



## 2017 Proposed Legislative Changes

### Investments and Pensions Oversight Committee

*Senator George K. Munoz, Chair*

*Representative Monica Youngblood, Vice-Chair*

*November 29, 2016*

*Patricia "Patty" French, PERA Board Chair*

*Wayne Propst, PERA Executive Director*

*Karyn Lujan, PERA Smart Save Plan Manager*



# NM PERA Smart Save Deferred Compensation Plan

- The PERA Smart Save Deferred Compensation Plan is an optional, supplemental retirement plan under 457b of the Internal Revenue Code
- A *defined contribution* plan – participant directed, based on risk tolerance; no liability to the Plan Sponsor (PERA)
- Designed to provide government and other public employees with a tax-deferred savings vehicle for retirement
- PERA Board oversight as fiduciary of the Plan
- As of October 2016:
  - 19,800 participants
  - \$510 million AUM



# Defined Contribution Act – History

- Deferred Compensation Act, NMSA 1978, Section 10-7a-12  
(Enacted April 6, 1981; Laws of 1981, ch. 151)
- There have been no substantive amendments to the Deferred Compensation Act since it was enacted
- As a result of evolving plan operations and to bring the statute up to current practice, revisions are warranted
- **Endorsed by the PERA Board**





# Proposed Amendments

- Allow electronic transactions to increase participation and enhance retirement savings (§10-7A-3)
- Update and accurately define the Plan's investment opportunities to coincide the Plan's investment policy statement (§10-7A-5)
- Routine legislative clean-up to accurately reflect the Plan's administrative operations (§10-7A-2, §10-7A-3, §10-7A-8)



# Amend Reciprocity Act Payor Fund Requirement

- Under the Public Employees Reciprocity Retirement Act (“Reciprocity Act”), service credit earned under different state retirement systems (PERA, ERA, MRA, JRA) may be combined towards retirement eligibility and used to calculate pension benefits. Members with reciprocal service credit retire under the state system of their last employer.
- Current law requires that the state system from which the member retires be the “payor” fund for the pension. NMSA 1978, Section 10-14-1 (E) (1978). Each state system then reimburses the payor fund the amount of the pension payments made on behalf of the other state system.



- If the member retires from PERA, PERA pays the entire benefit amount and is reimbursed by ERB on a monthly basis and vice-versa if the member retires from ERB.

Issues Caused among PERA & ERB Include				
Reconciliation Issues	Manual Cost of Living Adjustments	1099 Discrepancies	Plan Changes/Programming Changes	Confusion amongst members



# Amend Reciprocity Act Payor Fund Requirement

Proposal would amend NMSA 1978, Section 10-14-1 (E) (1978) as follows:

E. ~~[the state system from which a member with eligible reciprocal service credit retires shall be the payor fund for the pension; provided that:~~

~~(1)]~~ each state system shall ~~[reimburse the payor fund]~~ pay the amount of the component of the pension attributable to service credit accrued under that state system; ~~[and~~

~~(2) reimbursements shall be made in the manner and frequency determined by the boards]~~

Endorsed by the PERA Board

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53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PUBLIC EMPLOYEES; AMENDING THE DEFERRED  
COMPENSATION ACT TO UPDATE DEFINITIONS, INVESTMENT OPTIONS,  
TRANSMISSION METHOD AND FILING AND NOTIFICATION REQUIREMENTS.

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

SECTION 1. Section 10-7A-2 NMSA 1978 (being Laws 1981,  
Chapter 155, Section 2, as amended) is amended to read:

"10-7A-2. DEFINITIONS.--As used in the Deferred  
Compensation Act:

A. "board" means the public [~~employees~~<sup>1</sup>] employees  
retirement board;

B. "local public body" means all political  
subdivisions of the state, their agencies, instrumentalities  
and institutions;

C. "local public employee" means any officer or

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1 employee to whom a local public body pays a salary for services  
2 rendered;

3 D. "deferred compensation carriers" means any  
4 corporation, partnership or persons ~~[who provide investment~~  
5 ~~options]~~ providing administrative, recordkeeping or investment  
6 consulting services to participants in deferred compensation  
7 plans pursuant to funding agreements; and

8 E. "state employee" means any officer or employee  
9 to whom the state pays a salary for services rendered."

10 SECTION 2. Section 10-7A-3 NMSA 1978 (being Laws 1984,  
11 Chapter 127, Section 988.1, as amended) is amended to read:

12 "10-7A-3. DEFERRED COMPENSATION PLAN--STATE AND LOCAL  
13 PUBLIC ~~[BODY]~~ EMPLOYEES.--

14 A. After the effective date of the Deferred  
15 Compensation Act, the board shall review and approve deferred  
16 compensation plans for participation by state and local public  
17 employees. A deferred compensation plan shall provide for the  
18 method of transfer of funds to a plan through written or  
19 electronic salary reduction agreements with state and local  
20 public employees and shall provide for deferral of only those  
21 salary amounts upon which income taxes are eligible for  
22 deferral pursuant to federal law.

23 B. Compensation deferred under any deferred  
24 compensation plan shall be included with current income for  
25 purposes of computing retirement contributions and benefits.

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1 C. Amounts by which salary is reduced shall be  
2 transmitted ~~[to the state treasurer or his designated agent who~~  
3 ~~shall then transfer such amounts directly]~~ to the approved  
4 deferred compensation carrier.

5 D. Local public employees may ~~[through formal~~  
6 ~~action of their governing boards]~~ participate in a deferred  
7 compensation plan selected by ~~[such governing board]~~ their  
8 local public body employer after it takes formal action  
9 conforming to board requirements. If the plan selected is  
10 different from the plan approved by the board, the board shall  
11 have no responsibility concerning the plan. If the plan  
12 selected is that approved by the board pursuant to Section  
13 10-7A-5 NMSA 1978, ~~[participation by employees of the local~~  
14 ~~public body so selecting is effected pursuant to]~~ the  
15 provisions of Section 10-7A-8 NMSA 1978 shall apply."

16 SECTION 3. Section 10-7A-5 NMSA 1978 (being Laws 1984,  
17 Chapter 127, Section 988.2, as amended) is amended to read:

18 "10-7A-5. DEFERRED COMPENSATION PLAN--APPROVAL.--

19 A. The board shall review proposals providing  
20 investment options to participants of a deferred compensation  
21 plan submitted by deferred compensation carriers ~~[which]~~ that  
22 have been engaged for a minimum of three years in the business  
23 of funding public employee deferred compensation plans  
24 authorized by 26 U.S.C. Section 457 and approve ~~[not more than~~  
25 ~~four such]~~ proposals ~~[which]~~ that are consistent with the goals

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1 of providing state or local public employees with an investment  
2 that, in the opinion of the board, is safe and will provide a  
3 reasonable return to the employees upon their reaching the  
4 appropriate age or date at which they may begin receiving funds  
5 from the deferred compensation plan.

6 B. The type of deferred compensation investment  
7 options that may be approved include

8 [~~(1) life insurance or annuity contracts with~~  
9 ~~insurance companies licensed to conduct such business in New~~  
10 ~~Mexico;~~

11 ~~(2)] mutual funds, including stock, bond or~~  
12 ~~capital preservation funds [~~and money market funds;~~~~

13 ~~(3) deferred compensation investment options~~  
14 ~~of New Mexico banks or savings and loan associations, such~~  
15 ~~banks or savings and loan associations to provide, as security~~  
16 ~~for participants' funds, collateral, such as U.S. treasury~~  
17 ~~securities or other liquid securities, for amounts of~~  
18 ~~participants' funds in excess of applicable depository~~  
19 ~~insurance; and~~

20 ~~(4) other deferred compensation investment~~  
21 ~~options, including those created by the board not requiring~~  
22 ~~funding agreements with deferred compensation carriers, deemed]~~  
23 ~~or any other investments determined by the board to fulfill the~~  
24 ~~goals of providing viable deferred compensation for state or~~  
25 ~~local public employees."~~

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1           SECTION 4. Section 10-7A-8 NMSA 1978 (being Laws 1981,  
2 Chapter 155, Section 8, as amended) is amended to read:

3           "10-7A-8. DEFERRED COMPENSATION PLAN--LOCAL PUBLIC  
4 EMPLOYEE PARTICIPATION.--

5           A. Local public employees shall be eligible to  
6 participate in a deferred compensation plan approved by the  
7 board upon the filing of ~~[the governing authority's written~~  
8 ~~notice]~~ a local public body's participation agreement,  
9 conforming to board requirements, applicable to ~~[all the]~~ its  
10 local public employees and such other participants permitted by  
11 the plan as the local public body may elect. Such filing shall  
12 be made at such dates and places and in such manner as the  
13 board ~~[determines]~~ requires.

14           B. A local public body may terminate its local  
15 public employees' and other qualified participants' future  
16 participation in a board-approved plan any time not less than  
17 two years after the date participation has become effective,  
18 upon the ~~[governing authority's]~~ local public body's filing of  
19 written or electronic notice ~~[at such dates and places as the]~~  
20 conforming to board ~~[determines]~~ requirements."

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53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PUBLIC EMPLOYEES; PROVIDING FOR SEPARATE PAYMENT BY  
THE PUBLIC EMPLOYEES RETIREMENT ASSOCIATION AND THE EDUCATIONAL  
RETIREMENT BOARD OF RETIREMENT BENEFITS ACCUMULATED UNDER  
MULTIPLE STATE SYSTEMS.

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

SECTION 1. Section 10-13A-4 NMSA 1978 (being Laws 1992,  
Chapter 116, Section 16, as amended) is amended to read:

"10-13A-4. NORMAL RETIREMENT--PENSION BENEFIT.--If a  
member has one month or more of eligible reciprocal service  
credit under each of two or more state systems, the following  
provisions shall apply, together with the applicable provisions  
of the Public Employees Retirement Reciprocity Act, the  
Educational Retirement Act, the Public Employees Retirement  
Act, the Judicial Retirement Act, the Magistrate Retirement Act

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1 and the rules and regulations for those acts promulgated by the  
2 board:

3 A. a member's total eligible reciprocal service  
4 credit under all state systems shall be used in satisfying the  
5 service credit requirements for normal retirement under the  
6 state system from which the member retires;

7 B. when a member with eligible reciprocal service  
8 credit retires, the member shall receive a pension that is  
9 equal to the sum of the pensions attributable to the service  
10 credit the member has accrued under each state system, subject  
11 to the following restrictions:

12 (1) the salary used in calculating each  
13 component of the pension shall be the salary, average annual  
14 salary or final average salary, as those terms are defined  
15 under the applicable act, earned while the member was covered  
16 under the state system calculating that component as follows:

17 (a) the member's entire salary history  
18 under the public employees retirement system and the  
19 educational retirement system shall be used to determine the  
20 final average salary and annual average salary under each state  
21 system if the member has eligible reciprocal service credit  
22 under both state systems;

23 (b) the member's entire salary history  
24 under the educational retirement system and the judicial  
25 retirement system or the magistrate retirement system, or both,

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1 shall be used to determine the average annual salary under the  
2 Educational Retirement Act if the member has eligible  
3 reciprocal service credit under those state systems but has  
4 less than five years of service credit under the educational  
5 retirement system;

6 (c) the member's salary history under  
7 the educational retirement system shall be used to determine  
8 the average annual salary under that system if the member has  
9 eligible reciprocal service credit under the Educational  
10 Retirement Act and the Judicial Retirement Act or the  
11 Magistrate Retirement Act, or both, and has five or more years  
12 of service credit under the educational retirement system; or

13 (d) if a member has less than twelve  
14 months of credited service under the judicial retirement system  
15 or the magistrate retirement system, the final year's salary  
16 shall be the aggregate amount of salary paid to the member for  
17 the period of credited service divided by the member's credited  
18 service times twelve;

19 (2) the member shall meet the age and service  
20 credit requirements for retirement under each applicable state  
21 system before the component of the pension attributable to  
22 service credit accrued under that state system may be paid;  
23 provided that the member's total eligible reciprocal service  
24 credit under all state systems shall be used in satisfying the  
25 service credit requirement for normal retirement under each

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1 state system;

2 (3) the member shall terminate employment  
3 under all state systems before the member may receive a pension  
4 from any state system; and

5 (4) the member shall file an application for  
6 retirement under the state system under which the member was  
7 last employed, in accordance with the requirements of that  
8 state system;

9 C. subject to the restrictions contained in this  
10 section, the component of the pension attributable to each  
11 state system shall be calculated based upon:

12 (1) the member's eligible reciprocal service  
13 credit acquired as a member of that state system; and

14 (2) the pension calculation formula applicable  
15 to the member under that state system;

16 D. the following limitations shall apply to  
17 pensions calculated under the Public Employees Retirement  
18 Reciprocity Act:

19 (1) in no case shall the total amount of the  
20 pension, calculated under the Public Employees Retirement  
21 Reciprocity Act and received by a member attributable to all  
22 state systems, exceed the amount allowable under Section 415 of  
23 the Internal Revenue Code; and

24 (2) where the member has less than five years  
25 of service credit in one state system, the pension from that

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1 state system shall not exceed six hundred twenty-five [one]  
2 thousandths percent per month of service under that state  
3 system multiplied by the following amount applicable under that  
4 state system:

5 (a) one-twelfth of the member's  
6 magistrate salary received during the last year in office;

7 (b) one-twelfth of the member's judicial  
8 salary received during the last year in office; or

9 (c) the member's final average salary as  
10 defined pursuant to the Public Employees Retirement Act;

11 E. the state system from which a member [with]  
12 earned eligible reciprocal service credit [~~retires shall be the~~  
13 ~~payor fund for the pension; provided that:~~

14 ~~(1) each state system shall reimburse the~~  
15 ~~payor fund]~~ shall pay the amount of the component of the  
16 pension attributable to service credit accrued under that state  
17 system; [and

18 ~~(2) reimbursements shall be made in the manner~~  
19 ~~and frequency determined by the boards;]~~

20 F. in no case shall any member retire from more  
21 than one state system; and

22 G. if a member retires from any state system with  
23 eligible reciprocal service credit and is subsequently employed  
24 by any employer covered by a state system, the retired member's  
25 eligibility to continue to receive pension payments shall be

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governed by the retirement act governing the state system from  
which the member retired. Subsequent membership in the  
retirement program under which the subsequent employee is  
covered shall be governed by that retirement act."