

1 AN ACT

2 RELATING TO PENSIONS; AMENDING JUDICIAL RETIREMENT ACT AND
3 MAGISTRATE RETIREMENT ACT PROVISIONS THAT ARE APPLICABLE TO
4 CERTAIN MEMBERS BY CHANGING THE AGE AND SERVICE REQUIREMENTS
5 FOR NORMAL RETIREMENT, DECREASING THE PENSION MULTIPLIER FOR
6 SERVICE CREDIT EARNED AFTER JUNE 30, 2013, PROVIDING FOR
7 TEMPORARY SUSPENSION OF, DECREASING OF AND DELAYING OF THE
8 COST-OF-LIVING ADJUSTMENT AND INCREASING THE MAXIMUM PENSION
9 BENEFIT; PROVIDING THAT CONTRIBUTIONS TO JUDICIAL AND
10 MAGISTRATE RETIREMENT BE PROVIDED FROM THE GENERAL FUND;
11 INCREASING CONTRIBUTIONS TO THE JUDICIAL AND MAGISTRATE
12 RETIREMENT FUNDS; MAKING AN APPROPRIATION.

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. Section 10-12B-3 NMSA 1978 (being Laws 1992,
16 Chapter 111, Section 3, as amended) is amended to read:

17 "10-12B-3. JUDICIAL RETIREMENT FUND ESTABLISHED--
18 ADMINISTRATION OF FUND--ACCOUNTING FUNDS.--

19 A. There is established in the state treasury the
20 "judicial retirement fund". The fund is composed of money
21 received from employer and employee contributions and any
22 investment earnings on contributions. The board is the
23 trustee of the fund and shall administer and invest the fund.
24 Investment of the fund shall be conducted pursuant to the
25 provisions of the Public Employees Retirement Act. The

1 provisions of the Judicial Retirement Act shall be
2 administered by the board. The board is authorized to
3 promulgate rules. Expenses related to the investment of the
4 fund and administration of the Judicial Retirement Act shall
5 be paid from the fund.

6 B. For purposes of this section, the accounting
7 funds shall be known as the "member contribution fund",
8 "employer's accumulation fund", "retirement reserve fund" and
9 "income fund". The maintenance of separate accounting funds
10 shall not require the actual segregation of the assets of the
11 fund.

12 C. The accounting funds provided for in this
13 section are trust funds and shall be used only for the
14 purposes provided for in the Judicial Retirement Act.

15 D. The member contribution fund is the accounting
16 fund in which shall be accumulated contributions of members
17 and from which shall be made refunds and transfers of
18 accumulated member contributions as provided in the Judicial
19 Retirement Act. The member's court shall cause member
20 contributions to be deducted from the salary of the member
21 and shall remit the deducted member contributions to the
22 association in accordance with procedures and schedules
23 established by the association. The association may assess
24 an interest charge and a penalty charge on any late
25 remittance. Each member shall be deemed to consent and agree

1 to the deductions made and provided for in this section.
2 Contributions by members shall be credited to the members'
3 individual accounts in the member contribution fund. A
4 member's accumulated member contributions shall be
5 transferred to the retirement reserve fund when a pension
6 becomes payable.

7 E. The employer's accumulation fund is the
8 accounting fund in which shall be accumulated the
9 contributions paid by the state through the member's court.
10 The state, through the member's court, shall remit its
11 contributions to the association in accordance with
12 procedures and schedules established by the association. The
13 board may assess an interest charge and a penalty charge on
14 any late remittance.

15 F. The retirement reserve fund is the accounting
16 fund from which shall be paid all pensions to retired members
17 and survivor beneficiaries and all residual refunds to refund
18 beneficiaries of retired members and survivor beneficiaries.

19 G. Each year, following receipt of the report of
20 the annual actuarial valuation, the excess, if any, of the
21 reported actuarial present value of pensions being paid and
22 likely to be paid to retired members and survivor
23 beneficiaries and residual refunds likely to be paid to
24 refund beneficiaries of retired members and survivor
25 beneficiaries over the balance in the retirement reserve fund

1 shall be transferred to the retirement reserve fund from the
2 employer's accumulation fund.

3 H. The income fund is the accounting fund to which
4 shall be credited all interest, dividends, rents and other
5 income from investments of the fund, all gifts and bequests,
6 all unclaimed member contributions and all other money the
7 disposition of which is not specifically provided for in the
8 Judicial Retirement Act. Expenses related to the
9 administration of the Judicial Retirement Act shall be paid
10 for from the income fund.

11 I. The association shall at least annually
12 distribute all or a portion of the balance in the income fund
13 to the member contribution fund, the retirement reserve fund
14 and the employer's accumulation fund. Distribution rates
15 shall be determined by the board and may vary for the
16 respective accounting funds."

17 SECTION 2. Section 10-12B-5 NMSA 1978 (being Laws 1992,
18 Chapter 111, Section 5, as amended) is amended to read:

19 "10-12B-5. SERVICE CREDIT--REINSTATEMENT OF FORFEITED
20 SERVICE--PRIOR SERVICE--MILITARY SERVICE.--

21 A. Personal service rendered by a member shall be
22 credited to the member's service credit account in accordance
23 with board rules and regulations. Service shall be credited
24 to the nearest month. In no case shall any member be
25 credited with a year of service for less than twelve months

1 of service in any calendar year or more than a month of
2 service for all service in any calendar month or more than a
3 year of service for all service in any calendar year.

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

17 C. Service credit that a member would have earned
18 if the member had not elected to be excluded from membership
19 may be purchased if the member pays the purchase cost
20 determined pursuant to the provisions of Subsection F of this
21 section.

22 D. A member who during a term of office enters a
23 uniformed service of the United States shall be given service
24 credit for periods of service in the uniformed services
25 subject to the following conditions:

1 (1) the member returns to office within
2 ninety days following termination of the period of
3 intervening service in the uniformed services or the
4 affiliated employer certifies in writing to the association
5 that the member is entitled to reemployment rights under the
6 Uniformed Services Employment and Reemployment Rights Act of
7 1994;

8 (2) the member retains membership in the
9 association during the period of service in the uniformed
10 services;

11 (3) free service credit shall not be given
12 for periods of intervening service in the uniformed services
13 following voluntary reenlistment. Service credit for such
14 periods shall only be given after the member pays the
15 association the sum of the contributions that the person
16 would have been required to contribute had the person
17 remained continuously employed throughout the period of
18 intervening service following voluntary reenlistment, which
19 payment shall be made during the period beginning with the
20 date of reemployment and whose duration is three times the
21 period of the person's intervening service in the uniformed
22 services following voluntary reenlistment, not to exceed five
23 years;

24 (4) service credit shall not be given for
25 periods of intervening service in the uniformed services that

1 are used to obtain or increase a benefit from another state
2 system or the retirement program provided under the
3 Educational Retirement Act; and

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

7 Notwithstanding any provision of this plan to the
8 contrary, contributions, benefits and service credit with
9 respect to qualified military service will be provided in
10 accordance with Section 414(u) of the Internal Revenue Code
11 of 1986, as amended.

12 E. A member who entered uniformed service of the
13 United States may purchase service credit for periods of
14 active duty in the uniformed services, subject to the
15 following conditions:

16 (1) the member pays the purchase cost
17 determined pursuant to the provisions of Subsection F of this
18 section;

19 (2) the member has the applicable minimum
20 number of years of service credit accrued according to the
21 provisions of the Judicial Retirement Act;

22 (3) the aggregate amount of service credit
23 purchased pursuant to the provisions of this subsection does
24 not exceed five years, reduced by any period of service
25 credit acquired for military service under any other

1 provision of the Judicial Retirement Act;

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

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

9 F. The purchase cost for each year of service
10 credit purchased pursuant to the provisions of this section
11 shall be the increase in the actuarial present value of the
12 pension of the member under the Judicial Retirement Act as a
13 consequence of the purchase, as determined by the
14 association. Full payment shall be made in a single lump-sum
15 amount in accordance with procedures established by the
16 board. Except as provided in Subsection G of this section,
17 seventy-five percent of the purchase cost shall be considered
18 to be employer contributions and shall not be refunded to the
19 member in the event of cessation of membership.

20 G. A member shall be refunded, after retirement
21 and upon written request filed with the association, the
22 portion of the purchase cost of service credit purchased
23 pursuant to the provisions of this section that the
24 association determines to have been unnecessary to provide
25 the member with the maximum pension applicable to the member.

1 The association shall not pay interest on the portion of the
2 purchase cost refunded to the member.

3 H. At any time prior to retirement, a member may
4 purchase service credit in monthly increments, subject to the
5 following conditions:

6 (1) the member has the applicable minimum
7 number of years of service credit acquired as a result of
8 personal service rendered under the Judicial Retirement Act;

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

12 (3) the member pays full actuarial present
13 value of the amount of the increase in the member's pension
14 as a consequence of the purchase, as determined by the
15 association;

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

19 (5) the purchase of service credit under
20 this subsection cannot be used to exceed the pension
21 maximum."

22 SECTION 3. Section 10-12B-8 NMSA 1978 (being Laws 1992,
23 Chapter 111, Section 8, as amended) is amended to read:

24 "10-12B-8. AGE AND SERVICE CREDIT REQUIREMENTS FOR
25 NORMAL RETIREMENT.--

1 A. For an individual who initially became a member
2 prior to July 1, 2005, the age and service credit
3 requirements for retirement provided for in the Judicial
4 Retirement Act are:

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

7 (2) age sixty years or older and fifteen or
8 more years of service credit.

9 B. For an individual who initially became a member
10 after June 30, 2005 but on or before June 30, 2013, the age
11 and service credit requirements for retirement provided for
12 in the Judicial Retirement Act are:

13 (1) age sixty-five years or older and five
14 or more years of service credit; or

15 (2) age sixty years or older and fifteen or
16 more years of service credit.

17 C. For an individual who initially becomes a
18 member on or after July 1, 2013, the age and service
19 requirements provided for in the Judicial Retirement Act are:

20 (1) age sixty-five years and eight or more
21 years of service credit; or

22 (2) age sixty years and fifteen or more
23 years of service credit.

24 D. If a member leaves office for any reason, other
25 than removal pursuant to Article 6, Section 32 of the

1 constitution of New Mexico, before meeting the age and
2 service credit requirements for retirement pursuant to the
3 provisions of this section and if that member leaves the
4 member contributions on deposit in the fund, that member may
5 apply for retirement when that member meets the age and
6 service credit requirements for retirement pursuant to the
7 provisions of the Judicial Retirement Act or provisions of
8 the Public Employees Retirement Reciprocity Act.

9 E. No member shall be eligible to receive a
10 pension pursuant to the provisions of the Judicial Retirement
11 Act while still in office."

12 SECTION 4. Section 10-12B-9 NMSA 1978 (being Laws 1992,
13 Chapter 111, Section 9, as amended) is amended to read:

14 "10-12B-9. AMOUNT OF PENSION.--The amount of monthly
15 pension is equal to:

16 A. in the case of a former or current judge or
17 justice, an amount equal to one-twelfth of:

18 seventy-five percent

19 of salary received X number of years of
20 during last year in service, not exceeding
21 office prior to ten years, divided
22 retirement by ten;

23 B. in the case of a new judge or justice who
24 initially became a member prior to July 1, 2005:

25 (1) for service credit earned on or before

1 June 30, 2013, an amount equal to one-twelfth of:
2 seventy-five (number of years of
3 percent of salary service, not
4 received during X .05 X exceeding fifteen
5 last year in office years, plus five
6 prior to retirement years); and

7 (2) for service credit earned on and after
8 July 1, 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 one-half percent times
11 the sum of the number of years of service; provided that a
12 pension calculated pursuant to this subsection shall not
13 exceed eighty-five percent of one-twelfth of the salary
14 received during the last year in office;

15 C. in the case of a new judge or justice who
16 initially became a member after June 30, 2005 but on or
17 before June 30, 2013:

18 (1) for service credit earned on or before
19 June 30, 2013, an amount equal to one-twelfth of the salary
20 received during the last year in office prior to retirement
21 multiplied by the product of three and seventy-five
22 hundredths percent times the sum of the number of years of
23 service; provided that a pension calculated pursuant to this
24 subsection shall not exceed seventy-five percent of
25 one-twelfth of the salary received during the last year in

1 office; and

2 (2) for service credit earned on and after
3 July 1, 2013, an amount equal to one-twelfth of the salary
4 received during the last year in office prior to retirement
5 multiplied by the product of three and one-half percent times
6 the sum of the number of years of service; provided that a
7 pension calculated pursuant to this subsection shall not
8 exceed eighty-five percent of one-twelfth of the salary
9 received during the last year in office; or

10 D. in the case of a new judge or justice who
11 initially becomes a member on or after July 1, 2013, an
12 amount equal to one-sixtieth of the greatest aggregate amount
13 of salary paid a member for sixty consecutive, but not
14 necessarily continuous, months of service credit multiplied
15 by the product of three and one-half percent times the sum of
16 the number of years of service; provided that a pension
17 calculated pursuant to this subsection shall not exceed
18 eighty-five percent of one-sixtieth of the greatest aggregate
19 amount of salary paid a member for sixty consecutive, but not
20 necessarily continuous, months of service credit."

21 SECTION 5. Section 10-12B-10 NMSA 1978 (being Laws
22 1992, Chapter 111, Section 10, as amended) is amended to
23 read:

24 "10-12B-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

25 A. On and after July 1, 2013, members, while in

1 office, shall contribute ten and one-half percent of salary
2 to the member contribution fund.

3 B. Upon implementation, the state, acting as
4 employer of members covered pursuant to the provisions of the
5 Judicial Retirement Act, shall, solely for the purpose of
6 compliance with Section 414(h) of the Internal Revenue Code
7 of 1986, pick up for the purposes specified in that section
8 member contributions required by this section for all annual
9 salary earned by the member. Member contributions picked up
10 pursuant to the provisions of this section shall be treated
11 as employer contributions for purposes of determining income
12 tax obligations under the Internal Revenue Code of 1986;
13 however, such picked-up member contributions shall be
14 included in the determination of the member's gross annual
15 salary for all other purposes under federal and state laws.
16 Member contributions picked up pursuant to the provisions of
17 this section shall continue to be designated member
18 contributions for all purposes of the Judicial Retirement Act
19 and shall be considered as part of the member's annual salary
20 for purposes of determining the amount of the member's
21 contribution. The provisions of this section are mandatory,
22 and the member shall have no option concerning the pickup or
23 concerning the receipt of the contributed amounts directly
24 instead of having the amounts paid by the employer to the
25 retirement system. Implementation occurs upon authorization

1 by the board. In no event may implementation occur other
2 than at the beginning of a pay period applicable to the
3 member."

4 SECTION 6. Section 10-12B-11 NMSA 1978 (being Laws
5 1992, Chapter 111, Section 11, as amended) is amended to
6 read:

7 "10-12B-11. EMPLOYER CONTRIBUTIONS.--

8 A. From July 1, 2013 through June 30, 2014, the
9 member's court shall contribute twenty-eight and seventy-two
10 hundredths percent of salary for each member in office to the
11 fund.

12 B. On and after July 1, 2014, the member's court
13 shall contribute thirty-one and seventy-two hundredths
14 percent of salary for each member in office to the fund."

15 SECTION 7. Section 10-12B-15 NMSA 1978 (being Laws
16 1992, Chapter 111, Section 15) is amended to read:

17 "10-12B-15. COST-OF-LIVING ADJUSTMENT.--

18 A. A qualified pension recipient is eligible for a
19 cost-of-living adjustment payable pursuant to the provisions
20 of the Judicial 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 Judicial Retirement Act; and

25 (2) beginning on May 1, 2015 and no later

1 than each May 1 thereafter, the board shall certify to the
2 association the actuarial funded ratio of the fund as of June
3 30 of the preceding calendar year. On each July 1 following
4 the board's certification of the funded ratio, the
5 cost-of-living adjustment, if any, applied to a pension
6 payable pursuant to the Judicial Retirement Act shall be
7 determined as follows:

8 (a) if the funded ratio of the fund, as
9 certified by the board pursuant to this subsection, is
10 greater than or equal to seventy percent, the amount of
11 pension payable shall be increased two percent. The amount
12 of the increase applied pursuant to this subparagraph shall
13 be determined by multiplying the amount of the pension
14 inclusive of all prior 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; provided, however, that
19 if, pursuant to the provisions of this subparagraph, the
20 cost-of-living adjustment is suspended for the two
21 consecutive fiscal years immediately prior to the most recent
22 certification by the board of the funded ratio: 1) the
23 amount of pension payable in the fiscal year immediately
24 following the two-year suspension shall be increased two
25 percent regardless of the certified funded ratio; and 2) the

1 provisions of this subparagraph shall apply without exception
2 in the next succeeding fiscal year if the funded ratio
3 certified by the board is less than seventy percent.

4 B. Pursuant to the Judicial Retirement Act, a
5 qualified pension recipient is:

6 (1) a normal retired member who:

7 (a) retires before June 30, 2014 and
8 has been retired for at least two full calendar years from
9 the effective date of the latest retirement prior to July 1
10 of the year in which the pension is being adjusted;

11 (b) retires between July 1, 2014 and
12 June 30, 2015 and has been retired for at least three full
13 calendar years from the effective date of the latest
14 retirement prior to July 1 of the year in which the pension
15 is being adjusted;

16 (c) retires between July 1, 2015 and
17 June 30, 2016 and has been retired for at least four full
18 calendar years from the effective date of the latest
19 retirement prior to July 1 of the year in which the pension
20 is being adjusted; or

21 (d) retires after July 1, 2016 and has
22 been retired for at least seven full calendar years from the
23 effective date of the latest retirement prior to July 1 of
24 the year in which the pension is being adjusted;

25 (2) a normal retired member who is at least

1 sixty-five years of age and has been retired for at least one
2 full calendar year from the effective date of the latest
3 retirement prior to July 1 of the year in which the pension
4 is being adjusted;

5 (3) a disability retired member who has been
6 retired for at least one full calendar year from the
7 effective date of the latest retirement prior to July 1 of
8 the year in which the pension is being adjusted;

9 (4) a survivor beneficiary who has received
10 a survivor pension for at least two full calendar years; or

11 (5) a survivor beneficiary of a deceased
12 retired member who otherwise would have been retired at least
13 two full calendar years from the effective date of the latest
14 retirement prior to July 1 of the year in which the pension
15 is being adjusted.

16 C. A qualified pension recipient may decline an
17 increase in a pension by giving the association written
18 notice of the decision to decline the increase at least
19 thirty days prior to the date the increase would take
20 effect."

21 SECTION 8. Section 10-12C-3 NMSA 1978 (being Laws 1992,
22 Chapter 118, Section 3, as amended) is amended to read:

23 "10-12C-3. MAGISTRATE RETIREMENT FUND ESTABLISHED--
24 ADMINISTRATION OF FUND--ACCOUNTING FUNDS.--

25 A. There is established in the state treasury the

1 "magistrate retirement fund". The fund is composed of money
2 received from employer and member contributions and any
3 investment earnings on fees and contributions. The board is
4 the trustee of the fund and shall administer and invest the
5 fund. Investment of the fund shall be conducted pursuant to
6 the provisions of the Public Employees Retirement Act. The
7 provisions of the Magistrate Retirement Act shall be
8 administered by the board. The board is authorized to
9 promulgate rules. Expenses related to the investment of the
10 fund and administration of the Magistrate Retirement Act
11 shall be paid 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
20 purposes provided for in the Magistrate Retirement Act.

21 D. The member contribution fund is the accounting
22 fund in which shall be accumulated contributions of members
23 and from which shall be made refunds and transfers of
24 accumulated member contributions as provided in the
25 Magistrate Retirement Act. The member's court shall cause

1 member contributions to be deducted from the salary of the
2 member and shall remit the deducted member contributions to
3 the association in accordance with procedures and schedules
4 established by the association. The association may assess
5 an interest charge and a penalty charge on any late
6 remittance. Each member shall be deemed to consent and agree
7 to the deductions made and provided for in this section.
8 Contributions by members shall be credited to the members'
9 individual accounts in the member contribution fund. A
10 member's accumulated member contributions shall be
11 transferred to the retirement reserve fund when a pension
12 becomes payable.

13 E. The employer's accumulation fund is the
14 accounting fund in which shall be accumulated the
15 contributions paid by the state through the administrative
16 office of the courts. The state, through the administrative
17 office of the courts, shall remit its contributions to the
18 association in accordance with procedures and schedules
19 established by the association. The board may assess an
20 interest charge and a penalty charge on any late remittance.

21 F. The retirement reserve fund is the accounting
22 fund from which shall be paid all pensions to retired members
23 and survivor beneficiaries and all residual refunds to refund
24 beneficiaries of retired members and survivor beneficiaries.

25 G. Each year, following receipt of the report of

1 the annual actuarial valuation, the excess, if any, of the
2 reported actuarial present value of pensions being paid and
3 likely to be paid to retired members and survivor
4 beneficiaries and residual refunds likely to be paid to
5 refund beneficiaries of retired members and survivor
6 beneficiaries over the balance in the retirement reserve fund
7 shall be transferred to the retirement reserve fund from the
8 employer's accumulation fund.

9 H. The income fund is the accounting fund to which
10 shall be credited all interest, dividends, rents and other
11 income from investments of the fund, all gifts and bequests,
12 all unclaimed member contributions and all other money the
13 disposition of which is not specifically provided for in the
14 Magistrate Retirement Act. Expenses related to the
15 administration of the Magistrate Retirement Act shall be paid
16 for from the income fund.

17 I. The association shall at least annually
18 distribute all or a portion of the balance in the income fund
19 to the member contribution fund, the retirement reserve fund
20 and the employer's accumulation fund. Distribution rates
21 shall be determined by the board and may vary for the
22 respective accounting funds."

23 SECTION 9. Section 10-12C-5 NMSA 1978 (being Laws 1992,
24 Chapter 118, Section 5, as amended) is amended to read:

25 "10-12C-5. SERVICE CREDIT--REINSTATEMENT OF FORFEITED

1 SERVICE--PRIOR SERVICE--MILITARY SERVICE.--

2 A. Personal service rendered by a member shall be
3 credited to the member's service credit account in accordance
4 with board rules and regulations. Service shall be credited
5 to the nearest month. In no case shall any member be
6 credited with a year of service for less than twelve months
7 of service in any calendar year or more than a month of
8 service for all service in any calendar month or more than a
9 year of service for all service in any calendar year.

10 B. Service credit shall be forfeited if a member
11 leaves office and withdraws the member's accumulated member
12 contributions. A member or former member who is a member of
13 another state system or the educational retirement system who
14 has forfeited service credit by withdrawal of member
15 contributions may reinstate the forfeited service credit by
16 repaying the amount withdrawn plus compound interest from the
17 date of withdrawal to the date of repayment at a rate set by
18 the board. Withdrawn member contributions may be repaid in
19 increments of one year in accordance with procedures
20 established by the board. Full payment of each one-year
21 increment shall be made in a single lump-sum amount in
22 accordance with procedures established by the board.

23 C. Service credit that a member would have earned
24 if the member had not elected to be excluded from membership
25 may be purchased if the member pays the purchase cost

1 determined pursuant to the provisions of Subsection F of this
2 section.

3 D. A member who during a term of office enters a
4 uniformed service of the United States shall be given service
5 credit for periods of service in the uniformed services
6 subject to the following conditions:

7 (1) the member returns to office within
8 ninety days following termination of the period of
9 intervening service in the uniformed services or the
10 affiliated employer certifies in writing to the association
11 that the member is entitled to reemployment rights under the
12 Uniformed Services Employment and Reemployment Rights Act of
13 1994;

14 (2) the member retains membership in the
15 association during the period of service in the uniformed
16 services;

17 (3) free service credit shall not be given
18 for periods of intervening service in the uniformed services
19 following voluntary reenlistment. Service credit for such
20 periods shall only be given after the member pays the
21 association the sum of the contributions that the person
22 would have been required to contribute had the person
23 remained continuously employed throughout the period of
24 intervening service following voluntary reenlistment, which
25 payment shall be made during the period beginning with the

1 date of reemployment and whose duration is three times the
2 period of the person's intervening service in the uniformed
3 services following voluntary reenlistment, not to exceed five
4 years;

5 (4) service credit shall not be given for
6 periods of intervening service in the uniformed services that
7 are used to obtain or increase a benefit from another state
8 system or the retirement program provided under the
9 Educational Retirement Act; and

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

13 Notwithstanding any provision of this plan to the
14 contrary, contributions, benefits and service credit with
15 respect to qualified military service will be provided in
16 accordance with Section 414(u) of the Internal Revenue Code
17 of 1986, as amended.

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

22 (1) the member pays the purchase cost
23 determined pursuant to the provisions of Subsection F of this
24 section;

25 (2) the member has the applicable minimum

1 number of years of service credit accrued according to the
2 provisions of the Magistrate Retirement Act;

3 (3) the aggregate amount of service credit
4 purchased pursuant to the provisions of this subsection does
5 not exceed five years, reduced by any period of service
6 credit acquired for military service under any other
7 provision of the Magistrate Retirement Act;

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

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

15 F. The purchase cost for each year of service
16 credit purchased pursuant to the provisions of this section
17 shall be the increase in the actuarial present value of the
18 pension of the member under the Magistrate Retirement Act as
19 a consequence of the purchase, as determined by the
20 association. Full payment shall be made in a single lump-sum
21 amount in accordance with procedures established by the
22 board. Except as provided in Subsection G of this section,
23 seventy-five percent of the purchase cost shall be considered
24 to be employer contributions and shall not be refunded to the
25 member in the event of cessation of membership.

1 G. A member shall be refunded, after retirement
2 and upon written request filed with the association, the
3 portion of the purchase cost of service credit purchased
4 pursuant to the provisions of this section that the
5 association determines to have been unnecessary to provide
6 the member with the maximum pension applicable to the member.
7 The association shall not pay interest on the portion of the
8 purchase cost refunded to the member.

9 H. At any time prior to retirement, a member may
10 purchase service credit in monthly increments, subject to the
11 following conditions:

12 (1) the member has the applicable minimum
13 number of years of service credit acquired as a result of
14 personal service rendered under the Magistrate Retirement
15 Act;

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

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

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

1 (5) the purchase of service credit under
2 this subsection cannot be used to exceed the pension
3 maximum."

4 SECTION 10. Section 10-12C-8 NMSA 1978 (being Laws
5 1992, Chapter 118, Section 8) is amended to read:

6 "10-12C-8. AGE AND SERVICE CREDIT REQUIREMENTS FOR
7 NORMAL RETIREMENT.--

8 A. For a magistrate who was a member on June 30,
9 2013, the age and service credit requirements for retirement
10 provided for in the Magistrate Retirement Act are:

11 (1) age sixty-five years or older and five
12 or more years of service credit;

13 (2) age sixty years or older and fifteen or
14 more years of service credit; or

15 (3) any age and twenty-four or more years of
16 service credit.

17 B. For a magistrate who initially became a member
18 on or after July 1, 2013, the age and service requirements
19 for normal retirement provided for in the Magistrate
20 Retirement Act are:

21 (1) age sixty-five years or older and eight
22 or more years of service credit;

23 (2) age sixty years and fifteen or more
24 years of service credit; and

25 (3) any age and twenty-four or more years of

1 service credit.

2 C. If a member leaves office for any reason, other
3 than removal pursuant to Article 6, Section 32 of the
4 constitution of New Mexico before meeting the age and service
5 credit requirements for retirement pursuant to the provisions
6 of this section and if that member leaves the member
7 contributions on deposit in the fund, that member may apply
8 for retirement when that member meets the age and service
9 credit requirements for retirement pursuant to the provisions
10 of the Magistrate Retirement Act or provisions of the Public
11 Employees Retirement Reciprocity Act.

12 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 11. Section 10-12C-9 NMSA 1978 (being Laws
16 1992, Chapter 118, Section 9) is amended to read:

17 "10-12C-9. AMOUNT OF PENSION.--

18 A. For a magistrate who was a member on June 30,
19 2013:

20 (1) for service credit earned on or before
21 June 30, 2013, the amount of pension is equal to one-twelfth
22 of:

23 seventy-five percent
24 of salary received (number of years of
25 during last year in X .05 X service, not exceeding

1 office prior to fifteen years,
2 retirement plus five years); and
3 (2) for service credit earned on and after
4 July 1, 2013, the amount of pension is equal to one-twelfth
5 of the salary received during the last year in office prior
6 to retirement multiplied by the product of three and one-half
7 percent times the sum of the number of years of service;
8 provided that a pension calculated pursuant to this
9 subsection shall not exceed eighty-five percent of
10 one-twelfth of the salary received during the last year in
11 office.

12 B. For a magistrate who initially became a member
13 on or after July 1, 2013, the amount of pension is equal to
14 one-sixtieth of the greatest aggregate amount of salary paid
15 a member for sixty consecutive, but not necessarily
16 continuous, months of service credit multiplied by the
17 product of three and one-half percent times the sum of the
18 number of years of service; provided that a pension
19 calculated pursuant to this subsection shall not exceed
20 eighty-five percent of one-sixtieth of the greatest aggregate
21 amount of salary paid a member for sixty consecutive, but not
22 necessarily continuous, months of service credit."

23 SECTION 12. Section 10-12C-10 NMSA 1978 (being Laws
24 1992, Chapter 118, Section 10, as amended) is amended to
25 read:

1 "10-12C-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

2 A. Members, while in office, shall contribute ten
3 and one-half percent of salary to the member contribution
4 fund.

5 B. Upon implementation, the state, acting as
6 employer of members covered pursuant to the provisions of the
7 Magistrate Retirement Act, shall, solely for the purpose of
8 compliance with Section 414(h) of the Internal Revenue Code
9 of 1986, pick up for the purposes specified in that section
10 member contributions required by this section for all annual
11 salary earned by the member. Member contributions picked up
12 pursuant to the provisions of this section shall be treated
13 as employer contributions for purposes of determining income
14 tax obligations under the Internal Revenue Code of 1986;
15 however, such picked-up member contributions shall be
16 included in the determination of the member's gross annual
17 salary for all other purposes under federal and state laws.
18 Member contributions picked up pursuant to the provisions of
19 this section shall continue to be designated member
20 contributions for all purposes of the Magistrate Retirement
21 Act and shall be considered as part of the member's annual
22 salary for purposes of determining the amount of the member's
23 contribution. The provisions of this section are mandatory,
24 and the member shall have no option concerning the pick up or
25 concerning the receipt of the contributed amounts directly

1 instead of having the amounts paid by the employer to the
2 retirement system. Implementation occurs upon authorization
3 by the board. In no event may implementation occur other
4 than at the beginning of a pay period applicable to the
5 member."

6 SECTION 13. Section 10-12C-11 NMSA 1978 (being Laws
7 1992, Chapter 118, Section 11, as amended) is amended to
8 read:

9 "10-12C-11. EMPLOYER CONTRIBUTIONS.--The state, through
10 the administrative office of the courts, shall contribute:

11 A. from July 1, 2013 through June 30, 2014,
12 twenty-four and seventy-seven hundredths percent of salary
13 for each member in office to the fund; and

14 B. on and after July 1, 2014, twenty-eight and
15 seventy-seven hundredths percent of salary for each member in
16 office to the fund."

17 SECTION 14. Section 10-12C-14 NMSA 1978 (being Laws
18 1992, Chapter 118, Section 14) is amended to read:

19 "10-12C-14. COST-OF-LIVING ADJUSTMENT.--

20 A. A qualified pension recipient is eligible for a
21 cost-of-living adjustment payable pursuant to the provisions
22 of the Magistrate Retirement Act as follows:

23 (1) beginning July 1, 2013 and continuing
24 through June 30, 2015, there shall not be a cost-of-living
25 adjustment applied to a pension payable pursuant to the

1 Magistrate Retirement Act; and

2 (2) beginning on May 1, 2015 and no later
3 than each May 1 thereafter, the board shall certify to the
4 association the actuarial funded ratio of the fund as of
5 January 31 of the calendar year in which the board certifies
6 the funded ratio. On each July 1 following the board's
7 certification of the funded ratio, the cost-of-living
8 adjustment, if any, applied to a pension payable pursuant to
9 the Magistrate Retirement Act shall be determined as follows:

10 (a) if the funded ratio of the fund, as
11 certified by the board pursuant to this subsection, is
12 greater than or equal to seventy percent, the amount of
13 pension payable shall be increased two percent. The amount
14 of the increase applied pursuant to this subparagraph shall
15 be determined by multiplying the amount of the pension
16 inclusive of all prior adjustments by two percent; and

17 (b) if the funded ratio of the fund, as
18 certified by the board pursuant to this subsection, is less
19 than seventy percent, the amount of pension payable shall not
20 include a cost-of-living increase; provided, however, that
21 if, pursuant to the provisions of this subparagraph, the
22 cost-of-living adjustment is suspended for the two
23 consecutive fiscal years immediately prior to the most recent
24 certification by the board of the funded ratio: 1) the
25 amount of pension payable in the fiscal year immediately

1 following the two-year suspension shall be increased two
2 percent regardless of the certified funded ratio; and 2) the
3 provisions of this subparagraph shall apply without exception
4 in the next succeeding fiscal year if the funded ratio
5 certified by the board is less than seventy percent.

6 B. Pursuant to the Magistrate Retirement Act, a
7 qualified pension recipient is:

8 (1) a normal retired member who:

9 (a) retires on or before June 30, 2014
10 and has been retired for at least two full calendar years
11 from the effective date of the latest retirement prior to
12 July 1 of the 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
16 retirement prior to July 1 of the year in which the pension
17 is being 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
21 retirement prior to July 1 of the year in which the pension
22 is being 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

1 the 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
6 is being adjusted;

7 (3) a disability retired member who has been
8 retired for at least one full calendar year from the
9 effective date of the latest retirement prior to July 1 of
10 the year in which the pension is being adjusted;

11 (4) a survivor beneficiary who has received
12 a 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
17 is being adjusted.

18 C. A qualified pension recipient may decline an
19 increase in a pension by giving the association written
20 notice of the decision to decline the increase at least
21 thirty days prior to the date the increase would take
22 effect."

23 SECTION 15. Section 35-6-1 NMSA 1978 (being Laws 1968,
24 Chapter 62, Section 92, as amended) is amended to read:

25 "35-6-1. MAGISTRATE COSTS--SCHEDULE--DEFINITION OF

1 "CONVICTED".--

2 A. Magistrate judges, including metropolitan court
3 judges, shall assess and collect and shall not waive, defer
4 or suspend the following costs:

5 docket fee, criminal actions under Section 29-5-1 NMSA

6 1978 \$ 1.00;

7 docket fee, to be collected prior to docketing any other
8 criminal action, except as provided in Subsection B
9 of Section 35-6-3 NMSA 1978 20.00.

10 Proceeds from this docket fee shall be transferred
11 to the administrative office of the courts for
12 deposit in the court facilities fund;

13 docket fee, twenty dollars (\$20.00) of which shall be
14 deposited in the court automation fund, fifteen
15 dollars (\$15.00) of which shall be deposited in the
16 civil legal services fund and twenty-five dollars
17 (\$25.00) of which shall be deposited in the
18 general fund, to be collected prior to docketing
19 any civil action, except as provided in Subsection
20 A of Section 35-6-3 NMSA 1978. 72.00;

21 jury fee, ten dollars (\$10.00) of which shall be
22 deposited in the general fund, to be collected from
23 the party demanding trial by jury in any civil
24 action at the time the demand is filed or
25 made 25.00;

1 copying fee, for making and certifying copies of any
2 records in the court, for each page copied by
3 photographic process 0.50.

4 Proceeds from this copying fee shall be transferred
5 to the administrative office of the courts for
6 deposit in the court facilities fund; and

7 copying fee, for computer-generated or electronically
8 transferred copies, per page 1.00.

9 Proceeds from this copying fee shall be transferred
10 to the administrative office of the courts for
11 deposit in the court automation fund.

12 Except as otherwise specifically provided by law, docket
13 fees shall be paid into the court facilities fund.

14 B. Except as otherwise provided by law, no other
15 costs or fees shall be charged or collected in the magistrate
16 or metropolitan court.

17 C. The magistrate or metropolitan court may grant
18 free process to any party in any civil proceeding or special
19 statutory proceeding upon a proper showing of indigency. The
20 magistrate or metropolitan court may deny free process if it
21 finds that the complaint on its face does not state a cause
22 of action.

23 D. As used in this subsection, "convicted" means
24 the defendant has been found guilty of a criminal charge by
25 the magistrate or metropolitan judge, either after trial, a

1 plea of guilty or a plea of nolo contendere. Magistrate
2 judges, including metropolitan court judges, shall assess and
3 collect and shall not waive, defer or suspend the following
4 costs:

5 (1) corrections fee, to be collected upon
6 conviction from persons convicted of violating any provision
7 of the Motor Vehicle Code involving the operation of a motor
8 vehicle, convicted of a crime constituting a misdemeanor or a
9 petty misdemeanor or convicted of violating any ordinance
10 that may be enforced by the imposition of a term of
11 imprisonment as follows:

- 12 in a county with a metropolitan court \$10.00;
- 13 in a county without a metropolitan court 20.00;

14 (2) court automation fee, to be collected upon
15 conviction from persons convicted of violating any provision
16 of the Motor Vehicle Code involving the operation of a motor
17 vehicle, convicted of a crime constituting a misdemeanor or a
18 petty misdemeanor or convicted of violating any ordinance
19 that may be enforced by the imposition of a term of
20 imprisonment 10.00;

21 (3) traffic safety fee, to be collected upon
22 conviction from persons convicted of violating any provision
23 of the Motor Vehicle Code involving the operation of a motor
24 vehicle 3.00;

25 (4) judicial education fee, to be collected

1 upon conviction from persons convicted of operating a motor
2 vehicle in violation of the Motor Vehicle Code, convicted of
3 a crime constituting a misdemeanor or a petty misdemeanor or
4 convicted of violating any ordinance punishable by a term of
5 imprisonment 3.00;

6 (5) jury and witness fee, to be collected upon
7 conviction from persons convicted of operating a motor
8 vehicle in violation of the Motor Vehicle Code, convicted of
9 a crime constituting a misdemeanor or a petty misdemeanor or
10 convicted of violating any ordinance punishable by a term of
11 imprisonment. 5.00;

12 (6) brain injury services fee, to be collected
13 upon conviction from persons convicted of violating any
14 provision of the Motor Vehicle Code involving the operation
15 of a motor vehicle 5.00;
16 and

17 (7) court facilities fee, to be collected upon
18 conviction from persons convicted of violating any provision
19 of the Motor Vehicle Code involving the operation of a motor
20 vehicle, convicted of a crime constituting a misdemeanor or a
21 petty misdemeanor or convicted of violating any ordinance
22 that may be enforced by the imposition of a term of
23 imprisonment as follows:

24 in a county with a metropolitan court 24.00;
25 in any other county 10.00.

1 E. Metropolitan court judges shall assess and
2 collect and shall not waive, defer or suspend as costs a
3 mediation fee not to exceed five dollars (\$5.00) for the
4 docketing of small claims and criminal actions specified by
5 metropolitan court rule. Proceeds of the mediation fee shall
6 be deposited into the metropolitan court mediation fund."

7 SECTION 16. APPROPRIATION.--Two million six hundred
8 sixty-seven thousand eighty-seven dollars (\$2,667,087) is
9 appropriated from the general fund to the department of
10 finance and administration for expenditure in fiscal year
11 2014 and subsequent fiscal years for distribution to the
12 supreme court, court of appeals, district courts, Bernalillo
13 county metropolitan court and administrative office of the
14 courts to pay the increased employer contributions. Any
15 unexpended or unencumbered balance remaining at the end of a
16 fiscal year shall not revert to the general fund.

17 SECTION 17. SEVERABILITY.--If any part or application of
18 this act is held invalid, the remainder or its application to
19 other situations or persons shall not be affected.

20 SECTION 18. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2013. _____

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