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HOUSE BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO RETIREMENT; AMENDING THE PUBLIC EMPLOYEES
RETIREMENT ACT TO CREATE A NEW RETIREMENT PLAN FOR UNIFORMED
AND NONUNIFORMED STATE AND MUNICIPAL EMPLOYEES HIRED ON OR
AFTER JULY 1, 2012 AND TO CLOSE ELIGIBILITY FOR EXISTING
RETIREMENT PLANS TO EMPLOYEES HIRED ON OR AFTER JULY 1, 2012;
ADDING MEMBERS TO THE ENHANCED PLANS IN THE RETIREE HEALTH CARE
ACT; CONTINUING CERTAIN MUNICIPAL CONTRIBUTIONS; RECONCILING
MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2003;
RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW BY
REPEALING LAWS 2009, CHAPTER 287, SECTION 2.

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

SECTION 1. A new section of the Public Employees

Retirement Act is enacted to read:

"[NEW MATERIAL] PUBLIC EMPLOYEE MEMBER COVERAGE PLAN 1--

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1 APPLICABILITY--SERVICE CREDIT ENHANCEMENT.--

2 A. Public employee member coverage plan 1 is
3 applicable to state members, municipal members and public
4 safety members who were not members or retired members on June
5 30, 2012 and who are not specifically covered by another
6 coverage plan.

7 B. The actual years of service credit of a public
8 safety member in public employee member coverage plan 1 shall
9 be increased:

10 (1) by seventy percent for the purpose of
11 calculating years of service credit under Paragraph (1) of
12 Subsection B of Section 2 of this 2012 act; and

13 (2) by thirty-five percent for the purpose of
14 calculating:

15 (a) years of service credit under
16 Paragraph (2) of Subsection B of Section 2 of this 2012 act; or

17 (b) final average salary."

18 SECTION 2. A new section of the Public Employees
19 Retirement Act is enacted to read:

20 "[NEW MATERIAL] PUBLIC EMPLOYEE MEMBER COVERAGE PLAN 1--
21 AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL RETIREMENT.--

22 Under public employee member coverage plan 1, the age and
23 service credit requirements for normal retirement are:

24 A. age sixty-five years or older and eight or more
25 years of service credit;

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1 B. any age if:

2 (1) the sum of the member's age and years of
3 service credit equals at least eighty-five; and

4 (2) the member has at least twenty-five years
5 of service credit."

6 **SECTION 3.** A new section of the Public Employees
7 Retirement Act is enacted to read:

8 "[NEW MATERIAL] PUBLIC EMPLOYEE MEMBER COVERAGE PLAN 1--
9 AMOUNT OF PENSION--FORM OF PAYMENT A.--Under public employee
10 member coverage plan 1, the amount of pension under form of
11 payment A is equal to two and one-half percent of final average
12 salary multiplied by service credit. The amount shall not
13 exceed ninety percent of the final average salary."

14 **SECTION 4.** A new section of the Public Employees
15 Retirement Act is enacted to read:

16 "[NEW MATERIAL] PUBLIC EMPLOYEE MEMBER COVERAGE PLAN 1--
17 MEMBER CONTRIBUTION RATE.--

18 A. A state member under public employee member
19 coverage plan 1 shall contribute seven and forty-two hundredths
20 percent of the member's salary starting with the first full pay
21 period that ends within the calendar month in which public
22 employee member coverage plan 1 becomes applicable to the
23 member, except that for members whose annual salary is greater
24 than twenty thousand dollars (\$20,000); and from July 1, 2012
25 through June 30, 2013, the member contribution rate shall be:

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1 (1) eight and ninety-two hundredths percent of
2 the member's salary; or

3 (2) ten and sixty-seven hundredths percent if
4 after the last consensus revenue forecast before the beginning
5 of the second session of the fiftieth legislature, the
6 secretary of finance and administration certifies to the
7 retirement board of the public employees retirement
8 association, the educational retirement board and the
9 legislative finance committee that, according to the consensus
10 revenue forecast, general fund revenues in fiscal year 2012
11 will be less than one hundred million dollars (\$100,000,000)
12 more than the general fund revenue forecast reflected in the
13 fiscal year 2012 state budget; and at the end of fiscal year
14 2012, the total amount in the state reserve funds will be less
15 than five percent of the total general fund appropriations for
16 fiscal year 2012. *[most of this language won't be needed if
17 this bill is introduced in January 2012, because the consensus
18 revenue forecast will have been done... this language is just a
19 placeholder until the consensus forecast determines which rate
20 is in place in FY 2013]*

21 B. A municipal member under public employee member
22 coverage plan 1 shall contribute fifteen and sixty-five
23 hundredths percent of the member's salary starting with the
24 first full pay period that ends within the calendar month in
25 which public employee member coverage plan 1 becomes applicable

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1 to the member.

2 C. A public safety member under public employee
3 member coverage plan 1 shall contribute sixteen and one-fourth
4 percent of salary starting with the first full pay period that
5 ends within the calendar month in which public employee member
6 coverage plan 1 becomes applicable to the member."

7 SECTION 5. A new section of the Public Employees
8 Retirement Act is enacted to read:

9 "[NEW MATERIAL] PUBLIC EMPLOYEE MEMBER COVERAGE PLAN 1--
10 EMPLOYER CONTRIBUTION RATE.--

11 A. The affiliated public employer of a state member
12 under public employee member coverage plan 1 shall contribute
13 sixteen and fifty-nine hundredths percent of the member's
14 salary starting with the first full pay period that ends within
15 the calendar month in which public employee member coverage
16 plan 1 becomes applicable to the member, except that for
17 members whose annual salary is greater than twenty thousand
18 dollars (\$20,000); and from July 1, 2012 through June 30, 2013,
19 the employer contribution rate shall be:

20 (1) fifteen and nine hundredths percent of the
21 member's salary; or

22 (2) ten and sixty-seven hundredths percent if
23 after the last consensus revenue forecast before the beginning
24 of the second session of the fiftieth legislature, the
25 secretary of finance and administration certifies to the

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1 retirement board of the public employees retirement
2 association, the educational retirement board and the
3 legislative finance committee that, according to the consensus
4 revenue forecast, general fund revenues in fiscal year 2012
5 will be less than one hundred million dollars (\$100,000,000)
6 more than the general fund revenue forecast reflected in the
7 fiscal year 2012 state budget; and at the end of fiscal year
8 2012, the total amount in the state reserve funds will be less
9 than five percent of the total general fund appropriations for
10 fiscal year 2012. *[most of this language won't be needed if*
11 *this bill is introduced in January 2012, because the consensus*
12 *revenue forecast will have been done... this language is just a*
13 *placeholder until the consensus forecast determines which rate*
14 *is in place in FY 2013]*

15 B. The affiliated public employer of a municipal
16 member under public employee member coverage plan 1 shall
17 contribute eleven and sixty-five hundredths percent of the
18 member's salary starting with the first full pay period that
19 ends within the calendar month in which public employee member
20 coverage plan 1 becomes applicable to the member.

21 C. The affiliated public employer of a public
22 safety member under public employee member coverage plan 1
23 shall contribute nineteen and eighty-eight hundredths percent
24 of the member's salary starting with the first full pay period
25 that ends within the calendar month in which public employee

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1 member coverage plan 1 becomes applicable to the member."

2 SECTION 6. Section 10-7C-15 NMSA 1978 (being Laws 1990,
3 Chapter 6, Section 15, as amended by Laws 2009, Chapter 287,
4 Section 2 and by Laws 2009, Chapter 288, Section 3) is amended
5 to read:

6 "10-7C-15. RETIREE HEALTH CARE FUND CONTRIBUTIONS.--

7 A. Following completion of the preliminary
8 contribution period, each participating employer shall make
9 contributions to the fund pursuant to the following provisions:

10 (1) for participating employees who are not
11 members of an enhanced retirement plan, the employer's
12 contribution shall equal:

13 (a) one and three-tenths percent of each
14 participating employee's salary for the period from July 1,
15 2002 through June 30, 2010;

16 (b) one and six hundred sixty-six
17 thousandths percent of each participating employee's salary for
18 the period from July 1, 2010 through June 30, 2011;

19 (c) one and eight hundred thirty-four
20 thousandths percent of each participating employee's salary for
21 the period from July 1, 2011 through June 30, 2012; and

22 (d) two percent of each participating
23 employee's salary beginning July 1, 2012;

24 (2) for participating employees who are
25 members of an enhanced retirement plan, the employer's

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1 contribution shall equal:

2 (a) one and three-tenths percent of each
3 participating employee's salary for the period from July 1,
4 2002 through June 30, 2010;

5 (b) two and eighty-four thousandths
6 percent of each participating employee's salary for the period
7 from July 1, 2010 through June 30, 2011;

8 (c) two and two hundred ninety-two
9 thousandths percent of each participating employee's salary for
10 the period from July 1, 2011 through June 30, 2012; and

11 (d) two and one-half percent of each
12 participating employee's salary beginning July 1, 2012; and

13 (3) each employer that chooses to become a
14 participating employer after January 1, 1998 shall make
15 contributions to the fund in the amount determined to be
16 appropriate by the board.

17 B. Following completion of the preliminary
18 contribution period, each participating employee, as a
19 condition of employment, shall contribute to the fund pursuant
20 to the following provisions:

21 (1) for a participating employee who is not a
22 member of an enhanced retirement plan, the employee's
23 contribution shall equal:

24 (a) sixty-five hundredths of one percent
25 of the employee's salary for the period from July 1, 2002

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1 through June 30, 2010;

2 (b) eight hundred thirty-three
3 thousandths of one percent of the employee's salary for the
4 period from July 1, 2010 through June 30, 2011;

5 (c) nine hundred seventeen thousandths
6 of one percent of the employee's salary for the period from
7 July 1, 2011 through June 30, 2012; and

8 (d) one percent of the employee's salary
9 beginning July 1, 2012;

10 (2) for a participating employee who is a
11 member of an enhanced retirement plan, the employee's
12 contribution shall equal:

13 (a) sixty-five hundredths of one percent
14 of the employee's salary for the period from July 1, 2002
15 through June 30, 2010;

16 (b) one and forty-two thousandths
17 percent of the employee's salary for the period from July 1,
18 2010 through June 30, 2011;

19 (c) one and one hundred forty-six
20 thousandths percent of the employee's salary for the period
21 from July 1, 2011 through June 30, 2012; and

22 (d) one and one-fourth percent of the
23 employee's salary beginning July 1, 2012; and

24 (3) as a condition of employment, each
25 participating employee of an employer that chooses to become a

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1 participating employer after January 1, 1998 shall contribute
2 to the fund an amount that is determined to be appropriate by
3 the board. Each month, participating employers shall deduct
4 the contribution from the participating employee's salary and
5 shall remit it to the board as provided by any procedures that
6 the board may require.

7 C. On or after July 1, 2009, no person who has
8 obtained service credit pursuant to Subsection B of Section
9 10-11-6 NMSA 1978, Section 10-11-7 NMSA 1978 or Paragraph (3)
10 or (4) of Subsection A of Section 22-11-34 NMSA 1978 may enroll
11 with the authority unless the person makes a contribution to
12 the fund equal to the full actuarial present value of the
13 amount of the increase in the person's health care benefit, as
14 determined by the authority.

15 D. Except for contributions made pursuant to
16 Subsection C of this section, a participating employer that
17 fails to remit before the tenth day after the last day of the
18 month all employer and employee deposits required by the
19 Retiree Health Care Act to be remitted by the employer for the
20 month shall pay to the fund, in addition to the deposits,
21 interest on the unpaid amounts at the rate of six percent per
22 year compounded monthly.

23 E. Except for contributions made pursuant to
24 Subsection C of this section, the employer and employee
25 contributions shall be paid in monthly installments based on

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1 the percent of payroll certified by the employer.

2 F. Except in the case of erroneously made
3 contributions or as may be otherwise provided in Subsection D
4 of Section 10-7C-9 NMSA 1978, contributions from participating
5 employers and participating employees shall become the property
6 of the fund on receipt by the board and shall not be refunded
7 under any circumstances, including termination of employment or
8 termination of the participating employer's operation or
9 participation in the Retiree Health Care Act.

10 G. Notwithstanding any other provision in the
11 Retiree Health Care Act and at the first session of the
12 legislature following July 1, 2013, the legislature shall
13 review and adjust the distributions pursuant to Section 7-1-6.1
14 NMSA 1978 and the employer and employee contributions to the
15 authority in order to ensure the actuarial soundness of the
16 benefits provided under the Retiree Health Care Act.

17 H. As used in this section, "member of an enhanced
18 retirement plan" means:

19 (1) a member of the public employees
20 retirement association who, pursuant to the Public Employees
21 Retirement Act, is included in:

22 (a) state police member and adult
23 correctional officer member coverage plan 1;

24 (b) municipal police member coverage
25 plan 3, 4 or 5;

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1 (c) municipal fire member coverage plan
2 3, 4 or 5; or

3 (d) municipal detention officer member
4 coverage plan 1; [~~or~~]

5 (2) a member pursuant to the provisions of the
6 Judicial Retirement Act; or

7 (3) a public safety member of public employee
8 member coverage plan 1."

9 SECTION 7. Section 10-11-2 NMSA 1978 (being Laws 1987,
10 Chapter 253, Section 2, as amended) is amended to read:

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

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

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

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

25 D. "disability retired member" means a retired

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1 member who is receiving a pension pursuant to the disability
2 retirement provisions of the Public Employees Retirement Act;

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

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

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

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

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

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

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

25 L. "fund" means the funds included under the Public

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1 Employees Retirement Act;

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

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

12 (2) "hazardous duty member" means a member who
13 is a juvenile correctional officer employed by the children,
14 youth and families department or its successor agency;

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

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

24 (5) "municipal member" means an employee of an
25 affiliated public employer who is hired on or after January 1,

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1 2012 and who is not a state member or a public safety member;

2 [~~(5)~~] (6) "municipal police member" means any
3 member who is employed as a police officer by an affiliated
4 public employer, other than the state, and who has taken the
5 oath prescribed for police officers; [~~and~~]

6 (7) "public safety member" means an adult
7 correctional officer member, hazardous duty member, municipal
8 detention officer member, municipal fire member, municipal
9 police member or state police member who is hired on or after
10 January 1, 2012;

11 (8) "state member" means an employee of the
12 state who is hired on or after January 1, 2012 and who is not a
13 public safety member; and

14 [~~(6)~~] (9) "state police member" means any
15 member who is an officer of the New Mexico state police and who
16 has taken the oath prescribed for such officers;

17 N. "membership" means membership in the
18 association;

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

22 P. "public employer" means the state, any
23 municipality, city, county, metropolitan arroyo flood control
24 authority, economic development district, regional housing
25 authority, soil and water conservation district, entity created

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1 pursuant to a joint powers agreement, council of government,
2 conservancy district, irrigation district, water and sanitation
3 district, water district and metropolitan water board,
4 including the boards, departments, bureaus and agencies of a
5 public employer, so long as these entities fall within the
6 meaning of governmental plan as that term is used in Section
7 414(d) of the Internal Revenue Code of 1986, as amended;

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

17 R. "retire" means to:

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

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

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

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1 T. "retirement board" means the retirement board
2 provided for in the Public Employees Retirement Act;

3 U. "salary" means the base salary or wages paid a
4 member, including longevity pay, for personal services rendered
5 an affiliated public employer. "Salary" shall not include
6 overtime pay, allowances for housing, clothing, equipment or
7 travel, payments for unused sick leave, unless the unused sick
8 leave payment is made through continuation of the member on the
9 regular payroll for the period represented by that payment, and
10 any other form of remuneration not specifically designated by
11 law as included in salary for Public Employees Retirement Act
12 purposes. Salary in excess of the limitations set forth in
13 Section 401(a) (17) of the Internal Revenue Code of 1986, as
14 amended, shall be disregarded. The limitation on compensation
15 for eligible employees shall not be less than the amount that
16 was allowed to be taken into account under the state retirement
17 system acts in effect on July 1, 1993. For purposes of this
18 subsection, "eligible employee" means an individual who was a
19 member of a state system before the first plan year beginning
20 after December 31, 1995;

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

24 W. "state retirement system acts" means
25 collectively the Public Employees Retirement Act, the

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

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

7 SECTION 8. Section 10-11-4 NMSA 1978 (being Laws 1987,
8 Chapter 253, Section 4, as amended) is amended to read:

9 "10-11-4. SERVICE CREDIT--REQUIREMENTS FOR--FORFEITURE--
10 REINSTATEMENT.--

11 A. Personal service rendered an affiliated public
12 employer by a member shall be credited to the member's service
13 credit account in accordance with retirement board rules and
14 regulations. The retirement board shall provide by rule for
15 prorated service credit for personal service rendered on a
16 part-time basis; provided that public safety member service
17 credit shall be enhanced consistent with Subsection B of
18 Section 1 of this 2012 act. Service shall be credited to the
19 nearest month. In no case shall any member be credited with a
20 year of service for less than twelve months of service in any
21 calendar year or more than a month of service for all service
22 in any calendar month or more than a year of service for all
23 service in any calendar year. In no case shall any member be
24 allowed to purchase service credit unless the purchase is
25 authorized in the Public Employees Retirement Act.

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

5 C. Personal service rendered an affiliated public
6 employer after July 31, 1947 but prior to the date the public
7 employer became an affiliated public employer is prior service
8 and shall be credited to a member if:

9 (1) the member acquires five years of service
10 credit for personal service rendered an affiliated public
11 employer; and

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

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

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1 shall any member be credited with a month of service for less
2 than the purchase cost as defined in this section.

3 E. Service credit shall be forfeited if a member
4 terminates employment with an affiliated public employer and
5 withdraws the member's accumulated member contributions.

6 F. A member or former member who is a member of
7 another state system or the educational retirement system and
8 who has 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 the rate set by
12 the retirement board. Withdrawn member contributions may be
13 repaid in increments of one year in accordance with the
14 procedures established by the retirement board. Full payment
15 of each one-year increment shall be made in a single lump-sum
16 amount in accordance with procedures established by the
17 retirement board."

18 SECTION 9. Section 10-11-5 NMSA 1978 (being Laws 1987,
19 Chapter 253, Section 5, as amended) is amended to read:

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

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1 A. the resolution shall be irrevocable; however, a
2 municipal affiliated public employer may by subsequent
3 resolution:

4 (1) elect to increase the percentage of
5 employee member contributions for which it will be responsible;
6 or

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

11 (a) a municipal affiliated public
12 employer that has municipal members in public employee member
13 coverage plan 1 shall be responsible for making no less than
14 the percent of employee member contributions under public
15 employee member coverage plan 1 than the highest percent of
16 member contributions that the employer is responsible for
17 making under municipal general member coverage plan 1, 2, 3 or
18 4; and

19 (b) a municipal affiliated public
20 employer that has public safety members in public employee
21 member coverage plan 1 shall be responsible for making no less
22 than the percent of employee member contributions under public
23 employee member coverage plan 1 than the highest percent of
24 member contributions that the employer is responsible for
25 making under municipal police member coverage plan 5 or

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1 municipal fire member coverage plan 5;

2 B. the resolution shall apply to all employees or
3 else to specified employee divisions of the municipal
4 affiliated public employer and shall be effective the first pay
5 period of the month following the filing of the resolution with
6 the retirement board;

7 C. the portion of the employee contributions made
8 by the municipal affiliated public employer on behalf of a
9 member shall be credited to the member's individual accumulated
10 member contribution account in the member contribution fund.

11 The member shall be responsible for the difference between the
12 contributions the member would be required to make if the
13 municipal affiliated public employer had not made the election
14 provided for in this section and the amount contributed by the
15 municipal affiliated public employer [~~under~~] pursuant to the
16 provisions of this section;

17 D. pensions payable to members whose municipal
18 affiliated public employer makes the election provided for in
19 this section shall be the same as if the member had made the
20 entire member contribution; and

21 E. any municipal affiliated public employer
22 increasing the percentage of the employee member contributions
23 it elects to make pursuant to this section shall submit a
24 resolution to the association by July 1 of the fiscal year in
25 which the increase will take place indicating the percentage of

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1 the employee member contributions that will be made by the
2 municipal affiliated public employer."

3 SECTION 10. Section 10-11-14.6 NMSA 1978 (being Laws
4 2009, Chapter 288, Section 12) is amended to read:

5 "10-11-14.6. CALCULATION OF FINAL AVERAGE SALARY.--

6 A. Except as provided in Subsection B of this
7 section, under each coverage plan of the Public Employees
8 Retirement Act, the final average salary is one thirty-sixth of
9 the greatest aggregate amount of salary paid a member for
10 thirty-six consecutive but not necessarily continuous months of
11 service credit.

12 B. Under public employee member coverage plan 1,
13 the final average salary is one ninety-sixth of the greatest
14 aggregate amount of salary paid a member for ninety-six
15 consecutive but not necessarily continuous months of service
16 credit."

17 SECTION 11. Section 10-11-26.1 NMSA 1978 (being Laws
18 1994, Chapter 128, Section 2) is amended to read:

19 "10-11-26.1. STATE GENERAL MEMBER COVERAGE PLAN 3--
20 APPLICABILITY.--State general member coverage plan 3 is
21 applicable to state general members who became members on or
22 before June 30, 2012 and who are not specifically covered by
23 another plan in the first full pay period after July 1, 1995 if
24 the retirement board certifies to the secretary of state that a
25 majority of the members voting of those members to be covered

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1 under state general member coverage plan 3 has voted to approve
2 adoption of this plan at an election conducted pursuant to Laws
3 1994, Chapter 128, Section 17 [~~of this act~~]."

4 SECTION 12. Section 10-11-27 NMSA 1978 (being Laws 1987,
5 Chapter 253, Section 27, as amended by Laws 2003, Chapter 268,
6 Section 9 and by Laws 2003, Chapter 269, Section 1) is amended
7 to read:

8 "10-11-27. STATE POLICE MEMBER AND ADULT CORRECTIONAL
9 OFFICER MEMBER COVERAGE PLAN 1--APPLICABILITY.--

10 A. State police member and adult correctional
11 officer member coverage plan 1 is applicable to state police
12 members [~~who are not specifically covered by another coverage~~
13 ~~plan~~] and adult correctional officer members who became members
14 on or before June 30, 2012 and who are not specifically covered
15 by another plan. The credited service of a state police member
16 who has held the permanent rank of patrolman, sergeant,
17 lieutenant or captain and does not hold an exempt rank or who
18 is assigned to the aircraft division as a pilot, or of an adult
19 correctional officer member, shall have actual credited service
20 increased by twenty percent for the purposes of state police
21 member and adult correctional officer member coverage plan 1
22 and state police member and correctional officer member
23 coverage plan 2.

24 B. State police member and adult correctional
25 officer member coverage plan 1 is applicable to adult

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1 correctional officer members who became members on or before
2 June 30, 2012 and who are not specifically covered by another
3 plan in the first full pay period after July 1, 2004 if the
4 retirement board certifies to the secretary of state that, of
5 those adult correctional officer members to be covered under
6 state police member and adult correctional officer member
7 coverage plan 1, a majority of the members voting have voted to
8 approve adoption of that plan at an election conducted pursuant
9 to [~~Section 16 of this 2003 act~~] Laws 2003, Chapter 268,
10 Section 16."

11 SECTION 13. Section 10-11-33 NMSA 1978 (being Laws 1987,
12 Chapter 253, Section 33) is amended to read:

13 "10-11-33. STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN 1--
14 APPLICABILITY.--State hazardous duty member coverage plan 1 is
15 applicable to state hazardous duty members who became members
16 on or before June 30, 2012 and who are not specifically covered
17 by another coverage plan."

18 SECTION 14. Section 10-11-38.1 NMSA 1978 (being Laws
19 1994, Chapter 128, Section 9) is amended to read:

20 "10-11-38.1. STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN
21 2--APPLICABILITY.--State hazardous duty member coverage plan 2
22 is applicable to state hazardous duty members who became
23 members on or before June 30, 2012 in the first full pay period
24 after July 1, 1995 if the retirement board certifies to the
25 secretary of state that a majority of the members voting of

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1 those members to be covered under state hazardous duty member
2 coverage plan 2 has voted to approve adoption of this plan at
3 an election conducted pursuant to Laws 1994, Chapter 128,
4 Section 17 [~~of this act~~]."

5 SECTION 15. Section 10-11-44 NMSA 1978 (being Laws 1987,
6 Chapter 253, Section 44) is amended to read:

7 "10-11-44. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 1--
8 APPLICABILITY.--Municipal general member coverage plan 1 is
9 applicable to municipal general members who became members on
10 or before June 30, 2012 and who are not specifically covered by
11 another coverage plan."

12 SECTION 16. Section 10-11-50 NMSA 1978 (being Laws 1987,
13 Chapter 253, Section 50, as amended) is amended to read:

14 "10-11-50. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 2--
15 APPLICABILITY.--

16 A. Municipal general member coverage plan 2 is
17 applicable to a designated group of municipal general members
18 the first day of the calendar month following an affirmative
19 vote by the majority of the municipal general members in a
20 designated group. A designated group may be all members who
21 became members on or before June 30, 2012 and who are:

22 (1) employed by [~~the~~] an affiliated public
23 employer;

24 (2) an organizational group whose compensation
25 is established by negotiated contract; or [~~all members~~]

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1 (3) employed by [~~the~~] an affiliated public
2 employer whose compensation is not established by negotiated
3 contract.

4 B. The election shall be conducted by the
5 retirement board in accordance with procedures adopted by the
6 retirement board. The procedures shall afford all municipal
7 general members who are part of the designated group an
8 opportunity to vote.

9 C. A new election for coverage by municipal general
10 member coverage plan 2 shall not be held prior to the
11 expiration of six months following the date of an election
12 [~~which~~] that failed to adopt municipal general member coverage
13 plan 2.

14 D. An election adopting municipal general member
15 coverage plan 2 is irrevocable for the purpose of subsequently
16 adopting a coverage plan [~~which~~] that would decrease employer
17 or employee contributions with respect to all current and
18 future municipal general employees of [~~the~~] an affiliated
19 public employer who are part of the designated group."

20 **SECTION 17.** Section 10-11-56 NMSA 1978 (being Laws 1987,
21 Chapter 253, Section 56) is amended to read:

22 "10-11-56. MUNICIPAL POLICE MEMBER COVERAGE PLAN 1--
23 APPLICABILITY.--Municipal police member coverage plan 1 is
24 applicable to municipal police members who became members on or
25 before June 30, 2012 and whose affiliated public employer has

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1 adopted municipal police member coverage plan 1 for its
2 municipal police officers. The affiliated public employer
3 shall certify this adoption to the retirement board in the form
4 prescribed by the retirement board."

5 SECTION 18. Section 10-11-62 NMSA 1978 (being Laws 1987,
6 Chapter 253, Section 62) is amended to read:

7 "10-11-62. MUNICIPAL POLICE MEMBER COVERAGE PLAN 2--
8 APPLICABILITY.--Municipal police member coverage plan 2 is
9 applicable to municipal police members who became members on or
10 before June 30, 2012 and whose affiliated public employer has
11 adopted municipal police member coverage plan 2 for its
12 municipal police officers. The affiliated public employer
13 shall certify this adoption to the retirement board in the form
14 prescribed by the retirement board."

15 SECTION 19. Section 10-11-68 NMSA 1978 (being Laws 1987,
16 Chapter 253, Section 68) is amended to read:

17 "10-11-68. MUNICIPAL POLICE MEMBER COVERAGE PLAN 3--
18 APPLICABILITY.--Municipal police member coverage plan 3 is
19 applicable to municipal police members who became members on or
20 before June 30, 2012 and whose affiliated public employer has
21 adopted municipal police member coverage plan 3 for its
22 municipal police officers. The affiliated public employer
23 shall certify this adoption to the retirement board in the form
24 prescribed by the retirement board."

25 SECTION 20. Section 10-11-74 NMSA 1978 (being Laws 1987,

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1 Chapter 253, Section 74, as amended) is amended to read:

2 "10-11-74. MUNICIPAL POLICE MEMBER COVERAGE PLAN 4--
3 APPLICABILITY.--Municipal police member coverage plan 4 is
4 applicable to municipal police members who became members on or
5 before June 30, 2012 of an affiliated public employer on the
6 first day of the calendar month following certification of the
7 election adopting municipal police member coverage plan 4 by an
8 affirmative vote of the majority of the affiliated public
9 employer's municipal police members. The election shall be
10 conducted by the affiliated public employer. The certification
11 shall be in the form prescribed by the retirement board. The
12 election procedures shall afford all municipal police members
13 of the affiliated public employer an opportunity to vote. An
14 election adopting municipal police member coverage plan 4 for a
15 given affiliated public employer is irrevocable for the purpose
16 of subsequently adopting a coverage plan [~~which~~] that would
17 decrease employer or employee contributions with respect to all
18 current and future municipal police members of that affiliated
19 public employer."

20 SECTION 21. Section 10-11-80 NMSA 1978 (being Laws 1987,
21 Chapter 253, Section 80, as amended) is amended to read:

22 "10-11-80. MUNICIPAL POLICE MEMBER COVERAGE PLAN 5--
23 APPLICABILITY.--Municipal police member coverage plan 5 is
24 applicable to municipal police members who became members on or
25 before June 30, 2012 of an affiliated public employer on the

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1 first day of the calendar month following certification of the
2 election adopting municipal police member coverage plan 5 by an
3 affirmative vote of the majority of the affiliated public
4 employer's municipal police members. The election shall be
5 conducted by the affiliated public employer. The certification
6 shall be in the form prescribed by the retirement board. The
7 election procedures shall afford all municipal police members
8 of the affiliated public employer an opportunity to vote. An
9 election adopting municipal police member coverage plan 5 for a
10 given affiliated public employer is irrevocable for the purpose
11 of subsequently adopting a coverage plan ~~[which]~~ that would
12 decrease employer or employee contributions with respect to all
13 current and future municipal police members of that affiliated
14 public employer."

15 SECTION 22. Section 10-11-86 NMSA 1978 (being Laws 1987,
16 Chapter 253, Section 86) is amended to read:

17 "10-11-86. MUNICIPAL FIRE MEMBER COVERAGE PLAN 1--
18 APPLICABILITY.--Municipal fire member coverage plan 1 is
19 applicable to municipal fire members who became members on or
20 before June 30, 2012 and whose affiliated public employer has
21 adopted municipal fire member coverage plan 1 for its municipal
22 firefighters. The affiliated public employer shall certify
23 this adoption to the retirement board in the form prescribed by
24 the retirement board."

25 SECTION 23. Section 10-11-92 NMSA 1978 (being Laws 1987,

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1 Chapter 253, Section 92) is amended to read:

2 "10-11-92. MUNICIPAL FIRE MEMBER COVERAGE PLAN 2--
3 APPLICABILITY.--Municipal fire member coverage plan 2 is
4 applicable to municipal fire members who became members on or
5 before June 30, 2012 and whose affiliated public employer has
6 adopted municipal fire member coverage plan 2 for its municipal
7 fire members. The affiliated public employer shall certify
8 this adoption to the retirement board in the form prescribed by
9 the retirement board."

10 SECTION 24. Section 10-11-98 NMSA 1978 (being Laws 1987,
11 Chapter 253, Section 98) is amended to read:

12 "10-11-98. MUNICIPAL FIRE MEMBER COVERAGE PLAN 3--
13 APPLICABILITY.--Municipal fire member coverage plan 3 is
14 applicable to municipal fire members who became members on or
15 before June 30, 2012 and whose affiliated public employer has
16 adopted municipal fire member coverage plan 3 for its municipal
17 firefighters. The affiliated public employer shall certify
18 this adoption to the retirement board in the form prescribed by
19 the retirement board."

20 SECTION 25. Section 10-11-104 NMSA 1978 (being Laws 1987,
21 Chapter 253, Section 104, as amended) is amended to read:

22 "10-11-104. MUNICIPAL FIRE MEMBER COVERAGE PLAN 4--
23 APPLICABILITY.--Municipal fire member coverage plan 4 is
24 applicable to municipal fire members of an affiliated public
25 employer who became members on or before June 30, 2012 on the

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1 first day of the calendar month following certification of the
2 election adopting municipal fire member coverage plan 4 by an
3 affirmative vote of the majority of the affiliated public
4 employer's municipal fire members. The election shall be
5 conducted by the affiliated public employer. The certification
6 shall be in the form prescribed by the retirement board. The
7 election procedures shall afford all municipal fire members of
8 the affiliated public employer an opportunity to vote. An
9 election adopting municipal fire member coverage plan 4 for a
10 given affiliated public employer is irrevocable for the purpose
11 of subsequently adopting a coverage plan ~~[which]~~ that would
12 decrease employer or employee contributions with respect to all
13 current and future municipal fire members of that affiliated
14 public employer."

15 SECTION 26. Section 10-11-110 NMSA 1978 (being Laws 1987,
16 Chapter 253, Section 110, as amended) is amended to read:

17 "10-11-110. MUNICIPAL FIRE MEMBER COVERAGE PLAN 5--
18 APPLICABILITY.--Municipal fire member coverage plan 5 is
19 applicable to municipal fire members of an affiliated public
20 employer who became members on or before June 30, 2012 on the
21 first day of the calendar month following certification of the
22 election adopting municipal fire member coverage plan 5 by an
23 affirmative vote of the majority of the affiliated public
24 employer's municipal fire members. The election shall be
25 conducted by the affiliated public employer. The certification

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1 shall be in the form prescribed by the retirement board. The
2 election procedures shall afford all municipal fire members of
3 the affiliated public employer an opportunity to vote. An
4 election adopting municipal fire member coverage plan 5 for a
5 given affiliated public employer is irrevocable for the purpose
6 of subsequently adopting a coverage plan ~~[which]~~ that would
7 decrease employer or employee contributions with respect to all
8 current and future municipal fire members of that affiliated
9 public employer."

10 SECTION 27. Section 10-11-115.1 NMSA 1978 (being Laws
11 2003, Chapter 268, Section 2) is amended to read:

12 "10-11-115.1. MUNICIPAL DETENTION OFFICER MEMBER COVERAGE
13 PLAN 1--APPLICABILITY.--Municipal detention officer member
14 coverage plan 1 is applicable to municipal detention officer
15 members of an affiliated public employer who became members on
16 or before June 30, 2012 on the later of July 1, 2004 or the
17 first day of the calendar month following certification of the
18 election adopting municipal detention officer member coverage
19 plan 1 by an affirmative vote of the majority of the affiliated
20 public employer's municipal detention officer members. The
21 election shall be conducted by the affiliated public employer.
22 The certification shall be in the form prescribed by the
23 retirement board. The election procedures shall afford all
24 municipal detention officer members of the affiliated public
25 employer an opportunity to vote. An election adopting

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1 municipal detention officer member coverage plan 1 for a given
2 affiliated public employer is irrevocable for the purpose of
3 subsequently adopting a coverage plan that would decrease
4 employer or employee contributions with respect to all current
5 and future municipal detention officer members of that
6 affiliated public employer."

7 SECTION 28. Section 10-11-118 NMSA 1978 (being Laws 1987,
8 Chapter 253, Section 118, as amended) is amended to read:

9 "10-11-118. COST-OF-LIVING ADJUSTMENTS.--

10 A. For the purposes of this section:

11 (1) "adjustment factor" means a multiplicative
12 factor computed to provide an annuity adjustment pursuant to
13 the provisions of Subsection C of this section;

14 (2) "consumer price index" means the average
15 of the monthly consumer price indexes for a calendar year for
16 the entire United States for all items as published by the
17 United States department of labor;

18 (3) "next preceding calendar year" means the
19 full calendar year immediately prior to the preceding calendar
20 year; and

21 [~~(1)~~] (4) "preceding calendar year" means the
22 twelve-month period ending on the December 31 preceding the
23 July 1 in which pensions are being adjusted [~~and~~

24 ~~(2) "second preceding calendar year" means the~~
25 ~~full calendar year prior to the preceding calendar year].~~

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1 B. Except as provided in Subsection C of this
2 section, the amount of pension payable to a qualified pension
3 recipient shall be increased three percent each July 1. The
4 amount of the increase shall be determined by multiplying the
5 amount of pension inclusive of all prior adjustments by three
6 percent.

7 C. The amount of pension payable to a qualified
8 pension recipient in public employee member coverage plan 1
9 shall be increased by applying an adjustment factor that
10 results in an adjustment equal to the percentage increase of
11 the consumer price index between the next preceding calendar
12 year and the preceding calendar year, except that the
13 adjustment shall not exceed three percent in absolute value nor
14 shall it be less than zero percent in absolute value. The
15 amount of pension payable shall not be decreased in the event
16 that there is a decrease in the consumer price index between
17 the next preceding calendar year and the preceding calendar
18 year.

19 ~~[G-]~~ D. A qualified pension recipient is:

20 (1) except as provided in Paragraph (2) of
21 this subsection, a normal retired member who has been retired
22 for at least two full calendar years from the effective date of
23 the latest retirement prior to July 1 of the year in which the
24 pension is being adjusted;

25 (2) a normal retired member who is less than

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1 sixty years of age at retirement and whose pension is
2 determined in accordance with public employee member coverage
3 plan 1 and who has been retired for at least four full calendar
4 years from the effective date of the latest retirement prior to
5 July 1 of the year in which the pension is being adjusted;

6 [~~(2)~~] (3) a normal retired member who has
7 attained age sixty-five years and been retired for at least one
8 full calendar year from the effective date of the latest
9 retirement prior to July 1 of the year in which the pension is
10 being adjusted;

11 [~~(3)~~] (4) a disability retired member who has
12 been retired for at least one full calendar year from the
13 effective date of the latest retirement prior to July 1 of the
14 year in which the pension is being adjusted;

15 [~~(4)~~] (5) a survivor beneficiary who has
16 received a survivor pension for at least two full calendar
17 years; or

18 [~~(5)~~] (6) a survivor beneficiary of a deceased
19 retired member who otherwise would have been retired at least
20 two full calendar years from the effective date of the latest
21 retirement prior to July 1 of the year in which the pension is
22 being adjusted.

23 [~~D-~~] E. A qualified pension recipient may decline
24 an increase in a pension by giving the association written
25 notice of the decision to decline the increase at least thirty

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1 days prior to the date the increase would take effect."

2 SECTION 29. Section 10-11-124 NMSA 1978 (being Laws 1987,
3 Chapter 253, Section 124, as amended) is amended to read:

4 "10-11-124. MEMBER CONTRIBUTION FUND.--

5 A. The member contribution fund is the accounting
6 fund in which shall be accumulated contributions of members and
7 from which shall be made refunds and transfers of accumulated
8 member contributions as provided in the Public Employees
9 Retirement Act. Each affiliated public employer shall cause
10 the member contributions specified by the coverage plan
11 applicable to each of that affiliated public employer's members
12 to be deducted from the salary of each member. Each affiliated
13 public employer shall remit the deducted member contributions
14 to the association in accordance with the procedures and
15 schedules established by the association. The association may
16 assess an interest charge and a penalty charge on any
17 remittance not made by its due date. Each member shall be
18 deemed to consent and agree to the deductions made and provided
19 for in this section by continuing employment with the
20 affiliated public employer. Contributions by members shall be
21 credited to the members' individual accounts in the member
22 contribution fund.

23 B. A member's accumulated contributions shall be
24 transferred to the retirement reserve fund if a pension becomes
25 payable upon the retirement or death of the member. If a

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1 disability retirement pension is terminated for a reason other
2 than the death of the disability retired member before an
3 amount equal to the disability retired member's accumulated
4 member contributions has been paid, the unexpended balance of
5 the accumulated member contributions shall be transferred from
6 the retirement reserve fund to the former disability retired
7 member's individual account in the member contribution fund.

8 C. If a member terminates affiliated public
9 employment or is on leave of absence from an affiliated public
10 employer as a consequence of the entry into active duty with
11 the armed forces of the United States, the member may, with the
12 written consent of the member's spouse, if any, withdraw the
13 member's accumulated member contributions, upon making written
14 request in a form prescribed by the association. Upon written
15 request of the member in the form prescribed by the
16 association, a refund of member contributions may be made by a
17 trustee-to-trustee transfer of the contributions from the
18 member contribution fund directly to another qualified plan as
19 allowed by the Internal Revenue Code. Withdrawal of member
20 contributions shall result in forfeiture of the service credit
21 accrued for the period during which the contributions were
22 made.

23 D. If a member covered under public employee member
24 coverage plan 1 terminates employment and withdraws the
25 member's accumulated member contributions, the payment for

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1 refund of member contributions shall not include interest on
2 the refunded contributions.

3 ~~[D-]~~ E. A member shall, upon commencement of
4 membership, designate a refund beneficiary who shall receive
5 the refund of the member contributions, plus interest if any,
6 if the member dies and no survivor pension is payable. If the
7 member is married at the time of designation, written spousal
8 consent shall be required if the designated refund beneficiary
9 is other than the spouse. Marriage subsequent to the
10 designation shall automatically revoke a previous designation,
11 and the spouse shall become the refund beneficiary unless or
12 until another designation is filed with the association.
13 Divorce subsequent to the designation shall automatically
14 revoke designation of the former spouse as refund beneficiary,
15 or the right of the former spouse to be refund beneficiary if
16 no designation has been filed, and the refund shall be paid to
17 the deceased member's estate unless the member filed a
18 designation of refund beneficiary subsequent to the divorce.
19 The refund shall be paid to the refund beneficiary named in the
20 most recent designation of refund beneficiary on file with the
21 association unless that beneficiary is deceased. If there is
22 not a living refund beneficiary named in the most recent
23 designation of refund beneficiary on file with the association,
24 the deceased member's accumulated member contributions shall be
25 paid to the estate of the deceased member."

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ELIGIBILITY COMPARISON current and draft proposal for public safety (35% enhance)

Prepared by AFSCME for Oct. 27, 2011 Pension Oversight Committee

	St. Pol & Corrections current plan					Fire current plan (Muni 5)			Public Safety draft plan				
	Age	Yrs of Svc	Yrs Crd Svc	Fin Avg Sal		Age	Yrs Svc	Fin Avg Sal	Age	Yrs of Svc	Yrs Crd Svc	Fin Avg Sal	
18	38.8	20.8	25.0	75%		38	20	70%	42.8	24.8	33.5	84%	
21	41.8	20.8	25.0	75%		41	20	70%	44.7	23.7	32.0	80%	
25	45.8	20.8	25.0	75%		45	20	70%	47.2	22.2	30.0	75%	
30	50.8	20.8	25.0	75%		50	20	70%	50.4	20.4	27.5	69%	
35	55.8	20.8	25.0	75%		55	20	70%	53.5	18.5	25.0	63%	
40	60.0	20.0	24.0	72%		60	20	70%	58.5	18.5	25.0	63%	
45	61.0	16.0	19.2	58%		65	20	70%	63.5	18.5	25.0	63%	

Public Safety

ELIGIBILITY COMPARISON of pre-2010, current, and draft proposal for non-public safety

Prepared by AFSCME for Oct. 27, 2011 Pension Oversight Committee

Non-Public Safety										
		Pre-2010 Plan, 1st Eligible			Current Plan, 1st Eligible			Draft Plan, 1st Eligible		
Start age	Age	Yrs of Svc	Fin Avg Sal	Age2	Yrs of Svc2	Fin Avg Sal2	Age3	Yrs of Svc3	Fin Avg Sal3	
18	43	25	75%	48	30	80%	51.5	33.5	84%	
21	46	25	75%	50.5	29.5	80%	53	32	80%	
25	50	25	75%	52.5	27.5	80%	55	30	75%	
30	55	25	75%	55	25	75%	57.5	27.5	69%	
35	60	25	75%	57.5	22.5	68%	60	25	63%	
40	60	20	60%	60	20	60%	65	25	63%	
45	62	17	51%	62.5	17.5	53%	65	20	50%	

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BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

DISCUSSION DRAFT

FOR THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

RELATING TO PENSIONS; AMENDING THE PUBLIC EMPLOYEES RETIREMENT ACT; REDUCING COST-OF-LIVING ADJUSTMENTS AND INCREASING AGE AND SERVICE REQUIREMENTS FOR RETIREMENT OF CERTAIN EMPLOYEES.

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

SECTION 1. Section 10-11-26.2 NMSA 1978 (being Laws 1994, Chapter 128, Section 3, as amended) is amended to read:

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

A. Under state general member coverage plan 3:

(1) for a member who is a peace officer [~~and for a member who is not a peace officer but was a retired member or a member on June 30, 2010~~] or for a member who, on or before June 30, 2012, was a retired member, was a member who had five or more years of service credit or was a member who

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1 had less than five years of service credit but was eligible for
2 normal retirement on or before June 30, 2020, the age and
3 service credit requirements for normal retirement are:

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

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

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

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

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

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

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

18 (2) for a member who is not a peace officer
19 and ~~[was not a retired member or a member on June 30, 2010]~~ for
20 a member who, on or after July 1, 2012, initially becomes a
21 member or is a member who has less than five years of service
22 credit and is not eligible for normal retirement on or before
23 June 30, 2020, the age and service requirements for normal
24 retirement are:

25 (a) age sixty-seven years or older and

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1 five or more years of service credit; or

2 (b) [~~any~~] age sixty years or older if
3 the sum of the member's age and years of service credit equals
4 at least eighty [~~or~~

5 ~~(c) any age and thirty or more years of~~
6 ~~service credit~~].

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

12 SECTION 2. Section 10-11-45 NMSA 1978 (being Laws 1987,
13 Chapter 253, Section 45, as amended) is amended to read:

14 "10-11-45. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 1--AGE
15 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
16 municipal general member coverage plan 1:

17 A. [~~for a member who was a retired member or a~~
18 ~~member on June 30, 2010~~] the age and service requirements for
19 normal retirement for a member who, on or before June 30, 2012,
20 was a retired member, was a member who had five or more years
21 of service credit or was a member who had less than five years
22 of service credit but was eligible for normal retirement on or
23 before June 30, 2020 are:

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

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1 (2) age sixty-four years and eight or more
2 years of service credit;

3 (3) age sixty-three years and eleven or more
4 years of service credit;

5 (4) age sixty-two years and fourteen or more
6 years of service credit;

7 (5) age sixty-one years and seventeen or more
8 years of service credit;

9 (6) age sixty years and twenty or more years
10 of service credit; or

11 (7) any age and twenty-five or more years of
12 service credit; and

13 B. ~~[for a member who was not a retired member or a~~
14 ~~member on June 30, 2010]~~ the age and service requirements for
15 normal retirement for a member who, on or before June 30, 2012,
16 was not a retired member or was a member who had less than five
17 years of service credit and who was not eligible for normal
18 retirement on or before June 30, 2020 are:

19 (1) age sixty-seven years or older and five or
20 more years of service credit; or

21 (2) [~~any~~] age sixty years or older if the sum
22 of the member's age and years of service credit equals at least
23 eighty [~~or~~

24 ~~(3) any age and thirty or more years of~~
25 ~~service credit]."~~

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1 SECTION 3. Section 10-11-51 NMSA 1978 (being Laws 1987,
2 Chapter 253, Section 51, as amended) is amended to read:

3 "10-11-51. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 2--AGE
4 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
5 municipal general member coverage plan 2:

6 A. ~~[for a member who was a retired member or a~~
7 ~~member on June 30, 2010]~~ the age and service requirements for
8 normal retirement for a member who, on or before June 30, 2012,
9 was a retired member, was a member who had five or more years
10 of service credit or was a member who had less than five years
11 of service credit but was eligible for normal retirement on or
12 before June 30, 2020 are:

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

15 (2) age sixty-four years and eight or more
16 years of service credit;

17 (3) age sixty-three years and eleven or more
18 years of service credit;

19 (4) age sixty-two years and fourteen or more
20 years of service credit;

21 (5) age sixty-one years and seventeen or more
22 years of service credit;

23 (6) age sixty years and twenty or more years
24 of service credit; or

25 (7) any age and twenty-five or more years of

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1 service credit; and

2 B. ~~[for a member who was not a retired member or a~~
3 ~~member on June 30, 2010]~~ the age and service requirements for
4 normal retirement for a member who, on or before June 30, 2012,
5 was not a retired member or was a member who had less than five
6 years of service credit and who was not who eligible for normal
7 retirement on or before June 30, 2020 are:

8 (1) age sixty-seven years or older and five or
9 more years of service credit; or

10 (2) ~~[any]~~ age sixty years or older if the sum
11 of the member's age and years of service credit equals at least
12 eighty ~~[or~~

13 ~~(3) any age and thirty or more years of~~
14 ~~service credit]."~~

15 SECTION 4. Section 10-11-55.2 NMSA 1978 (being Laws 1993,
16 Chapter 58, Section 2, as amended) is amended to read:

17 "10-11-55.2. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 3--
18 AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
19 municipal general member coverage plan 3:

20 A. ~~[for a member who was a retired member or a~~
21 ~~member on June 30, 2010]~~ the age and service requirements for
22 normal retirement for a member who, on or before June 30, 2012,
23 was a retired member, was a member who had five or more years
24 of service credit or was a member who had less than five years
25 of service credit but was eligible for normal retirement on or

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1 before June 30, 2020 are:

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

4 (2) age sixty-four years and eight or more
5 years of service credit;

6 (3) age sixty-three years and eleven or more
7 years of service credit;

8 (4) age sixty-two years and fourteen or more
9 years of service credit;

10 (5) age sixty-one years and seventeen or more
11 years of service credit;

12 (6) age sixty years and twenty or more years
13 of service credit; or

14 (7) any age and twenty-five or more years of
15 service credit; and

16 B. [~~for a member who was not a retired member or a~~
17 ~~member on June 30, 2010~~] the age and service requirements for
18 normal retirement for a member who, on or before June 30, 2012,
19 was not a retired member or was a member who had less than five
20 years of service credit and who was not eligible for normal
21 retirement on or before June 30, 2020 are:

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

24 (2) [~~any~~] age sixty years or older if the sum
25 of the member's age and years of service credit equals at least

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1 eighty [~~or~~

2 ~~(3) any age and thirty or more years of~~
3 ~~service credit]."~~

4 SECTION 5. Section 10-11-55.8 NMSA 1978 (being Laws 1998,
5 Chapter 106, Section 2, as amended) is amended to read:

6 "10-11-55.8. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 4--
7 AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
8 municipal general member coverage plan 4:

9 A. [~~for a member who was a retired member or a~~
10 ~~member on June 30, 2010]~~ the age and service requirements for
11 normal retirement for a member who, on or before June 30, 2012,
12 was a retired member, was a member who had five or more years
13 of service credit or was a member who had less than five years
14 of service credit but was eligible for normal retirement on or
15 before June 30, 2020 are:

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

18 (2) age sixty-four years and eight or more
19 years of service credit;

20 (3) age sixty-three years and eleven or more
21 years of service credit;

22 (4) age sixty-two years and fourteen or more
23 years of service credit;

24 (5) age sixty-one years and seventeen or more
25 years of service credit;

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1 (6) age sixty years and twenty or more years
2 of service credit; or

3 (7) any age and twenty-five or more years of
4 service credit; and

5 B. ~~[for a member who was not a retired member or a~~
6 ~~member on June 30, 2010]~~ the age and service requirements for
7 normal retirement for a member who, on or before June 30, 2012,
8 was not a retired member or was a member who had less than five
9 years of service credit and who was not eligible for normal
10 retirement on or before June 30, 2020 are:

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

13 (2) ~~[any]~~ age sixty years or older if the sum
14 of the member's age and years of service credit equals at least
15 eighty ~~[or~~

16 ~~(3) any age and thirty or more years of~~
17 ~~service credit]."~~

18 SECTION 6. Section 10-11-118 NMSA 1978 (being Laws 1987,
19 Chapter 253, Section 118, as amended) is amended to read:

20 "10-11-118. COST-OF-LIVING ADJUSTMENTS.--

21 A. For the purposes of this section:

22 (1) "adjustment factor" means a multiplicative
23 factor computed to provide a pension adjustment;

24 (2) "consumer price index" means the average
25 of the monthly consumer price indexes for a calendar year for

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1 the entire United States for all items published by the United
2 States department of labor;

3 (3) "funding ratio" means the ratio of the
4 actuarial value of assets to the accrued liabilities of the
5 fund as determined on July 1 for the fiscal year ending June 30
6 of the prior calendar year;

7 (4) "next preceding calendar year" means the
8 full calendar year immediately prior to the preceding calendar
9 year; and

10 [~~(1)~~] (5) "preceding calendar year" means the
11 twelve-month period ending on the December 31 preceding the
12 July 1 in which pensions are being adjusted [and

13 ~~(2) "second preceding calendar year" means the~~
14 ~~full calendar year prior to the preceding calendar year].~~

15 B. The amount of pension payable to a qualified
16 pension recipient who is a peace officer member, a state police
17 member, an adult correctional officer member, a state hazardous
18 duty member, a municipal police member, a municipal fire member
19 or a municipal detention officer member, or who, on or before
20 June 30, 2012, was a retired member or was not a retired member
21 but was a member eligible for retirement on or before June 30,
22 2020, shall be increased three percent each July 1. The amount
23 of the increase shall be determined by multiplying the amount
24 of pension inclusive of all prior adjustments by three percent.

25 C. Except as provided in Subsection B of this

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1 section, the amount of pension payable to a qualified pension
2 recipient not eligible for retirement on or before June 30,
3 2020 shall be adjusted annually and cumulatively each July 1.
4 The pension shall be determined by applying an adjustment
5 factor that results in an adjustment equal to one-half of the
6 percentage increase of the consumer price index between the
7 next preceding calendar year and the preceding calendar year,
8 except that the adjustment shall not exceed two percent nor
9 shall it be less than zero percent.

10 D. Beginning on July 1, 2014, the annual adjustment
11 factor determined pursuant to the provisions of Subsection C of
12 this section on July 1 of each fiscal year shall be based on
13 the funding ratio of the fund on June 30 of the previous
14 calendar year. If that funding ratio is ninety percent or
15 greater, the annual adjustment factor used for the fiscal year
16 shall equal the greater of:

17 (1) the percentage increase of the consumer
18 price index between the next preceding calendar year and the
19 preceding calendar year, except that the adjustment shall not
20 exceed four percent in absolute value; or

21 (2) the adjustment factor as calculated
22 pursuant to the provisions of Subsection C of this section,
23 whichever is applicable.

24 [~~G.~~] E. A qualified pension recipient is:

25 (1) a normal retired member who has been

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1 retired for at least two full calendar years from the effective
2 date of the latest retirement prior to July 1 of the year in
3 which the pension is being adjusted;

4 (2) a normal retired member who has attained
5 age sixty-five years and been retired for at least one full
6 calendar year from the effective date of the latest retirement
7 prior to July 1 of the year in which the pension is being
8 adjusted;

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

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

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

20 [~~D-~~] F. A qualified pension recipient may decline
21 an increase in a pension by giving the association written
22 notice of the decision to decline the increase at least thirty
23 days prior to the date the increase would take effect."

24 **SECTION 7. EFFECTIVE DATE.**--The effective date of the
25 provisions of this act is July 1, 2012.

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BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO JUDICIAL RETIREMENT; PROVIDING THAT CERTAIN AMOUNTS OF THE CIVIL DOCKET AND JURY FEES BE DEPOSITED INTO THE GENERAL FUND; PROVIDING THAT CONTRIBUTIONS TO JUDICIAL AND MAGISTRATE RETIREMENT BE PROVIDED FROM THE GENERAL FUND; INCREASING CONTRIBUTIONS TO THE JUDICIAL AND MAGISTRATE RETIREMENT FUNDS; MAKING AN APPROPRIATION.

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

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

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

A. There is established in the state treasury the "judicial retirement fund". The fund is ~~[comprised]~~ composed of money received from ~~[docket and jury fees of metropolitan~~

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1 ~~courts, district courts, the court of appeals and the supreme~~
2 ~~court]~~ employer and employee contributions and any investment
3 earnings on ~~[fees and]~~ contributions. The board is the trustee
4 of the fund and shall administer and invest the fund.

5 Investment of the fund shall be conducted pursuant to the
6 provisions of the Public Employees Retirement Act. The
7 provisions of the Judicial Retirement Act shall be administered
8 by the board. The board is authorized to promulgate rules.
9 Expenses related to the investment of the fund and
10 administration of the Judicial Retirement Act shall be paid
11 from the fund.

12 B. For purposes of this section, the accounting
13 funds shall be known as the "member contribution fund",
14 "employer's accumulation fund", "retirement reserve fund" and
15 "income fund". The maintenance of separate accounting funds
16 shall not require the actual segregation of the assets of the
17 fund.

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

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

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

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

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

23 G. Each year, following receipt of the report of
24 the annual actuarial valuation, the excess, if any, of the
25 reported actuarial present value of pensions being paid and

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1 likely to be paid to retired members and survivor beneficiaries
2 and residual refunds likely to be paid to refund beneficiaries
3 of retired members and survivor beneficiaries over the balance
4 in the retirement reserve fund shall be transferred to the
5 retirement reserve fund from the employer's accumulation fund.

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

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

20 SECTION 2. Section 10-12B-11 NMSA 1978 (being Laws 1992,
21 Chapter 111, Section 11, as amended) is amended to read:

22 "10-12B-11. EMPLOYER CONTRIBUTIONS.--~~[A.]~~ The member's
23 court shall contribute the following amounts to the fund:

24 [~~(1)~~] A. prior to July 1, 2005, nine percent of
25 salary for each member in office;

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

4 ~~(3) on and after]~~ C. from July 1, 2006 through June
5 30, 2012, twelve percent of salary for each member in office,
6 except that for members whose annual salary is greater than
7 twenty thousand dollars (\$20,000):

8 ~~[(a)]~~ (1) from July 1, 2009 through June 30,
9 2011, the member's court contribution rate shall be ten and
10 one-half percent of salary for each member in office; and

11 ~~[(b)]~~ (2) from July 1, 2011 through June 30,
12 2012, the member's court contribution rate shall be eight and
13 three-fourths percent of salary for each member in office; ~~[and~~

14 ~~(c) from July 1, 2012 through June 30,~~
15 ~~2013, the member's court contribution rate shall be ten and~~
16 ~~one-half percent of salary for each member in office.~~

17 ~~B. Thirty-eight dollars (\$38.00) from each civil~~
18 ~~case docket fee paid in the district court, twenty-five dollars~~
19 ~~(\$25.00) from each civil docket fee paid in metropolitan court~~
20 ~~and ten dollars (\$10.00) from each jury fee paid in~~
21 ~~metropolitan court shall be paid by the court clerk to the~~
22 ~~employer's accumulation fund]~~

23 D. from July 1, 2012 through June 30, 2013, thirty
24 and forty-nine hundredths percent of salary for each member in
25 office; except that for members whose annual salary is greater

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1 than twenty thousand dollars (\$20,000):

2 (1) the member's court contribution rate shall
3 be twenty-eight and ninety-nine hundredths percent of salary;
4 or

5 (2) the member's court contribution rate shall
6 be twenty-seven and twenty-four hundredths percent of salary
7 if:

8 (a) after the last consensus revenue
9 forecast before the beginning of the second session of the
10 fiftieth legislature, the secretary of finance and
11 administration certifies to the board, the educational
12 retirement board and the legislative finance committee that,
13 according to the consensus revenue forecast, general fund
14 revenues in fiscal year 2012 will be less than one hundred
15 million dollars (\$100,000,000) more than the general fund
16 revenue forecast reflected in the fiscal year 2012 state
17 budget; and

18 (b) at the end of fiscal year 2012, the
19 total amount in the state reserve funds will be less than five
20 percent of the total general fund appropriations for fiscal
21 year 2012; and

22 E. on and after July 1, 2013, thirty and forty-nine
23 hundredths percent of salary for each member in office."

24 SECTION 3. Section 10-12C-11 NMSA 1978 (being Laws 1992,
25 Chapter 118, Section 11, as amended) is amended to read:

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1 "10-12C-11. EMPLOYER CONTRIBUTIONS.--~~[A.]~~ The state,
2 through the administrative office of the courts, shall
3 contribute the following amounts to the fund:

4 ~~[(1)]~~ A. through June 30, 2006, ten percent of
5 salary for each member in office; ~~[and~~

6 ~~(2) on and after]~~ B. from July 1, 2006 through June
7 30, 2012, eleven percent of salary for each member in office,
8 except that for members whose annual salary is greater than
9 twenty thousand dollars (\$20,000):

10 ~~[(a)]~~ (1) from July 1, 2009 through June 30,
11 2011, the state contribution rate shall be nine and one-half
12 percent of salary for each member in office; and

13 ~~[(b)]~~ (2) from July 1, 2011 through June 30,
14 2012, the state contribution rate shall be seven and three-
15 fourths percent of salary for each member in office; ~~[and~~

16 ~~(c) from July 1, 2012 through June 30,~~
17 ~~2013, the state contribution rate shall be nine and one-half~~
18 ~~percent of salary for each member in office.~~

19 ~~B. Twenty-five dollars (\$25.00) from each civil~~
20 ~~case docket fee paid in magistrate court and ten dollars~~
21 ~~(\$10.00) from each civil jury fee paid in magistrate court~~
22 ~~shall be paid by the court clerk to the employer's accumulation~~
23 ~~fund]~~

24 C. from July 1, 2012 through June 30, 2013, twenty-
25 five and ninety-six hundredths percent of salary for each

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1 member in office; except that for members whose annual salary
2 is greater than twenty thousand dollars (\$20,000):

3 (1) the member's court contribution rate shall
4 be twenty-four and forty-six hundredths percent of salary; or

5 (2) the member's court contribution rate shall
6 be twenty-two and seventy-one hundredths percent of salary if:

7 (a) after the last consensus revenue
8 forecast before the beginning of the second session of the
9 fiftieth legislature, the secretary of finance and
10 administration certifies to the board, the educational
11 retirement board and the legislative finance committee that,
12 according to the consensus revenue forecast, general fund
13 revenues in fiscal year 2012 will be less than one hundred
14 million dollars (\$100,000,000) more than the general fund
15 revenue forecast reflected in the fiscal year 2012 state
16 budget; and

17 (b) at the end of fiscal year 2012, the
18 total amount in the state reserve funds will be less than five
19 percent of the total general fund appropriations for fiscal
20 year 2012; and

21 D. on and after July 1, 2013, twenty-five and
22 ninety-six hundredths percent of salary for each member in
23 office."

24 SECTION 4. Section 35-6-1 NMSA 1978 (being Laws 1968,
25 Chapter 62, Section 92, as amended) is amended to read:

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1 "35-6-1. MAGISTRATE COSTS--SCHEDULE--DEFINITION OF
2 "CONVICTED".--

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

6 docket fee, criminal actions under Section 29-5-1 NMSA
7 1978 \$ 1.00;

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

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

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

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

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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 of
22 action.

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

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

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

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

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

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

24 (4) judicial education fee, to be collected upon
25 conviction from persons convicted of operating a motor vehicle

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1 in violation of the Motor Vehicle Code, convicted of a crime
2 constituting a misdemeanor or a petty misdemeanor or convicted
3 of violating any ordinance punishable by a term of
4 imprisonment 3.00;

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

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

15 and

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

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

25 E. Metropolitan court judges shall assess and collect

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

6 SECTION 5. APPROPRIATION.--Three million fifty-one
7 thousand dollars (\$3,051,000) is appropriated from the general
8 fund to the department of finance and administration for
9 expenditure in fiscal year 2013 for distribution to the supreme
10 court, court of appeals, district courts, Bernalillo county
11 metropolitan court and the administrative office of the courts
12 to pay the increased employer contributions. Any unexpended or
13 unencumbered balance remaining at the end of fiscal year 2013
14 shall not revert to the general fund.

15 SECTION 6. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2012.

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HOUSE BILL

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PRECINCT BOARD MEMBERS; ALLOWING SEASONAL EMPLOYEES
TO WORK TEMPORARILY AS PRECINCT BOARD MEMBERS WITHOUT
SUSPENDING THEIR PENSION BENEFITS; DECLARING AN EMERGENCY.

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

SECTION 1. Section 1-2-16 NMSA 1978 (being Laws 1969,
Chapter 240, Section 36, as amended) is amended to read:

"1-2-16. PRECINCT BOARD--COMPENSATION.--

A. Members of a precinct board shall be compensated
for their services at the rate of not less than the federal
minimum hourly wage rate nor more than two hundred dollars
(\$200) for an election day.

B. Members of a precinct board assigned to
alternate voting locations or absent voter precincts may be
compensated at an hourly rate set by the county clerk.

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1 C. Compensation shall be paid within thirty days
2 following the date of election.

3 D. For purposes of determining eligibility for
4 membership in the public employees retirement association and
5 pursuant to the provisions of Subsection B of Section 10-11-3
6 NMSA 1978, precinct board members are designated as seasonal
7 employees."

8 SECTION 2. Section 10-11-8 NMSA 1978 (being Laws 1987,
9 Chapter 253, Section 8, as amended) is amended to read:

10 "10-11-8. NORMAL RETIREMENT--RETURN TO EMPLOYMENT--
11 BENEFITS CONTINUED--EMPLOYER CONTRIBUTIONS.--

12 A. A member may retire upon fulfilling the
13 following requirements prior to the selected date of
14 retirement:

15 (1) a written application for normal
16 retirement, in the form prescribed by the association, is filed
17 with the association;

18 (2) employment is terminated with all
19 employers covered by any state system or the educational
20 retirement system;

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

23 (4) the member meets the age and service
24 credit requirement for normal retirement specified in the
25 coverage plan applicable to the member.

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1 B. The amount of normal retirement pension is
2 determined in accordance with the coverage plan applicable to
3 the member.

4 C. Except as provided in Subsection D of this
5 section, on or after July 1, 2010, a retired member may be
6 subsequently employed by an affiliated public employer only
7 pursuant to the following provisions:

8 (1) the retired member has not been employed
9 as an employee of an affiliated public employer or retained as
10 an independent contractor by the affiliated public employer
11 from which the retired member retired for at least twelve
12 consecutive months from the date of retirement to the
13 commencement of employment or reemployment with an affiliated
14 public employer;

15 (2) the retired member's pension shall be
16 suspended upon commencement of the employment;

17 (3) except as provided in Subsection F of this
18 section, the previously retired member shall not become a
19 member and thus the previously retired member shall accrue no
20 service credit and the previously retired member and that
21 person's affiliated public employer shall make no contributions
22 under any coverage plan pursuant to the Public Employees
23 Retirement Act; and

24 (4) upon termination of the subsequent
25 employment, the previously retired member's pension shall

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1 resume in accordance with the provisions of Subsection A of
2 this section.

3 D. The provisions of Subsection C of this section
4 do not apply to:

5 (1) a retired member employed by the
6 legislature for legislative session work; [~~or~~]

7 (2) a retired member employed temporarily as a
8 precinct board member for a municipal election or an election
9 covered by the Election Code; or

10 [~~(2)~~] (3) a retired member who is elected to
11 serve a term as an elected official; provided that:

12 (a) the retired member files an
13 irrevocable exemption from membership with the association
14 within thirty days of taking office; and

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

17 E. A retired member who returns to employment
18 during retirement pursuant to Subsection D of this section is
19 entitled to receive retirement benefits but is not entitled to
20 accrue service credit or to acquire or purchase service credit
21 in the future for the period of the previously retired member's
22 reemployment with an affiliated public employer.

23 F. At any time during a previously retired member's
24 subsequent employment pursuant to Subsection C of this section,
25 the previously retired member may elect to become a member and

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1 the following conditions shall apply:

2 (1) the previously retired member and the
3 subsequent affiliated public employer shall make the required
4 employee and employer contributions, and the previously retired
5 member shall accrue service credit for the period of subsequent
6 employment; and

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

12 (a) payment of the pension shall resume
13 in accordance with the provisions of Subsection A of this
14 section;

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

22 (c) the recalculated pension shall not
23 be less than the amount of the suspended pension.

24 G. A previously retired member who returned to work
25 with an affiliated public employer prior to July 1, 2010 shall

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1 be subject to the provisions of this section in effect on the
2 date the previously retired member returned to work; provided
3 that, on and after July 1, 2010, the previously retired member
4 shall pay the employee contribution in an amount specified in
5 the Public Employees Retirement Act for the position in which
6 the previously retired member is employed.

7 H. The pension of a member who has three or more
8 years of service credit under each of two or more coverage
9 plans shall be determined in accordance with the coverage plan
10 that produces the highest pension. The pension of a member who
11 has service credit under two or more coverage plans but who has
12 three or more years of service credit under only one of those
13 coverage plans shall be determined in accordance with the
14 coverage plan in which the member has three or more years of
15 service credit. If the service credit is acquired under two
16 different coverage plans applied to the same affiliated public
17 employer as a consequence of an election by the members,
18 adoption by the affiliated public employer or a change in the
19 law that results in the application of a coverage plan with a
20 greater pension, the greater pension shall be paid a member
21 retiring from the affiliated public employer under which the
22 change in coverage plan took place regardless of the amount of
23 service credit under the coverage plan producing the greater
24 pension; provided the member has three or more years of
25 continuous employment with that affiliated public employer

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1 immediately preceding or immediately preceding and immediately
2 following the date the coverage plan changed. The provisions
3 of each coverage plan for the purpose of this subsection shall
4 be those in effect at the time the member ceased to be covered
5 by the coverage plan. "Service credit", for the purposes of
6 this subsection, shall be only personal service rendered an
7 affiliated public employer and credited to the member under the
8 provisions of Subsection A of Section 10-11-4 NMSA 1978.
9 Service credited under any other provision of the Public
10 Employees Retirement Act shall not be used to satisfy the
11 three-year service credit requirement of this subsection."

12 SECTION 3. EMERGENCY.--It is necessary for the public
13 peace, health and safety that this act take effect immediately.

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SENATE MEMORIAL

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

DISCUSSION DRAFT

A MEMORIAL

REQUESTING THE CREATION OF A TASK FORCE TO EVALUATE THE MUNICIPAL AND STATE PUBLIC SAFETY MEMBERS RETIREMENT PLANS AND TO ASSESS OPTIONS AND MAKE RECOMMENDATIONS FOR CHANGES TO THOSE PLANS TO HELP ENSURE THEIR SOLVENCY.

WHEREAS, the public employees retirement association has an unfunded liability of five billion dollars (\$5,000,000,000), and approximately one billion dollars (\$1,000,000,000) of this unfunded liability is attributable to the municipal police and fire member retirement plans; and

WHEREAS, the retiree health care fund has an unfunded liability in excess of three billion dollars (\$3,000,000,000), which is due in part to the expense of providing subsidized health care coverage for an extended period of time for relatively young retirees; and

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1 WHEREAS, the new governmental accounting standards board
2 financial reporting standards will place these unfunded
3 liabilities directly alongside the state's long-term bonded
4 indebtedness and at the front of New Mexico's financial
5 statements; and

6 WHEREAS, New Mexico's bond ratings could be negatively
7 affected by the enhanced reporting of the huge unfunded
8 liabilities; and

9 WHEREAS, attempts to cover the public employees retirement
10 association's unfunded liability from increased contributions
11 alone will be difficult, if not impossible, since the total of
12 combined employer and employee contributions required to ensure
13 the solvency of the fund is forty-eight percent of pay for
14 municipal police and sixty percent of pay for municipal fire
15 members; and

16 WHEREAS, many local governments that are facing budgetary
17 constraints currently pay seventy-five percent of their
18 employees' contributions; and

19 WHEREAS, reasonable solutions to address the unfunded
20 liability of these retirement plans need to consider any unique
21 health and safety aspects associated with the police, fire
22 fighters and other uniformed occupations; and

23 WHEREAS, reasonable solutions also need to recognize the
24 needs and concerns of state and local governments' abilities to
25 recruit and retain qualified police and fire department

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1 personnel;

2 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE
3 OF NEW MEXICO that the New Mexico legislative council be
4 requested to create the public safety pensions task force to
5 evaluate the existing retirement plans for all municipal and
6 state public safety members of the public employees retirement
7 association and to assess the options and make recommendations
8 for changes to those plans that will help ensure their
9 continued solvency; and

10 BE IT FURTHER RESOLVED that the task force provide its
11 recommendations and their impact on the solvency of the plans
12 to the interim investments and pensions oversight committee no
13 later than October 1, 2012; and

14 BE IT FURTHER RESOLVED that the public employees
15 retirement association be requested to provide any necessary
16 valuations and actuarial impacts of task force proposals as
17 requested by the task force or the investments and pensions
18 oversight committee on the public employees retirement
19 association's actuarial valuation as of June 30, 2011; and

20 BE IT FURTHER RESOLVED that the task force identify any
21 unique health and safety aspects associated with police, fire
22 fighters and other uniformed occupations based on existing
23 studies by recognized experts; and

24 BE IT FURTHER RESOLVED that the task force be composed of
25 the following nine members:

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1 A. one representative appointed by the
2 international association of fire fighters;

3 B. one representative appointed by the New Mexico
4 fraternal order of police;

5 C. one representative appointed by the New Mexico
6 state police;

7 D. the chair of the public employees retirement
8 association board;

9 E. the executive director of the New Mexico
10 municipal league;

11 F. two members of the house of representatives,
12 one from the majority and one from a minority party appointed
13 by the speaker of the house of representatives; and

14 G. two members of the senate, one from the majority
15 and one from a minority party appointed by the senate minority
16 floor leader; and

17 BE IT FURTHER RESOLVED that copies of this memorial be
18 transmitted to the chair and vice chair of the investments and
19 pensions oversight committee, a representative of the
20 international association of fire fighters, the president of
21 the New Mexico fraternal order of police, the secretary of the
22 New Mexico state police, the chair of the public employees
23 retirement association board, the executive director of the New
24 Mexico municipal league, the speaker of the house of
25 representatives and the president pro tempore of the senate.

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_____ MEMORIAL

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

DISCUSSION DRAFT

A MEMORIAL

REQUESTING THE PUBLIC EMPLOYEES RETIREMENT ASSOCIATION TO
ASSESS OPTIONS FOR CHANGES TO PUBLIC EMPLOYEES RETIREMENT PLANS
TO REDUCE UNFUNDED ACCRUED ACTUARIAL LIABILITY WITH A GOAL TO
BRING THE FUNDING STATUS TO ONE HUNDRED PERCENT BY 2041 AND
REPORT RECOMMENDATIONS BY OCTOBER 2012.

WHEREAS, the basic financial objective of the public
employees retirement association is to ensure that statutory
employee and employer contributions, when combined with present
assets and future investment returns, will be sufficient to
meet the association's present and future financial
obligations; and

WHEREAS, past benefit plan enhancements have created
additional liabilities for the association and have affected
the funding status of certain retirement coverage plans; and

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1 WHEREAS, events in financial markets have resulted in
2 significant reduction in plan assets to all public pension
3 funds, including the retirement funds administered by the
4 public employees retirement association; and

5 WHEREAS, the public employees retirement fund has an
6 unfunded liability totaling four billion nine hundred million
7 dollars (\$4,900,000,000); and

8 WHEREAS, attempts to cover the public employees retirement
9 fund's unfunded accrued liability and to sustain existing
10 benefit levels for current members through statutory
11 contribution rates increases alone is impossible; and

12 WHEREAS, the public employees retirement association's
13 actuaries are performing an open group actuarial study to be
14 completed by January 2012 that will provide more definitive
15 baseline data regarding the current benefit structures to
16 determine the long-term actuarial condition of the retirement
17 plans; and

18 WHEREAS, the results of the open group projections will
19 provide the public employees retirement association board with
20 the baseline required to assess plan design changes required
21 for future and current members of the retirement plans,
22 including retirees; and

23 WHEREAS, the public employees retirement association
24 board is conducting an asset liability study to further
25 determine how future investment return assumptions will affect

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1 the long-term actuarial condition of the retirement plans and
2 will be completed in February 2012; and

3 WHEREAS, the results of these studies will be communicated
4 to current active and retired members, and stakeholder input
5 will be considered as plan design changes are developed; and

6 WHEREAS, the public employees retirement association board
7 seeks to ensure consistency within all retirement plans by
8 focusing on a minimum retirement age in relation to statutory
9 contributions and final retirement pension; and

10 WHEREAS, reasonable solutions to address the unfunded
11 accrued liability of the retirement plans administered by the
12 public employees retirement association need to be considered
13 through an actuarially sound process; and

14 WHEREAS, the public employees retirement association board
15 is under a fiduciary duty to ensure that any modification of
16 benefits paid by the retirement systems or changes in the
17 funding formula for a retirement plan be adequately funded in
18 accordance with actuarial standards consistent with Article 20,
19 Section 22 of the constitution of New Mexico;

20 NOW, THEREFORE, BE IT RESOLVED BY THE _____ OF THE
21 STATE OF NEW MEXICO that the public employees retirement
22 association be requested to assess options for changes to
23 public employees retirement plans to reduce unfunded accrued
24 actuarial liability with a goal to bring the funding status to
25 one hundred percent by 2041; and

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1 BE IT FURTHER RESOLVED that the public employees
2 retirement association be requested to provide its
3 recommendations for benefit structure changes affecting future
4 and active members and retirees to the appropriate interim
5 legislature committee no later than October 1, 2012; and

6 BE IT FURTHER RESOLVED that copies of this memorial be
7 transmitted to the chair and vice chair of the appropriate
8 interim legislative committee and the chair of the public
9 employees retirement association board.