



The Legislature  
of the  
State of New Mexico

50th Legislature, 1st Session

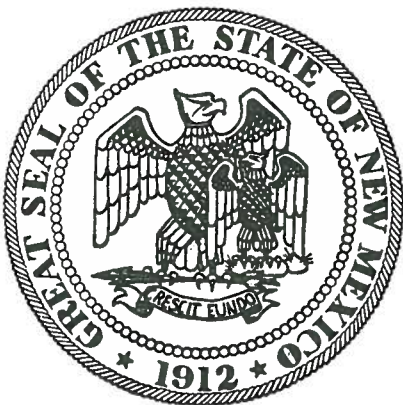
LAWS 2011

CHAPTER 178

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE

SUBSTITUTE FOR HOUSE BILL 628, as amended

Introduced by



# Chapter 178

## AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
CHANGING THE EMPLOYER AND EMPLOYEE CONTRIBUTION RATES IN  
CERTAIN RETIREMENT PLANS.

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

**SECTION 1.** Section 10-11-26.5 NMSA 1978 (being Laws  
1994, Chapter 128, Section 6, as amended) is amended to read:

"10-11-26.5. STATE GENERAL MEMBER COVERAGE PLAN 3--  
MEMBER CONTRIBUTION RATE.--A member under state general member  
coverage plan 3 shall contribute seven and forty-two  
hundredths percent of salary starting with the first full pay  
period that ends within the calendar month in which state  
general member coverage plan 3 becomes applicable to the  
member, except that for members whose annual salary is greater  
than twenty thousand dollars (\$20,000):

A. from July 1, 2009 through June 30, 2011, the  
member contribution rate shall be eight and ninety-two  
hundredths percent of salary;

B. from July 1, 2011 through June 30, 2012, the  
member contribution rate shall be ten and sixty-seven  
hundredths percent of salary; and

C. from July 1, 2012 through June 30, 2013, the  
member contribution rate shall be eight and ninety-two  
hundredths percent of salary."

1           **SECTION 2.** Section 10-11-26.6 NMSA 1978 (being Laws  
2 1994, Chapter 128, Section 7, as amended) is amended to read:

3           "10-11-26.6. STATE GENERAL MEMBER COVERAGE PLAN 3--  
4 STATE CONTRIBUTION RATE.--The state shall contribute sixteen  
5 and fifty-nine hundredths percent of the salary of each member  
6 covered by state general member coverage plan 3 starting with  
7 the first pay period that ends within the calendar month in  
8 which state general member coverage plan 3 becomes applicable  
9 to the member, except that for members whose annual salary is  
10 greater than twenty thousand dollars (\$20,000):

11           A. from July 1, 2009 through June 30, 2011, the  
12 state contribution rate shall be fifteen and nine-hundredths  
13 percent of the salary of each member;

14           B. from July 1, 2011 through June 30, 2012, the  
15 state contribution rate shall be thirteen and thirty-four  
16 hundredths percent of the salary of each member; and

17           C. from July 1, 2012 through June 30, 2013, the  
18 state contribution rate shall be fifteen and nine-hundredths  
19 percent of the salary of each member."

20           **SECTION 3.** Section 10-11-31 NMSA 1978 (being Laws 1987,  
21 Chapter 253, Section 31, as amended) is amended to read:

22           "10-11-31. STATE POLICE MEMBER AND ADULT CORRECTIONAL  
23 OFFICER MEMBER COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE.--A  
24 member under state police member and adult correctional  
25 officer member coverage plan 1 shall contribute seven and six-

1 tenths percent of salary, except that for members whose annual  
2 salary is greater than twenty thousand dollars (\$20,000):

3 A. from July 1, 2009 through June 30, 2011, the  
4 member contribution rate shall be nine and one-tenth percent  
5 of salary;

6 B. from July 1, 2011 through June 30, 2012, the  
7 member contribution rate shall be ten and eighty-five  
8 hundredths percent of salary; and

9 C. from July 1, 2012 through June 30, 2013, the  
10 member contribution rate shall be nine and one-tenth percent  
11 of salary."

12 SECTION 4. Section 10-11-32 NMSA 1978 (being Laws 1987,  
13 Chapter 253, Section 32, as amended) is amended to read:

14 "10-11-32. STATE POLICE MEMBER AND ADULT CORRECTIONAL  
15 OFFICER MEMBER COVERAGE PLAN 1--STATE CONTRIBUTION RATE.--The  
16 state shall contribute twenty-five and one-tenth percent of  
17 the salary of each member under state police member and adult  
18 correctional officer member coverage plan 1, except that for  
19 members whose annual salary is greater than twenty thousand  
20 dollars (\$20,000):

21 A. from July 1, 2009 through June 30, 2011, the  
22 state contribution rate shall be twenty-three and six-tenths  
23 percent of the salary of each member;

24 B. from July 1, 2011 through June 30, 2012, the  
25 state contribution rate shall be twenty-one and eighty-five

1 hundredths percent of the salary of each member; and

2 C. from July 1, 2012 through June 30, 2013, the  
3 state contribution rate shall be twenty-three and six-tenths  
4 percent of the salary of each member."

5 SECTION 5. Section 10-11-38.5 NMSA 1978 (being Laws  
6 1994, Chapter 128, Section 13, as amended) is amended to read:

7 "10-11-38.5. STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN  
8 2--MEMBER CONTRIBUTION RATE.--A member under state hazardous  
9 duty member coverage plan 2 shall contribute four and seventy-  
10 eight hundredths percent of salary starting with the first  
11 full pay period that ends within the calendar month in which  
12 state hazardous duty member coverage plan 2 becomes applicable  
13 to the member, except that for members whose annual salary is  
14 greater than twenty thousand dollars (\$20,000):

15 A. from July 1, 2009 through June 30, 2011, the  
16 member contribution rate shall be six and twenty-eight  
17 hundredths percent of salary;

18 B. from July 1, 2011 through June 30, 2012, the  
19 member contribution rate shall be eight and three-hundredths  
20 percent of salary; and

21 C. from July 1, 2012 through June 30, 2013, the  
22 member contribution rate shall be six and twenty-eight  
23 hundredths percent of salary."

24 SECTION 6. Section 10-11-38.6 NMSA 1978 (being Laws  
25 1994, Chapter 128, Section 14, as amended) is amended to read:

1 "10-11-38.6. STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN  
2 2--STATE CONTRIBUTION RATE.--The state shall contribute  
3 twenty-five and seventy-two hundredths percent of the salary  
4 of each member covered by state hazardous duty member coverage  
5 plan 2 starting with the first pay period that ends within the  
6 calendar month in which state hazardous duty member coverage  
7 plan 2 becomes applicable to the member, except that for  
8 members whose annual salary is greater than twenty thousand  
9 dollars (\$20,000):

10 A. from July 1, 2009 through June 30, 2011, the  
11 state contribution rate shall be twenty-four and twenty-two  
12 hundredths percent of the salary of each member;

13 B. from July 1, 2011 through June 30, 2012, the  
14 state contribution rate shall be twenty-two and forty-seven  
15 hundredths percent of the salary of each member; and

16 C. from July 1, 2012 through June 30, 2013, the  
17 state contribution rate shall be twenty-four and twenty-two  
18 hundredths percent of the salary of each member."

19 SECTION 7. Section 10-12B-1 NMSA 1978 (being Laws 1992,  
20 Chapter 111, Section 1) is amended to read:

21 "10-12B-1. SHORT TITLE.--Chapter 10, Article 12B NMSA  
22 1978 may be cited as the "Judicial Retirement Act"."

23 SECTION 8. Section 10-12B-10 NMSA 1978 (being Laws  
24 1992, Chapter 111, Section 10, as amended) is amended to read:

25 "10-12B-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

1           A. Members, while in office, shall contribute to  
2 the member contribution fund pursuant to the following  
3 schedule:

4                   (1) prior to July 1, 2005, five and one-half  
5 percent of salary;

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

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

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

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

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

21           B. Upon implementation, the state, acting as  
22 employer of members covered pursuant to the provisions of the  
23 Judicial Retirement Act, shall, solely for the purpose of  
24 compliance with Section 414(h) of the Internal Revenue Code of  
25 1986, pick up for the purposes specified in that section

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

21 **SECTION 9.** Section 10-12B-11 NMSA 1978 (being Laws  
22 1992, Chapter 111, Section 11, as amended) is amended to read:

23 "10-12B-11. EMPLOYER CONTRIBUTIONS.--

24 A. The member's court shall contribute the  
25 following amounts to the fund:



1 (1) prior to July 1, 2005, nine percent of  
2 salary for each member in office;

3 (2) from July 1, 2005 through June 30, 2006,  
4 ten and one-half percent of salary for each member in office;  
5 and

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

10 (a) from July 1, 2009 through June 30,  
11 2011, the member's court contribution rate shall be ten and  
12 one-half percent of salary for each member in office;

13 (b) from July 1, 2011 through June 30,  
14 2012, the member's court contribution rate shall be eight and  
15 three-fourths percent of salary for each member in office; and

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

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

25 **SECTION 10.** Section 10-12C-1 NMSA 1978 (being Laws

1 1992, Chapter 118, Section 1) is amended to read:

2 "10-12C-1. SHORT TITLE.--Chapter 10, Article 12C NMSA  
3 1978 may be cited as the "Magistrate Retirement Act"."

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

6 "10-12C-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

7 A. Members, while in office, shall contribute the  
8 following amounts to the member contribution fund:

9 (1) through June 30, 2006, six and one-half  
10 percent of salary; and

11 (2) on and after July 1, 2006, seven and  
12 one-half percent of salary, except that for members whose  
13 annual salary is greater than twenty thousand dollars  
14 (\$20,000):

15 (a) from July 1, 2009 through June 30,  
16 2011, the member contribution rate shall be nine percent of  
17 salary;

18 (b) from July 1, 2011 through June 30,  
19 2012, the member contribution rate shall be ten and three-  
20 fourths percent of salary; and

21 (c) from July 1, 2012 through June 30,  
22 2013, the member contribution rate shall be nine percent of  
23 salary.

24 B. Upon implementation, the state, acting as  
25 employer of members covered pursuant to the provisions of the

1 Magistrate Retirement Act, shall, solely for the purpose of  
2 compliance with Section 414(h) of the Internal Revenue Code of  
3 1986, pick up for the purposes specified in that section  
4 member contributions required by this section for all annual  
5 salary earned by the member. Member contributions picked up  
6 pursuant to the provisions of this section shall be treated as  
7 employer contributions for purposes of determining income tax  
8 obligations under the Internal Revenue Code of 1986; however,  
9 such picked-up member contributions shall be included in the  
10 determination of the member's gross annual salary for all  
11 other purposes under federal and state laws. Member  
12 contributions picked up pursuant to the provisions of this  
13 section shall continue to be designated member contributions  
14 for all purposes of the Magistrate Retirement Act and shall be  
15 considered as part of the member's annual salary for purposes  
16 of determining the amount of the member's contribution. The  
17 provisions of this section are mandatory, and the member shall  
18 have no option concerning the pick up or concerning the  
19 receipt of the contributed amounts directly instead of having  
20 the amounts paid by the employer to the retirement system.  
21 Implementation occurs upon authorization by the board. In no  
22 event may implementation occur other than at the beginning of  
23 a pay period applicable to the member."

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

1 "10-12C-11. EMPLOYER CONTRIBUTIONS.--

2 A. The state, through the administrative office of  
3 the courts, shall contribute the following amounts to the  
4 fund:

5 (1) through June 30, 2006, ten percent of  
6 salary for each member in office; and

7 (2) on and after July 1, 2006, eleven  
8 percent of salary for each member in office, except that for  
9 members whose annual salary is greater than twenty thousand  
10 dollars (\$20,000):

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

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

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

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

25 SECTION 13. Section 22-11-21 NMSA 1978 (being Laws

1 1967, Chapter 16, Section 144, as amended) is amended to read:

2 "22-11-21. CONTRIBUTIONS--MEMBERS--LOCAL ADMINISTRATIVE  
3 UNITS.--

4 A. Except as provided in Subsection C of this  
5 section, each member shall make contributions to the fund  
6 according to the following schedule:

7 (1) through June 30, 2005, an amount equal  
8 to seven and six-tenths percent of the member's annual salary;

9 (2) from July 1, 2005 through June 30, 2006,  
10 an amount equal to seven and six hundred seventy-five  
11 thousandths percent of the member's annual salary;

12 (3) from July 1, 2006 through June 30, 2007,  
13 an amount equal to seven and seventy-five hundredths percent  
14 of the member's annual salary;

15 (4) from July 1, 2007 through June 30, 2008,  
16 an amount equal to seven and eight hundred twenty-five  
17 thousandths percent of the member's annual salary; and

18 (5) on and after July 1, 2008, an amount  
19 equal to seven and nine-tenths percent of the member's annual  
20 salary, except that for members whose annual salary is greater  
21 than twenty thousand dollars (\$20,000):

22 (a) from July 1, 2009 through June 30,  
23 2011, the member contribution rate shall be nine and four-  
24 tenths percent of the member's annual salary;

25 (b) from July 1, 2011 through June 30,

1 2012, the member contribution rate shall be eleven and  
2 fifteen-hundredths percent of the member's annual salary; and

3 (c) from July 1, 2012 through June 30,  
4 2013, the member contribution rate shall be nine and four-  
5 tenths of the member's annual salary.

6 B. Except as provided in Subsection C of this  
7 section, each local administrative unit shall make an annual  
8 contribution to the fund according to the following schedule:

9 (1) through June 30, 2005, a sum equal to  
10 eight and sixty-five hundredths percent of the annual salary  
11 of each member employed by the local administrative unit;

12 (2) from July 1, 2005 through June 30, 2006,  
13 a sum equal to nine and forty-hundredths percent of the annual  
14 salary of each member employed by the local administrative  
15 unit;

16 (3) from July 1, 2006 through June 30, 2007,  
17 a sum equal to ten and fifteen-hundredths percent of the  
18 annual salary of each member employed by the local  
19 administrative unit;

20 (4) from July 1, 2007 through June 30, 2008,  
21 a sum equal to ten and ninety-hundredths percent of the annual  
22 salary of each member employed by the local administrative  
23 unit;

24 (5) from July 1, 2008 through June 30, 2009,  
25 a sum equal to eleven and sixty-five hundredths percent of the

1 annual salary of each member employed by the local  
2 administrative unit;

3 (6) from July 1, 2009 through June 30, 2011,  
4 a sum equal to ten and nine-tenths percent of the annual  
5 salary of each member employed by the local administrative  
6 unit, except that for members whose annual salary is twenty  
7 thousand dollars (\$20,000) or less, the local administrative  
8 unit shall contribute twelve and four-tenths percent of the  
9 member's annual salary;

10 (7) from July 1, 2011 through June 30, 2012,  
11 a sum equal to nine and fifteen-hundredths percent of the  
12 annual salary of each member employed by the local  
13 administrative unit, except that for members whose annual  
14 salary is twenty thousand dollars (\$20,000) or less, the local  
15 administrative unit shall contribute twelve and four-tenths  
16 percent of the member's annual salary;

17 (8) from July 1, 2012 through June 30, 2013,  
18 a sum equal to ten and nine-tenths percent of the annual  
19 salary of each member employed by the local administrative  
20 unit, except that for members whose annual salary is twenty  
21 thousand dollars (\$20,000) or less, the local administrative  
22 unit shall contribute twelve and four-tenths percent of the  
23 member's annual salary;

24 (9) from July 1, 2013 through June 30, 2014,  
25 a sum equal to thirteen and fifteen-hundredths percent of the

1 annual salary of each member employed by the local  
2 administrative unit; and

3 (10) on and after July 1, 2014, a sum equal  
4 to thirteen and nine-tenths percent of the annual salary of  
5 each member employed by the local administrative unit.

6 C. If, in a calendar year, the salary of a member,  
7 initially employed by a local administrative unit on or after  
8 July 1, 1996, equals the annual compensation limit set  
9 pursuant to Section 401(a)(17) of the Internal Revenue Code of  
10 1986, as amended, then:

11 (1) for the remainder of that calendar year,  
12 no additional member contributions or local administrative  
13 unit contributions for that member shall be made pursuant to  
14 this section; provided that no member shall be denied service  
15 credit solely because contributions are not made by the member  
16 or on behalf of the member pursuant to the provisions of this  
17 subsection; and

18 (2) the amount of the annual compensation  
19 limit shall be divided into four equal portions, and, for  
20 purposes of attributing contributory employment and crediting  
21 service credit, each portion shall be attributable to one of  
22 the four quarters of the calendar year."

23 **SECTION 14. TEMPORARY PROVISION--ACTUARIAL STUDY--**  
24 **SUPPLEMENTAL APPROPRIATION REQUEST.--**

25 A. No later than September 30, 2013, the



1 retirement board of the public employees retirement  
2 association and the educational retirement board shall each  
3 cause an actuarial study to be conducted for each retirement  
4 system administered by the board. Each study shall analyze  
5 whether the higher employee contribution rates and lower  
6 employer contribution rates required by this act and Laws  
7 2009, Chapter 127 have had or will have an adverse actuarial  
8 effect on the retirement system in violation of Article 20,  
9 Section 22 of the constitution of New Mexico. The results of  
10 each study shall be submitted to the legislative finance  
11 committee and the governor.

12 B. If a study concludes that a retirement system  
13 has had or will have an adverse actuarial effect as a result  
14 of the higher employee contribution rates and the lower  
15 employer contribution rates required by this act and Laws  
16 2009, Chapter 127, the board that administers that retirement  
17 system shall submit a request for a supplemental appropriation  
18 to the second session of the fifty-first legislature in the  
19 amount that will rectify the adverse actuarial effect.

20 SECTION 15. TEMPORARY PROVISION--DETERMINATION OF  
21 ANNUAL SALARY FOR PURPOSES OF CALCULATING EMPLOYEE AND  
22 EMPLOYER CONTRIBUTIONS.--For the purposes of calculating  
23 employee and employer contributions due after June 30, 2011,  
24 in determining whether an employee has an annual salary  
25 greater or less than twenty thousand dollars (\$20,000), the

1 employee's annual salary shall be the employee's base hourly  
2 rate at the time the contribution is made multiplied by the  
3 number of compensable hours for a full-time-equivalent in the  
4 employee's position at the time the contribution is made as  
5 determined by the employer; provided that the department of  
6 finance and administration shall determine the number of  
7 compensable hours for a full-time-equivalent in the employee's  
8 position for employees who are members in a retirement program  
9 provided for in the Public Employees Retirement Act, the  
10 Magistrate Retirement Act or the Judicial Retirement Act.

11 SECTION 16. TEMPORARY PROVISION--CONTINGENT

12 CONTRIBUTION RATES FOR FISCAL YEAR 2013.--Notwithstanding a  
13 provision of this act to the contrary, the employer and  
14 employee contribution rates required by this act for the  
15 period from July 1, 2011 through June 30, 2012 shall continue  
16 for the period from July 1, 2012 through June 30, 2013 if,  
17 after the last consensus revenue forecast before the beginning  
18 of the second session of the fiftieth legislature, the  
19 secretary of finance and administration certifies to the  
20 retirement board of the public employees retirement  
21 association, the educational retirement board and the  
22 legislative finance committee that, according to the consensus  
23 revenue forecast:

24 (1) general fund revenues in fiscal year  
25 2012 will be less than one hundred million dollars

1 (\$100,000,000) more than the general fund revenue forecast  
2 reflected in the fiscal year 2012 state budget; and

3 (2) at the end of fiscal year 2012, the  
4 total amount in the state reserve funds will be less than five  
5 percent of the total general fund appropriations for fiscal  
6 year 2012.

7 SECTION 17. EFFECTIVE DATE.--The effective date of the  
8 provisions of this act is July 1, 2011. \_\_\_\_\_

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*Ben Lujan*

BEN LUJAN, SPEAKER  
HOUSE OF REPRESENTATIVES

*Stephen R. Arias*

STEPHEN R. ARIAS, CHIEF CLERK  
HOUSE OF REPRESENTATIVES

*John A. Sanchez*

JOHN A. SANCHEZ, PRESIDENT  
SENATE

*Lenore M. Naranjo*

LENORE M. NARANJO, CHIEF CLERK  
SENATE

Approved by me this 8th day of April, 2011

*Susana Martinez*

SUSANA MARTINEZ, GOVERNOR  
STATE OF NEW MEXICO

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