

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR  
SENATE BILL 25

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

AN ACT

RELATING TO JUDICIAL RETIREMENT; AMENDING THE JUDICIAL  
RETIREMENT ACT AND THE MAGISTRATE RETIREMENT ACT PROVISIONS  
APPLICABLE TO CERTAIN MEMBERS BY CHANGING THE AGE AND SERVICE  
CREDIT REQUIREMENTS FOR NORMAL RETIREMENT, DECREASING THE  
PENSION MULTIPLIER FOR SERVICE CREDIT EARNED AFTER JUNE 30,  
2013, DECREASING AND DELAYING THE COST-OF-LIVING ADJUSTMENT AND  
INCREASING THE MAXIMUM PENSION BENEFIT; 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. A new section of the Judicial Retirement Act,

.192274.2SA

underscored material = new  
[bracketed material] = delete

1 Section 10-12B-1.1 NMSA 1978, is enacted to read:

2 "10-12B-1.1. [NEW MATERIAL] FINDINGS--PURPOSE.--

3 A. The legislature finds that:

4 (1) the judicial retirement fund, created  
5 pursuant to the Judicial Retirement Act, and the magistrate  
6 retirement fund, created pursuant to the Magistrate Retirement  
7 Act, are inadequately funded, both with 2012 estimated funded  
8 ratios below sixty percent;

9 (2) the dangerously low funding levels of the  
10 judicial retirement fund and the magistrate retirement fund  
11 endanger the state's ability to adequately meet its  
12 constitutional duty to preserve the funds for the sole benefit  
13 of the members, retirees and other beneficiaries of the  
14 retirement systems;

15 (3) based on actuarial reports and advice,  
16 making changes, specifically, temporarily suspending the  
17 cost-of-living adjustments for retirees, will have the single  
18 greatest and immediate actuarial impact in improving the funded  
19 ratio of the funds; and

20 (4) increasing contribution rates along with  
21 decreasing benefits combine to increase pension fund solvency.

22 B. For the purposes of ensuring the solvency of the  
23 judicial retirement fund and the magistrate retirement fund and  
24 to preserve those funds for the members, retirees and other  
25 beneficiaries, the legislature must act now and amend the

.192274.2SA

1 Judicial Retirement Act and the Magistrate Retirement Act by:

2 (1) increasing employer contribution rates;

3 (2) increasing age and service requirements  
4 for normal retirement;

5 (3) decreasing the pension multiplier for  
6 service credit earned after June 30, 2013; and

7 (4) providing for a delay in eligibility for,  
8 a temporary suspension of and a restriction in increases to the  
9 cost-of-living adjustment."

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

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

14 A. There is established in the state treasury the  
15 "judicial retirement fund". The fund is [~~comprised~~] composed  
16 of money received from [~~docket and jury fees of metropolitan~~  
17 ~~courts, district courts, the court of appeals and the supreme~~  
18 ~~court~~] employer and employee contributions and any investment  
19 earnings on [~~fees and~~] contributions. The board is the trustee  
20 of the fund and shall administer and invest the fund.

21 Investment of the fund shall be conducted pursuant to the  
22 provisions of the Public Employees Retirement Act. The  
23 provisions of the Judicial Retirement Act shall be administered  
24 by the board. The board is authorized to promulgate rules.

25 Expenses related to the investment of the fund and

.192274.2SA

1 administration of the Judicial Retirement Act shall be paid  
2 from the fund.

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

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

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

.192274.2SA

1 transferred to the retirement reserve fund when a pension  
2 becomes payable.

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

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

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

22 H. The income fund is the accounting fund to which  
23 shall be credited all interest, dividends, rents and other  
24 income from investments of the fund, all gifts and bequests,  
25 all unclaimed member contributions and all other money the

.192274.2SA

1 disposition of which is not specifically provided for in the  
2 Judicial Retirement Act. Expenses related to the  
3 administration of the Judicial Retirement Act shall be paid for  
4 from the income fund.

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

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

13 "10-12B-8. AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL  
14 RETIREMENT.--

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

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

20 (2) age sixty years or older and fifteen or  
21 more years of service credit.

22 B. For an individual who initially became a member  
23 on or after July 1, 2005, the age and service credit  
24 requirements for retirement provided for in the Judicial  
25 Retirement Act are:

.192274.2SA

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

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

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

15 D. No member shall be eligible to receive a pension  
16 pursuant to the provisions of the Judicial Retirement Act while  
17 still in office."

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

20 "10-12B-9. AMOUNT OF PENSION.--The amount of monthly  
21 pension is equal to:

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

24 seventy-five percent

25 of salary received X number of years of

.192274.2SA

1           during last year in                           service, not exceeding  
2           office prior to                           ten years, divided  
3           retirement                           by ten;

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

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

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

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

21           C. in the case of a new judge or justice who  
22 initially became a member on or after July 1, 2005:

23                   (1) for service credit earned on or before  
24 June 30, 2013, an amount equal to one-twelfth of the salary  
25 received during the last year in office prior to retirement

underscored material = new  
[bracketed material] = delete



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

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

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

16 "10-12B-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

17 A. On and after July 1, 2013, members, while in  
 18 office, shall contribute nine percent of salary to the member  
 19 contribution fund [~~pursuant to the following schedule:~~

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

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

24 ~~(3) on and after July 1, 2006, seven and one-~~  
 25 ~~half percent of salary, except that for members whose annual~~

.192274.2SA

1 ~~salary is greater than twenty thousand dollars (\$20,000):~~

2 ~~(a) from July 1, 2009 through June 30,~~  
3 ~~2011, the member contribution rate shall be nine percent of~~  
4 ~~salary;~~

5 ~~(b) from July 1, 2011 through June 30,~~  
6 ~~2012, the member contribution rate shall be ten and three-~~  
7 ~~fourths percent of salary; and~~

8 ~~(c) from July 1, 2012 through June 30,~~  
9 ~~2013, the member contribution rate shall be nine percent of~~  
10 ~~salary].~~

11 B. Upon implementation, the state, acting as  
12 employer of members covered pursuant to the provisions of the  
13 Judicial Retirement Act, shall, solely for the purpose of  
14 compliance with Section 414(h) of the Internal Revenue Code of  
15 1986, pick up for the purposes specified in that section member  
16 contributions required by this section for all annual salary  
17 earned by the member. Member contributions picked up pursuant  
18 to the provisions of this section shall be treated as employer  
19 contributions for purposes of determining income tax  
20 obligations under the Internal Revenue Code of 1986; however,  
21 such picked-up member contributions shall be included in the  
22 determination of the member's gross annual salary for all other  
23 purposes under federal and state laws. Member contributions  
24 picked up pursuant to the provisions of this section shall  
25 continue to be designated member contributions for all purposes

underscored material = new  
[bracketed material] = delete

1 of the Judicial Retirement Act and shall be considered as part  
 2 of the member's annual salary for purposes of determining the  
 3 amount of the member's contribution. The provisions of this  
 4 section are mandatory, and the member shall have no option  
 5 concerning the pickup or concerning the receipt of the  
 6 contributed amounts directly instead of having the amounts paid  
 7 by the employer to the retirement system. Implementation  
 8 occurs upon authorization by the board. In no event may  
 9 implementation occur other than at the beginning of a pay  
 10 period applicable to the member."

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

13 "10-12B-11. EMPLOYER CONTRIBUTIONS.--~~[A.]~~ The member's  
 14 court shall contribute the following amounts to the fund:

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

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

19 [~~and~~

20 ~~(3) on and after~~ C. from July 1, 2006 through  
 21 June 30, 2013, twelve percent of salary for each member in  
 22 office, except that for members whose annual salary is greater  
 23 than twenty thousand dollars (\$20,000):

24 [~~(a)~~] (1) from July 1, 2009 through June 30,  
 25 2011, the member's court contribution rate shall be ten and

.192274.2SA

1 one-half percent of salary for each member in office;

2 [~~(b)~~] (2) from July 1, 2011 through June 30,  
3 2012, the member's court contribution rate shall be eight and  
4 three-fourths percent of salary for each member in office; and

5 [~~(c)~~] (3) from July 1, 2012 through June 30,  
6 2013, the member's court contribution rate shall be ten and  
7 one-half percent of salary for each member in office; and

8 ~~[B. Thirty-eight dollars (\$38.00) from each civil~~  
9 ~~ease docket fee paid in the district court, twenty-five dollars~~  
10 ~~(\$25.00) from each civil docket fee paid in metropolitan court~~  
11 ~~and ten dollars (\$10.00) from each jury fee paid in~~  
12 ~~metropolitan court shall be paid by the court clerk to the~~  
13 ~~employer's accumulation fund.]~~

14 D. on and after July 1, 2013, thirty-one and  
15 seventy-two hundredths percent of salary for each member in  
16 office."

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

19 "10-12B-15. COST-OF-LIVING ADJUSTMENT.-- [~~A yearly cost-~~  
20 ~~of-living adjustment shall be made to each pension]~~

21 A. A qualified pension recipient is eligible for a  
22 cost-of-living adjustment payable pursuant to the provisions of  
23 the Judicial Retirement Act as [~~provided in the Public~~  
24 Employees Retirement Act] follows:

25 (1) beginning July 1, 2013 and continuing

1 through June 30, 2015, there shall not be a cost-of-living  
2 adjustment applied to a pension payable pursuant to the  
3 Judicial Retirement Act; and

4 (2) beginning on May 1, 2015 and no later than  
5 each May 1 thereafter, the board shall certify to the  
6 association the actuarial funded ratio of the fund as of June  
7 30 of the preceding calendar year. On each July 1 following  
8 the board's certification of the funded ratio, the  
9 cost-of-living adjustment, if any, applied to a pension payable  
10 pursuant to the Judicial Retirement Act shall be determined as  
11 follows:

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

19 (b) if the funded ratio of the fund, as  
20 certified by the board pursuant to this subsection, is less  
21 than seventy percent, the amount of pension payable shall not  
22 include a cost-of-living increase.

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

25 (1) a normal retired member who:

.192274.2SA

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

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

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

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

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

24                   (3) a disability retired member who has been  
25 retired for at least one full calendar year from the effective

1 date of the latest retirement prior to July 1 of the year in  
 2 which the pension is being adjusted;

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

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

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

14 SECTION 8. A new section of the Magistrate Retirement  
 15 Act, Section 10-12C-1.1 NMSA 1978, is enacted to read:

16 "10-12C-1.1. [NEW MATERIAL] FINDINGS--PURPOSE.--

17 A. The legislature finds that:

18 (1) the magistrate retirement fund, created  
 19 pursuant to the Magistrate Retirement Act, and the judicial  
 20 retirement fund, created pursuant to the Judicial Retirement  
 21 Act, are inadequately funded, both with 2012 estimated funded  
 22 ratios below sixty percent;

23 (2) the dangerously low funding levels of the  
 24 magistrate retirement fund and the judicial retirement fund  
 25 endanger the state's ability to adequately meet its

.192274.2SA

1 constitutional duty to preserve the funds for the sole benefit  
2 of the members, retirees and other beneficiaries of the  
3 retirement systems;

4 (3) based on actuarial reports and advice,  
5 making changes, specifically, temporarily suspending the  
6 cost-of-living adjustments for retirees, will have the single  
7 greatest and immediate actuarial impact in improving the funded  
8 ratio of the funds; and

9 (4) increasing contribution rates along with  
10 decreasing benefits combine to increase pension fund solvency.

11 B. For the purposes of ensuring the solvency of the  
12 magistrate retirement fund the judicial retirement fund and to  
13 preserve those funds for the members, retirees and other  
14 beneficiaries, the legislature must act now and amend the  
15 Magistrate Retirement Act and the Judicial Retirement Act by:

16 (1) increasing employer contribution rates;

17 (2) increasing age and service requirements  
18 for normal retirement;

19 (3) decreasing the pension multiplier for  
20 service credit earned after June 30, 2013; and

21 (4) providing for a delay in eligibility for,  
22 a temporary suspension of and a restriction in increases to the  
23 cost-of-living adjustment."

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

.192274.2SA



1 "10-12C-3. MAGISTRATE RETIREMENT FUND ESTABLISHED--  
2 ADMINISTRATION OF FUND--ACCOUNTING FUNDS.--

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

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

21 C. The accounting funds provided for in this  
22 section are trust funds and shall be used only for the purposes  
23 provided for in the Magistrate Retirement Act.

24 D. The member contribution fund is the accounting  
25 fund in which shall be accumulated contributions of members and

.192274.2SA

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

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

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

.192274.2SA

1 beneficiaries of retired members and survivor beneficiaries.

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

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

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

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

.192274.2SA

1 "10-12C-8. AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL  
2 RETIREMENT.--

3 A. On and after July 1, 2013, the age and service  
4 credit requirements for retirement provided for in the  
5 Magistrate Retirement Act are:

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

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

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

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

23 C. No member shall be eligible to receive a pension  
24 pursuant to the provisions of the Magistrate Retirement Act  
25 while still in office."



1 ~~percent of salary; and~~

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

5 ~~(a) from July 1, 2009 through June 30,~~  
6 ~~2011, the member contribution rate shall be nine percent of~~  
7 ~~salary;~~

8 ~~(b) from July 1, 2011 through June 30,~~  
9 ~~2012, the member contribution rate shall be ten and three-~~  
10 ~~fourths percent of salary; and~~

11 ~~(c) from July 1, 2012 through June 30,~~  
12 ~~2013, the member contribution rate shall be nine percent of~~  
13 ~~salary].~~

14 B. Upon implementation, the state, acting as  
15 employer of members covered pursuant to the provisions of the  
16 Magistrate Retirement Act, shall, solely for the purpose of  
17 compliance with Section 414(h) of the Internal Revenue Code of  
18 1986, pick up for the purposes specified in that section member  
19 contributions required by this section for all annual salary  
20 earned by the member. Member contributions picked up pursuant  
21 to the provisions of this section shall be treated as employer  
22 contributions for purposes of determining income tax  
23 obligations under the Internal Revenue Code of 1986; however,  
24 such picked-up member contributions shall be included in the  
25 determination of the member's gross annual salary for all other

1 purposes under federal and state laws. Member contributions  
 2 picked up pursuant to the provisions of this section shall  
 3 continue to be designated member contributions for all purposes  
 4 of the Magistrate Retirement Act and shall be considered as  
 5 part of the member's annual salary for purposes of determining  
 6 the amount of the member's contribution. The provisions of  
 7 this section are mandatory, and the member shall have no option  
 8 concerning the pick up or concerning the receipt of the  
 9 contributed amounts directly instead of having the amounts paid  
 10 by the employer to the retirement system. Implementation  
 11 occurs upon authorization by the board. In no event may  
 12 implementation occur other than at the beginning of a pay  
 13 period applicable to the member."

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

16 "10-12C-11. EMPLOYER CONTRIBUTIONS.--~~[A.]~~ The state,  
 17 through the administrative office of the courts, shall  
 18 contribute the following amounts to the fund:

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

21 ~~(2) — on and after]~~ B. from July 1, 2006 through  
 22 June 30, 2013, eleven percent of salary for each member in  
 23 office, except that for members whose annual salary is greater  
 24 than twenty thousand dollars (\$20,000):

25 [~~(a)~~] (1) from July 1, 2009 through June 30,

.192274.2SA

1 2011, the state contribution rate shall be nine and one-half  
2 percent of salary for each member in office;

3 ~~[(b)]~~ (2) from July 1, 2011 through June 30,  
4 2012, the state contribution rate shall be seven and three-  
5 fourths percent of salary for each member in office; and

6 ~~[(c)]~~ (3) from July 1, 2012 through June 30,  
7 2013, the state contribution rate shall be nine and one-half  
8 percent of salary for each member in office; and

9 ~~[B. Twenty five dollars (\$25.00) from each civil  
10 case docket fee paid in magistrate court and ten dollars  
11 (\$10.00) from each civil jury fee paid in magistrate court  
12 shall be paid by the court clerk to the employer's accumulation  
13 fund.]~~

14 C. on and after July 1, 2013, twenty-eight and  
15 seventy-seven hundredths percent of salary for each member in  
16 office."

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

19 "10-12C-14. COST-OF-LIVING ADJUSTMENT.--~~[A yearly~~  
20 ~~cost-of-living adjustment shall be made to each pension]~~

21 A. A qualified pension recipient is eligible for a  
22 cost-of-living adjustment payable pursuant to the provisions of  
23 the Magistrate Retirement Act [as provided in the Public  
24 Employees Retirement Act] as follows:

25 (1) beginning July 1, 2013 and continuing

underscored material = new  
[bracketed material] = delete



1 through June 30, 2015, there shall not be a cost-of-living  
2 adjustment applied to a pension payable pursuant to the  
3 Magistrate Retirement Act; and

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

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

19 (b) if the funded ratio of the fund, as  
20 certified by the board pursuant to this subsection, is less  
21 than seventy percent, the amount of pension payable shall not  
22 include a cost-of-living increase.

23 B. Pursuant to the Magistrate Retirement Act, a  
24 qualified pension recipient is:

25 (1) a normal retired member who:

.192274.2SA

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

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

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

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

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

24                   (3) a disability retired member who has been  
25 retired for at least one full calendar year from the effective

underscored material = new  
[bracketed material] = delete

1 date of the latest retirement prior to July 1 of the year in  
2 which the pension is being adjusted;

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

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

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

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

16 "35-6-1. MAGISTRATE COSTS--SCHEDULE--DEFINITION OF  
17 "CONVICTED".--

18 A. Magistrate judges, including metropolitan court  
19 judges, shall assess and collect and shall not waive, defer or  
20 suspend the following costs:

- 21 docket fee, criminal actions under Section 29-5-1 NMSA
- 22 1978 . . . . . \$ 1.00;
- 23 docket fee, to be collected prior to docketing any other
- 24 criminal action, except as provided in Subsection B
- 25 of Section 35-6-3 NMSA 1978 . . . . . 20.00.

.192274.2SA

underscored material = new  
[bracketed material] = delete

1 Proceeds from this docket fee shall be transferred  
2 to the administrative office of the courts for  
3 deposit in the court facilities fund;  
4 docket fee, twenty dollars (\$20.00) of which shall be  
5 deposited in the court automation fund [~~and~~],  
6 fifteen dollars (\$15.00) of which shall be deposited  
7 in the civil legal services fund and twenty-five  
8 dollars (\$25.00) of which shall be deposited in the  
9 general fund, to be collected prior to docketing any  
10 civil action, except as provided in Subsection A of  
11 Section 35-6-3 NMSA 1978 . . . . . 72.00;  
12 jury fee, ten dollars (\$10.00) of which shall be deposited  
13 in the general fund, to be collected from the party  
14 demanding trial by jury in any civil action at the  
15 time the demand is filed or made . . . . . 25.00;  
16 copying fee, for making and certifying copies of any  
17 records in the court, for each page copied by  
18 photographic process . . . . . 0.50.  
19 Proceeds from this copying fee shall be transferred  
20 to the administrative office of the courts for  
21 deposit in the court facilities fund; and  
22 copying fee, for computer-generated or electronically  
23 transferred copies, per page . . . . . 1.00.  
24 Proceeds from this copying fee shall be transferred  
25 to the administrative office of the courts for

underscored material = new  
[bracketed material] = delete

1 deposit in the court automation fund.

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

4 B. Except as otherwise provided by law, no other  
5 costs or fees shall be charged or collected in the magistrate  
6 or metropolitan court.

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

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

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

.192274.2SA

1 in a county with a metropolitan court . . . . . \$10.00;

2 in a county without a metropolitan court . . . . . 20.00;

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

10 (3) traffic safety fee, to be collected upon  
11 conviction from persons convicted of violating any provision of  
12 the Motor Vehicle Code involving the operation of a motor  
13 vehicle . . . . . 3.00;

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

20 (5) jury and witness fee, to be collected upon  
21 conviction from persons convicted of operating a motor vehicle  
22 in violation of the Motor Vehicle Code, convicted of a crime  
23 constituting a misdemeanor or a petty misdemeanor or convicted  
24 of violating any ordinance punishable by a term of  
25 imprisonment . . . . . 5.00;

underscored material = new  
~~[bracketed material] = delete~~

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

6 (7) court facilities 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 imprisonment as  
12 follows:

- 13 in a county with a metropolitan court . . . . . 24.00;
- 14 in any other county . . . . . 10.00.

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

21 SECTION 16. APPROPRIATION.--Three million one hundred  
22 ninety-seven thousand eighty-seven dollars (\$3,197,087) is  
23 appropriated from the general fund to the department of finance  
24 and administration for expenditure in fiscal year 2014 and  
25 subsequent fiscal years for distribution to the supreme court,

.192274.2SA

underscored material = new  
~~[bracketed material] = delete~~

1 court of appeals, district courts, Bernalillo county  
2 metropolitan court and administrative office of the courts to  
3 pay the increased employer contributions. Any unexpended or  
4 unencumbered balance remaining at the end of a fiscal year  
5 shall not revert to the general fund.

6 SECTION 17. APPROPRIATION.--

7 A. Fifteen million dollars (\$15,000,000) is  
8 appropriated from the general fund for expenditure in fiscal  
9 year 2014 and subsequent fiscal years to improve the funded  
10 ratios of the judicial retirement fund and the magistrate  
11 retirement fund as follows:

12 (1) eleven million dollars (\$11,000,000) to the  
13 judicial retirement fund; and

14 (2) four million dollars (\$4,000,000) to the  
15 magistrate retirement fund.

16 B. Any unexpended or unencumbered balance remaining  
17 at the end of a fiscal year shall not revert to the general  
18 fund.

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