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HOUSE BILL 33

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

INTRODUCED BY

Luciano "Lucky" Varela

ENDORSED BY THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

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, PROVIDING A TEMPORARY SUSPENSION OF AND DECREASE AND
DELAY OF THE COST-OF-LIVING ADJUSTMENT AND INCREASING THE
MAXIMUM PENSION BENEFIT; INCREASING CONTRIBUTION RATES;
REQUIRING THAT NON-MEMBERS AND THEIR EMPLOYERS PAY THE
APPLICABLE CONTRIBUTIONS; DEFINING "NON-MEMBER" AND "NON-MEMBER
CONTRIBUTIONS"; CHANGING THE PENSION FORM OF PAYMENT.

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

SECTION 1. Section 10-12B-2 NMSA 1978 (being Laws 1992,
Chapter 111, Section 2, as amended) is amended to read:

"10-12B-2. DEFINITIONS.--As used in the Judicial

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1 Retirement Act:

2 A. "association" means the public employees
3 retirement association provided for in the Public Employees
4 Retirement Act;

5 B. "board" means the retirement board provided for
6 in the Public Employees Retirement Act;

7 C. "current judge or justice" means a judge or
8 justice who occupied such an office on July 1, 1980 but who
9 elected to be covered under the provisions of the retirement
10 plan in effect at that time;

11 D. "dependent child" means a natural or adopted
12 child who is physically or mentally incapable of financial
13 self-support, regardless of age;

14 E. "educational retirement system" means the
15 retirement system provided for in the Educational Retirement
16 Act;

17 F. "effective date of retirement" means the first
18 day of the month following the month in which the member met
19 all requirements for retirement;

20 G. "former judge or justice" means a judge or
21 justice who occupied such an office prior to July 1, 1980 but
22 who had ceased to hold such an office prior to that date and
23 who elected to be excluded from the provisions of the
24 Judicial Retirement Act;

25 H. "former member" means a person no longer in

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1 office who was previously covered pursuant to the provisions
2 of Sections 10-12-1 through 10-12-18 NMSA 1978, but who has
3 not retired pursuant to the provisions of the Judicial
4 Retirement Act and who has received a refund of member
5 contributions pursuant to the provisions of Sections 10-12B-1
6 through 10-12B-19 NMSA 1978;

7 I. "fund" means the judicial retirement fund;

8 J. "judge" means a judge of the metropolitan
9 court, district court or court of appeals of New Mexico;

10 K. "justice" means a justice of the supreme court
11 of New Mexico;

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

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

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

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1 O. "new judge or justice" means:

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

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

7 P. "non-member" means any judge or justice who is
8 in office and who has filed with the association, in a manner
9 prescribed pursuant to the Judicial Retirement Act, a written
10 application for exemption from membership, and such exemption
11 has not been revoked;

12 Q. "non-member contributions" means the amounts
13 deducted from the salary of a non-member and credited to the
14 non-member's individual account, together with interest, if
15 any, credited thereto;

16 [~~P-~~] R. "pension" means a series of monthly
17 payments to a retired member or survivor beneficiary pursuant
18 to the provisions of the Judicial Retirement Act;

19 [~~Q-~~] S. "refund beneficiary" means a person
20 designated by the member, in writing in the form prescribed
21 by the association, as the person who would be refunded the
22 member's accumulated member contributions payable if the
23 member dies and no survivor pension is payable, or who would
24 receive the difference between pension paid and accumulated
25 member contributions if the retired member dies before

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1 receiving in pension payments the amount of the accumulated
2 member contributions;

3 ~~[R.]~~ T. "retire" means to:

4 (1) terminate employment with all employers
5 covered by any state system or the educational retirement
6 system; and

7 (2) receive a pension from one state system
8 or the educational retirement system;

9 ~~[S.]~~ U. "retired member" means a person who has
10 met all requirements for retirement and who is receiving a
11 pension from the fund;

12 ~~[T.]~~ V. "salary" means the base salary or wages
13 paid a member, including longevity pay, for personal services
14 rendered; provided that salary does not include overtime pay;
15 allowances for housing, clothing, equipment or travel;
16 payments for unused sick leave, unless the unused sick leave
17 payment is made through continuation of the member on the
18 regular payroll for the period represented by that payment;
19 and any other form of remuneration not specifically
20 designated by law as included in salary pursuant to the
21 provisions of the Judicial Retirement Act;

22 ~~[U.]~~ W. "state system" means the retirement
23 programs provided pursuant to the provisions of the Public
24 Employees Retirement Act, the Magistrate Retirement Act and
25 the Judicial Retirement Act;

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1 [V-] X. "surviving spouse" means the spouse to
2 whom the member was married at the time of the member's
3 death;

4 [W-] Y. "survivor beneficiary" means a person who
5 receives a pension or who has been designated to be paid a
6 pension as a result of the death of a member or retired
7 member; and

8 [X-] Z. "years of service" means a period of time
9 beginning on the date a person commences to hold office as a
10 judge or justice because of appointment or election and
11 ending on the date a person ceases to hold office as a judge
12 or justice because of expiration of the judge's or justice's
13 term, voluntary resignation, death or disability and shall
14 include any fractions of years of service."

15 SECTION 2. Section 10-12B-5 NMSA 1978 (being Laws
16 1992, Chapter 111, Section 5, as amended) is amended to read:

17 "10-12B-5. SERVICE CREDIT--REINSTATEMENT OF FORFEITED
18 SERVICE--PRIOR SERVICE--MILITARY SERVICE.--

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

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1 year of service for all service in any calendar year.

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

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

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

24 (1) the member returns to office within ninety
25 days following termination of the period of intervening service

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1 in the uniformed services or the affiliated employer certifies
2 in writing to the association that the member is entitled to
3 reemployment rights under the federal Uniformed Services
4 Employment and Reemployment Rights Act of 1994;

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

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

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

25 (5) the member must not have received a

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

3 Notwithstanding any provision of this plan to the
4 contrary, contributions, benefits and service credit with
5 respect to qualified military service will be provided in
6 accordance with Section 414(u) of the Internal Revenue Code of
7 1986, as amended.

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

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

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

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

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

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1 and

2 (5) the member must not have received a
3 discharge or separation from uniformed service under other than
4 honorable conditions.

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

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

24 H. At any time prior to retirement, a member may
25 purchase service credit in monthly increments, subject to the

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1 following conditions:

2 (1) the member has [~~at least five~~] the
3 applicable minimum number of years of service credit acquired
4 as a result of personal service rendered under the Judicial
5 Retirement Act;

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

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

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

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

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

19 "10-12B-6. REFUND OF CONTRIBUTIONS--MEMBERS--NON-
20 MEMBERS.--

21 A. If a member leaves office, the member may, with
22 the written consent of the member's spouse, if any, withdraw
23 the member's accumulated member contributions upon making
24 written request in a form prescribed by the association. Upon
25 written request of the member in the form prescribed by the

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1 association, a refund of member contributions may be made by a
2 trustee-to-trustee transfer of the contributions from the
3 member contribution fund directly to another qualified plan as
4 allowed by the Internal Revenue Code of 1986. Withdrawal of
5 member contributions shall result in forfeiture of the service
6 credit accrued for the period during which the contributions
7 were made.

8 B. A member shall, upon commencement of membership,
9 designate a refund beneficiary who shall receive the refund of
10 the member contributions, plus interest, if the member dies and
11 no survivor pension is payable. If the member is married at
12 the time of designation, written spousal consent shall be
13 required if the designated refund beneficiary is a person other
14 than the spouse. Marriage subsequent to the designation shall
15 automatically revoke a previous designation, and the spouse
16 shall become the refund beneficiary unless or until another
17 designation is filed with the association. Divorce subsequent
18 to the designation shall automatically revoke designation of
19 the former spouse as refund beneficiary if no designation has
20 been filed, and the refund shall be paid to the deceased
21 member's estate unless the member filed a designation of refund
22 beneficiary subsequent to the divorce. The refund shall be
23 paid to the refund beneficiary named in the most recent
24 designation of refund beneficiary on file with the association
25 unless that beneficiary is deceased. If there is not a living

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1 refund beneficiary named in the most recent designation of
2 refund beneficiary on file with the association, the deceased
3 member's accumulated member contributions shall be paid to the
4 estate of the deceased member.

5 C. When a non-member leaves office, the non-member
6 may withdraw the non-member's accumulated non-member
7 contributions upon making written request in a form prescribed
8 by the association. Upon such written request, a refund shall
9 be issued by the association of the non-member's contributions,
10 with interest at a rate as provided by rule promulgated by the
11 board."

12 SECTION 4. Section 10-12B-8 NMSA 1978 (being Laws 1992,
13 Chapter 111, Section 8, as amended) is amended to read:

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

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

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

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

23 B. For an individual who initially became a member
24 [~~on or~~] after [~~July 1~~] June 30, 2005 but before June 30, 2014,
25 the age and service credit requirements for retirement provided

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1 for in the Judicial Retirement Act are:

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

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

6 C. For an individual who initially becomes a member
7 on or after July 1, 2014, the age and service requirements
8 provided for in the Judicial Retirement Act are:

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

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

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

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

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

3 "10-12B-9. AMOUNT OF PENSION.--The amount of monthly
4 pension is equal to:

5 A. in the case of a former or current judge or
6 justice, an amount equal to one-twelfth of:
7 seventy-five percent
8 of salary received X number of years of
9 during last year in service, not exceeding
10 office prior to ten years, divided
11 retirement by ten;

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

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

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

21 (2) for service credit earned on and after
22 July 1, 2014, an amount equal to one-twelfth of the salary
23 received during the last year in office prior to retirement
24 multiplied by the product of three and one-half percent times
25 the sum of the number of years of service;

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1 C. in the case of a new judge or justice who
2 initially became a member ~~[on or]~~ after ~~[July 1]~~ June 30, 2005
3 but before June 30, 2014:

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

12 (2) for service credit earned on and after
13 July 1, 2014, an amount equal to one-twelfth of the salary
14 received during the last year in office prior to retirement
15 multiplied by the product of three and one-half percent times
16 the sum of the number of years of service;

17 D. in the case of a new judge or justice who
18 initially becomes a member on or after July 1, 2014, an amount
19 equal to one-twelfth of the salary received during the last
20 year in office prior to retirement multiplied by the product of
21 three and one-half percent times the sum of the number of years
22 of service; and

23 E. a pension calculated pursuant to this section
24 shall not exceed eighty-five percent of one-twelfth of the
25 salary received during the last year in office."

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

3 "10-12B-10. MEMBER CONTRIBUTIONS--NON-MEMBER
4 CONTRIBUTIONS--TAX TREATMENT.--

5 A. On and after July 1, 2014, members and non-
6 members, while in office, shall contribute ten and one-half
7 percent of salary to the member contribution fund [pursuant to
8 the following schedule:

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

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

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

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

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

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

25 B. Upon implementation, the state, acting as

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

25 SECTION 7. Section 10-12B-11 NMSA 1978 (being Laws 1992,

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1 Chapter 111, Section 11, as amended) is amended to read:

2 "10-12B-11. EMPLOYER CONTRIBUTIONS.--

3 A. The member's or non-member's court shall
4 contribute [~~the following amounts~~] fifteen percent of salary to
5 the fund for each member or non-member in office.

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

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

11 ~~(3) on and after July 1, 2006, twelve percent~~
12 ~~of salary for each member in office, except that for members~~
13 ~~whose annual salary is greater than twenty thousand dollars~~
14 ~~(\$20,000):~~

15 ~~(a) from July 1, 2009 through June 30,~~
16 ~~2011, the member's court contribution rate shall be ten and~~
17 ~~one-half percent of salary for each member in office;~~

18 ~~(b) from July 1, 2011 through June 30,~~
19 ~~2012, the member's court contribution rate shall be eight and~~
20 ~~three-fourths percent of salary for each member in office; and~~

21 ~~(c) from July 1, 2012 through June 30,~~
22 ~~2013, the member's court contribution rate shall be ten and~~
23 ~~one-half percent of salary for each member in office]~~

24 B. Thirty-eight dollars (\$38.00) from each civil
25 case docket fee paid in the district court, twenty-five dollars

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1 (\$25.00) from each civil docket fee paid in metropolitan court
2 and ten dollars (\$10.00) from each jury fee paid in
3 metropolitan court shall be paid by the court clerk to the
4 employer's accumulation fund."

5 SECTION 8. Section 10-12B-13 NMSA 1978 (being Laws 1992,
6 Chapter 111, Section 13) is amended to read:

7 "10-12B-13. DISABILITY RETIREMENT PENSION.--

8 A. A judge or justice with [~~five~~] the applicable
9 minimum number of years [~~or more~~] of service credit accrued
10 pursuant to the provisions of the Judicial Retirement Act who
11 becomes unable to carry out the duties of that office due to
12 physical or mental disability shall, upon determination of the
13 disability and relinquishment of office, receive a pension from
14 the fund so long as the disability continues. Determination of
15 disability shall be made by the board in accordance with the
16 provisions of the Public Employees Retirement Act and rules
17 promulgated [~~thereunder~~] pursuant to that act.

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

21 C. The [~~five-year~~] applicable service credit
22 requirement shall be waived if the board finds the disability
23 to have been the natural and proximate result of causes arising
24 solely and exclusively out of and in the course of the member's
25 performance of duty as a judge or justice, and the amount of

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1 pension shall be computed as if the member had ~~[five]~~ the
2 applicable minimum number of years of service credit as a judge
3 or justice."

4 SECTION 9. Section 10-12B-14 NMSA 1978 (being Laws 1992,
5 Chapter 111, Section 14) is amended to read:

6 "10-12B-14. ~~[SURVIVOR'S]~~ ELECTION OF FORM OF PENSION
7 PAYMENT.--

8 ~~[A. Unless a member has designated a survivor~~
9 ~~beneficiary in accordance with Subsection B of this section, a~~
10 ~~survivor pension shall be paid for life to a member's or~~
11 ~~retired member's surviving spouse.~~

12 ~~B. A member may designate, in writing in a form~~
13 ~~prescribed by the association, a survivor beneficiary to~~
14 ~~receive the survivor's pension described in this section. If~~
15 ~~the member is married, a designation of survivor beneficiary~~
16 ~~other than the member's spouse may only be made with the~~
17 ~~written consent of the member's spouse. Marriage subsequent to~~
18 ~~a designation of survivor beneficiary shall automatically~~
19 ~~revoke the designation of survivor beneficiary. A designation~~
20 ~~of survivor beneficiary made pursuant to a court order issued~~
21 ~~under Section 7 of the Judicial Retirement Act shall not~~
22 ~~require the consent of the member's spouse, if any, and shall~~
23 ~~not be revoked by the subsequent remarriage of the member. A~~
24 ~~designation of survivor beneficiary may be revoked by the~~
25 ~~member at any time prior to the member's retirement. If the~~

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1 ~~member is married, a revocation of designation of survivor~~
2 ~~beneficiary may only be made with the written consent of the~~
3 ~~member's spouse.~~

4 ~~C. If there is no surviving spouse and no~~
5 ~~designated survivor beneficiary or if the surviving spouse dies~~
6 ~~while there are still minor and dependent children of the~~
7 ~~member, the survivor's pension shall be paid to all minor and~~
8 ~~dependent children, if any, of the member, in equal shares, so~~
9 ~~long as each child remains a minor or dependent child. As each~~
10 ~~child ceases to be a minor or dependent child, the number of~~
11 ~~shares shall be reduced and the amount payable to each~~
12 ~~remaining child increased proportionately so that the total~~
13 ~~survivor's pension remains unchanged as long as there is any~~
14 ~~such child.~~

15 ~~D. The survivor's pension is equal to seventy-five~~
16 ~~percent of the member's pension.~~

17 ~~E. Survivor beneficiaries shall be eligible for~~
18 ~~other benefits provided pursuant to the provisions of the~~
19 ~~Judicial Retirement Act, including cost-of-living adjustments~~
20 ~~and continuation of group insurance benefits.~~

21 ~~F. If a member dies while receiving a disability~~
22 ~~retirement pension, the survivor beneficiary shall receive the~~
23 ~~survivor pension provided pursuant to the provisions of the~~
24 ~~Judicial Retirement Act.]~~

25 A. Except as otherwise provided in Section 10-12B-7

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1 NMSA 1978, a member may elect to have pension payments made
2 under any one of the forms of payment provided in Section
3 10-12B-14.1 NMSA 1978. The election of form of payment and
4 naming of survivor pension beneficiary shall be made on a form
5 furnished by and filed with the association prior to the date
6 the first pension payment is made. An election of form of
7 payment may not be changed after the date the first pension
8 payment is made. If the member is married, the association
9 shall obtain the consent of the member's spouse to the election
10 of the form of payment and any designation of survivor pension
11 beneficiary before the election or designation is effective.
12 Except as provided in Subsection C, D or E of this section, a
13 named survivor pension beneficiary may not be changed after the
14 date the first pension payment is made if form of payment B or
15 C is elected. Except as otherwise provided in Section 10-12B-7
16 NMSA 1978, payment shall be made:

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

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

24 B. The amount of pension under forms of payment B,
25 C and D shall have the same actuarial present value, computed

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1 as of the effective date of the pension, as the amount of
2 pension under form of payment A.

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

9 D. A retired member who was previously being paid a
10 pension under form of payment B or C but, because of the death
11 of the designated survivor pension beneficiary, is currently
12 receiving a pension under form of payment A may exercise a one-
13 time 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 the
19 designation, as the amount of pension under form of payment A;

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

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

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

6 (1) designate another survivor pension
7 beneficiary; provided that:

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

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

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

18 (2) have future payments made under form of
19 payment A."

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

22 "10-12B-14.1. [NEW MATERIAL] FORM OF PENSION PAYMENT.--

23 A. Straight life pension is form of payment A. The
24 retired member is paid the pension for life under form of
25 payment A. All payments stop upon the death of the retired

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1 member, except as provided by Subsection E of this section.
2 The amount of pension is determined in accordance with the
3 coverage plan applicable to the retired member.

4 B. Life payments with full continuation to one
5 survivor beneficiary is form of payment B. The retired member
6 is paid a reduced pension for life under form of payment B.
7 When the retired member dies, the designated survivor
8 beneficiary is paid the full amount of the reduced pension
9 until death. Upon the association's receipt of proof of death
10 of the designated survivor beneficiary, the amount of pension
11 shall be changed to the amount that would have been payable had
12 the retired member elected form of payment A.

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

22 D. Life payments with temporary survivor benefits
23 for children is form of payment D. The retired member is paid
24 a reduced pension for life under form of payment D. When the
25 retired member dies, each declared eligible child is paid a

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

17 E. If all pension payments permanently terminate
18 before there is paid an aggregate amount equal to the retired
19 member's accumulated member contributions at the time of
20 retirement, the difference between the amount of accumulated
21 member contributions and the aggregate amount of pension paid
22 shall be paid to the retired member's refund beneficiary. If
23 no refund beneficiary survives the retired member, the
24 difference shall be paid to the estate of the retired member."

25 SECTION 11. Section 10-12B-15 NMSA 1978 (being Laws 1992,

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1 Chapter 111, Section 15) is amended to read:

2 "10-12B-15. COST-OF-LIVING ADJUSTMENT.--A [~~yearly cost-~~
3 ~~of living adjustment shall be made to each pension]~~ qualified
4 pension recipient is eligible for a cost-of-living adjustment
5 payable pursuant to the provisions of the Judicial Retirement
6 Act as [~~provided in the Public Employees Retirement Act]~~
7 follows:

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

12 B. beginning on May 1, 2016 and no later than each
13 May 1 thereafter:

14 (1) the board shall certify to the association
15 the actuarial funded ratio of the fund as of June 30 of the
16 preceding calendar year;

17 (2) if, pursuant to Paragraph (1) of this
18 subsection, the certified funded ratio is greater than or equal
19 to eighty percent, the board shall next certify the projected
20 funded ratio of the fund on July 1 of the next succeeding
21 calendar year if, effective July 1 of the current calendar
22 year, a cost-of-living increase of two percent is applied to
23 all payable pensions; and

24 (3) on each July 1 following the board's
25 certification of the funded ratio, the cost-of-living

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1 adjustment, if any, applied to a pension payable pursuant to
2 the Judicial Retirement Act shall be determined as follows:

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

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

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1 exception in the next succeeding fiscal year."

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

4 "10-12B-15.1. [NEW MATERIAL] QUALIFIED PENSION
5 RECIPIENT--COST-OF-LIVING-ADJUSTMENT WAIT PERIOD--DECLINING
6 INCREASE.--

7 A. Pursuant to the Judicial Retirement Act, a
8 qualified pension recipient is a:

9 (1) normal retired member who retires:

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

14 (b) between July 1, 2014 and June 30,
15 2015 and has been retired for at least three full calendar
16 years from the effective date of the latest retirement prior to
17 July 1 of the year in which the pension is being adjusted;

18 (c) between July 1, 2015 and June 30,
19 2016 and has been retired for at least four full calendar years
20 from the effective date of the latest retirement prior to July
21 1 of the year in which the pension is being adjusted; or

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

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

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

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

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

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

21 **SECTION 13. SEVERABILITY.**--If any part or application of
22 this act is held invalid, the remainder or its application to
23 other situations or persons shall not be affected.

24 **SECTION 14. EFFECTIVE DATE.**--The effective date of the
25 provisions of this act is July 1, 2014.

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