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SENATE BILL 420

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Manny M. Aragon

AN ACT

**RELATING TO JUDICIAL RETIREMENT; AMENDING THE JUDICIAL
RETIREMENT ACT AND THE MAGISTRATE RETIREMENT ACT TO PROVIDE
FOR THE PURCHASE OF UP TO TWO MONTHS OF SERVICE CREDIT UNDER
CERTAIN CIRCUMSTANCES.**

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

**Section 1. Section 10-12B-5 NMSA 1978 (being Laws 1992,
Chapter 111, Section 5, as amended) is amended to read:**

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

**A. Personal service rendered by a member shall be
credited to the member's service credit account in accordance
with board rules and regulations. Service shall be credited
to the nearest month. In no case shall any member be credited**

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1 with a year of service for less than twelve months of service
2 in any calendar year or more than a month of service for all
3 service in any calendar month or more than a year of service
4 for all service in any calendar year.

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11 amount withdrawn plus compound interest from the date of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 Withdrawn member contributions may be repaid in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

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

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

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1 subject to the following conditions:

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

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

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

23 (4) service credit shall not be given for
24 periods of intervening service in the uniformed services that
25 are used to obtain or increase a benefit from another state

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1 system or the retirement program provided under the
2 Educational Retirement Act; and

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

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

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

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

18 (2) the member has five or more years of
19 service credit accrued according to the provisions of the
20 Judicial Retirement Act;

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

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

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

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

19 G. A member shall be refunded, after retirement
20 and upon written request filed with the association, the
21 portion of the purchase cost of service credit purchased
22 pursuant to the provisions of this section that the
23 association determines to have been unnecessary to provide the
24 member with the maximum pension applicable to the member. The
25 association shall not pay interest on the portion of the

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1 purchase cost refunded to the member.

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3 H. A member may purchase up to two months of
4 service credit if:

5 (1) the member pays the purchase cost
6 determined pursuant to the provisions of Subsection F of this
7 section; and

8 (2) the member has five or more years of
9 service credit accrued according to the provisions of the
10 Judicial Retirement Act. "

11 Section 2. Section 10-12C-5 NMSA 1978 (being Laws 1992,
12 Chapter 118, Section 5, as amended) is amended to read:

13 "10-12C-5. SERVICE CREDIT--REINSTATEMENT OF
14 FORFEITED SERVICE--PRIOR SERVICE--MILITARY SERVICE. --

15 A. Personal service rendered by a member shall be
16 credited to the member's service credit account in accordance
17 with board rules and regulations. Service shall be credited
18 to the nearest month. In no case shall any member be credited
19 with a year of service for less than twelve months of service
20 in any calendar year or more than a month of service for all
21 service in any calendar month or more than a year of service
22 for all service in any calendar year.

23 B. Service credit shall be forfeited if a member
24 leaves office and withdraws the member's accumulated member
25 contributions. A member or former member who is a member of

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1 another state system or the educational retirement system who
2 has forfeited service credit by withdrawal of member
3 contributions may reinstate the forfeited service credit by
4 repaying the amount withdrawn plus compound interest from the
5 date of withdrawal to the date of repayment at a rate set by
6 the board. Withdrawn member contributions may be repaid in
7 increments of one year in accordance with procedures
8 established by the board. Full payment of each one-year
9 increment shall be made in a single lump-sum amount in
10 accordance with procedures established by the board.

11 C. Service credit that a member would have earned
12 if the member had not elected to be excluded from membership
13 may be purchased if the member pays the purchase cost
14 determined pursuant to the provisions of Subsection F of this
15 section.

16 D. A member who during a term of office enters a
17 uniformed service of the United States shall be given service
18 credit for periods of service in the uniformed services
19 subject to the following conditions:

20 (1) the member returns to office within
21 ninety days following termination of the period of intervening
22 service in the uniformed services or the affiliated employer
23 certifies in writing to the association that the member is
24 entitled to reemployment rights under the Uniformed Services
25 Employment and Reemployment Rights Act of 1994;

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1 (2) the member retains membership in the
2 association during the period of service in the uniformed
3 services;

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

16 (4) service credit shall not be given for
17 periods of intervening service in the uniformed services that
18 are used to obtain or increase a benefit from another state
19 system or the retirement program provided under the
20 Educational Retirement Act; and

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

24 Notwithstanding any provision of this plan to the
25 contrary, contributions, benefits and service credit with

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1 respect to qualified military service will be provided in
2 accordance with Section 414(u) of the Internal Revenue Code of
3 1986, as amended.

4 E. A member who entered a uniformed service of the
5 United States may purchase service credit for periods of
6 active duty in the uniformed services, subject to the
7 following conditions:

8 (1) the member pays the purchase cost
9 determined pursuant to the provisions of Subsection F of this
10 section;

11 (2) the member has five or more years of
12 service credit accrued according to the provisions of the
13 Magistrate Retirement Act;

14 (3) the aggregate amount of service credit
15 purchased pursuant to the provisions of this subsection does
16 not exceed five years, reduced by any period of service credit
17 acquired for military service under any other provision of the
18 Magistrate Retirement Act;

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

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

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1 F. The purchase cost for each year of service
2 credit purchased pursuant to the provisions of this section
3 shall be the increase in the actuarial present value of the
4 pension of the member under the Magistrate Retirement Act as a
5 consequence of the purchase, as determined by the association.
6 Full payment shall be made in a single lump-sum amount in
7 accordance with procedures established by the board. Except
8 as provided in Subsection G of this section, seventy-five
9 percent of the purchase cost shall be considered to be
10 employer contributions and shall not be refunded to the member
11 in the event of cessation of membership.

12 G. A member shall be refunded, after retirement
13 and upon written request filed with the association, the
14 portion of the purchase cost of service credit purchased
15 pursuant to the provisions of this section that the
16 association determines to have been unnecessary to provide the
17 member with the maximum pension applicable to the member. The
18 association shall not pay interest on the portion of the
19 purchase cost refunded to the member.

20 H. A member may purchase up to two months of
21 service credit if:

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

25 (2) the member has five or more years of

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2 Magistrate Retirement Act. "

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