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HOUSE BILL 216

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

INTRODUCED BY

Jim R. Trujillo

ENDORSED BY THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

RELATING TO PENSIONS; AMENDING MAGISTRATE 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; MAKING AN
APPROPRIATION.

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

SECTION 1. Section 10-12C-2 NMSA 1978 (being Laws 1992,
Chapter 118, Section 2, as amended) is amended to read:

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- 1 "10-12C-2. DEFINITIONS.--As used in the Magistrate
2 Retirement Act:
- 3 A. "association" means the public employees
4 retirement association provided for in the Public Employees
5 Retirement Act;
- 6 B. "board" means the retirement board provided for
7 in the Public Employees Retirement Act;
- 8 C. "dependent child" means a natural or adopted
9 child who is physically or mentally incapable of financial
10 self-support, regardless of age;
- 11 D. "educational retirement system" means the
12 retirement system provided for in the Educational Retirement
13 Act;
- 14 E. "effective date of retirement" means the first
15 day of the month following the month in which the member met
16 all requirements for retirement;
- 17 F. "former member" means a person no longer in
18 office who was previously covered pursuant to the provisions of
19 Sections 10-12A-1 through 10-12A-13 NMSA 1978, but who has not
20 retired pursuant to the provisions of the Magistrate Retirement
21 Act and who has received a refund of member contributions
22 pursuant to the provisions of Sections 10-12C-1 through
23 10-12C-18 NMSA 1978;
- 24 G. "fund" means the magistrate retirement fund;
- 25 H. "magistrate" means a magistrate judge;

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1 I. "member" means any magistrate who is in office
2 and covered pursuant to the provisions of the Magistrate
3 Retirement Act, or any person no longer in office who was
4 previously a magistrate covered pursuant to the provisions of
5 the Magistrate Retirement Act, who has not retired and who has
6 not received a refund of member contributions from the fund;

7 J. "member contributions" means the amounts
8 deducted from the salary of a member and credited to the
9 member's individual account, together with interest, if any,
10 credited thereto;

11 K. "minor child" means a natural or adopted child
12 who has not reached [~~his~~] the natural or adopted child's
13 eighteenth birthday and who has not been emancipated by
14 marriage or otherwise;

15 L. "non-member" means any magistrate who is in
16 office and who is exempt from membership pursuant to a
17 provision provided in Section 10-12C-4 NMSA 1978 and whose
18 exemption has not been revoked;

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

23 [~~H.~~] N. "pension" means a series of monthly
24 payments to a retired member or survivor beneficiary pursuant
25 to the provisions of the Magistrate Retirement Act;

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1 ~~[M-]~~ O. "refund beneficiary" means a person
2 designated by the member, in writing in the form prescribed by
3 the association, as the person who would be refunded the
4 member's accumulated member contributions payable if the member
5 dies and no survivor pension is payable, or as the person who
6 would receive the difference between pension paid and
7 accumulated member contributions if the retired member dies
8 before receiving in pension payments the amount of the
9 accumulated member contributions;

10 ~~[N-]~~ P. "retire" means to:

11 (1) terminate employment with all employers
12 covered by any state system or the educational retirement
13 system; and

14 (2) receive a pension from one state system or
15 the educational retirement system;

16 ~~[O-]~~ Q. "retired member" means a person who has met
17 all requirements for retirement and who is receiving a pension
18 from the fund;

19 ~~[P-]~~ R. "salary" means the base salary or wages
20 paid a member, including longevity pay, for personal services
21 rendered; provided that salary does not include overtime pay;
22 allowances for housing, clothing, equipment or travel; payments
23 for unused sick leave, unless the unused sick leave payment is
24 made through continuation of the member on the regular payroll
25 for the period represented by that payment; and any other form

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1 of remuneration not specifically designated by law as included
2 in salary pursuant to the provisions of the Magistrate
3 Retirement Act;

4 [Q-] S. "state system" means the retirement
5 programs provided pursuant to the provisions of the Public
6 Employees Retirement Act, the Magistrate Retirement Act and the
7 Judicial Retirement Act;

8 [R-] T. "surviving spouse" means the spouse to whom
9 the member was married at the time of the member's death;

10 [S-] U. "survivor beneficiary" means a person who
11 receives a pension or who has been designated to be paid a
12 pension as a result of the death of a member or retired member;
13 and

14 [T-] V. "years of service" means a period of time
15 beginning on the date a person commences to hold office as a
16 magistrate because of appointment or election and ending on the
17 date a person ceases to hold office as a magistrate because of
18 expiration of the magistrate's term, voluntary resignation,
19 death or disability and shall include any fractions of years of
20 service."

21 **SECTION 2.** Section 10-12C-5 NMSA 1978 (being Laws 1992,
22 Chapter 118, Section 5, as amended) is amended to read:

23 "10-12C-5. SERVICE CREDIT--REINSTATEMENT OF FORFEITED
24 SERVICE--PRIOR SERVICE--MILITARY SERVICE.--

25 A. Personal service rendered by a member shall be
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1 credited to the member's service credit account in accordance
2 with board rules and regulations. Service shall be credited to
3 the nearest month. In no case shall any member be credited
4 with a year of service for less than twelve months of service
5 in any calendar year or more than a month of service for all
6 service in any calendar month or more than a year of service
7 for all service in any calendar year.

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

21 C. Service credit that a member would have earned
22 if the member had not elected to be excluded from membership
23 may be purchased if the member pays the purchase cost
24 determined pursuant to the provisions of Subsection F of this
25 section.

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1 D. A member who during a term of office enters a
2 uniformed service of the United States shall be given service
3 credit for periods of service in the uniformed services subject
4 to the following conditions:

5 (1) the member returns to office within ninety
6 days following termination of the period of intervening service
7 in the uniformed services or the affiliated employer certifies
8 in writing to the association that the member is entitled to
9 reemployment rights under the federal Uniformed Services
10 Employment and Reemployment Rights Act of 1994;

11 (2) the member retains membership in the
12 association during the period of service in the uniformed
13 services;

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

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

6 (5) the member must not have received a
7 discharge or separation from uniformed service under other than
8 honorable conditions.

9 Notwithstanding any provision of this plan to the
10 contrary, contributions, benefits and service credit with
11 respect to qualified military service will be provided in
12 accordance with Section 414(u) of the Internal Revenue Code of
13 1986, as amended.

14 E. A member who entered a uniformed service of the
15 United States may purchase service credit for periods of active
16 duty in the uniformed services, subject to the following
17 conditions:

18 (1) the member pays the purchase cost
19 determined pursuant to the provisions of Subsection F of this
20 section;

21 (2) the member has [~~five or more~~] the
22 applicable minimum number of years of service credit accrued
23 according to the provisions of the Magistrate Retirement Act;

24 (3) the aggregate amount of service credit
25 purchased pursuant to the provisions of this subsection does

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1 not exceed five years, reduced by any period of service credit
2 acquired for military service under any other provision of the
3 Magistrate Retirement Act;

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

8 (5) the member must not have received a
9 discharge or separation from uniformed service under other than
10 honorable conditions.

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

22 G. A member shall be refunded, after retirement and
23 upon written request filed with the association, the portion of
24 the purchase cost of service credit purchased pursuant to the
25 provisions of this section that the association determines to

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1 have been unnecessary to provide the member with the maximum
2 pension applicable to the member. The association shall not
3 pay interest on the portion of the purchase cost refunded to
4 the member.

5 H. At any time prior to retirement, a member may
6 purchase service credit in monthly increments, subject to the
7 following conditions:

8 (1) the member has [~~at least five~~] the
9 applicable minimum number of years of service credit acquired
10 as a result of personal service rendered under the Magistrate
11 Retirement Act;

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

14 (3) the member pays full actuarial present
15 value of the amount of the increase in the member's pension as
16 a consequence of the purchase, as determined by the
17 association;

18 (4) the member pays the full cost of the
19 purchase within sixty days of the date the member is informed
20 of the amount of the payment; and

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

23 SECTION 3. Section 10-12C-6 NMSA 1978 (being Laws 1992,
24 Chapter 118, Section 6, as amended) is amended to read:

25 "10-12C-6. REFUND OF CONTRIBUTIONS--MEMBERS--NON-

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1 MEMBERS.--

2 A. If a member leaves office, the member may, with
3 the written consent of the member's spouse, if any, withdraw
4 the member's accumulated member contributions, upon making
5 written request in a form prescribed by the association. Upon
6 written request of the member in the form prescribed by the
7 association, a refund of member contributions may be made by a
8 trustee-to-trustee transfer of the contributions from the
9 member contribution fund directly to another qualified plan as
10 allowed by the Internal Revenue Code of 1986. Withdrawal of
11 member contributions shall result in forfeiture of the service
12 credit accrued for the period during which the contributions
13 were made.

14 B. A member shall, upon commencement of membership,
15 designate a refund beneficiary who shall receive the refund of
16 the member contributions, plus interest if any, if the member
17 dies and no survivor pension is payable. If the member is
18 married at the time of designation, written spousal consent
19 shall be required if the designated refund beneficiary is a
20 person other than the spouse. Marriage subsequent to the
21 designation shall automatically revoke a previous designation,
22 and the spouse shall become the refund beneficiary unless or
23 until another designation is filed with the association.
24 Divorce subsequent to the designation shall automatically
25 revoke designation of the former spouse as refund beneficiary,

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1 or the right of the former spouse to be refund beneficiary if
2 no designation has been filed, and the refund shall be paid to
3 the deceased member's estate unless the member filed a
4 designation of refund beneficiary subsequent to the divorce.
5 The refund shall be paid to the refund beneficiary named in the
6 most recent designation of refund beneficiary on file with the
7 association unless that beneficiary is deceased. If there is
8 not a living refund beneficiary named in the most recent
9 designation of refund beneficiary on file with the association,
10 the deceased member's accumulated member contributions shall be
11 paid to the estate of the deceased member.

12 C. When a non-member leaves office, the non-member
13 may withdraw the non-member's accumulated non-member
14 contributions upon making written request in a form prescribed
15 by the association. Upon such written request, a refund shall
16 be issued by the association of the non-member's contributions,
17 with interest at a rate as provided by rule promulgated by the
18 board."

19 SECTION 4. Section 10-12C-8 NMSA 1978 (being Laws 1992,
20 Chapter 118, Section 8) is amended to read:

21 "10-12C-8. AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL
22 RETIREMENT.--

23 A. For a magistrate who was a member on June 30,
24 2014, the age and service credit requirements for retirement
25 provided for in the Magistrate Retirement Act are:

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

3 (2) age sixty years or older and fifteen or
4 more years of service credit; or

5 (3) any age and twenty-four or more years of
6 service credit.

7 B. For a magistrate who initially became a member
8 on or after July 1, 2014, the age and service requirements for
9 normal retirement provided for in the Magistrate Retirement Act
10 are:

11 (1) age sixty-five years or older and eight or
12 more years of service credit;

13 (2) age sixty years or older and fifteen or
14 more years of service credit; or

15 (3) any age and twenty-four or more years of
16 service credit.

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

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1 Retirement Reciprocity Act. [~~if enacted by the second session~~
2 ~~of the fortieth legislature of the state of New Mexico.~~

3 G.] D. No member shall be eligible to receive a
4 pension pursuant to the provisions of the Magistrate Retirement
5 Act while still in office."

6 SECTION 5. Section 10-12C-9 NMSA 1978 (being Laws 1992,
7 Chapter 118, Section 9) is amended to read:

8 "10-12C-9. AMOUNT OF PENSION.--

9 A. For a magistrate who was a member on June 30,
10 2014:

11 (1) for service credit earned on or before
12 June 30, 2014, the amount of pension is equal to one-twelfth
13 of:

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

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

24 B. For a magistrate who initially became a member
25 on or after July 1, 2014, the amount of pension is equal to

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1 one-twelfth of the salary received during the last year in
2 office prior to retirement, multiplied by the product of three
3 and one-half percent times the sum of the number of years of
4 service.

5 C. A pension calculated pursuant to this section
6 shall not exceed eighty-five percent of one-twelfth of the
7 salary received during the last year in office."

8 SECTION 6. Section 10-12C-10 NMSA 1978 (being Laws 1992,
9 Chapter 118, Section 10, as amended) is amended to read:

10 "10-12C-10. MEMBER CONTRIBUTIONS--NON-MEMBER
11 CONTRIBUTIONS--TAX TREATMENT.--

12 A. On and after July 1, 2014, members and non-
13 members, while in office, shall contribute [the following
14 amounts] ten and one-half percent of salary to the member
15 contribution fund.

16 [~~(1) through June 30, 2006, six and one-half~~
17 ~~percent of salary; and~~

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

21 ~~(a) from July 1, 2009 through June 30,~~
22 ~~2011, the member contribution rate shall be nine percent of~~
23 ~~salary;~~

24 ~~(b) from July 1, 2011 through June 30,~~
25 ~~2012, the member contribution rate shall be ten and three-~~

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1 ~~fourths percent of salary; and~~

2 ~~(c) from July 1, 2012 through June 30,~~
3 ~~2013, the member contribution rate shall be nine percent of~~
4 ~~salary]~~

5 B. Upon implementation, the state, acting as
6 employer of members covered pursuant to the provisions of the
7 Magistrate Retirement Act, shall, solely for the purpose of
8 compliance with Section 414(h) of the Internal Revenue Code of
9 1986, pick up, for the purposes specified in that section,
10 member contributions required by this section for all annual
11 salary earned by the member. Member contributions picked up
12 pursuant to the provisions of this section shall be treated as
13 employer contributions for purposes of determining income tax
14 obligations under the Internal Revenue Code of 1986; however,
15 such picked-up member contributions shall be included in the
16 determination of the member's gross annual salary for all other
17 purposes under federal and state laws. Member contributions
18 picked up pursuant to the provisions of this section shall
19 continue to be designated member contributions for all purposes
20 of the Magistrate Retirement Act and shall be considered as
21 part of the member's annual salary for purposes of determining
22 the amount of the member's contribution. The provisions of
23 this section are mandatory, and the member shall have no option
24 concerning the pick up or concerning the receipt of the
25 contributed amounts directly instead of having the amounts paid

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1 by the employer to the retirement system. Implementation
2 occurs upon authorization by the board. In no event may
3 implementation occur other than at the beginning of a pay
4 period applicable to the member."

5 SECTION 7. Section 10-12C-11 NMSA 1978 (being Laws 1992,
6 Chapter 118, Section 11, as amended) is amended to read:

7 "10-12C-11. EMPLOYER CONTRIBUTIONS.--

8 A. The state, through the administrative office of
9 the courts, shall contribute [~~the following amounts~~] to the
10 fund fifteen percent of salary for each member and non-member
11 in office.

12 [~~(1) through June 30, 2006, ten percent of~~
13 ~~salary for each member in office; and~~

14 [~~(2) on and after July 1, 2006, eleven percent~~
15 ~~of salary for each member in office, except that for members~~
16 ~~whose annual salary is greater than twenty thousand dollars~~
17 ~~(\$20,000):~~

18 [~~(a) from July 1, 2009 through June 30,~~
19 ~~2011, the state contribution rate shall be nine and one-half~~
20 ~~percent of salary for each member in office;~~

21 [~~(b) from July 1, 2011 through June 30,~~
22 ~~2012, the state contribution rate shall be seven and three-~~
23 ~~fourths percent of salary for each member in office; and~~

24 [~~(c) from July 1, 2012 through June 30,~~
25 ~~2013, the state contribution rate shall be nine and one-half~~

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1 ~~percent of salary for each member in office]~~

2 B. Twenty-five dollars (\$25.00) from each civil
3 case docket fee paid in magistrate court and ten dollars
4 (\$10.00) from each civil jury fee paid in magistrate court
5 shall be paid by the court clerk to the employer's accumulation
6 fund."

7 SECTION 8. Section 10-12C-12 NMSA 1978 (being Laws 1992,
8 Chapter 118, Section 12) is amended to read:

9 "10-12C-12. DISABILITY RETIREMENT PENSION.--

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

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

23 C. The [~~five-year~~] applicable service credit
24 requirement shall be waived if the board finds the disability
25 to have been the natural and proximate result of causes arising

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1 solely and exclusively out of and in the course of the member's
2 performance of duty as a magistrate, and the amount of pension
3 shall be computed as if the member had ~~[five]~~ the applicable
4 minimum number of years of service credit as a magistrate."

5 SECTION 9. Section 10-12C-13 NMSA 1978 (being Laws 1992,
6 Chapter 118, Section 13) is amended to read:

7 "10-12C-13. ~~[SURVIVOR'S PENSION]~~ ELECTION OF FORM OF
8 PENSION PAYMENT.--

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

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

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1 ~~member at any time prior to the member's retirement. If the~~
2 ~~member is married, a revocation of designation of survivor~~
3 ~~beneficiary may only be made with the written consent of the~~
4 ~~member's spouse.~~

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

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

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

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

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1 A. Except as otherwise provided in Section 10-12C-7
2 NMSA 1978, a member may elect to have pension payments made
3 under any one of the forms of payment provided in Section
4 10-12C-13.1 NMSA 1978. The election of form of payment and
5 naming of survivor pension beneficiary shall be made on a form
6 furnished by and filed with the association prior to the date
7 the first pension payment is made. An election of form of
8 payment may not be changed after the date the first pension
9 payment is made. If the member is married, the association
10 shall obtain the consent of the member's spouse to the election
11 of the form of payment and any designation of survivor pension
12 beneficiary before the election or designation is effective.
13 Except as provided in Subsection C, D or E of this section, a
14 named survivor pension beneficiary may not be changed after the
15 date the first pension payment is made if form of payment B or
16 C is elected. Except as otherwise provided in Section 10-12C-7
17 NMSA 1978, payment shall be made:

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

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

25 B. The amount of pension under forms of payment B,

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1 C and D shall have the same actuarial present value, computed
2 as of the effective date of the pension, as the amount of
3 pension under form of payment A.

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

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

17 (1) the amount of the pension under the form
18 of payment selected shall be recalculated and have the same
19 actuarial present value, computed on the effective date of the
20 designation, as the amount of pension under form of 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 10-12C-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.

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

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

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

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

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

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

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

23 "10-12C-13.1. [NEW MATERIAL] FORM OF PENSION PAYMENT.--

24 A. Straight life pension is form of payment A. The
25 retired member is paid the pension for life under form of

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1 payment A. All payments stop upon the death of the retired
2 member, except as provided by Subsection E of this section.
3 The amount of pension is determined in accordance with the
4 coverage plan applicable to the retired member.

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

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

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

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

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

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1 SECTION 11. Section 10-12C-14 NMSA 1978 (being Laws 1992,
2 Chapter 118, Section 14) is amended to read:

3 "10-12C-14. COST-OF-LIVING ADJUSTMENT.--A [~~yearly~~]
4 qualified pension recipient is eligible for a cost-of-living
5 adjustment [~~shall be made to each pension~~] payable pursuant to
6 the provisions of the Magistrate Retirement Act [~~as provided in~~
7 ~~the Public Employees Retirement Act~~] as 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 Magistrate
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 Magistrate 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 increase; provided, however,
16 that, if, pursuant to the provisions of this subparagraph, the
17 cost-of-living adjustment is suspended for the two consecutive
18 fiscal years immediately prior to the most recent certification
19 by the board of the funded ratio: 1) the amount of pension
20 payable in the fiscal year immediately following the two-year
21 suspension shall be increased two percent regardless of the
22 certified funded ratio; and 2) thereafter, if, pursuant to the
23 provisions of Paragraph (1) of this subsection, the certified
24 funded ratio is less than eighty percent, the provisions of
25 this subsection shall apply without exception in the next

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1 succeeding fiscal year."

2 SECTION 12. A new section of the Magistrate Retirement
3 Act, Section 10-12C-14.1 NMSA 1978, is enacted to read:

4 "10-12C-14.1. [NEW MATERIAL] QUALIFIED PENSION
5 RECIPIENT--COST-OF-LIVING ADJUSTMENT WAIT PERIOD--DECLINING
6 INCREASE.--

7 A. Pursuant to the Magistrate 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. APPROPRIATION.--**Five million dollars
22 (\$5,000,000) is appropriated from the general fund to the
23 magistrate retirement fund for expenditure in fiscal year 2015
24 and subsequent fiscal years to improve the funded ratio of the
25 magistrate retirement fund. Any unexpended or unencumbered

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1 balance remaining at the end of a fiscal year shall not revert
2 to the general fund.

3 SECTION 14. SEVERABILITY.--If any part or application of
4 this act is held invalid, the remainder or its application to
5 other situations or persons shall not be affected.

6 SECTION 15. EFFECTIVE DATE.--The effective date of the
7 provisions of this act is July 1, 2014.