

HOUSE LABOR AND HUMAN RESOURCES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 195

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

AN ACT

RELATING TO PENSIONS; AMENDING THE STATUTORY PROVISIONS
GOVERNING PENSION PAYMENTS TO SURVIVOR BENEFICIARIES PURSUANT
TO THE JUDICIAL RETIREMENT ACT AND THE MAGISTRATE RETIREMENT
ACT; PROVIDING THAT JUDGES, JUSTICES OR MAGISTRATES WHOSE
INITIAL TERMS OF OFFICE BEGIN ON OR AFTER JULY 1, 2014 HAVE THE
SAME BENEFICIARY PROVISIONS AND FORMS OF PENSION PAYMENTS AS
ARE PROVIDED FOR STATE EMPLOYEES PURSUANT TO THE PUBLIC
EMPLOYEES RETIREMENT ACT.

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

SECTION 1. Section 10-12B-14 NMSA 1978 (being Laws 1992,
Chapter 111, Section 14) is amended to read:

"10-12B-14. [~~SURVIVOR'S~~] SURVIVOR PENSION--MEMBERS PRIOR
TO JULY 1, 2014.--[A. Unless] For a member whose initial term
of office began prior to July 1, 2014:

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underscoring material = new
[bracketed material] = delete

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

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

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

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

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

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

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

18 SECTION 2. A new section of the Judicial Retirement Act,
 19 Section 10-12B-14.1 NMSA 1978, is enacted to read:

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

24 A. the member may elect to have pension payments
 25 made under any one of the forms of payment provided in Section

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1 10-12B-14.2 NMSA 1978. The election of form of payment and
2 naming of survivor pension beneficiary shall be made on a form
3 furnished by and filed with the association prior to the date
4 the first pension payment is made. An election of form of
5 payment may not be changed after the date the first pension
6 payment is made. If the member is married, the association
7 shall require the consent of the member's spouse to the
8 election of the form of payment and any designation of survivor
9 pension beneficiary before the election or designation is
10 effective. Except as provided in Subsection C, D or E of this
11 section, a named survivor pension beneficiary may not be
12 changed after the date the first pension payment is made if
13 form of payment B or C is elected. Except as otherwise
14 provided in Section 10-12B-7 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 member's
19 spouse as survivor pension beneficiary if the member is married
20 at the time of retirement and there is not a timely election of
21 another form of payment;

22 B. the amount of pension under forms of payment B,
23 C and D shall have the same actuarial present value, computed
24 as of the effective date of the pension, as the amount of
25 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 may, upon
4 becoming divorced from the named spouse and subject to an order
5 of a court as provided for in Section 10-12B-7 NMSA 1978, the
6 member may elect to have future payments made under form of
7 payment A;

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

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

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

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

25 E. a retired member who is being paid a pension

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

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

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

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

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

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

19 SECTION 3. A new section of the Judicial Retirement Act,
20 Section 10-12B-14.2 NMSA 1978, is enacted to read:

21 "10-12B-14.2. [NEW MATERIAL] FORM OF PENSION PAYMENT.--

22 A. Straight life pension is form of payment A. The
23 retired member is paid the pension for life under form of
24 payment A. All payments stop upon the death of the retired
25 member, except as provided in Subsection E of this section.

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1 The amount of pension is determined in accordance with the
2 Judicial Retirement Act.

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

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

21 D. Life payments with temporary survivor benefits
22 for children is form of payment D. The retired member is paid
23 a reduced pension for life under form of payment D. When the
24 retired member dies, each declared eligible child is paid a
25 share of the reduced pension until death or age twenty-five

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

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

24 SECTION 4. A new section of the Judicial Retirement Act,
25 Section 10-12B-14.3 NMSA 1978, is enacted to read:

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

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

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

20 (1) the amount as calculated pursuant to the
21 Judicial Retirement Act and applicable to the deceased member
22 at the time of death as though the deceased member had retired
23 the day preceding death under form of payment B using the
24 actual amount of service credit attributable to the deceased
25 member at the time of death; or

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1 (2) fifty percent of the deceased member's
2 salary received during the last year in office;

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

11 (1) fifty percent of the deceased member's
12 salary received during the last year in office if an eligible
13 surviving spouse is not paid a pension; or

14 (2) twenty-five percent of the deceased
15 member's salary received during the last year in office if an
16 eligible surviving spouse is paid a pension.

17 The total amount of survivor pension shall be divided
18 equally among all eligible surviving children. If there is
19 only one eligible child, the amount of pension shall be
20 twenty-five percent of the deceased member's salary received
21 during the last year in office;

22 D. if the member had the applicable minimum number
23 of years of service credit required for normal retirement, but
24 the retirement board did not find the death to have been the
25 natural and proximate result of causes arising solely and

1 exclusively out of and in the course of the member's
2 performance of duty while in office and there is no designated
3 survivor beneficiary, a survivor pension shall be payable to
4 the eligible surviving spouse. The amount of the survivor
5 pension shall be the greater of:

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

12 (2) thirty percent of the deceased member's
13 salary received during the last year in office;

14 E. if the member had the applicable minimum number
15 of years of service credit required for normal retirement, but
16 the retirement board did not find the death to have been the
17 natural and proximate result of causes arising solely and
18 exclusively out of and in the course of the member's
19 performance of duty while in office and there is no designated
20 survivor beneficiary, and if there is no eligible surviving
21 spouse at the time of death, a survivor pension shall be
22 payable to and divided equally among all eligible surviving
23 children, if any. The total amount of survivor pension payable
24 for all eligible surviving children shall be the greater of:

25 (1) the amount as calculated under the

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1 Judicial Retirement Act applicable to the deceased member at
2 the time of death as though the deceased member had retired the
3 day preceding death under form of payment B with the oldest
4 eligible surviving child as the survivor beneficiary using the
5 total amount of actual service credit attributable to the
6 deceased member at the time of death; or

7 (2) thirty percent of the deceased member's
8 salary received during the last year in office;

9 F. an eligible surviving spouse is the spouse to
10 whom the deceased member was married at the time of death. An
11 eligible surviving child is a child under the age of eighteen
12 years and who is an unmarried, natural or adopted child of the
13 deceased member;

14 G. an eligible surviving spouse's pension shall
15 terminate upon death. An eligible surviving child's pension
16 shall terminate upon death or marriage or reaching age eighteen
17 years, whichever comes first;

18 H. if there is no designated survivor beneficiary
19 and there is no eligible surviving child, the eligible
20 surviving spouse may elect to be refunded the deceased member's
21 accumulated member contributions instead of receiving a
22 survivor pension;

23 I. a member may designate a survivor beneficiary to
24 receive a pre-retirement survivor pension, subject to the
25 following conditions:

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1 (1) a written designation, in the form
2 prescribed by the association, is filed by the member with the
3 association;

4 (2) if the member is married at the time of
5 designation, the designation shall only be made with the
6 consent of the member's spouse, in the form prescribed by the
7 association;

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

11 (4) if the member is divorced subsequent to
12 the time of designation, any prior designation of the former
13 spouse as survivor beneficiary shall automatically be revoked
14 upon the date of divorce; and

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

18 J. if there is a designated survivor beneficiary
19 and the board finds the death to have been the natural and
20 proximate result of causes arising solely and exclusively out
21 of and in the course of the member's performance of duty while
22 in office, a survivor pension shall be payable to the
23 designated survivor beneficiary. The amount of the survivor
24 pension shall be the greater of:

25 (1) the amount as calculated under the

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

6 (2) fifty percent of the deceased member's
7 salary received during the last year in office;

8 K. if there is a designated survivor beneficiary,
9 if the member had the applicable minimum number of years of
10 service credit required for normal retirement and if the
11 retirement board did not find the death to have been the
12 natural and proximate result of causes arising solely and
13 exclusively out of and in the course of the member's
14 performance of duty while in office, a survivor pension shall
15 be payable to the designated survivor beneficiary. The amount
16 of the survivor pension shall be the greater of:

17 (1) the amount as calculated under the
18 Judicial Retirement Act applicable to the deceased member at
19 the time of death as though the deceased member had retired the
20 day preceding death under form of payment B using the actual
21 amount of service credit attributable to the member at the time
22 of death; or

23 (2) thirty percent of the deceased member's
24 salary received during the last year in office;

25 L. if all pension payments permanently terminate

1 before there is paid an aggregate amount equal to the deceased
2 member's accumulated member contributions at time of death, the
3 difference between the amount of accumulated member
4 contributions and the aggregate amount of pension paid shall be
5 paid to the deceased member's refund beneficiary. If no refund
6 beneficiary survives the survivor beneficiary, the difference
7 shall be paid to the estate of the deceased member; and

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

11 SECTION 5. Section 10-12C-13 NMSA 1978 (being Laws 1992,
12 Chapter 118, Section 13) is amended to read:

13 "10-12C-13. SURVIVOR'S PENSION.--For a member whose
14 initial term of office began prior to July 1, 2014:

15 A. unless a member has designated a survivor
16 beneficiary in accordance with Subsection B of this section, a
17 survivor pension shall be paid for life to a member's or
18 retired member's surviving spouse;

19 B. [A] the member whose initial term of office
20 began prior to July 1, 2014 may designate, in writing in a form
21 prescribed by the association, a survivor beneficiary to
22 receive the survivor's pension described in this section. If
23 the member is married, a designation of survivor beneficiary
24 other than the member's spouse may only be made with the
25 written consent of the member's spouse. Marriage subsequent to

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1 a designation of survivor beneficiary shall automatically
2 revoke the designation of survivor beneficiary. A designation
3 of survivor beneficiary made pursuant to a court order issued
4 under Section [~~7 of the Magistrate Retirement Act~~] 10-12C-7
5 NMSA 1978 shall not require the consent of the member's spouse,
6 if any, and shall not be revoked by the subsequent remarriage
7 of the member. A designation of survivor beneficiary may be
8 revoked by the member at any time prior to the member's
9 retirement. If the member is married, a revocation of
10 designation of survivor beneficiary may only be made with the
11 written consent of the member's spouse;

12 C. if there is no surviving spouse and no
13 designated survivor beneficiary or if the surviving spouse dies
14 while there are still minor and dependent children of the
15 member, the survivor's pension shall be paid to all minor and
16 dependent children, if any, of the member, in equal shares, so
17 long as each child remains a minor or dependent child. As each
18 child ceases to be a minor or dependent child, the number of
19 shares shall be reduced and the amount payable to each
20 remaining child increased proportionately so that the total
21 survivor's pension remains unchanged as long as there is any
22 such child;

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

25 E. survivor beneficiaries shall be eligible for

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1 other benefits provided pursuant to the provisions of the
 2 Magistrate Retirement Act, including cost-of-living adjustments
 3 and continuation of group insurance benefits; and

4 F. if a member dies while receiving a disability
 5 retirement pension, the survivor beneficiary shall receive the
 6 survivor pension provided pursuant to the provisions of the
 7 Magistrate Retirement Act."

8 SECTION 6. A new section of the Magistrate Retirement
 9 Act, Section 10-12C-13.1 NMSA 1978, is enacted to read:

10 "10-12C-13.1. [NEW MATERIAL] ELECTION FORM OF PENSION--
 11 NEW MEMBERS ON OR AFTER JULY 1, 2014.--For a member whose
 12 initial term in office pursuant to the Magistrate Retirement
 13 Act begins on or after July 1, 2014, and except as otherwise
 14 provided in Section 10-12C-7 NMSA 1978:

15 A. the member may elect to have pension payments
 16 made under any one of the forms of payment provided in Section
 17 10-12C-13.2 NMSA 1978. The election of form of payment and
 18 naming of survivor pension beneficiary shall be made on a form
 19 furnished by and filed with the association prior to the date
 20 the first pension payment is made. An election of form of
 21 payment may not be changed after the date the first pension
 22 payment is made. If the member is married, the association
 23 shall require the consent of the member's spouse to the
 24 election of the form of payment and any designation of survivor
 25 pension beneficiary before the election or designation is

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1 effective. Except as provided in Subsection C, D or E of this
2 section, a named survivor pension beneficiary may not be
3 changed after the date the first pension payment is made if
4 form of payment B or C is elected. Except as otherwise
5 provided in Section 10-12C-7 NMSA 1978, payment shall be made:

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

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

13 B. the amount of pension under forms of payment B,
14 C and D shall have the same actuarial present value, computed
15 as of the effective date of the pension, as the amount of
16 pension under form of payment A;

17 C. if the member is a retired member who is being
18 paid a pension under form of payment B or C with the member's
19 spouse as the designated survivor pension beneficiary, the
20 member may, upon becoming divorced from the named spouse and
21 subject to an order of a court as provided for in Section
22 10-12C-7 NMSA 1978, elect to have future payments made under
23 form of payment A;

24 D. a retired member who was previously being paid a
25 pension under form of payment B or C but, because of the death

1 of the designated survivor pension beneficiary, is currently
2 receiving a pension under form of payment A may exercise a one-
3 time irrevocable option to designate another individual as the
4 survivor pension beneficiary and may select either form of
5 payment B or form of payment C; provided that:

6 (1) the amount of the pension under the form
7 of payment selected shall be recalculated and have the same
8 actuarial present value, computed on the effective date of the
9 designation, as the amount of pension under form of payment A;

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

13 (3) the retired member shall pay one hundred
14 dollars (\$100) to the board to defray the cost of determining
15 the new pension amount; and

16 E. a retired member who is being paid a pension
17 under form of payment B or C with a living designated survivor
18 pension beneficiary other than the retired member's spouse or
19 former spouse may exercise a one-time irrevocable option to
20 deselect the designated beneficiary and elect to:

21 (1) designate another survivor pension
22 beneficiary; provided that:

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

25 (b) the amount of the pension under the

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1 form of payment shall be recalculated and shall have the same
2 actuarial present value, computed as of the effective date of
3 the designation, as the amount of pension under form of payment
4 A; and

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

8 (2) have future payments made under form of
9 payment A."

10 SECTION 7. A new section of the Magistrate Retirement
11 Act, Section 10-12C-13.2 NMSA 1978, is enacted to read:

12 "10-12C-13.2. [NEW MATERIAL] FORM OF PENSION PAYMENT.--

13 A. Straight life pension is form of payment A. The
14 retired member is paid the pension for life under form of
15 payment A. All payments stop upon the death of the retired
16 member, except as provided in Subsection E of this section.
17 The amount of pension is determined in accordance with the
18 Magistrate Retirement Act.

19 B. Life payments with full continuation to one
20 survivor beneficiary is form of payment B. The retired member
21 is paid a reduced pension for life under form of payment B.
22 When the retired member dies, the designated survivor
23 beneficiary is paid the full amount of the reduced pension
24 until death. Upon the association's receipt of proof of death
25 of the designated survivor beneficiary, the amount of pension

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1 shall be changed to the amount that would have been payable had
2 the retired member elected form of payment A.

3 C. Life payment with one-half continuation to one
4 survivor beneficiary is form of payment C. The retired member
5 is paid a reduced pension for life under form of payment C.
6 When the retired member dies, the designated survivor
7 beneficiary is paid one-half the amount of the reduced pension
8 until death. If the designated survivor beneficiary
9 predeceases the retired member, the amount of pension shall be
10 changed to the amount that would have been payable had the
11 retired member elected form of payment A.

12 D. Life payments with temporary survivor benefits
13 for children is form of payment D. The retired member is paid
14 a reduced pension for life under form of payment D. When the
15 retired member dies, each declared eligible child is paid a
16 share of the reduced pension until death or age twenty-five
17 years, whichever occurs first. The share is the share
18 specified in writing and filed with the association by the
19 retired member. If shares are not specified in writing and
20 filed with the association, each declared eligible child is
21 paid an equal share of the reduced pension. A redetermination
22 of shares shall be made when the pension of any child
23 terminates. An eligible child is a natural or adopted child of
24 the retired member who is under age twenty-five years. A
25 declared eligible child is an eligible child whose name has

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1 been declared in writing and filed with the association by the
2 retired member at the time of election of form of payment D.
3 The amount of pension shall be changed to the amount of pension
4 that would have been payable had the retired member elected
5 form of payment A upon there ceasing to be a declared eligible
6 child during the lifetime of the retired member.

7 E. If all pension payments permanently terminate
8 before there is paid an aggregate amount equal to the retired
9 member's accumulated member contributions at the time of
10 retirement, the difference between the amount of accumulated
11 member contributions and the aggregate amount of pension paid
12 shall be paid to the retired member's refund beneficiary. If
13 no refund beneficiary survives the retired member, the
14 difference shall be paid to the estate of the retired member."

15 SECTION 8. A new section of the Magistrate Retirement
16 Act, Section 10-12C-13.3 NMSA 1978, is enacted to read:

17 "10-12C-13.3. [NEW MATERIAL] DEATH BEFORE RETIREMENT--
18 SURVIVOR PENSION.--For a member whose initial term of office
19 begins on or after July 1, 2014:

20 A. a survivor pension may be paid to certain
21 persons related to or designated by a member who dies before
22 normal or disability retirement if a written application for
23 the pension, in the form prescribed by the association, is
24 filed with the association by the potential survivor
25 beneficiary or beneficiaries within one year of the death of

1 the member. Applications may be filed on behalf of the
2 potential survivor beneficiary or beneficiaries or by a person
3 legally authorized to represent them;

4 B. if there is no designated survivor beneficiary
5 and the board finds the death to have been the natural and
6 proximate result of causes arising solely and exclusively out
7 of and in the course of the member's performance of duty while
8 in office, a survivor pension shall be payable to the eligible
9 surviving spouse. The amount of the survivor pension shall be
10 the greater of:

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

17 (2) fifty percent of the deceased member's
18 salary received during the last year in office;

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

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1 shall be either:

2 (1) fifty percent of the deceased member's
3 salary received during the last year in office if an eligible
4 surviving spouse is not paid a pension; or

5 (2) twenty-five percent of the deceased
6 member's salary received during the last year in office if an
7 eligible surviving spouse is paid a pension.

8 The total amount of survivor pension shall be divided
9 equally among all eligible surviving children. If there is
10 only one eligible child, the amount of pension shall be
11 twenty-five percent of the deceased member's salary received
12 during the last year in office;

13 D. if the member had the applicable minimum number
14 of years of service credit required for normal retirement, but
15 the retirement board did not find the death to have been the
16 natural and proximate result of causes arising solely and
17 exclusively out of and in the course of the member's
18 performance of duty while in office and there is no designated
19 survivor beneficiary, a survivor pension shall be payable to
20 the eligible surviving spouse. The amount of the survivor
21 pension shall be the greater of:

22 (1) the amount as calculated under the
23 Magistrate Retirement Act applicable to the deceased member at
24 the time of death as though the deceased member had retired the
25 day preceding death under form of payment B using the total

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1 amount of actual service credit attributable to the deceased
2 member at the time of death; or

3 (2) thirty percent of the deceased member's
4 salary received during the last year in office;

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

16 (1) the amount as calculated under the
17 Magistrate Retirement Act applicable to the deceased member at
18 the time of death as though the deceased member had retired the
19 day preceding death under form of payment B with the oldest
20 eligible surviving child as the survivor beneficiary using the
21 total amount of actual service credit attributable to the
22 deceased member at the time of death; or

23 (2) thirty percent of the deceased member's
24 salary received during the last year in office;

25 F. an eligible surviving spouse is the spouse to

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1 whom the deceased member was married at the time of death. An
2 eligible surviving child is a child under the age of eighteen
3 years and who is an unmarried, natural or adopted child of the
4 deceased member;

5 G. an eligible surviving spouse's pension shall
6 terminate upon death. An eligible surviving child's pension
7 shall terminate upon death or marriage or reaching age eighteen
8 years, whichever comes first;

9 H. if there is no designated survivor beneficiary
10 and there is no eligible surviving child, the eligible
11 surviving spouse may elect to be refunded the deceased member's
12 accumulated member contributions instead of receiving a
13 survivor pension;

14 I. a member may designate a survivor beneficiary to
15 receive a pre-retirement survivor pension, subject to the
16 following conditions:

17 (1) a written designation, in the form
18 prescribed by the association, is filed by the member with the
19 association;

20 (2) if the member is married at the time of
21 designation, the designation shall only be made with the
22 consent of the member's spouse, in the form prescribed by the
23 association;

24 (3) if the member is married subsequent to the
25 time of designation, any prior designations shall automatically

1 be revoked upon the date of the marriage;

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

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

9 J. if there is a designated survivor beneficiary
10 and the board finds the death to have been the natural and
11 proximate result of causes arising solely and exclusively out
12 of and in the course of the member's performance of duty while
13 in office, a survivor pension shall be payable to the
14 designated survivor beneficiary. The amount of the survivor
15 pension shall be the greater of:

16 (1) the amount as calculated under the
17 Magistrate Retirement Act applicable to the deceased member at
18 the time of death as though the deceased member had retired the
19 day preceding death under form of payment B using the actual
20 amount of service credit attributable to the member at the time
21 of death; or

22 (2) fifty percent of the deceased member's
23 salary received during the last year in office;

24 K. if there is a designated survivor beneficiary,
25 if the member had the applicable minimum number of years of

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1 service credit required for normal retirement and if the
2 retirement board did not find the death to have been the
3 natural and proximate result of causes arising solely and
4 exclusively out of and in the course of the member's
5 performance of duty while in office, a survivor pension shall
6 be payable to the designated survivor beneficiary. The amount
7 of the survivor pension shall be the greater of:

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

14 (2) thirty percent of the deceased member's
15 salary received during the last year in office;

16 L. if all pension payments permanently terminate
17 before there is paid an aggregate amount equal to the deceased
18 member's accumulated member contributions at time of death, the
19 difference between the amount of accumulated member
20 contributions and the aggregate amount of pension paid shall be
21 paid to the deceased member's refund beneficiary. If no refund
22 beneficiary survives the survivor beneficiary, the difference
23 shall be paid to the estate of the deceased member; and

24 M. for purposes of this section, "service credit"
25 means only the service credit earned by a member during periods

1 in office as a magistrate."

2 SECTION 9. EFFECTIVE DATE.--The effective date of the
3 provisions of this act is July 1, 2014.

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