about to enter college. The plaintiffs allege that the ETB violated the terms of the college savings agreements, causing over \$175 million in lost college savings.

Noting that the state is named as a defendant in the case, Mr. Boyd said that the attorneys representing the ETB are filing a motion for summary judgment in the case.

Members expressed serious concerns related to the college savings plans' performances and the management provided by the ETB, particularly with regard to the hiring of Oppenheimer. Some members asked if the board is considering canceling its contract with Oppenheimer. Dr. Garcia said that the contract does not end until 2015, and it would be far too costly to terminate it early. When asked how much money was lost by all of the plan participants, Mr. Boyd said the losses amounted to about \$113 million, and the recovery is about \$67 million, which he opined should be considered a good recovery, all things considered.

When asked about the costs associated with the litigation, Mr. Boyd said that there is no cost since the New Mexico Attorney General's Office (AGO) is handling it. Members were quick to point out that there is most definitely a cost to the state if the AGO expends resources on litigation.

The chair requested that the ETB provide the committee with reports related to the 17% losses and an explanation of why the plans trail their respective peer groups in earnings. Mr. Boyd said he would send the information to Mr. Pollard.

Lastly, members expressed disapproval of the ETB's practice of awarding scholarships with money received from college plan investors. The ETB charges an administrative fee to investors, and it uses a portion of that fee toward what is referred to as "bridge scholarships". Dr. Garcia explained that the bridge scholarship covers a student's first semester of college, a time period not covered under the New Mexico lottery scholarship. Members generally questioned the validity of using investors' money to fund other children's scholarships. The chair said he wants to speak about the issue with Dr. Garcia prior to the upcoming legislative session, and Dr. Garcia agreed.

Educational Retirement Board (ERB) Pension Solvency Legislation Proposed for IPOC Endorsement

Jan Goodwin, executive director for the ERB, presented the ERB's proposed legislation designed to improve the solvency of the Educational Retirement Fund. She began by reminding the members of the committee about the ERB's proposal. The proposal would increase all active members' employee contribution rates to 10.7% in a phased-in process reaching the increased rate in FY 2015. Additionally, the proposal would create a new tier of employees hired on and after

July 1, 2013. The retirement age and service requirements and benefits for members in the new tier would include a minimum retirement age of 55 years. Retirement eligibility would occur:

- a. at age 67 years with five years of earned service credit;
- b. at any age if the sum of the member's age and years of earned service credit equals at least 80 (Rule of 80); or
- c. at any age with 30 or more years of earned service credit.

Additionally, members in the new tier can expect a cost-of-living adjustment (COLA) of 2% annually once they reach the age of 67 years.

Ms. Goodwin further explained that the stakeholder proposal is projected to reduce the ERB's unfunded liability, and according to those projections, the fund would be 75% funded by the year 2030 and would reach 100% funded status in the year 2043. Ms. Goodwin noted the various charts and graphs provided in the ERB handout that illustrate the upward trend in the funding ratio anticipated if the stakeholder proposal is enacted after the upcoming 2013 legislative session. The chair asked Ms. Goodwin to ensure that the ERB would vote on the endorsed proposal with the change recommended by the IPOC, which will provide a carve-out of the employee contribution increase for members making \$20,000 or less annually. She agreed.

Prior to the next presentation, the IPOC, members voted, without objection, to approve the minutes from the IPOC October and November meetings.

Public Employees Retirement Association (PERA) Pension Solvency Legislation Proposed for IPOC Endorsement

Wayne Propst, executive director for the PERA, spoke to the members regarding the PERA board's proposal for legislation to ensure the solvency of the PERA funds. He referred to the handout dated December 17, 2012 and reviewed the proposed changes. He noted that, on the first page of the handout, there is information regarding the various PERA funds and their respective funded status. The Judicial Retirement Fund is the least funded, with a funded ratio of 51%, and the Volunteer Firefighter's Retirement Fund is the best funded at 167.9%.

Next, Mr. Propst relayed the most recent and updated financial status of the PERA, as well as information specifically related to the legislative retirement plans. That information is located in the handout "Legislative Retirement Overview".

There was a brief discussion regarding the PERA board proposal. Mr. Propst clarified that the PERA funds are valued as a singular fund, but for administrative purposes, the PERA is able to determine each fund's funded status.

Some members asked why the board did not look at changes to the judicial and magistrate retirement plans. Mr. Propst said the changes to the COLA were intended to affect both the judicial and magistrate members.

Administrative Office of the Courts (AOC) Solvency Legislation Proposed for IPOC Endorsement

Richard C. Bosson, justice of the New Mexico Supreme Court, and Arthur C. Pepin, director for the AOC, spoke to the members regarding legislation proposed by the AOC that would affect both the judicial retirement members and the magistrate retirement members. The proposal was originally presented to the IPOC at its November meeting.

Justice Bosson began by mentioning an op-ed piece written by former Supreme Court Chief Justice Joseph F. Baca that appeared in the *Albuquerque Journal* on Sunday, December 16, 2012. Chief Justice Baca opined that earned PERA and ERB benefits are a property right under the Constitution of New Mexico, and as such, the constitution "...limits the permissible changes to benefits that may be made. In addition, the Fifth Amendment to the U.S. Constitution requires compensation for any property that is taken away.". Justice Bosson noted that he agrees with the opinion set forth by Chief Justice Baca.

There was a general discussion regarding Chief Justice Baca's op-ed piece. Some members disagreed with the opinion set forth by the former chief justice, and others agreed with it. Generally, members understood that until a court makes a determination, it is difficult to foresee the outcome of any litigation that may arise out of changes to the state's pension plans.

Mr. Pepin referred to the AOC handout with the heading "CURRENT STATUS OF JRA AND MRA". He reminded the members of the provisions proposed by the AOC, including a one-time appropriation of \$15 million to "jump-start" the solvency of the Judicial Retirement Fund and the Magistrate Retirement Fund. He also noted that the proposed changes would include contribution increases for employers. Employees would continue to contribute 9.0% of their annual salary, and employers would contribute 15% of each employee's annual salary. A distinguishing characteristic of the AOC proposal is the provision that would temporarily suspend the COLA for all judicial and magistrate members for two years. Then, beginning July 1, 2016, if the funds are funded at 70% or greater, a 2% compounding COLA could be implemented.

Retiree Health Care Authority (RHCA) Legislative Proposals

Mark Tyndall, executive director for the RHCA, addressed the members regarding legislation providing for increased employee and employer contributions to the Retiree Health Care Fund. Although Mr. Tyndall presented a different legislative proposal at the November IPOC meeting, he came forward at this meeting with a substitute proposal that would implement contribution increases earlier, beginning on July 1, 2013.

Mr. Tyndall explained that the legislative proposal is projected to have a general fund impact of about \$5 million annually. He added that the proposal is part of the RHCA's long-term sustainability plan and is necessary because active employees do not end up paying the total costs associated with the benefits they receive. He added that the board wants a system whereby the contributions match the benefits.

IPOC Voting and Endorsement of Proposed Legislation

After hearing the various presentations, the members discussed and voted on endorsement of proposed legislation. The IPOC voted on the following bills:

1) .190837.2SA — This bill is proposed by the PERA board and was voted on as merged with bill number .190838.1 and bill number .190744.2. The merged bill was endorsed and will be sponsored by Senator Munoz;

2) .190621.3SA — This bill is proposed by the AOC. The bill was endorsed and will be sponsored by Representative Trujillo;

3) .190544.1 — This is a bill related to court docket fees. The bill was endorsed and will be sponsored by Representative Stewart;

4) .190849.1 — This bill would permit double-dipping for chiefs of police and undersheriffs. This bill will be carried by Senator Cisneros;

5) .190850.1 — Double-dipping bill. This bill would permit retired state police members, municipal police and adult correctional officer members to return to work under the Public Employees Retirement Act. The bill was endorsed, but no sponsor was assigned;

6) .190682.1 — This bill would change the judicial retirement and magistrate retirement plans to align more closely to the PERA state general member coverage plan 3. This bill was endorsed, but no sponsor was assigned;

7) .190476.2 — This bill would provide that the PERA board would be responsible for determining, within limitations, employee contribution rates and the rate of the COLA. This bill was endorsed, but no sponsor was assigned;

8) .190546.1 — This bill would allow any retired member under the PERA to return to work without suspending the member's pension if the member returns to employment earning less than \$15,000 annually. This bill was not endorsed by the IPOC;

9) .190831.1 — This bill would eliminate the ETB and place the investing duties of the ETB with the SIC. This bill was endorsed, but a sponsor was not assigned; and

10) .190944.1 — This bill would increase both employee and employer contributions to the Retiree Health Care Fund beginning July 1, 2013. This bill was endorsed, but a sponsor was not assigned.

Adjournment

With no further business, the committee adjourned at 4:15 p.m.

ENDORSED LEGISLATION

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

ENDORSED BY THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

RELATING TO PENSIONS; AMENDING THE PUBLIC EMPLOYEES RETIREMENT
ACT; REDUCING THE COST-OF-LIVING ADJUSTMENTS FOR ALL RETIREES;
DELAYING THE COST-OF-LIVING ADJUSTMENT FOR CERTAIN FUTURE
RETIREES; SUSPENDING THE COST-OF-LIVING ADJUSTMENTS FOR CERTAIN
RETURN-TO-WORK RETIREES; PROVIDING FOR AN INCREASE IN EMPLOYEE
AND EMPLOYER CONTRIBUTIONS; CLARIFYING DEFINITIONS; PROVIDING
THAT MUNICIPAL EMPLOYERS WILL NOT PAY ANY PORTION OF THE ONE
AND ONE-HALF PERCENT INCREASE IN EMPLOYEE CONTRIBUTIONS
EFFECTIVE JULY 1, 2013 WITHOUT PASSING A RESOLUTION OR
EXECUTING A COLLECTIVE BARGAINING AGREEMENT; PROVIDING THAT
MUNICIPALITIES MAY BY SUBSEQUENT RESOLUTION OR AGREEMENT ELECT
TO PAY A PORTION OF EMPLOYEE CONTRIBUTION INCREASES THAT MAY
OCCUR AFTER JULY 1, 2013; CLARIFYING HOW SERVICE CREDIT EARNED
UNDER MULTIPLE COVERAGE PLANS WILL BE CALCULATED; CHANGING THE
BENEFITS FOR MEMBERS INITIALLY EMPLOYED AFTER JUNE 30, 2013 BY

.190837.3SA

underscored material = new
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1 REDUCING THE MULTIPLIER AND INCREASING THE NUMBER OF YEARS USED
2 TO CALCULATE THE FINAL AVERAGE SALARY, INCREASING THE VESTING
3 PERIOD, INCREASING AGE AND SERVICE REQUIREMENTS FOR NORMAL
4 RETIREMENT AND INCREASING THE MAXIMUM PENSION BENEFIT; LIMITING
5 PLAN ENHANCEMENTS; RECONCILING MULTIPLE AMENDMENTS TO THE SAME
6 SECTION OF LAW IN LAWS 2003; AMENDING, REPEALING AND ENACTING
7 SECTIONS OF THE NMSA 1978.

8

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

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

12 "10-11-2. DEFINITIONS.--As used in the Public Employees
13 Retirement Act:

14 A. "accumulated member contributions" means the
15 amounts deducted from the salary of a member and credited to
16 the member's individual account, together with interest, if
17 any, credited to that account;

18 B. "affiliated public employer" means the state and
19 any public employer affiliated with the association as provided
20 in the Public Employees Retirement Act, but does not include an
21 employer pursuant to the Magistrate Retirement Act, the
22 Judicial Retirement Act or the Educational Retirement Act;

23 C. "association" means the public employees
24 retirement association established under the Public Employees
25 Retirement Act;

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underscoring material = new
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1 D. "disability retired member" means a retired
2 member who is receiving a pension pursuant to the disability
3 retirement provisions of the Public Employees Retirement Act;

4 E. "disability retirement pension" means the
5 pension paid pursuant to the disability retirement provisions
6 of the Public Employees Retirement Act;

7 F. "educational retirement system" means that
8 retirement system provided for in the Educational Retirement
9 Act;

10 G. "employee" means any employee of an affiliated
11 public employer;

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

16 I. "final average salary" means the final average
17 salary calculated in accordance with the provisions of the
18 applicable coverage plan;

19 J. "form of payment" means the applicable form of
20 payment of a pension provided for in Section 10-11-117 NMSA
21 1978;

22 K. "former member" means a person who was
23 previously employed by an affiliated public employer, who has
24 terminated that employment and who has received a refund of
25 member contributions;

.190837.3SA

underscored material = new
[bracketed material] = delete

1 L. "fund" means the funds included under the Public
2 Employees Retirement Act;

3 M. "member" means a currently employed,
4 contributing employee of an affiliated public employer, or a
5 person who has been but is not currently employed by an
6 affiliated public employer, who has not retired and who has not
7 received a refund of member contributions; "member" also
8 includes the following:

9 (1) "adult correctional officer member" means
10 a member who is employed as an adult correctional officer or an
11 adult correctional officer specialist [~~employed~~] by a state
12 correctional facility of the corrections department or its
13 successor agency;

14 [~~(2) "hazardous duty member" means a member~~
15 ~~who is a juvenile correctional officer employed by the~~
16 ~~children, youth and families department or its successor~~
17 ~~agency;~~]

18 (2) "juvenile correctional officer member"
19 means a member who is employed as a juvenile correctional
20 officer by the children, youth and families department or its
21 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

.190837.3SA

underscoring material = new
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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

.190837.3SA

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

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

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

5 "10-11-4. SERVICE CREDIT--REQUIREMENTS FOR--FORFEITURE--
6 REINSTATEMENT.--

7 A. Personal service rendered an affiliated public
8 employer by a member shall be credited to the member's service
9 credit account in accordance with retirement board rules and
10 regulations. Service shall be credited to the nearest month.
11 In no case shall any member be credited with a year of service
12 for less than twelve months of service in any calendar year or
13 more than a month of service for all service in any calendar
14 month or more than a year of service for all service in any
15 calendar year. In no case shall any member be allowed to
16 purchase service credit unless the purchase is authorized in
17 the Public Employees Retirement Act.

18 B. Personal service rendered an affiliated public
19 employer prior to August 1, 1947 shall be credited to a member
20 if the member acquires one year of service credit for personal
21 service rendered an affiliated public employer.

22 C. Personal service rendered an affiliated public
23 employer after July 31, 1947 but prior to the date the public
24 employer became an affiliated public employer is prior service
25 and shall be credited to a member if:

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1 (1) the member [~~acquires five~~] has the
2 applicable minimum number of years of service credit [~~for~~
3 ~~personal service rendered an affiliated public employer]~~
4 required for normal retirement. As used in this paragraph,
5 "service credit" means only the service credit earned by the
6 member during periods of employment with an affiliated public
7 employer; and

8 (2) the member pays the association the amount
9 determined in accordance with Subsection D of this section.

10 D. The purchase cost for each month of service
11 credit purchased under the provisions of this section is equal
12 to the member's final average salary multiplied by the sum of
13 the member contribution rate and employer contribution rate
14 determined in accordance with the coverage plan applicable to
15 the member at the time of the written election to purchase.
16 Full payment shall be made in a single lump-sum amount in
17 accordance with the procedures established by the retirement
18 board. The portion of the purchase cost derived from the
19 employer contribution rate shall be credited to the [~~employer~~]
20 employers accumulation fund and shall not be refunded to the
21 member in the event of cessation of membership. In no case
22 shall any member be credited with a month of service for less
23 than the purchase cost as defined in this section.

24 E. Service credit shall be forfeited if a member
25 terminates employment with an affiliated public employer and

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1 withdraws the member's accumulated member contributions.

2 F. A member or former member who is a member of
3 another state system or the educational retirement system and
4 who has forfeited service credit by withdrawal of member
5 contributions may reinstate the forfeited service credit by
6 repaying the amount withdrawn plus compound interest from the
7 date of withdrawal to the date of repayment at the rate set by
8 the retirement board. Withdrawn member contributions may be
9 repaid in increments of one year in accordance with the
10 procedures established by the retirement board. Full payment
11 of each one-year increment shall be made in a single lump-sum
12 amount in accordance with procedures established by the
13 retirement board."

14 SECTION 3. Section 10-11-5 NMSA 1978 (being Laws 1987,
15 Chapter 253, Section 5, as amended) is amended to read:

16 "10-11-5. CREDITED SERVICE--MUNICIPAL ELECTION TO MAKE
17 EMPLOYEE CONTRIBUTIONS.--A municipal affiliated public employer
18 may elect by resolution of its governing body or by execution
19 of a collective bargaining agreement and in the manner
20 prescribed by the retirement board to be responsible for making
21 contributions of up to seventy-five percent of its employees'
22 member contributions as follows:

23 A. the resolution or collective bargaining
24 agreement shall be irrevocable; [~~however~~] except that:

25 (1) if the resolution is passed or the

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1 collective bargaining agreement is executed on or before June
2 30, 2013, the percentage of the employee contributions that the
3 municipal affiliated public employer elects to be responsible
4 for making shall apply to the statutory employee contribution
5 rate in effect on June 30, 2013 and shall not apply to any
6 increase in the statutory employee contribution rate that may
7 occur after that date; and

8 (2) if the resolution is passed or the
9 collective bargaining agreement is executed on or after July 1,
10 2013, the percentage of the employee contributions that the
11 municipal affiliated public employer elects to be responsible
12 for making shall apply to the statutory employee contribution
13 rate in effect on the date that the resolution is passed or the
14 collective bargaining agreement is executed and shall not apply
15 to any increases in the statutory employee contribution rate
16 that may occur after that date; provided, however, that, if the
17 statutory employee contribution rate is decreased after the
18 date that the resolution is passed or the collective bargaining
19 agreement is executed, the percentage of the employee
20 contributions that the municipal public affiliated employer is
21 responsible for making shall apply to the decreased statutory
22 employee contribution rate;

23 B. a municipal affiliated public employer may by
24 subsequent resolution or collective bargaining agreement:

25 (1) elect to increase the percentage of

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1 employee member contributions for which it will be responsible;

2 (2) elect to be responsible for a percentage
3 of any increase to the statutory employee contribution rate in
4 effect after the passing of an earlier resolution or the
5 execution of an earlier collective bargaining agreement; or

6 [~~2~~] (3) at the time a new coverage plan is
7 adopted, elect to be responsible under the new coverage plan
8 for making a different percentage of employee member
9 contributions than that which it elected under a previous
10 coverage plan;

11 [~~B-~~] C. the resolution or executed collective
12 bargaining agreement shall apply to all employees or else to
13 specified employee divisions of the municipal affiliated public
14 employer and shall be effective the first pay period of the
15 month following the filing of the resolution with the
16 retirement board;

17 [~~G-~~] D. the portion of the employee contributions
18 made by the municipal affiliated public employer on behalf of a
19 member shall be credited to the member's individual accumulated
20 member contribution account in the member contribution fund.

21 The member shall be responsible for the difference between the
22 contributions the member would be required to make if the
23 municipal affiliated public employer had not made the election
24 provided for in this section and the amount contributed by the
25 municipal affiliated public employer [~~under~~] pursuant to the

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1 provisions of this section;

2 ~~[D-]~~ E. pensions payable to members whose municipal
3 affiliated public employer makes the election provided for in
4 this section shall be the same as if the member had made the
5 entire member contribution; and

6 ~~[E-]~~ F. any municipal affiliated public employer
7 increasing the percentage of the employee member contributions
8 it elects to make pursuant to this section shall submit a
9 resolution or executed collective bargaining agreement to the
10 association by July 1 of the fiscal year in which the increase
11 will take place indicating the percentage of the employee
12 member contributions that will be made by the municipal
13 affiliated public employer."

14 SECTION 4. Section 10-11-7 NMSA 1978 (being Laws 1987,
15 Chapter 253, Section 7, as amended) is amended to read:

16 "10-11-7. SERVICE CREDIT--PURCHASE OF SERVICE.--

17 A. A member who entered a uniformed service of the
18 United States may purchase service credit for periods of active
19 duty in the uniformed services subject to the following
20 conditions:

21 (1) the member pays the association the
22 purchase cost determined according to Subsection E of this
23 section;

24 (2) the member has ~~[five or more]~~ the
25 applicable minimum number of years of service credit ~~[acquired]~~

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1 ~~as a result of personal service rendered in the employ of an~~
2 ~~affiliated public employer]~~ required for normal retirement. As
3 used in this paragraph, "service credit" means only the service
4 credit earned by the member during periods of employment with
5 an affiliated public employer;

6 (3) the aggregate amount of service credit
7 purchased pursuant to this subsection does not exceed five
8 years reduced by any period of service credit acquired for
9 military service pursuant to any other provision of the Public
10 Employees Retirement Act;

11 (4) service credit may not be purchased for
12 periods of service in the uniformed services that are used to
13 obtain or increase a benefit from another retirement program;
14 and

15 (5) the member must not have received a
16 discharge or separation from uniformed service under other than
17 honorable conditions.

18 B. A member who was a civilian prisoner of war
19 captured while in service to the United States as an employee
20 of the federal government or as an employee of a contractor
21 with the federal government may purchase service credit for the
22 period of internment as a civilian prisoner of war, provided
23 that:

24 (1) the member provides proof of employment
25 with the federal government or as a contractor to the federal

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1 government in a form acceptable to the association;

2 (2) the member provides proof of the period of
3 internment in a form acceptable to the association;

4 (3) the member has [~~at least five~~] the
5 applicable minimum number of years of service credit [acquired
6 as a result of personal service rendered in the employ of an
7 affiliated public employer] required for normal retirement. As
8 used in this paragraph, "service credit" means only the service
9 credit earned by the member during periods of employment with
10 an affiliated public employer;

11 (4) the aggregate amount of service credit
12 purchased pursuant to this subsection does not exceed five
13 years reduced by any period of service credit acquired for
14 military service pursuant to any other provision of the Public
15 Employees Retirement Act;

16 (5) service credit may not be purchased for
17 periods of service in internment as a civilian prisoner of war
18 if such periods are used to obtain or increase a benefit from
19 another retirement program; and

20 (6) the member pays the association the
21 purchase cost determined according to Subsection E of this
22 section.

23 C. A member who was employed by a utility company,
24 library, museum, transit company or nonprofit organization
25 administering federally funded public service programs, which

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1 utility company, library, museum, transit company or nonprofit
2 organization administering federally funded public service
3 programs or federally funded public service programs
4 administered by a nonprofit organization are subsequently taken
5 over by an affiliated public employer, or a member who was
6 employed by an entity created pursuant to a joint powers
7 agreement between two or more affiliated public employers for
8 the purpose of administering or providing drug or alcohol
9 addiction treatment services irrespective of whether the entity
10 is subsequently taken over by an affiliated public employer,
11 may purchase service credit for the period of employment
12 subject to the following conditions:

13 (1) the member pays the association the
14 purchase cost determined according to Subsection E of this
15 section;

16 (2) the member has [~~five or more~~] the
17 applicable minimum number of years of service credit [acquired
18 as a result of personal service rendered in the employ of an
19 affiliated public employer] required for normal retirement. As
20 used in this paragraph, "service credit" means only the service
21 credit earned by the member during periods of employment with
22 an affiliated public employer; and

23 (3) the aggregate amount of service credit
24 purchased pursuant to this subsection does not exceed five
25 years.

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1 D. A member who was appointed to participate in a
2 cooperative work study training program established jointly by
3 a state agency and a state post-secondary educational
4 institution may purchase service credit for the period of
5 participation subject to the following conditions:

6 (1) the member pays the association the full
7 actuarial present value of the amount of the increase in the
8 employee's pension as a consequence of the purchase as
9 determined by the association;

10 (2) the member pays the full cost of the
11 purchase within sixty days of the date the member is informed
12 of the amount of the payment;

13 (3) the member has [~~five or more~~] the
14 applicable minimum number of years of service credit [~~acquired~~
15 ~~as a result of personal service rendered in the employ of an~~
16 ~~affiliated public employer] required for normal retirement. As
17 used in this paragraph, "service credit" means only the service
18 credit earned by the member during periods of employment with
19 an affiliated public employer; and~~

20 (4) the aggregate amount of service credit
21 purchased pursuant to this subsection does not exceed five
22 years.

23 E. Except for service to be used under a state
24 legislator coverage plan, the purchase cost for each month of
25 service credit purchased pursuant to the provisions of this

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1 section is equal to the member's final average salary
2 multiplied by the sum of the member contribution rate and
3 employer contribution rate, determined in accordance with the
4 coverage plan applicable to the member at the time of the
5 written election to purchase. The purchase cost for each year
6 of service credit to be used under a state legislator coverage
7 plan is equal to three times the normal member contribution per
8 year of service credit under the state legislator coverage plan
9 applicable to the member. Full payment shall be made in a
10 single lump sum within sixty days of the date the member is
11 informed of the amount of the payment. The portion of the
12 purchase cost derived from the employer contribution rate shall
13 be credited to the employer's accumulation fund and shall not
14 be paid out of the association in the event of cessation of
15 membership. In no case shall a member be credited with a month
16 of service for less than the purchase cost as defined in this
17 section.

18 F. A member shall be refunded, upon written request
19 filed with the association, the portion of the purchase cost of
20 service credit purchased pursuant to this section that the
21 association determines to have been unnecessary to provide the
22 member with the maximum pension applicable to the member. The
23 association shall not pay interest on the portion of the
24 purchase cost refunded to the member.

25 G. A member of the magistrate retirement system who

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1 during the member's service as a magistrate was eligible to
2 become a member of the public employees retirement system and
3 elected not to become a member of that system may purchase
4 service credit pursuant to the public employees retirement
5 system for the period for which the magistrate elected not to
6 become a public employees retirement system member by paying
7 the amount of the increase in the actuarial present value of
8 the magistrate pension as a consequence of the purchase as
9 determined by the association. Full payment shall be made in a
10 single lump-sum amount in accordance with procedures
11 established by the retirement board. Except as provided in
12 Subsection F of this section, seventy-five percent of the
13 purchase cost shall be considered to be employer contributions
14 and shall not be refunded to the member in the event of
15 cessation of membership.

16 H. At any time prior to retirement, any member may
17 purchase service credit in monthly increments, subject to the
18 following conditions:

19 (1) the member has [~~at least five~~] the
20 applicable minimum number of years of service credit [~~acquired~~
21 ~~as a result of personal service rendered in the employ of an~~
22 ~~affiliated public employer~~] required for normal retirement. As
23 used in this paragraph, "service credit" means only the service
24 credit earned by the member during periods of employment with
25 an affiliated public employer;

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1 (2) the aggregate amount of service credit
2 purchased pursuant to this subsection does not exceed one
3 year;

4 (3) the member pays full actuarial present
5 value of the amount of the increase in the employee's pension
6 as a consequence of the purchase as determined by the
7 association;

8 (4) the member pays the full cost of the
9 purchase within sixty days of the date the member is informed
10 of the amount of the payment; and

11 (5) the purchase of service credit under this
12 subsection cannot be used to determine the final average salary
13 or the pension factor or be used to exceed the pension maximum.

14 I. A member receiving service credit under this
15 section who enrolls in the retiree health care authority shall
16 make contributions pursuant to Subsection C of Section 10-7C-15
17 NMSA 1978."

18 SECTION 5. Section 10-11-8 NMSA 1978 (being Laws 1987,
19 Chapter 253, Section 8, as amended) is amended to read:

20 "10-11-8. NORMAL RETIREMENT--RETURN TO EMPLOYMENT--
21 BENEFITS CONTINUED--[EMPLOYER] CONTRIBUTIONS.--

22 A. A member may retire upon fulfilling the
23 following requirements prior to the selected date of
24 retirement:

25 (1) a written application for normal

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1 retirement, in the form prescribed by the association, is filed
2 with the association;

3 (2) employment is terminated with all
4 employers covered by any state system or the educational
5 retirement system;

6 (3) the member selects an effective date of
7 retirement that is the first day of a calendar month; and

8 (4) the member meets the age and service
9 credit requirement for normal retirement specified in the
10 coverage plan applicable to the member.

11 B. The amount of normal retirement pension is
12 determined in accordance with the coverage plan applicable to
13 the member.

14 C. Except as provided in Subsection [D] E of this
15 section, on or after July 1, 2010, a retired member may be
16 subsequently employed by an affiliated public employer only
17 pursuant to the following provisions:

18 (1) the retired member has not been employed
19 as an employee of an affiliated public employer or retained as
20 an independent contractor by the affiliated public employer
21 from which the retired member retired for at least twelve
22 consecutive months from the date of retirement to the
23 commencement of employment or reemployment with an affiliated
24 public employer;

25 (2) the previously retired member's pension

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1 shall be suspended upon commencement of the employment;

2 (3) except as provided in Subsection ~~[F]~~ G of
3 this section, the previously retired member shall not become a
4 member and thus the previously retired member shall not accrue
5 ~~[no]~~ service credit and the previously retired member and that
6 person's affiliated public employer shall not make ~~[no]~~
7 contributions under any coverage plan pursuant to the Public
8 Employees Retirement Act; and

9 (4) upon termination of the subsequent
10 employment, the previously retired member's pension shall
11 resume in accordance with the provisions of Subsection A of
12 this section.

13 D. Notwithstanding the provisions of Subsection B
14 of Section 10-11-118 NMSA 1978, on and after July 1, 2013, if a
15 retired member becomes employed with an employer pursuant to
16 the Educational Retirement Act:

17 (1) the retired member's cost-of-living
18 pension adjustment shall be suspended upon commencement of the
19 employment; and

20 (2) upon termination of the employment, the
21 retired member's suspended cost-of-living pension adjustment
22 shall be reinstated as provided under Subsection B of Section
23 10-11-118 NMSA 1978.

24 ~~[D-]~~ E. The provisions of ~~[Subsection]~~
25 Subsections C and H of this section do not apply to:

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1 (1) a retired member employed by the
2 legislature for legislative session work;

3 (2) a retired member employed temporarily as a
4 precinct board member for a municipal election or an election
5 covered by the Election Code; or

6 (3) a retired member who is elected to serve a
7 term as an elected official; provided that:

8 (a) the retired member files an
9 irrevocable exemption from membership with the association
10 within thirty days of taking office; and

11 (b) the irrevocable exemption shall be
12 for the elected official's term of office.

13 ~~[E-]~~ F. A retired member who returns to employment
14 during retirement pursuant to Subsection ~~[D]~~ E of this section
15 is entitled to receive retirement benefits but is not entitled
16 to accrue service credit or to acquire or purchase service
17 credit in the future for the period of the previously retired
18 member's reemployment with an affiliated public employer.

19 ~~[F-]~~ G. At any time during a previously retired
20 member's subsequent employment pursuant to Subsection C of this
21 section, the previously retired member may elect to become a
22 member and the following conditions shall apply:

23 (1) the previously retired member and the
24 subsequent affiliated public employer shall make the required
25 employee and employer contributions, and the previously retired

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1 member shall accrue service credit for the period of subsequent
2 employment; and

3 (2) when the previously retired member
4 terminates the subsequent employment with an affiliated public
5 employer, the previously retired member shall retire according
6 to the provisions of the Public Employees Retirement Act,
7 subject to the following conditions:

8 (a) payment of the pension shall resume
9 in accordance with the provisions of Subsection A of this
10 section;

11 (b) unless the previously retired member
12 accrued at least three years of service credit on account of
13 the subsequent employment, the recalculation of pension shall:
14 1) employ the form of payment selected by the previously
15 retired member at the time of the first retirement; and 2) use
16 the provisions of the coverage plan applicable to the member on
17 the date of the first retirement; and

18 (c) the recalculated pension shall not
19 be less than the amount of the suspended pension.

20 [~~G.~~] H. A previously retired member who returned to
21 work with an affiliated public employer prior to July 1, 2010
22 shall be subject to the provisions of this section in effect on
23 the date the previously retired member returned to work;
24 provided that:

25 (1) on and after July 1, 2010, the previously

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1 retired member shall pay the employee contribution in an amount
2 specified in the Public Employees Retirement Act for the
3 position in which the previously retired member is employed;

4 (2) notwithstanding the provisions of
5 Subsection B of Section 10-11-118 NMSA 1978, on and after July
6 1, 2013, the previously retired member's cost-of-living pension
7 adjustment shall be suspended; and

8 (3) upon termination of the employment with an
9 affiliated public employer, the previously retired member's
10 cost-of-living pension adjustment shall be reinstated as
11 provided in Subsection B of Section 10-11-118 NMSA 1978.

12 [H.] I. The pension of a member who has earned
13 service credit under more than one coverage plan shall be
14 determined as follows:

15 (1) the pension of a member who has three or
16 more years of service credit earned on or before June 30, 2013
17 under each of two or more coverage plans shall be determined in
18 accordance with the coverage plan that produces the highest
19 pension;

20 (2) the pension of a member who has service
21 credit earned on or before June 30, 2013 under two or more
22 coverage plans but who has three or more years of service
23 credit under only one of those coverage plans shall be
24 determined in accordance with the coverage plan in which the
25 member has three or more years of service credit. If the

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1 service credit is acquired under two different coverage plans
2 applied to the same affiliated public employer as a consequence
3 of an election by the members, adoption by the affiliated
4 public employer or a change in the law that results in the
5 application of a coverage plan with a greater pension, the
6 greater pension shall be paid a member retiring from the
7 affiliated public employer under which the change in coverage
8 plan took place regardless of the amount of service credit
9 under the coverage plan producing the greater pension; provided
10 that the member has three or more years of continuous
11 employment with that affiliated public employer immediately
12 preceding or immediately preceding and immediately following
13 the date the coverage plan changed;

14 (3) the pension of a member who has service
15 credit earned on or before June 30, 2013 under each of two or
16 more coverage plans and who has service credit earned under any
17 coverage plan on or after July 1, 2013 shall be equal to the
18 sum of:

19 (a) the pension attributable to the
20 service credit earned on or before June 30, 2013 determined
21 pursuant to Paragraph (1) or (2) of this subsection; and

22 (b) the pension attributable to the
23 service credit earned under each coverage plan on or after July
24 1, 2013;

25 (4) the pension of a member who has service

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1 credit earned only on and after July 1, 2013 shall be equal to
2 the sum of the pension attributable to the service credit the
3 member has accrued under each coverage plan; and

4 (5) the provisions of each coverage plan for
5 the purpose of this subsection shall be those in effect at the
6 time the member ceased to be covered by the coverage plan.

7 "Service credit", for the purposes of this subsection, shall be
8 only personal service rendered an affiliated public employer
9 and credited to the member under the provisions of Subsection A
10 of Section 10-11-4 NMSA 1978. Service credited under any other
11 provision of the Public Employees Retirement Act shall not be
12 used to satisfy the three-year service credit requirement of
13 this subsection."

14 SECTION 6. Section 10-11-10.1 NMSA 1978 (being Laws 1993,
15 Chapter 160, Section 3) is amended to read:

16 "10-11-10.1. DISABILITY RETIREMENT.--

17 A. There is created a "disability review committee"
18 of the retirement board. The disability review committee shall
19 consist of at least three but not more than five retirement
20 board members and at least one physician licensed in New Mexico
21 appointed by the retirement board. The disability review
22 committee shall review all applications for disability
23 retirement, review reports required under this section and
24 approve or deny applications for disability retirement.

25 B. The disability review committee may retire a

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1 member on account of disability before the time the member
2 would otherwise be eligible for retirement if the following
3 requirements are satisfied:

4 (1) the member applying for disability
5 retirement was a member at the time the disability was
6 incurred;

7 (2) a written application for disability
8 retirement, in the form and containing the information
9 prescribed by the association, has been filed with the
10 association by the member or by the member's affiliated public
11 employer;

12 (3) employment is terminated within forty-five
13 days of the date of approval of the application for disability
14 retirement;

15 (4) if:

16 (a) the member has [~~five or more~~] the
17 applicable minimum number of years of service credit required
18 for normal retirement. For the purposes of this subparagraph,
19 "service credit" means only the service credit earned by the
20 member during periods of employment with an affiliated public
21 employer; or

22 (b) the disability review committee
23 finds the disability to have been the natural and proximate
24 result of causes arising solely and exclusively out of and in
25 the course of the member's performance of duty with an

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1 affiliated public employer;

2 (5) the member submits to all medical
3 examinations and tests and furnishes copies of all medical
4 reports requested by the association or disability review
5 committee; provided that if the disability review committee
6 requires independent medical or other examinations, those
7 examinations shall be performed at the association's expense;
8 and

9 (6) the disability review committee makes the
10 determination required under Subsection C of this section.

11 C. The disability review committee shall review
12 applications for disability retirement to determine whether:

13 (1) if the member is a currently employed,
14 contributing employee of an affiliated public employer:

15 (a) the member is mentally or physically
16 totally incapacitated for continued employment with an
17 affiliated public employer; and

18 (b) the incapacity is likely to be
19 permanent; or

20 (2) if the member is not a currently employed,
21 contributing employee of an affiliated public employer:

22 (a) the member is mentally or physically
23 totally incapacitated for any gainful employment; and

24 (b) the incapacity is likely to be
25 permanent.

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1 D. The disability retirement pension shall be paid
2 for a period of one year after approval of the initial
3 application unless the disability review committee for good
4 cause shown grants disability retirement for a longer period of
5 time. After approval, payment shall be effective commencing
6 the first of the month following submission of the initial
7 application and termination of employment.

8 E. At the end of the first year that a disability
9 retirement pension is paid, the disability retired member's
10 condition shall be reevaluated to determine eligibility for
11 continuation of payment of a disability retirement pension. If
12 the disability retired member has applied for disability
13 benefits under the federal social security program, [~~he~~] the
14 member shall submit copies of [~~his~~] the member's application.
15 The association shall continue payment of the state disability
16 retirement pension if the disability retired member presents a
17 written final determination from the federal social security
18 administration that the disability retired member qualifies,
19 based on the same [~~condition or~~] conditions as presented in the
20 application for a state disability retirement pension, for
21 federal disability benefits.

22 F. If the disability retired member applied for
23 federal disability benefits within thirty days of receiving
24 approval for a state disability retirement pension but the
25 federal social security administration has not made a written

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1 final determination of entitlement by the end of the first year
2 that the disability retired member has received a state
3 disability retirement pension, eligibility for continued
4 payment of the state disability retirement pension shall be
5 determined by the disability review committee. The state
6 disability retirement pension shall be discontinued if the
7 disability review committee finds that the disability retired
8 member is capable of any gainful employment.

9 G. The disability retired member shall notify the
10 association of the federal social security administration's
11 final determination within fifteen working days of the date of
12 issuance of the final written determination. If the federal
13 social security administration denies federal disability
14 benefits, the state disability retirement pension shall be
15 discontinued effective the first of the month following the
16 month in which the written final determination of the federal
17 social security administration was issued. If the federal
18 social security administration grants federal disability
19 benefits, the state disability retirement pension shall be
20 continued so long as the disability retired member provides
21 annually, on or before the anniversary date of commencement of
22 payment of the state disability retirement pension, written
23 evidence of continuation of payment of federal disability
24 benefits. If the disability review committee has denied
25 continuation of payment of a state disability retirement

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1 pension and the disability retired member is later granted
2 federal disability benefits, the state disability retirement
3 pension shall be reinstated effective the first of the month
4 following the month in which the state disability retirement
5 pension was discontinued.

6 H. If, at the time of reevaluation under Subsection
7 E of this section, the disability retired member has applied
8 for and has qualified for federal disability benefits, but for
9 a different condition than was reviewed by the disability
10 review committee, the disability review committee shall review
11 the disability retired member's condition as described by the
12 application for federal disability benefits. The process set
13 forth in Subsection I of this section shall be followed to
14 determine whether payment of a state disability retirement
15 pension should be continued.

16 I. If the disability retired member is not eligible
17 to apply for federal disability benefits or is not a member of
18 the federal social security program, the disability review
19 committee annually shall determine eligibility for continuation
20 of payment of a state disability retirement pension. To make
21 its determination of continued entitlement, the disability
22 review committee shall use the guidelines established by the
23 federal social security administration for determination of
24 eligibility for federal disability benefits. The determination
25 shall be based on:

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1 (1) the medical and all other information
2 provided by the disability retired member;

3 (2) at least one independent medical or other
4 examination performed at the association's expense if required
5 by the disability review committee; and

6 (3) any [~~and all~~] medical, vocational or other
7 information related to the disability compiled during the
8 period of disability by any medical or other practitioner
9 consulted by the disability retired member regarding the
10 disability which was not paid for by the association.

11 J. Each disability retired member annually shall
12 submit to the association, prior to July 1, a statement of
13 earnings from gainful employment during the preceding calendar
14 year. The statement of earnings shall be in the form
15 prescribed by the association. Payment of the state disability
16 retirement pension shall be discontinued if the amount of
17 earnings from gainful employment is one hundred percent or more
18 of the amount [~~which~~] that causes a decrease or suspension of
19 an old age benefit under the federal social security program,
20 or fifteen thousand dollars (\$15,000), whichever is less.
21 Payment of the state disability retirement pension shall be
22 discontinued starting with the month of July if the statement
23 of earnings is not received by the association prior to July 1.

24 K. Upon prior approval by the association, a
25 disability retired member may return to employment with an

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1 affiliated public employer or other employer for a trial period
2 not to exceed one hundred twenty calendar days without becoming
3 a member or causing suspension or discontinuation of payment of
4 a state disability retirement pension. If the trial period of
5 employment is successfully completed, payment of the disability
6 retirement pension shall be discontinued beginning the first of
7 the month following the one hundred twentieth day of the trial
8 period of employment. Trial periods of employment shall be
9 limited to two in any five-year period following disability
10 retirement.

11 L. If the disability retired member meets the
12 minimum age and service credit requirements for normal
13 retirement while receiving a disability retirement pension, the
14 disability retirement pension shall be reclassified by the
15 association as a normal retirement pension and no further
16 determinations of eligibility for continuation of payment of
17 the disability retirement pension shall be made. Upon
18 reclassification as a normal retirement pension, all the
19 provisions of [~~this~~] the Public Employees Retirement Act
20 regarding normal retirement shall be applicable.

21 M. If the disability review committee found the
22 disability to be the natural and proximate result of causes
23 arising solely and exclusively out of and in the course of the
24 member's employment with an affiliated public employer, service
25 credit shall continue to accrue during the disability

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1 retirement period as though the disability retired member was
2 actively employed.

3 N. The amount of a disability retirement pension
4 shall be calculated according to the provisions of the coverage
5 plan applicable to the member at the time of application,
6 except that the service credit requirement shall be waived and
7 the actual amount of service credit shall be used instead. If
8 the disability is the natural and proximate result of causes
9 arising solely and exclusively out of and in the course of the
10 member's performance of duty for an affiliated public employer,
11 the amount of disability retirement pension shall be calculated
12 according to the provisions of the coverage plan applicable to
13 the member, imputing the amount of service credit necessary to
14 meet the minimum service credit requirements for normal
15 retirement.

16 O. For the purposes of this section, the following
17 definitions apply:

18 (1) "continued employment with the affiliated
19 public employer" means the ability of the member to fulfill the
20 required duties of the position in which the member was last
21 employed by ~~[his]~~ an affiliated public employer;

22 (2) "gainful employment" means remunerative
23 employment or self-employment that is commensurate with the
24 applicant's background, age, education, experience and any new
25 skills or training the applicant may have acquired after

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1 terminating public employment or incurring the disability;

2 (3) "state disability retirement pension"
3 means the pension paid pursuant to the provisions of this
4 section; and

5 (4) "federal disability benefits" means those
6 benefits paid by the federal social security program."

7 SECTION 7. Section 10-11-14.5 NMSA 1978 (being Laws 1993,
8 Chapter 160, Section 4, as amended) is amended to read:

9 "10-11-14.5. DEATH BEFORE RETIREMENT--SURVIVOR PENSIONS.--

10 A. A survivor pension may be paid to certain
11 persons related to or designated by a member who dies before
12 normal or disability retirement if a written application for
13 the pension, in the form prescribed by the association, is
14 filed with the association by the potential survivor
15 beneficiary or beneficiaries within one year of the death of
16 the member. Applications may be filed on behalf of the
17 potential survivor beneficiary or beneficiaries or by a person
18 legally authorized to represent them.

19 B. If there is no designated survivor beneficiary
20 and the retirement board finds the death to have been the
21 natural and proximate result of causes arising solely and
22 exclusively out of and in the course of the member's
23 performance of duty with an affiliated public employer, a
24 survivor pension shall be payable to the eligible surviving
25 spouse. The amount of the survivor pension shall be the

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1 greater of:

2 (1) the amount as calculated under the
3 coverage plan applicable to the deceased member at the time of
4 death as though the deceased member had retired the day
5 preceding death under form of payment B using the actual amount
6 of service credit attributable to the deceased member at the
7 time of death; or

8 (2) fifty percent of the deceased member's
9 final average salary.

10 C. A survivor pension shall also be payable to
11 eligible surviving children if there is no designated survivor
12 beneficiary and the retirement board finds the death to have
13 been the natural and proximate result of causes arising solely
14 and exclusively out of and in the course of the member's
15 performance of duty with an affiliated public employer. The
16 total amount of survivor pension payable for all eligible
17 surviving children shall be either:

18 (1) fifty percent of the deceased member's
19 final average salary if an eligible surviving spouse is not
20 paid a pension; or

21 (2) twenty-five percent of the deceased
22 member's final average salary if an eligible surviving spouse
23 is paid a pension.

24 The total amount of survivor pension shall be divided
25 equally among all eligible surviving children. If there is

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1 only one eligible child, the amount of pension shall be twenty-
2 five percent of the deceased member's final average salary.

3 D. If the member had [~~five or more~~] the applicable
4 minimum number of years of service credit required for normal
5 retirement, but the retirement board did not find the death to
6 have been the natural and proximate result of causes arising
7 solely and exclusively out of and in the course of the member's
8 performance of duty with an affiliated public employer and
9 there is no designated survivor beneficiary, a survivor pension
10 shall be payable to the eligible surviving spouse. The amount
11 of the survivor pension shall be the greater of:

12 (1) the amount as calculated under the
13 coverage plan applicable to the deceased member at the time of
14 death as though the deceased member had retired the day
15 preceding death under form of payment B using the total amount
16 of actual service credit attributable to the deceased member at
17 the time of death; or

18 (2) thirty percent of the deceased member's
19 final average salary.

20 E. If the member had [~~five or more~~] the applicable
21 minimum number of years of service credit required for normal
22 retirement, but the retirement board did not find the death to
23 have been the natural and proximate result of causes arising
24 solely and exclusively out of and in the course of the member's
25 performance of duty with an affiliated public employer and

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1 there is no designated survivor beneficiary, and if there is no
2 eligible surviving spouse at the time of death, a survivor
3 pension shall be payable to and divided equally among all
4 eligible surviving children, if any. The total amount of
5 survivor pension payable for all eligible surviving children
6 shall be the greater of:

7 (1) the amount as calculated under the
8 coverage plan applicable to the deceased member at the time of
9 death as though the deceased member had retired the day
10 preceding death under form of payment B with the oldest
11 eligible surviving child as the survivor beneficiary using the
12 total amount of actual service credit attributable to the
13 deceased member at the time of death; or

14 (2) thirty percent of the deceased member's
15 final average salary.

16 F. An eligible surviving spouse is the spouse to
17 whom the deceased member was married at the time of death. An
18 eligible surviving child is a child under the age of eighteen
19 years and who is an unmarried, natural or adopted child of the
20 deceased member.

21 G. An eligible surviving spouse's pension shall
22 terminate upon death. An eligible surviving child's pension
23 shall terminate upon death or marriage or reaching age eighteen
24 years, whichever comes first.

25 H. If there is no designated survivor beneficiary

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1 and there is no eligible surviving child, the eligible
2 surviving spouse may elect to be refunded the deceased member's
3 accumulated member contributions instead of receiving a
4 survivor pension.

5 I. A member may designate a survivor beneficiary to
6 receive a pre-retirement survivor pension, subject to the
7 following conditions:

8 (1) a written designation, in the form
9 prescribed by the association, is filed by the member with the
10 association;

11 (2) if the member is married at the time of
12 designation, the designation shall only be made with the
13 consent of the member's spouse, in the form prescribed by the
14 association;

15 (3) if the member is married subsequent to the
16 time of designation, any prior designations shall automatically
17 be revoked upon the date of the marriage;

18 (4) if the member is divorced subsequent to
19 the time of designation, any prior designation of the former
20 spouse as survivor beneficiary shall automatically be revoked
21 upon the date of divorce; and

22 (5) a designation of survivor beneficiary may
23 be changed, with the member's spouse's consent if the member is
24 married, by the member at any time prior to the member's death.

25 J. If there is a designated survivor beneficiary

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1 and the retirement board finds the death to have been the
2 natural and proximate result of causes arising solely and
3 exclusively out of and in the course of the member's
4 performance of duty with an affiliated public employer, a
5 survivor pension shall be payable to the designated survivor
6 beneficiary. The amount of the survivor pension shall be the
7 greater of:

8 (1) the amount as calculated under the
9 coverage plan applicable to the deceased member at the time of
10 death as though the deceased member had retired the day
11 preceding death under form of payment B using the actual amount
12 of service credit attributable to the member at the time of
13 death; or

14 (2) fifty percent of the deceased member's
15 final average salary.

16 K. If there is a designated survivor beneficiary,
17 if the member had [~~five or more~~] the applicable minimum number
18 of years of service credit required for normal retirement and
19 if the retirement board did not find the death to have been the
20 natural and proximate result of causes arising solely and
21 exclusively out of and in the course of the member's
22 performance of duty with an affiliated public employer, a
23 survivor pension shall be payable to the designated survivor
24 beneficiary. The amount of the survivor pension shall be the
25 greater of:

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1 (1) the amount as calculated under the
2 coverage plan applicable to the deceased member at the time of
3 death as though the deceased member had retired the day
4 preceding death under form of payment B using the actual amount
5 of service credit attributable to the member at the time of
6 death; or

7 (2) thirty percent of the deceased member's
8 final average salary.

9 L. If all pension payments permanently terminate
10 before there is paid an aggregate amount equal to the deceased
11 member's accumulated member contributions at time of death, the
12 difference between the amount of accumulated member
13 contributions and the aggregate amount of pension paid shall be
14 paid to the deceased member's refund beneficiary. If no refund
15 beneficiary survives the survivor beneficiary, the difference
16 shall be paid to the estate of the deceased member.

17 M. For purposes of this section, "service credit"
18 means only the service credit earned by a member during periods
19 of employment with an affiliated public employer."

20 SECTION 8. Section 10-11-14.6 NMSA 1978 (being Laws 2009,
21 Chapter 288, Section 12) is amended to read:

22 "10-11-14.6. CALCULATION OF FINAL AVERAGE SALARY.--Under
23 [~~each coverage plan of~~] the Public Employees Retirement Act:

24 A. for a member who was a member on June 30, 2013,
25 the final average salary is one thirty-sixth of the greatest

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1 aggregate amount of salary paid a member for thirty-six
2 consecutive, but not necessarily continuous, months of service
3 credit; and

4 B. for a member who was not a member on June 30,
5 2013, the final average salary is one-sixtieth of the greatest
6 aggregate amount of salary paid a member for sixty consecutive,
7 but not necessarily continuous, months of service credit."

8 SECTION 9. Section 10-11-26.1 NMSA 1978 (being Laws 1994,
9 Chapter 128, Section 2) is amended to read:

10 "10-11-26.1. STATE GENERAL MEMBER COVERAGE PLAN 3--
11 APPLICABILITY.--State general member coverage plan 3 is
12 applicable to peace officer members and is applicable to state
13 general members in the first full pay period after July 1, 1995
14 if the retirement board certifies to the secretary of state
15 that a majority of the members voting of those members to be
16 covered under state general member coverage plan 3 has voted to
17 approve adoption of this plan at an election conducted pursuant
18 to Laws 1994, Chapter 128, Section 17 [of this act]."

19 SECTION 10. Section 10-11-26.2 NMSA 1978 (being Laws
20 1994, Chapter 128, Section 3, as amended) is amended to read:

21 "10-11-26.2. STATE GENERAL MEMBER COVERAGE PLAN 3--AGE
22 AND SERVICE CREDIT REQUIREMENTS FOR NORMAL RETIREMENT.--

23 A. Under state general member coverage plan 3:

24 (1) for a member who [~~is~~] on or before June
25 30, 2013 was a peace officer and for a member who is not a

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1 peace officer but was a retired member or a member on June 30,
2 [~~2010~~] 2013, the age and service credit requirements for normal
3 retirement are:

4 (a) age sixty-five years or older and
5 five or more years of service credit;

6 (b) age sixty-four years and eight or
7 more years of service credit;

8 (c) age sixty-three years and eleven or
9 more years of service credit;

10 (d) age sixty-two years and fourteen or
11 more years of service credit;

12 (e) age sixty-one years and seventeen or
13 more years of service credit;

14 (f) age sixty years and twenty or more
15 years of service credit; [~~and~~] or

16 (g) any age and twenty-five or more
17 years of service credit; [~~and~~]

18 (2) for a member who is not a peace officer
19 and was not a retired member or a member on June 30, [~~2010~~]
20 2013, the age and service requirements for normal retirement
21 are:

22 (a) age [~~sixty-seven~~] sixty-five years
23 or older and [~~five~~] eight or more years of service credit; or

24 (b) any age if the member has eight or
25 more years of service credit and the sum of the member's age

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1 and years of service credit equals at least [~~eighty; or~~
2 ~~(c) any age and thirty or more years of~~
3 ~~service credit]~~ eighty-five; and

4 (3) for a member who on or after July 1, 2013
5 becomes a peace officer and who was not a retired member or a
6 member on June 30, 2013, the age and service requirements for
7 normal retirement are:

8 (a) age sixty years or older and six or
9 more years of service credit; or

10 (b) any age if the member has six or
11 more years of service credit and the sum of the member's age
12 and years of service credit equals at least seventy-five.

13 B. As used in this section, "peace officer" means
14 any employee of the state with a duty to maintain public order
15 or to make arrests for crime, whether that duty extends to all
16 crimes or is limited to specific crimes, and who is not
17 specifically covered by another coverage plan."

18 SECTION 11. Section 10-11-26.3 NMSA 1978 (being Laws
19 1994, Chapter 128, Section 4) is amended to read:

20 "10-11-26.3. STATE GENERAL MEMBER COVERAGE PLAN 3--AMOUNT
21 OF PENSION--FORM OF PAYMENT A.--Under state general member
22 coverage plan 3:

23 A. for a member with age and service requirements
24 provided under Paragraph (1) or (3) of Subsection A of Section
25 10-11-26.2 NMSA 1978, the amount of pension under form of

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1 payment A is equal to three percent of final average salary
2 multiplied by service credit. The amount shall not exceed
3 [~~eighty~~] ninety percent of the final average salary; and

4 B. for a member with age and service requirements
5 provided under Paragraph (2) of Subsection A of Section
6 10-11-26.2 NMSA 1978, the amount of pension under form of
7 payment A is equal to two and one-half percent of the final
8 average salary multiplied by service credit. The amount shall
9 not exceed ninety percent of the final average salary."

10 SECTION 12. Section 10-11-26.5 NMSA 1978 (being Laws
11 1994, Chapter 128, Section 6, as amended) is amended to read:

12 "10-11-26.5. STATE GENERAL MEMBER COVERAGE PLAN 3--MEMBER
13 CONTRIBUTION RATE.--A member under state general member
14 coverage plan 3 shall contribute [~~seven and forty-two~~
15 ~~hundredths~~] eight and ninety-two hundredths percent of salary
16 starting with the first full pay period that ends within the
17 calendar month in which state general member coverage plan 3
18 becomes applicable to the member [~~except that for members whose~~
19 ~~annual salary is greater than twenty thousand dollars~~
20 ~~(\$20,000):~~

21 ~~A. from July 1, 2009 through June 30, 2011, the~~
22 ~~member contribution rate shall be eight and ninety-two~~
23 ~~hundredths percent of salary;~~

24 ~~B. from July 1, 2011 through June 30, 2012, the~~
25 ~~member contribution rate shall be ten and sixty-seven~~

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1 ~~hundredths percent of salary; and~~

2 ~~G. from July 1, 2012 through June 30, 2013, the~~
3 ~~member contribution rate shall be eight and ninety-two~~
4 ~~hundredths percent of salary]."~~

5 SECTION 13. Section 10-11-26.6 NMSA 1978 (being Laws
6 1994, Chapter 128, Section 7, as amended) is amended to read:

7 "10-11-26.6. STATE GENERAL MEMBER COVERAGE PLAN 3--STATE
8 CONTRIBUTION RATE.--The state shall contribute [~~sixteen and~~
9 ~~fifty-nine hundredths~~] eighteen and nine-hundredths percent of
10 the salary of each member covered by state general member
11 coverage plan 3 starting with the first pay period that ends
12 within the calendar month in which state general member
13 coverage plan 3 becomes applicable to the member, except that
14 [~~for members whose annual salary is greater than twenty~~
15 ~~thousand dollars (\$20,000):~~

16 ~~A. from July 1, 2009 through June 30, 2011, the~~
17 ~~state contribution rate shall be fifteen and nine-hundredths~~
18 ~~percent of the salary of each member;~~

19 ~~B. from July 1, 2011 through June 30, 2012, the~~
20 ~~state contribution rate shall be thirteen and thirty-four~~
21 ~~hundredths percent of the salary of each member; and~~

22 ~~C. from July 1, 2012 through June 30, 2013, the~~
23 ~~state contribution rate shall be fifteen and nine-hundredths~~
24 ~~percent of the salary of each member]:~~

25 A. from July 1, 2013 through June 30, 2014, the

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1 state contribution rate shall be sixteen and fifty-nine
2 hundredths percent of the salary of each member;

3 B. from July 1, 2014 through June 30, 2015, the
4 state contribution rate shall be seventeen and nine-hundredths
5 percent of the salary of each member; and

6 C. from July 1, 2015 through June 30, 2016, the
7 state contribution rate shall be seventeen and fifty-nine
8 hundredths percent of the salary of each member."

9 SECTION 14. Section 10-11-27 NMSA 1978 (being Laws 1987,
10 Chapter 253, Section 27, as amended by Laws 2003, Chapter 268,
11 Section 9 and by Laws 2003, Chapter 269, Section 1) is amended
12 to read:

13 "10-11-27. STATE POLICE MEMBER AND ADULT CORRECTIONAL
14 OFFICER MEMBER COVERAGE PLAN 1--APPLICABILITY--CREDITED
15 SERVICE.--

16 A. State police member and adult correctional
17 officer member coverage plan 1 is applicable to state police
18 members who are not specifically covered by another coverage
19 plan and to adult correctional officer members.

20 B. The credited service of a state police member
21 who was a retired member or a member on June 30, 2013 and who
22 has held the permanent rank of patrolman, sergeant, lieutenant
23 or captain and does not hold an exempt rank or who is assigned
24 to the aircraft division as a pilot, or of an adult
25 correctional officer member, shall have actual credited service

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1 increased by twenty percent for the purposes of state police
2 member and adult correctional officer member coverage plan 1.

3 C. Except as provided in Subsection B of this
4 section, the credited service of a member covered under state
5 police member and adult correctional officer member coverage
6 plan 1 shall be credited as provided in Section 10-11-4 NMSA
7 1978.

8 ~~[B-]~~ D. State police member and adult correctional
9 officer member coverage plan 1 is applicable to adult
10 correctional officer members in the first full pay period after
11 July 1, 2004 if the retirement board certifies to the secretary
12 of state that, of those adult correctional officer members to
13 be covered under state police member and adult correctional
14 officer member coverage plan 1, a majority of the members
15 voting have voted to approve adoption of that plan at an
16 election conducted pursuant to ~~[Section 16 of this 2003 act]~~
17 Laws 2003, Chapter 268, Section 16."

18 **SECTION 15.** Section 10-11-27.2 NMSA 1978 (being Laws
19 2003, Chapter 269, Section 2) is amended to read:

20 "10-11-27.2. LEGISLATIVE FINDINGS.--The legislature finds
21 that:

22 A. it is appropriate to recognize the
23 professionalism and dedication of state police officers, who
24 provide an essential service to the citizens of New Mexico;

25 B. it is appropriate to recognize the hazardous

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1 nature of the work performed by state police officers;

2 C. the spirit of what it takes to be a state police
3 officer is personified by Sergeant Brent H. Bateman, who served
4 with honor as a state police officer for twenty-two years.
5 Sergeant Bateman became ill days after his retirement and
6 passed away a short six months following retirement; and

7 D. the twenty percent credit [~~towards~~] toward
8 actual service, as provided in Subsection B of Section 10-11-27
9 NMSA 1978 under state police member coverage plan 1, is
10 dedicated to Sergeant Brent H. Bateman and all other officers
11 who have served, and who do serve, as New Mexico state police
12 officers."

13 SECTION 16. Section 10-11-28 NMSA 1978 (being Laws 1987,
14 Chapter 253, Section 28, as amended) is amended to read:

15 "10-11-28. STATE POLICE MEMBER AND ADULT CORRECTIONAL
16 OFFICER MEMBER COVERAGE PLAN 1--AGE AND SERVICE REQUIREMENTS
17 FOR NORMAL RETIREMENT.--Under state police member and adult
18 correctional officer member coverage plan 1:

19 A. for a member who was a retired member or a
20 member on June 30, 2013, the age and service requirements for
21 normal retirement are:

22 [~~A-~~] (1) age sixty-five years or older and
23 five or more years of credited service;

24 [~~B-~~] (2) age sixty-four years and eight or
25 more years of credited service;

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1 ~~[G-]~~ (3) age sixty-three years and eleven or
2 more years of credited service;

3 ~~[D-]~~ (4) age sixty-two years and fourteen or
4 more years of credited service;

5 ~~[E-]~~ (5) age sixty-one years and seventeen or
6 more years of credited service;

7 ~~[F-]~~ (6) age sixty years and twenty or more
8 years of credited service; or

9 ~~[G-]~~ (7) any age and twenty-five or more years
10 of credited service; and

11 B. for a member who was not a retired member or a
12 member on June 30, 2013, the age and service requirements for
13 normal retirement are:

14 (1) age sixty years or older and six or more
15 years of service credit; or

16 (2) any age if the member has six or more
17 years of service credit and the sum of the member's age and
18 years of service credit equals at least seventy-five."

19 SECTION 17. Section 10-11-29 NMSA 1978 (being Laws 1987,
20 Chapter 253, Section 29, as amended) is amended to read:

21 "10-11-29. STATE POLICE MEMBER AND ADULT CORRECTIONAL
22 OFFICER MEMBER COVERAGE PLAN 1--AMOUNT OF PENSION--FORM OF
23 PAYMENT A.--Under state police member and adult correctional
24 officer member coverage plan 1, the amount of pension under
25 form of payment A is equal to three percent of final average

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1 salary multiplied by credited service. The amount shall not
2 exceed [~~eighty~~] ninety percent of the final average salary."

3 SECTION 18. Section 10-11-31 NMSA 1978 (being Laws 1987,
4 Chapter 253, Section 31, as amended) is amended to read:

5 "10-11-31. STATE POLICE MEMBER AND ADULT CORRECTIONAL
6 OFFICER MEMBER COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE.--A
7 member under state police member and adult correctional officer
8 member coverage plan 1 shall contribute [~~seven and six-tenths~~]
9 nine and one-tenth percent of salary [~~except that for members~~
10 ~~whose annual salary is greater than twenty thousand dollars~~
11 ~~(\$20,000):~~

12 A. ~~from July 1, 2009 through June 30, 2011, the~~
13 ~~member contribution rate shall be nine and one-tenth percent of~~
14 ~~salary;~~

15 B. ~~from July 1, 2011 through June 30, 2012, the~~
16 ~~member contribution rate shall be ten and eighty-five~~
17 ~~hundredths percent of salary; and~~

18 C. ~~from July 1, 2012 through June 30, 2013, the~~
19 ~~member contribution rate shall be nine and one-tenth percent of~~
20 ~~salary]."~~

21 SECTION 19. Section 10-11-32 NMSA 1978 (being Laws 1987,
22 Chapter 253, Section 32, as amended) is amended to read:

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

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1 and six-tenths percent of the salary of each member under state
2 police member and adult correctional officer member coverage
3 plan 1, except that [~~for members whose annual salary is greater~~
4 ~~than twenty thousand dollars (\$20,000):~~

5 ~~A. from July 1, 2009 through June 30, 2011, the~~
6 ~~state contribution rate shall be twenty-three and six-tenths~~
7 ~~percent of the salary of each member;~~

8 ~~B. from July 1, 2011 through June 30, 2012, the~~
9 ~~state contribution rate shall be twenty-one and eighty-five~~
10 ~~hundredths percent of the salary of each member; and~~

11 ~~C. from July 1, 2012 through June 30, 2013, the~~
12 ~~state contribution rate shall be twenty-three and six-tenths~~
13 ~~percent of the salary of each member];~~

14 A. from July 1, 2013 through June 30, 2014, the
15 state contribution rate shall be twenty-five and one-tenth
16 percent of the salary of each member;

17 B. from July 1, 2014 through June 30, 2015, the
18 state contribution rate shall be twenty-five and six-tenths
19 percent of the salary of each member; and

20 C. from July 1, 2015 through June 30, 2016, the
21 state contribution rate shall be twenty-six and one-tenth
22 percent of the salary of each member."

23 SECTION 20. Section 10-11-33 NMSA 1978 (being Laws 1987,
24 Chapter 253, Section 33) is amended to read:

25 "10-11-33. [~~STATE HAZARDOUS DUTY~~] JUVENILE CORRECTIONAL
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1 OFFICER MEMBER COVERAGE PLAN 1--APPLICABILITY.--[~~State~~
2 ~~hazardous duty~~] Juvenile correctional officer member coverage
3 plan 1 is applicable to [~~state hazardous duty~~] juvenile
4 correctional officer members who are not specifically covered
5 by another coverage plan."

6 SECTION 21. Section 10-11-34 NMSA 1978 (being Laws 1987,
7 Chapter 253, Section 34) is amended to read:

8 "10-11-34. [~~STATE HAZARDOUS DUTY~~] JUVENILE CORRECTIONAL
9 OFFICER MEMBER COVERAGE PLAN 1--AGE AND SERVICE REQUIREMENTS
10 FOR NORMAL RETIREMENT.--Under [~~state hazardous duty~~] juvenile
11 correctional officer member coverage plan 1, the age and
12 service requirements for normal retirement are:

13 A. age sixty-five years or older and five or more
14 years of credited service;

15 B. age sixty-four years and eight or more years of
16 credited service;

17 C. age sixty-three years and eleven or more years
18 of credited service;

19 D. age sixty-two years and fourteen or more years
20 of credited service;

21 E. age sixty-one years and seventeen or more years
22 of credited service;

23 F. age sixty years and twenty or more years of
24 credited service; or

25 G. any age and twenty-five or more years of

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1 credited service."

2 SECTION 22. Section 10-11-35 NMSA 1978 (being Laws 1987,
3 Chapter 253, Section 35) is amended to read:

4 "10-11-35. [~~STATE HAZARDOUS DUTY~~] JUVENILE CORRECTIONAL
5 OFFICER MEMBER COVERAGE PLAN 1--AMOUNT OF PENSION--FORM OF
6 PAYMENT A.--Under [~~state hazardous duty~~] juvenile correctional
7 officer member coverage plan 1, the amount of pension under
8 form of payment A is equal to two and one-half percent of final
9 average salary multiplied by credited service. The amount
10 shall not exceed one hundred percent of the final average
11 salary."

12 SECTION 23. Section 10-11-37 NMSA 1978 (being Laws 1987,
13 Chapter 253, Section 37) is amended to read:

14 "10-11-37. [~~STATE HAZARDOUS DUTY~~] JUVENILE CORRECTIONAL
15 OFFICER MEMBER COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE.--A
16 member under [~~state hazardous duty~~] juvenile correctional
17 officer member coverage plan 1 shall contribute four percent of
18 salary."

19 SECTION 24. Section 10-11-38 NMSA 1978 (being Laws 1987,
20 Chapter 253, Section 38) is amended to read:

21 "10-11-38. [~~STATE HAZARDOUS DUTY~~] JUVENILE CORRECTIONAL
22 OFFICER MEMBER COVERAGE PLAN 1--STATE CONTRIBUTION RATE.--The
23 state shall contribute twenty-one and five-tenths percent of
24 the salary of each member under [~~state hazardous duty~~] juvenile
25 correctional officer member coverage plan 1."

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1 SECTION 25. Section 10-11-38.1 NMSA 1978 (being Laws
2 1994, Chapter 128, Section 9) is amended to read:

3 "10-11-38.1. [~~STATE HAZARDOUS DUTY~~] JUVENILE CORRECTIONAL
4 OFFICER MEMBER COVERAGE PLAN 2--APPLICABILITY.--[~~State~~
5 ~~hazardous duty~~] Juvenile correctional officer member coverage
6 plan 2 is applicable to [~~state hazardous duty~~] juvenile
7 correctional officer members in the first full pay period after
8 July 1, 1995 if the retirement board certifies to the secretary
9 of state that a majority of the members voting of those members
10 to be covered under [~~state hazardous duty~~] juvenile
11 correctional officer member coverage plan 2 has voted to
12 approve adoption of this plan at an election conducted pursuant
13 to Laws 1994, Chapter 128, Section 17 [~~of this act~~]."

14 SECTION 26. Section 10-11-38.2 NMSA 1978 (being Laws
15 1994, Chapter 128, Section 10) is amended to read:

16 "10-11-38.2. [~~STATE HAZARDOUS DUTY~~] JUVENILE CORRECTIONAL
17 OFFICER MEMBER COVERAGE PLAN 2--AGE AND SERVICE CREDIT
18 REQUIREMENTS FOR NORMAL RETIREMENT.--Under [~~state hazardous~~
19 ~~duty~~] juvenile correctional officer member coverage plan 2:

20 A. for a member who was a retired member or a
21 member on June 30, 2013, the age and service credit
22 requirements for normal retirement are:

23 [A.] (1) age sixty-five years or older and
24 five or more years of service credit;

25 [B.] (2) age sixty-four years and eight or

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1 more years of service credit;

2 [G-] (3) age sixty-three years and eleven or
3 more years of service credit;

4 [D-] (4) age sixty-two years and fourteen or
5 more years of service credit;

6 [E-] (5) age sixty-one years and seventeen or
7 more years of service credit;

8 [F-] (6) age sixty years and twenty or more
9 years of service credit; and

10 [G-] (7) any age and twenty-five or more years
11 of service credit; and

12 B. for a member who was not a retired member or a
13 member on June 30, 2013, the age and service requirements for
14 normal retirement are:

15 (1) age sixty years or older and six or more
16 years of service credit; or

17 (2) any age if the member has six or more
18 years of service credit and the sum of the member's age and
19 years of service credit equals at least seventy-five."

20 SECTION 27. Section 10-11-38.3 NMSA 1978 (being Laws
21 1994, Chapter 128, Section 11) is amended to read:

22 "10-11-38.3. [~~STATE HAZARDOUS DUTY~~] JUVENILE CORRECTIONAL
23 OFFICER MEMBER COVERAGE PLAN 2--AMOUNT OF PENSION--FORM OF
24 PAYMENT A.--Under [~~state hazardous duty~~] juvenile correctional
25 officer member coverage plan 2, the amount of pension under

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1 form of payment A is equal to three percent of final average
2 salary multiplied by service credit. The amount shall not
3 exceed ~~[one hundred]~~ ninety percent of the final average
4 salary."

5 SECTION 28. Section 10-11-38.5 NMSA 1978 (being Laws
6 1994, Chapter 128, Section 13, as amended) is amended to read:

7 "10-11-38.5. ~~[STATE HAZARDOUS DUTY]~~ JUVENILE CORRECTIONAL
8 OFFICER MEMBER COVERAGE PLAN 2--MEMBER CONTRIBUTION RATE.--A

9 member under ~~[state hazardous duty]~~ juvenile correctional
10 officer member coverage plan 2 shall contribute ~~[four and~~
11 ~~seventy-eight hundredths]~~ six and twenty-eight hundredths
12 percent of salary starting with the first full pay period that
13 ends within the calendar month in which ~~[state hazardous duty]~~
14 juvenile correctional officer member coverage plan 2 becomes
15 applicable to the member ~~[except that for members whose annual~~
16 ~~salary is greater than twenty thousand dollars (\$20,000):~~

17 A. ~~from July 1, 2009 through June 30, 2011, the~~
18 ~~member contribution rate shall be six and twenty-eight~~
19 ~~hundredths percent of salary;~~

20 B. ~~from July 1, 2011 through June 30, 2012, the~~
21 ~~member contribution rate shall be eight and three-hundredths~~
22 ~~percent of salary; and~~

23 C. ~~from July 1, 2012 through June 30, 2013, the~~
24 ~~member contribution rate shall be six and twenty-eight~~
25 ~~hundredths percent of salary]."~~

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1 SECTION 29. Section 10-11-38.6 NMSA 1978 (being Laws
2 1994, Chapter 128, Section 14, as amended) is amended to read:
3 "10-11-38.6. [~~STATE HAZARDOUS DUTY~~] JUVENILE CORRECTIONAL
4 OFFICER MEMBER COVERAGE PLAN 2--STATE CONTRIBUTION RATE.--The
5 state shall contribute [~~twenty-five and seventy-two hundredths~~]
6 twenty-seven and twenty-two hundredths percent of the salary of
7 each member covered by [~~state hazardous duty~~] juvenile
8 correctional officer member coverage plan 2 starting with the
9 first pay period that ends within the calendar month in which
10 [~~state hazardous duty~~] juvenile correctional officer member
11 coverage plan 2 becomes applicable to the member, except that
12 [~~for members whose annual salary is greater than twenty~~
13 ~~thousand dollars (\$20,000):~~
14 A. ~~from July 1, 2009 through June 30, 2011, the~~
15 ~~state contribution rate shall be twenty-four and twenty-two~~
16 ~~hundredths percent of the salary of each member;~~
17 B. ~~from July 1, 2011 through June 30, 2012, the~~
18 ~~state contribution rate shall be twenty-two and forty-seven~~
19 ~~hundredths percent of the salary of each member; and~~
20 C. ~~from July 1, 2012 through June 30, 2013, the~~
21 ~~state contribution rate shall be twenty-four and twenty-two~~
22 ~~hundredths percent of the salary of each member];~~
23 A. from July 1, 2013 through June 30, 2014, the
24 state contribution rate shall be twenty-five and seventy-two
25 hundredths percent of the salary of each member;

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1 B. from July 1, 2014 through June 30, 2015, the
2 state contribution rate shall be twenty-six and twenty-two
3 hundredths percent of the salary of each member; and

4 C. from July 1, 2015 through June 30, 2016, the
5 state contribution rate shall be twenty-six and seventy-two
6 hundredths percent of the salary of each member."

7 SECTION 30. Section 10-11-38.7 NMSA 1978 (being Laws
8 1994, Chapter 128, Section 15) is amended to read:

9 "10-11-38.7. SERVICE CREDIT UNDER THIS PLAN REQUIRED.--
10 Notwithstanding the provisions of Section [~~10 of this act~~]
11 10-11-38.2 NMSA 1978, to qualify for payment under [~~state~~
12 ~~hazardous duty~~] juvenile correctional officer member coverage
13 plan 2, a member shall have one and one-half years of service
14 credit earned under the [~~state hazardous duty~~] juvenile
15 correctional officer member coverage plan 2 subsequent to July
16 1, 1995."

17 SECTION 31. Section 10-11-45 NMSA 1978 (being Laws 1987,
18 Chapter 253, Section 45, as amended) is amended to read:

19 "10-11-45. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 1--AGE
20 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
21 municipal general member coverage plan 1:

22 A. for a member who was a retired member or a
23 member on June 30, [~~2010~~] 2013, the age and service
24 requirements for normal retirement are:

25 (1) age sixty-five years or older and five or

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1 more years of service credit;

2 (2) age sixty-four years and eight or more
3 years of service credit;

4 (3) age sixty-three years and eleven or more
5 years of service credit;

6 (4) age sixty-two years and fourteen or more
7 years of service credit;

8 (5) age sixty-one years and seventeen or more
9 years of service credit;

10 (6) age sixty years and twenty or more years
11 of service credit; or

12 (7) any age and twenty-five or more years of
13 service credit; and

14 B. for a member who was not a retired member or a
15 member on June 30, [~~2010~~] 2013, the age and service
16 requirements for normal retirement are:

17 (1) age [~~sixty-seven~~] sixty-five years or
18 older and [~~five~~] eight or more years of service credit; or

19 (2) any age if the member has eight or more
20 years of service credit and the sum of the member's age and
21 years of service credit equals at least [~~eighty; or~~

22 ~~(3) any age and thirty or more years of~~
23 ~~service credit] eighty-five."~~

24 SECTION 32. Section 10-11-46 NMSA 1978 (being Laws 1987,
25 Chapter 253, Section 46) is amended to read:

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1 "10-11-46. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 1--
2 AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal general
3 member coverage plan 1, the amount of pension under form of
4 payment A is equal to two percent of the final average salary
5 multiplied by credited service. The amount shall not exceed
6 [~~sixty~~] ninety percent of the final average salary."

7 SECTION 33. Section 10-11-48 NMSA 1978 (being Laws 1987,
8 Chapter 253, Section 48) is amended to read:

9 "10-11-48. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 1--
10 MEMBER CONTRIBUTION RATE.--A member under municipal general
11 member coverage plan 1 shall contribute [~~seven~~] eight and one-
12 half percent of salary."

13 SECTION 34. Section 10-11-49 NMSA 1978 (being Laws 1987,
14 Chapter 253, Section 49) is amended to read:

15 "10-11-49. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 1--
16 AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--An affiliated
17 public employer shall contribute [~~seven~~] eight and one-half
18 percent of the salary of each member [~~which~~] it employs and who
19 is covered under municipal general member coverage plan 1,
20 except that:

21 A. from July 1, 2013 through June 30, 2014, the
22 affiliated public employer contribution rate shall be seven
23 percent of the salary of each member;

24 B. from July 1, 2014 through June 30, 2015, the
25 affiliated public employer contribution rate shall be seven and

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1 one-half percent of the salary of each member; and

2 C. from July 1, 2015 through June 30, 2016, the
3 affiliated public employer contribution rate shall be eight
4 percent of the salary of each member."

5 SECTION 35. Section 10-11-51 NMSA 1978 (being Laws 1987,
6 Chapter 253, Section 51, as amended) is amended to read:

7 "10-11-51. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 2--AGE
8 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
9 municipal general member coverage plan 2:

10 A. for a member who was a retired member or a
11 member on June 30, [~~2010~~] 2013, the age and service
12 requirements for normal retirement are:

13 (1) age sixty-five years or older and five or
14 more years of service credit;

15 (2) age sixty-four years and eight or more
16 years of service credit;

17 (3) age sixty-three years and eleven or more
18 years of service credit;

19 (4) age sixty-two years and fourteen or more
20 years of service credit;

21 (5) age sixty-one years and seventeen or more
22 years of service credit;

23 (6) age sixty years and twenty or more years
24 of service credit; or

25 (7) any age and twenty-five or more years of

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1 service credit; and

2 B. for a member who was not a retired member or a
3 member on June 30, [~~2010~~] 2013, the age and service
4 requirements for normal retirement are:

5 (1) age [~~sixty-seven~~] sixty-five years or
6 older and [~~five~~] eight or more years of service credit; or

7 (2) any age if the member has eight or more
8 years of service credit and the sum of the member's age and
9 years of service credit equals at least [~~eighty; or~~

10 ~~(3) any age and thirty or more years of~~
11 ~~service credit] eighty-five."~~

12 SECTION 36. Section 10-11-52 NMSA 1978 (being Laws 1987,
13 Chapter 253, Section 52) is amended to read:

14 "10-11-52. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 2--
15 AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal general
16 member coverage plan 2:

17 A. for a member with age and service requirements
18 provided in Subsection A of Section 10-11-51 NMSA 1978, the
19 amount of pension under form of payment A is equal to two and
20 one-half percent of the final average salary multiplied by
21 credited service. The amount shall not exceed [~~seventy-five~~]
22 ninety percent of the final average salary; and

23 B. for a member with age and service requirements
24 provided in Subsection B of Section 10-11-51 NMSA 1978, the
25 amount of pension under form of payment A is equal to two

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1 percent of the final average salary multiplied by service
2 credit. The amount shall not exceed ninety percent of the
3 final average salary."

4 SECTION 37. Section 10-11-54 NMSA 1978 (being Laws 1987,
5 Chapter 253, Section 54) is amended to read:

6 "10-11-54. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 2--
7 MEMBER CONTRIBUTION RATE.--A member under municipal general
8 member coverage plan 2 shall contribute [~~nine and fifteen one-~~
9 ~~hundredths~~] ten and sixty-five hundredths percent of salary
10 starting with the first full pay period in the calendar month
11 in which coverage plan 2 becomes applicable to the member."

12 SECTION 38. Section 10-11-55 NMSA 1978 (being Laws 1987,
13 Chapter 253, Section 55) is amended to read:

14 "10-11-55. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 2--
15 AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--An affiliated
16 public employer shall contribute [~~nine and fifteen one-~~
17 ~~hundredths~~] ten and sixty-five hundredths percent of the salary
18 of each member [~~which~~] it employs and who is covered under
19 municipal general member coverage plan 2, except that:

20 A. from July 1, 2013 through June 30, 2014, the
21 affiliated public employer contribution rate shall be nine and
22 fifteen-hundredths percent of the salary of each member;

23 B. from July 1, 2014 through June 30, 2015, the
24 affiliated public employer contribution rate shall be nine and
25 sixty-five hundredths percent of the salary of each member;

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1 C. from July 1, 2015 through June 30, 2016, the
2 affiliated public employer contribution rate shall be ten and
3 fifteen-hundredths percent of the salary of each member."

4 SECTION 39. Section 10-11-55.2 NMSA 1978 (being Laws
5 1993, Chapter 58, Section 2, as amended) is amended to read:

6 "10-11-55.2. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 3--
7 AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
8 municipal general member coverage plan 3:

9 A. for a member who was a retired member or a
10 member on June 30, [~~2010~~] 2013, the age and service
11 requirements for normal retirement are:

12 (1) age sixty-five years or older and five or
13 more years of service credit;

14 (2) age sixty-four years and eight or more
15 years of service credit;

16 (3) age sixty-three years and eleven or more
17 years of service credit;

18 (4) age sixty-two years and fourteen or more
19 years of service credit;

20 (5) age sixty-one years and seventeen or more
21 years of service credit;

22 (6) age sixty years and twenty or more years
23 of service credit; or

24 (7) any age and twenty-five or more years of
25 service credit; and

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1 B. for a member who was not a retired member or a
2 member on June 30, [~~2010~~] 2013, the age and service
3 requirements for normal retirement are:

4 (1) age [~~sixty-seven~~] sixty-five years or
5 older and [~~five~~] eight or more years of service credit; or

6 (2) any age if the member has eight or more
7 years of service credit and the sum of the member's age and
8 years of service credit equals at least [~~eighty; or~~

9 ~~(3) any age and thirty or more years of~~
10 ~~service credit]~~ eighty-five."

11 **SECTION 40.** Section 10-11-55.3 NMSA 1978 (being Laws
12 1993, Chapter 58, Section 3) is amended to read:

13 "10-11-55.3. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 3--
14 AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal general
15 member coverage plan 3:

16 A. for a member with age and service requirements
17 provided under Subsection A of Section 10-11-55.2 NMSA 1978,
18 the amount of pension under form of payment A is equal to three
19 percent of the final average salary multiplied by credited
20 service. The amount shall not exceed [~~eighty~~] ninety percent
21 of the final average salary; and

22 B. for a member with age and service requirements
23 provided under Subsection B of Section 10-11-55.2 NMSA 1978,
24 the amount of pension under form of payment A is equal to two
25 and one-half percent of the final average salary multiplied by

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1 credited service. The amount shall not exceed ninety percent
2 of the final average salary."

3 SECTION 41. Section 10-11-55.5 NMSA 1978 (being Laws
4 1993, Chapter 58, Section 5) is amended to read:

5 "10-11-55.5. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 3--
6 MEMBER CONTRIBUTION RATE.--A member under municipal general
7 member coverage plan 3 shall contribute [~~thirteen and fifteen~~
8 ~~one-hundredths~~] fourteen and sixty-five hundredths percent of
9 salary starting with the first full pay period in the calendar
10 month in which coverage plan 3 becomes applicable to the
11 member."

12 SECTION 42. Section 10-11-55.6 NMSA 1978 (being Laws
13 1993, Chapter 58, Section 6) is amended to read:

14 "10-11-55.6. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 3--
15 AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--An affiliated
16 public employer shall contribute [~~nine and fifteen one-~~
17 ~~hundredths~~] ten and sixty-five hundredths percent of the salary
18 of each member it employs and who is covered under municipal
19 general member coverage plan 3, except that:

20 A. from July 1, 2013 through June 30, 2014, the
21 affiliated public employer contribution rate shall be nine and
22 fifteen-hundredths percent of the salary of each member;

23 B. from July 1, 2014 through June 30, 2015, the
24 affiliated public employer contribution rate shall be nine and
25 sixty-five hundredths percent of the salary of each member; and

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1 C. from July 1, 2015 through June 30, 2016, the
2 affiliated public employer contribution rate shall be ten and
3 fifteen-hundredths percent of the salary of each member."

4 SECTION 43. Section 10-11-55.8 NMSA 1978 (being Laws
5 1998, Chapter 106, Section 2, as amended) is amended to read:

6 "10-11-55.8. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 4--
7 AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
8 municipal general member coverage plan 4:

9 A. for a member who was a retired member or a
10 member on June 30, [~~2010~~] 2013, the age and service
11 requirements for normal retirement are:

12 (1) age sixty-five years or older and five or
13 more years of service credit;

14 (2) age sixty-four years and eight or more
15 years of service credit;

16 (3) age sixty-three years and eleven or more
17 years of service credit;

18 (4) age sixty-two years and fourteen or more
19 years of service credit;

20 (5) age sixty-one years and seventeen or more
21 years of service credit;

22 (6) age sixty years and twenty or more years
23 of service credit; or

24 (7) any age and twenty-five or more years of
25 service credit; and

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1 B. for a member who was not a retired member or a
2 member on June 30, [~~2010~~] 2013, the age and service
3 requirements for normal retirement are:

4 (1) age [~~sixty-seven~~] sixty-five years or
5 older and [~~five~~] eight or more years of service credit; or

6 (2) any age if the member has eight or more
7 years of service credit and the sum of the member's age and
8 years of service credit equals at least [~~eighty; or~~

9 ~~(3) any age and thirty or more years of~~
10 ~~service credit] eighty-five."~~

11 SECTION 44. Section 10-11-55.9 NMSA 1978 (being Laws
12 1998, Chapter 106, Section 3) is amended to read:

13 "10-11-55.9. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 4--
14 AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal general
15 member coverage plan 4:

16 A. for a member with age and service requirements
17 provided under Subsection A of Section 10-11-55.8 NMSA 1978,
18 the amount of pension under form of payment A is equal to three
19 percent of the final average salary multiplied by credited
20 service. The amount shall not exceed [~~eighty~~] ninety percent
21 of the final average salary; and

22 B. for a member with age and service requirements
23 provided under Subsection B of Section 10-11-55.8 NMSA 1978,
24 the amount of pension under form of payment A is equal to two
25 and one-half percent of the final average salary multiplied by

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1 credited service. The amount shall not exceed ninety percent
2 of the final average salary."

3 SECTION 45. Section 10-11-55.11 NMSA 1978 (being Laws
4 1998, Chapter 106, Section 5) is amended to read:

5 "10-11-55.11. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 4--
6 MEMBER CONTRIBUTION RATE.--A member under municipal general
7 member coverage plan 4 shall contribute [~~fifteen and sixty-five~~
8 ~~hundredths~~] seventeen and fifteen-hundredths percent of salary
9 starting with the first full pay period in the calendar month
10 in which coverage plan 4 becomes applicable to the member."

11 SECTION 46. Section 10-11-55.12 NMSA 1978 (being Laws
12 1998, Chapter 106, Section 6) is amended to read:

13 "10-11-55.12. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 4--
14 AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--An affiliated
15 public employer shall contribute [~~eleven and sixty-five~~
16 ~~hundredths~~] thirteen and fifteen-hundredths percent of the
17 salary of each member it employs and who is covered under
18 municipal general member coverage plan 4, except that:

19 A. from July 1, 2013 through June 30, 2014, the
20 affiliated public employer contribution rate shall be eleven
21 and sixty-five hundredths percent of the salary of each member;

22 B. from July 1, 2014 through June 30, 2015, the
23 affiliated public employer contribution rate shall be twelve
24 and fifteen-hundredths percent of the salary of each member;

25 and

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1 C. from July 1, 2015 through June 30, 2016, the
2 affiliated public employer contribution rate shall be twelve
3 and sixty-five hundredths percent of the salary of each
4 member."

5 SECTION 47. Section 10-11-57 NMSA 1978 (being Laws 1987,
6 Chapter 253, Section 57) is amended to read:

7 "10-11-57. MUNICIPAL POLICE MEMBER COVERAGE PLAN 1--AGE
8 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
9 municipal police member coverage plan 1:

10 A. for a member who was a retired member or a
11 member on June 30, 2013, the age and service requirements for
12 normal retirement are:

13 ~~[A.]~~ (1) age sixty-five years or older and
14 five or more years of credited service;

15 ~~[B.]~~ (2) age sixty-four years and eight or
16 more years of credited service;

17 ~~[C.]~~ (3) age sixty-three years and eleven or
18 more years of credited service;

19 ~~[D.]~~ (4) age sixty-two years and fourteen or
20 more years of credited service;

21 ~~[E.]~~ (5) age sixty-one years and seventeen or
22 more years of credited service;

23 ~~[F.]~~ (6) age sixty years and twenty or more
24 years of credited service; or

25 ~~[G.]~~ (7) any age and twenty-five or more years

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1 of credited service; and

2 B. for a member who was not a retired member or a
3 member on June 30, 2013, the age and service requirements for
4 normal retirement are:

5 (1) age sixty years or older and six or more
6 years of service credit; or

7 (2) any age if the member has six or more
8 years of service credit and the sum of the member's age and
9 years of service credit equals at least seventy-five."

10 SECTION 48. Section 10-11-58 NMSA 1978 (being Laws 1987,
11 Chapter 253, Section 58) is amended to read:

12 "10-11-58. MUNICIPAL POLICE MEMBER COVERAGE PLAN 1--
13 AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal police
14 member coverage plan 1, the amount of pension under form of
15 payment A is equal to two percent of the final average salary
16 multiplied by credited service. The amount shall not exceed
17 [~~sixty~~] ninety percent of the final average salary."

18 SECTION 49. Section 10-11-60 NMSA 1978 (being Laws 1987,
19 Chapter 253, Section 60) is amended to read:

20 "10-11-60. MUNICIPAL POLICE MEMBER COVERAGE PLAN 1--
21 MEMBER CONTRIBUTION RATE.--A member under municipal police
22 member coverage plan 1 shall contribute [~~seven~~] eight and one-
23 half percent of salary."

24 SECTION 50. Section 10-11-61 NMSA 1978 (being Laws 1987,
25 Chapter 253, Section 61) is amended to read:

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1 "10-11-61. MUNICIPAL POLICE MEMBER COVERAGE PLAN 1--
2 AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated
3 public employer shall contribute [~~ten~~] eleven and one-half
4 percent of the salary of each member [~~which~~] it employs and who
5 is covered under municipal police member coverage plan 1,
6 except that:

7 A. from July 1, 2013 through June 30, 2014, the
8 affiliated public employer contribution rate shall be ten
9 percent of the salary of each member;

10 B. from July 1, 2014 through June 30, 2015, the
11 affiliated public employer contribution rate shall be ten and
12 one-half percent of the salary of each member; and

13 C. from July 1, 2015 through June 30, 2016, the
14 affiliated public employer contribution rate shall be eleven
15 percent of the salary of each member."

16 SECTION 51. Section 10-11-63 NMSA 1978 (being Laws 1987,
17 Chapter 253, Section 63) is amended to read:

18 "10-11-63. MUNICIPAL POLICE MEMBER COVERAGE PLAN 2--AGE
19 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
20 municipal police coverage plan 2:

21 A. for a member who was a retired member or a
22 member on June 30, 2013, the age and service requirements for
23 normal retirement are:

24 [~~A.~~] (1) age sixty-five years or older and
25 five or more years of credited service;

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1 [~~B-~~] (2) age sixty-four years and eight or
2 more years of credited service;

3 [~~G-~~] (3) age sixty-three years and eleven or
4 more years of credited service;

5 [~~D-~~] (4) age sixty-two years and fourteen or
6 more years of credited service;

7 [~~E-~~] (5) age sixty-one years and seventeen or
8 more years of credited service;

9 [~~F-~~] (6) age sixty years and twenty or more
10 years of credited service; or

11 [~~G-~~] (7) any age and twenty-five or more years
12 of credited service; and

13 B. for a member who was not a retired member or a
14 member on June 30, 2013, the age and service requirements for
15 normal retirement are:

16 (1) age sixty years or older and six or more
17 years of service credit; or

18 (2) any age if the member has six or more
19 years of service credit and the sum of the member's age and
20 years of service credit equals at least seventy-five."

21 SECTION 52. Section 10-11-64 NMSA 1978 (being Laws 1987,
22 Chapter 253, Section 64) is amended to read:

23 "10-11-64. MUNICIPAL POLICE MEMBER COVERAGE PLAN 2--
24 AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal police
25 member coverage plan 2:

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1 A. for a member with age and service requirements
2 provided under Subsection A of Section 10-11-63 NMSA 1978, the
3 amount of pension under form of payment A is equal to two and
4 one-half percent of the final average salary multiplied by
5 credited service. The amount shall not exceed [~~one hundred~~]
6 ninety percent of the final average salary; and

7 B. for a member with age and service requirements
8 provided under Subsection B of Section 10-11-63 NMSA 1978, the
9 amount of pension under form of payment A is equal to two
10 percent of the final average salary multiplied by credited
11 service. The amount shall not exceed ninety percent of the
12 final average salary."

13 SECTION 53. Section 10-11-66 NMSA 1978 (being Laws 1987,
14 Chapter 253, Section 66) is amended to read:

15 "10-11-66. MUNICIPAL POLICE MEMBER COVERAGE PLAN 2--
16 MEMBER CONTRIBUTION RATE.--A member under municipal police
17 member coverage plan 2 shall contribute [~~seven~~] eight and one-
18 half percent of salary."

19 SECTION 54. Section 10-11-67 NMSA 1978 (being Laws 1987,
20 Chapter 253, Section 67) is amended to read:

21 "10-11-67. MUNICIPAL POLICE MEMBER COVERAGE PLAN 2--
22 AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated
23 public employer shall contribute [~~fifteen~~] sixteen and one-half
24 percent of the salary of each member [~~which~~] it employs and who
25 is covered under municipal police member coverage plan 2,

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1 except that:

2 A. from July 1, 2013 through June 30, 2014, the
3 affiliated public employer contribution rate shall be fifteen
4 percent of the salary of each member;

5 B. from July 1, 2014 through June 30, 2015, the
6 affiliated public employer contribution rate shall be fifteen
7 and one-half percent of the salary of each member; and

8 C. from July 1, 2015 through June 30, 2016, the
9 affiliated public employer contribution rate shall be sixteen
10 percent of the salary of each member."

11 SECTION 55. Section 10-11-69 NMSA 1978 (being Laws 1987,
12 Chapter 253, Section 69) is amended to read:

13 "10-11-69. MUNICIPAL POLICE MEMBER COVERAGE PLAN 3--AGE
14 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
15 municipal police member coverage plan 3:

16 A. for a member who was a retired member or a
17 member on June 30, 2013, the age and service requirements for
18 normal retirement are:

19 [~~A.~~] (1) age sixty-five years or older and
20 five or more years of credited service;

21 [~~B.~~] (2) age sixty-four years and eight or
22 more years of credited service;

23 [~~C.~~] (3) age sixty-three years and eleven or
24 more years of credited service;

25 [~~D.~~] (4) age sixty-two years and fourteen or

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1 more years of credited service;

2 ~~[E-]~~ (5) age sixty-one years and seventeen or
3 more years of credited service; or

4 ~~[F-]~~ (6) any age and twenty or more years of
5 credited service; and

6 B. for a member who was not a retired member or a
7 member on June 30, 2013, the age and service requirements for
8 normal retirement are:

9 (1) age sixty years or older and six or more
10 years of service credit; or

11 (2) any age if the member has six or more
12 years of service credit and the sum of the member's age and
13 years of service credit equals at least seventy-five."

14 SECTION 56. Section 10-11-70 NMSA 1978 (being Laws 1987,
15 Chapter 253, Section 70) is amended to read:

16 "10-11-70. MUNICIPAL POLICE MEMBER COVERAGE PLAN 3--
17 AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal police
18 member coverage plan 3:

19 A. for a member with age and service requirements
20 provided under Subsection A of Section 10-11-69 NMSA 1978, the
21 amount of pension under form of payment A is equal to two and
22 one-half percent of the final average salary multiplied by
23 credited service. The amount shall not exceed [~~one hundred~~
24 ninety percent of the final average salary; and

25 B. for a member with age and service requirements

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1 provided under Subsection B of Section 10-11-69 NMSA 1978, the
2 amount of pension under form of payment A is equal to two
3 percent of the final average salary multiplied by credited
4 service. The amount shall not exceed ninety percent of the
5 final average salary."

6 SECTION 57. Section 10-11-72 NMSA 1978 (being Laws 1987,
7 Chapter 253, Section 72) is amended to read:

8 "10-11-72. MUNICIPAL POLICE MEMBER COVERAGE PLAN 3--
9 MEMBER CONTRIBUTION RATE.--A member under municipal police
10 member coverage plan 3 shall contribute [~~seven~~] eight and one-
11 half percent of salary."

12 SECTION 58. Section 10-11-73 NMSA 1978 (being Laws 1987,
13 Chapter 253, Section 73) is amended to read:

14 "10-11-73. MUNICIPAL POLICE MEMBER COVERAGE PLAN 3--
15 AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated
16 public employer shall contribute [~~eighteen and one-half~~] twenty
17 percent of the salary of each member [which] it employs and who
18 is covered under [coverage] municipal police member coverage
19 plan 3, except that:

20 A. from July 1, 2013 through June 30, 2014, the
21 affiliated public employer contribution rate shall be eighteen
22 and one-half percent of the salary of each member;

23 B. from July 1, 2014 through June 30, 2015, the
24 affiliated public employer contribution rate shall be nineteen
25 percent of the salary of each member; and

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1 C. from July 1, 2015 through June 30, 2016, the
2 affiliated public employer contribution rate shall be nineteen
3 and one-half percent of the salary of each member."

4 SECTION 59. Section 10-11-75 NMSA 1978 (being Laws 1987,
5 Chapter 253, Section 75) is amended to read:

6 "10-11-75. MUNICIPAL POLICE MEMBER COVERAGE PLAN 4--AGE
7 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
8 municipal police member coverage plan 4:

9 A. for a member who was a retired member or a
10 member on June 30, 2013, the age and service requirements for
11 normal retirement are:

12 [~~A-~~] (1) age sixty-five years or older and
13 five or more years of credited service;

14 [~~B-~~] (2) age sixty-four years and eight or
15 more years of credited service;

16 [~~C-~~] (3) age sixty-three years and eleven or
17 more years of credited service;

18 [~~D-~~] (4) age sixty-two years and fourteen or
19 more years of credited service;

20 [~~E-~~] (5) age sixty-one years and seventeen or
21 more years of credited service; or

22 [~~F-~~] (6) any age and twenty or more years of
23 credited service; and

24 B. for a member who was not a retired member or a
25 member on June 30, 2013, the age and service requirements for

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1 normal retirement are:

2 (1) age sixty years or older and six or more
3 years of service credit; or

4 (2) any age if the member has six or more
5 years of service credit and the sum of the member's age and
6 years of service credit equals at least seventy-five."

7 SECTION 60. Section 10-11-76 NMSA 1978 (being Laws 1987,
8 Chapter 253, Section 76) is amended to read:

9 "10-11-76. MUNICIPAL POLICE MEMBER COVERAGE PLAN 4--
10 AMOUNT OF PENSION--FORM OF PENSION A.--Under municipal police
11 member coverage plan 4:

12 A. for a member with age and service requirements
13 provided under Subsection A of Section 10-11-75 NMSA 1978, the
14 amount of pension under form of payment A is equal to three
15 percent of the final average salary multiplied by credited
16 service. The amount shall not exceed [eighty] ninety percent
17 of the final average salary; and

18 B. for a member with age and service requirements
19 provided under Subsection B of Section 10-11-75 NMSA 1978, the
20 amount of pension under form of payment A is equal to two and
21 one-half percent of the final average salary multiplied by
22 credited service. The amount shall not exceed ninety percent
23 of the final average salary."

24 SECTION 61. Section 10-11-78 NMSA 1978 (being Laws 1987,
25 Chapter 253, Section 78) is amended to read:

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1 "10-11-78. MUNICIPAL POLICE MEMBER COVERAGE PLAN 4--
2 MEMBER CONTRIBUTION RATE.--A member under municipal police
3 member coverage plan 4 shall contribute [~~twelve and thirty-five~~
4 ~~one-hundredths~~] thirteen and eighty-five hundredths percent of
5 salary starting with the first full pay period in the calendar
6 month in which municipal police member coverage plan 4 becomes
7 applicable to the member."

8 SECTION 62. Section 10-11-79 NMSA 1978 (being Laws 1987,
9 Chapter 253, Section 79) is amended to read:

10 "10-11-79. MUNICIPAL POLICE MEMBER COVERAGE PLAN 4--
11 AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated
12 public employer shall contribute [~~eighteen and one-half~~] twenty
13 percent of the salary of each member [~~which~~] it employs and who
14 is covered under municipal police member coverage plan 4,
15 except that:

16 A. from July 1, 2013 through June 30, 2014, the
17 affiliated public employer contribution rate shall be eighteen
18 and one-half percent of the salary of each member;

19 B. from July 1, 2014 through June 30, 2015, the
20 affiliated public employer contribution rate shall be nineteen
21 percent of the salary of each member; and

22 C. from July 1, 2015 through June 30, 2016, the
23 affiliated public employer contribution rate shall be nineteen
24 and one-half percent of the salary of each member."

25 SECTION 63. Section 10-11-81 NMSA 1978 (being Laws 1987,

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1 Chapter 253, Section 81) is amended to read:

2 "10-11-81. MUNICIPAL POLICE MEMBER COVERAGE PLAN 5--AGE
3 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
4 municipal police member coverage plan 5:

5 A. for a member who was a retired member or a
6 member on June 30, 2013, the age and service requirements for
7 normal retirement are:

8 [~~A-~~] (1) age sixty-five years or older and
9 five or more years of credited service;

10 [~~B-~~] (2) age sixty-four years and eight or
11 more years of credited service;

12 [~~C-~~] (3) age sixty-three years and eleven or
13 more years of credited service;

14 [~~D-~~] (4) age sixty-two years and fourteen or
15 more years of credited service;

16 [~~E-~~] (5) age sixty-one years and seventeen or
17 more years of credited service; or

18 [~~F-~~] (6) any age and twenty or more years of
19 credited service; and

20 B. for a member who was not a retired member or a
21 member on June 30, 2013, the age and service requirements for
22 normal retirement are:

23 (1) age sixty years or older and six or more
24 years of service credit; or

25 (2) any age if the member has six or more

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1 years of service credit and the sum of the member's age and
2 years of service credit equals at least seventy-five."

3 SECTION 64. Section 10-11-82 NMSA 1978 (being Laws 1987,
4 Chapter 253, Section 82) is amended to read:

5 "10-11-82. MUNICIPAL POLICE MEMBER COVERAGE PLAN 5--
6 AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal police
7 member coverage plan 5:

8 A. for a member with age and service requirements
9 provided under Subsection A of Section 10-11-81 NMSA 1978, the
10 amount of pension under form of payment A is equal to three and
11 one-half percent of the final average salary multiplied by
12 credited service. The amount shall not exceed [eighty] ninety
13 percent of the final average salary; and

14 B. for a member with age and service requirements
15 provided under Subsection B of Section 10-11-81 NMSA 1978, the
16 amount of pension under form of payment A is equal to three
17 percent of the final average salary multiplied by credited
18 service. The amount shall not exceed ninety percent of the
19 final average salary."

20 SECTION 65. Section 10-11-84 NMSA 1978 (being Laws 1987,
21 Chapter 253, Section 84) is amended to read:

22 "10-11-84. MUNICIPAL POLICE MEMBER COVERAGE PLAN 5--
23 MEMBER CONTRIBUTION RATE.--A member under municipal police
24 member coverage plan 5 shall contribute [~~sixteen and three-~~
25 ~~tenths~~] seventeen and eight-tenths percent of salary starting

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1 with the first full pay period in the calendar month in which
2 municipal police member coverage plan 5 becomes applicable to
3 the member."

4 SECTION 66. Section 10-11-85 NMSA 1978 (being Laws 1987,
5 Chapter 253, Section 85) is amended to read:

6 "10-11-85. MUNICIPAL POLICE MEMBER COVERAGE PLAN 5--
7 AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated
8 public employer shall contribute [~~eighteen and one-half~~] twenty
9 percent of the salary of each member [~~which~~] it employs and who
10 is covered under municipal police member coverage plan 5,
11 except that:

12 A. from July 1, 2013 through June 30, 2014, the
13 affiliated public employer contribution rate shall be eighteen
14 and one-half percent of the salary of each member;

15 B. from July 1, 2014 through June 30, 2015, the
16 affiliated public employer contribution rate shall be nineteen
17 percent of the salary of each member; and

18 C. from July 1, 2015 through June 30, 2016, the
19 affiliated public employer contribution rate shall be nineteen
20 and one-half percent of the salary of each member."

21 SECTION 67. Section 10-11-87 NMSA 1978 (being Laws 1987,
22 Chapter 253, Section 87) is amended to read:

23 "10-11-87. MUNICIPAL FIRE MEMBER COVERAGE PLAN 1--AGE AND
24 SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under municipal
25 fire member coverage plan 1:

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1 A. for a member who was a retired member or a
2 member on June 30, 2013, the age and service requirements for
3 normal retirement are:

4 ~~[A-]~~ (1) age sixty-five years or older and
5 five or more years of credited service;

6 ~~[B-]~~ (2) age sixty-four years and eight or
7 more years of credited service;

8 ~~[C-]~~ (3) age sixty-three years and eleven or
9 more years of credited service;

10 ~~[D-]~~ (4) age sixty-two years and fourteen or
11 more years of credited service;

12 ~~[E-]~~ (5) age sixty-one years and seventeen or
13 more years of credited service;

14 ~~[F-]~~ (6) age sixty years and twenty or more
15 years of credited service; or

16 ~~[G-]~~ (7) any age and twenty-five or more years
17 of credited service; and

18 B. for a member who was not a retired member or a
19 member on June 30, 2013, the age and service requirements for
20 normal retirement are:

21 (1) age sixty years or older and six or more
22 years of service credit; or

23 (2) any age if the member has six or more
24 years of service credit and the sum of the member's age and
25 years of service credit equals at least seventy-five."

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1 SECTION 68. Section 10-11-88 NMSA 1978 (being Laws 1987,
2 Chapter 253, Section 88) is amended to read:

3 "10-11-88. MUNICIPAL FIRE MEMBER COVERAGE PLAN 1--AMOUNT
4 OF PENSION--FORM OF PAYMENT A.--Under municipal fire member
5 coverage plan 1, the amount of pension under form of payment A
6 is equal to two percent of the final average salary multiplied
7 by credited service. The amount shall not exceed [~~sixty~~]
8 ninety percent of the final average salary."

9 SECTION 69. Section 10-11-90 NMSA 1978 (being Laws 1987,
10 Chapter 253, Section 90, as amended) is amended to read:

11 "10-11-90. MUNICIPAL FIRE MEMBER COVERAGE PLAN 1--MEMBER
12 CONTRIBUTION RATE.--A member under municipal fire member
13 coverage plan 1 shall contribute [~~eight~~] nine and one-half
14 percent of salary."

15 SECTION 70. Section 10-11-91 NMSA 1978 (being Laws 1987,
16 Chapter 253, Section 91, as amended) is amended to read:

17 "10-11-91. MUNICIPAL FIRE MEMBER COVERAGE PLAN 1--
18 AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated
19 public employer shall contribute [~~eleven~~] twelve and one-half
20 percent of the salary of each member [~~whom~~] it employs and
21 covers under municipal fire member coverage plan 1, except
22 that:

23 A. from July 1, 2013 through June 30, 2014, the
24 affiliated public employer contribution rate shall be eleven
25 percent of the salary of each member;

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1 B. from July 1, 2014 through June 30, 2015, the
2 affiliated public employer contribution rate shall be eleven
3 and one-half percent of the salary of each member; and

4 C. from July 1, 2015 through June 30, 2016, the
5 affiliated public employer contribution rate shall be twelve
6 percent of the salary of each member."

7 SECTION 71. Section 10-11-93 NMSA 1978 (being Laws 1987,
8 Chapter 253, Section 93) is amended to read:

9 "10-11-93. MUNICIPAL FIRE MEMBER COVERAGE PLAN 2--AGE AND
10 SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under municipal
11 fire member coverage plan 2:

12 A. for a member who was a retired member or a
13 member on June 30, 2013, the age and service requirements for
14 normal retirement are:

15 ~~[A.]~~ (1) age sixty-five years or older and
16 five or more years of credited service;

17 ~~[B.]~~ (2) age sixty-four years and eight or
18 more years of credited service;

19 ~~[C.]~~ (3) age sixty-three years and eleven or
20 more years of credited service;

21 ~~[D.]~~ (4) age sixty-two years and fourteen or
22 more years of credited service;

23 ~~[E.]~~ (5) age sixty-one years and seventeen or
24 more years of credited service;

25 ~~[F.]~~ (6) age sixty years and twenty or more

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1 years of credited service; or

2 ~~[6-]~~ (7) any age and twenty-five or more years
3 of credited service; and

4 B. for a member who was not a retired member or a
5 member on June 30, 2013, the age and service requirements for
6 normal retirement are:

7 (1) age sixty years or older and six or more
8 years of service credit; or

9 (2) any age if the member has six or more
10 years of service credit and the sum of the member's age and
11 years of service credit equals at least seventy-five."

12 SECTION 72. Section 10-11-94 NMSA 1978 (being Laws 1987,
13 Chapter 253, Section 94) is amended to read:

14 "10-11-94. MUNICIPAL FIRE MEMBER COVERAGE PLAN 2--AMOUNT
15 OF PENSION--FORM OF PAYMENT A.--Under municipal fire member
16 contribution plan 2:

17 A. for a member with age and service requirements
18 provided under Subsection A of Section 10-11-93 NMSA 1978, the
19 amount of pension under form of payment A is equal to two and
20 one-half percent of the final average salary multiplied by
21 credited service. The amount shall not exceed [~~one hundred~~
22 ninety percent of the final average salary; and

23 B. for a member with age and service requirements
24 provided under Subsection B of Section 10-11-93 NMSA 1978, the
25 amount of pension under form of payment A is equal to two

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1 percent of the final average salary multiplied by credited
2 service. The amount shall not exceed ninety percent of the
3 final average salary."

4 SECTION 73. Section 10-11-96 NMSA 1978 (being Laws 1987,
5 Chapter 253, Section 96, as amended) is amended to read:

6 "10-11-96. MUNICIPAL FIRE MEMBER COVERAGE PLAN 2--MEMBER
7 CONTRIBUTION RATE.--A member under municipal fire member
8 coverage plan 2 shall contribute [~~eight~~] nine and one-half
9 percent of salary."

10 SECTION 74. Section 10-11-97 NMSA 1978 (being Laws 1987,
11 Chapter 253, Section 97, as amended) is amended to read:

12 "10-11-97. MUNICIPAL FIRE MEMBER COVERAGE PLAN 2--
13 AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated
14 public employer shall contribute [~~seventeen and one-half~~]
15 nineteen percent of the salary of each member [~~whom~~] it employs
16 and covers under municipal fire member coverage plan 2, except
17 that:

18 A. from July 1, 2013 through June 30, 2014, the
19 affiliated public employer contribution rate shall be seventeen
20 and one-half percent of the salary of each member;

21 B. from July 1, 2014 through June 30, 2015, the
22 affiliated public employer contribution rate shall be eighteen
23 percent of the salary of each member; and

24 C. from July 1, 2015 through June 30, 2016, the
25 affiliated public employer contribution rate shall be eighteen

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1 and one-half percent of the salary of each member."

2 SECTION 75. Section 10-11-99 NMSA 1978 (being Laws 1987,
3 Chapter 253, Section 99) is amended to read:

4 "10-11-99. MUNICIPAL FIRE MEMBER COVERAGE PLAN 3--AGE AND
5 SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under municipal
6 fire member coverage plan 3:

7 A. for a member who was a retired member or a
8 member on June 30, 2013, the age and service requirements for
9 normal retirement are:

10 [~~A-~~] (1) age sixty-five years or older and
11 five or more years of credited service;

12 [~~B-~~] (2) age sixty-four years and eight or
13 more years of credited service;

14 [~~C-~~] (3) age sixty-three years and eleven or
15 more years of credited service;

16 [~~D-~~] (4) age sixty-two years and fourteen or
17 more years of credited service;

18 [~~E-~~] (5) age sixty-one years and seventeen or
19 more years of credited service; or

20 [~~F-~~] (6) any age and twenty or more years of
21 credited service; and

22 B. for a member who was not a retired member or a
23 member on June 30, 2013, the age and service requirements for
24 normal retirement are:

25 (1) age sixty years or older and six or more

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1 years of service credit; or

2 (2) any age if the member has six or more
3 years of service credit and the sum of the member's age and
4 years of service credit equals at least seventy-five."

5 SECTION 76. Section 10-11-100 NMSA 1978 (being Laws 1987,
6 Chapter 253, Section 100) is amended to read:

7 "10-11-100. MUNICIPAL FIRE MEMBER COVERAGE PLAN 3--AMOUNT
8 OF PENSION--FORM OF PAYMENT A.--Under municipal fire member
9 coverage plan 3:

10 A. for a member with age and service requirements
11 provided under Subsection A of Section 10-11-99 NMSA 1978, the
12 amount of pension under form of payment A is equal to two and
13 one-half percent of the final average salary multiplied by
14 credited service. The amount shall not exceed [~~one hundred~~
15 ninety percent of the final average salary; and

16 B. for a member with age and service requirements
17 provided under Subsection B of Section 10-11-99 NMSA 1978, the
18 amount of pension under form of payment A is equal to two
19 percent of the final average salary multiplied by credited
20 service. The amount shall not exceed ninety percent of the
21 final average salary."

22 SECTION 77. Section 10-11-102 NMSA 1978 (being Laws 1987,
23 Chapter 253, Section 102, as amended) is amended to read:

24 "10-11-102. MUNICIPAL FIRE MEMBER COVERAGE PLAN 3--MEMBER
25 CONTRIBUTION RATE.--A member under municipal fire member

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1 coverage plan 3 shall contribute [~~eight~~] nine and one-half
2 percent of salary."

3 SECTION 78. Section 10-11-103 NMSA 1978 (being Laws 1987,
4 Chapter 253, Section 103, as amended) is amended to read:

5 "10-11-103. MUNICIPAL FIRE MEMBER COVERAGE PLAN 3--
6 AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated
7 public employer shall contribute [~~twenty-one and twenty-five~~
8 ~~one-hundredths~~] twenty-two and seventy-five hundredths percent
9 of the salary of each member [~~whom~~] it employs and covers under
10 municipal fire member coverage plan 3, except that:

11 A. from July 1, 2013 through June 30, 2014, the
12 affiliated public employer contribution rate shall be
13 twenty-one and twenty-five hundredths percent of the salary of
14 each member;

15 B. from July 1, 2014 through June 30, 2015, the
16 affiliated public employer contribution rate shall be twenty-
17 one and seventy-five hundredths percent of the salary of each
18 member; and

19 C. from July 1, 2015 through June 30, 2016, the
20 affiliated public employer contribution rate shall be
21 twenty-two and twenty-five hundredths percent of the salary of
22 each member."

23 SECTION 79. Section 10-11-105 NMSA 1978 (being Laws 1987,
24 Chapter 253, Section 105) is amended to read:

25 "10-11-105. MUNICIPAL FIRE MEMBER COVERAGE PLAN 4--AGE
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1 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
2 municipal fire member coverage plan 4:

3 A. for a member who was a retired member or a
4 member on June 30, 2013, the age and service requirements for
5 normal retirement are:

6 [~~A-~~] (1) age sixty-five years or older and
7 five or more years of credited service;

8 [~~B-~~] (2) age sixty-four years and eight or
9 more years of credited service;

10 [~~C-~~] (3) age sixty-three years and eleven or
11 more years of credited service;

12 [~~D-~~] (4) age sixty-two years and fourteen or
13 more years of credited service;

14 [~~E-~~] (5) age sixty-one years and seventeen or
15 more years of credited service; or

16 [~~F-~~] (6) any age and twenty or more years of
17 credited service; and

18 B. for a member who was not a retired member or a
19 member on June 30, 2013, the age and service requirements for
20 normal retirement are:

21 (1) age sixty years or older and six or more
22 years of service credit; or

23 (2) any age if the member has six or more
24 years of service credit and the sum of the member's age and
25 years of service credit equals at least seventy-five."

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1 SECTION 80. Section 10-11-106 NMSA 1978 (being Laws 1987,
2 Chapter 253, Section 106) is amended to read:

3 "10-11-106. MUNICIPAL FIRE MEMBER COVERAGE PLAN 4--AMOUNT
4 OF PENSION--FORM OF PAYMENT A.--Under municipal fire member
5 coverage plan 4:

6 A. for a member with age and service requirements
7 provided under Subsection A of Section 10-11-105 NMSA 1978, the
8 amount of pension under form of payment A is equal to three
9 percent of the final average salary multiplied by credited
10 service. The amount shall not exceed [eighty] ninety percent
11 of the final average salary; and

12 B. for a member with age and service requirements
13 provided under Subsection B of Section 10-11-105 NMSA 1978, the
14 amount of pension under form of payment A is equal to two and
15 one-half percent of the final average salary multiplied by
16 credited service. The amount shall not exceed ninety percent
17 of the final average salary."

18 SECTION 81. Section 10-11-108 NMSA 1978 (being Laws 1987,
19 Chapter 253, Section 108, as amended) is amended to read:

20 "10-11-108. MUNICIPAL FIRE MEMBER COVERAGE PLAN 4--MEMBER
21 CONTRIBUTION RATE.--A member under municipal fire member
22 coverage plan 4 shall contribute [~~twelve and eight-tenths~~]
23 fourteen and three-tenths percent of salary."

24 SECTION 82. Section 10-11-109 NMSA 1978 (being Laws 1987,
25 Chapter 253, Section 109, as amended) is amended to read:

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1 "10-11-109. MUNICIPAL FIRE MEMBER COVERAGE PLAN 4--
2 AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated
3 public employer shall contribute [~~twenty-one and twenty-five~~
4 ~~one-hundredths~~] twenty-two and seventy-five hundredths percent
5 of the salary of each member [~~whom~~] it employs and covers under
6 municipal fire member coverage plan 4, except that:

7 A. from July 1, 2013 through June 30, 2014, the
8 affiliated public employer contribution rate shall be twenty-
9 one and twenty-five hundredths percent of the salary of each
10 member;

11 B. from July 1, 2014 through June 30, 2015, the
12 affiliated public employer contribution rate shall be twenty-
13 one and seventy-five hundredths percent of the salary of each
14 member; and

15 C. from July 1, 2015 through June 30, 2016, the
16 affiliated public employer contribution rate shall be
17 twenty-two and twenty-five hundredths percent of the salary of
18 each member."

19 SECTION 83. Section 10-11-111 NMSA 1978 (being Laws 1987,
20 Chapter 253, Section 111) is amended to read:

21 "10-11-111. MUNICIPAL FIRE MEMBER COVERAGE PLAN 5--AGE
22 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
23 municipal fire member coverage plan 5:

24 A. for a member who was a retired member or a
25 member on June 30, 2013, the age and service requirements for

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1 normal retirement are:

2 [A-] (1) age sixty-five years or older and
3 five or more years of credited service;

4 [B-] (2) age sixty-four years and eight or
5 more years of credited service;

6 [C-] (3) age sixty-three years and eleven or
7 more years of credited service;

8 [D-] (4) age sixty-two years and fourteen or
9 more years of credited service;

10 [E-] (5) age sixty-one years and seventeen or
11 more years of credited service; or

12 [F-] (6) any age and twenty or more years of
13 credited service; and

14 B. for a member who was not a retired member or a
15 member on June 30, 2013, the age and service requirements for
16 normal retirement are:

17 (1) age sixty years or older and six or more
18 years of service credit; or

19 (2) any age if the member has six or more
20 years of service credit and the sum of the member's age and
21 years of service credit equals at least seventy-five."

22 SECTION 84. Section 10-11-112 NMSA 1978 (being Laws 1987,
23 Chapter 253, Section 112) is amended to read:

24 "10-11-112. MUNICIPAL FIRE MEMBER COVERAGE PLAN 5--AMOUNT
25 OF PENSION--FORM OF PAYMENT A.--Under municipal fire member

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1 coverage plan 5:

2 A. for a member with age and service requirements
3 provided under Subsection A of Section 10-11-111 NMSA 1978,
4 the amount of pension under form of payment A is equal to three
5 and one-half percent of the final average salary multiplied by
6 credited service. The amount shall not exceed [~~eighty~~] ninety
7 percent of the final average salary; and

8 B. for a member with age and service requirements
9 provided under Subsection B of Section 10-11-111 NMSA 1978, the
10 amount of pension under form of payment A is equal to three
11 percent of the final average salary multiplied by credited
12 service. The amount shall not exceed ninety percent of the
13 final average salary."

14 SECTION 85. Section 10-11-114 NMSA 1978 (being Laws 1987,
15 Chapter 253, Section 114, as amended) is amended to read:

16 "10-11-114. MUNICIPAL FIRE MEMBER COVERAGE PLAN 5--MEMBER
17 CONTRIBUTION RATE.--A member under municipal fire member
18 coverage plan 5 shall contribute [~~sixteen and two-tenths~~]
19 seventeen and seven-tenths percent of salary."

20 SECTION 86. Section 10-11-115 NMSA 1978 (being Laws 1987,
21 Chapter 253, Section 115, as amended) is amended to read:

22 "10-11-115. MUNICIPAL FIRE MEMBER COVERAGE PLAN 5--
23 AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated
24 public employer shall contribute [~~twenty-one and twenty-five~~
25 ~~one-hundredths~~] twenty-two and seventy-five hundredths percent

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1 of the salary of each member ~~[whom]~~ it employs and covers under
2 municipal fire member coverage plan 5, except that:

3 A. from July 1, 2013 through June 30, 2014, the
4 affiliated public employer contribution rate shall be twenty-
5 one and twenty-five hundredths percent of the salary of each
6 member;

7 B. from July 1, 2014 through June 30, 2015, the
8 affiliated public employer contribution rate shall be twenty-
9 one and seventy-five hundredths percent of the salary of each
10 member; and

11 C. from July 1, 2015 through June 30, 2016, the
12 affiliated public employer contribution rate shall be
13 twenty-two and twenty-five hundredths percent of the salary of
14 each member."

15 SECTION 87. Section 10-11-115.2 NMSA 1978 (being Laws
16 2003, Chapter 268, Section 3) is amended to read:

17 "10-11-115.2. MUNICIPAL DETENTION OFFICER MEMBER COVERAGE
18 PLAN 1--AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT--
19 CALCULATION OF CREDITED SERVICE.--

20 A. Under municipal detention officer member
21 coverage plan 1, for a member who was a retired member or a
22 member on June 30, 2013, the age and service requirements for
23 normal retirement are:

24 (1) age sixty-five years or older and five or
25 more years of credited service;

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1 (2) age sixty-four years and eight or more
2 years of credited service;

3 (3) age sixty-three years and eleven or more
4 years of credited service;

5 (4) age sixty-two years and fourteen or more
6 years of credited service;

7 (5) age sixty-one years and seventeen or more
8 years of credited service;

9 (6) age sixty years and twenty or more years
10 of credited service; or

11 (7) any age and twenty-five or more years of
12 credited service.

13 B. For a member who was not a retired member or a
14 member on June 30, 2013, the age and service requirements for
15 normal retirement are:

16 (1) age sixty years or older and six or more
17 years of service credit; or

18 (2) any age if the member has six or more
19 years of service credit and the sum of the member's age and
20 years of service credit equals at least seventy-five.

21 [~~B. In calculating credited service~~]

22 C. For the purposes of determining retirement
23 eligibility and the amount of pension, the credited service of
24 a municipal detention officer member who was a retired member
25 or a member on June 30, 2013 shall [have actual credited

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1 ~~service]~~ be increased by twenty percent for the purposes of
2 municipal detention officer member coverage plan 1.

3 D. Except as provided in Subsection C of this
4 section, the credited service of a municipal detention officer
5 member shall be credited as provided under Section 10-11-4 NMSA
6 1978."

7 SECTION 88. Section 10-11-115.3 NMSA 1978 (being Laws
8 2003, Chapter 268, Section 4) is amended to read:

9 "10-11-115.3. MUNICIPAL DETENTION OFFICER MEMBER COVERAGE
10 PLAN 1--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal
11 detention officer member coverage plan 1, the amount of pension
12 under form of payment A is equal to three percent of the final
13 average salary multiplied by credited service. The amount
14 shall not exceed ~~[eighty]~~ ninety percent of the final average
15 salary."

16 SECTION 89. Section 10-11-115.5 NMSA 1978 (being Laws
17 2003, Chapter 268, Section 6) is amended to read:

18 "10-11-115.5. MUNICIPAL DETENTION OFFICER MEMBER COVERAGE
19 PLAN 1--MEMBER CONTRIBUTION RATE.--A member under municipal
20 detention officer member coverage plan 1 shall contribute
21 ~~[sixteen and sixty-five hundredths]~~ eighteen and fifteen-
22 hundredths percent of salary starting with the first full pay
23 period that ends within the calendar month in which municipal
24 detention officer member coverage plan 1 becomes applicable to
25 the member."

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1 SECTION 90. Section 10-11-115.6 NMSA 1978 (being Laws
2 2003, Chapter 268, Section 7) is amended to read:

3 "10-11-115.6. MUNICIPAL DETENTION OFFICER MEMBER COVERAGE
4 PLAN 1--EMPLOYER CONTRIBUTION RATE.--The affiliated public
5 employer shall contribute [~~sixteen and sixty-five hundredths~~]
6 eighteen and fifteen-hundredths percent of the salary of each
7 member under municipal detention officer member coverage plan 1
8 starting with the first pay period that ends within the
9 calendar month in which municipal detention officer member
10 coverage plan 1 becomes applicable to the member, except that:

11 A. from July 1, 2013 through June 30, 2014, the
12 affiliated public employer contribution rate shall be sixteen
13 and sixty-five hundredths percent of the salary of each member;

14 B. from July 1, 2014 through June 30, 2015, the
15 affiliated public employer contribution rate shall be seventeen
16 and fifteen-hundredths percent of the salary of each member;

17 and

18 C. from July 1, 2015 through June 30, 2016, the
19 affiliated public employer contribution rate shall be seventeen
20 and sixty-five hundredths percent of the salary of each
21 member."

22 SECTION 91. Section 10-11-118 NMSA 1978 (being Laws 1987,
23 Chapter 253, Section 118, as amended) is amended to read:

24 "10-11-118. COST-OF-LIVING ADJUSTMENTS--QUALIFIED PENSION
25 RECIPIENT.--

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1 A. For the purposes of this section:

2 (1) "preceding calendar year" means the
3 twelve-month period ending on the December 31 preceding the
4 July 1 in which pensions are being adjusted; and

5 (2) "second preceding calendar year" means the
6 full calendar year prior to the preceding calendar year.

7 B. A qualified pension recipient is eligible for a
8 cost-of-living pension adjustment. The amount of pension
9 payable to a qualified pension recipient shall be increased
10 [~~three~~] two percent each July 1. The amount of the increase
11 shall be determined by multiplying the amount of pension
12 inclusive of all prior cost-of-living pension adjustments by
13 [~~three~~] two percent.

14 C. A qualified pension recipient is:

15 (1) a normal retired member who:

16 (a) retires on or before June 30, 2014
17 and has been retired for at least two full calendar years from
18 the effective date of the latest retirement prior to July 1 of
19 the year in which the pension is being adjusted;

20 (b) retires between July 1, 2014 and
21 June 30, 2015 and has been retired for at least three full
22 calendar years from the effective date of the latest retirement
23 prior to July 1 of the year in which the pension is being
24 adjusted;

25 (c) retires between July 1, 2015 and

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1 June 30, 2016 and has been retired for at least four full
2 calendar years from the effective date of the latest retirement
3 prior to July 1 of the year in which the pension is being
4 adjusted; or

5 (d) retires after July 1, 2016 and has
6 been retired for at least seven full calendar years from the
7 effective date of the latest retirement prior to July 1 of the
8 year in which the pension is being adjusted;

9 (2) a normal retired member who has attained
10 age sixty-five years and has been retired for at least one full
11 calendar year from the effective date of the latest retirement
12 prior to July 1 of the year in which the pension is being
13 adjusted;

14 (3) a disability retired member who has been
15 retired for at least one full calendar year from the effective
16 date of the latest retirement prior to July 1 of the year in
17 which the pension is being adjusted;

18 (4) a survivor beneficiary who has received a
19 survivor pension for at least two full calendar years; or

20 (5) a survivor beneficiary of a deceased
21 retired member who otherwise would have been retired at least
22 two full calendar years from the effective date of the latest
23 retirement prior to July 1 of the year in which the pension is
24 being adjusted.

25 D. A qualified pension recipient may decline an

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1 increase in a pension by giving the association written notice
2 of the decision to decline the increase at least thirty days
3 prior to the date the increase would take effect."

4 SECTION 92. REPEAL.--Section 10-11-36 NMSA 1978 (being
5 Laws 1987, Chapter 253, Section 36) is repealed.

6 SECTION 93. SEVERABILITY.--If any part or application of
7 this act is held invalid, the remainder or its application to
8 other situations or persons shall not be affected.

9 SECTION 94. EFFECTIVE DATE.--The effective date of the
10 provisions of this act is July 1, 2013.

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

ENDORSED BY THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

RELATING TO PENSIONS; AMENDING THE EDUCATIONAL RETIREMENT ACT;
INCREASING CERTAIN MEMBERS' CONTRIBUTION RATES; CHANGING THE
BENEFITS FOR NEW MEMBERS BY IMPOSING A MINIMUM RETIREMENT AGE,
DELAYING THE COST-OF-LIVING ADJUSTMENT ELIGIBILITY AND
INCREASING THE AGE AND SERVICE RETIREMENT REQUIREMENTS.

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

SECTION 1. Section 22-11-21 NMSA 1978 (being Laws 1967,
Chapter 16, Section 144, as amended) is amended to read:

"22-11-21. CONTRIBUTIONS--MEMBERS--LOCAL ADMINISTRATIVE
UNITS.--

A. Except as provided in Subsection [E] D of this
section, [~~each~~] for a member whose annual salary is greater
than twenty thousand dollars (\$20,000), the member shall make
contributions to the fund according to the following schedule:

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1 ~~[(1) through June 30, 2005, an amount equal to~~
2 ~~seven and six-tenths percent of the member's annual salary;~~

3 ~~(2) from July 1, 2005 through June 30, 2006,~~
4 ~~an amount equal to seven and six hundred seventy-five~~
5 ~~thousandths percent of the member's annual salary;~~

6 ~~(3) from July 1, 2006 through June 30, 2007,~~
7 ~~an amount equal to seven and seventy-five hundredths percent of~~
8 ~~the member's annual salary;~~

9 ~~(4) from July 1, 2007 through June 30, 2008,~~
10 ~~an amount equal to seven and eight hundred twenty-five~~
11 ~~thousandths percent of the member's annual salary; and~~

12 ~~(5) on and after July 1, 2008, an amount equal~~
13 ~~to seven and nine-tenths percent of the member's annual salary,~~
14 ~~except that for members whose annual salary is greater than~~
15 ~~twenty thousand dollars (\$20,000):~~

16 ~~(a) from July 1, 2009 through June 30,~~
17 ~~2011, the member contribution rate shall be nine and four-~~
18 ~~tenths percent of the member's annual salary;~~

19 ~~(b) from July 1, 2011 through June 30,~~
20 ~~2012, the member contribution rate shall be eleven and fifteen-~~
21 ~~hundredths percent of the member's annual salary; and~~

22 ~~(c) from July 1, 2012 through June 30,~~
23 ~~2013, the member contribution rate shall be nine and four-~~
24 ~~tenths of the member's annual salary;]~~

25 (1) from July 1, 2013 through June 30, 2014,

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1 the member contribution rate shall be ten and one-tenth percent
2 of the member's annual salary; and

3 (2) on and after July 1, 2014, the member
4 contribution rate shall be ten and seven-tenths percent of the
5 member's annual salary.

6 B. On and after July 1, 2008, for a member whose
7 annual salary is twenty thousand dollars (\$20,000) or less, the
8 member contribution rate shall be seven and nine-tenths percent
9 of the member's annual salary.

10 ~~[B-]~~ C. Except as provided in Subsection ~~[G]~~ D of
11 this section, each local administrative unit shall make an
12 annual contribution to the fund according to the following
13 schedule:

14 ~~[(1) through June 30, 2005, a sum equal to~~
15 ~~eight and sixty-five hundredths percent of the annual salary of~~
16 ~~each member employed by the local administrative unit;~~

17 ~~(2) from July 1, 2005 through June 30, 2006, a~~
18 ~~sum equal to nine and forty hundredths percent of the annual~~
19 ~~salary of each member employed by the local administrative~~
20 ~~unit;~~

21 ~~(3) from July 1, 2006 through June 30, 2007, a~~
22 ~~sum equal to ten and fifteen hundredths percent of the annual~~
23 ~~salary of each member employed by the local administrative~~
24 ~~unit;~~

25 ~~(4) from July 1, 2007 through June 30, 2008, a~~

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1 ~~sum equal to ten and ninety-hundredths percent of the annual~~
2 ~~salary of each member employed by the local administrative~~
3 ~~unit;~~

4 ~~(5) from July 1, 2008 through June 30, 2009, a~~
5 ~~sum equal to eleven and sixty-five hundredths percent of the~~
6 ~~annual salary of each member employed by the local~~
7 ~~administrative unit;~~

8 ~~(6) from July 1, 2009 through June 30, 2011, a~~
9 ~~sum equal to ten and nine-tenths percent of the annual salary~~
10 ~~of each member employed by the local administrative unit,~~
11 ~~except that for members whose annual salary is twenty thousand~~
12 ~~dollars (\$20,000) or less, the local administrative unit shall~~
13 ~~contribute twelve and four-tenths percent of the member's~~
14 ~~annual salary;~~

15 ~~(7) from July 1, 2011 through June 30, 2012, a~~
16 ~~sum equal to nine and fifteen-hundredths percent of the annual~~
17 ~~salary of each member employed by the local administrative~~
18 ~~unit, except that for members whose annual salary is twenty~~
19 ~~thousand dollars (\$20,000) or less, the local administrative~~
20 ~~unit shall contribute twelve and four-tenths percent of the~~
21 ~~member's annual salary;~~

22 ~~(8) from July 1, 2012 through June 30, 2013, a~~
23 ~~sum equal to ten and nine-tenths percent of the annual salary~~
24 ~~of each member employed by the local administrative unit,~~
25 ~~except that for members whose annual salary is twenty thousand~~

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1 ~~dollars (\$20,000) or less, the local administrative unit shall~~
2 ~~contribute twelve and four-tenths percent of the member's~~
3 ~~annual salary;~~

4 ~~(9)]~~ (1) from July 1, 2013 through June 30,
5 2014, a sum equal to thirteen and fifteen-hundredths percent of
6 the annual salary of each member employed by the local
7 administrative unit; and

8 ~~(10)]~~ (2) on and after July 1, 2014, a sum
9 equal to thirteen and nine-tenths percent of the annual salary
10 of each member employed by the local administrative unit.

11 ~~(6-)]~~ D. If, in a calendar year, the salary of a
12 member, initially employed by a local administrative unit on or
13 after July 1, 1996, equals the annual compensation limit set
14 pursuant to Section 401(a)(17) of the Internal Revenue Code of
15 1986, as amended, then:

16 (1) for the remainder of that calendar year,
17 no additional member contributions or local administrative unit
18 contributions for that member shall be made pursuant to this
19 section; provided that no member shall be denied service credit
20 solely because contributions are not made by the member or on
21 behalf of the member pursuant to the provisions of this
22 subsection; and

23 (2) the amount of the annual compensation
24 limit shall be divided into four equal portions, and, for
25 purposes of attributing contributory employment and crediting

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1 service credit, each portion shall be attributable to one of
2 the four quarters of the calendar year."

3 SECTION 2. Section 22-11-23 NMSA 1978 (being Laws 1981,
4 Chapter 293, Section 2, as amended by Laws 2009, Chapter 286,
5 Section 1 and by Laws 2009, Chapter 288, Section 14) is amended
6 to read:

7 "22-11-23. RETIREMENT ELIGIBILITY--INITIAL MEMBERSHIP
8 PRIOR TO JULY 1, 2010.--

9 A. ~~[The retirement eligibility for]~~ A member who
10 ~~[either]~~ was a member on June 30, 2010, or was a member at any
11 time prior to that date and had not, on that date, been
12 refunded all member contributions pursuant to Subsection A of
13 Section 22-11-15 NMSA 1978, ~~[is as follows:]~~

14 ~~(1) a member shall be eligible for retirement~~
15 ~~benefits pursuant to the Educational Retirement Act when either~~
16 ~~of the following conditions occurs:~~

17 ~~(a) the sum of the member's age and~~
18 ~~years of earned service credit equals seventy-five; or~~

19 ~~(b) upon completion of five years of~~
20 ~~earned service credit and upon becoming sixty-five years of~~
21 ~~age;~~

22 ~~(2) a member under sixty years of age eligible~~
23 ~~to retire under Paragraph (1) of this subsection may retire and~~
24 ~~receive retirement benefits pursuant to the Educational~~
25 ~~Retirement Act that the member would be eligible to receive if~~

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1 ~~the member were to retire at the age of sixty years reduced by~~
2 ~~six-tenths of one percent for each one-fourth, or portion~~
3 ~~thereof, year that retirement occurs prior to the member's~~
4 ~~sixtieth birthday but after the fifty-fifth birthday, and one~~
5 ~~and eight-tenths percent for each one-fourth, or portion~~
6 ~~thereof, year that retirement occurs prior to age fifty-five;~~
7 ~~or~~

8 ~~(3) a member under sixty years of age~~
9 ~~acquiring twenty-five or more years of earned and allowed~~
10 ~~service credit may retire and receive retirement benefits~~
11 ~~pursuant to the Educational Retirement Act computed on the same~~
12 ~~basis as if the member were sixty years of age] shall be~~
13 eligible for retirement benefits when:

14 (1) the member is any age and has twenty-five
15 or more years of earned and allowed service credit;

16 (2) the member is at least sixty-five years of
17 age and has five or more years of earned service credit; or

18 (3) the sum of the member's age and years of
19 earned service credit equals at least seventy-five; provided
20 that a member who retires pursuant to this paragraph shall be
21 subject to the benefit reductions provided in Subsection G of
22 Section 22-11-30 NMSA 1978.

23 B. A member shall be subject to the provisions of
24 [Paragraphs (2) and (3) of] Subsection A of this section as
25 they existed at the beginning of the member's last cumulated

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1 four quarters of earned service credit, regardless of later
2 amendment."

3 SECTION 3. Section 22-11-23.1 NMSA 1978 (being Laws 2009,
4 Chapter 286, Section 2 and Laws 2009, Chapter 288, Section 15)
5 is amended to read:

6 "22-11-23.1. RETIREMENT ELIGIBILITY--INITIAL MEMBERSHIP
7 ON OR AFTER JULY 1, 2010.--

8 A. A member who initially became a member on or
9 after July 1, 2010, or a member who was a member at any time
10 prior to that date and had, before that date, been refunded all
11 member contributions pursuant to Subsection A of Section
12 22-11-15 NMSA 1978, shall be eligible for retirement benefits
13 pursuant to the Educational Retirement Act when [~~one of the~~
14 ~~following conditions occurs~~]:

15 (1) the member is any age and has thirty or
16 more years of earned service credit;

17 (2) the member is at least sixty-seven years
18 of age and has five or more years of earned service credit; or

19 (3) the sum of the member's age and years of
20 earned service credit equals at least eighty; provided that a
21 member who retires pursuant to this paragraph shall be subject
22 to the benefit reductions provided in [~~Paragraphs (1) and (2)~~
23 ~~of~~] Subsection H of Section 22-11-30 NMSA 1978.

24 B. A member shall be subject to the provisions of
25 this section as they existed at the beginning of the member's

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1 last cumulated four quarters of earned service credit,
2 regardless of later amendment."

3 SECTION 4. A new section of the Educational Retirement
4 Act, Section 22-11-23.2 NMSA 1978, is enacted to read:

5 "22-11-23.2. [NEW MATERIAL] RETIREMENT ELIGIBILITY
6 MEMBERSHIP ON OR AFTER JULY 1, 2013.--

7 A. A member who initially became a member on or
8 after July 1, 2013 or a member who was a member at any time
9 prior to July 1, 2013 and had, before that date, been refunded
10 all member contributions pursuant to Subsection A of Section
11 22-11-15 NMSA 1978, and had not restored all refunded
12 contributions and interest before July 1, 2013, shall be
13 eligible for retirement benefits when:

14 (1) the member is any age and has thirty or
15 more years of earned service credit; provided that the benefits
16 of a member who retires pursuant to this paragraph prior to
17 attaining the age of fifty-five years shall be reduced to an
18 amount equal to the actuarial equivalent of the benefit the
19 member would receive if the member had retired at the age of
20 fifty-five years. The board shall recalculate the actuarial
21 factors on which benefits are reduced no less frequently than
22 every ten years beginning July 1, 2013. The benefits of a
23 retired member that have been reduced at the time of retirement
24 pursuant to this paragraph shall not be subject to further
25 change based upon the board's recalculation of the actuarial

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1 factors;

2 (2) the member is at least sixty-seven years
3 of age and has five or more years of earned service credit; or

4 (3) the sum of the member's age and years of
5 earned service credit equals at least eighty; provided that a
6 member who retires pursuant to this paragraph shall be subject
7 to the benefit reductions provided in Subsection I of Section
8 22-11-30 NMSA 1978.

9 B. A member shall be subject to the provisions of
10 this section as they existed at the beginning of the member's
11 last cumulated four quarters of earned service credit,
12 regardless of later amendment."

13 SECTION 5. Section 22-11-27 NMSA 1978 (being Laws 1967,
14 Chapter 16, Section 150, as amended) is amended to read:

15 "22-11-27. DEFERRED RETIREMENT--RESTRICTION.--

16 A. A member who is eligible for retirement may
17 continue in employment and shall continue to pay contributions
18 as provided by the Educational Retirement Act.

19 B. ~~[A member]~~ Provided that the contributions that
20 the member has made are left in the fund, a member eligible for
21 retirement benefits pursuant to the provisions of Section
22 22-11-23, 22-11-23.1 or 22-11-23.2 NMSA 1978 may terminate
23 [his] employment and retire at any time [after his age and his
24 earned service credit equal the sum of seventy-five if the
25 contributions he has made are left in the fund.

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1 C. ~~A member having five years or more of earned~~
2 ~~service credit may terminate his employment and retire at any~~
3 ~~time after reaching the age of sixty-five years if the~~
4 ~~contributions he has made are left in the fund] upon satisfying~~
5 ~~the applicable age and earned service requirements for~~
6 ~~retirement.~~

7 ~~[D. No]~~ C. A member shall not be on a retirement
8 status while engaged in employment unless the employment falls
9 within ~~[exceptions]~~ an exception established by statute or rule
10 of the board."

11 SECTION 6. Section 22-11-30 NMSA 1978 (being Laws 1967,
12 Chapter 16, Section 153, as amended by Laws 2009, Chapter 286,
13 Section 3 and by Laws 2009, Chapter 288, Section 17) is amended
14 to read:

15 "22-11-30. RETIREMENT BENEFITS--REDUCTIONS.--

16 A. Retirement benefits for a member retired
17 pursuant to the Educational Retirement Act on or before
18 June 30, 1967 shall be paid monthly and shall be one-twelfth of
19 a sum equal to one and one-half percent of the first four
20 thousand dollars (\$4,000) of the member's average annual salary
21 and one percent of the remainder of the member's average annual
22 salary multiplied by the number of years of the member's total
23 service credit.

24 B. Retirement benefits for a member retired
25 pursuant to the Educational Retirement Act on or after July 1,

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1 1967 but on or before June 30, 1971 shall be paid monthly and
2 shall be one-twelfth of a sum equal to one and one-half percent
3 of the first six thousand six hundred dollars (\$6,600) of the
4 member's average annual salary and one percent of the remainder
5 of the member's average annual salary multiplied by the number
6 of years of the member's total service credit.

7 C. Retirement benefits for a member retired
8 pursuant to the Educational Retirement Act on or after July 1,
9 1971 but on or before June 30, 1974 shall be paid monthly and
10 shall be one-twelfth of a sum equal to one and one-half percent
11 of the member's average annual salary multiplied by the number
12 of years of the member's total service credit.

13 D. Retirement benefits for a member retired
14 pursuant to the Educational Retirement Act on or before
15 June 30, 1974 but returning to employment on or after July 1,
16 1974 for a cumulation of one or more years shall be computed
17 pursuant to Subsection E of this section. Retirement benefits
18 for a member retired pursuant to the Educational Retirement Act
19 on or before June 30, 1974 but returning to employment on or
20 after July 1, 1974 for a cumulation of less than one year shall
21 be computed pursuant to Subsection A of this section if the
22 member's date of last retirement was on or before June 30, 1967
23 or pursuant to Subsection B of this section if the member's
24 date of last retirement was on or after July 1, 1967 but not
25 later than June 30, 1971 or pursuant to Subsection C of this

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1 section if the member's date of last retirement was on or after
2 July 1, 1971 but not later than June 30, 1974.

3 E. Retirement benefits for a member age sixty or
4 over, retired pursuant to the Educational Retirement Act on or
5 after July 1, 1974 but not later than June 30, 1987, shall be
6 paid monthly and shall be one-twelfth of a sum equal to:

7 (1) one and one-half percent of the member's
8 average annual salary multiplied by the number of years of
9 service credit for:

10 (a) prior employment; and

11 (b) allowed service credit for service
12 performed prior to July 1, 1957, except United States military
13 service credit purchased pursuant to Paragraph (3) of
14 Subsection A of Section 22-11-34 NMSA 1978; plus

15 (2) two percent of the member's average annual
16 salary multiplied by the number of years of service credit for:

17 (a) contributory employment;

18 (b) allowed service credit for service
19 performed after July 1, 1957; and

20 (c) United States military service
21 credit for service performed prior to July 1, 1957 and
22 purchased pursuant to Paragraph (3) of Subsection A of Section
23 22-11-34 NMSA 1978.

24 F. Retirement benefits for a member age sixty or
25 over, retired pursuant to the Educational Retirement Act on or

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1 after July 1, 1987 but not later than June 30, 1991, shall be
2 paid monthly and shall be one-twelfth of a sum equal to two and
3 fifteen hundredths percent of the member's average annual
4 salary multiplied by the number of years of the member's total
5 service credit; provided that this subsection shall not apply
6 to any member who was retired in any of the four quarters
7 ending on June 30, 1987 without having accumulated not less
8 than 1.0 years earned service credit after June 30, 1987.

9 G. Retirement benefits for a member [~~age sixty or~~
10 ~~over, retired~~] who retires pursuant to Section 22-11-23 NMSA
11 1978 on or after July 1, 1991 shall be paid monthly and shall
12 be one-twelfth of a sum equal to two and thirty-five hundredths
13 percent of the member's average annual salary multiplied by the
14 number of years of the member's total service credit; provided
15 that:

16 (1) the benefit for a member who retires
17 pursuant to Paragraph (3) of Subsection A of Section 22-11-23
18 NMSA 1978 shall be reduced by:

19 (a) six-tenths percent for each
20 one-fourth, or portion thereof, year that retirement occurs
21 prior to the member attaining the age of sixty years but after
22 the member attains the age of fifty-five years; and

23 (b) one and eight-tenths percent for
24 each one-fourth, or portion thereof, year that retirement
25 occurs prior to the member attaining the age of fifty-five

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1 years;

2 (2) the benefit formula provided in this
3 subsection shall not apply to any member who was retired in any
4 of the four consecutive quarters ending on June 30, 1991
5 without having accumulated at least one year earned service
6 credit beginning on or after July 1, 1991; and

7 (3) a member shall be subject to the
8 provisions of Paragraph (1) of this subsection as they existed
9 at the beginning of the member's last cumulated four quarters
10 of earned service credit, regardless of later amendment.

11 H. Retirement benefits for a member [~~retired~~] who
12 retires pursuant to Section 22-11-23.1 NMSA 1978 shall be paid
13 monthly and shall be one-twelfth of a sum equal to two and
14 thirty-five hundredths percent of the member's average annual
15 salary multiplied by the number of years of the member's total
16 service credit; provided that:

17 (1) the benefit for a member [~~retiring~~] who
18 retires pursuant to Paragraph (3) of Subsection A of Section
19 22-11-23.1 NMSA 1978 shall be reduced by:

20 [~~(1)~~] (a) six-tenths [~~of one~~] percent
21 for each one-fourth, or portion thereof, year that retirement
22 occurs prior to the [~~member's sixty-fifth birthday~~] member
23 attaining the age of sixty-five years but after the [~~sixtieth~~
24 birthday] member attains the age of sixty years; and

25 [~~(2)~~] (b) one and eight-tenths percent

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1 for each one-fourth, or portion thereof, year that retirement
2 occurs prior to the [~~member's sixtieth birthday~~] member
3 attaining the age of sixty years; and

4 (2) a member shall be subject to the
5 provisions of Paragraph (1) of this subsection as they existed
6 at the beginning of the member's last cumulated four quarters
7 of earned service credit, regardless of later amendment.

8 I. Retirement benefits for a member who retires
9 pursuant to Section 22-11-23.2 NMSA 1978 shall be paid monthly
10 and shall be one-twelfth of a sum equal to two and thirty-five
11 hundredths percent of the member's average annual salary
12 multiplied by the number of years of the member's total service
13 credit; provided that:

14 (1) the benefit for a member retiring pursuant
15 to Paragraph (3) of Subsection A of Section 22-11-23.2 NMSA
16 1978 shall be reduced by:

17 (a) six-tenths percent for each
18 one-fourth, or portion thereof, year that retirement occurs
19 prior to the member attaining the age of sixty-five years but
20 after the member attains the age of sixty years; and

21 (b) one and eight-tenths percent for
22 each one-fourth, or portion thereof, year that retirement
23 occurs prior to the member attaining the age of sixty years;
24 and

25 (2) a member shall be subject to the

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1 provisions of Paragraph (1) of this subsection as they existed
2 at the beginning of the member's last cumulated four quarters
3 of earned service credit, regardless of later amendment.

4 [~~F.~~] J. A member's average annual salary, pursuant
5 to this section, shall be computed on the basis of the last
6 five years for which contribution was made or upon the basis of
7 any consecutive five years for which contribution was made by
8 the member, whichever is higher; provided, however, that lump-
9 sum payments made after July 1, 2010 of accrued sick leave or
10 annual leave shall be excluded from the calculation of salary.

11 [~~J.~~] K. Unless otherwise required by the provisions
12 of the Internal Revenue Code of 1986, members shall begin
13 receiving retirement benefits by age seventy years and six
14 months, or upon termination of employment, whichever occurs
15 later."

16 SECTION 7. Section 22-11-31 NMSA 1978 (being Laws 1979,
17 Chapter 333, Section 2, as amended) is amended to read:

18 "22-11-31. COST-OF-LIVING ADJUSTMENT--ELIGIBILITY--
19 ADDITIONAL CONTRIBUTIONS.--

20 A. For the purposes of this section:

21 (1) "adjustment factor" means a multiplicative
22 factor computed to provide an annuity adjustment pursuant to
23 the provisions of Subsection B of this section;

24 (2) "annuity" means any benefit payable under
25 the Educational Retirement Act or the Public Employees

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1 Retirement Reciprocity Act as a retirement benefit, disability
2 benefit or survivor benefit;

3 (3) "calendar year" means the full twelve
4 months beginning January 1 and ending December 31;

5 (4) "consumer price index" means the average
6 of the monthly consumer price indexes for a calendar year for
7 the entire United States for all items as published by the
8 United States department of labor;

9 (5) "next preceding calendar year" means the
10 full calendar year immediately prior to the preceding calendar
11 year; and

12 (6) "preceding calendar year" means the full
13 calendar year preceding the July 1 on which a benefit is to be
14 adjusted.

15 B. On or after July 1, 1984 [~~each annuity shall~~]:

16 (1) the annuity of a member who retires
17 pursuant to Subsection A of Section 22-11-23 NMSA 1978 or
18 Subsection A of Section 22-11-23.1 NMSA 1978 shall be adjusted
19 annually and cumulatively commencing on July 1 of the year in
20 which a member attains the age of sixty-five years or on July 1
21 following the year a member retires, whichever is later; and

22 (2) the annuity of a member who retires
23 pursuant to Subsection A of Section 22-11-23.2 NMSA 1978 shall
24 be adjusted annually and cumulatively commencing on July 1 of
25 the year in which the member attains the age of sixty-seven

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1 years or on July 1 following the year the member retires,
2 whichever is later.

3 C. The annuity adjustments provided for under
4 Subsection B of this section shall be adjusted by applying an
5 adjustment factor [~~that results in an adjustment equal to one-~~
6 ~~half of the percentage increase of the consumer price index~~
7 ~~between the next preceding calendar year and the preceding~~
8 ~~calendar year, except that the adjustment shall not exceed four~~
9 ~~percent, in absolute value, nor be less than two percent, in~~
10 ~~absolute value. In the event that the percentage increase of~~
11 ~~the consumer price index is less than two percent, in absolute~~
12 ~~value, the adjustment factor shall be the same as the~~
13 ~~percentage increase of the consumer price index. Annuities~~
14 ~~shall not be decreased in the event that there is a decrease in~~
15 ~~the consumer price index between the next preceding calendar~~
16 ~~year and the preceding calendar year] based on the percentage
17 increase of the consumer price index between the next preceding
18 calendar year and the preceding calendar year. The adjustment
19 factor shall be applied as follows:~~

20 (1) if the percentage increase of the consumer
21 price index is less than two percent in absolute value, the
22 adjustment factor shall be the same amount as the percentage
23 increase of the consumer price index;

24 (2) if the percentage increase of the consumer
25 price index is two percent or greater in absolute value, the

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1 adjustment factor shall be one-half of the percentage increase;
2 except that the adjustment shall not exceed four percent in
3 absolute value nor be less than two percent in absolute value;
4 and

5 (3) an annuity shall not be decreased if there
6 is a decrease in the consumer price index between the next
7 preceding calendar year and the preceding calendar year.

8 ~~[G.]~~ D. A retired member whose benefit is subject
9 to adjustment under the provisions of the Educational
10 Retirement Act in effect prior to July 1, 1984 shall have the
11 member's annuity readjusted annually and cumulatively under the
12 provisions of that act in effect prior to July 1, 1984 until
13 July 1 of the year in which the member attains the age of
14 sixty-five, when the member shall have the annuity readjusted
15 annually and cumulatively under the provisions of this section.

16 E. A member who ~~[retires]~~:

17 (1) retires pursuant to Subsection A of
18 Section 22-11-23 NMSA 1978 or Subsection A of Section
19 22-11-23.1 NMSA 1978 after attaining the age of sixty-five
20 years shall have the member's annuity adjusted annually and
21 cumulatively commencing on July 1 of the year following the
22 member's retirement; and

23 (2) retires pursuant to Subsection A of
24 Section 22-11-23.2 NMSA 1978 after attaining the age of
25 sixty-seven years shall have the member's annuity adjusted

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1 annually and cumulatively commencing on July 1 of the year
2 following the member's retirement.

3 ~~[D-]~~ F. A retired member who returns to work shall
4 be subject to the provisions of this section as they exist at
5 the time of the member's final retirement.

6 ~~[E-]~~ G. Benefits of a member who is on a disability
7 status in accordance with Section 22-11-35 NMSA 1978 or a
8 member who is certified by the board ~~[certifies was]~~ as
9 disabled at regular retirement shall be adjusted in accordance
10 with Subsections B, ~~[and]~~ C and D of this section, except that
11 the benefits shall be adjusted annually and cumulatively
12 commencing on July 1 of the third full year following the year
13 in which the member was approved by the board for disability or
14 retirement.

15 ~~[F-]~~ H. The board shall adjust the benefits of each
16 person receiving an annuity as of June 30, 1999. The
17 adjustment shall be made on July 1, 1999 on the basis of an
18 increase of two dollars (\$2.00) per month for each year since
19 the member's last retirement plus an increase of one dollar
20 (\$1.00) per month for each year of credited service at the time
21 of the last retirement."

22 **SECTION 8. EFFECTIVE DATE.**--The effective date of the
23 provisions of this act is July 1, 2013.

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HOUSE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

ENDORSED BY THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

RELATING TO PENSIONS; AMENDING THE JUDICIAL RETIREMENT ACT AND THE MAGISTRATE RETIREMENT ACT BY INCREASING EMPLOYER CONTRIBUTION RATES; INCREASING AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT; DECREASING THE PENSION MULTIPLIER FOR SERVICE CREDIT EARNED AFTER JUNE 30, 2013; DECREASING AND DELAYING THE COST-OF-LIVING ADJUSTMENT AND INCREASING THE MAXIMUM PENSION BENEFIT; MAKING AN APPROPRIATION.

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

SECTION 1. Section 10-12B-8 NMSA 1978 (being Laws 1992, Chapter 111, Section 8, as amended) is amended to read:

"10-12B-8. AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL RETIREMENT.--

A. For an individual who initially became a member prior to July 1, 2005, the age and service credit requirements

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1 for retirement provided for in the Judicial Retirement Act are:

2 (1) age [~~sixty-four~~] sixty-five years or older
3 and five or more years of service credit; or

4 (2) age sixty years or older and fifteen or
5 more years of service credit.

6 B. For an individual who initially became a member
7 on or after July 1, 2005, the age and service credit
8 requirements for retirement provided for in the Judicial
9 Retirement Act are:

10 (1) age [~~sixty-four~~] sixty-five years or older
11 and five or more years of service credit; or

12 (2) age [~~fifty-five~~] sixty years or older and
13 [~~sixteen~~] fifteen or more years of service credit.

14 C. If a member leaves office for any reason, other
15 than removal pursuant to Article 6, Section 32 of the
16 constitution of New Mexico, before meeting the age and service
17 credit requirements for retirement pursuant to the provisions
18 of this section and if that member leaves [~~his~~] the member
19 contributions on deposit in the fund, that member may apply for
20 retirement when that member meets the age and service credit
21 requirements for retirement pursuant to the provisions of the
22 Judicial Retirement Act or provisions of the Public Employees
23 Retirement Reciprocity Act.

24 D. No member shall be eligible to receive a pension
25 pursuant to the provisions of the Judicial Retirement Act while

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1 still in office."

2 SECTION 2. Section 10-12B-9 NMSA 1978 (being Laws 1992,
3 Chapter 111, Section 9, as amended) is amended to read:

4 "10-12B-9. AMOUNT OF PENSION.--The amount of monthly
5 pension is equal to:

6 A. in the case of a former or current judge or
7 justice, an amount equal to one-twelfth of:
8 seventy-five percent
9 of salary received X number of years of
10 during last year in service, not exceeding
11 office prior to ten years, divided
12 retirement by ten;

13 B. in the case of a new judge or justice who
14 initially became a member prior to July 1, 2005:

15 (1) for service credit earned on or before
16 June 30, 2013, an amount equal to one-twelfth of:

17 seventy-five (number of years of
18 percent of salary service, not
19 received during X .05 X exceeding fifteen
20 last year in office years, plus five
21 prior to retirement years); ~~or~~ and

22 (2) for service credit earned on and after
23 July 1, 2013, an amount equal to one-twelfth of the salary
24 received during the last year in office prior to retirement
25 multiplied by the product of three and one-half percent times

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1 the sum of the number of years of service; provided that a
2 pension calculated pursuant to this subsection shall not exceed
3 eighty-five percent of one-twelfth of the salary received
4 during the last year in office; or

5 C. in the case of a new judge or justice who
6 initially became a member on or after July 1, 2005:

7 (1) for service credit earned on or before
8 June 30, 2013, an amount equal to one-twelfth of the salary
9 received during the last year in office prior to retirement
10 multiplied by the product of three and seventy-five hundredths
11 percent times the sum of the number of years of service;
12 provided that a pension calculated pursuant to this subsection
13 shall not exceed seventy-five percent of one-twelfth of the
14 salary received during the last year in office; and

15 (2) for service credit earned on and after
16 July 1, 2013, an amount equal to one-twelfth of the salary
17 received during the last year in office prior to retirement
18 multiplied by the product of three and one-half percent times
19 the sum of the number of years of service; provided that a
20 pension calculated pursuant to this subsection shall not exceed
21 eighty-five percent of one-twelfth of the salary received
22 during the last year in office."

23 SECTION 3. Section 10-12B-10 NMSA 1978 (being Laws 1992,
24 Chapter 111, Section 10, as amended) is amended to read:

25 "10-12B-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

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1 A. On and after July 1, 2013, members, while in
2 office, shall contribute nine percent of salary to the member
3 contribution fund [~~pursuant to the following schedule:~~

4 ~~(1) prior to July 1, 2005, five and one-half~~
5 ~~percent of salary;~~

6 ~~(2) from July 1, 2005 through June 30, 2006,~~
7 ~~six and one-half percent of salary; and~~

8 ~~(3) on and after July 1, 2006, seven and one-~~
9 ~~half percent of salary, except that for members whose annual~~
10 ~~salary is greater than twenty thousand dollars (\$20,000):~~

11 ~~(a) from July 1, 2009 through June 30,~~
12 ~~2011, the member contribution rate shall be nine percent of~~
13 ~~salary;~~

14 ~~(b) from July 1, 2011 through June 30,~~
15 ~~2012, the member contribution rate shall be ten and three-~~
16 ~~fourths percent of salary; and~~

17 ~~(c) from July 1, 2012 through June 30,~~
18 ~~2013, the member contribution rate shall be nine percent of~~
19 ~~salary].~~

20 B. Upon implementation, the state, acting as
21 employer of members covered pursuant to the provisions of the
22 Judicial Retirement Act, shall, solely for the purpose of
23 compliance with Section 414(h) of the Internal Revenue Code of
24 1986, pick up for the purposes specified in that section member
25 contributions required by this section for all annual salary

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1 earned by the member. Member contributions picked up pursuant
2 to the provisions of this section shall be treated as employer
3 contributions for purposes of determining income tax
4 obligations under the Internal Revenue Code of 1986; however,
5 such picked-up member contributions shall be included in the
6 determination of the member's gross annual salary for all other
7 purposes under federal and state laws. Member contributions
8 picked up pursuant to the provisions of this section shall
9 continue to be designated member contributions for all purposes
10 of the Judicial Retirement Act and shall be considered as part
11 of the member's annual salary for purposes of determining the
12 amount of the member's contribution. The provisions of this
13 section are mandatory, and the member shall have no option
14 concerning the pickup or concerning the receipt of the
15 contributed amounts directly instead of having the amounts paid
16 by the employer to the retirement system. Implementation
17 occurs upon authorization by the board. In no event may
18 implementation occur other than at the beginning of a pay
19 period applicable to the member."

20 SECTION 4. Section 10-12B-11 NMSA 1978 (being Laws 1992,
21 Chapter 111, Section 11, as amended) is amended to read:

22 "10-12B-11. EMPLOYER CONTRIBUTIONS.--

23 A. On and after July 1, 2013, the member's court
24 shall contribute [~~the following amounts~~] fifteen percent of
25 salary for each member in office to the fund

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1 ~~[(1) prior to July 1, 2005, nine percent of~~
2 ~~salary for each member in office;~~

3 ~~(2) from July 1, 2005 through June 30, 2006,~~
4 ~~ten and one-half percent of salary for each member in office;~~
5 ~~and~~

6 ~~(3) on and after July 1, 2006, twelve percent~~
7 ~~of salary for each member in office, except that for members~~
8 ~~whose annual salary is greater than twenty thousand dollars~~
9 ~~(\$20,000):~~

10 ~~(a) from July 1, 2009 through June 30,~~
11 ~~2011, the member's court contribution rate shall be ten and~~
12 ~~one-half percent of salary for each member in office;~~

13 ~~(b) from July 1, 2011 through June 30,~~
14 ~~2012, the member's court contribution rate shall be eight and~~
15 ~~three-fourths percent of salary for each member in office; and~~

16 ~~(c) from July 1, 2012 through June 30,~~
17 ~~2013, the member's court contribution rate shall be ten and~~
18 ~~one-half percent of salary for each member in office].~~

19 B. Thirty-eight dollars (\$38.00) from each civil
20 case docket fee paid in the district court, twenty-five dollars
21 (\$25.00) from each civil docket fee paid in metropolitan court
22 and ten dollars (\$10.00) from each jury fee paid in
23 metropolitan court shall be paid by the court clerk to the
24 employer's accumulation fund."

25 SECTION 5. Section 10-12B-15 NMSA 1978 (being Laws 1992,
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1 Chapter 111, Section 15) is amended to read:

2 "10-12B-15. COST-OF-LIVING ADJUSTMENT.-- ~~[A yearly cost-~~
3 ~~of living adjustment shall be made to each pension]~~

4 A. A qualified pension recipient is eligible for a
5 cost-of-living adjustment payable pursuant to the provisions of
6 the Judicial Retirement Act [as provided in the Public
7 Employees Retirement Act] as follows:

8 (1) beginning July 1, 2013 and continuing
9 through June 30, 2015, there shall not be a cost-of-living
10 adjustment applied to a pension payable pursuant to the
11 Judicial Retirement Act; and

12 (2) beginning on May 1, 2015 and no later than
13 each May 1 thereafter, the board shall certify to the
14 association the actuarial funded ratio of the fund as of June
15 30 of the preceding calendar year. On each July 1 following
16 the board's certification of the funded ratio, the
17 cost-of-living adjustment, if any, applied to a pension payable
18 pursuant to the Judicial Retirement Act shall be determined as
19 follows:

20 (a) if the funded ratio of the fund, as
21 certified by the board pursuant to this subsection, is greater
22 than or equal to seventy percent, the amount of pension payable
23 shall be increased two percent. The amount of the increase
24 applied pursuant to this subparagraph shall be determined by
25 multiplying the amount of the pension inclusive of all prior

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1 adjustments by two percent; and

2 (b) if the funded ratio of the fund, as
3 certified by the board pursuant to this subsection, is less
4 than seventy percent, the amount of pension payable shall not
5 include a cost-of-living increase.

6 B. Pursuant to the Judicial Retirement Act, a
7 qualified pension recipient is:

8 (1) a normal retired member who:

9 (a) retires before June 30, 2014 and has
10 been retired for at least two full calendar years from the
11 effective date of the latest retirement prior to July 1 of the
12 year in which the pension is being adjusted;

13 (b) retires between July 1, 2014 and
14 June 30, 2015 and has been retired for at least three full
15 calendar years from the effective date of the latest retirement
16 prior to July 1 of the year in which the pension is being
17 adjusted;

18 (c) retires between July 1, 2015 and
19 June 30, 2016 and has been retired for at least four full
20 calendar years from the effective date of the latest retirement
21 prior to July 1 of the year in which the pension is being
22 adjusted; or

23 (d) retires after July 1, 2016 and has
24 been retired for at least seven full calendar years from the
25 effective date of the latest retirement prior to July 1 of the

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1 year in which the pension is being adjusted;

2 (2) a normal retired member who is at least
3 sixty-five years of age and has been retired for at least one
4 full calendar year from the effective date of the latest
5 retirement prior to July 1 of the year in which the pension is
6 being adjusted;

7 (3) a disability retired member who has been
8 retired for at least one full calendar year from the effective
9 date of the latest retirement prior to July 1 of the year in
10 which the pension is being adjusted;

11 (4) a survivor beneficiary who has received a
12 survivor pension for at least two full calendar years; or

13 (5) a survivor beneficiary of a deceased
14 retired member who otherwise would have been retired at least
15 two full calendar years from the effective date of the latest
16 retirement prior to July 1 of the year in which the pension is
17 being adjusted.

18 C. A qualified pension recipient may decline an
19 increase in a pension by giving the association written notice
20 of the decision to decline the increase at least thirty days
21 prior to the date the increase would take effect."

22 SECTION 6. Section 10-12C-8 NMSA 1978 (being Laws 1992,
23 Chapter 118, Section 8) is amended to read:

24 "10-12C-8. AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL
25 RETIREMENT.--

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1 A. On and after July 1, 2013, the age and service
2 credit requirements for retirement provided for in the
3 Magistrate Retirement Act are:

4 (1) age [~~sixty-four~~] sixty-five years or older
5 and five or more years of service credit;

6 (2) age sixty years or older and fifteen or
7 more years of service credit; or

8 (3) any age and twenty-four or more years of
9 service credit.

10 B. If a member leaves office for any reason, other
11 than removal pursuant to Article 6, Section 32 of the
12 constitution of New Mexico before meeting the age and service
13 credit requirements for retirement pursuant to the provisions
14 of this section and if that member leaves [~~his~~] the member
15 contributions on deposit in the fund, that member may apply for
16 retirement when that member meets the age and service credit
17 requirements for retirement pursuant to the provisions of the
18 Magistrate Retirement Act or provisions of the Public Employees
19 Retirement Reciprocity Act [~~if enacted by the second session of~~
20 ~~the fortieth legislature of the state of New Mexico~~].

21 C. No member shall be eligible to receive a pension
22 pursuant to the provisions of the Magistrate Retirement Act
23 while still in office."

24 SECTION 7. Section 10-12C-9 NMSA 1978 (being Laws 1992,
25 Chapter 118, Section 9) is amended to read:

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1 "10-12C-9. AMOUNT OF PENSION.--

2 A. For service credit earned on or before June 30,
3 2013, the amount of pension is equal to one-twelfth of:
4 seventy-five percent
5 of salary received (number of years of
6 during last year in X .05 X service, not exceeding
7 office prior to fifteen years, [+]
8 retirement plus five years).

9 B. For service credit earned on and after July 1,
10 2013, the amount of pension is equal to one-twelfth of the
11 salary received during the last year in office prior to
12 retirement multiplied by the product of three and one-half
13 percent times the sum of the number of years of service;
14 provided that a pension calculated pursuant to this subsection
15 shall not exceed eighty-five percent of one-twelfth of the
16 salary received during the last year in office."

17 SECTION 8. Section 10-12C-10 NMSA 1978 (being Laws 1992,
18 Chapter 118, Section 10, as amended) is amended to read:

19 "10-12C-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

20 A. Members, while in office, shall contribute [~~the~~
21 ~~following amounts~~] nine percent of salary to the member
22 contribution fund

23 [~~(1) through June 30, 2006, six and one-half~~
24 ~~percent of salary; and~~

25 [~~(2) on and after July 1, 2006, seven and one-~~

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1 ~~half percent of salary, except that for members whose annual~~
2 ~~salary is greater than twenty thousand dollars (\$20,000):~~

3 ~~(a) from July 1, 2009 through June 30,~~
4 ~~2011, the member contribution rate shall be nine percent of~~
5 ~~salary;~~

6 ~~(b) from July 1, 2011 through June 30,~~
7 ~~2012, the member contribution rate shall be ten and three-~~
8 ~~fourths percent of salary; and~~

9 ~~(c) from July 1, 2012 through June 30,~~
10 ~~2013, the member contribution rate shall be nine percent of~~
11 ~~salary].~~

12 B. Upon implementation, the state, acting as
13 employer of members covered pursuant to the provisions of the
14 Magistrate Retirement Act, shall, solely for the purpose of
15 compliance with Section 414(h) of the Internal Revenue Code of
16 1986, pick up for the purposes specified in that section member
17 contributions required by this section for all annual salary
18 earned by the member. Member contributions picked up pursuant
19 to the provisions of this section shall be treated as employer
20 contributions for purposes of determining income tax
21 obligations under the Internal Revenue Code of 1986; however,
22 such picked-up member contributions shall be included in the
23 determination of the member's gross annual salary for all other
24 purposes under federal and state laws. Member contributions
25 picked up pursuant to the provisions of this section shall

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1 continue to be designated member contributions for all purposes
2 of the Magistrate Retirement Act and shall be considered as
3 part of the member's annual salary for purposes of determining
4 the amount of the member's contribution. The provisions of
5 this section are mandatory, and the member shall have no option
6 concerning the pick up or concerning the receipt of the
7 contributed amounts directly instead of having the amounts paid
8 by the employer to the retirement system. Implementation
9 occurs upon authorization by the board. In no event may
10 implementation occur other than at the beginning of a pay
11 period applicable to the member."

12 SECTION 9. Section 10-12C-11 NMSA 1978 (being Laws 1992,
13 Chapter 118, Section 11, as amended) is amended to read:

14 "10-12C-11. EMPLOYER CONTRIBUTIONS.--

15 A. The state, through the administrative office of
16 the courts, shall contribute ~~[the following amounts]~~ fifteen
17 percent of salary for each member in office to the fund

18 ~~[(1) through June 30, 2006, ten percent of~~
19 ~~salary for each member in office; and~~

20 ~~(2) on and after July 1, 2006, eleven percent~~
21 ~~of salary for each member in office, except that for members~~
22 ~~whose annual salary is greater than twenty thousand dollars~~
23 ~~(\$20,000):~~

24 ~~(a) from July 1, 2009 through June 30,~~
25 ~~2011, the state contribution rate shall be nine and one-half~~

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1 ~~percent of salary for each member in office;~~

2 ~~(b) from July 1, 2011 through June 30,~~
3 ~~2012, the state contribution rate shall be seven and three-~~
4 ~~fourths percent of salary for each member in office; and~~

5 ~~(c) from July 1, 2012 through June 30,~~
6 ~~2013, the state contribution rate shall be nine and one-half~~
7 ~~percent of salary for each member in office].~~

8 B. Twenty-five dollars (\$25.00) from each civil
9 case docket fee paid in magistrate court and ten dollars
10 (\$10.00) from each civil jury fee paid in magistrate court
11 shall be paid by the court clerk to the employer's accumulation
12 fund."

13 SECTION 10. Section 10-12C-14 NMSA 1978 (being Laws 1992,
14 Chapter 118, Section 14) is amended to read:

15 "10-12C-14. COST-OF-LIVING ADJUSTMENT.--~~[A yearly~~
16 ~~cost-of-living adjustment shall be made to each pension]~~

17 A. A qualified pension recipient is eligible for a
18 cost-of-living adjustment payable pursuant to the provisions of
19 the Magistrate Retirement Act [as provided in the Public
20 Employees Retirement Act] as follows:

21 (1) beginning July 1, 2013 and continuing
22 through June 30, 2015, there shall not be a cost-of-living
23 adjustment applied to a pension payable pursuant to the
24 Magistrate Retirement Act; and

25 (2) beginning on May 1, 2015 and no later than

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1 each May 1 thereafter, the board shall certify to the
2 association the actuarial funded ratio of the fund as of
3 January 31 of the calendar year in which the board certifies
4 the funded ratio. On each July 1 following the board's
5 certification of the funded ratio, the cost-of-living
6 adjustment, if any, applied to a pension payable pursuant to
7 the Magistrate Retirement Act shall be determined as follows:

8 (a) if the funded ratio of the fund, as
9 certified by the board pursuant to this subsection, is greater
10 than or equal to seventy percent, the amount of pension payable
11 shall be increased two percent. The amount of the increase
12 applied pursuant to this subparagraph shall be determined by
13 multiplying the amount of the pension inclusive of all prior
14 adjustments by two percent; and

15 (b) if the funded ratio of the fund, as
16 certified by the board pursuant to this subsection, is less
17 than seventy percent, the amount of pension payable shall not
18 include a cost-of-living increase.

19 B. Pursuant to the Magistrate Retirement Act, a
20 qualified pension recipient is:

21 (1) a normal retired member who:

22 (a) retires on or before June 30, 2014
23 and has been retired for at least two full calendar years from
24 the effective date of the latest retirement prior to July 1 of
25 the year in which the pension is being adjusted;

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1 (b) retires between July 1, 2014 and
2 June 30, 2015 and has been retired for at least three full
3 calendar years from the effective date of the latest retirement
4 prior to July 1 of the year in which the pension is being
5 adjusted;

6 (c) retires between July 1, 2015 and
7 June 30, 2016 and has been retired for at least four full
8 calendar years from the effective date of the latest retirement
9 prior to July 1 of the year in which the pension is being
10 adjusted; or

11 (d) retires after July 1, 2016 and has
12 been retired for at least seven full calendar years from the
13 effective date of the latest retirement prior to July 1 of the
14 year in which the pension is being adjusted;

15 (2) a normal retired member who is at least
16 sixty-five years of age and has been retired for at least one
17 full calendar year from the effective date of the latest
18 retirement prior to July 1 of the year in which the pension is
19 being adjusted;

20 (3) a disability retired member who has been
21 retired for at least one full calendar year from the effective
22 date of the latest retirement prior to July 1 of the year in
23 which the pension is being adjusted;

24 (4) a survivor beneficiary who has received a
25 survivor pension for at least two full calendar years; or

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1 (5) a survivor beneficiary of a deceased
2 retired member who otherwise would have been retired at least
3 two full calendar years from the effective date of the latest
4 retirement prior to July 1 of the year in which the pension is
5 being adjusted.

6 C. A qualified pension recipient may decline an
7 increase in a pension by giving the association written notice
8 of the decision to decline the increase at least thirty days
9 prior to the date the increase would take effect."

10 **SECTION 11. APPROPRIATION.--**

11 A. Fifteen million dollars (\$15,000,000) is
12 appropriated from the general fund for expenditure in fiscal
13 year 2014 and subsequent fiscal years to improve the funded
14 ratios of the judicial retirement fund and the magistrate
15 retirement fund as follows:

16 (1) eleven million dollars (\$11,000,000) to
17 the judicial retirement fund; and

18 (2) four million dollars (\$4,000,000) to the
19 magistrate retirement fund.

20 B. Any unexpended or unencumbered balance remaining
21 at the end of a fiscal year shall not revert to the general
22 fund.

23 **SECTION 12. EFFECTIVE DATE.--**The effective date of the
24 provisions of this act is July 1, 2013.

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

ENDORSED BY THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

RELATING TO HEALTH CARE; AMENDING THE RETIREE HEALTH CARE ACT
BY INCREASING THE EMPLOYER AND EMPLOYEE CONTRIBUTION RATES PAID
TO THE RETIREE HEALTH CARE FUND; RECONCILING MULTIPLE
AMENDMENTS TO THE SAME SECTION OF LAW BY REPEALING LAWS 2009,
CHAPTER 287, SECTION 2.

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

SECTION 1. Section 10-7C-15 NMSA 1978 (being Laws 1990,
Chapter 6, Section 15, as amended by Laws 2009, Chapter 287,
Section 2 and by Laws 2009, Chapter 288, Section 3) is amended
to read:

"10-7C-15. RETIREE HEALTH CARE FUND CONTRIBUTIONS.--

A. Following completion of the preliminary
contribution period, each participating employer shall make
contributions to the fund pursuant to the following provisions:

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1 (1) for participating employees who are not
2 members of an enhanced retirement plan, the employer's
3 contribution shall equal:

4 (a) one and three-tenths percent of each
5 participating employee's salary for the period from July 1,
6 2002 through June 30, 2010;

7 (b) one and six hundred sixty-six
8 thousandths percent of each participating employee's salary for
9 the period from July 1, 2010 through June 30, 2011;

10 (c) one and eight hundred thirty-four
11 thousandths percent of each participating employee's salary for
12 the period from July 1, 2011 through June 30, 2012; ~~and~~

13 (d) two percent of each participating
14 employee's salary ~~[beginning]~~ from July 1, 2012 through June
15 30, 2013;

16 (e) two and twenty-five hundredths
17 percent of each participating employee's salary from July 1,
18 2013 through June 30, 2014;

19 (f) two and one-half percent of each
20 participating employee's salary from July 1, 2014 through June
21 30, 2015;

22 (g) two and seventy-five hundredths
23 percent of each participating employee's salary from July 1,
24 2015 through June 30, 2016;

25 (h) three percent of each participating

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1 employee's salary from July 1, 2016 through June 30, 2017;

2 (i) three and twenty-five hundredths
3 percent of each participating employee's salary from July 1,
4 2017 through June 30, 2018; and

5 (j) three and one-half percent of each
6 participating employee's salary beginning July 1, 2018;

7 (2) for participating employees who are
8 members of an enhanced retirement plan, the employer's
9 contribution shall equal:

10 (a) one and three-tenths percent of each
11 participating employee's salary for the period from July 1,
12 2002 through June 30, 2010;

13 (b) two and eighty-four thousandths
14 percent of each participating employee's salary for the period
15 from July 1, 2010 through June 30, 2011;

16 (c) two and two hundred ninety-two
17 thousandths percent of each participating employee's salary for
18 the period from July 1, 2011 through June 30, 2012; ~~[and]~~

19 (d) two and one-half percent of each
20 participating employee's salary ~~[beginning July 1, 2012; and]~~
21 from July 1, 2012 through June 30, 2013;

22 (e) two and eighty-one hundredths
23 percent of each participating employee's salary from July 1,
24 2013 through June 30, 2014;

25 (f) three and thirteen-hundredths

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1 percent of each participating employee's salary from July 1,
2 2014 through June 30, 2015;

3 (g) three and forty-four hundredths
4 percent of each participating employee's salary from July 1,
5 2015 through June 30, 2016;

6 (h) three and seventy-five hundredths
7 percent of each participating employee's salary from July 1,
8 2016 through June 30, 2017;

9 (i) four and six-hundredths percent of
10 each participating employee's salary from July 1, 2017 through
11 June 30, 2018; and

12 (j) four and thirty-eight hundredths
13 percent of each participating employee's salary beginning July
14 1, 2018; and

15 (3) each employer that chooses to become a
16 participating employer after January 1, 1998 shall make
17 contributions to the fund in the amount determined to be
18 appropriate by the board.

19 B. Following completion of the preliminary
20 contribution period, each participating employee, as a
21 condition of employment, shall contribute to the fund pursuant
22 to the following provisions:

23 (1) for a participating employee who is not a
24 member of an enhanced retirement plan, the employee's
25 contribution shall equal:

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1 (a) sixty-five hundredths of one percent
2 of the employee's salary for the period from July 1, 2002
3 through June 30, 2010;

4 (b) eight hundred thirty-three
5 thousandths of one percent of the employee's salary for the
6 period from July 1, 2010 through June 30, 2011;

7 (c) nine hundred seventeen thousandths
8 of one percent of the employee's salary for the period from
9 July 1, 2011 through June 30, 2012; ~~and~~

10 (d) one percent of the employee's salary
11 ~~[beginning]~~ from July 1, 2012 through June 30, 2014;

12 (e) one and one-fourth percent of the
13 employee's salary from July 1, 2014 through June 30, 2015;

14 (f) one and one-half percent of the
15 employee's salary from July 1, 2015 through June 30, 2016; and

16 (g) one and three-fourths percent of the
17 employee's salary beginning July 1, 2016;

18 (2) for a participating employee who is a
19 member of an enhanced retirement plan, the employee's
20 contribution shall equal:

21 (a) sixty-five hundredths of one percent
22 of the employee's salary for the period from July 1, 2002
23 through June 30, 2010;

24 (b) one and forty-two thousandths
25 percent of the employee's salary for the period from July 1,

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1 2010 through June 30, 2011;

2 (c) one and one hundred forty-six
3 thousandths percent of the employee's salary from July 1, 2011
4 through June 30, 2012; ~~[and]~~

5 (d) one and one-fourth percent of the
6 employee's salary ~~[beginning July 1, 2012; and]~~ from July 1,
7 2012 through June 30, 2014;

8 (e) one and fifty-six hundredths percent
9 of the employee's salary from July 1, 2014 through June 30,
10 2015;

11 (f) one and eighty-eight hundredths
12 percent of the employee's salary from July 1, 2015 through June
13 30, 2016; and

14 (g) two and nineteen-hundredths percent
15 of the employee's salary beginning July 1, 2016; and

16 (3) as a condition of employment, each
17 participating employee of an employer that chooses to become a
18 participating employer after January 1, 1998 shall contribute
19 to the fund an amount that is determined to be appropriate by
20 the board. Each month, participating employers shall deduct
21 the contribution from the participating employee's salary and
22 shall remit it to the board as provided by any procedures that
23 the board may require.

24 C. On or after July 1, 2009, no person who has
25 obtained service credit pursuant to Subsection B of Section

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1 10-11-6 NMSA 1978, Section 10-11-7 NMSA 1978 or Paragraph (3)
2 or (4) of Subsection A of Section 22-11-34 NMSA 1978 may enroll
3 with the authority unless the person makes a contribution to
4 the fund equal to the full actuarial present value of the
5 amount of the increase in the person's health care benefit, as
6 determined by the authority.

7 D. Except for contributions made pursuant to
8 Subsection C of this section, a participating employer that
9 fails to remit before the tenth day after the last day of the
10 month all employer and employee deposits required by the
11 Retiree Health Care Act to be remitted by the employer for the
12 month shall pay to the fund, in addition to the deposits,
13 interest on the unpaid amounts at the rate of six percent per
14 year compounded monthly.

15 E. Except for contributions made pursuant to
16 Subsection C of this section, the employer and employee
17 contributions shall be paid in monthly installments based on
18 the percent of payroll certified by the employer.

19 F. Except in the case of erroneously made
20 contributions or as may be otherwise provided in Subsection D
21 of Section 10-7C-9 NMSA 1978, contributions from participating
22 employers and participating employees shall become the property
23 of the fund on receipt by the board and shall not be refunded
24 under any circumstances, including termination of employment or
25 termination of the participating employer's operation or

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1 participation in the Retiree Health Care Act.

2 G. Notwithstanding any other provision in the
3 Retiree Health Care Act and at the first session of the
4 legislature following July 1, 2013, the legislature shall
5 review and adjust the distributions pursuant to Section 7-1-6.1
6 NMSA 1978 and the employer and employee contributions to the
7 authority in order to ensure the actuarial soundness of the
8 benefits provided under the Retiree Health Care Act.

9 H. As used in this section, "member of an enhanced
10 retirement plan" means:

11 (1) a member of the public employees
12 retirement association who, pursuant to the Public Employees
13 Retirement Act, is included in:

14 (a) state police member and adult
15 correctional officer member coverage plan 1;

16 (b) municipal police member coverage
17 plan 3, 4 or 5;

18 (c) municipal fire member coverage plan
19 3, 4 or 5; or

20 (d) municipal detention officer member
21 coverage plan 1; or

22 (2) a member pursuant to the provisions of the
23 Judicial Retirement Act."

24 SECTION 2. REPEAL.--Laws 2009, Chapter 287, Section 2 is
25 repealed.

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SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

FOR THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

RELATING TO PUBLIC FINANCES; CHANGING THE MEMBERSHIP, POWERS
AND DUTIES OF THE STATE INVESTMENT COUNCIL; PROVIDING
ELIGIBILITY REQUIREMENTS FOR CERTAIN MEMBERS; CHANGING MEETING
FREQUENCY AND NOTICE REQUIREMENTS; PROVIDING FOR THE ELECTION
OF THE CHAIR AND VICE CHAIR OF THE COUNCIL; EXTENDING REPORTING
DEADLINES; AUTHORIZING THE COUNCIL TO INVEST FUNDS FOR THE
SMALL BUSINESS INVESTMENT CORPORATION.

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

SECTION 1. Section 6-8-2 NMSA 1978 (being Laws 1957,
Chapter 179, Section 2, as amended) is amended to read:

"6-8-2. STATE INVESTMENT COUNCIL.--

A. There is created a "state investment council".

The council shall be composed of:

(1) the ~~governor~~ secretary;

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1 (2) a member appointed by the state treasurer
2 with the advice and consent of the senate;

3 (3) a member appointed by the commissioner of
4 public lands with the advice and consent of the senate;

5 ~~[(4) the secretary;~~

6 ~~(5) the chief financial officer of a state~~
7 ~~institution of higher education appointed by the governor with~~
8 ~~the advice and consent of the senate;~~

9 ~~(6) four members appointed by the New Mexico~~
10 ~~legislative council with the advice and consent of the senate;~~
11 ~~provided that no more than two members shall be members of the~~
12 ~~same political party;]~~

13 (4) one public member appointed by the
14 president pro tempore of the senate with the advice and consent
15 of the senate;

16 (5) one public member appointed by the
17 minority floor leader of the senate with the advice and consent
18 of the senate;

19 (6) one public member appointed by the speaker
20 of the house of representatives with the advice and consent of
21 the senate;

22 (7) one public member appointed by the
23 minority floor leader of the house of representatives with the
24 advice and consent of the senate; and

25 ~~[(7) two]~~ (8) four members appointed by the

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1 governor with the advice and consent of the senate; provided
2 that no more than two members shall be members of the same
3 political party.

4 B. The chair [~~of the council shall be the governor~~]
5 and the vice chair of the council shall be selected by the
6 council from among the members appointed pursuant to Paragraphs
7 (2) through (8) of Subsection A of this section for terms of
8 two years; provided that the chair and the vice chair shall
9 serve staggered terms and shall serve no more than two
10 consecutive terms and the vice chair elected in 2012 shall
11 serve a one-year term to allow for staggered terms.

12 C. All actions of the council shall be by majority
13 vote, and a majority of the members shall constitute a quorum.

14 [~~G.~~] D. Members of the council appointed pursuant
15 to Paragraphs [~~(6) and (7)~~] (2) through (8) of Subsection A of
16 this section [~~shall be reimbursed~~] are entitled to receive per
17 diem and mileage pursuant to the provisions of the Per Diem and
18 Mileage Act."

19 SECTION 2. Section 6-8-3 NMSA 1978 (being Laws 1957,
20 Chapter 179, Section 3, as amended) is amended to read:

21 "6-8-3. COUNCIL TERMS AND QUALIFICATIONS.--

22 A. Members of the council appointed pursuant to
23 Paragraphs [~~(6) and (7)~~] (2) through (8) of Subsection A of
24 Section 6-8-2 NMSA 1978 [~~with the advice and consent of the~~
25 ~~senate~~] shall serve for staggered terms of five years. Members

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1 of the council shall serve until their successors are appointed
2 and have qualified.

3 B. The members of the council appointed pursuant to
4 Paragraphs [~~(6) and (7)~~] (2) through (8) of Subsection A of
5 Section 6-8-2 NMSA 1978 shall:

6 (1) be qualified by competence and no less
7 than ten [~~years~~] years' experience in the field of investment
8 [~~or finance~~] management, investment accounting, investment risk
9 management or governance in public or private entities;

10 (2) be citizens of the United States and
11 residents of New Mexico; and

12 (3) not be eligible for membership on the
13 council if convicted of a felony or of a misdemeanor involving
14 moral turpitude.

15 C. A member of the council shall not have had any
16 contracts to do business with the state investment council, the
17 investment office, the office of the state treasurer, the
18 educational retirement board, the public employees retirement
19 association, the New Mexico finance authority or the state
20 board of finance for a period of two calendar years prior to
21 the person's appointment to the council and shall not enter
22 into any contracts to do business with any of the named state
23 agencies or instrumentalities for a period of two calendar
24 years after the end of the term for which the member was
25 appointed. Members of the council and officers and employees

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1 of the council shall be governed by the provisions of the
2 Governmental Conduct Act. Nothing in this section or in the
3 Governmental Conduct Act shall be construed as prohibiting an
4 officer of a financial institution from participating as a
5 member of the council in setting general policies of the
6 council, nor shall any provision of the Governmental Conduct
7 Act prohibit the council or the state treasurer from depositing
8 funds under the jurisdiction of the council in any financial
9 institution. A council member shall not hold an office or
10 employment in a political party.

11 ~~[G. The member appointed pursuant to Paragraph (5)~~
12 ~~of Subsection A of Section 6-8-2 NMSA 1978 shall serve at the~~
13 ~~pleasure of the governor.]~~

14 D. A member of the council appointed pursuant to
15 Paragraphs ~~[(6) and (7)]~~ (2) through (8) of Subsection A of
16 Section 6-8-2 NMSA 1978 may be removed from the council by the
17 appointing person or entity, for failure to attend three
18 consecutive meetings or other cause, in the manner provided for
19 removal of members of boards of regents under Article 12,
20 Section 13 of the constitution of New Mexico. A vacancy in the
21 membership of the council occurring other than by expiration of
22 term shall be filled in the same manner as the original
23 appointment but for the unexpired term only."

24 **SECTION 3.** Section 6-8-4 NMSA 1978 (being Laws 1957,
25 Chapter 179, Section 4, as amended) is amended to read:

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1 "6-8-4. INVESTMENT OFFICE--STATE INVESTMENT OFFICER--
2 TERMS.--

3 A. There is established an "investment office".
4 The chief administrative officer of the office shall be known
5 as the "state investment officer".

6 B. The state investment officer shall be appointed
7 by the council with the advice and consent of the senate. The
8 state investment officer shall devote the officer's entire time
9 and attention to the duties of that office and shall not engage
10 in any other occupation or profession or hold any other public
11 office, appointive or elective. The state investment officer
12 shall be a person qualified, by training and investment
13 experience, to direct the work of the investment office and
14 shall have had at least five years' professional experience as
15 an investment officer. The state investment officer shall
16 receive a salary to be determined by the [~~state investment~~]
17 council [~~but in no case less than fifty thousand dollars~~
18 ~~(\$50,000) annually~~].

19 C. The state investment officer shall serve for an
20 initial term of two years beginning July 1, 1981 and thereafter
21 for terms of four years. The state investment officer may be
22 removed from office by the council for cause."

23 SECTION 4. Section 6-8-5 NMSA 1978 (being Laws 1957,
24 Chapter 179, Section 5, as amended) is amended to read:

25 "6-8-5. BOND--STAFF--BUDGET.--

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1 A. Before the state investment officer or other
2 responsible employee of the investment office enters upon [~~his~~]
3 the officer's or employee's duties, the secretary shall require
4 an individual bond or include the state investment officer and
5 other responsible employees under a blanket bond for an amount
6 and for a coverage deemed best to protect the state's interest.
7 The bond premiums shall be paid by the state.

8 B. The state investment officer shall annually
9 prepare a budget for administering and investing all funds
10 managed by the investment office, which shall be reviewed by
11 the council. Any funds provided for the operating budget of
12 the investment office shall be appropriated from the assets of
13 the land grant permanent funds, the severance tax permanent
14 fund, funds available for investment pursuant to Subsection [G]
15 I of Section 6-8-7 NMSA 1978 or any other funds managed by the
16 investment office, as authorized by law; however, in regard to
17 the land grant permanent funds, appropriation shall be made
18 from earnings on investments of the land grant permanent funds
19 before distribution to the income funds during the period prior
20 to the date the United States congress consents to the
21 provisions of Constitutional Amendment 1 approved at the 1996
22 general election.

23 C. Amounts budgeted or appropriated from the land
24 grant permanent funds and the severance tax permanent fund for
25 the costs of administering and investing those funds shall be

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1 in addition to the amounts distributed to the beneficiaries of
2 the land grant permanent funds and to the general fund from the
3 severance tax permanent fund as provided by law; provided that
4 amounts budgeted or appropriated from the land grant permanent
5 funds shall be made from earnings on investments of the funds
6 before distribution to the income funds during the period prior
7 to the date the United States congress consents to the
8 provisions of Constitutional Amendment 1 approved at the 1996
9 general election.

10 D. The state investment officer shall appoint all
11 employees of the investment office."

12 SECTION 5. Section 6-8-7 NMSA 1978 (being Laws 1957,
13 Chapter 179, Section 7, as amended) is amended to read:

14 "6-8-7. POWERS AND DUTIES OF THE STATE INVESTMENT COUNCIL
15 AND STATE INVESTMENT OFFICER--INVESTMENT POLICY--INVESTMENT
16 MANAGERS.--

17 A. Subject to the limitations, conditions and
18 restrictions contained in policymaking regulations or
19 resolutions adopted by the council, the council may make
20 purchases, sales, exchanges, investments and reinvestments of
21 the assets of all funds in accordance with the Uniform Prudent
22 Investor Act. The state investment officer and the council are
23 trustees of all funds under their control and shall see that
24 money invested is at all times handled in the best interests of
25 the state. The council may delegate administrative and

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1 investment-related functions to the state investment officer.

2 B. The state investment officer shall formulate and
3 recommend to the council for approval investment [~~regulations~~
4 ~~or resolutions~~] policies pertaining to the kind or nature of
5 investments and limitations, conditions and restrictions upon
6 the methods, practices or procedures for investment,
7 reinvestment, purchase, sale or exchange transactions that
8 should govern the activities of the investment office.

9 C. The council shall meet [~~at least once each~~
10 ~~month, and as often as exigencies may demand~~] no fewer than ten
11 times annually and at the call of the chair or when three
12 members request a meeting in writing, to consult with the state
13 investment officer concerning the work of the investment
14 office. The council shall have access to all files and records
15 of the investment office and shall require the state investment
16 officer to report on and provide information necessary to the
17 performance of council functions. The council may hire one or
18 more investment management or consulting firms to advise the
19 council with respect to the council's [~~overall investment plan~~
20 ~~for the investment of all funds managed by the investment~~
21 ~~office~~] investments and pay reasonable compensation for such
22 advisory services from the assets of the applicable funds,
23 subject to budgeting and appropriation by the legislature. The
24 terms of any such investment management services contract shall
25 incorporate the statutory requirements for investment of funds

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1 under the council's jurisdiction.

2 D. The council shall provide an opportunity for
3 public comment at meetings of the council. Advance notice of
4 meetings shall be published on the council's web site [~~and in a~~
5 ~~newspaper of general circulation~~] at least ten days in advance
6 of the meeting.

7 E. All funds managed by the [~~state investment~~
8 ~~officer~~] council shall be managed in accordance with the
9 Uniform Prudent Investor Act. [~~The council may employ~~
10 ~~investment management services to invest the funds and may pay~~
11 ~~reasonable compensation for investment management services from~~
12 ~~the assets of the applicable funds, subject to budgeting and~~
13 ~~appropriation by the legislature.~~]

14 F. The council, the state investment officer, any
15 person providing investment advice to the council [~~or~~], state
16 investment officer or investment office staff for a fee or
17 other compensation and all persons exercising discretionary
18 authority or control of funds under the management of the
19 council are fiduciaries.

20 G. The council may contract for legal services for
21 litigation on a contingent or partly contingent fee basis,
22 subject to an expedited solicitation process devised and
23 approved by the council; provided that:

24 (1) amounts recovered by the legal services
25 contractor shall be deposited in the state investment council

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1 suspense fund;

2 (2) the council shall submit each proposed
3 contract to the attorney general and the department for review
4 of the contingency fee. The attorney general's and the
5 department's review shall take into account the complexity of
6 the factual and legal issues presented by the claims to be
7 pursued under the contract. If the attorney general or the
8 department advises the council that the proposed contingency
9 fee is not reasonable, the council may nevertheless approve the
10 contract and the contingency fee by a majority vote of its
11 members; and

12 (3) each prospective legal services contractor
13 seeking to represent the council on a contingent or partly
14 contingent fee basis shall file with the council the disclosure
15 required by Section 13-1-191.1 NMSA 1978 disclosing all
16 campaign contributions made to the governor, attorney general,
17 state treasurer or any member of the council, or to a political
18 committee that is intended to aid or promote the nomination or
19 election of any candidate to a state office if the committee
20 is:

21 (a) established by any of the foregoing
22 persons or their agents;

23 (b) established in consultation with or
24 at the request of any of the foregoing persons or their agents;
25 or

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1 (c) controlled by one of the foregoing
2 persons or their agents.

3 H. The council may select and contract for the
4 services of one or more custodian banks for all funds under the
5 council's management. For the purpose of this subsection,
6 "custodian bank" means a financial institution with the general
7 fiduciary duties to manage, control and collect the assets of
8 an investment fund, including receiving all deposits and paying
9 all disbursements as directed by staff, safekeeping of assets,
10 coordination of asset transfers, timely settlement of
11 securities transactions and accurate and timely reporting of
12 the assets by individual account and in total.

13 I. For funds available for investment for more than
14 one year, the council may contract with any state agency to
15 provide investment advisory or investment management services,
16 separately or through a pooled investment fund, provided the
17 state agency enters into a joint powers agreement with the
18 council and that state agency pays at least the direct cost of
19 such services. Notwithstanding any statutory provision
20 governing state agency investments, the council may invest
21 funds available from a state agency pursuant to a joint powers
22 agreement in any type of investment permitted for the land
23 grant permanent funds under the prudent investor rule. In
24 performing investment services for a state agency, the council
25 [~~and~~], the state investment officer and investment office staff

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1 are exempt from the New Mexico Uniform Securities Act. As used
2 in this subsection, "state agency" means any branch, agency,
3 department, board, instrumentality, institution or political
4 subdivision of the state, the New Mexico finance authority, the
5 New Mexico mortgage finance authority, the small business
6 investment corporation and any tax-exempt private endowment
7 entity whose sole beneficiary is a state agency.

8 J. The state investment officer shall provide
9 quarterly performance reports to the legislative finance
10 committee. Annually, the [~~state investment officer~~] council
11 shall [~~ratify and~~] provide written investment policies
12 [~~including any amendments~~] to the legislative finance
13 committee."

14 SECTION 6. Section 6-8-14 NMSA 1978 (being Laws 1957,
15 Chapter 179, Section 14, as amended) is amended to read:

16 "6-8-14. MONTHLY REPORTS.--No later than [~~ten~~] thirty
17 days after the close of each month, the state investment
18 officer shall submit to the secretary and the [~~state~~
19 ~~investment~~] council a report of the operations of the office
20 during the past month. Each report shall give a complete
21 statement of the state investment portfolio as of the time of
22 the report and, in addition, shall include a detailed summary
23 of the month's investment, reinvestment, purchase, sale and
24 exchange transactions, setting forth the investments bought,
25 sold or exchanged, the dates thereof, the prices paid or

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1 obtained, the names of the dealers involved, fees paid for each
2 transaction, disclosure of contractor arrangements and a
3 statement of the funds or accounts referred to herein. [~~The~~
4 ~~reports shall also be circulated to a mailing list of~~
5 ~~investment bankers and brokers recommended by the council.~~]
6 The reports shall be published on the web [~~sites~~] site of the
7 council [~~the legislature and the department of finance and~~
8 ~~administration~~] and shall be open for inspection to the public
9 and the press in the office of the state investment officer."

10 SECTION 7. Section 6-8-20 NMSA 1978 (being Laws 1987,
11 Chapter 219, Section 3, as amended) is amended to read:

12 "6-8-20. PRIVATE EQUITY INVESTMENT ADVISORY COMMITTEE
13 CREATED--MEMBERSHIP--DUTIES--TERMS--LIABILITIES--CONFLICT OF
14 INTEREST.--

15 A. There is created the "private equity investment
16 advisory committee" to the council. The committee consists of
17 the state investment officer, a member of the council appointed
18 by the council and three members who are qualified by
19 competence and experience in finance and investment and
20 knowledgeable about the private equity investment process and
21 who are appointed by the council.

22 B. Members appointed by the council, except the
23 council member, shall be appointed for three-year terms;
24 provided that the terms of the initial committee members shall
25 be staggered so that the term of one member expires each year.

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1 After the initial appointments, all appointed members shall be
2 appointed for three-year terms. Members shall serve until
3 their successors are appointed. A vacancy occurring other than
4 by expiration of term shall be filled in the same manner as the
5 original appointment, but only for the unexpired term.

6 C. The committee shall review and make
7 recommendations to the council on investments authorized
8 pursuant to Sections 7-27-5.15 and 7-27-5.26 NMSA 1978 and all
9 other private equity investments and shall advise the council
10 in matters and policies related to such investments. The
11 committee shall establish policies for national private equity
12 fund investments, New Mexico private equity fund investments
13 and New Mexico film [~~private equity fund~~] investments [~~not less~~
14 ~~often than annually~~] and shall make copies available to
15 interested parties.

16 D. Members of the committee shall receive per diem
17 and mileage as provided for nonsalaried public officers in the
18 Per Diem and Mileage Act and shall receive no other
19 compensation, perquisite or allowance.

20 E. The committee shall elect annually a chair from
21 among its members and may elect other officers as necessary.
22 The committee shall meet upon the call of the chair or the
23 state investment officer.

24 F. Members of the committee are public employees
25 within the meaning of the Tort Claims Act and are entitled to

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1 all immunity and indemnification provided under that act.

2 G. A person shall not be a member of the committee
3 if any recommendation, action or decision of the committee will
4 or is likely to result in direct, measurable economic gain to
5 that person or that person's employer.

6 H. The state investment officer may enter into
7 contracts with investment advisors for private equity fund
8 investments and film fund investments authorized pursuant to
9 Sections 7-27-5.15 and 7-27-5.26 NMSA 1978 and all other
10 private equity investments and may pay budgeted expenses for
11 the advisors from the assets of any fund administered under the
12 supervision of the council, as applicable.

13 I. As used in this section, "private equity
14 investments" means any legal entity that has as its primary
15 business activity the investment of funds in return for equity
16 in or debt of businesses for the purpose of providing capital
17 for startup, expansion, new product development,
18 recapitalization or a similar business purpose."

19 **SECTION 8.** Section 58-29-4 NMSA 1978 (being Laws 2000,
20 Chapter 97, Section 6, as amended) is amended to read:

21 "58-29-4. SMALL BUSINESS INVESTMENT CORPORATION CREATED--
22 POWERS OF THE CORPORATION.--

23 A. The "small business investment corporation" is
24 created as a nonprofit, independent, public corporation. The
25 corporation may:

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1 (1) sue and be sued in all actions arising out
2 of any act or omission in connection with its business or
3 affairs;

4 (2) enter into any contracts or obligations
5 relating to the corporation that are authorized or permitted by
6 law;

7 (3) cooperate with small business development
8 centers, regional economic development districts and parties
9 that have demonstrated abilities and relationships in providing
10 financial services to new and emerging businesses;

11 (4) make investments that consider the
12 enhancement of economic development objectives of the state as
13 described in the Small Business Investment Act; and

14 (5) make, alter or repeal such rules with
15 respect to the corporation's operations as are necessary to
16 carry out its functions and duties in the administration of the
17 Small Business Investment Act.

18 B. The corporation shall not be considered a state
19 agency for any purpose; provided, however, that the corporation
20 may be considered a state agency for the purpose of contracting
21 with the state investment council for the investment of funds.

22 The corporation is exempted from the provisions of the
23 Personnel Act and the Procurement Code.

24 C. Except as provided in the Tort Claims Act, the
25 state shall not be liable for any obligations incurred by the

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1 corporation."

2 SECTION 9. TEMPORARY PROVISION--TRANSITION MEMBERSHIP OF
3 STATE INVESTMENT COUNCIL.--

4 A. On July 1, 2013, the governor, state treasurer,
5 commissioner of public lands and chief financial officer
6 appointed by the governor are no longer members of the state
7 investment council.

8 B. Within thirty days of July 1, 2013, the
9 governor, state treasurer and commissioner of public lands
10 shall appoint members of the state investment council, pursuant
11 to Paragraphs (2), (3) and (8) of Subsection A of Section 6-8-2
12 NMSA 1978, who shall serve on an interim basis until confirmed
13 by the senate.

14 C. The four public members serving on the state
15 investment council who were appointed by the New Mexico
16 legislative council shall continue to serve until their terms
17 expire or they resign or are removed.

18 D. Members of the state investment council shall be
19 appointed pursuant to Paragraphs (4) through (7) of Subsection
20 A of Section 6-8-2 NMSA 1978 as vacancies occur on the board
21 pursuant to Subsection C of this section and shall serve on an
22 interim basis until confirmed by the senate. The four
23 appointing entities shall, by lot, determine the order in which
24 they will appoint replacement members to the council.

25 SECTION 10. EFFECTIVE DATE.--The effective date of the
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1 provisions of this act is July 1, 2013.

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HOUSE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

ENDORSED BY THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

RELATING TO JUDICIAL RETIREMENT; PROVIDING THAT CERTAIN AMOUNTS OF THE CIVIL DOCKET AND JURY FEES BE DEPOSITED INTO THE GENERAL FUND; PROVIDING THAT CONTRIBUTIONS TO JUDICIAL AND MAGISTRATE RETIREMENT BE PROVIDED FROM THE GENERAL FUND; INCREASING CONTRIBUTIONS TO THE JUDICIAL AND MAGISTRATE RETIREMENT FUNDS; MAKING AN APPROPRIATION.

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

SECTION 1. Section 10-12B-3 NMSA 1978 (being Laws 1992, Chapter 111, Section 3, as amended) is amended to read:

"10-12B-3. JUDICIAL RETIREMENT FUND ESTABLISHED--
ADMINISTRATION OF FUND--ACCOUNTING FUNDS.--

A. There is established in the state treasury the "judicial retirement fund". The fund is ~~[comprised]~~ composed of money received from ~~[docket and jury fees of metropolitan~~

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1 ~~courts, district courts, the court of appeals and the supreme~~
2 ~~court]~~ employer and employee contributions and any investment
3 earnings on [~~fees and~~] contributions. The board is the trustee
4 of the fund and shall administer and invest the fund.

5 Investment of the fund shall be conducted pursuant to the
6 provisions of the Public Employees Retirement Act. The
7 provisions of the Judicial Retirement Act shall be administered
8 by the board. The board is authorized to promulgate rules.
9 Expenses related to the investment of the fund and
10 administration of the Judicial Retirement Act shall be paid
11 from the fund.

12 B. For purposes of this section, the accounting
13 funds shall be known as the "member contribution fund",
14 "employer's accumulation fund", "retirement reserve fund" and
15 "income fund". The maintenance of separate accounting funds
16 shall not require the actual segregation of the assets of the
17 fund.

18 C. The accounting funds provided for in this
19 section are trust funds and shall be used only for the purposes
20 provided for in the Judicial Retirement Act.

21 D. The member contribution fund is the accounting
22 fund in which shall be accumulated contributions of members and
23 from which shall be made refunds and transfers of accumulated
24 member contributions as provided in the Judicial Retirement
25 Act. The member's court shall cause member contributions to be

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1 deducted from the salary of the member and shall remit the
2 deducted member contributions to the association in accordance
3 with procedures and schedules established by the association.
4 The association may assess an interest charge and a penalty
5 charge on any late remittance. Each member shall be deemed to
6 consent and agree to the deductions made and provided for in
7 this section. Contributions by members shall be credited to
8 the members' individual accounts in the member contribution
9 fund. A member's accumulated member contributions shall be
10 transferred to the retirement reserve fund when a pension
11 becomes payable.

12 E. The employer's accumulation fund is the
13 accounting fund in which shall be accumulated the contributions
14 paid by the state through the member's court. The state,
15 through the member's court, shall remit its contributions to
16 the association in accordance with procedures and schedules
17 established by the association. The board may assess an
18 interest charge and a penalty charge on any late remittance.

19 F. The retirement reserve fund is the accounting
20 fund from which shall be paid all pensions to retired members
21 and survivor beneficiaries and all residual refunds to refund
22 beneficiaries of retired members and survivor beneficiaries.

23 G. Each year, following receipt of the report of
24 the annual actuarial valuation, the excess, if any, of the
25 reported actuarial present value of pensions being paid and

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1 likely to be paid to retired members and survivor beneficiaries
2 and residual refunds likely to be paid to refund beneficiaries
3 of retired members and survivor beneficiaries over the balance
4 in the retirement reserve fund shall be transferred to the
5 retirement reserve fund from the employer's accumulation fund.

6 H. The income fund is the accounting fund to which
7 shall be credited all interest, dividends, rents and other
8 income from investments of the fund, all gifts and bequests,
9 all unclaimed member contributions and all other money the
10 disposition of which is not specifically provided for in the
11 Judicial Retirement Act. Expenses related to the
12 administration of the Judicial Retirement Act shall be paid for
13 from the income fund.

14 I. The association shall at least annually
15 distribute all or a portion of the balance in the income fund
16 to the member contribution fund, the retirement reserve fund
17 and the employer's accumulation fund. Distribution rates shall
18 be determined by the board and may vary for the respective
19 accounting funds."

20 SECTION 2. Section 10-12B-11 NMSA 1978 (being Laws 1992,
21 Chapter 111, Section 11, as amended) is amended to read:

22 "10-12B-11. EMPLOYER CONTRIBUTIONS.--~~[A.]~~ The member's
23 court shall contribute the following amounts to the fund:

24 [~~(1)~~] A. prior to July 1, 2005, nine percent of
25 salary for each member in office;

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1 ~~[(2)]~~ B. from July 1, 2005 through June 30, 2006,
2 ten and one-half percent of salary for each member in office;
3 ~~[and~~

4 ~~(3) on and after]~~ C. from July 1, 2006 through
5 June 30, 2013, twelve percent of salary for each member in
6 office, except that for members whose annual salary is greater
7 than twenty thousand dollars (\$20,000):

8 ~~[(a)]~~ (1) from July 1, 2009 through June 30,
9 2011, the member's court contribution rate shall be ten and
10 one-half percent of salary for each member in office;

11 ~~[(b)]~~ (2) from July 1, 2011 through June 30,
12 2012, the member's court contribution rate shall be eight and
13 three-fourths percent of salary for each member in office; and

14 ~~[(c)]~~ (3) from July 1, 2012 through June 30,
15 2013, the member's court contribution rate shall be ten and
16 one-half percent of salary for each member in office; and

17 ~~[B. Thirty-eight dollars (\$38.00) from each civil~~
18 ~~case docket fee paid in the district court, twenty-five dollars~~
19 ~~(\$25.00) from each civil docket fee paid in metropolitan court~~
20 ~~and ten dollars (\$10.00) from each jury fee paid in~~
21 ~~metropolitan court shall be paid by the court clerk to the~~
22 ~~employer's accumulation fund.]~~

23 D. on and after July 1, 2013, twenty-eight and
24 seventy-two hundredths percent of salary for each member in
25 office."

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1 SECTION 3. Section 10-12C-3 NMSA 1978 (being Laws 1992,
2 Chapter 118, Section 3, as amended) is amended to read:

3 "10-12C-3. MAGISTRATE RETIREMENT FUND ESTABLISHED--
4 ADMINISTRATION OF FUND--ACCOUNTING FUNDS.--

5 A. There is established in the state treasury the
6 "magistrate retirement fund". The fund is [~~comprised~~] composed
7 of money received from [~~docket fees of magistrate courts~~]
8 employer and member contributions and any investment earnings
9 on fees and contributions. The board is the trustee of the
10 fund and shall administer and invest the fund. Investment of
11 the fund shall be conducted pursuant to the provisions of the
12 Public Employees Retirement Act. The provisions of the
13 Magistrate Retirement Act shall be administered by the board.
14 The board is authorized to promulgate rules. Expenses related
15 to the investment of the fund and administration of the
16 Magistrate Retirement Act shall be paid from the fund.

17 B. For purposes of this section, the accounting
18 funds shall be known as the "member contribution fund",
19 "employer's accumulation fund", "retirement reserve fund" and
20 "income fund". The maintenance of separate accounting funds
21 shall not require the actual segregation of the assets of the
22 fund.

23 C. The accounting funds provided for in this
24 section are trust funds and shall be used only for the purposes
25 provided for in the Magistrate Retirement Act.

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underscoring material = new
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1 D. The member contribution fund is the accounting
2 fund in which shall be accumulated contributions of members and
3 from which shall be made refunds and transfers of accumulated
4 member contributions as provided in the Magistrate Retirement
5 Act. The member's court shall cause member contributions to be
6 deducted from the salary of the member and shall remit the
7 deducted member contributions to the association in accordance
8 with procedures and schedules established by the association.
9 The association may assess an interest charge and a penalty
10 charge on any late remittance. Each member shall be deemed to
11 consent and agree to the deductions made and provided for in
12 this section. Contributions by members shall be credited to
13 the members' individual accounts in the member contribution
14 fund. A member's accumulated member contributions shall be
15 transferred to the retirement reserve fund when a pension
16 becomes payable.

17 E. The employer's accumulation fund is the
18 accounting fund in which shall be accumulated the contributions
19 paid by the state through the administrative office of the
20 courts. The state, through the administrative office of the
21 courts, shall remit its contributions to the association in
22 accordance with procedures and schedules established by the
23 association. The board may assess an interest charge and a
24 penalty charge on any late remittance.

25 F. The retirement reserve fund is the accounting

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1 fund from which shall be paid all pensions to retired members
2 and survivor beneficiaries and all residual refunds to refund
3 beneficiaries of retired members and survivor beneficiaries.

4 G. Each year, following receipt of the report of
5 the annual actuarial valuation, the excess, if any, of the
6 reported actuarial present value of pensions being paid and
7 likely to be paid to retired members and survivor beneficiaries
8 and residual refunds likely to be paid to refund beneficiaries
9 of retired members and survivor beneficiaries over the balance
10 in the retirement reserve fund shall be transferred to the
11 retirement reserve fund from the employer's accumulation fund.

12 H. The income fund is the accounting fund to which
13 shall be credited all interest, dividends, rents and other
14 income from investments of the fund, all gifts and bequests,
15 all unclaimed member contributions and all other money the
16 disposition of which is not specifically provided for in the
17 Magistrate Retirement Act. Expenses related to the
18 administration of the Magistrate Retirement Act shall be paid
19 for from the income fund.

20 I. The association shall at least annually
21 distribute all or a portion of the balance in the income fund
22 to the member contribution fund, the retirement reserve fund
23 and the employer's accumulation fund. Distribution rates shall
24 be determined by the board and may vary for the respective
25 accounting funds."

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1 SECTION 4. Section 10-12C-11 NMSA 1978 (being Laws 1992,
2 Chapter 118, Section 11, as amended) is amended to read:

3 "10-12C-11. EMPLOYER CONTRIBUTIONS.--~~[A.]~~ The state,
4 through the administrative office of the courts, shall
5 contribute the following amounts to the fund:

6 ~~[(1)]~~ A. through June 30, 2006, ten percent of
7 salary for each member in office; ~~[and~~

8 ~~(2) on and after]~~ B. from July 1, 2006 through
9 June 30, 2013, eleven percent of salary for each member in
10 office, except that for members whose annual salary is greater
11 than twenty thousand dollars (\$20,000):

12 ~~[(a)]~~ (1) from July 1, 2009 through June 30,
13 2011, the state contribution rate shall be nine and one-half
14 percent of salary for each member in office;

15 ~~[(b)]~~ (2) from July 1, 2011 through June 30,
16 2012, the state contribution rate shall be seven and three-
17 fourths percent of salary for each member in office; and

18 ~~[(c)]~~ (3) from July 1, 2012 through June 30,
19 2013, the state contribution rate shall be nine and one-half
20 percent of salary for each member in office; and

21 ~~[B. Twenty-five dollars (\$25.00) from each civil~~
22 ~~case docket fee paid in magistrate court and ten dollars~~
23 ~~(\$10.00) from each civil jury fee paid in magistrate court~~
24 ~~shall be paid by the court clerk to the employer's accumulation~~
25 ~~fund.]~~

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1 C. on and after July 1, 2013, twenty-four and
2 seventy-seven hundredths percent of salary for each member in
3 office."

4 SECTION 5. Section 35-6-1 NMSA 1978 (being Laws 1968,
5 Chapter 62, Section 92, as amended) is amended to read:

6 "35-6-1. MAGISTRATE COSTS--SCHEDULE--DEFINITION OF
7 "CONVICTED".--

8 A. Magistrate judges, including metropolitan court
9 judges, shall assess and collect and shall not waive, defer or
10 suspend the following costs:

11 docket fee, criminal actions under Section 29-5-1 NMSA
12 1978 \$ 1.00;

13 docket fee, to be collected prior to docketing any other
14 criminal action, except as provided in Subsection B
15 of Section 35-6-3 NMSA 1978 20.00.

16 Proceeds from this docket fee shall be transferred
17 to the administrative office of the courts for
18 deposit in the court facilities fund;

19 docket fee, twenty dollars (\$20.00) of which shall be
20 deposited in the court automation fund [~~and~~],
21 fifteen dollars (\$15.00) of which shall be deposited
22 in the civil legal services fund and twenty-five
23 dollars (\$25.00) of which shall be deposited in the
24 general fund, to be collected prior to docketing any
25 civil action, except as provided in Subsection A of

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1 Section 35-6-3 NMSA 1978 72.00;
2 jury fee, ten dollars (\$10.00) of which shall be deposited
3 in the general fund, to be collected from the party
4 demanding trial by jury in any civil action at the
5 time the demand is filed or made 25.00;
6 copying fee, for making and certifying copies of any
7 records in the court, for each page copied by
8 photographic process 0.50.
9 Proceeds from this copying fee shall be transferred
10 to the administrative office of the courts for
11 deposit in the court facilities fund; and
12 copying fee, for computer-generated or electronically
13 transferred copies, per page 1.00.
14 Proceeds from this copying fee shall be transferred
15 to the administrative office of the courts for
16 deposit in the court automation fund.

17 Except as otherwise specifically provided by law, docket
18 fees shall be paid into the court facilities fund.

19 B. Except as otherwise provided by law, no other
20 costs or fees shall be charged or collected in the magistrate
21 or metropolitan court.

22 C. The magistrate or metropolitan court may grant
23 free process to any party in any civil proceeding or special
24 statutory proceeding upon a proper showing of indigency. The
25 magistrate or metropolitan court may deny free process if it

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1 finds that the complaint on its face does not state a cause of
2 action.

3 D. As used in this subsection, "convicted" means the
4 defendant has been found guilty of a criminal charge by the
5 magistrate or metropolitan judge, either after trial, a plea of
6 guilty or a plea of nolo contendere. Magistrate judges,
7 including metropolitan court judges, shall assess and collect
8 and shall not waive, defer or suspend the following costs:

9 (1) corrections fee, to be collected upon
10 conviction from persons convicted of violating any provision of
11 the Motor Vehicle Code involving the operation of a motor
12 vehicle, convicted of a crime constituting a misdemeanor or a
13 petty misdemeanor or convicted of violating any ordinance that
14 may be enforced by the imposition of a term of imprisonment as
15 follows:

- 16 in a county with a metropolitan court \$10.00;
- 17 in a county without a metropolitan court 20.00;

18 (2) court automation fee, to be collected upon
19 conviction from persons convicted of violating any provision of
20 the Motor Vehicle Code involving the operation of a motor
21 vehicle, convicted of a crime constituting a misdemeanor or a
22 petty misdemeanor or convicted of violating any ordinance that
23 may be enforced by the imposition of a term of
24 imprisonment 10.00;

25 (3) traffic safety fee, to be collected upon

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1 conviction from persons convicted of violating any provision of
2 the Motor Vehicle Code involving the operation of a motor
3 vehicle 3.00;

4 (4) judicial education fee, to be collected upon
5 conviction from persons convicted of operating a motor vehicle
6 in violation of the Motor Vehicle Code, convicted of a crime
7 constituting a misdemeanor or a petty misdemeanor or convicted
8 of violating any ordinance punishable by a term of
9 imprisonment 3.00;

10 (5) jury and witness fee, to be collected upon
11 conviction from persons convicted of operating a motor vehicle
12 in violation of the Motor Vehicle Code, convicted of a crime
13 constituting a misdemeanor or a petty misdemeanor or convicted
14 of violating any ordinance punishable by a term of
15 imprisonment 5.00;

16 (6) brain injury services fee, to be collected
17 upon conviction from persons convicted of violating any
18 provision of the Motor Vehicle Code involving the operation of
19 a motor vehicle 5.00;
20 and

21 (7) court facilities fee, to be collected upon
22 conviction from persons convicted of violating any provision of
23 the Motor Vehicle Code involving the operation of a motor
24 vehicle, convicted of a crime constituting a misdemeanor or a
25 petty misdemeanor or convicted of violating any ordinance that

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1 may be enforced by the imposition of a term of imprisonment as
2 follows:

- 3 in a county with a metropolitan court 24.00;
- 4 in any other county 10.00.

5 E. Metropolitan court judges shall assess and collect
6 and shall not waive, defer or suspend as costs a mediation fee
7 not to exceed five dollars (\$5.00) for the docketing of small
8 claims and criminal actions specified by metropolitan court
9 rule. Proceeds of the mediation fee shall be deposited into
10 the metropolitan court mediation fund.

11 SECTION 6. APPROPRIATION.--Two million six hundred sixty-
12 seven thousand eighty-seven dollars (\$2,667,087) is
13 appropriated from the general fund to the department of finance
14 and administration for expenditure in fiscal year 2014 and
15 subsequent fiscal years for distribution to the supreme court,
16 court of appeals, district courts, Bernalillo county
17 metropolitan court and administrative office of the courts to
18 pay the increased employer contributions. Any unexpended or
19 unencumbered balance remaining at the end of a fiscal year
20 shall not revert to the general fund.

21 SECTION 7. EFFECTIVE DATE.--The effective date of the
22 provisions of this act is July 1, 2013.

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

FOR THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

RELATING TO PUBLIC EMPLOYEES RETIREMENT; ADDING AN EXCEPTION
FOR CHIEFS OF POLICE AND UNDERSHERIFFS TO THE RETURN TO WORK
RESTRICTIONS IN THE PUBLIC EMPLOYEES RETIREMENT ACT.

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

SECTION 1. Section 10-11-8 NMSA 1978 (being Laws 1987,
Chapter 253, Section 8, as amended) is amended to read:

"10-11-8. NORMAL RETIREMENT--RETURN TO EMPLOYMENT--
BENEFITS CONTINUED--EMPLOYER CONTRIBUTIONS.--

A. A member may retire upon fulfilling the following
requirements prior to the selected date of retirement:

(1) a written application for normal retirement,
in the form prescribed by the association, is filed with the
association;

(2) employment is terminated with all employers

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1 covered by any state system or the educational retirement
2 system;

3 (3) the member selects an effective date of
4 retirement that is the first day of a calendar month; and

5 (4) the member meets the age and service credit
6 requirement for normal retirement specified in the coverage
7 plan applicable to the member.

8 B. The amount of normal retirement pension is
9 determined in accordance with the coverage plan applicable to
10 the member.

11 C. Except as provided in Subsection D of this
12 section, on or after July 1, 2010, a retired member may be
13 subsequently employed by an affiliated public employer only
14 pursuant to the following provisions:

15 (1) the retired member has not been employed as
16 an employee of an affiliated public employer or retained as an
17 independent contractor by the affiliated public employer from
18 which the retired member retired for at least twelve
19 consecutive months from the date of retirement to the
20 commencement of employment or reemployment with an affiliated
21 public employer;

22 (2) the retired member's pension shall be
23 suspended upon commencement of the employment;

24 (3) except as provided in Subsection F of this
25 section, the previously retired member shall not become a

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1 member and thus the previously retired member shall accrue no
2 service credit and the previously retired member and that
3 person's affiliated public employer shall make no contributions
4 under any coverage plan pursuant to the Public Employees
5 Retirement Act; and

6 (4) upon termination of the subsequent
7 employment, the previously retired member's pension shall
8 resume in accordance with the provisions of Subsection A of
9 this section.

10 D. The provisions of Subsection C of this section do
11 not apply to:

12 (1) a retired member employed by the legislature
13 for legislative session work;

14 (2) a retired member employed temporarily as a
15 precinct board member for a municipal election or an election
16 covered by the Election Code; [~~or~~]

17 (3) a retired member who is elected to serve a
18 term as an elected official; provided that:

19 (a) the retired member files an irrevocable
20 exemption from membership with the association within thirty
21 days of taking office; and

22 (b) the irrevocable exemption shall be for
23 the elected official's term of office; or

24 (4) on and after July 1, 2013, a retired member
25 who is appointed chief of police of an affiliated public

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1 employer, other than of the affiliated public employer from
2 which the member retired, or who is appointed as an
3 undersheriff, if the retired member files an irrevocable
4 exemption from membership with the association within thirty
5 days of appointment. For purposes of this subsection, each
6 sheriff's office shall be limited to one undersheriff. The
7 irrevocable exemption shall be for the chief of police's or the
8 undersheriff's term of office.

9 E. A retired member who returns to employment during
10 retirement pursuant to Paragraph (1), (2) or (3) of Subsection
11 D of this section is entitled to receive retirement benefits
12 but is not entitled to accrue service credit or to acquire or
13 purchase service credit in the future for the period of the
14 previously retired member's reemployment with an affiliated
15 public employer.

16 F. For a retired member who returns to employment
17 during retirement pursuant to Paragraph (4) of Subsection D of
18 this section:

19 (1) the retired member shall be entitled to the
20 continuation of retirement benefits;

21 (2) the retired member shall not accrue service
22 credit or acquire or purchase service credit in the future for
23 the period of the previously retired member's reemployment with
24 an affiliated public employee; and

25 (3) the retired member and the subsequent

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1 affiliated public employer shall make the employee and employer
2 contributions pursuant to the Public Employees Retirement Act
3 for the appropriate coverage plan associated with the retired
4 member's reemployment.

5 [F-] G. At any time during a previously retired
6 member's subsequent employment pursuant to Subsection C of this
7 section, the previously retired member may elect to become a
8 member and the following conditions shall apply:

9 (1) the previously retired member and the
10 subsequent affiliated public employer shall make the required
11 employee and employer contributions, and the previously retired
12 member shall accrue service credit for the period of subsequent
13 employment; and

14 (2) when the previously retired member
15 terminates the subsequent employment with an affiliated public
16 employer, the previously retired member shall retire according
17 to the provisions of the Public Employees Retirement Act,
18 subject to the following conditions:

19 (a) payment of the pension shall resume in
20 accordance with the provisions of Subsection A of this section;

21 (b) unless the previously retired member
22 accrued at least three years of service credit on account of
23 the subsequent employment, the recalculation of pension shall:

24 1) employ the form of payment selected by the previously
25 retired member at the time of the first retirement; and 2) use

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1 the provisions of the coverage plan applicable to the member on
2 the date of the first retirement; and

3 (c) the recalculated pension shall not be
4 less than the amount of the suspended pension.

5 [~~G.~~] H. A previously retired member who returned to
6 work with an affiliated public employer prior to July 1, 2010
7 shall be subject to the provisions of this section in effect on
8 the date the previously retired member returned to work;
9 provided that, on and after July 1, 2010, the previously
10 retired member shall pay the employee contribution in an amount
11 specified in the Public Employees Retirement Act for the
12 position in which the previously retired member is employed.

13 [~~H.~~] I. The pension of a member who has three or more
14 years of service credit under each of two or more coverage
15 plans shall be determined in accordance with the coverage plan
16 that produces the highest pension. The pension of a member who
17 has service credit under two or more coverage plans but who has
18 three or more years of service credit under only one of those
19 coverage plans shall be determined in accordance with the
20 coverage plan in which the member has three or more years of
21 service credit. If the service credit is acquired under two
22 different coverage plans applied to the same affiliated public
23 employer as a consequence of an election by the members,
24 adoption by the affiliated public employer or a change in the
25 law that results in the application of a coverage plan with a

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1 greater pension, the greater pension shall be paid a member
2 retiring from the affiliated public employer under which the
3 change in coverage plan took place regardless of the amount of
4 service credit under the coverage plan producing the greater
5 pension; provided that the member has three or more years of
6 continuous employment with that affiliated public employer
7 immediately preceding or immediately preceding and immediately
8 following the date the coverage plan changed. The provisions
9 of each coverage plan for the purpose of this subsection shall
10 be those in effect at the time the member ceased to be covered
11 by the coverage plan. "Service credit", for the purposes of
12 this subsection, shall be only personal service rendered an
13 affiliated public employer and credited to the member under the
14 provisions of Subsection A of Section 10-11-4 NMSA 1978.
15 Service credited under any other provision of the Public
16 Employees Retirement Act shall not be used to satisfy the
17 three-year service credit requirement of this subsection."

18 SECTION 2. EFFECTIVE DATE.--The effective date of the
19 provisions of this act is July 1, 2013.

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

FOR THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

RELATING TO PUBLIC EMPLOYEE RETIREMENT; ADDING AN EXCEPTION FOR
RETIRED STATE POLICE MEMBERS, ADULT CORRECTIONAL MEMBERS AND
MUNICIPAL POLICE MEMBERS TO THE RETURN TO WORK RESTRICTIONS IN
THE PUBLIC EMPLOYEES RETIREMENT ACT; ESTABLISHING CONDITIONS
FOR STATE POLICE, ADULT CORRECTIONAL AND MUNICIPAL POLICE
MEMBERS TO RETURN TO WORK WITH AN AFFILIATED PUBLIC EMPLOYER
WHILE CONTINUING TO RECEIVE RETIREMENT BENEFITS.

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

SECTION 1. Section 10-11-8 NMSA 1978 (being Laws 1987,
Chapter 253, Section 8, as amended) is amended to read:

"10-11-8. NORMAL RETIREMENT--RETURN TO EMPLOYMENT--
BENEFITS CONTINUED--EMPLOYER CONTRIBUTIONS.--

A. A member may retire upon fulfilling the following
requirements prior to the selected date of retirement:

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1 (1) a written application for normal retirement,
2 in the form prescribed by the association, is filed with the
3 association;

4 (2) employment is terminated with all employers
5 covered by any state system or the educational retirement
6 system;

7 (3) the member selects an effective date of
8 retirement that is the first day of a calendar month; and

9 (4) the member meets the age and service credit
10 requirement for normal retirement specified in the coverage
11 plan applicable to the member.

12 B. The amount of normal retirement pension is
13 determined in accordance with the coverage plan applicable to
14 the member.

15 C. Except as provided in Subsection D of this
16 section, on or after July 1, 2010, a retired member may be
17 subsequently employed by an affiliated public employer only
18 pursuant to the following provisions:

19 (1) the retired member has not been employed as
20 an employee of an affiliated public employer or retained as an
21 independent contractor by the affiliated public employer from
22 which the retired member retired for at least twelve
23 consecutive months from the date of retirement to the
24 commencement of employment or reemployment with an affiliated
25 public employer;

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1 (2) the retired member's pension shall be
2 suspended upon commencement of the employment;

3 (3) except as provided in Subsection F of this
4 section, the previously retired member shall not become a
5 member and thus the previously retired member shall accrue no
6 service credit and the previously retired member and that
7 person's affiliated public employer shall make no contributions
8 under any coverage plan pursuant to the Public Employees
9 Retirement Act; and

10 (4) upon termination of the subsequent
11 employment, the previously retired member's pension shall
12 resume in accordance with the provisions of Subsection A of
13 this section.

14 D. The provisions of Subsection C of this section do
15 not apply to:

16 (1) a retired member employed by the legislature
17 for legislative session work;

18 (2) a retired member employed temporarily as a
19 precinct board member for a municipal election or an election
20 covered by the Election Code; ~~[or]~~

21 (3) a retired member who is elected to serve a
22 term as an elected official; provided that:

23 (a) the retired member files an irrevocable
24 exemption from membership with the association within thirty
25 days of taking office; and

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1 (b) the irrevocable exemption shall be for
2 the elected official's term of office; or

3 (4) a state police member, adult correctional
4 officer member or municipal police member who has not been
5 employed as an employee of an affiliated public employer or
6 retained as an independent contractor by the affiliated public
7 employer from which the member retired for at least ninety
8 consecutive days from the date of retirement to the
9 commencement of employment or reemployment with an affiliated
10 public employer.

11 E. ~~[A retired member who returns to employment during~~
12 ~~retirement pursuant to Subsection D of this section is entitled~~
13 ~~to receive retirement benefits but is not entitled to accrue~~
14 ~~service credit or to acquire or purchase service credit in the~~
15 ~~future for the period of the previously retired member's~~
16 ~~reemployment with an affiliated public employer]~~ In
17 the case of a retired member who returns to employment during
18 retirement pursuant to:

19 (1) Paragraph (1), (2) or (3) of Subsection D of
20 this section:

21 (a) the member shall be entitled to the
22 continuation of retirement benefits;

23 (b) the member shall not accrue service
24 credit or acquire or purchase service credit in the future for
25 the period of the previously retired member's reemployment with

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1 an affiliated public employee; and

2 (c) the member and the subsequent affiliated
3 public employer shall not make the employee and employer
4 contributions pursuant to the Public Employees Retirement Act
5 for the appropriate coverage plan otherwise associated with the
6 member's reemployment; or

7 (2) Paragraph (4) of Subsection D of this
8 section:

9 (a) the member shall be entitled to the
10 continuation of retirement benefits;

11 (b) the member shall not accrue service
12 credit or acquire or purchase service credit in the future for
13 the period of the previously retired member's reemployment with
14 an affiliated public employee; and

15 (c) the member and the subsequent affiliated
16 public employer shall make the employee and employer
17 contributions pursuant to the Public Employees Retirement Act
18 for the appropriate coverage plan associated with the member's
19 reemployment.

20 F. At any time during a previously retired member's
21 subsequent employment pursuant to Subsection C of this section,
22 the previously retired member may elect to become a member and
23 the following conditions shall apply:

24 (1) the previously retired member and the
25 subsequent affiliated public employer shall make the required

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1 employee and employer contributions, and the previously retired
2 member shall accrue service credit for the period of subsequent
3 employment; and

4 (2) when the previously retired member
5 terminates the subsequent employment with an affiliated public
6 employer, the previously retired member shall retire according
7 to the provisions of the Public Employees Retirement Act,
8 subject to the following conditions:

9 (a) payment of the pension shall resume in
10 accordance with the provisions of Subsection A of this section;

11 (b) unless the previously retired member
12 accrued at least three years of service credit on account of
13 the subsequent employment, the recalculation of pension shall:
14 1) employ the form of payment selected by the previously
15 retired member at the time of the first retirement; and 2) use
16 the provisions of the coverage plan applicable to the member on
17 the date of the first retirement; and

18 (c) the recalculated pension shall not be
19 less than the amount of the suspended pension.

20 G. A previously retired member who returned to work
21 with an affiliated public employer prior to July 1, 2010 shall
22 be subject to the provisions of this section in effect on the
23 date the previously retired member returned to work; provided
24 that, on and after July 1, 2010, the previously retired member
25 shall pay the employee contribution in an amount specified in

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1 the Public Employees Retirement Act for the position in which
2 the previously retired member is employed.

3 H. The pension of a member who has three or more
4 years of service credit under each of two or more coverage
5 plans shall be determined in accordance with the coverage plan
6 that produces the highest pension. The pension of a member who
7 has service credit under two or more coverage plans but who has
8 three or more years of service credit under only one of those
9 coverage plans shall be determined in accordance with the
10 coverage plan in which the member has three or more years of
11 service credit. If the service credit is acquired under two
12 different coverage plans applied to the same affiliated public
13 employer as a consequence of an election by the members,
14 adoption by the affiliated public employer or a change in the
15 law that results in the application of a coverage plan with a
16 greater pension, the greater pension shall be paid a member
17 retiring from the affiliated public employer under which the
18 change in coverage plan took place regardless of the amount of
19 service credit under the coverage plan producing the greater
20 pension; provided that the member has three or more years of
21 continuous employment with that affiliated public employer
22 immediately preceding or immediately preceding and immediately
23 following the date the coverage plan changed. The provisions
24 of each coverage plan for the purpose of this subsection shall
25 be those in effect at the time the member ceased to be covered

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1 by the coverage plan. "Service credit", for the purposes of
2 this subsection, shall be only personal service rendered an
3 affiliated public employer and credited to the member under the
4 provisions of Subsection A of Section 10-11-4 NMSA 1978.
5 Service credited under any other provision of the Public
6 Employees Retirement Act shall not be used to satisfy the
7 three-year service credit requirement of this subsection."

8 SECTION 2. EFFECTIVE DATE.--The effective date of the
9 provisions of this act is July 1, 2013.

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

FOR THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

RELATING TO JUDICIAL RETIREMENT; CHANGING AGE AND SERVICE
CREDIT REQUIREMENTS FOR CERTAIN RETIREES IN THE JUDICIAL
RETIREMENT ACT AND THE MAGISTRATE RETIREMENT ACT; CHANGING THE
WAY THE AMOUNT OF PENSION IS CALCULATED FOR CERTAIN RETIREES IN
THE JUDICIAL RETIREMENT ACT AND THE MAGISTRATE RETIREMENT ACT.

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

SECTION 1. Section 10-12B-2 NMSA 1978 (being Laws 1992,
Chapter 111, Section 2, as amended) is amended to read:

"10-12B-2. DEFINITIONS.--As used in the Judicial
Retirement Act:

A. "association" means the public employees
retirement association provided for in the Public Employees
Retirement Act;

B. "board" means the retirement board provided for in
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1 the Public Employees Retirement Act;

2 C. "current judge or justice" means a judge or
3 justice who occupied such an office on July 1, 1980 but who
4 elected to be covered under the provisions of the retirement
5 plan in effect at that time;

6 D. "dependent child" means a natural or adopted child
7 who is physically or mentally incapable of financial self-
8 support, regardless of age;

9 E. "educational retirement system" means the
10 retirement system provided for in the Educational Retirement
11 Act;

12 F. "effective date of retirement" means the first
13 day of the month following the month in which the member met
14 all requirements for retirement;

15 G. "final average salary" means one thirty-sixth of
16 the greatest amount of salary paid to a member for thirty-six
17 consecutive but not necessarily continuous months of credit
18 service;

19 [~~G.~~] H. "former judge or justice" means a judge or
20 justice who occupied such an office prior to July 1, 1980 but
21 who had ceased to hold such an office prior to that date and
22 who elected to be excluded from the provisions of the
23 Judicial Retirement Act;

24 [~~H.~~] I. "former member" means a person no longer in
25 office who was previously covered pursuant to the provisions

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1 of Sections 10-12-1 through 10-12-18 NMSA 1978, but who has
2 not retired pursuant to the provisions of the Judicial
3 Retirement Act and who has received a refund of member
4 contributions pursuant to the provisions of Sections 10-12B-1
5 through 10-12B-19 NMSA 1978;

6 ~~[F.]~~ J. "fund" means the judicial retirement fund;

7 ~~[J.]~~ K. "judge" means a judge of the metropolitan
8 court, district court or court of appeals of New Mexico;

9 ~~[K.]~~ L. "justice" means a justice of the supreme
10 court of New Mexico;

11 ~~[L.]~~ M. "member" means any judge or justice who is
12 in office and covered pursuant to the provisions of the
13 Judicial Retirement Act, or any person no longer in office
14 who was previously a judge or justice covered pursuant to the
15 provisions of the Judicial Retirement Act, who has not
16 retired and who has not received a refund of member
17 contributions from the fund;

18 ~~[M.]~~ N. "member contributions" means the amounts
19 deducted from the salary of a member and credited to the
20 member's individual account, together with interest, if any,
21 credited thereto;

22 ~~[N.]~~ O. "minor child" means a natural or adopted
23 child who has not reached ~~[his]~~ the child's eighteenth
24 birthday and who has not been emancipated by marriage or
25 otherwise;

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1 ~~[Θ-]~~ P. "new judge or justice" means:

2 (1) a judge or justice who first occupied such
3 an office after July 1, 1980; or

4 (2) a judge or justice who occupied such an
5 office on or before July 1, 1980 and who has elected to be
6 covered under the provisions of the Judicial Retirement Act;

7 ~~[P-]~~ Q. "pension" means a series of monthly
8 payments to a retired member or survivor beneficiary pursuant
9 to the provisions of the Judicial Retirement Act;

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

19 ~~[R-]~~ S. "retire" means to:

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

23 (2) receive a pension from one state system or
24 the educational retirement system;

25 ~~[S-]~~ T. "retired member" means a person who has met

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1 all requirements for retirement and who is receiving a
2 pension from the fund;

3 ~~[F.]~~ U. "salary" means the base salary or wages
4 paid a member, including longevity pay, for personal services
5 rendered; provided that salary does not include overtime pay;
6 allowances for housing, clothing, equipment or travel;
7 payments for unused sick leave, unless the unused sick leave
8 payment is made through continuation of the member on the
9 regular payroll for the period represented by that payment;
10 and any other form of remuneration not specifically
11 designated by law as included in salary pursuant to the
12 provisions of the Judicial Retirement Act;

13 ~~[H.]~~ V. "state system" means the retirement
14 programs provided pursuant to the provisions of the Public
15 Employees Retirement Act, the Magistrate Retirement Act and
16 the Judicial Retirement Act;

17 ~~[V.]~~ W. "surviving spouse" means the spouse to whom
18 the member was married at the time of the member's death;

19 ~~[W.]~~ X. "survivor beneficiary" means a person who
20 receives a pension or who has been designated to be paid a
21 pension as a result of the death of a member or retired
22 member; and

23 ~~[X.]~~ Y. "years of service" means a period of time
24 beginning on the date a person commences to hold office as a
25 judge or justice because of appointment or election and

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1 ending on the date a person ceases to hold office as a judge
2 or justice because of expiration of the judge's or justice's
3 term, voluntary resignation, death or disability and shall
4 include any fractions of years of service."

5 SECTION 2. Section 10-12B-8 NMSA 1978 (being Laws 1992,
6 Chapter 111, Section 8, as amended) is amended to read:

7 "10-12B-8. AGE AND SERVICE CREDIT REQUIREMENTS FOR
8 NORMAL RETIREMENT.--

9 A. For an individual who initially became a member
10 prior to July 1, 2005, the age and service credit
11 requirements for retirement provided for in the Judicial
12 Retirement Act are:

13 (1) age sixty-four or older and five or more
14 years of service credit; or

15 (2) age sixty or older and fifteen or more
16 years of service credit.

17 B. For an individual who initially became a member
18 on or after July 1, 2005, but prior to July 1, 2013, the age
19 and service credit requirements for retirement provided for
20 in the Judicial Retirement Act are:

21 (1) age sixty-four or older and five or more
22 years of service credit; or

23 (2) age fifty-five or older and sixteen or
24 more years of service credit.

25 C. For an individual who initially became a member

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1 on or after July 1, 2013, the age and service credit
2 requirements for retirement provided for in the Judicial
3 Retirement Act are:

4 (1) age sixty-seven years or older and five or
5 more years of service credit;

6 (2) any age if the sum of the member's age and
7 years of service credit equals at least eighty; or

8 (3) any age and thirty or more years of
9 service credit.

10 ~~[G.]~~ D. If a member leaves office for any reason,
11 other than removal pursuant to Article 6, Section 32 of the
12 constitution of New Mexico, before meeting the age and
13 service credit requirements for retirement pursuant to the
14 provisions of this section and if that member leaves [~~his~~
15 ~~member~~] the member's contributions on deposit in the fund,
16 that member may apply for retirement when that member meets
17 the age and service credit requirements for retirement
18 pursuant to the provisions of the Judicial Retirement Act or
19 provisions of the Public Employees Retirement Reciprocity
20 Act.

21 ~~[D.]~~ E. No member shall be eligible to receive a
22 pension pursuant to the provisions of the Judicial Retirement
23 Act while still in office."

24 **SECTION 3.** Section 10-12B-9 NMSA 1978 (being Laws 1992,
25 Chapter 111, Section 9, as amended) is amended to read:

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1 "10-12B-9. AMOUNT OF PENSION.--The amount of monthly
2 pension is equal to:

3 A. in the case of a former or current judge or
4 justice, an amount equal to one-twelfth of:

5 seventy-five percent number of years of
6 of salary received X service, not exceeding
7 during last year in ten years, divided
8 office prior to retirement by ten; B.

9 in the case of a new judge or justice who initially became a
10 member prior to July 1, 2005, an amount equal to one-twelfth
11 of:

12 seventy-five percent of (number of years of
13 salary received during X .05 X service, not
14 last year in office ~~excepting for retirement~~
15 years, plus five years); ~~[or]~~

16 C. in the case of a new judge or justice who
17 initially became a member on or after July 1, 2005, but prior
18 to July 1, 2013, an amount equal to one-twelfth of the salary
19 received during the last year in office prior to retirement
20 multiplied by the product of three and seventy-five
21 hundredths percent times the sum of the number of years of
22 service; provided that a pension calculated pursuant to this
23 subsection shall not exceed seventy-five percent of one-
24 twelfth of the salary received during the last year in
25 office; or

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1 D. in the case of a new judge or justice who
2 initially became a member on or after July 1, 2013, an amount
3 equal to two and one-half percent of final average salary
4 multiplied by service credit. The amount shall not exceed
5 eighty percent of final average salary."

6 SECTION 4. Section 10-12C-2 NMSA 1978 (being Laws 1992,
7 Chapter 118, Section 2, as amended) is amended to read:

8 "10-12C-2. DEFINITIONS.--As used in the Magistrate
9 Retirement Act:

10 A. "association" means the public employees
11 retirement association provided for in the Public Employees
12 Retirement Act;

13 B. "board" means the retirement board provided for
14 in the Public Employees Retirement Act;

15 C. "dependent child" means a natural or adopted
16 child who is physically or mentally incapable of financial
17 self-support, regardless of age;

18 D. "educational retirement system" means the
19 retirement system provided for in the Educational Retirement
20 Act;

21 E. "effective date of retirement" means the first
22 day of the month following the month in which the member met
23 all requirements for retirement;

24 F. "final average salary" means one thirty-sixth of
25 the greatest amount of salary paid to a member for thirty-six

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1 consecutive but not necessarily continuous months of credit
2 service;

3 ~~[F.]~~ G. "former member" means a person no longer in
4 office who was previously covered pursuant to the provisions
5 of Sections 10-12A-1 through 10-12A-13 NMSA 1978, but who has
6 not retired pursuant to the provisions of the Magistrate
7 Retirement Act and who has received a refund of member
8 contributions pursuant to the provisions of Sections 10-12C-1
9 through 10-12C-18 NMSA 1978;

10 ~~[G.]~~ H. "fund" means the magistrate retirement
11 fund;

12 ~~[H.]~~ I. "magistrate" means a magistrate judge;

13 ~~[I.]~~ J. "member" means any magistrate who is in
14 office and covered pursuant to the provisions of the
15 Magistrate Retirement Act, or any person no longer in office
16 who was previously a magistrate covered pursuant to the
17 provisions of the Magistrate Retirement Act, who has not
18 retired and who has not received a refund of member
19 contributions from the fund;

20 ~~[J.]~~ K. "member contributions" means the amounts
21 deducted from the salary of a member and credited to the
22 member's individual account, together with interest, if any,
23 credited thereto;

24 ~~[K.]~~ L. "minor child" means a natural or adopted
25 child who has not reached ~~[his]~~ the natural or adopted

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1 child's eighteenth birthday and who has not been emancipated
2 by marriage or otherwise;

3 [~~L-~~] M. "pension" means a series of monthly
4 payments to a retired member or survivor beneficiary pursuant
5 to the provisions of the Magistrate Retirement Act;

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

15 [~~N-~~] O. "retire" means to:

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

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

21 [~~O-~~] P. "retired member" means a person who has met
22 all requirements for retirement and who is receiving a
23 pension from the fund;

24 [~~P-~~] Q. "salary" means the base salary or wages
25 paid a member, including longevity pay, for personal services

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1 rendered; provided that salary does not include overtime pay;
2 allowances for housing, clothing, equipment or travel;
3 payments for unused sick leave, unless the unused sick leave
4 payment is made through continuation of the member on the
5 regular payroll for the period represented by that payment;
6 and any other form of remuneration not specifically
7 designated by law as included in salary pursuant to the
8 provisions of the Magistrate Retirement Act;

9 [Q.] R. "state system" means the retirement
10 programs provided pursuant to the provisions of the Public
11 Employees Retirement Act, the Magistrate Retirement Act and
12 the Judicial Retirement Act;

13 [R.] S. "surviving spouse" means the spouse to whom
14 the member was married at the time of the member's death;

15 [S.] T. "survivor beneficiary" means a person who
16 receives a pension or who has been designated to be paid a
17 pension as a result of the death of a member or retired
18 member; and

19 [T.] U. "years of service" means a period of time
20 beginning on the date a person commences to hold office as a
21 magistrate because of appointment or election and ending on
22 the date a person ceases to hold office as a magistrate
23 because of expiration of the magistrate's term, voluntary
24 resignation, death or disability and shall include any
25 fractions of years of service."

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1 SECTION 5. Section 10-12C-8 NMSA 1978 (being Laws 1992,
2 Chapter 118, Section 8) is amended to read:

3 "10-12C-8. AGE AND SERVICE CREDIT REQUIREMENTS FOR
4 NORMAL RETIREMENT.--

5 A. For an individual who initially became a member
6 prior to July 1, 2013, the age and service credit
7 requirements for retirement provided for in the Magistrate
8 Retirement Act are:

9 (1) age sixty-four or older and five or more
10 years of service credit;

11 (2) age sixty or older and fifteen or more
12 years of service credit; or

13 (3) any age and twenty-four or more years of
14 service credit.

15 B. For an individual who initially became a member
16 on or after July 1, 2013, the age and service credit
17 requirements for retirement provided for in the Magistrate
18 Retirement Act are:

19 (1) age sixty-seven years or older and five or
20 more years of service credit;

21 (2) any age if the sum of the member's age and
22 years of service credit equals at least eighty; or

23 (3) any age and thirty or more years of
24 service credit.

25 [~~B.~~] C. If a member leaves office for any reason,

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1 other than removal pursuant to Article 6, Section 32 of the
2 constitution of New Mexico before meeting the age and service
3 credit requirements for retirement pursuant to the provisions
4 of this section and if that member leaves [~~his member~~] the
5 member's contributions on deposit in the fund, that member
6 may apply for retirement when that member meets the age and
7 service credit requirements for retirement pursuant to the
8 provisions of the Magistrate Retirement Act or provisions of
9 the Public Employees Retirement Reciprocity Act. [~~if enacted~~
10 ~~by the second session of the fortieth legislature of the~~
11 ~~state of New Mexico.~~

12 ~~G.]~~ D. No member shall be eligible to receive a
13 pension pursuant to the provisions of the Magistrate
14 Retirement Act while still in office."

15 **SECTION 6.** Section 10-12C-9 NMSA 1978 (being Laws 1992,
16 Chapter 118, Section 9) is amended to read:

17 "10-12C-9. AMOUNT OF PENSION.--The amount of monthly
18 pension:

19 A. in the case of a magistrate who initially became
20 a member prior to July 1, 2013, is equal to one-twelfth of:

21 seventy-five percent of (number of years of
22 salary received during service, not exceeding
23 last year in office X .05 X fifteen years, [+]
24 prior to retirement plus five years); or

25 B. in the case of a magistrate who initially became a

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1 member on or after July 1, 2013, is equal to two and one-half
2 percent of final average salary multiplied by service credit.
3 The amount shall not exceed eighty percent of final average
4 salary."

5 SECTION 7. EFFECTIVE DATE.--The effective date of the
6 provisions of this act is July 1, 2013.

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

FOR THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

RELATING TO PENSIONS; AMENDING THE PUBLIC EMPLOYEES RETIREMENT ACT, THE MAGISTRATE RETIREMENT ACT AND THE JUDICIAL RETIREMENT ACT; AUTHORIZING THE PUBLIC EMPLOYEES RETIREMENT ASSOCIATION TO DETERMINE AND IMPOSE SUPPLEMENTAL MEMBER CONTRIBUTION RATES AND COST-OF-LIVING ADJUSTMENTS FOR MEMBERS AND RETIRED MEMBERS.

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

SECTION 1. Section 10-11-26.5 NMSA 1978 (being Laws 1994, Chapter 128, Section 6, as amended) is amended to read:

"10-11-26.5. STATE GENERAL MEMBER COVERAGE PLAN 3--MEMBER CONTRIBUTION RATE.--

A. A member under state general member coverage plan 3 shall contribute seven and forty-two hundredths percent of salary starting with the first full pay period that ends within the calendar month in which state general member coverage plan

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1 3 becomes applicable to the member [~~except that for members~~
2 ~~whose annual salary is greater than twenty thousand dollars~~
3 ~~(\$20,000):~~

4 A. ~~from July 1, 2009 through June 30, 2011, the~~
5 ~~member contribution rate shall be eight and ninety-two~~
6 ~~hundredths percent of salary;~~

7 B. ~~from July 1, 2011 through June 30, 2012, the~~
8 ~~member contribution rate shall be ten and sixty-seven~~
9 ~~hundredths percent of salary; and~~

10 C. ~~from July 1, 2012 through June 30, 2013, the~~
11 ~~member contribution rate shall be eight and ninety-two~~
12 ~~hundredths percent of salary].~~

13 B. In addition to the member contribution required
14 pursuant to Subsection A of this section, a member under state
15 general member coverage plan 3 shall make a supplemental
16 contribution as determined by the retirement board. The rate
17 of the supplemental contribution, if any, shall be determined
18 annually and shall take effect on July 1 of each year or in the
19 first full pay period that ends within the calendar month in
20 which state general member coverage plan 3 becomes applicable
21 to the member. In determining the supplemental contribution
22 rate, the retirement board shall:

23 (1) consider the solvency of the coverage plan
24 and whether the plan is projected to be ninety percent funded
25 within thirty years;

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- 1 (2) consider any other relevant factors as
- 2 determined by the retirement board;
- 3 (3) not set a supplemental contribution rate in
- 4 excess of thirty-five percent of the contribution rate set
- 5 forth in Subsection A of this section; and
- 6 (4) act to enhance or preserve the actuarial
- 7 soundness of the plan."

8 SECTION 2. Section 10-11-38.5 NMSA 1978 (being Laws 1994,
9 Chapter 128, Section 13, as amended) is amended to read:

10 "10-11-38.5. STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN
11 2--MEMBER CONTRIBUTION RATE.--

12 A. A member under state hazardous duty member
13 coverage plan 2 shall contribute four and seventy-eight
14 hundredths percent of salary starting with the first full pay
15 period that ends within the calendar month in which state
16 hazardous duty member coverage plan 2 becomes applicable to the
17 member [~~except that for members whose annual salary is greater~~
18 ~~than twenty thousand dollars (\$20,000):~~

19 ~~A. from July 1, 2009 through June 30, 2011, the~~
20 ~~member contribution rate shall be six and twenty-eight~~
21 ~~hundredths percent of salary;~~

22 ~~B. from July 1, 2011 through June 30, 2012, the~~
23 ~~member contribution rate shall be eight and three-hundredths~~
24 ~~percent of salary; and~~

25 ~~C. from July 1, 2012 through June 30, 2013, the~~

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1 ~~member contribution rate shall be six and twenty-eight~~
2 ~~hundredths percent of salary].~~

3 B. In addition to the member contribution required
4 pursuant to Subsection A of this section, a member under state
5 hazardous duty member coverage plan 2 shall make a supplemental
6 contribution as determined by the retirement board. The rate
7 of the supplemental contribution, if any, shall be determined
8 annually and shall take effect on July 1 of each year or in the
9 first full pay period that ends within the calendar month in
10 which state hazardous duty member coverage plan 2 becomes
11 applicable to the member. In determining the supplemental
12 contribution rate, the retirement board shall:

13 (1) consider the solvency of the coverage plan
14 and whether the plan is projected to be ninety percent funded
15 within thirty years;

16 (2) consider any other relevant factors as
17 determined by the retirement board;

18 (3) not set a supplemental contribution rate in
19 excess of thirty-five percent of the contribution rate set
20 forth in Subsection A of this section; and

21 (4) act to enhance or preserve the actuarial
22 soundness of the plan."

23 SECTION 3. Section 10-11-48 NMSA 1978 (being Laws 1987,
24 Chapter 253, Section 48) is amended to read:

25 "10-11-48. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 1--

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[bracketed material] = delete

1 MEMBER CONTRIBUTION RATE.--

2 A. A member under municipal general member coverage
3 plan 1 shall contribute seven percent of salary.

4 B. In addition to the member contribution required
5 pursuant to Subsection A of this section, a member under
6 municipal general member coverage plan 1 shall make a
7 supplemental contribution as determined by the retirement
8 board. The rate of the supplemental contribution, if any,
9 shall be determined annually and shall take effect on July 1 of
10 each year or in the first full pay period that ends within the
11 calendar month in which municipal general member coverage plan
12 1 becomes applicable to the member. In determining the
13 supplemental contribution rate, the retirement board shall:

14 (1) consider the solvency of the coverage plan
15 and whether the plan is projected to be ninety percent funded
16 within thirty years;

17 (2) consider any other relevant factors as
18 determined by the retirement board;

19 (3) not set a supplemental contribution rate in
20 excess of thirty-five percent of the contribution rate set
21 forth in Subsection A of this section; and

22 (4) act to enhance or preserve the actuarial
23 soundness of the plan."

24 SECTION 4. Section 10-11-54 NMSA 1978 (being Laws 1987,
25 Chapter 253, Section 54) is amended to read:

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1 "10-11-54. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 2--
2 MEMBER CONTRIBUTION RATE.--

3 A. A member under municipal general member coverage
4 plan 2 shall contribute nine and [~~fifteen one-hundredths~~]
5 fifteen-hundredths percent of salary starting with the first
6 full pay period in the calendar month in which coverage plan 2
7 becomes applicable to the member.

8 B. In addition to the member contribution required
9 pursuant to Subsection A of this section, a member under
10 municipal general member coverage plan 2 shall make a
11 supplemental contribution as determined by the retirement
12 board. The rate of the supplemental contribution, if any,
13 shall be determined annually and shall take effect on July 1 of
14 each year or in the first full pay period that ends within the
15 calendar month in which municipal general member coverage plan
16 2 becomes applicable to the member. In determining the
17 supplemental contribution rate, the retirement board shall:

18 (1) consider the solvency of the coverage plan
19 and whether the plan is projected to be ninety percent funded
20 within thirty years;

21 (2) consider any other relevant factors as
22 determined by the retirement board;

23 (3) not set a supplemental contribution rate in
24 excess of thirty-five percent of the contribution rate set
25 forth in Subsection A of this section; and

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1 (4) act to enhance or preserve the actuarial
2 soundness of the plan."

3 SECTION 5. Section 10-11-55.5 NMSA 1978 (being Laws 1993,
4 Chapter 58, Section 5) is amended to read:

5 "10-11-55.5. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 3--
6 MEMBER CONTRIBUTION RATE.--

7 A. A member under municipal general member coverage
8 plan 3 shall contribute thirteen and [~~fifteen one-hundredths~~]
9 fifteen-hundredths percent of salary starting with the first
10 full pay period in the calendar month in which coverage plan 3
11 becomes applicable to the member.

12 B. In addition to the member contribution required
13 pursuant to Subsection A of this section, a member under
14 municipal general member coverage plan 3 shall make a
15 supplemental contribution as determined by the retirement
16 board. The rate of the supplemental contribution, if any,
17 shall be determined annually and shall take effect on July 1 of
18 each year or in the first full pay period that ends within the
19 calendar month in which municipal general member coverage plan
20 3 becomes applicable to the member. In determining the
21 supplemental contribution rate, the retirement board shall:

22 (1) consider the solvency of the coverage plan
23 and whether the plan is projected to be ninety percent funded
24 within thirty years;

25 (2) consider any other relevant factors as

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1 determined by the retirement board;

2 (3) not set a supplemental contribution rate in
3 excess of thirty-five percent of the contribution rate set
4 forth in Subsection A of this section; and

5 (4) act to enhance or preserve the actuarial
6 soundness of the plan."

7 SECTION 6. Section 10-11-55.11 NMSA 1978 (being Laws
8 1998, Chapter 106, Section 5) is amended to read:

9 "10-11-55.11. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 4--
10 MEMBER CONTRIBUTION RATE.--

11 A. A member under municipal general member coverage
12 plan 4 shall contribute fifteen and sixty-five hundredths
13 percent of salary starting with the first full pay period in
14 the calendar month in which coverage plan 4 becomes applicable
15 to the member.

16 B. In addition to the member contribution required
17 pursuant to Subsection A of this section, a member under
18 municipal general member coverage plan 4 shall make a
19 supplemental contribution as determined by the retirement
20 board. The rate of the supplemental contribution, if any,
21 shall be determined annually and shall take effect on July 1 of
22 each year or in the first full pay period that ends within the
23 calendar month in which municipal general member coverage plan
24 4 becomes applicable to the member. In determining the
25 supplemental contribution rate, the retirement board shall:

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1 (1) consider the solvency of the coverage plan
2 and whether the plan is projected to be ninety percent funded
3 within thirty years;

4 (2) consider any other relevant factors as
5 determined by the retirement board;

6 (3) not set a supplemental contribution rate in
7 excess of thirty-five percent of the contribution rate set
8 forth in Subsection A of this section; and

9 (4) act to enhance or preserve the actuarial
10 soundness of the plan."

11 SECTION 7. Section 10-11-60 NMSA 1978 (being Laws 1987,
12 Chapter 253, Section 60) is amended to read:

13 "10-11-60. MUNICIPAL POLICE MEMBER COVERAGE PLAN 1--
14 MEMBER CONTRIBUTION RATE.--

15 A. A member under municipal police member coverage
16 plan 1 shall contribute seven percent of salary.

17 B. In addition to the member contribution required
18 pursuant to Subsection A of this section, a member under
19 municipal police member coverage plan 1 shall make a
20 supplemental contribution as determined by the retirement
21 board. The rate of the supplemental contribution, if any,
22 shall be determined annually and shall take effect on July 1 of
23 each year or in the first full pay period that ends within the
24 calendar month in which municipal police member coverage plan 1
25 becomes applicable to the member. In determining the

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1 supplemental contribution rate, the retirement board shall:

2 (1) consider the solvency of the coverage plan
3 and whether the plan is projected to be ninety percent funded
4 within thirty years;

5 (2) consider any other relevant factors as
6 determined by the retirement board;

7 (3) not set a supplemental contribution rate in
8 excess of thirty-five percent of the contribution rate set
9 forth in Subsection A of this section; and

10 (4) act to enhance or preserve the actuarial
11 soundness of the plan."

12 SECTION 8. Section 10-11-66 NMSA 1978 (being Laws 1987,
13 Chapter 253, Section 66) is amended to read:

14 "10-11-66. MUNICIPAL POLICE MEMBER COVERAGE PLAN 2--
15 MEMBER CONTRIBUTION RATE.--

16 A. A member under municipal police member coverage
17 plan 2 shall contribute seven percent of salary.

18 B. In addition to the member contribution required
19 pursuant to Subsection A of this section, a member under
20 municipal police member coverage plan 2 shall make a
21 supplemental contribution as determined by the retirement
22 board. The rate of the supplemental contribution, if any,
23 shall be determined annually and shall take effect on July 1 of
24 each year or in the first full pay period that ends within the
25 calendar month in which municipal police member coverage plan 2

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1 becomes applicable to the member. In determining the
2 supplemental contribution rate, the retirement board shall:

3 (1) consider the solvency of the coverage plan
4 and whether the plan is projected to be ninety percent funded
5 within thirty years;

6 (2) consider any other relevant factors as
7 determined by the retirement board;

8 (3) not set a supplemental contribution rate in
9 excess of thirty-five percent of the contribution rate set
10 forth in Subsection A of this section; and

11 (4) act to enhance or preserve the actuarial
12 soundness of the plan."

13 SECTION 9. Section 10-11-72 NMSA 1978 (being Laws 1987,
14 Chapter 253, Section 72) is amended to read:

15 "10-11-72. MUNICIPAL POLICE MEMBER COVERAGE PLAN 3--
16 MEMBER CONTRIBUTION RATE.--

17 A. A member under municipal police member coverage
18 plan 3 shall contribute seven percent of salary.

19 B. In addition to the member contribution required
20 pursuant to Subsection A of this section, a member under
21 municipal police member coverage plan 3 shall make a
22 supplemental contribution as determined by the retirement
23 board. The rate of the supplemental contribution, if any,
24 shall be determined annually and shall take effect on July 1 of
25 each year or in the first full pay period that ends within the

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1 calendar month in which municipal police member coverage plan 3
2 becomes applicable to the member. In determining the
3 supplemental contribution rate, the retirement board shall:

4 (1) consider the solvency of the coverage plan
5 and whether the plan is projected to be ninety percent funded
6 within thirty years;

7 (2) consider any other relevant factors as
8 determined by the retirement board;

9 (3) not set a supplemental contribution rate in
10 excess of thirty-five percent of the contribution rate set
11 forth in Subsection A of this section; and

12 (4) act to enhance or preserve the actuarial
13 soundness of the plan."

14 SECTION 10. Section 10-11-78 NMSA 1978 (being Laws 1987,
15 Chapter 253, Section 78) is amended to read:

16 "10-11-78. MUNICIPAL POLICE MEMBER COVERAGE PLAN 4--
17 MEMBER CONTRIBUTION RATE.--

18 A. A member under municipal police member coverage
19 plan 4 shall contribute twelve and thirty-five [~~one-hundredths~~]
20 hundredths percent of salary starting with the first full pay
21 period in the calendar month in which municipal police member
22 coverage plan 4 becomes applicable to the member.

23 B. In addition to the member contribution required
24 pursuant to Subsection A of this section, a member under
25 municipal police member coverage plan 4 shall make a

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1 supplemental contribution as determined by the retirement
2 board. The rate of the supplemental contribution, if any,
3 shall be determined annually and shall take effect on July 1 of
4 each year or in the first full pay period that ends within the
5 calendar month in which municipal police member coverage plan 4
6 becomes applicable to the member. In determining the
7 supplemental contribution rate, the retirement board shall:

8 (1) consider the solvency of the coverage plan
9 and whether the plan is projected to be ninety percent funded
10 within thirty years;

11 (2) consider any other relevant factors as
12 determined by the retirement board;

13 (3) not set a supplemental contribution rate in
14 excess of thirty-five percent of the contribution rate set
15 forth in Subsection A of this section; and

16 (4) act to enhance or preserve the actuarial
17 soundness of the plan."

18 SECTION 11. Section 10-11-84 NMSA 1978 (being Laws 1987,
19 Chapter 253, Section 84) is amended to read:

20 "10-11-84. MUNICIPAL POLICE MEMBER COVERAGE PLAN 5--
21 MEMBER CONTRIBUTION RATE.--

22 A. A member under municipal police member coverage
23 plan 5 shall contribute sixteen and three-tenths percent of
24 salary starting with the first full pay period in the calendar
25 month in which municipal police member coverage plan 5 becomes

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1 applicable to the member.

2 B. In addition to the member contribution required
3 pursuant to Subsection A of this section, a member under
4 municipal police member coverage plan 5 shall make a
5 supplemental contribution as determined by the retirement
6 board. The rate of the supplemental contribution, if any,
7 shall be determined annually and shall take effect on July 1 of
8 each year or in the first full pay period that ends within the
9 calendar month in which municipal police member coverage plan 5
10 becomes applicable to the member. In determining the
11 supplemental contribution rate, the retirement board shall:

12 (1) consider the solvency of the coverage plan
13 and whether the plan is projected to be ninety percent funded
14 within thirty years;

15 (2) consider any other relevant factors as
16 determined by the retirement board;

17 (3) not set a supplemental contribution rate in
18 excess of thirty-five percent of the contribution rate set
19 forth in Subsection A of this section; and

20 (4) act to enhance or preserve the actuarial
21 soundness of the plan."

22 SECTION 12. Section 10-11-90 NMSA 1978 (being Laws 1987,
23 Chapter 253, Section 90, as amended) is amended to read:

24 "10-11-90. MUNICIPAL FIRE MEMBER COVERAGE PLAN 1--MEMBER
25 CONTRIBUTION RATE.--

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1 A. A member under municipal fire member coverage plan
2 l shall contribute eight percent of salary.

3 B. In addition to the member contribution required
4 pursuant to Subsection A of this section, a member under
5 municipal fire member coverage plan l shall make a supplemental
6 contribution as determined by the retirement board. The rate
7 of the supplemental contribution, if any, shall be determined
8 annually and shall take effect on July 1 of each year or in the
9 first full pay period that ends within the calendar month in
10 which municipal fire member coverage plan l becomes applicable
11 to the member. In determining the supplemental contribution
12 rate, the retirement board shall:

13 (1) consider the solvency of the coverage plan
14 and whether the plan is projected to be ninety percent funded
15 within thirty years;

16 (2) consider any other relevant factors as
17 determined by the retirement board;

18 (3) not set a supplemental contribution rate in
19 excess of thirty-five percent of the contribution rate set
20 forth in Subsection A of this section; and

21 (4) act to enhance or preserve the actuarial
22 soundness of the plan."

23 SECTION 13. Section 10-11-96 NMSA 1978 (being Laws 1987,
24 Chapter 253, Section 96, as amended) is amended to read:

25 "10-11-96. MUNICIPAL FIRE MEMBER COVERAGE PLAN 2--MEMBER
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1 CONTRIBUTION RATE.--

2 A. A member under municipal fire member coverage plan
3 2 shall contribute eight percent of salary.

4 B. In addition to the member contribution required
5 pursuant to Subsection A of this section, a member under
6 municipal fire member coverage plan 2 shall make a supplemental
7 contribution as determined by the retirement board. The rate
8 of the supplemental contribution, if any, shall be determined
9 annually and shall take effect on July 1 of each year or in the
10 first full pay period that ends within the calendar month in
11 which municipal fire member coverage plan 2 becomes applicable
12 to the member. In determining the supplemental contribution
13 rate, the retirement board shall:

14 (1) consider the solvency of the coverage plan
15 and whether the plan is projected to be ninety percent funded
16 within thirty years;

17 (2) consider any other relevant factors as
18 determined by the retirement board;

19 (3) not set a supplemental contribution rate in
20 excess of thirty-five percent of the contribution rate set
21 forth in Subsection A of this section; and

22 (4) act to enhance or preserve the actuarial
23 soundness of the plan."

24 SECTION 14. Section 10-11-102 NMSA 1978 (being Laws 1987,
25 Chapter 253, Section 102, as amended) is amended to read:

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1 "10-11-102. MUNICIPAL FIRE MEMBER COVERAGE PLAN 3--MEMBER
2 CONTRIBUTION RATE.--

3 A. A member under municipal fire member coverage plan
4 3 shall contribute eight percent of salary.

5 B. In addition to the member contribution required
6 pursuant to Subsection A of this section, a member under
7 municipal fire member coverage plan 3 shall make a supplemental
8 contribution as determined by the retirement board. The rate
9 of the supplemental contribution, if any, shall be determined
10 annually and shall take effect on July 1 of each year or in the
11 first full pay period that ends within the calendar month in
12 which municipal fire member coverage plan 3 becomes applicable
13 to the member. In determining the supplemental contribution
14 rate, the retirement board shall:

15 (1) consider the solvency of the coverage plan
16 and whether the plan is projected to be ninety percent funded
17 within thirty years;

18 (2) consider any other relevant factors as
19 determined by the retirement board;

20 (3) not set a supplemental contribution rate in
21 excess of thirty-five percent of the contribution rate set
22 forth in Subsection A of this section; and

23 (4) act to enhance or preserve the actuarial
24 soundness of the plan."

25 SECTION 15. Section 10-11-108 NMSA 1978 (being Laws 1987,

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1 Chapter 253, Section 108, as amended) is amended to read:

2 "10-11-108. MUNICIPAL FIRE MEMBER COVERAGE PLAN 4--MEMBER
3 CONTRIBUTION RATE.--

4 A. A member under municipal fire member coverage plan
5 4 shall contribute twelve and eight-tenths percent of salary.

6 B. In addition to the member contribution required
7 pursuant to Subsection A of this section, a member under
8 municipal fire member coverage plan 4 shall make a supplemental
9 contribution as determined by the retirement board. The rate
10 of the supplemental contribution, if any, shall be determined
11 annually and shall take effect on July 1 of each year or in the
12 first full pay period that ends within the calendar month in
13 which municipal fire member coverage plan 4 becomes applicable
14 to the member. In determining the supplemental contribution
15 rate, the retirement board shall:

16 (1) consider the solvency of the coverage plan
17 and whether the plan is projected to be ninety percent funded
18 within thirty years;

19 (2) consider any other relevant factors as
20 determined by the retirement board;

21 (3) not set a supplemental contribution rate in
22 excess of thirty-five percent of the contribution rate set
23 forth in Subsection A of this section; and

24 (4) act to enhance or preserve the actuarial
25 soundness of the plan."

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1 SECTION 16. Section 10-11-114 NMSA 1978 (being Laws 1987,
2 Chapter 253, Section 114, as amended) is amended to read:

3 "10-11-114. MUNICIPAL FIRE MEMBER COVERAGE PLAN 5--MEMBER
4 CONTRIBUTION RATE.--

5 A. A member under municipal fire member coverage plan
6 5 shall contribute sixteen and two-tenths percent of salary.

7 B. In addition to the member contribution required
8 pursuant to Subsection A of this section, a member under
9 municipal fire member coverage plan 5 shall make a supplemental
10 contribution as determined by the retirement board. The rate
11 of the supplemental contribution, if any, shall be determined
12 annually and shall take effect on July 1 of each year or in the
13 first full pay period that ends within the calendar month in
14 which municipal fire member coverage plan 5 becomes applicable
15 to the member. In determining the supplemental contribution
16 rate, the retirement board shall:

17 (1) consider the solvency of the coverage plan
18 and whether the plan is projected to be ninety percent funded
19 within thirty years;

20 (2) consider any other relevant factors as
21 determined by the retirement board;

22 (3) not set a supplemental contribution rate in
23 excess of thirty-five percent of the contribution rate set
24 forth in Subsection A of this section; and

25 (4) act to enhance or preserve the actuarial

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1 soundness of the plan."

2 SECTION 17. Section 10-11-115.5 NMSA 1978 (being Laws
3 2003, Chapter 268, Section 6) is amended to read:

4 "10-11-115.5. MUNICIPAL DETENTION OFFICER MEMBER COVERAGE
5 PLAN 1--MEMBER CONTRIBUTION RATE.--

6 A. A member under municipal detention officer member
7 coverage plan 1 shall contribute sixteen and sixty-five
8 hundredths percent of salary starting with the first full pay
9 period that ends within the calendar month in which municipal
10 detention officer member coverage plan 1 becomes applicable to
11 the member.

12 B. In addition to the member contribution required
13 pursuant to Subsection A of this section, a member under
14 municipal detention officer member coverage plan 1 shall make a
15 supplemental contribution as determined by the retirement
16 board. The rate of the supplemental contribution, if any,
17 shall be determined annually and shall take effect on July 1 of
18 each year or in the first full pay period that ends within the
19 calendar month in which municipal detention officer member
20 coverage plan 1 becomes applicable to the member. In
21 determining the supplemental contribution rate, the retirement
22 board shall:

23 (1) consider the solvency of the coverage plan
24 and whether the plan is projected to be ninety percent funded
25 within thirty years;

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1 (2) consider any other relevant factors as
2 determined by the retirement board;

3 (3) not set a supplemental contribution rate in
4 excess of thirty-five percent of the contribution rate set
5 forth in Subsection A of this section; and

6 (4) act to enhance or preserve the actuarial
7 soundness of the plan."

8 SECTION 18. Section 10-11-118 NMSA 1978 (being Laws 1987,
9 Chapter 253, Section 118, as amended) is amended to read:

10 "10-11-118. COST-OF-LIVING ADJUSTMENTS.--

11 A. [~~For the purposes of this section:~~

12 ~~(1) "preceding calendar year" means the~~
13 ~~twelve-month period ending on the December 31 preceding the~~
14 ~~July 1 in which pensions are being adjusted; and~~

15 ~~(2) "second preceding calendar year" means the~~
16 ~~full calendar year prior to the preceding calendar year.] On~~

17 March 1 of each year, the retirement board shall determine the
18 funded status of each coverage plan in the state system. On
19 May 1 of each year, the retirement board shall determine for
20 each coverage plan a cost-of-living adjustment that is no less
21 than zero percent and no greater than three percent. In
22 determining the percentage of a cost-of-living adjustment, the
23 retirement board shall:

24 (1) consider the solvency of that plan and
25 whether the plan is projected to be ninety percent funded

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1 within thirty years;

2 (2) consider the change, if any, in the consumer
3 price index for the previous twelve months;

4 (3) consider any other relevant factors as
5 determined by the retirement board; and

6 (4) act to enhance or preserve the actuarial
7 soundness of the plan.

8 B. The amount of pension payable to a qualified
9 pension recipient [~~shall~~] may be increased [~~three percent~~] each
10 July 1. The amount of the increase shall be determined by
11 multiplying the amount of pension inclusive of all prior
12 adjustments by [~~three percent~~] a cost-of-living adjustment
13 determined by the retirement board pursuant to Subsection A of
14 this section.

15 C. A qualified pension recipient is:

16 (1) a normal retired member who has been retired
17 for at least two full calendar years from the effective date of
18 the latest retirement prior to July 1 of the year in which the
19 pension is being adjusted;

20 (2) a normal retired member who has attained age
21 sixty-five years and been retired for at least one full
22 calendar year from the effective date of the latest retirement
23 prior to July 1 of the year in which the pension is being
24 adjusted;

25 (3) a disability retired member who has been

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1 retired for at least one full calendar year from the effective
2 date of the latest retirement prior to July 1 of the year in
3 which the pension is being adjusted;

4 (4) a survivor beneficiary who has received a
5 survivor pension for at least two full calendar years; or

6 (5) a survivor beneficiary of a deceased retired
7 member who otherwise would have been retired at least two full
8 calendar years from the effective date of the latest retirement
9 prior to July 1 of the year in which the pension is being
10 adjusted.

11 D. A qualified pension recipient may decline an
12 increase in a pension by giving the association written notice
13 of the decision to decline the increase at least thirty days
14 prior to the date the increase would take effect."

15 SECTION 19. Section 10-12B-10 NMSA 1978 (being Laws 1992,
16 Chapter 111, Section 10, as amended) is amended to read:

17 "10-12B-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

18 A. Members, while in office, shall contribute to the
19 member contribution fund [~~pursuant to the following schedule:~~

20 (1) ~~prior to July 1, 2005, five and one-half~~
21 ~~percent of salary;~~

22 (2) ~~from July 1, 2005 through June 30, 2006, six~~
23 ~~and one-half percent of salary; and~~

24 (3) ~~on and after July 1, 2006] seven and one-~~
25 ~~half percent of salary [except that for members whose annual~~

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1 ~~salary is greater than twenty thousand dollars (\$20,000):~~

2 ~~(a) from July 1, 2009 through June 30, 2011,~~
3 ~~the member contribution rate shall be nine percent of salary;~~

4 ~~(b) from July 1, 2011 through June 30, 2012,~~
5 ~~the member contribution rate shall be ten and three-fourths~~
6 ~~percent of salary; and~~

7 ~~(c) from July 1, 2012 through June 30, 2013,~~
8 ~~the member contribution rate shall be nine percent of salary].~~

9 B. In addition to the member contribution required
10 pursuant to Subsection A of this section, a member under the
11 Judicial Retirement Act shall make a supplemental contribution
12 as determined by the retirement board. The rate of the
13 supplemental contribution, if any, shall be determined annually
14 and shall take effect on July 1 of each year or in the first
15 full pay period that the member is in office. In determining
16 the supplemental contribution rate, the retirement board shall:

17 (1) consider the solvency of the coverage plan
18 and whether the plan is projected to be ninety percent funded
19 within thirty years;

20 (2) consider any other relevant factors as
21 determined by the retirement board;

22 (3) not set a supplemental contribution rate in
23 excess of thirty-five percent of the contribution rate set
24 forth in Subsection A of this section; and

25 (4) act to enhance or preserve the actuarial

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1 soundness of the plan.

2 [B-] C. Upon implementation, the state, acting as
3 employer of members covered pursuant to the provisions of the
4 Judicial Retirement Act, shall, solely for the purpose of
5 compliance with Section 414(h) of the Internal Revenue Code of
6 1986, pick up for the purposes specified in that section member
7 contributions required by this section for all annual salary
8 earned by the member. Member contributions picked up pursuant
9 to the provisions of this section shall be treated as employer
10 contributions for purposes of determining income tax
11 obligations under the Internal Revenue Code of 1986; however,
12 such picked-up member contributions shall be included in the
13 determination of the member's gross annual salary for all other
14 purposes under federal and state laws. Member contributions
15 picked up pursuant to the provisions of this section shall
16 continue to be designated member contributions for all purposes
17 of the Judicial Retirement Act and shall be considered as part
18 of the member's annual salary for purposes of determining the
19 amount of the member's contribution. The provisions of this
20 section are mandatory, and the member shall have no option
21 concerning the pickup or concerning the receipt of the
22 contributed amounts directly instead of having the amounts paid
23 by the employer to the retirement system. Implementation
24 occurs upon authorization by the board. In no event may
25 implementation occur other than at the beginning of a pay

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1 period applicable to the member."

2 SECTION 20. Section 10-12C-10 NMSA 1978 (being Laws 1992,
3 Chapter 118, Section 10, as amended) is amended to read:

4 "10-12C-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

5 A. Members, while in office, shall contribute [~~the~~
6 ~~following amounts~~] to the member contribution fund

7 [~~(1) through June 30, 2006, six and one-half~~
8 ~~percent of salary; and~~

9 ~~(2) on and after July 1, 2006]~~ seven and one-
10 half percent of salary [~~except that for members whose annual~~
11 ~~salary is greater than twenty thousand dollars (\$20,000):~~

12 ~~(a) from July 1, 2009 through June 30, 2011,~~
13 ~~the member contribution rate shall be nine percent of salary;~~

14 ~~(b) from July 1, 2011 through June 30, 2012,~~
15 ~~the member contribution rate shall be ten and three-fourths~~
16 ~~percent of salary; and~~

17 ~~(c) from July 1, 2012 through June 30, 2013,~~
18 ~~the member contribution rate shall be nine percent of salary].~~

19
20 B. In addition to the member contribution required
21 pursuant to Subsection A of this section, a member under the
22 Magistrate Retirement Act shall make a supplemental
23 contribution as determined by the retirement board. The rate
24 of the supplemental contribution, if any, shall be determined
25 annually and shall take effect on July 1 of each year or in the

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1 first full pay period that the member is in office. In
2 determining the supplemental contribution rate, the retirement
3 board shall:

4 (1) consider the solvency of the coverage plan
5 and whether the plan is projected to be ninety percent funded
6 within thirty years;

7 (2) consider any other relevant factors as
8 determined by the retirement board;

9 (3) not set a supplemental contribution rate in
10 excess of thirty-five percent of the contribution rate set
11 forth in Subsection A of this section; and

12 (4) act to enhance or preserve the actuarial
13 soundness of the plan.

14 ~~[B-]~~ C. Upon implementation, the state, acting as
15 employer of members covered pursuant to the provisions of the
16 Magistrate Retirement Act, shall, solely for the purpose of
17 compliance with Section 414(h) of the Internal Revenue Code of
18 1986, pick up for the purposes specified in that section member
19 contributions required by this section for all annual salary
20 earned by the member. Member contributions picked up pursuant
21 to the provisions of this section shall be treated as employer
22 contributions for purposes of determining income tax
23 obligations under the Internal Revenue Code of 1986; however,
24 such picked-up member contributions shall be included in the
25 determination of the member's gross annual salary for all other

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1 purposes under federal and state laws. Member contributions
2 picked up pursuant to the provisions of this section shall
3 continue to be designated member contributions for all purposes
4 of the Magistrate Retirement Act and shall be considered as
5 part of the member's annual salary for purposes of determining
6 the amount of the member's contribution. The provisions of
7 this section are mandatory, and the member shall have no option
8 concerning the ~~[pick-up]~~ pickup or concerning the receipt of
9 the contributed amounts directly instead of having the amounts
10 paid by the employer to the retirement system. Implementation
11 occurs upon authorization by the board. In no event may
12 implementation occur other than at the beginning of a pay
13 period applicable to the member."

14 SECTION 21. EFFECTIVE DATE.--The effective date of the
15 provisions of this act is July 1, 2013.

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

ENDORSED BY THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

RELATING TO PUBLIC FINANCES; CLARIFYING AUTHORIZED INVESTMENTS OF THE STATE TREASURER; CHANGING THE NAME OF THE PARTICIPATING GOVERNMENT INVESTMENT FUND TO THE LOCAL GOVERNMENT INVESTMENT POOL; INCREASING THE PERCENTAGE OF GENERAL FUNDS AND BOND PROCEEDS THAT MAY BE INVESTED IN THE LOCAL GOVERNMENT INVESTMENT POOL.

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

SECTION 1. Section 6-10-1.1 NMSA 1978 (being Laws 1987, Chapter 79, Section 3, as amended) is amended to read:

"6-10-1.1. DEFINITIONS.--As used in Chapter 6, Article 10 NMSA 1978:

A. "department" means the department of finance and administration;

B. "deposit" includes share, share certificate and

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1 share draft;

2 C. "eligible governing body" means a local governing
3 body, the governing authority of a tribe or any other
4 governmental or quasi-governmental body created or authorized
5 to be created pursuant to New Mexico statutes;

6 D. "finance officer" means the chief financial
7 officer of an eligible governing body or a participating
8 government;

9 E. "local governing body" means a political
10 subdivision of the state, including a school district or a
11 post-secondary educational institution;

12 F. "participating government" means an eligible
13 governing body or the state treasurer on behalf of the general
14 fund that has invested money in the [~~participating government~~
15 ~~investment fund~~] local government investment pool;

16 G. "secretary" means the secretary of finance and
17 administration;

18 H. "treasury" means the master depository or cash
19 concentration account held at the state's fiscal agent bank and
20 administered by the office of the state treasurer, unless the
21 context otherwise clearly indicates; and

22 I. "tribe" means a federally recognized Indian
23 nation, tribe or pueblo or a subdivision or agency of a
24 federally recognized Indian nation, tribe or pueblo, located
25 wholly or partially in New Mexico."

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1 SECTION 2. Section 6-10-10 NMSA 1978 (being Laws 1933,
2 Chapter 175, Section 4, as amended) is amended to read:

3 "6-10-10. DEPOSIT AND INVESTMENT OF FUNDS.--

4 A. Upon the certification or designation of a bank,
5 savings and loan association or credit union whose deposits are
6 insured by an agency of the United States to receive public
7 money on deposit, the state treasurer and county or municipal
8 treasurers who have on hand any public money by virtue of their
9 offices shall make deposit of that money in banks and savings
10 and loan associations and may make deposit of that money in
11 credit unions whose deposits are insured by an agency of the
12 United States, designated by the authority authorized by law to
13 so designate to receive the deposits of all money thereafter
14 received or collected by the treasurers.

15 B. County or municipal treasurers may deposit money
16 in one or more accounts with any such bank, savings and loan
17 association or credit union located in their respective
18 counties, subject to limitation on credit union accounts.

19 C. The state treasurer may deposit money in one or
20 more accounts with any such bank, savings and loan association
21 or credit union, subject to the limitation on credit union
22 accounts.

23 D. Duplicate receipts or deposit slips shall be taken
24 for each deposit made pursuant to Subsection A, B or C of this
25 section. When deposits are made by the state treasurer, one

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1 copy of the receipt or deposit slip shall be retained by the
2 state treasurer and the other copy shall be filed monthly on
3 the first day of each month with the financial control division
4 of the department [~~of finance and administration~~]. When
5 deposits are made by the treasurer or any other authorized
6 person making the deposits for a board of finance of a public
7 or educational institution, one copy of the receipt or deposit
8 slip shall be retained by the treasurer or authorized person
9 making the deposit and the other copy shall be filed monthly on
10 the first day of each month with that board of finance. When
11 deposits are made by a county or municipal treasurer, one of
12 the duplicate receipts or deposit slips shall be retained by
13 the treasurer making the deposit and the other copy shall be
14 filed monthly on the first day of each month with the secretary
15 of the board of finance of the county or municipality for which
16 that treasurer is acting.

17 E. "Deposit", as used in this section, means either
18 investment or deposit and includes share, share certificate and
19 share draft.

20 F. County or municipal treasurers, with the advice
21 and consent of their respective boards of finance charged with
22 the supervision and control of the respective funds, may invest
23 all sinking funds or money remaining unexpended from the
24 proceeds of any issue of bonds or other negotiable securities
25 of any county, municipality or school district that is

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1 entrusted to their care and custody and all money not
2 immediately necessary for the public uses of the counties,
3 municipalities or school districts not invested or deposited in
4 banks, savings and loan associations or credit unions in:

5 (1) bonds or negotiable securities of the United
6 States, the state or a county, municipality or school district
7 that has a taxable valuation of real property for the last
8 preceding year of at least one million dollars (\$1,000,000) and
9 that has not defaulted in the payment of any interest or
10 sinking fund obligation or failed to meet any bonds at maturity
11 at any time within five years last preceding; or

12 (2) securities that are issued and backed by the
13 full faith and credit of the United States government or issued
14 by its agencies or instrumentalities [~~and that are either~~
15 ~~direct obligations of the United States, the federal home loan~~
16 ~~mortgage association, the federal national mortgage~~
17 ~~association, the federal farm credit bank, federal home loan~~
18 ~~banks or the student loan marketing association or that are~~
19 ~~backed by the full faith and credit of the United States~~
20 ~~government~~].

21 G. The treasurer of a class A county or the treasurer
22 of a municipality having a population of more than sixty-five
23 thousand according to the most recent federal decennial census
24 and located within a class A county, with the advice and
25 consent of the boards of finance charged with the supervision

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1 and control of the funds, may invest all sinking funds or money
2 remaining unexpended from the proceeds of any issue of bonds or
3 other negotiable securities of the county or municipality that
4 is entrusted to the treasurer's care and custody and all money
5 not immediately necessary for the public uses of the county or
6 municipality not invested or deposited in banks, savings and
7 loan associations or credit unions in:

8 (1) shares of a diversified investment company
9 registered pursuant to the federal Investment Company Act of
10 1940 that invests in fixed-income securities or debt
11 instruments that are listed in a nationally recognized, broad-
12 market, fixed-income-securities market index; provided that the
13 investment company or manager has total assets under management
14 of at least one hundred million dollars (\$100,000,000) and
15 provided that the board of finance of the county or
16 municipality may allow reasonable administrative and investment
17 expenses to be paid directly from the income or assets of these
18 investments;

19 (2) individual, common or collective trust funds
20 of banks or trust companies that invest in fixed-income
21 securities or debt instruments that are listed in a nationally
22 recognized, broad-market, fixed-income-securities market index;
23 provided that the investment company or manager has total
24 assets under management of at least one hundred million dollars
25 (\$100,000,000) and provided that the board of finance of the

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1 county or municipality may allow reasonable administrative and
2 investment expenses to be paid directly from the income or
3 assets of these investments; or

4 (3) shares of pooled investment funds managed by
5 the state investment officer, as provided in Subsection E of
6 Section 6-8-7 NMSA 1978; provided that the board of finance of
7 the county or municipality may allow reasonable administrative
8 and investment expenses to be paid directly from the income or
9 assets of these investments.

10 H. A local public body, with the advice and consent
11 of the body charged with the supervision and control of the
12 local public body's respective funds, may invest all sinking
13 funds or money remaining unexpended from the proceeds of any
14 issue of bonds or other negotiable securities of the investor
15 that is entrusted to the local public body's care and custody
16 and all money not immediately necessary for the public uses of
17 the investor and not otherwise invested or deposited in banks,
18 savings and loan associations or credit unions in contracts
19 with banks, savings and loan associations or credit unions for
20 the present purchase and resale at a specified time in the
21 future of specific securities at specified prices at a price
22 differential representing the interest income to be earned by
23 the investor. The contract shall be fully secured by
24 obligations of the United States or other securities backed by
25 the United States having a market value of at least one hundred

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1 two percent of the contract. The collateral required for
2 investment in the contracts provided for in this subsection
3 shall be shown on the books of the financial institution as
4 being the property of the investor and the designation shall be
5 contemporaneous with the investment. As used in this
6 subsection, "local public body" includes all political
7 subdivisions of the state and agencies, instrumentalities and
8 institutions thereof; provided that home rule municipalities
9 that prior to July 1, 1994 had enacted ordinances authorizing
10 the investment of repurchase agreements may continue investment
11 in repurchase agreements pursuant to those ordinances.

12 I. The state treasurer, with the advice and consent
13 of the state board of finance, may invest money held in demand
14 deposits and not immediately needed for the operation of state
15 government and money held in the [~~participating government~~
16 ~~investment fund~~] local government investment pool, except as
17 provided in Section 6-10-10.1 NMSA 1978. The investments may
18 be made in securities that are issued and backed by the full
19 faith and credit of the United States government or issued by
20 ~~its [departments or agencies and are either direct obligations~~
21 ~~of the United States or are backed by the full faith and credit~~
22 ~~of the United States government or agencies sponsored by the~~
23 ~~United States government]~~ agencies or instrumentalities.

24 J. The state treasurer, with the advice and consent
25 of the state board of finance, may also invest in contracts for

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1 the present purchase and resale at a specified time in the
2 future, not to exceed one year or, in the case of bond
3 proceeds, not to exceed three years, of specific securities at
4 specified prices at a price differential representing the
5 interest income to be earned by the state. Such contract shall
6 not be invested in unless the contract is fully secured by
7 obligations of the United States or its agencies or
8 instrumentalities or by other securities backed by the United
9 States or its agencies or instrumentalities having a market
10 value of at least one hundred two percent of the amount of the
11 contract. The securities required as collateral under this
12 subsection shall be delivered to a third-party custodian bank
13 pursuant to a contract with the state and the counterparty or
14 to the fiscal agent of New Mexico or its designee. Delivery
15 shall be made simultaneously with the transfer of funds or as
16 soon as practicable, but no later than the same day that the
17 funds are transferred.

18 K. The state treasurer, with the advice and consent
19 of the state board of finance, may also invest in contracts for
20 the temporary exchange of state-owned securities for the use of
21 broker-dealers, banks or other recognized institutional
22 investors in securities, for periods not to exceed one year for
23 a specified fee rate. Such contract shall not be invested in
24 unless the contract is fully secured by exchange of an
25 irrevocable letter of credit running to the state, cash or

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1 equivalent collateral of at least one hundred two percent of
2 the market value of the securities plus accrued interest
3 temporarily exchanged. The collateral required by this
4 subsection shall be delivered to the [~~fiscal agent~~] state of
5 New Mexico or its designee simultaneously with the transfer of
6 funds or as soon as practicable, but no later than the same day
7 that the state-owned securities are transferred.

8 L. Neither of the contracts in Subsection J or K of
9 this section shall be invested in unless the contracting bank,
10 brokerage firm or recognized institutional investor has a net
11 worth in excess of five hundred million dollars (\$500,000,000).

12 M. The state treasurer, with the advice and consent
13 of the state board of finance, may also invest in any of the
14 following investments in an amount not to exceed forty percent
15 of any fund that the state treasurer invests:

16 (1) commercial paper rated "prime" quality by a
17 national rating service, issued by corporations organized and
18 operating within the United States;

19 (2) medium-term notes and corporate notes with a
20 maturity not exceeding five years that are rated A or its
21 equivalent or better by a nationally recognized rating service
22 and that are issued by a corporation organized and operating in
23 the United States; or

24 (3) an asset-backed obligation with a maturity
25 not exceeding five years that is rated AAA or its equivalent by

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1 a nationally recognized rating service.

2 N. The state treasurer, with the advice and consent
3 of the state board of finance, may also invest in:

4 (1) shares of an open-ended diversified
5 investment company that:

6 (a) is registered with the United States
7 securities and exchange commission;

8 (b) complies with the diversification,
9 quality and maturity requirements of Rule 2a-7, or any
10 successor rule, of the United States securities and exchange
11 commission applicable to money market mutual funds; and

12 (c) assesses no fees pursuant to Rule 12b-1,
13 or any successor rule, of the United States securities and
14 exchange commission, no sales load on the purchase of shares
15 and no contingent deferred sales charge or other similar
16 charges, however designated, provided that the state shall not,
17 at any time, own more than five percent of a money market
18 mutual fund's assets;

19 (2) individual, common or collective trust funds
20 of banks or trust companies that invest in United States fixed-
21 income securities or debt instruments authorized pursuant to
22 Subsections I, J and M of this section, provided that the
23 investment manager has assets under management of at least one
24 billion dollars (\$1,000,000,000) and the investments made by
25 the state treasurer pursuant to this paragraph are less than

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1 five percent of the assets of the individual, common or
2 collective trust fund; [~~or~~]

3 (3) the [~~participating government investment~~
4 ~~fund~~] local government investment pool managed by the office of
5 the state treasurer. Investments made pursuant to this
6 paragraph shall [~~be less than five~~], in aggregate, be no more
7 than thirty-five percent of the total assets of the
8 [~~participating government investment fund~~] local government
9 investment pool;

10 (4) securities issued by the state of New
11 Mexico, its agencies, institutions, counties, municipalities,
12 school districts, community college districts or other
13 subdivisions of the state, or as otherwise provided by law; or

14 (5) securities issued by states other than New
15 Mexico or governmental entities in states other than New
16 Mexico.

17 0. Public funds to be invested in negotiable
18 securities or loans to financial institutions fully secured by
19 negotiable securities at current market value shall not be paid
20 out unless there is a contemporaneous transfer of the
21 securities at the earliest time industry practice permits, but
22 in all cases, settlement shall be on a same-day basis either by
23 physical delivery or, in the case of uncertificated securities,
24 by appropriate book entry on the books of the issuer, to the
25 purchaser or to a reputable safekeeping financial institution

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1 acting as agent or trustee for the purchaser, which agent or
2 trustee shall furnish timely confirmation to the purchaser."

3 SECTION 3. Section 6-10-10.1 NMSA 1978 (being Laws 1988,
4 Chapter 61, Section 2, as amended) is amended to read:

5 "6-10-10.1. [~~PARTICIPATING GOVERNMENT INVESTMENT FUND~~]
6 LOCAL GOVERNMENT INVESTMENT POOL CREATED--DISTRIBUTION OF
7 EARNINGS--REPORT OF INVESTMENTS.--

8 A. There is created in the state treasury the
9 [~~"participating government investment fund"~~] "local government
10 investment pool". The fund shall consist of all deposits from
11 participating governments, including revenues dedicated to
12 repaying bonds, that are placed in the custody of the state
13 treasurer for investment purposes pursuant to this section.
14 The state treasurer shall maintain one or more separate
15 accounts for each participating government having deposits in
16 the [~~participating government investment fund~~] local government
17 investment pool and may divide the fund into two or more
18 subfunds, as the state treasurer deems appropriate, for short-
19 term and medium-term investment purposes, including one or more
20 subfunds for bond proceeds deposited by participating
21 governments.

22 B. If an eligible governing body is unable to receive
23 payment on public money at the rate of interest as set forth in
24 Section 6-10-36 NMSA 1978 from financial institutions within
25 the geographic boundaries of the eligible governing body, or if

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1 the eligible governing body is not bound by the terms of
2 Section 6-10-36 NMSA 1978, the finance officer having control
3 of the money of that eligible governing body not required for
4 current expenditure may, with the consent of the board of
5 finance of the eligible governing body if consent is required
6 by the laws or rules of the eligible governing body, remit some
7 or all of the money to the state treasurer for deposit for the
8 purpose of investment as allowed by this section.

9 C. Before funds are invested or reinvested pursuant
10 to this section, a finance officer shall notify and make the
11 funds available for investment to banks, savings and loan
12 associations and credit unions located within the geographical
13 boundaries of the participating government or the eligible
14 governing body, subject to the limitation on credit union
15 accounts. To be eligible for deposit of the government funds,
16 the financial institution shall pay to the participating
17 government or eligible governing body the rate established by
18 the state treasurer pursuant to a policy adopted by the state
19 board of finance for the investments.

20 D. A finance officer shall specify the length of time
21 a deposit shall be in the [~~participating government investment~~
22 ~~fund~~] local government investment pool. The state treasurer
23 through the use of the state fiscal agent shall separately
24 track each deposit and shall make information regarding the
25 deposit available to the public upon written request.

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1 E. The state treasurer shall invest the
2 [~~participating government investment fund~~] local government
3 investment pool as provided in Section 6-10-10 NMSA 1978
4 regarding the investment of state funds in investments with a
5 maturity at the time of purchase that does not exceed three
6 years. The state treasurer may elect to have the
7 [~~participating government investment fund~~] local government
8 investment pool consolidated for investment purposes with the
9 state funds under the control of the state treasurer; provided
10 that accurate and detailed accounting records are maintained
11 for the account of each participating government and that a
12 proportionate amount of interest earned is credited to each of
13 the separate accounts of a participating government. The fund
14 shall be invested to achieve its objective, which is to realize
15 the maximum return consistent with safe and prudent management.

16 F. At the end of each month, all net investment
17 income or losses from investment of the [~~participating~~
18 ~~government investment fund~~] local government investment pool
19 shall be distributed by the state treasurer to the accounts of
20 participating governments in amounts directly proportionate to
21 the respective amounts deposited by them in the [~~participating~~
22 ~~government investment fund~~] local government investment pool
23 and the length of time the amounts in each account were
24 invested.

25 G. The state treasurer shall charge participating
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1 governments reasonable audit, administrative and investment
2 expenses and shall deduct those expenses directly from the net
3 investment income for the investment and administrative
4 services provided pursuant to this subsection. The amount of
5 the charges, the manner of the use by the state treasurer and
6 the nature of bond-related services to be offered shall be
7 established in rules adopted and promulgated by the state
8 treasurer subject to approval by the state board of finance.

9 H. Subject to appropriation by the legislature,
10 amounts deducted from the accounts of participating governments
11 for charges permitted pursuant to this section shall be
12 expended by the state treasurer in fiscal year 2008 and in
13 subsequent fiscal years for the administration and management
14 of the [~~participating government investment fund~~] local
15 government investment pool, services provided to participating
16 governments related to investment of their money in that fund
17 and other services authorized by this section. Balances
18 remaining at the end of a fiscal year from the amounts deducted
19 pursuant to this section shall revert to the general fund.
20 Balances in the state treasurer's operating account resulting
21 from deductions taken pursuant to this section in excess of the
22 amount required to provide administration, management and
23 related services required by this subsection or other services
24 authorized by this section shall be offset by reductions in the
25 charges made by the state treasurer to the accounts of

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1 participating governments in subsequent deductions from
2 participating governments' accounts.

3 I. ~~[Investments of the participating government~~
4 ~~investment fund shall be made in such a manner that the portion~~
5 ~~of the fund invested in short-term investments maintains an~~
6 ~~"AA" or higher rating.]~~ Each fiscal year ~~[and at such other~~
7 ~~times as directed by the state board of finance]~~, the state
8 treasurer ~~[shall]~~ may cause to have the short-term investment
9 portion of the ~~[participating government investment fund]~~ local
10 government investment pool rated by a nationally recognized
11 statistical rating organization. If the rating received by the
12 short-term investment portion of the fund is lower than "AA",
13 the state treasurer shall immediately submit a plan to the
14 state board of finance detailing the steps that will be taken
15 to obtain an "AA" or higher rating.

16 J. The state treasurer may offer to provide to
17 participating governments services related to requirements of
18 the federal income tax laws applicable to the investment of
19 bond proceeds.

20 K. A tribe or quasi-governmental body created
21 pursuant to New Mexico statute may become a participating
22 government only if the governing authority of the tribe or
23 quasi-governmental body has adopted a resolution authorizing
24 the tribe or quasi-governmental body to remit money to the
25 state treasurer for investment in the ~~[participating government~~

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1 ~~investment fund]~~ local government investment pool.

2 L. Deposits by the state treasurer on behalf of the
3 general fund and bond proceeds investment pools shall [~~not~~
4 ~~exceed~~], in aggregate, be no more than thirty-five percent of
5 the total amount in the [~~participating government investment~~
6 ~~fund]~~ local government investment pool at any time."

7 SECTION 4. Section 6-10-16 NMSA 1978 (being Laws 1969,
8 Chapter 243, Section 1, as amended) is amended to read:

9 "6-10-16. SECURITY FOR DEPOSITS OF PUBLIC MONEY.--

10 A. Deposits of public money shall be secured by:

- 11 (1) securities of the United States, its
12 agencies or instrumentalities;
- 13 (2) securities of the state of New Mexico, its
14 agencies, instrumentalities, counties, municipalities or other
15 subdivisions;
- 16 (3) securities, including student loans, that
17 are guaranteed by the United States or the state of New Mexico;
- 18 (4) revenue bonds that are underwritten by a
19 member of the [~~national association of securities dealers]~~
20 financial industry regulatory authority, known as [~~"N.A.S.D."~~]
21 FINRA, and are rated "BAA" or above by a nationally recognized
22 bond rating service; or
- 23 (5) letters of credit issued by a federal home
24 loan bank.

25 B. No security is required for the deposit of public

1 money that is insured by the federal deposit insurance
2 corporation or the national credit union administration.

3 C. ~~Securities which are obligations of the state of~~
4 ~~New Mexico, its agencies, institutions, counties,~~
5 ~~municipalities or other subdivisions shall be accepted as~~
6 ~~security at par value.] All [other] securities shall be~~
7 accepted as security at market value. The restrictions of
8 Subsection A of this section apply to all securities subject to
9 this subsection."

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

FOR THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

RELATING TO PUBLIC FINANCE; CHANGING THE ADMINISTRATION OF THE
EDUCATION TRUST ACT TO THE STATE INVESTMENT COUNCIL;
ELIMINATING THE EDUCATION TRUST BOARD.

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

SECTION 1. Section 21-21K-1 NMSA 1978 (being Laws 1997,
Chapter 259, Section 1) is recompiled into Chapter 6 NMSA 1978
and is amended to read:

"SHORT TITLE.--Sections 1 through [7] 6 of this act may be
cited as the "Education Trust Act"."

SECTION 2. Section 21-21K-2 NMSA 1978 (being Laws 1997,
Chapter 259, Section 2, as amended) is recompiled into Chapter
6 NMSA 1978 and is amended to read:

"DEFINITIONS.--As used in the Education Trust Act:

A. "beneficiary" means a person who is entitled to

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1 receive benefits under a college investment agreement or a
2 prepaid tuition contract;

3 ~~[B.] "board" means the education trust board;~~

4 ~~G. "commission" means the commission on higher~~
5 ~~education;~~

6 ~~D.]~~ B. "college investment agreement" means an
7 agreement entered into by the ~~[board]~~ council and an investor,
8 pursuant to the provisions of the Education Trust Act, to
9 defray the costs of attendance of a beneficiary at an
10 institution of higher education;

11 ~~[E.]~~ C. "council" means the state investment council;

12 ~~[F.]~~ D. "fund" means the education trust fund;

13 ~~[G.]~~ E. "institution of higher education" means a
14 state public post-secondary educational institution as defined
15 in Section 6-17-1.1 NMSA 1978, a branch college, an independent
16 community college, a technical and vocational institute or, if
17 approved by the ~~[board]~~ council, another public or private
18 post-secondary educational institution located in this state or
19 any other state;

20 ~~[H.]~~ F. "investor" means a person who has entered
21 into a college investment agreement with the ~~[board]~~ council;

22 ~~[I.]~~ G. "prepaid tuition contract" means a contract
23 entered into by the ~~[board]~~ council and a purchaser, pursuant
24 to the provisions of the Education Trust Act, to provide for
25 the payment of higher education tuition and required fees of a

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1 beneficiary; and

2 [~~J-~~] H. "purchaser" means a person who is obligated
3 to make payments under a prepaid tuition contract."

4 **SECTION 3.** Section 21-21K-3 NMSA 1978 (being Laws 1997,
5 Chapter 259, Section 3, as amended) is recompiled into Chapter
6 NMSA 1978 and is amended to read:

7 "EDUCATION TRUST FUND--CREATION.--

8 A. The "education trust fund" is created in the state
9 treasury. The [~~board~~] council shall deposit all money received
10 pursuant to college investment agreements and prepaid tuition
11 contracts into the fund. Money in the fund shall consist of
12 appropriations, investments, payments, gifts, bequests and
13 donations. All money invested in the fund is appropriated to
14 the [~~board~~] council. Money in the fund shall not revert to the
15 general fund at the end of the fiscal year. The [~~board~~]
16 council shall account for each payment from an investor or
17 purchaser on behalf of a beneficiary pursuant to a college
18 investment agreement or prepaid tuition contract. The [~~board~~]
19 council shall provide that all money in the fund shall be
20 invested either by the state investment officer according to
21 rules promulgated by the council [~~subject to the approval of~~
22 ~~the board~~] or by a private investment advisor approved by the
23 council pursuant to a contract between the [~~board~~] council and
24 the investment advisor. The [~~board~~] council shall review
25 investments made pursuant to this subsection at least

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1 quarterly.

2 B. Expenditures from the fund shall be for payments
3 to institutions of higher education on behalf of beneficiaries
4 or for refunds, in accordance with the provisions of the
5 Education Trust Act, and for costs of administering that act.

6 C. In no event shall any liability of, or contractual
7 obligation incurred by, the program established pursuant to the
8 provisions of the Education Trust Act obligate or encumber any
9 of the state's land grant permanent funds, the severance tax
10 permanent fund or any money that is a part of a state-funded
11 financial aid program. Nothing in the Education Trust Act
12 creates any obligation, legal, moral or otherwise, to fulfill
13 the terms of any college investment agreement or prepaid
14 tuition contract out of any source other than the education
15 trust fund.

16 D. The [~~board~~] council may create within the fund
17 separate trust funds or accounts for college investment
18 agreements and prepaid tuition contracts, and may deposit all
19 money received pursuant to college investment agreements and
20 prepaid tuition contracts into the related separate trust funds
21 or accounts. The [~~board~~] council may appoint one or more
22 custodians of the separate trust funds or accounts that shall
23 be a state or national bank authorized to do business in the
24 United States. No member of the [~~board~~] council, while acting
25 within the scope of [~~his~~] the member's authority or while

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1 acting as a trustee of any trust fund or account of the [~~board~~]
2 council, shall be subject to any personal liability for any
3 action taken or omitted within that scope of authority."

4 SECTION 4. Section 21-21K-5 NMSA 1978 (being Laws 1997,
5 Chapter 259, Section 5, as amended) is recompiled into Chapter
6 NMSA 1978 and is amended to read:

7 "COLLEGE INVESTMENT AGREEMENT.--

8 A. An investor may enter into a college investment
9 agreement with the [~~board~~] council under which the investor
10 agrees to make investments into the fund from time to time for
11 the purpose of defraying the costs of attendance billed by
12 institutions of higher education. An investor may enter into a
13 college investment agreement on behalf of any beneficiary.

14 The [~~board~~] council shall adopt a form of the college
15 investment agreement to be used by the [~~board~~] council and
16 investors.

17 B. The [~~board~~] council shall provide for the direct
18 payment of principal, investment earnings and capital
19 appreciation accrued pursuant to a college investment agreement
20 to the institution of higher education that the beneficiary
21 actually attends.

22 C. A college investment agreement may be terminated
23 by the investor at any time. The investor may modify the
24 college investment agreement to designate a new beneficiary
25 instead of the original beneficiary if the new beneficiary

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1 meets the requirements of the original beneficiary on the date
2 the designation is changed and if the original beneficiary:

3 (1) dies;

4 (2) is not admitted to an institution of higher
5 education following proper application;

6 (3) elects not to attend an institution of
7 higher education or, if attending, elects to discontinue higher
8 education; or

9 (4) for any other circumstance approved by the
10 ~~[board]~~ council, does not exercise ~~[his]~~ the original
11 beneficiary's rights under the college investment agreement.

12 D. The ~~[board]~~ council shall provide, by rule,
13 procedures for determining the amount to be refunded for
14 college investment agreements terminated pursuant to the
15 provisions of this section. The balance of the accrued
16 investment earnings and capital appreciation less the amount
17 refunded and administrative costs shall be credited to the
18 fund.

19 E. The ~~[board]~~ council shall establish a refund
20 policy if a beneficiary receives additional student financial
21 aid.

22 F. The ~~[board]~~ council shall specify, by rule,
23 appropriate provisions for the term and termination of college
24 investment agreements.

25 G. Gifts and bequests to the fund may be made in the

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1 name of a specific beneficiary or in the name of the fund in
2 general. Gifts and bequests given for the benefit of a
3 specific beneficiary shall be credited to that beneficiary, and
4 gifts and bequests given to the fund in general shall be
5 credited equally to each beneficiary of a college investment
6 agreement.

7 H. Principal paid into the fund, together with
8 accrued investment earnings and capital appreciation, shall be
9 excluded from any calculation of a beneficiary's state student
10 financial aid eligibility.

11 I. The ~~[board]~~ council shall annually notify each
12 investor of the status of the fund."

13 SECTION 5. Section 21-21K-6 NMSA 1978 (being Laws 1997,
14 Chapter 259, Section 6, as amended) is recompiled into Chapter
15 6 NMSA 1978 and is amended to read:

16 "PREPAID HIGHER EDUCATION TUITION PROGRAM--RULES.--

17 A. The ~~[board]~~ council may promulgate rules in order
18 to establish a prepaid higher education tuition program.
19 ~~[Prior to the establishment of the program, the board will~~
20 ~~contract for a thorough feasibility study of the proposed~~
21 ~~prepaid higher education tuition program, including an~~
22 ~~actuarial analysis of the assumptions underlying the proposed~~
23 ~~program, and report to the appropriate interim committee of the~~
24 ~~legislature. The report shall include a recommendation from~~
25 ~~the board regarding whether it is feasible to proceed with the~~

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1 ~~adoption of the proposed program based on the findings of the~~
2 ~~feasibility study.]~~

3 B. The rules regarding the prepaid higher education
4 tuition program shall specify at least the following:

5 (1) that prepaid tuition contracts, once paid,
6 will cover all tuition and required fees of state public
7 institutions of higher education;

8 (2) that payments for prepaid tuition contracts
9 may be made either in a lump sum or in installments;

10 (3) that the prepaid tuition contracts shall
11 include at least the following:

12 (a) provisions that allow purchasers to
13 choose from payment plans that pay the tuition and required
14 fees for institutions of higher education;

15 (b) provisions that allow for rollover of
16 prepaid higher education tuition benefits from one plan to
17 another and that provide that benefits may be used at any
18 institution of higher education;

19 (c) penalties for termination of the
20 contract or default on any of the contract's terms or
21 conditions; and

22 (d) provisions that allow purchasers to
23 change or switch beneficiaries;

24 (4) that beneficiaries must meet certain minimum
25 eligibility requirements as determined by the ~~board~~ council;

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1 (5) that the [~~board~~] council shall consider at
2 least the following variables when setting contract prices:

3 (a) the amount and estimated rate of
4 increase of tuition and fees at institutions of higher
5 education;

6 (b) estimated investment returns;

7 (c) estimated administrative costs; and

8 (d) the period between the date the contract
9 is entered into and the date the beneficiary is projected to
10 graduate from high school;

11 (6) that gifts or bequests may be made to the
12 fund, either on behalf of a beneficiary or to the fund
13 generally;

14 (7) how and when institutions of higher
15 education become eligible to participate in the program;

16 (8) that benefits under a prepaid tuition
17 contract are excluded from any calculation of a beneficiary's
18 state student financial aid eligibility; and

19 (9) that the [~~board~~] council shall annually
20 provide for audited statements and actuarial studies on the
21 condition of the fund."

22 SECTION 6. Section 21-21K-7 NMSA 1978 (being Laws 1997,
23 Chapter 259, Section 7, as amended) is recompiled into Chapter
24 6 NMSA 1978 and is amended to read:

25 "REPORTS.--

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1 A. The [~~board~~] council shall annually submit to the
2 governor and to the appropriate interim legislative committee a
3 report including:

4 (1) the [~~board's~~] council's fiscal transactions
5 during the preceding fiscal year;

6 (2) the market and book value of the fund as of
7 the end of the preceding fiscal year;

8 (3) the asset allocations of the fund expressed
9 in percentages of stocks, fixed income securities, cash or
10 other financial assets;

11 (4) the rate of return on the investment of the
12 fund's assets during the preceding fiscal year;

13 (5) an actuarial valuation of the assets and
14 liabilities of the program, including the extent to which the
15 program's liabilities are unfunded; and

16 (6) complete prepaid tuition contract sales
17 information, including projected enrollments of beneficiaries
18 at institutions of higher education.

19 B. The [~~board~~] council shall make the report
20 described by Subsection A of this section available to
21 purchasers of prepaid tuition contracts and investments under
22 college investment agreements."

23 **SECTION 7. REPEAL.**--Section 21-21K-4 NMSA 1978 (being
24 Laws 1997, Chapter 259, Section 4, as amended) is repealed.

25 **SECTION 8. EFFECTIVE DATE.**--The effective date of the

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1 provisions of this act is July 1, 2013.

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