

SENATE BILL 2

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

Joseph Cervantes and Peter Wirth and George K. Munoz
and Mimi Stewart

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO THE JUDICIARY; ~~SFC~~→~~ALLOWING FOR THE APPROPRIATION OF MONEY INTO THE JUDICIAL RETIREMENT FUND AND THE MAGISTRATE RETIREMENT FUND; INCREASING CERTAIN SERVICE CREDIT MULTIPLIERS PROVIDED IN THE JUDICIAL RETIREMENT ACT AND THE MAGISTRATE RETIREMENT ACT;~~←SFC PROVIDING THAT JUSTICES OF THE STATE SUPREME COURT SHALL EACH RECEIVE AN ANNUAL SALARY EQUAL TO THE ANNUAL SALARY RECEIVED BY NEW MEXICO FEDERAL MAGISTRATE COURT JUDGES; REMOVING SALARY FORMULAS FOR MAGISTRATES; ~~SFC~~→~~MAKING APPROPRIATIONS~~←SFC SFC→~~PROVIDING THAT THE LEGISLATURE SHALL~~

.221183.1AIC February 9, 2022 (5:00pm)

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ESTABLISH AND PROVIDE SALARIES FOR MAGISTRATES; REVISING STATE
GENERAL MEMBER COVERAGE PLAN 3 PROVISIONS IN THE PUBLIC
EMPLOYEES RETIREMENT ACT TO INCLUDE MAGISTRATES←SFC .

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

SFC→~~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] consists
of appropriations, money received from docket and jury fees of
metropolitan courts, district courts, the court of appeals and
the supreme court, employer and employee contributions and
[any] all income derived from the investment [earnings on fees
and contributions] of the fund. The board is the trustee of
the fund and shall administer and invest the fund. Investment
of the fund shall be conducted pursuant to the provisions of
the Public Employees Retirement Act. The provisions of the
Judicial Retirement Act shall be administered by the board.
The board is authorized to promulgate rules. Expenses related
to the investment of the fund and administration of the
Judicial Retirement Act shall be paid from the fund.~~

~~B. For purposes of this section, the accounting
funds shall be known as the "member contribution fund",~~

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~~"employer's accumulation fund", "retirement reserve fund" and "income fund". The maintenance of separate accounting funds shall not require the actual segregation of the assets of the fund.~~

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

~~D. The member contribution fund is the accounting fund in which shall be accumulated contributions of members and from which shall be made refunds and transfers of accumulated member contributions as provided in the Judicial Retirement Act. The member's court shall cause member contributions to be deducted from the salary of the member and shall remit the deducted member contributions to the association in accordance with procedures and schedules established by the association. The association may assess an interest charge and a penalty charge on any late remittance. Each member shall be deemed to consent and agree to the deductions made and provided for in this section. Contributions by members shall be credited to the members' individual accounts in the member contribution fund. A member's accumulated member contributions shall be transferred to the retirement reserve fund when a pension becomes payable.~~

~~E. The employer's accumulation fund is the~~

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~~accounting fund in which shall be accumulated the contributions paid by the state through the member's court. The state, through the member's court, shall remit its contributions to the association in accordance with procedures and schedules established by the association. The board may assess an interest charge and a penalty charge on any late remittance.~~

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

~~G. Each year, following receipt of the report of the annual actuarial valuation, the excess, if any, of the reported actuarial present value of pensions being paid and likely to be paid to retired members and survivor beneficiaries and residual refunds likely to be paid to refund beneficiaries of retired members and survivor beneficiaries over the balance in the retirement reserve fund shall be transferred to the retirement reserve fund from the employer's accumulation fund.~~

~~H. The income fund is the accounting fund to which shall be credited all interest, dividends, rents and other income from investments of the fund, all gifts and bequests, all unclaimed member contributions and all other money the disposition of which is not specifically provided for in the Judicial Retirement Act. Expenses related to the~~

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~~administration of the Judicial Retirement Act shall be paid for from the income fund.~~

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

~~SECTION 2. Section 10-12B-9 NMSA 1978 (being Laws 1992, Chapter 111, Section 9, as amended) is amended to read:~~

~~"10-12B-9. AMOUNT OF PENSION.--~~

~~A. For a judge or justice who occupied such an office prior to July 1, 1980, but who had ceased to hold such an office prior to that date and who elected to be excluded from the provisions of the Judicial Retirement Act; or a judge or justice who occupied such an office on July 1, 1980, but who elected to be covered under the provisions of the retirement plan in effect at that time, the amount of monthly pension is an amount equal to one-twelfth of:~~

seventy-five percent		
of salary received	—X	number of years of
during last year in		service, not exceeding
office prior to		ten years, divided
retirement		by ten.

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~~B. For a judge or justice who initially became a member before July 1, 2005 and who initially occupied such an office after July 1, 1980; or a judge or justice who occupied such an office on or before July 1, 1980 and who has elected to be covered pursuant to the provisions of the Judicial Retirement Act, the amount of monthly pension is an amount equal to the sum of:~~

~~(1) for service credit earned on or before June 30, 2014, an amount equal to one-twelfth of:~~

seventy-five		(number of years of
percent of salary		service not
received during	X .05 X	exceeding fifteen
last year in office		years, plus five
prior to retirement		years); [and]

~~(2) for service credit earned on and after July 1, 2014 but on or before June 30, 2022, an amount equal to one-sixtieth of the greatest aggregate amount of salary received for sixty consecutive, but not necessarily continuous, months in office multiplied by the product of three and one-half percent times the number of years of service credit; and~~

~~(3) for service credit earned on or after July 1, 2022:~~

~~(a) if the judge or justice has occupied that office for less than ten years, an amount equal to one-~~

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~~sixtieth of the greatest aggregate amount of salary received for sixty consecutive, but not necessarily continuous, months in office multiplied by the product of four percent times the number of years of service credit; or~~

~~(b) if the judge or justice has occupied that office for ten years or more, an amount equal to one-sixtieth of the greatest aggregate amount of salary received for sixty consecutive, but not necessarily continuous, months in office multiplied by the product of three and one-half percent times the number of years of service credit.~~

~~C. For a judge or justice who initially became a member after June 30, 2005 but on or before June 30, 2014, the amount of monthly pension is an amount equal to the sum of:~~

~~(1) for service credit earned on or before June 30, 2014, an amount equal to one-twelfth of the salary received during the last year in office prior to retirement multiplied by the product of three and seventy-five hundredths percent times the sum of the number of years of service; [and]~~

~~(2) for service credit earned on and after July 1, 2014 but on or before June 30, 2022, an amount equal to one-sixtieth of the greatest aggregate amount of salary received for sixty consecutive, but not necessarily continuous, months in office multiplied by the product of three and one-half percent times the number of years of service credit; and~~

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~~(3) for service credit earned on or after July 1, 2022:~~

~~(a) if the judge or justice has occupied that office for less than ten years, an amount equal to one-sixtieth of the greatest aggregate amount of salary received for sixty consecutive, but not necessarily continuous, months in office multiplied by the product of four percent times the number of years of service credit; or~~

~~(b) if the judge or justice has occupied that office for ten years or more, an amount equal to one-sixtieth of the greatest aggregate amount of salary received for sixty consecutive, but not necessarily continuous, months in office multiplied by the product of three and one-half percent times the number of years of service credit.~~

~~D. For a judge or justice who initially became a member on or after July 1, 2014, the amount of monthly pension under form of payment A is an amount equal to the sum of:~~

~~(1) for service credit earned on and after July 1, 2014 but on or before June 30, 2022, one-sixtieth of the greatest aggregate amount of salary received for sixty consecutive, but not necessarily continuous, months in office multiplied by the product of three and one-fourth percent times the number of years of service; and~~

~~(2) for service credit earned on or after July~~

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~~1, 2022, provided that the judge or justice has occupied that office for less than ten years, an amount equal to one-sixtieth of the greatest aggregate amount of salary received for sixty consecutive, but not necessarily continuous, months in office multiplied by the product of four percent times the number of years of service credit; or~~

~~(3) for service credit earned on or after July 1, 2022, provided that the judge or justice has occupied that office for ten years or more, an amount equal to one-sixtieth of the greatest aggregate amount of salary received for sixty consecutive, but not necessarily continuous, months in office multiplied by the product of three and one-half percent times the number of years of service credit.~~

~~E. The amount of pension under form of payment A for a pension calculated pursuant to Subsection D of this section shall not exceed eighty-five percent of one-sixtieth of the greatest aggregate amount of salary received for sixty consecutive, but not necessarily continuous, months prior to the member leaving office.~~

~~F. The amount of pension payable for a pension calculated pursuant to Subsection A, B or C of this section shall not exceed eighty-five percent of one-sixtieth of the greatest aggregate amount of salary received for sixty consecutive, but not necessarily continuous, months prior to~~

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~~the member leaving office. A pension benefit determined pursuant to this subsection shall not be less than the benefit earned as of June 30, 2014."~~

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

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

~~A. There is established in the state treasury the "magistrate retirement fund". The fund [is comprised] consists of appropriations, money received from docket fees of magistrate courts, employer and member contributions and [any] all income derived from the investment [earnings on fees and contributions] of the fund. The board is the trustee of the fund and shall administer and invest the fund. Investment of the fund shall be conducted pursuant to the provisions of the Public Employees Retirement Act. The provisions of the Magistrate Retirement Act shall be administered by the board. The board is authorized to promulgate rules. Expenses related to the investment of the fund and administration of the Magistrate Retirement Act shall be paid from the fund.~~

~~B. For purposes of this section, the accounting funds shall be known as the "member contribution fund", "employer's accumulation fund", "retirement reserve fund" and "income fund". The maintenance of separate accounting funds~~

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~~shall not require the actual segregation of the assets of the fund.~~

~~G. The accounting funds provided for in this section are trust funds and shall be used only for the purposes provided for in the Magistrate Retirement Act.~~

~~D. The member contribution fund is the accounting fund in which shall be accumulated contributions of members and from which shall be made refunds and transfers of accumulated member contributions as provided in the Magistrate Retirement Act. The member's court shall cause member contributions to be deducted from the salary of the member and shall remit the deducted member contributions to the association in accordance with procedures and schedules established by the association. The association may assess an interest charge and a penalty charge on any late remittance. Each member shall be deemed to consent and agree to the deductions made and provided for in this section. Contributions by members shall be credited to the members' individual accounts in the member contribution fund. A member's accumulated member contributions shall be transferred to the retirement reserve fund when a pension becomes payable.~~

~~E. The employer's accumulation fund is the accounting fund in which shall be accumulated the contributions paid by the state through the administrative office of the~~

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~~courts. The state, through the administrative office of the courts, shall remit its contributions to the association in accordance with procedures and schedules established by the association. The board may assess an interest charge and a penalty charge on any late remittance.~~

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

~~G. Each year, following receipt of the report of the annual actuarial valuation, the excess, if any, of the reported actuarial present value of pensions being paid and likely to be paid to retired members and survivor beneficiaries and residual refunds likely to be paid to refund beneficiaries of retired members and survivor beneficiaries over the balance in the retirement reserve fund shall be transferred to the retirement reserve fund from the employer's accumulation fund.~~

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

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~~for from the income fund.~~

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

~~SECTION 4. Section 10-12C-9 NMSA 1978 (being Laws 1992, Chapter 118, Section 9, as amended by Laws 2014, Chapter 39, Section 6 and by Laws 2014, Chapter 43, Section 6) is amended to read:~~

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

~~A. For a magistrate who was a member on June 30, 2014, the monthly pension is an amount equal to the sum of:~~

~~(1) for service credit earned on or before June 30, 2014, the amount is equal to one-twelfth of:~~

~~seventy-five percent~~

~~of salary received~~

~~(number of years of~~

~~during last year in~~

~~-X .05 X~~

~~service, not exceeding~~

~~office prior to~~

~~fifteen years,~~

~~retirement~~

~~plus five years); and~~

~~(2) for service credit earned on and after July 1, 2014, an amount equal to one-sixtieth of the greatest aggregate amount of salary received for sixty consecutive, but~~

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~~not necessarily continuous, months in office multiplied by the product of three and one-half percent times the sum of the number of years of service.~~

~~B. For a magistrate who initially became a member on or after July 1, 2014, the amount of monthly pension is equal to:~~

~~(1) for service credit earned on and after July 1, 2014 but on or before June 30, 2022, an amount equal to one-sixtieth of the greatest aggregate amount of salary received for sixty consecutive, but not necessarily continuous, months in office multiplied by the product of three percent times the sum of the number of years of service; or~~

~~(2) for service credit earned on and after July 1, 2022, an amount equal to one-sixtieth of the greatest aggregate amount of salary received for sixty consecutive, but not necessarily continuous, months in office multiplied by the product of three and one-half percent times the sum of the number of years of service.~~

~~G. The amount of monthly pension under form of payment A for a pension calculated pursuant to Subsection B of this section shall not exceed eighty-five percent of one-sixtieth of the greatest aggregate amount of salary received for sixty consecutive, but not necessarily continuous, months prior to the member leaving office.~~

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~~D. The amount of monthly pension payable for a pension calculated pursuant to Subsection A of this section shall not exceed eighty-five percent of one-sixtieth of the greatest aggregate amount of salary received for sixty consecutive, but not necessarily continuous, months prior to the member leaving office. A pension benefit determined pursuant to this subsection shall not be less than the benefit earned as of June 30, 2014."~~

~~SECTION 5. Section 34-1-9 NMSA 1978 (being Laws 1993, Chapter 278, Section 1, as amended) is amended to read:~~

~~"34-1-9. SALARIES OF JUSTICES, JUDGES AND MAGISTRATES.--~~

~~A. Justices of the supreme court shall each receive an annual salary [as provided by the legislature] equal to the annual salary received by New Mexico federal magistrate court judges. The chief justice of the supreme court shall receive an annual salary that is two thousand dollars (\$2,000) more than the annual salary of a justice of the supreme court.~~

~~B. The chief judge of:~~

~~(1) the court of appeals shall receive an annual salary that is ninety-five percent of the annual salary of the chief justice of the supreme court;~~

~~(2) a district court shall receive an annual salary that is ninety-five percent of the annual salary of the chief judge of the court of appeals; and~~

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~~(3) a metropolitan court shall receive an annual salary that is ninety-five percent of the annual salary of the chief judge of a district court.~~

~~{C. The presiding magistrate of a magistrate district where three or more divisions operate as a single court shall receive an annual salary that is seventy-five percent of the annual salary of the chief judge of a metropolitan court.~~

~~D.] C. Notwithstanding any other provision of law or any other provision of this section, the annual salaries of the following judges [and magistrates] shall be established as follows:~~

~~(1) a judge of the court of appeals shall receive an annual salary that is ninety-five percent of the annual salary of a justice of the supreme court;~~

~~(2) a district court judge shall receive an annual salary that is ninety-five percent of the annual salary of a judge of the court of appeals; and~~

~~(3) a metropolitan court judge shall receive an annual salary that is ninety-five percent of the annual salary of a district court judge.~~

~~{(4) a full-time magistrate shall receive an annual salary that is seventy-five percent of the annual salary of a metropolitan court judge;~~

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~~(5) a half-time magistrate shall receive an annual salary that is fifty percent of the annual salary of a full-time magistrate; and~~

~~(6) a quarter-time magistrate shall receive an annual salary that is twenty-five percent of the annual salary of a full-time magistrate.~~

~~E.] D. For fiscal year 1995 and all subsequent fiscal years, the annual salary for justices of the supreme court, judges of the court of appeals, district court judges, metropolitan court judges and magistrates shall be [established] provided by the legislature in an appropriations act.~~

~~[F.] E. No additional salaries shall be paid to justices, judges or magistrates on account of services rendered the state. Justices of the supreme court, judges of the court of appeals, district court judges, metropolitan court judges and magistrates shall receive per diem and mileage for necessary travel on official business of the court as provided in the Per Diem and Mileage Act."~~

~~SECTION 6. APPROPRIATION.--Thirty-five million dollars (\$35,000,000) is appropriated from the general fund to the judicial retirement fund for expenditure in fiscal year 2023 and subsequent fiscal years to address solvency issues related to the Judicial Retirement Act. Any unexpended or unencumbered~~

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~~balance remaining at the end of a fiscal year shall not revert to the general fund.~~

~~SECTION 7. APPROPRIATION.--Ten million dollars (\$10,000,000) is appropriated from the general fund to the magistrate retirement fund for expenditure in fiscal year 2023 and subsequent fiscal years to address solvency issues related to the Magistrate Retirement Act. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.~~ ←SFC

SFC → SECTION 1. Section 10-11-2 NMSA 1978 (being Laws 1987, Chapter 253, Section 2, as amended by Laws 2021, Chapter 36, Section 1 and by Laws 2021, Chapter 38, Section 1) is amended to read:

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

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

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

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

D. "coverage plan funded ratio" means the ratio of the actuarial value of the assets of a coverage plan to the actuarial accrued liability of the association for payments from the coverage plan, as determined by the association's actuaries;

E. "disability retired member" means a retired member who is receiving a pension pursuant to the disability retirement provisions of the Public Employees Retirement Act;

F. "disability retirement pension" means the pension paid pursuant to the disability retirement provisions of the Public Employees Retirement Act;

G. "educational retirement system" means that retirement system provided for in the Educational Retirement Act;

H. "employee" means any employee of an affiliated public employer;

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

J. "final average salary" means the final average

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salary calculated in accordance with the provisions of the applicable coverage plan;

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

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

M. "fund" means the funds included under the Public Employees Retirement Act;

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

(1) "adult correctional officer member" means a member who is employed as an adult correctional officer or an adult correctional officer specialist by a state correctional facility of the corrections department or its successor agency;

(2) "adult probation and parole officer member" means a member who is employed as a probation and parole officer by the corrections department or its successor

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agency;

(3) "juvenile correctional officer member" means a member who is employed as a juvenile correctional officer by the children, youth and families department or its successor agency;

(4) "juvenile probation and parole officer member" means a member who is employed as a probation and parole officer by the children, youth and families department or its successor agency;

(5) "magistrate member" means a magistrate judge who is elected or appointed to an initial term of office on or after July 1, 2022;

~~(5)~~ (6) "municipal detention officer member" means a member who is employed by an affiliated public employer other than the state and who has inmate custodial responsibilities at a facility used for the confinement of persons charged with or convicted of a violation of a law or ordinance;

~~(6)~~ (7) "municipal fire member" means any member who is employed as a full-time nonvolunteer firefighter by an affiliated public employer and who has taken the oath prescribed for firefighters;

~~(7)~~ (8) "municipal police member" means any member who is employed as a police officer by an affiliated

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public employer, other than the state, and who has taken the oath prescribed for police officers; and

[~~(8)~~] (9) "state police member" means a member who is an officer of the New Mexico state police division and who has taken the oath prescribed for such officers and shall include a member who is an officer of the New Mexico state police division and who was certified and commissioned in the former motor transportation division or the former special investigations division of the department of public safety;

O. "membership" means membership in the association;

P. "pension" means a series of monthly payments to a retired member or survivor beneficiary as provided in the Public Employees Retirement Act;

Q. "public employer" means the state, any municipality, city, county, metropolitan arroyo flood control authority, economic development district, regional housing authority, soil and water conservation district, entity created pursuant to a joint powers agreement, council of government, conservancy district, irrigation district, water and sanitation district, water district and metropolitan water board, including the boards, departments, bureaus and agencies of a public employer, so long as these entities fall within the meaning of governmental plan as that term is used in Section

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414(d) of the Internal Revenue Code of 1986, as amended;

R. "refund beneficiary" means a person designated by the member, in writing, in the form prescribed by the association, as the person who would be refunded the member's accumulated member contributions payable if the member dies and no survivor pension is payable or who would receive the difference between pension paid and accumulated member contributions if the retired member dies before receiving in pension payments the amount of the accumulated member contributions;

S. "retire" means to:

(1) terminate employment with all employers covered by any state system or the educational retirement system; and

(2) receive a pension from a state system or the educational retirement system;

T. "retired member" means a person who has met all requirements for retirement and who is receiving a pension from the fund;

U. "retirement board" means the retirement board provided for in the Public Employees Retirement Act;

V. "salary" means the base salary or wages paid a member, including longevity pay, for personal services rendered an affiliated public employer. "Salary" shall not include

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overtime pay, unless the overtime payment is required for a regular scheduled tour of duty as set forth in Section 207(k) of Title 29 of the United States Code and is made on the regular payroll for the period represented by that payment, allowances for housing, clothing, equipment or travel, payments for unused sick leave, unless the unused sick leave payment is made through continuation of the member on the regular payroll for the period represented by that payment, and any other form of remuneration not specifically designated by law as included in salary for Public Employees Retirement Act purposes. Salary in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code of 1986, as amended, shall be disregarded. The limitation on compensation for eligible employees shall not be less than the amount that was allowed to be taken into account under the state retirement system acts in effect on July 1, 1993. For purposes of this subsection, "eligible employee" means an individual who was a member of a state system before the first plan year beginning after December 31, 1995;

W. "state system" means the retirement programs provided for in the Public Employees Retirement Act, the Magistrate Retirement Act and the Judicial Retirement Act;

X. "state retirement system acts" means collectively the Public Employees Retirement Act, the

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Magistrate Retirement Act, the Judicial Retirement Act and the Volunteer Firefighters Retirement Act; and

Y. "survivor beneficiary" means a person who receives a pension or who has been designated to be paid a pension as a result of the death of a member or retired member."

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

"10-11-26.1. STATE GENERAL MEMBER COVERAGE PLAN 3-- APPLICABILITY.--State general member coverage plan 3 is applicable to:

A. peace officer members and is applicable to state general members in the first full pay period after July 1, 1995 if the retirement board certifies to the secretary of state that a majority of the members voting of those members to be covered under state general member coverage plan 3 has voted to approve adoption of this plan at an election conducted pursuant to Laws 1994, Chapter 128, Section 17; and

B. magistrate members."

SECTION 3. Section 10-12C-2 NMSA 1978 (being Laws 1992, Chapter 118, Section 2, as amended by Laws 2014, Chapter 39, Section 2 and by Laws 2014, Chapter 43, Section 2) is amended to read:

"10-12C-2. DEFINITIONS.--As used in the Magistrate

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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 the Public Employees Retirement Act;

C. "dependent child" means a natural or adopted child who is physically or mentally incapable of financial self-support, regardless of age;

D. "educational retirement system" means the retirement system provided for in the Educational Retirement Act;

E. "effective date of retirement" means the first day of the month following the month in which the member met all requirements for retirement;

F. "final average salary" means the amount that is one-sixtieth of the greatest aggregate amount of salary paid a member for sixty consecutive, but not necessarily continuous, months of service credit;

G. "former member" means a person no longer in office who was previously covered pursuant to the provisions of Sections 10-12A-1 through 10-12A-13 NMSA 1978, but who has not retired pursuant to the provisions of the Magistrate Retirement Act and who has received a refund of member contributions

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pursuant to the provisions of Sections 10-12C-1 through 10-12C-18 NMSA 1978;

H. "fund" means the magistrate retirement fund;

I. "magistrate" means a magistrate judge;

J. "member" means any magistrate who ~~is~~ was in office prior to July 1, 2022 and covered pursuant to the provisions of the Magistrate Retirement Act, or any person no longer in office who was previously a magistrate covered pursuant to the provisions of the Magistrate Retirement Act, who has not retired and who has not received a refund of member contributions from the fund;

K. "member contributions" means the amounts deducted from the salary of a member and credited to the member's individual account, together with interest, if any, credited thereto;

L. "minor child" means a natural or adopted child who has not reached ~~his~~ the child's eighteenth birthday and who has not been emancipated by marriage or otherwise;

M. "pension" means a series of monthly payments to a retired member or survivor beneficiary pursuant to the provisions of the Magistrate Retirement Act;

N. "refund beneficiary" means a person designated by the member, in writing in the form prescribed by the association, as the person who would be refunded the member's

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accumulated member contributions payable if the member dies and no survivor pension is payable, or as the person who would receive the difference between pension paid and accumulated member contributions if the retired member dies before receiving in pension payments the amount of the accumulated member contributions;

O. "retire" means to:

(1) terminate employment with all employers covered by any state system or the educational retirement system; and

(2) receive a pension from one state system or the educational retirement system;

P. "retired member" means a person who has met all requirements for retirement and who is receiving a pension from the fund;

Q. "salary" means the base salary or wages paid a member, including longevity pay, for personal services rendered; provided that salary does not include overtime pay; allowances for housing, clothing, equipment or travel; payments for unused sick leave, unless the unused sick leave payment is made through continuation of the member on the regular payroll for the period represented by that payment; and any other form of remuneration not specifically designated by law as included in salary pursuant to the provisions of the Magistrate

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Retirement Act;

R. "state system" means the retirement programs provided pursuant to the provisions of the Public Employees Retirement Act, the Magistrate Retirement Act and the Judicial Retirement Act;

S. "surviving spouse" means the spouse to whom the member was married at the time of the member's death;

T. "survivor beneficiary" means a person who receives a pension or who has been designated to be paid a pension as a result of the death of a member or retired member; and

U. "years of service" means a period of time beginning on the date a person commences to hold office as a magistrate because of appointment or election and ending on the date a person ceases to hold office as a magistrate because of expiration of the magistrate's term, voluntary resignation, death or disability and shall include any fractions of years of service."

SECTION 4. Section 10-12C-4 NMSA 1978 (being Laws 1992, Chapter 118, Section 4, as amended by Laws 2014, Chapter 39, Section 3 and by Laws 2014, Chapter 43, Section 3) is amended to read:

"10-12C-4. MEMBERSHIP.--Prior to July 1, 2022, every magistrate while in office shall become a member and shall be

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subject to the provisions of the Magistrate Retirement Act; provided, however, that a magistrate who, prior to July 1, 2014, applied for and received an exemption from membership shall not become a member until such exemption ends. A magistrate who is retired under any state system or the educational retirement system shall:

A. pay the applicable member contributions and the state, through the administrative office of the courts, shall pay the applicable employer contributions as provided pursuant to the Magistrate Retirement Act; and

B. not accrue a service credit and shall not be eligible to purchase service credit nor to retire pursuant to the Magistrate Retirement Act."

SECTION 5. Section 34-1-9 NMSA 1978 (being Laws 1993, Chapter 278, Section 1, as amended) is amended to read:

"34-1-9. SALARIES OF JUSTICES, JUDGES AND MAGISTRATES.--

A. Justices of the supreme court shall each receive an annual salary [as provided by the legislature] in an amount equal to the annual salary received by New Mexico federal magistrate court judges, as provided by the legislature in an appropriations act; provided that the salary shall be adjusted on a biennial basis. The chief justice of the supreme court shall receive an annual salary that is two thousand dollars (\$2,000) more than the annual salary of a justice of the

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supreme court.

B. The chief judge of:

(1) the court of appeals shall receive an annual salary that is ninety-five percent of the annual salary of the chief justice of the supreme court;

(2) a district court shall receive an annual salary that is ninety-five percent of the annual salary of the chief judge of the court of appeals; and

(3) a metropolitan court shall receive an annual salary that is ninety-five percent of the annual salary of the chief judge of a district court.

~~C. The presiding magistrate of a magistrate district where three or more divisions operate as a single court shall receive an annual salary that is seventy-five percent of the annual salary of the chief judge of a metropolitan court.~~

~~D. Notwithstanding any other provision of law or any other provision of this section]~~

C. The annual salaries of the following judges [and magistrates] shall be [established] as follows:

(1) a judge of the court of appeals shall receive an annual salary that is ninety-five percent of the annual salary of a justice of the supreme court;

(2) a district court judge shall receive an

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annual salary that is ninety-five percent of the annual salary of a judge of the court of appeals; and

(3) a metropolitan court judge shall receive an annual salary that is ninety-five percent of the annual salary of a district court judge.

~~[(4) a full-time magistrate shall receive an annual salary that is seventy-five percent of the annual salary of a metropolitan court judge;~~

~~(5) a half-time magistrate shall receive an annual salary that is fifty percent of the annual salary of a full-time magistrate; and~~

~~(6) a quarter-time magistrate shall receive an annual salary that is twenty-five percent of the annual salary of a full-time magistrate.~~

~~E. For fiscal year 1995 and all subsequent fiscal years]~~

D. The annual salary for justices of the supreme court, judges of the court of appeals, district court judges, metropolitan court judges and magistrates shall be [established] provided by the legislature in an appropriations act.

E. The annual salary for magistrates shall be established and provided by the legislature in an appropriations act.

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F. No additional salaries shall be paid to justices, judges or magistrates on account of services rendered the state. Justices of the supreme court, judges of the court of appeals, district court judges, metropolitan court judges and magistrates shall receive per diem and mileage for necessary travel on official business of the court as provided in the Per Diem and Mileage Act."

SECTION 6. TEMPORARY PROVISION.--Magistrates covered pursuant to the Magistrate Retirement Act prior to July 1, 2022 shall continue to be covered by the provisions of that act.

SECTION 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2022.←SFC