

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
CHANGING THE EMPLOYER AND EMPLOYEE CONTRIBUTION RATES IN  
CERTAIN RETIREMENT PLANS.

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 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 3 becomes applicable to the  
member, except that for members whose annual salary is greater  
than twenty thousand dollars (\$20,000):

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

B. from July 1, 2011 through June 30, 2012, the  
member contribution rate shall be ten and sixty-seven  
hundredths percent of salary; and

C. from July 1, 2012 through June 30, 2013, the  
member contribution rate shall be eight and ninety-two  
hundredths percent of salary."

**SECTION 2.** Section 10-11-26.6 NMSA 1978 (being Laws 1994, Chapter 128, Section 7, as amended) is amended to read:

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

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

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

C. from July 1, 2012 through June 30, 2013, the  
state contribution rate shall be fifteen and nine-hundredths  
percent of the salary of each member."

**SECTION 3.** Section 10-11-31 NMSA 1978 (being Laws 1987,  
Chapter 253, Section 31, as amended) is amended to read:

"10-11-31. STATE POLICE MEMBER AND ADULT CORRECTIONAL  
OFFICER MEMBER COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE.--A  
member under state police member and adult correctional  
officer member coverage plan 1 shall contribute seven and six-

tenths percent of salary, except that for members whose annual salary is greater than twenty thousand dollars (\$20,000):

A. from July 1, 2009 through June 30, 2011, the member contribution rate shall be nine and one-tenth percent of salary;

B. from July 1, 2011 through June 30, 2012, the member contribution rate shall be ten and eighty-five hundredths percent of salary; and

C. from July 1, 2012 through June 30, 2013, the member contribution rate shall be nine and one-tenth percent of salary."

**SECTION 4.** Section 10-11-32 NMSA 1978 (being Laws 1987, Chapter 253, Section 32, as amended) is amended to read:

"10-11-32. STATE POLICE MEMBER AND ADULT CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--STATE CONTRIBUTION RATE.--The state shall contribute twenty-five and one-tenth percent of the salary of each member under state police member and adult correctional officer member coverage plan 1, except that for members whose annual salary is greater than twenty thousand dollars (\$20,000):

A. from July 1, 2009 through June 30, 2011, the state contribution rate shall be twenty-three and six-tenths percent of the salary of each member;

B. from July 1, 2011 through June 30, 2012, the state contribution rate shall be twenty-one and eighty-five

hundredths percent of the salary of each member; and

C. from July 1, 2012 through June 30, 2013, the state contribution rate shall be twenty-three and six-tenths percent of the salary of each member."

**SECTION 5.** Section 10-11-38.5 NMSA 1978 (being Laws 1994, Chapter 128, Section 13, as amended) is amended to read:

"10-11-38.5. STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN 2--MEMBER CONTRIBUTION RATE.--A member under state hazardous duty member coverage plan 2 shall contribute four and seventy-eight hundredths percent of salary starting with the first full pay period that ends within the calendar month in which state hazardous duty member coverage plan 2 becomes applicable to the member, except that for members whose annual salary is greater than twenty thousand dollars (\$20,000):

A. from July 1, 2009 through June 30, 2011, the member contribution rate shall be six and twenty-eight hundredths percent of salary;

B. from July 1, 2011 through June 30, 2012, the member contribution rate shall be eight and three-hundredths percent of salary; and

C. from July 1, 2012 through June 30, 2013, the member contribution rate shall be six and twenty-eight hundredths percent of salary."

**SECTION 6.** Section 10-11-38.6 NMSA 1978 (being Laws 1994, Chapter 128, Section 14, as amended) is amended to read:

"10-11-38.6. STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN 2--STATE CONTRIBUTION RATE.--The state shall contribute twenty-five and seventy-two hundredths percent of the salary of each member covered by state hazardous duty member coverage plan 2 starting with the first pay period that ends within the calendar month in which state hazardous duty member coverage plan 2 becomes applicable to the member, except that for members whose annual salary is greater than twenty thousand dollars (\$20,000):

A. from July 1, 2009 through June 30, 2011, the state contribution rate shall be twenty-four and twenty-two hundredths percent of the salary of each member;

B. from July 1, 2011 through June 30, 2012, the state contribution rate shall be twenty-two and forty-seven hundredths percent of the salary of each member; and

C. from July 1, 2012 through June 30, 2013, the state contribution rate shall be twenty-four and twenty-two hundredths percent of the salary of each member."

**SECTION 7.** Section 10-12B-1 NMSA 1978 (being Laws 1992, Chapter 111, Section 1) is amended to read:

"10-12B-1. SHORT TITLE.--Chapter 10, Article 12B NMSA 1978 may be cited as the "Judicial Retirement Act"."

**SECTION 8.** Section 10-12B-10 NMSA 1978 (being Laws 1992, Chapter 111, Section 10, as amended) is amended to read:

"10-12B-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

A. Members, while in office, shall contribute to the member contribution fund pursuant to the following schedule:

(1) prior to July 1, 2005, five and one-half percent of salary;

(2) from July 1, 2005 through June 30, 2006, six and one-half percent of salary; and

(3) on and after July 1, 2006, seven and one-half percent of salary, except that for members whose annual salary is greater than twenty thousand dollars (\$20,000):

(a) from July 1, 2009 through June 30, 2011, the member contribution rate shall be nine percent of salary;

(b) from July 1, 2011 through June 30, 2012, the member contribution rate shall be ten and three-fourths percent of salary; and

(c) from July 1, 2012 through June 30, 2013, the member contribution rate shall be nine percent of salary.

B. Upon implementation, the state, acting as employer of members covered pursuant to the provisions of the Judicial Retirement Act, shall, solely for the purpose of compliance with Section 414(h) of the Internal Revenue Code of 1986, pick up for the purposes specified in that section

member contributions required by this section for all annual salary earned by the member. Member contributions picked up pursuant to the provisions of this section shall be treated as employer contributions for purposes of determining income tax obligations under the Internal Revenue Code of 1986; however, such picked-up member contributions shall be included in the determination of the member's gross annual salary for all other purposes under federal and state laws. Member contributions picked up pursuant to the provisions of this section shall continue to be designated member contributions for all purposes of the Judicial Retirement Act and shall be considered as part of the member's annual salary for purposes of determining the amount of the member's contribution. The provisions of this section are mandatory, and the member shall have no option concerning the pickup or concerning the receipt of the contributed amounts directly instead of having the amounts paid by the employer to the retirement system. Implementation occurs upon authorization by the board. In no event may implementation occur other than at the beginning of a pay period applicable to the member."

**SECTION 9.** Section 10-12B-11 NMSA 1978 (being Laws 1992, Chapter 111, Section 11, as amended) is amended to read:

"10-12B-11. EMPLOYER CONTRIBUTIONS.--

A. The member's court shall contribute the following amounts to the fund:

(1) prior to July 1, 2005, nine percent of salary for each member in office;

(2) from July 1, 2005 through June 30, 2006, ten and one-half percent of salary for each member in office; and

(3) on and after July 1, 2006, twelve percent of salary for each member in office, except that for members whose annual salary is greater than twenty thousand dollars (\$20,000):

(a) from July 1, 2009 through June 30, 2011, the member's court contribution rate shall be ten and one-half percent of salary for each member in office;

(b) from July 1, 2011 through June 30, 2012, the member's court contribution rate shall be eight and three-fourths percent of salary for each member in office; and

(c) from July 1, 2012 through June 30, 2013, the member's court contribution rate shall be ten and one-half percent of salary for each member in office.

B. Thirty-eight dollars (\$38.00) from each civil case docket fee paid in the district court, twenty-five dollars (\$25.00) from each civil docket fee paid in metropolitan court and ten dollars (\$10.00) from each jury fee paid in metropolitan court shall be paid by the court clerk to the employer's accumulation fund."



1992, Chapter 118, Section 1) is amended to read:

"10-12C-1. SHORT TITLE.--Chapter 10, Article 12C NMSA 1978 may be cited as the "Magistrate Retirement Act"."

**SECTION 11.** Section 10-12C-10 NMSA 1978 (being Laws 1992, Chapter 118, Section 10, as amended) is amended to read:

"10-12C-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

A. Members, while in office, shall contribute the following amounts to the member contribution fund:

(1) through June 30, 2006, six and one-half percent of salary; and

(2) on and after July 1, 2006, seven and one-half percent of salary, except that for members whose annual salary is greater than twenty thousand dollars (\$20,000):

(a) from July 1, 2009 through June 30, 2011, the member contribution rate shall be nine percent of salary;

(b) from July 1, 2011 through June 30, 2012, the member contribution rate shall be ten and three-fourths percent of salary; and

(c) from July 1, 2012 through June 30, 2013, the member contribution rate shall be nine percent of salary.

B. Upon implementation, the state, acting as employer of members covered pursuant to the provisions of the

Magistrate Retirement Act, shall, solely for the purpose of compliance with Section 414(h) of the Internal Revenue Code of 1986, pick up for the purposes specified in that section member contributions required by this section for all annual salary earned by the member. Member contributions picked up pursuant to the provisions of this section shall be treated as employer contributions for purposes of determining income tax obligations under the Internal Revenue Code of 1986; however, such picked-up member contributions shall be included in the determination of the member's gross annual salary for all other purposes under federal and state laws. Member contributions picked up pursuant to the provisions of this section shall continue to be designated member contributions for all purposes of the Magistrate Retirement Act and shall be considered as part of the member's annual salary for purposes of determining the amount of the member's contribution. The provisions of this section are mandatory, and the member shall have no option concerning the pick up or concerning the receipt of the contributed amounts directly instead of having the amounts paid by the employer to the retirement system. Implementation occurs upon authorization by the board. In no event may implementation occur other than at the beginning of a pay period applicable to the member."

**SECTION 12.** Section 10-12C-11 NMSA 1978 (being Laws 1992, Chapter 118, Section 11, as amended) is amended to read: HAFC/HB 628  
Page 10

"10-12C-11. EMPLOYER CONTRIBUTIONS.--

A. The state, through the administrative office of the courts, shall contribute the following amounts to the fund:

(1) through June 30, 2006, ten percent of salary for each member in office; and

(2) on and after July 1, 2006, eleven percent of salary for each member in office, except that for members whose annual salary is greater than twenty thousand dollars (\$20,000):

(a) from July 1, 2009 through June 30, 2011, the state contribution rate shall be nine and one-half percent of salary for each member in office;

(b) from July 1, 2011 through June 30, 2012, the state contribution rate shall be seven and three-fourths percent of salary for each member in office; and

(c) from July 1, 2012 through June 30, 2013, the state contribution rate shall be nine and one-half percent of salary for each member in office.

B. Twenty-five dollars (\$25.00) from each civil case docket fee paid in magistrate court and ten dollars (\$10.00) from each civil jury fee paid in magistrate court shall be paid by the court clerk to the employer's accumulation fund."

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 C of this section, each member shall make contributions to the fund according to the following schedule:

(1) through June 30, 2005, an amount equal to seven and six-tenths percent of the member's annual salary;

(2) from July 1, 2005 through June 30, 2006, an amount equal to seven and six hundred seventy-five thousandths percent of the member's annual salary;

(3) from July 1, 2006 through June 30, 2007, an amount equal to seven and seventy-five hundredths percent of the member's annual salary;

(4) from July 1, 2007 through June 30, 2008, an amount equal to seven and eight hundred twenty-five thousandths percent of the member's annual salary; and

(5) on and after July 1, 2008, an amount equal to seven and nine-tenths percent of the member's annual salary, except that for members whose annual salary is greater than twenty thousand dollars (\$20,000):

(a) from July 1, 2009 through June 30, 2011, the member contribution rate shall be nine and four-tenths percent of the member's annual salary;

(b) from July 1, 2011 through June 30,

2012, the member contribution rate shall be eleven and fifteen-hundredths percent of the member's annual salary; and

(c) from July 1, 2012 through June 30, 2013, the member contribution rate shall be nine and four-tenths of the member's annual salary.

B. Except as provided in Subsection C of this section, each local administrative unit shall make an annual contribution to the fund according to the following schedule:

(1) through June 30, 2005, a sum equal to eight and sixty-five hundredths percent of the annual salary of each member employed by the local administrative unit;

(2) from July 1, 2005 through June 30, 2006, a sum equal to nine and forty-hundredths percent of the annual salary of each member employed by the local administrative unit;

(3) from July 1, 2006 through June 30, 2007, a sum equal to ten and fifteen-hundredths percent of the annual salary of each member employed by the local administrative unit;

(4) from July 1, 2007 through June 30, 2008, a sum equal to ten and ninety-hundredths percent of the annual salary of each member employed by the local administrative unit;

(5) from July 1, 2008 through June 30, 2009, a sum equal to eleven and sixty-five hundredths percent of the

annual salary of each member employed by the local administrative unit;

(6) from July 1, 2009 through June 30, 2011, a sum equal to ten and nine-tenths percent of the annual salary of each member employed by the local administrative unit, except that for members whose annual salary is twenty thousand dollars (\$20,000) or less, the local administrative unit shall contribute twelve and four-tenths percent of the member's annual salary;

(7) from July 1, 2011 through June 30, 2012, a sum equal to nine and fifteen-hundredths percent of the annual salary of each member employed by the local administrative unit, except that for members whose annual salary is twenty thousand dollars (\$20,000) or less, the local administrative unit shall contribute twelve and four-tenths percent of the member's annual salary;

(8) from July 1, 2012 through June 30, 2013, a sum equal to ten and nine-tenths percent of the annual salary of each member employed by the local administrative unit, except that for members whose annual salary is twenty thousand dollars (\$20,000) or less, the local administrative unit shall contribute twelve and four-tenths percent of the member's annual salary;

(9) from July 1, 2013 through June 30, 2014, a sum equal to thirteen and fifteen-hundredths percent of the

annual salary of each member employed by the local administrative unit; and

(10) on and after July 1, 2014, a sum equal to thirteen and nine-tenths percent of the annual salary of each member employed by the local administrative unit.

C. If, in a calendar year, the salary of a member, initially employed by a local administrative unit on or after July 1, 1996, equals the annual compensation limit set pursuant to Section 401(a)(17) of the Internal Revenue Code of 1986, as amended, then:

(1) for the remainder of that calendar year, no additional member contributions or local administrative unit contributions for that member shall be made pursuant to this section; provided that no member shall be denied service credit solely because contributions are not made by the member or on behalf of the member pursuant to the provisions of this subsection; and

(2) the amount of the annual compensation limit shall be divided into four equal portions, and, for purposes of attributing contributory employment and crediting service credit, each portion shall be attributable to one of the four quarters of the calendar year."

**SECTION 14. TEMPORARY PROVISION--ACTUARIAL STUDY--  
SUPPLEMENTAL APPROPRIATION REQUEST.--**

A. No later than September 30, 2013, the

retirement board of the public employees retirement association and the educational retirement board shall each cause an actuarial study to be conducted for each retirement system administered by the board. Each study shall analyze whether the higher employee contribution rates and lower employer contribution rates required by this act and Laws 2009, Chapter 127 have had or will have an adverse actuarial effect on the retirement system in violation of Article 20, Section 22 of the constitution of New Mexico. The results of each study shall be submitted to the legislative finance committee and the governor.

B. If a study concludes that a retirement system has had or will have an adverse actuarial effect as a result of the higher employee contribution rates and the lower employer contribution rates required by this act and Laws 2009, Chapter 127, the board that administers that retirement system shall submit a request for a supplemental appropriation to the second session of the fifty-first legislature in the amount that will rectify the adverse actuarial effect.

**SECTION 15. TEMPORARY PROVISION--DETERMINATION OF ANNUAL SALARY FOR PURPOSES OF CALCULATING EMPLOYEE AND EMPLOYER CONTRIBUTIONS.--**For the purposes of calculating employee and employer contributions due after June 30, 2011, in determining whether an employee has an annual salary greater or less than twenty thousand dollars (\$20,000), the



employee's annual salary shall be the employee's base hourly rate at the time the contribution is made multiplied by the number of compensable hours for a full-time-equivalent in the employee's position at the time the contribution is made as determined by the employer; provided that the department of finance and administration shall determine the number of compensable hours for a full-time-equivalent in the employee's position for employees who are members in a retirement program provided for in the Public Employees Retirement Act, the Magistrate Retirement Act or the Judicial Retirement Act.

**SECTION 16. TEMPORARY PROVISION--CONTINGENT**

CONTRIBUTION RATES FOR FISCAL YEAR 2013.--Notwithstanding a provision of this act to the contrary, the employer and employee contribution rates required by this act for the period from July 1, 2011 through June 30, 2012 shall continue for the period from July 1, 2012 through June 30, 2013 if, after the last consensus revenue forecast before the beginning of the second session of the fiftieth legislature, the secretary of finance and administration certifies to the retirement board of the public employees retirement association, the educational retirement board and the legislative finance committee that, according to the consensus revenue forecast:

(1) general fund revenues in fiscal year

2012 will be less than one hundred million dollars

(\$100,000,000) more than the general fund revenue forecast reflected in the fiscal year 2012 state budget; and

(2) at the end of fiscal year 2012, the total amount in the state reserve funds will be less than five percent of the total general fund appropriations for fiscal year 2012.

**SECTION 17. EFFECTIVE DATE.**--The effective date of the provisions of this act is July 1, 2011. \_\_\_\_\_