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AN ACT

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RELATING TO THE RETIREMENT OF PUBLIC EMPLOYEES; AMENDING THE PUBLIC EMPLOYEES RETIREMENT ACT TO DEFINE "STATE LEGISLATOR MEMBER", TO EXPAND THE PERIOD IN WHICH CERTAIN ELECTED OFFICIALS MAY ELECT TO BE EXCLUDED FROM MEMBERSHIP, TO CHANGE THE CONDITIONS FOR CERTAIN MEMBERS TO PURCHASE SERVICE CREDIT, TO CHANGE THE CONTRIBUTION REQUIREMENTS FOR CERTAIN RETIREES WHO RETURN TO WORK AND FOR CERTAIN EMPLOYERS AND TO PROVIDE MEMBERSHIP FOR CERTAIN RETIREES TO RETURN TO WORK; DECLARING AN EMERGENCY.

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

Section 1. A new section of the Public Employees Retirement Act is enacted to read:

"ADDITIONAL DEFINITION--STATE LEGISLATOR MEMBER.--As used in the Public Employees Retirement Act, "state legislator member" means a person who is currently serving or who has served as a state legislator or lieutenant governor and who has elected to participate in a state legislator member retirement plan. A former state legislator or former lieutenant governor may be a state legislator member whether or not currently receiving a pension under a state legislator member coverage plan."

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

"10-11-3. MEMBERSHIP--REQUIREMENTS--EXCLUSIONS--TERMINATION.--

A. Except as may be provided for in the Volunteer Firefighters Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act, the

1 Educational Retirement Act and the provisions of Sections 29-4-1 through 29-4-11
2 NMSA 1978 governing the state police pension fund, each employee and elected
3 official of every affiliated public employer shall be a member of the association,
4 unless excluded from membership in accordance with Subsection B of this section.

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5 B. The following employees and elected officials are excluded from
6 membership in the association:

7 (1) elected officials who file with the association a written
8 application for exemption from membership within twenty-four months of taking
9 office;

10 (2) elected officials who file with the association a written
11 application for exemption from membership within twenty-four months of the date
12 the elected official's public employer becomes an affiliated public employer;

13 (3) employees designated by the affiliated public employer
14 as seasonal or student employees;

15 (4) employees who file with the association a written
16 application for exemption from membership within thirty days of the date the
17 employee's public employer becomes an affiliated public employer;

18 (5) employees of an affiliated public employer that is making
19 contributions to a private retirement program on behalf of the employee as part of a
20 compensation arrangement who file with the association a written application for
21 exemption within thirty days of employment, unless the employee has previously
22 retired under the provisions of the Public Employees Retirement Act;

23 (6) employees of an affiliated public employer who have
24 retired under and are receiving a pension pursuant to the provisions of the
25 Educational Retirement Act; and

(7) retired members who return to work pursuant to Section
10-11-8 NMSA 1978 and are exempted from membership by the provisions of that

1 section.

2 C. Employees designated as seasonal and student employees shall
3 be notified in writing by their affiliated public employer of the designation and the
4 consequences of the designation with respect to membership, service credit and
5 benefits. A copy of the notification shall be filed with the association within thirty
6 days of the date of employment.

7 D. An exemption from membership by an elected official shall expire
8 at the end of the term of office for which filed.

9 E. Employees and elected officials who have exempted themselves
10 from membership may subsequently withdraw the exemption by filing a membership
11 application. Membership shall commence the first day of the first pay period
12 following the date the application is filed.

13 F. The membership of an employee or elected official shall cease if
14 the employee terminates employment with an affiliated public employer or the
15 elected official leaves office and the employee or elected official requests and
16 receives a refund of member contributions."

17 Section 3. Section 10-11-7 NMSA 1978 (being Laws 1987, Chapter 253,
18 Section 7, as amended) is amended to read:

19 "10-11-7. CREDITED SERVICE--PURCHASE OF SERVICE.--

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

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

25 (2) the member has five or more years of service credit
acquired as a result of personal service rendered in the employ of an affiliated
public employer;

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

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

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

10 B. A member who was a civilian prisoner of war captured while in
11 service to the United States as an employee of the federal government or as an
12 employee of a contractor with the federal government may purchase service credit
13 for the period of internment as a civilian prisoner of war, provided that:

14 (1) the member provides proof of employment with the
15 federal government or as a contractor to the federal government in a form
16 acceptable to the association;

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

19 (3) the member has at least five years of service credit
20 acquired as a result of personal service rendered in the employ of an affiliated
21 public employer;

22 (4) the aggregate amount of service credit purchased
23 pursuant to this subsection does not exceed five years reduced by any period of
24 service credit acquired for military service pursuant to any other provision of the
25 Public Employees Retirement Act;

(5) service credit may not be purchased for periods of
service in internment as a civilian prisoner of war if such periods are used to obtain

1 or increase a benefit from another retirement program; and

2 (6) the member pays the association the purchase cost
3 determined according to Subsection E of this section.

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

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

17 (2) the member has five or more years of credited service
18 acquired as a result of personal service rendered in the employ of an affiliated
19 public employer; and

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

22 D. A member who was appointed to participate in a cooperative
23 work study training program established jointly by the state highway and
24 transportation department and the university of New Mexico or New Mexico state
25 university may purchase credited service for the period of participation subject to
the following conditions:

(1) the member pays the association the purchase cost

1 determined according to Subsection E of this section;

2 (2) the member has five or more years of credited service
3 acquired as a result of personal service rendered in the employ of an affiliated
4 public employer; and

5 (3) the aggregate amount of credited service purchased
6 pursuant to this subsection does not exceed five years.

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

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

G. A member of the magistrate retirement system who during his

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

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

14 (1) the member has at least five years of service credit
15 acquired as a result of personal service rendered in the employ of an affiliated
16 public employer;

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

20 (3) the member pays full actuarial present value of the
21 amount of the increase in the employee's pension as a consequence of the
22 purchase as determined by the association;

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

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

1 Section 4. Section 10-11-8 NMSA 1978 (being Laws 1987, Chapter 253, SB
2 Section 8, as amended) is amended to read: 4
3 "10-11-8. NORMAL RETIREMENT--RETURN TO EMPLOYMENT-- 2
4 BENEFITS CONTINUED--EMPLOYER CONTRIBUTIONS.-- 6
5 A. A member may retire upon fulfilling the following requirements Pa
6 prior to the selected date of retirement: ge
7 (1) a written application for normal retirement, in the form 8
8 prescribed by the association, is filed with the association;
9 (2) employment is terminated with all employers covered by
10 any state system or the educational retirement system;
11 (3) the member selects an effective date of retirement that is
12 the first day of a calendar month; and
13 (4) the member meets the age and service credit
14 requirement for normal retirement specified in the coverage plan applicable to the
15 member.
16 B. The amount of normal retirement pension is determined in
17 accordance with the coverage plan applicable to the member.
18 C. Except as provided in Subsection D or E of this section, a retired
19 member may be subsequently employed by an affiliated public employer if the
20 following conditions apply:
21 (1) the member has not been employed as an employee of
22 an affiliated public employer for at least ninety consecutive days from the date of
23 retirement to the commencement of employment or re-employment with an affiliated
24 public employer. If the retired member returns to employment without first
25 completing ninety consecutive days of
retirement:
(a) the retired member's pension shall be suspended

1 immediately and the previously retired member shall become a member; and
2 (b) upon termination of the subsequent employment,
3 the previously retired member's pension shall be calculated pursuant to Paragraph
4 (2) of Subsection E of this section;

5 (2) effective the first day of the month following the month in
6 which the retired member's earnings total twenty-five thousand dollars (\$25,000)
7 during a calendar year, a retired member who returns to employment shall be
8 required to make contributions to the fund as specified in the Public Employees
9 Retirement Act; provided, however, that after December 31, 2006, no additional
10 contributions shall be required pursuant to this paragraph;

11 (3) until the subsequent employment is terminated, the
12 affiliated public employer that employs the retired member shall make contributions
13 to the fund in the amount specified in the Public Employees Retirement Act or in a
14 higher amount adjusted for full actuarial cost as determined annually by the
15 association; and

16 (4) a retired member who returns to employment during
17 retirement pursuant to this subsection is entitled to receive retirement benefits but is
18 not entitled to acquire service credit or to acquire or purchase service credit in the
19 future for the period of the retired member's re-employment with an affiliated public
20 employer.

21 D. The provisions of Paragraphs (2) and (3) of Subsection C of this
22 section that require employee or employer contributions do not apply to:

23 (1) a retired member who is appointed chief of police of an
24 affiliated public employer, other than the affiliated public employer from which the
25 retired member retired, or who is appointed undersheriff; provided that:

(a) the retired member files an irrevocable exemption
from membership with the association within thirty days of appointment;

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1 (b) each sheriff's office shall be limited to one S
2 undersheriff qualifying pursuant to this paragraph; B

3 (c) the irrevocable exemption shall be for the chief of 4
4 police's or the undersheriff's term of office; and 2
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5 (d) filing an irrevocable exemption shall irrevocably a
6 bar the retired member from acquiring service credit for the period of exemption g
7 from membership; or e

8 (2) a retired member employed by the legislature for 1
9 legislative session work. 0

10 E. At any time during a retired member's subsequent employment
11 pursuant to Subsection C of this section, the retired member may elect to suspend
12 the pension. When the pension is suspended, the following conditions shall apply:

13 (1) the retired member who is subsequently employed by an
14 affiliated public employer shall become a member. The previously retired member
15 and the subsequent affiliated public employer shall make the required employee
16 and employer contributions, and the previously retired member shall accrue service
17 credit for the period of subsequent employment; and

18 (2) when a previously retired member terminates the
19 subsequent employment with an affiliated public employer, he shall retire according
20 to the provisions of the Public Employees Retirement Act, subject to the following
21 conditions:

22 (a) payment of the pension shall resume in
23 accordance with the provisions of Subsection A of this section;

24 (b) unless the previously retired member accrued at
25 least three years of service credit on account of the subsequent employment, the
recalculation of pension shall: 1) employ the form of payment selected by the
previously retired member at the time of the first retirement; and 2) use the

1 credit requirement of this subsection."

2 Section 5. TEMPORARY PROVISION--APPLICABILITY.--The provisions of
3 this act that change any contribution or the refundability of any contribution are
4 applicable to salaries received in the first full pay period beginning after the effective
5 date of this act.

6 Section 6. EMERGENCY.--It is necessary for the public peace, health and
7 safety that this act take effect immediately.

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