

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 33

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

AN ACT

RELATING TO PENSIONS; AMENDING JUDICIAL RETIREMENT ACT
PROVISIONS 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,
2014 AND INCREASING THE NUMBER OF YEARS USED TO CALCULATE THE
FINAL AVERAGE SALARY; PROVIDING A TEMPORARY SUSPENSION OF AND
DECREASE AND DELAY OF THE COST-OF-LIVING ADJUSTMENT; INCREASING
THE MAXIMUM PENSION BENEFIT; INCREASING CONTRIBUTION RATES;
REQUIRING MEMBERSHIP; CHANGING THE PENSION FORM OF PAYMENT AND
SURVIVOR BENEFICIARY PROVISIONS FOR NEW JUDGES AND JUSTICES
WHOSE TERMS OF OFFICE BEGIN ON OR AFTER JULY 1, 2014; PROVIDING
FOR THE SUSPENSION OF THE COST-OF-LIVING ADJUSTMENT FOR RETURN-
TO-WORK JUDGES, JUSTICE AND MAGISTRATES.

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

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1 SECTION 1. Section 10-11-8 NMSA 1978 (being Laws 1987,
2 Chapter 253, Section 8, as amended) is amended to read:

3 "10-11-8. NORMAL RETIREMENT--RETURN TO EMPLOYMENT--
4 BENEFITS CONTINUED--CONTRIBUTIONS.--

5 A. A member may retire upon fulfilling the
6 following requirements prior to the selected date of
7 retirement:

8 (1) a written application for normal
9 retirement, in the form prescribed by the association, is filed
10 with the association;

11 (2) employment is terminated with all
12 employers covered by any state system or the educational
13 retirement system;

14 (3) the member selects an effective date of
15 retirement that is the first day of a calendar month; and

16 (4) the member meets the age and service
17 credit requirement for normal retirement specified in the
18 coverage plan applicable to the member.

19 B. The amount of normal retirement pension is
20 determined in accordance with the coverage plan applicable to
21 the member.

22 C. Except as provided in Subsection E of this
23 section, on or after July 1, 2010, a retired member may be
24 subsequently employed by an affiliated public employer only
25 pursuant to the following provisions:

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1 (1) the retired member has not been employed
2 as an employee of an affiliated public employer or retained as
3 an independent contractor by the affiliated public employer
4 from which the retired member retired for at least twelve
5 consecutive months from the date of retirement to the
6 commencement of subsequent employment or reemployment with an
7 affiliated public employer;

8 (2) the [~~previously~~] retired member's pension
9 shall be suspended upon commencement of the subsequent
10 employment;

11 (3) except as provided in Subsection G of this
12 section, the [~~previously~~] retired member shall not become a
13 member and [~~thus the previously retired member~~] shall not
14 accrue service credit, and the [~~previously~~] retired member and
15 that person's subsequent affiliated public employer shall not
16 make contributions under any coverage plan pursuant to the
17 Public Employees Retirement Act; and

18 (4) upon termination of the subsequent
19 employment, the [~~previously~~] retired member's pension shall
20 resume in accordance with the provisions of Subsection A of
21 this section.

22 D. Notwithstanding the provisions of Subsection B
23 of Section 10-11-118 NMSA 1978, on and after July 1, 2013, if a
24 retired member becomes employed with an employer pursuant to
25 the Educational Retirement Act, and effective July 1, 2014, if

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1 a retired member who, subsequent to retirement, is employed and
2 covered pursuant to the Magistrate Retirement Act:

3 (1) the retired member's cost-of-living
4 pension adjustment shall be suspended upon commencement of the
5 employment; and

6 (2) upon termination of the employment, the
7 retired member's suspended cost-of-living pension adjustment
8 shall be reinstated as provided under Subsection B of
9 Section 10-11-118 NMSA 1978.

10 E. The provisions of Subsections C, [~~and~~] H and I
11 of this section do not apply to:

12 (1) a retired member employed by the
13 legislature for legislative session work;

14 (2) a retired member employed temporarily as a
15 precinct board member for a municipal election or an election
16 covered by the Election Code; or

17 (3) a retired member who is elected to serve a
18 term as an elected official in an office covered pursuant to
19 the Public Employees Retirement Act; provided that:

20 (a) the retired member files an
21 irrevocable exemption from membership with the association
22 within thirty days of taking office; and

23 (b) the irrevocable exemption shall be
24 for the elected official's term of office.

25 F. A retired member who returns to employment

1 during retirement pursuant to Subsection E of this section is
2 entitled to receive retirement benefits but is not entitled to
3 accrue service credit or to acquire or purchase service credit
4 in the future for the period of the [~~previously~~] retired
5 member's [~~reemployment~~] subsequent employment with an
6 affiliated public employer.

7 G. At any time during a [~~previously~~] retired
8 member's subsequent employment pursuant to Subsection C of this
9 section, the [~~previously~~] retired member may elect to become a
10 member and the following conditions shall apply:

11 (1) the previously retired member and the
12 subsequent affiliated public employer shall make the required
13 employee and employer contributions, and the previously retired
14 member shall accrue service credit for the period of subsequent
15 employment; and

16 (2) when the previously retired member
17 terminates the subsequent employment with an affiliated public
18 employer, the previously retired member shall retire according
19 to the provisions of the Public Employees Retirement Act,
20 subject to the following conditions:

21 (a) payment of the pension shall resume
22 in accordance with the provisions of Subsection A of this
23 section;

24 (b) unless the previously retired member
25 accrued at least three years of service credit on account of

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1 the subsequent employment, the recalculation of pension shall:
2 1) employ the form of payment selected by the previously
3 retired member at the time of the first retirement; and 2) use
4 the provisions of the coverage plan applicable to the member on
5 the date of the first retirement; and

6 (c) the recalculated pension shall not
7 be less than the amount of the suspended pension.

8 H. A [~~previously~~] retired member who returned to
9 work with an affiliated public employer prior to July 1, 2010
10 shall be subject to the provisions of this section in effect on
11 the date the [~~previously~~] retired member returned to work;
12 provided that:

13 (1) on and after July 1, 2010, the
14 [~~previously~~] retired member shall pay the employee contribution
15 in an amount specified in the Public Employees Retirement Act
16 for the position in which the [~~previously~~] retired member is
17 subsequently employed;

18 (2) notwithstanding the provisions of
19 Subsection B of Section 10-11-118 NMSA 1978, on and after July
20 1, 2013, the [~~previously~~] retired member's cost-of-living
21 pension adjustment shall be suspended; and

22 (3) upon termination of the subsequent
23 employment with [~~an~~] the affiliated public employer, the
24 [~~previously~~] retired member's cost-of-living pension adjustment
25 shall be reinstated as provided in Subsection B of Section

1 10-11-118 NMSA 1978.

2 I. Effective July 1, 2014, if a retired member who,
3 subsequent to retirement, is employed and covered pursuant to
4 the provisions of the Judicial Retirement Act, during the
5 period of subsequent employment:

6 (1) the member shall be entitled to receive
7 retirement benefits;

8 (2) the retired member's cost-of-living
9 pension adjustment shall be suspended upon commencement of the
10 employment; and

11 (3) upon termination of the employment, the
12 retired member's suspended cost-of-living pension adjustment
13 shall be reinstated as provided under Subsection B of Section
14 10-11-118 NMSA 1978.

15 [~~I.~~] J. The pension of a member who has earned
16 service credit under more than one coverage plan shall be
17 determined as follows:

18 (1) the pension of a member who has three or
19 more years of service credit earned on or before June 30, 2013
20 under each of two or more coverage plans shall be determined in
21 accordance with the coverage plan that produces the highest
22 pension;

23 (2) the pension of a member who has service
24 credit earned on or before June 30, 2013 under two or more
25 coverage plans but who has three or more years of service

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1 credit under only one of those coverage plans shall be
2 determined in accordance with the coverage plan in which the
3 member has three or more years of service credit. If the
4 service credit is acquired under two different coverage plans
5 applied to the same affiliated public employer as a consequence
6 of an election by the members, adoption by the affiliated
7 public employer or a change in the law that results in the
8 application of a coverage plan with a greater pension, the
9 greater pension shall be paid a member retiring from the
10 affiliated public employer under which the change in coverage
11 plan took place regardless of the amount of service credit
12 under the coverage plan producing the greater pension; provided
13 that the member has three or more years of continuous
14 employment with that affiliated public employer immediately
15 preceding or immediately preceding and immediately following
16 the date the coverage plan changed;

17 (3) the pension of a member who has service
18 credit earned on or before June 30, 2013 under each of two or
19 more coverage plans and who has service credit earned under any
20 coverage plan on or after July 1, 2013 shall be equal to the
21 sum of:

22 (a) the pension attributable to the
23 service credit earned on or before June 30, 2013 determined
24 pursuant to Paragraph (1) or (2) of this subsection; and

25 (b) the pension attributable to the

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1 service credit earned under each coverage plan on or after July
2 1, 2013;

3 (4) the pension of a member who has service
4 credit earned only on and after July 1, 2013 shall be equal to
5 the sum of the pension attributable to the service credit the
6 member has accrued under each coverage plan; and

7 (5) the provisions of each coverage plan for
8 the purpose of this subsection shall be those in effect at the
9 time the member ceased to be covered by the coverage plan.

10 "Service credit", for the purposes of this subsection, shall be
11 only personal service rendered an affiliated public employer
12 and credited to the member under the provisions of Subsection A
13 of Section 10-11-4 NMSA 1978. Service credited under any other
14 provision of the Public Employees Retirement Act shall not be
15 used to satisfy the three-year service credit requirement of
16 this subsection."

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

19 "10-12B-2. DEFINITIONS.--As used in the Judicial
20 Retirement Act:

21 A. "association" means the public employees
22 retirement association provided for in the Public Employees
23 Retirement Act;

24 B. "board" means the retirement board provided for
25 in the Public Employees Retirement Act;

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1 ~~[G. "current judge or justice" means a judge or~~
2 ~~justice who occupied such an office on July 1, 1980 but who~~
3 ~~elected to be covered under the provisions of the retirement~~
4 ~~plan in effect at that time;~~

5 ~~D.]~~ C. "dependent child" means a natural or adopted
6 child who is physically or mentally incapable of financial
7 self-support, regardless of age;

8 ~~[E.]~~ D. "educational retirement system" means the
9 retirement system provided for in the Educational Retirement
10 Act;

11 ~~[F.]~~ E. "effective date of retirement" means the
12 first day of the month following the month in which the
13 member met all requirements for retirement;

14 ~~[G. "former judge or justice" means a judge or~~
15 ~~justice who occupied such an office prior to July 1, 1980 but~~
16 ~~who had ceased to hold such an office prior to that date and~~
17 ~~who elected to be excluded from the provisions of the~~
18 ~~Judicial Retirement Act;]~~

19 F. "final average salary" means the amount that
20 is one-sixtieth of the greatest aggregate amount of salary
21 paid a member for sixty consecutive, but not necessarily
22 continuous, months of service credit;

23 ~~[H.]~~ G. "former member" means a person no longer
24 in office who was previously covered pursuant to the
25 provisions of Sections 10-12-1 through 10-12-18 NMSA 1978,

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1 but who has not retired pursuant to the provisions of the
 2 Judicial Retirement Act and who has received a refund of
 3 member contributions pursuant to the provisions of Sections
 4 10-12B-1 through 10-12B-19 NMSA 1978;

5 ~~[F.]~~ H. "fund" means the judicial retirement
 6 fund;

7 ~~[J.]~~ I. "judge" means a judge of the metropolitan
 8 court, district court or court of appeals of New Mexico;

9 ~~[K.]~~ J. "justice" means a justice of the supreme
 10 court of New Mexico;

11 ~~[L.]~~ K. "member" means any judge or justice who
 12 is in office and covered pursuant to the provisions of the
 13 Judicial Retirement Act, or any person no longer in office
 14 who was previously a judge or justice covered pursuant to the
 15 provisions of the Judicial Retirement Act, who has not
 16 retired and who has not received a refund of member
 17 contributions from the fund;

18 ~~[M.]~~ L. "member contributions" means the amounts
 19 deducted from the salary of a member and credited to the
 20 member's individual account, together with interest, if any,
 21 credited thereto;

22 ~~[N.]~~ M. "minor child" means a natural or adopted
 23 child who has not reached his eighteenth birthday and who has
 24 not been emancipated by marriage or otherwise;

25 ~~[O.] "new judge or justice" means:~~

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1 ~~(1) a judge or justice who first occupied~~
2 ~~such an office after July 1, 1980; or~~

3 ~~(2) a judge or justice who occupied such an~~
4 ~~office on or before July 1, 1980 and who has elected to be~~
5 ~~covered under the provisions of the Judicial Retirement Act;~~

6 P.] N. "pension" means a series of monthly
7 payments to a retired member or survivor beneficiary pursuant
8 to the provisions of the Judicial Retirement Act;

9 [Q.] O. "refund beneficiary" means a person
10 designated by the member, in writing in the form prescribed
11 by the association, as the person who would be refunded the
12 member's accumulated member contributions payable if the
13 member dies and no survivor pension is payable, or who would
14 receive the difference between pension paid and accumulated
15 member contributions if the retired member dies before
16 receiving in pension payments the amount of the accumulated
17 member contributions;

18 [R.] P. "retire" means to:

19 (1) terminate employment with all employers
20 covered by any state system or the educational retirement
21 system; and

22 (2) receive a pension from one state system
23 or the educational retirement system;

24 [S.] Q. "retired member" means a person who has
25 met all requirements for retirement and who is receiving a

1 pension from the fund;

2 ~~[F.]~~ R. "salary" means the base salary or wages
3 paid a member, including longevity pay, for personal services
4 rendered; provided that salary does not include overtime pay;
5 allowances for housing, clothing, equipment or travel;
6 payments for unused sick leave, unless the unused sick leave
7 payment is made through continuation of the member on the
8 regular payroll for the period represented by that payment;
9 and any other form of remuneration not specifically
10 designated by law as included in salary pursuant to the
11 provisions of the Judicial Retirement Act;

12 ~~[U.]~~ S. "state system" means the retirement
13 programs provided pursuant to the provisions of the Public
14 Employees Retirement Act, the Magistrate Retirement Act and
15 the Judicial Retirement Act;

16 ~~[V.]~~ T. "surviving spouse" means the spouse to
17 whom the member was married at the time of the member's
18 death;

19 ~~[W.]~~ U. "survivor beneficiary" means a person who
20 receives a pension or who has been designated to be paid a
21 pension as a result of the death of a member or retired
22 member; and

23 ~~[X.]~~ V. "years of service" means a period of time
24 beginning on the date a person commences to hold office as a
25 judge or justice because of appointment or election and

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1 ending on the date a person ceases to hold office as a judge
2 or justice because of expiration of the judge's or justice's
3 term, voluntary resignation, death or disability and shall
4 include any fractions of years of service."

5 SECTION 3. Section 10-12B-4 NMSA 1978 (being Laws
6 1992, Chapter 111, Section 4) is amended to read:

7 "10-12B-4. MEMBERSHIP.--~~[Except for any judge or~~
8 ~~justice who has previously retired pursuant to the provisions~~
9 ~~of any state system or the educational retirement system]~~
10 Effective July 1, 2014, every judge or justice while in
11 office shall become a member [upon appointment or election to
12 that office] and shall be subject to the provisions of the
13 Judicial Retirement Act ~~[upon taking office, unless a written~~
14 ~~application for exemption from membership is filed with the~~
15 ~~association within ninety days of taking office. The~~
16 ~~application for exemption from membership may be revoked by~~
17 ~~filing with the association a written application for~~
18 ~~membership in the form prescribed by the association. If~~
19 ~~exemption from membership is revoked, membership shall~~
20 ~~commence on the first day of the first pay period following~~
21 ~~the date the application for membership was received by the~~
22 ~~association]; provided, however, that a judge or justice who,~~
23 prior to July 1, 2014, applied for and received an exemption
24 from membership, shall not become a member until such
25 exemption ends. A judge or justice who is retired under any

1 state system or the educational retirement system shall:

2 A. pay the applicable member contributions, and
3 the state, through the member's court, shall pay the
4 applicable employer contributions as provided pursuant to the
5 Judicial Retirement Act; and

6 B. not accrue service credit, and shall not be
7 eligible to purchase service credit nor to retire pursuant to
8 the Judicial Retirement Act."

9 SECTION 4. Section 10-12B-5 NMSA 1978 (being Laws
10 1992, Chapter 111, Section 5, as amended) is amended to read:

11 "10-12B-5. SERVICE CREDIT--REINSTATEMENT OF FORFEITED
12 SERVICE--PRIOR SERVICE--MILITARY SERVICE.--

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

21 B. Service credit shall be forfeited if a member
22 leaves office and withdraws the member's accumulated member
23 contributions. A member or former member who is a member of
24 a state system or the educational retirement system who has
25 forfeited service credit by withdrawal of member

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

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

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

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

25 (2) the member retains membership in the

1 association during the period of service in the uniformed
2 services;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (1) the member has [~~at least five~~] the
24 applicable minimum number of years of service credit acquired
25 as a result of personal service rendered under the Judicial

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1 Retirement Act;

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

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

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

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

15 SECTION 5. Section 10-12B-8 NMSA 1978 (being Laws
16 1992, Chapter 111, Section 8, as amended) is amended to read:

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

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

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

25 (2) age sixty years or older and fifteen or

1 more years of service credit.

2 B. For an individual who initially became a
3 member ~~[on or]~~ after ~~[July 1]~~ June 30, 2005 but on or before
4 June 30, 2014, the age and service credit requirements for
5 retirement provided for in the Judicial Retirement Act are:

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

8 (2) age fifty-five years or older and
9 sixteen or more years of service credit.

10 C. For an individual who initially became a
11 member on or after July 1, 2014, the age and service
12 requirements provided for in the Judicial Retirement Act are:

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

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

17 ~~[G.]~~ D. Except for a member who is retired under
18 any state system or the educational retirement system, if a
19 member leaves office for any reason, other than removal
20 pursuant to Article 6, Section 32 of the constitution of New
21 Mexico, before meeting the age and service credit
22 requirements for retirement pursuant to the provisions of
23 this section and if that member leaves ~~[his]~~ the member
24 contributions on deposit in the fund, that member may apply
25 for retirement when that member meets the age and service

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1 credit requirements for retirement pursuant to the provisions
2 of the Judicial Retirement Act or provisions of the Public
3 Employees Retirement Reciprocity Act.

4 ~~[D.]~~ E. No member shall be eligible to receive a
5 pension pursuant to the provisions of the Judicial Retirement
6 Act while still in office."

7 **SECTION 6.** Section 10-12B-9 NMSA 1978 (being Laws
8 1992, Chapter 111, Section 9, as amended) is amended to read:

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

11 ~~A. in the case of a former or current judge or~~
12 ~~justice]~~

13 A. For a judge or justice who occupied such an
14 office prior to July 1, 1980, but who had ceased to hold such
15 an office prior to that date and who elected to be excluded
16 from the provisions of the Judicial Retirement Act; or a
17 judge or justice who occupied such an office on July 1, 1980,
18 but who elected to be covered under the provisions of the
19 retirement plan in effect at that time, the amount of monthly
20 pension is an amount equal to one-twelfth of:

21 seventy-five percent
22 of salary received X number of years of
23 during last year in service, not exceeding
24 office prior to ten years, divided
25 retirement by ten.

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1 B. ~~[in the case of a new judge or justice who~~
 2 ~~initially became a member prior to July 1, 2005]~~ For a judge
 3 or justice who initially became a member before July 1, 2005
 4 and who initially occupied such an office after July 1, 1980;
 5 or a judge or justice who occupied such an office on or
 6 before July 1, 1980 and who has elected to be covered
 7 pursuant to the provisions of the Judicial Retirement Act,
 8 the amount of monthly pension is an amount equal to the sum
 9 of:

10 (1) for service credit earned on or before
 11 June 30, 2014, an amount equal to one-twelfth of:

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

17 (2) for service credit earned on and after
 18 July 1, 2014, an amount equal to one-sixtieth of the greatest
 19 aggregate amount of salary received for sixty consecutive,
 20 but not necessarily continuous, months in office multiplied
 21 by the product of three and one-half percent times the number
 22 of years of service credit.

23 C. ~~[in the case of a new]~~ For a judge or justice
 24 who initially became a member ~~[on or]~~ after ~~[July 1]~~ June 30,
 25 2005 but on or before June 30, 2014, the amount of monthly

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1 pension is an amount equal to the sum of:

2 (1) for service credit earned on or before
3 June 30, 2014, an amount equal to one-twelfth of the salary
4 received during the last year in office prior to retirement
5 multiplied by the product of three and seventy-five
6 hundredths percent times the sum of the number of years of
7 service [~~provided that a pension calculated pursuant to this~~
8 ~~subsection shall not exceed seventy-five percent of one-~~
9 ~~twelfth of the salary received during the last year in~~
10 ~~office]; and~~

11 (2) for service credit earned on and after
12 July 1, 2014, an amount equal to one-sixtieth of the greatest
13 aggregate amount of salary received for sixty consecutive,
14 but not necessarily continuous, months in office multiplied
15 by the product of three and one-half percent times the number
16 of years of service credit.

17 D. For a judge or justice who initially became a
18 member on or after July 1, 2014, the amount of monthly
19 pension under form of payment A is an amount equal to one-
20 sixtieth of the greatest aggregate amount of salary received
21 for sixty consecutive, but not necessarily continuous, months
22 in office multiplied by the product of three and one-fourth
23 percent times the number of years of service.

24 E. The amount of pension under form of payment A
25 for a pension calculated pursuant to Subsection D of this

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1 section shall not exceed eighty-five percent of one-sixtieth
 2 of the greatest aggregate amount of salary received for sixty
 3 consecutive, but not necessarily continuous, months prior to
 4 the member leaving office.

5 F. The amount of pension payable for a pension
 6 calculated pursuant to Subsection A, B or C of this section
 7 shall not exceed eighty-five percent of one-sixtieth of the
 8 greatest aggregate amount of salary received for sixty
 9 consecutive, but not necessarily continuous, months prior to
 10 the member leaving office. A pension benefit determined
 11 pursuant to this subsection shall not be less than the
 12 benefit earned as of June 30, 2014."

13 SECTION 7. Section 10-12B-10 NMSA 1978 (being Laws
 14 1992, Chapter 111, Section 10, as amended) is amended to
 15 read:

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

17 A. On and after July 1, 2014, members, while in
 18 office, shall contribute ten and one-half percent of salary
 19 to the member contribution fund [~~pursuant to the following~~
 20 ~~schedule:~~

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

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

25 ~~(3) on and after July 1, 2006, seven and~~

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

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

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

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

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

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

14 SECTION 8. Section 10-12B-11 NMSA 1978 (being Laws
 15 1992, Chapter 111, Section 11, as amended) is amended to
 16 read:

17 "10-12B-11. EMPLOYER CONTRIBUTIONS.--

18 A. The member's court shall contribute [~~the~~
 19 ~~following amounts~~] fifteen percent of salary to the fund for
 20 each member in office.

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

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

25 and

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

5 ~~(a) from July 1, 2009 through June 30,~~
6 ~~2011, the member's court contribution rate shall be ten and~~
7 ~~one-half percent of salary for each member in office;~~

8 ~~(b) from July 1, 2011 through June 30,~~
9 ~~2012, the member's court contribution rate shall be eight and~~
10 ~~three-fourths percent of salary for each member in office;~~

11 and

12 ~~(c) from July 1, 2012 through June 30,~~
13 ~~2013, the member's court contribution rate shall be ten and~~
14 ~~one-half percent of salary for each member in office.]~~

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

21 SECTION 9. Section 10-12B-13 NMSA 1978 (being Laws
22 1992, Chapter 111, Section 13) is amended to read:

23 "10-12B-13. DISABILITY RETIREMENT PENSION.--

24 A. A judge or justice with [~~five~~] the applicable
25 minimum number of years [~~or more~~] of service credit accrued

1 pursuant to the provisions of the Judicial Retirement Act who
 2 becomes unable to carry out the duties of that office due to
 3 physical or mental disability shall, upon determination of
 4 the disability and relinquishment of office, receive a
 5 pension from the fund so long as the disability continues.
 6 Determination of disability shall be made by the board in
 7 accordance with the provisions of the Public Employees
 8 Retirement Act and rules promulgated [~~thereunder~~] pursuant to
 9 that act.

10 B. The amount of the pension shall be calculated
 11 using the formula for normal retirement set out in Section [9
 12 ~~of the Judicial Retirement Act~~] 10-12B-9 NMSA 1978.

13 C. The [~~five-year~~] applicable service credit
 14 requirement shall be waived if the board finds the disability
 15 to have been the natural and proximate result of causes
 16 arising solely and exclusively out of and in the course of
 17 the member's performance of duty as a judge or justice, and
 18 the amount of pension shall be computed as if the member had
 19 [~~five~~] the applicable minimum number of years of service
 20 credit as a judge or justice."

21 SECTION 10. Section 10-12B-14 NMSA 1978 (being Laws
 22 1992, Chapter 111, Section 14) is amended to read:

23 "10-12B-14. SURVIVOR'S PENSION.--For a member whose
 24 initial term of office began prior to July 1, 2014:

25 A. unless [a] that member has designated a

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1 survivor beneficiary in accordance with Subsection B of this
2 section, a survivor pension shall be paid for life to a
3 member's or retired member's surviving spouse;

4 B. [A] the member may designate, in writing in a
5 form prescribed by the association, a survivor beneficiary to
6 receive the survivor's pension described in this section. If
7 the member is married, a designation of survivor beneficiary
8 other than the member's spouse may only be made with the
9 written consent of the member's spouse. Marriage subsequent
10 to a designation of survivor beneficiary shall automatically
11 revoke the designation of survivor beneficiary. A
12 designation of survivor beneficiary made pursuant to a court
13 order issued under Section [~~7 of the Judicial Retirement Act~~]
14 10-12B-7 NMSA 1978 shall not require the consent of the
15 member's spouse, if any, and shall not be revoked by the
16 subsequent remarriage of the member. A designation of
17 survivor beneficiary may be revoked by the member at any time
18 prior to the member's retirement. If the member is married,
19 a revocation of designation of survivor beneficiary may only
20 be made with the written consent of the member's spouse;

21 C. if there is no surviving spouse and no
22 designated survivor beneficiary or if the surviving spouse
23 dies while there are still minor and dependent children of
24 the member, the survivor's pension shall be paid to all minor
25 and dependent children, if any, of the member, in equal

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1 shares, so long as each child remains a minor or dependent
 2 child. As each child ceases to be a minor or dependent
 3 child, the number of shares shall be reduced and the amount
 4 payable to each remaining child increased proportionately so
 5 that the total survivor's pension remains unchanged as long
 6 as there is any such child;

7 D. the survivor's pension is equal to seventy-
 8 five percent of the member's pension;

9 E. survivor beneficiaries shall be eligible for
 10 other benefits provided pursuant to the provisions of the
 11 Judicial Retirement Act, including cost-of-living adjustments
 12 and continuation of group insurance benefits; and

13 F. if [~~a~~] the member dies while receiving a
 14 disability retirement pension, the survivor beneficiary shall
 15 receive the survivor pension provided pursuant to the
 16 provisions of the Judicial Retirement Act."

17 **SECTION 11.** A new section of the Judicial Retirement
 18 Act, Section 10-12B-14.1 NMSA 1978, is enacted to read:

19 "10-12B-14.1. [NEW MATERIAL] ELECTION FORM OF
 20 PENSION.--For a member whose initial term in office begins on
 21 or after July 1, 2014, except as otherwise provided in
 22 Section 10-12B-7 NMSA 1978:

23 A. the member may elect to have pension payments
 24 made under any one of the forms of payment provided in
 25 Section 10-12B-14.2 NMSA 1978. The election of form of

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1 payment and naming of survivor pension beneficiary shall be
2 made on a form furnished by and filed with the association
3 prior to the date the first pension payment is made. An
4 election of form of payment may not be changed after the date
5 the first pension payment is made. If the member is married,
6 the association shall require the consent of the member's
7 spouse to the election of the form of payment and any
8 designation of survivor pension beneficiary before the
9 election or designation is effective. Except as provided in
10 Subsection C, D or E of this section, a named survivor
11 pension beneficiary may not be changed after the date the
12 first pension payment is made if form of payment B or C is
13 elected. Except as otherwise provided in Section 10-12B-7
14 NMSA 1978, payment shall be made:

15 (1) under form of payment A if the member is
16 not married at the time of retirement and if there is not a
17 timely election of another form of payment; or

18 (2) under form of payment C with the
19 member's spouse as survivor pension beneficiary if the member
20 is married at the time of retirement and there is not a
21 timely election of another form of payment;

22 B. the amount of pension under forms of payment
23 B, C and D shall have the same actuarial present value,
24 computed as of the effective date of the pension, as the
25 amount of pension under form of payment A;

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1 C. if the member is a retired member who is being
2 paid a pension under form of payment B or C with the member's
3 spouse as the designated survivor pension beneficiary, the
4 retired member may, upon becoming divorced from the named
5 spouse and subject to an order of a court as provided for in
6 Section 10-12B-7 NMSA 1978, elect to have future payments
7 made under form of payment A;

8 D. if the member is retired and was previously
9 being paid a pension under form of payment B or C but,
10 because of the death of the designated survivor pension
11 beneficiary, is currently receiving a pension under form of
12 payment A, the retired member may exercise a one-time
13 irrevocable option to designate another individual as the
14 survivor pension beneficiary and may select either form of
15 payment B or form of payment C; provided that:

16 (1) the amount of the pension under the form
17 of payment selected shall be recalculated and have the same
18 actuarial present value, computed on the effective date of
19 the designation, as the amount of pension under form of
20 payment A;

21 (2) the designation and the amount of the
22 pension shall be subject to a court order as provided for in
23 Section 10-12B-7 NMSA 1978; and

24 (3) the retired member shall pay one hundred
25 dollars (\$100) to the board to defray the cost of determining

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1 the new pension amount; and

2 E. if the member is a retired member who is being
3 paid a pension under form of payment B or C with a living
4 designated survivor pension beneficiary other than the
5 retired member's spouse or former spouse, the retired member
6 may exercise a one-time irrevocable option to deselect the
7 designated beneficiary and elect to:

8 (1) designate another survivor pension
9 beneficiary; provided that:

10 (a) the retired member shall not have
11 an option to change from the current form of payment;

12 (b) the amount of the pension under
13 the form of payment shall be recalculated and shall have the
14 same actuarial present value, computed as of the effective
15 date of the designation, as the amount of pension under form
16 of payment A; and

17 (c) the retired member shall pay one
18 hundred dollars (\$100) to the board to defray the cost of
19 determining the new pension amount; or

20 (2) have future payments made under form of
21 payment A."

22 SECTION 12. A new section of the Judicial Retirement
23 Act, Section 10-12B-14.2 NMSA 1978, is enacted to read:

24 "10-12B-14.2. [NEW MATERIAL] FORM OF PENSION
25 PAYMENT.--

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1 A. Straight life pension is form of payment A.
2 The retired member is paid the pension for life under form of
3 payment A. All payments stop upon the death of the retired
4 member, except as provided in Subsection E of this section.
5 The amount of pension is determined in accordance with the
6 Judicial Retirement Act.

7 B. Life payments with full continuation to one
8 survivor beneficiary is form of payment B. The retired
9 member is paid a reduced pension for life under form of
10 payment B. When the retired member dies, the designated
11 survivor beneficiary is paid the full amount of the reduced
12 pension until death. If the designated survivor beneficiary
13 predeceases the retired member, the amount of pension shall
14 be changed to the amount that would have been payable had the
15 retired member elected form of payment A.

16 C. Life payment with one-half continuation to one
17 survivor beneficiary is form of payment C. The retired
18 member is paid a reduced pension for life under form of
19 payment C. When the retired member dies, the designated
20 survivor beneficiary is paid one-half the amount of the
21 reduced pension until death. If the designated survivor
22 beneficiary predeceases the retired member, the amount of
23 pension shall be changed to the amount that would have been
24 payable had the retired member elected form of payment A.

25 D. Life payments with temporary survivor benefits

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1 for children is form of payment D. The retired member is
2 paid a reduced pension for life under form of payment D.
3 When the retired member dies, each declared eligible child is
4 paid a share of the reduced pension until death or age
5 twenty-five years, whichever occurs first. The share is the
6 share specified in writing and filed with the association by
7 the retired member. If shares are not specified in writing
8 and filed with the association, each declared eligible child
9 is paid an equal share of the reduced pension. A
10 redetermination of shares shall be made when the pension of
11 any child terminates. An eligible child is a natural or
12 adopted child of the retired member who is under age twenty-
13 five years. A declared eligible child is an eligible child
14 whose name has been declared in writing and filed with the
15 association by the retired member at the time of election of
16 form of payment D. The amount of pension shall be changed to
17 the amount of pension that would have been payable had the
18 retired member elected form of payment A upon there ceasing
19 to be a declared eligible child during the lifetime of the
20 retired member.

21 E. If all pension payments permanently terminate
22 before there is paid an aggregate amount equal to the retired
23 member's accumulated member contributions at the time of
24 retirement, the difference between the amount of accumulated
25 member contributions and the aggregate amount of pension paid

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1 shall be paid to the retired member's refund beneficiary. If
 2 no refund beneficiary survives the retired member, the
 3 difference shall be paid to the estate of the retired
 4 member."

5 **SECTION 13.** A new section of the Judicial Retirement
 6 Act, Section 10-12B-14.3 NMSA 1978, is enacted to read:

7 "10-12B-14.3. [NEW MATERIAL] DEATH BEFORE RETIREMENT--
 8 SURVIVOR PENSION.--For a member whose initial term in office
 9 begins on or after July 1, 2014:

10 A. a survivor pension may be paid to certain
 11 persons related to or designated by a member who dies before
 12 normal or disability retirement if a written application for
 13 the pension, in the form prescribed by the association, is
 14 filed with the association by the potential survivor
 15 beneficiary or beneficiaries within one year of the death of
 16 the member. Applications may be filed on behalf of the
 17 potential survivor beneficiary or beneficiaries or by a
 18 person legally authorized to represent them;

19 B. if there is no designated survivor beneficiary
 20 and the board finds the death to have been the natural and
 21 proximate result of causes arising solely and exclusively out
 22 of and in the course of the member's performance of duty
 23 while in office, a survivor pension shall be payable to the
 24 eligible surviving spouse. The amount of the survivor
 25 pension shall be the greater of:

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1 (1) the amount as calculated pursuant to the
2 Judicial Retirement Act and applicable to the deceased member
3 at the time of death as though the deceased member had
4 retired the day preceding death under form of payment B using
5 the actual amount of service credit attributable to the
6 deceased member at the time of death; or

7 (2) fifty percent of the deceased member's
8 final average salary;

9 C. a survivor pension shall also be payable to
10 eligible surviving children if there is no designated
11 survivor beneficiary and the retirement board finds the death
12 to have been the natural and proximate result of causes
13 arising solely and exclusively out of and in the course of
14 the member's performance of duty while in office. The total
15 amount of survivor pension payable for all eligible surviving
16 children shall be either:

17 (1) fifty percent of the deceased member's
18 final average salary if an eligible surviving spouse is not
19 paid a pension; or

20 (2) twenty-five percent of the deceased
21 member's final average salary if an eligible surviving spouse
22 is paid a pension.

23 The total amount of survivor pension shall be divided
24 equally among all eligible surviving children. If there is
25 only one eligible child, the amount of pension shall be

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1 twenty-five percent of the deceased member's final average
2 salary;

3 D. if the member had the applicable minimum
4 number of years of service credit required for normal
5 retirement, but the retirement board did not find the death
6 to have been the natural and proximate result of causes
7 arising solely and exclusively out of and in the course of
8 the member's performance of duty while in office and there is
9 no designated survivor beneficiary, a survivor pension shall
10 be payable to the eligible surviving spouse. The amount of
11 the survivor pension shall be the greater of:

12 (1) the amount as calculated under the
13 Judicial Retirement Act applicable to the deceased member at
14 the time of death as though the deceased member had retired
15 the day preceding death under form of payment B using the
16 total amount of actual service credit attributable to the
17 deceased member at the time of death; or

18 (2) thirty percent of the deceased member's
19 final average salary;

20 E. if the member had the applicable minimum
21 number of years of service credit required for normal
22 retirement, but the retirement board did not find the death
23 to have been the natural and proximate result of causes
24 arising solely and exclusively out of and in the course of
25 the member's performance of duty while in office and there is

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1 no designated survivor beneficiary, and if there is no
2 eligible surviving spouse at the time of death, a survivor
3 pension shall be payable to and divided equally among all
4 eligible surviving children, if any. The total amount of
5 survivor pension payable for all eligible surviving children
6 shall be the greater of:

7 (1) the amount as calculated under the
8 Judicial Retirement Act applicable to the deceased member at
9 the time of death as though the deceased member had retired
10 the day preceding death under form of payment B with the
11 oldest eligible surviving child as the survivor beneficiary
12 using the total amount of actual service credit attributable
13 to the deceased member at the time of death; or

14 (2) thirty percent of the deceased member's
15 final average salary;

16 F. an eligible surviving spouse is the spouse to
17 whom the deceased member was married at the time of death.
18 An eligible surviving child is a child under the age of
19 eighteen years and who is an unmarried, natural or adopted
20 child of the deceased member;

21 G. an eligible surviving spouse's pension shall
22 terminate upon death. An eligible surviving child's pension
23 shall terminate upon death or marriage or reaching age
24 eighteen years, whichever comes first;

25 H. if there is no designated survivor beneficiary

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1 and there is no eligible surviving child, the eligible
2 surviving spouse may elect to be refunded the deceased
3 member's accumulated member contributions instead of
4 receiving a survivor pension;

5 I. a member may designate a survivor beneficiary
6 to receive a pre-retirement survivor pension, subject to the
7 following conditions:

8 (1) a written designation, in the form
9 prescribed by the association, is filed by the member with
10 the association;

11 (2) if the member is married at the time of
12 designation, the designation shall only be made with the
13 consent of the member's spouse, in the form prescribed by the
14 association;

15 (3) if the member is married subsequent to
16 the time of designation, any prior designations shall
17 automatically be revoked upon the date of the marriage;

18 (4) if the member is divorced subsequent to
19 the time of designation, any prior designation of the former
20 spouse as survivor beneficiary shall automatically be revoked
21 upon the date of divorce; and

22 (5) a designation of survivor beneficiary
23 may be changed, with the member's spouse's consent if the
24 member is married, by the member at any time prior to the
25 member's death;

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1 J. if there is a designated survivor beneficiary
2 and the board finds the death to have been the natural and
3 proximate result of causes arising solely and exclusively out
4 of and in the course of the member's performance of duty
5 while in office, a survivor pension shall be payable to the
6 designated survivor beneficiary. The amount of the survivor
7 pension shall be the greater of:

8 (1) the amount as calculated under the
9 Judicial Retirement Act applicable to the deceased member at
10 the time of death as though the deceased member had retired
11 the day preceding death under form of payment B using the
12 actual amount of service credit attributable to the member at
13 the time of death; or

14 (2) fifty percent of the deceased member's
15 final average salary;

16 K. if there is a designated survivor beneficiary,
17 if the member had the applicable minimum number of years of
18 service credit required for normal retirement and if the
19 retirement board did not find the death to have been the
20 natural and proximate result of causes arising solely and
21 exclusively out of and in the course of the member's
22 performance of duty while in office, a survivor pension shall
23 be payable to the designated survivor beneficiary. The
24 amount of the survivor pension shall be the greater of:

25 (1) the amount as calculated under the

1 Judicial Retirement Act applicable to the deceased member at
 2 the time of death as though the deceased member had retired
 3 the day preceding death under form of payment B using the
 4 actual amount of service credit attributable to the member at
 5 the time of death; or

6 (2) thirty percent of the deceased member's
 7 final average salary;

8 L. if all pension payments permanently terminate
 9 before there is paid an aggregate amount equal to the
 10 deceased member's accumulated member contributions at time of
 11 death, the difference between the amount of accumulated
 12 member contributions and the aggregate amount of pension paid
 13 shall be paid to the deceased member's refund beneficiary.
 14 If no refund beneficiary survives the survivor beneficiary,
 15 the difference shall be paid to the estate of the deceased
 16 member; and

17 M. for purposes of this section, "service credit"
 18 means only the service credit earned by a member during
 19 periods in office as a judge or justice."

20 SECTION 14. Section 10-12B-15 NMSA 1978 (being Laws
 21 1992, Chapter 111, Section 15) is amended to read:

22 "10-12B-15. COST-OF-LIVING ADJUSTMENT.--A [~~yearly~~
 23 ~~cost-of-living adjustment shall be made to each pension]~~
 24 qualified pension recipient is eligible for a cost-of-living
 25 adjustment payable pursuant to the provisions of the Judicial

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1 Retirement Act as [~~provided in the Public Employees~~
2 Retirement Act] follows:

3 A. beginning July 1, 2014 and continuing through
4 June 30, 2016, there shall not be a cost-of-living adjustment
5 applied to a pension payable pursuant to the Judicial
6 Retirement Act; and

7 B. beginning on May 1, 2016 and no later than
8 each May 1 thereafter:

9 (1) the board shall certify to the
10 association the actuarial funded ratio of the fund as of June
11 30 of the preceding calendar year;

12 (2) if, pursuant to Paragraph (1) of this
13 subsection, the certified funded ratio is greater than or
14 equal to one hundred percent, the board shall next certify
15 the projected funded ratio of the fund on July 1 of the next
16 succeeding calendar year if, effective July 1 of the current
17 calendar year, a cost-of-living increase of two percent is
18 applied to all payable pensions; and

19 (3) on each July 1 following the board's
20 certification of the funded ratio, the cost-of-living
21 adjustment, if any, applied to a pension payable pursuant to
22 the Judicial Retirement Act shall be determined as follows:

23 (a) if, pursuant to Paragraph (1) of
24 this subsection, the funded ratio of the fund is greater than
25 or equal to one hundred percent, and if, pursuant to

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1 Paragraph (2) of this subsection, the projected funded ratio
 2 is greater than or equal to one hundred percent, the amount
 3 of pension payable beginning July 1 of the next fiscal year
 4 shall be increased two percent. The amount of the increase
 5 shall be determined by multiplying the amount of the pension
 6 inclusive of all prior adjustments by two percent; and

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

23 SECTION 15. A new section of the Judicial Retirement
 24 Act, Section 10-12B-15.1 NMSA 1978, is enacted to read:

25 "10-12B-15.1. [NEW MATERIAL] QUALIFIED PENSION

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1 RECIPIENT--COST-OF-LIVING ADJUSTMENT WAIT PERIOD--DECLINING
2 INCREASE.--

3 A. Pursuant to the Judicial Retirement Act, a
4 qualified pension recipient is a:

5 (1) normal retired member who retires:

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

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

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

18 or

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

23 (2) normal retired member who is at least
24 sixty-five years of age and has been retired for at least one
25 full calendar year from the effective date of the latest

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

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

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

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

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

19 **SECTION 16. SEVERABILITY.**--If any part or application
20 of this act is held invalid, the remainder or its application
21 to other situations or persons shall not be affected.

22 **SECTION 17. EFFECTIVE DATE.**--The effective date of the
23 provisions of this act is July 1, 2014.

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