

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 25

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

AN ACT

RELATING TO PENSIONS; AMENDING JUDICIAL RETIREMENT ACT AND
MAGISTRATE RETIREMENT ACT PROVISIONS THAT ARE APPLICABLE TO
CERTAIN MEMBERS BY CHANGING THE AGE AND SERVICE REQUIREMENTS
FOR NORMAL RETIREMENT, DECREASING THE PENSION MULTIPLIER FOR
SERVICE CREDIT EARNED AFTER JUNE 30, 2013, PROVIDING FOR
TEMPORARY SUSPENSION OF, DECREASING OF AND DELAYING OF THE
COST-OF-LIVING ADJUSTMENT AND INCREASING THE MAXIMUM PENSION
BENEFIT; 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:

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underscored material = new
[bracketed material] = delete

1 "10-12B-3. JUDICIAL RETIREMENT FUND ESTABLISHED--
2 ADMINISTRATION OF FUND--ACCOUNTING FUNDS.--

3 A. There is established in the state treasury the
4 "judicial retirement fund". The fund is [~~comprised~~] composed
5 of money received from [~~docket and jury fees of metropolitan~~
6 ~~courts, district courts, the court of appeals and the supreme~~
7 ~~court~~] employer and employee contributions and any investment
8 earnings on [~~fees and~~] contributions. The board is the trustee
9 of the fund and shall administer and invest the fund.
10 Investment of the fund shall be conducted pursuant to the
11 provisions of the Public Employees Retirement Act. The
12 provisions of the Judicial Retirement Act shall be administered
13 by the board. The board is authorized to promulgate rules.
14 Expenses related to the investment of the fund and
15 administration of the Judicial Retirement Act shall be paid
16 from the fund.

17 B. For purposes of this section, the accounting
18 funds shall be known as the "member contribution fund",
19 "employer's accumulation fund", "retirement reserve fund" and
20 "income fund". The maintenance of separate accounting funds
21 shall not require the actual segregation of the assets of the
22 fund.

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

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

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

24 F. The retirement reserve fund is the accounting
25 fund from which shall be paid all pensions to retired members

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1 and survivor beneficiaries and all residual refunds to refund
2 beneficiaries of retired members and survivor beneficiaries.

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

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

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

25 SECTION 2. Section 10-12B-5 NMSA 1978 (being Laws 1992,

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1 Chapter 111, Section 5, as amended) is amended to read:

2 "10-12B-5. SERVICE CREDIT--REINSTATEMENT OF FORFEITED
3 SERVICE--PRIOR SERVICE--MILITARY SERVICE.--

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

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

25 C. Service credit that a member would have earned

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1 if the member had not elected to be excluded from membership
2 may be purchased if the member pays the purchase cost
3 determined pursuant to the provisions of Subsection F of this
4 section.

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

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

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

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

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

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

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

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

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

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

25 (2) the member has [~~five or more~~] the

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1 applicable minimum number of years of service credit accrued
2 according to the provisions of the Judicial Retirement Act;

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

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

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

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

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

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

12 (1) the member has [~~at least five~~] the
13 applicable minimum number of years of service credit acquired
14 as a result of personal service rendered under the Judicial
15 Retirement Act;

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

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

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

25 (5) the purchase of service credit under this

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1 subsection cannot be used to exceed the pension maximum."

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

4 "10-12B-8. AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL
5 RETIREMENT.--

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

9 (1) age [~~sixty-four~~] sixty-five years or older
10 and five or more years of service credit; or

11 (2) age sixty years or older and fifteen or
12 more years of service credit.

13 B. For an individual who initially became a member
14 [~~on or~~] after [~~July 1~~] June 30, 2005 but before June 30, 2013,
15 the age and service credit requirements for retirement provided
16 for in the Judicial Retirement Act are:

17 (1) age [~~sixty-four~~] sixty-five years or older
18 and five or more years of service credit; or

19 (2) age [~~fifty-five~~] sixty years or older and
20 [~~sixteen~~] fifteen or more years of service credit.

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

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

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

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

13 [~~D-~~] E. No member shall be eligible to receive a
14 pension pursuant to the provisions of the Judicial Retirement
15 Act while still in office."

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

18 "10-12B-9. AMOUNT OF PENSION.--The amount of monthly
19 pension is equal to:

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

22 seventy-five percent

23 of salary received X number of years of
24 during last year in service, not exceeding
25 office prior to ten years, divided

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1 retirement by ten;

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

4 (1) for service credit earned on or before
5 June 30, 2013, an amount equal to one-twelfth of:

6 seventy-five (number of years of
7 percent of salary service, not
8 received during X .05 X exceeding fifteen
9 last year in office years, plus five
10 prior to retirement years); ~~or~~ and

11 (2) for service credit earned on and after
12 July 1, 2013, an amount equal to one-twelfth of the salary
13 received during the last year in office prior to retirement
14 multiplied by the product of three and one-half percent times
15 the sum of the number of years of service; provided that a
16 pension calculated pursuant to this subsection shall not exceed
17 eighty-five percent of one-twelfth of the salary received
18 during the last year in office;

19 C. in the case of a new judge or justice who
20 initially became a member ~~on or~~ after ~~July 1~~ June 30, 2005
21 but before June 30, 2013:

22 (1) for service credit earned on or before
23 June 30, 2013, an amount equal to one-twelfth of the salary
24 received during the last year in office prior to retirement
25 multiplied by the product of three and seventy-five hundredths

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1 percent times the sum of the number of years of service;
 2 provided that a pension calculated pursuant to this subsection
 3 shall not exceed seventy-five percent of one-twelfth of the
 4 salary received during the last year in office; and

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

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

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

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

2 A. On and after July 1, 2013, members, while in
3 office, shall contribute ten and one-half percent of salary to
4 the member contribution fund [~~pursuant to the following~~
5 ~~schedule:~~

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

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

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

13 ~~(a) from July 1, 2009 through June 30,~~
14 ~~2011, the member contribution rate shall be nine percent of~~
15 ~~salary;~~

16 ~~(b) from July 1, 2011 through June 30,~~
17 ~~2012, the member contribution rate shall be ten and three-~~
18 ~~fourths percent of salary; and~~

19 ~~(c) from July 1, 2012 through June 30,~~
20 ~~2013, the member contribution rate shall be nine percent of~~
21 ~~salary].~~

22 B. Upon implementation, the state, acting as
23 employer of members covered pursuant to the provisions of the
24 Judicial Retirement Act, shall, solely for the purpose of
25 compliance with Section 414(h) of the Internal Revenue Code of

1 1986, pick up for the purposes specified in that section member
2 contributions required by this section for all annual salary
3 earned by the member. Member contributions picked up pursuant
4 to the provisions of this section shall be treated as employer
5 contributions for purposes of determining income tax
6 obligations under the Internal Revenue Code of 1986; however,
7 such picked-up member contributions shall be included in the
8 determination of the member's gross annual salary for all other
9 purposes under federal and state laws. Member contributions
10 picked up pursuant to the provisions of this section shall
11 continue to be designated member contributions for all purposes
12 of the Judicial Retirement Act and shall be considered as part
13 of the member's annual salary for purposes of determining the
14 amount of the member's contribution. The provisions of this
15 section are mandatory, and the member shall have no option
16 concerning the pickup or concerning the receipt of the
17 contributed amounts directly instead of having the amounts paid
18 by the employer to the retirement system. Implementation
19 occurs upon authorization by the board. In no event may
20 implementation occur other than at the beginning of a pay
21 period applicable to the member."

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

24 "10-12B-11. EMPLOYER CONTRIBUTIONS.--

25 A. From July 1, 2013 through June 30, 2014, the

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1 member's court shall contribute [~~the following amounts~~] twenty-
2 eight and seventy-two hundredths percent of salary for each
3 member in office to the fund.

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

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

9 [~~(3) on and after July 1, 2006, twelve percent~~
10 ~~of salary for each member in office, except that for members~~
11 ~~whose annual salary is greater than twenty thousand dollars~~
12 ~~(\$20,000):~~

13 [~~(a) from July 1, 2009 through June 30,~~
14 ~~2011, the member's court contribution rate shall be ten and~~
15 ~~one-half percent of salary for each member in office;~~

16 [~~(b) from July 1, 2011 through June 30,~~
17 ~~2012, the member's court contribution rate shall be eight and~~
18 ~~three-fourths percent of salary for each member in office; and~~

19 [~~(c) from July 1, 2012 through June 30,~~
20 ~~2013, the member's court contribution rate shall be ten and~~
21 ~~one-half percent of salary for each member in office.~~

22 B. ~~Thirty-eight dollars (\$38.00) from each civil~~
23 ~~case docket fee paid in the district court, twenty-five dollars~~
24 ~~(\$25.00) from each civil docket fee paid in metropolitan court~~
25 ~~and ten dollars (\$10.00) from each jury fee paid in~~

1 ~~metropolitan court shall be paid by the court clerk to the~~
2 ~~employer's accumulation fund.]~~

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

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

8 "10-12B-15. COST-OF-LIVING ADJUSTMENT.--~~[A yearly cost-~~
9 ~~of-living adjustment shall be made to each pension]~~

10 A. A qualified pension recipient is eligible for a
11 cost-of-living adjustment payable pursuant to the provisions of
12 the Judicial Retirement Act [as provided in the Public
13 Employees Retirement Act] as follows:

14 (1) beginning July 1, 2013 and continuing
15 through June 30, 2015, there shall not be a cost-of-living
16 adjustment applied to a pension payable pursuant to the
17 Judicial Retirement Act; and

18 (2) beginning on May 1, 2015 and no later than
19 each May 1 thereafter, the board shall certify to the
20 association the actuarial funded ratio of the fund as of June
21 30 of the preceding calendar year. On each July 1 following
22 the board's certification of the funded ratio, the
23 cost-of-living adjustment, if any, applied to a pension payable
24 pursuant to the Judicial Retirement Act shall be determined as
25 follows:

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1 (a) if the funded ratio of the fund, as
2 certified by the board pursuant to this subsection, is greater
3 than or equal to seventy percent, the amount of pension payable
4 shall be increased two percent. The amount of the increase
5 applied pursuant to this subparagraph shall be determined by
6 multiplying the amount of the pension inclusive of all prior
7 adjustments by two percent; and

8 (b) if the funded ratio of the fund, as
9 certified by the board pursuant to this subsection, is less
10 than seventy percent, the amount of pension payable shall not
11 include a cost-of-living increase; provided, however, that if,
12 pursuant to the provisions of this subparagraph, the cost-of-
13 living adjustment is suspended for the two consecutive fiscal
14 years immediately prior to the most recent certification by the
15 board of the funded ratio: 1) the amount of pension payable in
16 the fiscal year immediately following the two-year suspension
17 shall be increased two percent regardless of the certified
18 funded ratio; and 2) the provisions of this subparagraph shall
19 apply without exception in the next succeeding fiscal year if
20 the funded ratio certified by the board is less than seventy
21 percent.

22 B. Pursuant to the Judicial Retirement Act, a
23 qualified pension recipient is:

24 (1) a normal retired member who:

25 (a) retires before June 30, 2014 and has

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

4 (b) retires between July 1, 2014 and
5 June 30, 2015 and has been retired for at least three full
6 calendar years 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 (c) retires between July 1, 2015 and
10 June 30, 2016 and has been retired for at least four full
11 calendar years from the effective date of the latest retirement
12 prior to July 1 of the year in which the pension is being
13 adjusted; or

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

18 (2) a normal retired member who is at least
19 sixty-five years of age and has been retired for at least one
20 full calendar year 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 (3) a disability retired member who has been
24 retired for at least one full calendar year from the effective
25 date of the latest retirement prior to July 1 of the year in

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1 which the pension is being adjusted;

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

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

9 C. A qualified pension recipient may decline an
10 increase in a pension by giving the association written notice
11 of the decision to decline the increase at least thirty days
12 prior to the date the increase would take effect."

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

15 "10-12C-3. MAGISTRATE RETIREMENT FUND ESTABLISHED--
16 ADMINISTRATION OF FUND--ACCOUNTING FUNDS.--

17 A. There is established in the state treasury the
18 "magistrate retirement fund". The fund is [~~comprised~~] composed
19 of money received from [~~docket fees of magistrate courts~~]
20 employer and member contributions and any investment earnings
21 on fees and contributions. The board is the trustee of the
22 fund and shall administer and invest the fund. Investment of
23 the fund shall be conducted pursuant to the provisions of the
24 Public Employees Retirement Act. The provisions of the
25 Magistrate Retirement Act shall be administered by the board.

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1 The board is authorized to promulgate rules. Expenses related
2 to the investment of the fund and administration of the
3 Magistrate Retirement Act shall be paid from the fund.

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

10 C. The accounting funds provided for in this
11 section are trust funds and shall be used only for the purposes
12 provided for in the Magistrate Retirement Act.

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

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1 fund. A member's accumulated member contributions shall be
2 transferred to the retirement reserve fund when a pension
3 becomes payable.

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

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

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

24 H. The income fund is the accounting fund to which
25 shall be credited all interest, dividends, rents and other

1 income from investments of the fund, all gifts and bequests,
 2 all unclaimed member contributions and all other money the
 3 disposition of which is not specifically provided for in the
 4 Magistrate Retirement Act. Expenses related to the
 5 administration of the Magistrate Retirement Act shall be paid
 6 for from the income fund.

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

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

15 "10-12C-5. SERVICE CREDIT--REINSTATEMENT OF FORFEITED
 16 SERVICE--PRIOR SERVICE--MILITARY SERVICE.--

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

25 B. Service credit shall be forfeited if a member

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

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

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

22 (1) the member returns to office within ninety
23 days following termination of the period of intervening service
24 in the uniformed services or the affiliated employer certifies
25 in writing to the association that the member is entitled to

1 reemployment rights under the Uniformed Services Employment and
2 Reemployment Rights Act of 1994;

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

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

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

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

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1 Notwithstanding any provision of this plan to the
2 contrary, contributions, benefits and service credit with
3 respect to qualified military service will be provided in
4 accordance with Section 414(u) of the Internal Revenue Code of
5 1986, as amended.

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

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

13 (2) the member has [~~five or more~~] the
14 applicable minimum number of years of service credit accrued
15 according to the provisions of the Magistrate Retirement Act;

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

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

25 (5) the member must not have received a

1 discharge or separation from uniformed service under other than
2 honorable conditions.

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

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

22 H. At any time prior to retirement, a member may
23 purchase service credit in monthly increments, subject to the
24 following conditions:

- 25 (1) the member has [~~at least five~~] the

1 applicable minimum number of years of service credit acquired
2 as a result of personal service rendered under the Magistrate
3 Retirement Act;

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

6 (3) the member pays full actuarial present
7 value of the amount of the increase in the member's pension as
8 a consequence of the purchase, as determined by the
9 association;

10 (4) the member pays the full cost of the
11 purchase within sixty days of the date the member is informed
12 of the amount of the payment; and

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

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

17 "10-12C-8. AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL
18 RETIREMENT.--

19 A. For a magistrate who was a member on June 30,
20 2013, the age and service credit requirements for retirement
21 provided for in the Magistrate Retirement Act are:

22 (1) age [~~sixty-four~~] sixty-five years or older
23 and five or more years of service credit;

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

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

3 B. For a magistrate who initially became a member
4 on or after July 1, 2013, the age and service requirements for
5 normal retirement provided for in the Magistrate Retirement Act
6 are:

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

9 (2) age sixty years and fifteen or more years
10 of service credit; and

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

13 ~~[B.]~~ C. If a member leaves office for any reason,
14 other than removal pursuant to Article 6, Section 32 of the
15 constitution of New Mexico before meeting the age and service
16 credit requirements for retirement pursuant to the provisions
17 of this section and if that member leaves ~~[his]~~ the member
18 contributions on deposit in the fund, that member may apply for
19 retirement when that member meets the age and service credit
20 requirements for retirement pursuant to the provisions of the
21 Magistrate Retirement Act or provisions of the Public Employees
22 Retirement Reciprocity Act. ~~[if enacted by the second session~~
23 ~~of the fortieth legislature of the state of New Mexico.~~

24 ~~G.]~~ D. No member shall be eligible to receive a
25 pension pursuant to the provisions of the Magistrate Retirement

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1 Act while still in office."

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

4 "10-12C-9. AMOUNT OF PENSION.--

5 A. For a magistrate who was a member on June 30,
6 2013:

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

10 seventy-five percent

11 of salary received (number of years of
12 during last year in X .05 X service, not exceeding
13 office prior to fifteen years, [+]
14 retirement plus five years); and

15 (2) for service credit earned on and after
16 July 1, 2013, the amount of pension is equal to one-twelfth of
17 the salary received during the last year in office prior to
18 retirement multiplied by the product of three and one-half
19 percent times the sum of the number of years of service;
20 provided that a pension calculated pursuant to this subsection
21 shall not exceed eighty-five percent of one-twelfth of the
22 salary received during the last year in office.

23 B. For a magistrate who initially became a member
24 on or after July 1, 2013, the amount of pension is equal to
25 one-sixtieth of the greatest aggregate amount of salary paid a

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1 member for sixty consecutive, but not necessarily continuous,
 2 months of service credit multiplied by the product of three and
 3 one-half percent times the sum of the number of years of
 4 service; provided that a pension calculated pursuant to this
 5 subsection shall not exceed eighty-five percent of one-sixtieth
 6 of the greatest aggregate amount of salary paid a member for
 7 sixty consecutive, but not necessarily continuous, months of
 8 service credit."

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

11 "10-12C-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

12 A. Members, while in office, shall contribute [~~the~~
 13 ~~following amounts~~] ten and one-half percent of salary to the
 14 member contribution fund

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

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

20 ~~(a) from July 1, 2009 through June 30,~~
 21 ~~2011, the member contribution rate shall be nine percent of~~
 22 ~~salary;~~

23 ~~(b) from July 1, 2011 through June 30,~~
 24 ~~2012, the member contribution rate shall be ten and three-~~
 25 ~~fourths percent of salary; and~~

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

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

6 "10-12C-11. EMPLOYER CONTRIBUTIONS.--~~[A.]~~ The state,
 7 through the administrative office of the courts, shall
 8 contribute ~~[the following amounts]:~~

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

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

14 ~~(2) on and after July 1, 2006, eleven percent~~
 15 ~~of salary for each member in office, except that for members~~
 16 ~~whose annual salary is greater than twenty thousand dollars~~
 17 ~~(\$20,000):~~

18 ~~(a) from July 1, 2009 through June 30,~~
 19 ~~2011, the state contribution rate shall be nine and one-half~~
 20 ~~percent of salary for each member in office;~~

21 ~~(b) from July 1, 2011 through June 30,~~
 22 ~~2012, the state contribution rate shall be seven and three-~~
 23 ~~fourths percent of salary for each member in office; and~~

24 ~~(c) from July 1, 2012 through June 30,~~
 25 ~~2013, the state contribution rate shall be nine and one-half~~

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1 ~~percent of salary for each member in office.~~

2 ~~B. Twenty-five dollars (\$25.00) from each civil~~
3 ~~case docket fee paid in magistrate court and ten dollars~~
4 ~~(\$10.00) from each civil jury fee paid in magistrate court~~
5 ~~shall be paid by the court clerk to the employer's accumulation~~
6 ~~fund]; and~~

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

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

12 "10-12C-14. COST-OF-LIVING ADJUSTMENT.-- [~~A yearly~~
13 ~~cost-of-living adjustment shall be made to each pension]~~

14 A. A qualified pension recipient is eligible for a
15 cost-of-living adjustment payable pursuant to the provisions of
16 the Magistrate Retirement Act [as provided in the Public
17 Employees Retirement Act] as follows:

18 (1) beginning July 1, 2013 and continuing
19 through June 30, 2015, there shall not be a cost-of-living
20 adjustment applied to a pension payable pursuant to the
21 Magistrate Retirement Act; and

22 (2) beginning on May 1, 2015 and no later than
23 each May 1 thereafter, the board shall certify to the
24 association the actuarial funded ratio of the fund as of
25 January 31 of the calendar year in which the board certifies

1 the funded ratio. On each July 1 following the board's
2 certification of the funded ratio, the cost-of-living
3 adjustment, if any, applied to a pension payable pursuant to
4 the Magistrate Retirement Act shall be determined as follows:

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

12 (b) if the funded ratio of the fund, as
13 certified by the board pursuant to this subsection, is less
14 than seventy percent, the amount of pension payable shall not
15 include a cost-of-living increase; provided, however, that if,
16 pursuant to the provisions of this subparagraph, the cost-of-
17 living adjustment is suspended for the two consecutive fiscal
18 years immediately prior to the most recent certification by the
19 board of the funded ratio: 1) the amount of pension payable in
20 the fiscal year immediately following the two-year suspension
21 shall be increased two percent regardless of the certified
22 funded ratio; and 2) the provisions of this subparagraph shall
23 apply without exception in the next succeeding fiscal year if
24 the funded ratio certified by the board is less than seventy
25 percent.

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1 B. Pursuant to the Magistrate Retirement Act, a
2 qualified pension recipient is:

3 (1) a normal retired member who:

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

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

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

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

22 (2) a normal retired member who is at least
23 sixty-five years of age and has been retired for at least one
24 full calendar year from the effective date of the latest
25 retirement prior to July 1 of the year in which the pension is

1 being adjusted;

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

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

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

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

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

19 "35-6-1. MAGISTRATE COSTS--SCHEDULE--DEFINITION OF
20 "CONVICTED".--

21 A. Magistrate judges, including metropolitan court
22 judges, shall assess and collect and shall not waive, defer or
23 suspend the following costs:

24 docket fee, criminal actions under Section 29-5-1 NMSA
25 1978 \$ 1.00;

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underscored material = new
[bracketed material] = delete

1 docket fee, to be collected prior to docketing any other
2 criminal action, except as provided in Subsection B
3 of Section 35-6-3 NMSA 1978 20.00.
4 Proceeds from this docket fee shall be transferred
5 to the administrative office of the courts for
6 deposit in the court facilities fund;

7 docket fee, twenty dollars (\$20.00) of which shall be
8 deposited in the court automation fund [~~and~~],
9 fifteen dollars (\$15.00) of which shall be deposited
10 in the civil legal services fund and twenty-five
11 dollars (\$25.00) of which shall be deposited in the
12 general fund, to be collected prior to docketing any
13 civil action, except as provided in Subsection A of
14 Section 35-6-3 NMSA 1978 72.00;

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

19 copying fee, for making and certifying copies of any
20 records in the court, for each page copied by
21 photographic process 0.50.

22 Proceeds from this copying fee shall be transferred
23 to the administrative office of the courts for
24 deposit in the court facilities fund; and

25 copying fee, for computer-generated or electronically

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[bracketed material] = delete

1 transferred copies, per page 1.00.

2 Proceeds from this copying fee shall be transferred
3 to the administrative office of the courts for
4 deposit in the court automation fund.

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

7 B. Except as otherwise provided by law, no other
8 costs or fees shall be charged or collected in the magistrate
9 or metropolitan court.

10 C. The magistrate or metropolitan court may grant
11 free process to any party in any civil proceeding or special
12 statutory proceeding upon a proper showing of indigency. The
13 magistrate or metropolitan court may deny free process if it
14 finds that the complaint on its face does not state a cause of
15 action.

16 D. As used in this subsection, "convicted" means the
17 defendant has been found guilty of a criminal charge by the
18 magistrate or metropolitan judge, either after trial, a plea of
19 guilty or a plea of nolo contendere. Magistrate judges,
20 including metropolitan court judges, shall assess and collect
21 and shall not waive, defer or suspend the following costs:

22 (1) corrections fee, to be collected upon
23 conviction from persons convicted of violating any provision of
24 the Motor Vehicle Code involving the operation of a motor
25 vehicle, convicted of a crime constituting a misdemeanor or a

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~~[bracketed material] = delete~~

1 petty misdemeanor or convicted of violating any ordinance that
2 may be enforced by the imposition of a term of imprisonment as
3 follows:

4 in a county with a metropolitan court \$10.00;

5 in a county without a metropolitan court 20.00;

6 (2) court automation fee, to be collected upon
7 conviction from persons convicted of violating any provision of
8 the Motor Vehicle Code involving the operation of a motor
9 vehicle, convicted of a crime constituting a misdemeanor or a
10 petty misdemeanor or convicted of violating any ordinance that
11 may be enforced by the imposition of a term of
12 imprisonment 10.00;

13 (3) traffic safety 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 3.00;

17 (4) judicial education fee, to be collected upon
18 conviction from persons convicted of operating a motor vehicle
19 in violation of the Motor Vehicle Code, convicted of a crime
20 constituting a misdemeanor or a petty misdemeanor or convicted
21 of violating any ordinance punishable by a term of
22 imprisonment 3.00;

23 (5) jury and witness fee, to be collected upon
24 conviction from persons convicted of operating a motor vehicle
25 in violation of the Motor Vehicle Code, convicted of a crime

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1 constituting a misdemeanor or a petty misdemeanor or convicted
2 of violating any ordinance punishable by a term of
3 imprisonment 5.00;

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

8 and

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

16 in a county with a metropolitan court 24.00;

17 in any other county 10.00.

18 E. Metropolitan court judges shall assess and collect
19 and shall not waive, defer or suspend as costs a mediation fee
20 not to exceed five dollars (\$5.00) for the docketing of small
21 claims and criminal actions specified by metropolitan court
22 rule. Proceeds of the mediation fee shall be deposited into
23 the metropolitan court mediation fund."

24 SECTION 16. APPROPRIATION.--Two million six hundred
25 sixty-seven thousand eighty-seven dollars (\$2,667,087) is

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1 appropriated from the general fund to the department of finance
2 and administration for expenditure in fiscal year 2014 and
3 subsequent fiscal years for distribution to the supreme court,
4 court of appeals, district courts, Bernalillo county
5 metropolitan court and administrative office of the courts to
6 pay the increased employer contributions. Any unexpended or
7 unencumbered balance remaining at the end of a fiscal year
8 shall not revert to the general fund.

9 SECTION 17. APPROPRIATION.--

10 A. Fifteen million dollars (\$15,000,000) is
11 appropriated from the general fund for expenditure in fiscal
12 years 2014 through 2016 to improve the funded ratios of the
13 judicial retirement fund and the magistrate retirement fund as
14 follows:

15 (1) eleven million dollars (\$11,000,000) to the
16 judicial retirement fund;

17 (2) four million dollars (\$4,000,000) to the
18 magistrate retirement fund; and

19 (3) the total appropriation shall be divided and
20 made in equal amounts in each of the three fiscal years. The
21 fiscal year 2015 and fiscal year 2016 amounts are contingent
22 upon funding by the legislature.

23 B. Any unexpended or unencumbered balance remaining
24 at the end of fiscal year 2016 shall revert to the general
25 fund.

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