

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR  
SENATE BILL 160

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 F. A retired member who returns to employment

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

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

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

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

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

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

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

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

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

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

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

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

1 10-11-118 NMSA 1978.

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

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

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

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

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

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

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

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

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

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

25 (b) the pension attributable to the

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

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

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

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

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

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

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

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

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1 C. "dependent child" means a natural or adopted  
2 child who is physically or mentally incapable of financial  
3 self-support, regardless of age;

4 D. "educational retirement system" means the  
5 retirement system provided for in the Educational Retirement  
6 Act;

7 E. "effective date of retirement" means the first  
8 day of the month following the month in which the member met  
9 all requirements for retirement;

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

14 [~~F.~~] G. "former member" means a person no longer in  
15 office who was previously covered pursuant to the provisions of  
16 Sections 10-12A-1 through 10-12A-13 NMSA 1978, but who has not  
17 retired pursuant to the provisions of the Magistrate Retirement  
18 Act and who has received a refund of member contributions  
19 pursuant to the provisions of Sections 10-12C-1 through  
20 10-12C-18 NMSA 1978;

21 [~~G.~~] H. "fund" means the magistrate retirement  
22 fund;

23 [~~H.~~] I. "magistrate" means a magistrate judge;

24 [~~I.~~] J. "member" means any magistrate who is in  
25 office and covered pursuant to the provisions of the Magistrate

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

5 ~~[J.]~~ K. "member contributions" means the amounts  
6 deducted from the salary of a member and credited to the  
7 member's individual account, together with interest, if any,  
8 credited thereto;

9 ~~[K.]~~ L. "minor child" means a natural or adopted  
10 child who has not reached his eighteenth birthday and who has  
11 not been emancipated by marriage or otherwise;

12 ~~[L.]~~ M. "pension" means a series of monthly  
13 payments to a retired member or survivor beneficiary pursuant  
14 to the provisions of the Magistrate Retirement Act;

15 ~~[M.]~~ N. "refund beneficiary" means a person  
16 designated by the member, in writing in the form prescribed by  
17 the association, as the person who would be refunded the  
18 member's accumulated member contributions payable if the member  
19 dies and no survivor pension is payable, or as the person who  
20 would receive the difference between pension paid and  
21 accumulated member contributions if the retired member dies  
22 before receiving in pension payments the amount of the  
23 accumulated member contributions;

24 ~~[N.]~~ O. "retire" means to:

- 25 (1) terminate employment with all employers

1 covered by any state system or the educational retirement  
2 system; and

3 (2) receive a pension from one state system or  
4 the educational retirement system;

5 [~~Q.~~] P. "retired member" means a person who has met  
6 all requirements for retirement and who is receiving a pension  
7 from the fund;

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

18 [~~Q.~~] R. "state system" means the retirement  
19 programs provided pursuant to the provisions of the Public  
20 Employees Retirement Act, the Magistrate Retirement Act and the  
21 Judicial Retirement Act;

22 [~~R.~~] S. "surviving spouse" means the spouse to whom  
23 the member was married at the time of the member's death;

24 [~~S.~~] T. "survivor beneficiary" means a person who  
25 receives a pension or who has been designated to be paid a

1 pension as a result of the death of a member or retired member;  
2 and

3 ~~[F.]~~ U. "years of service" means a period of time  
4 beginning on the date a person commences to hold office as a  
5 magistrate because of appointment or election and ending on the  
6 date a person ceases to hold office as a magistrate because of  
7 expiration of the magistrate's term, voluntary resignation,  
8 death or disability and shall include any fractions of years of  
9 service."

10 SECTION 3. Section 10-12C-4 NMSA 1978 (being Laws 1992,  
11 Chapter 118, Section 4) is amended to read:

12 "10-12C-4. MEMBERSHIP.--~~[Except for those magistrates who~~  
13 ~~elected pursuant to the provisions of prior law to continue to~~  
14 ~~be covered pursuant to the provisions of the Public Employees~~  
15 ~~Retirement Act and any magistrate who has previously retired~~  
16 ~~pursuant to the provisions of any state system or the~~  
17 ~~educational retirement system]~~ Every magistrate while in office  
18 ~~[on or after the effective date of the Magistrate Retirement~~  
19 ~~Act]~~ shall become a member ~~[upon appointment or election to~~  
20 ~~that office]~~ and shall be subject to the provisions of the  
21 Magistrate Retirement Act; ~~[upon taking office; unless a~~  
22 ~~written application for exemption from membership is filed with~~  
23 ~~the association within ninety days of taking office. The~~  
24 ~~application for exemption from membership may be revoked by~~  
25 ~~filing with the association a written application for~~

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1 membership in the form prescribed by the association. If  
2 exemption from membership is revoked, membership shall commence  
3 on the first day of the first pay period following the date the  
4 application for membership was received by the association]  
5 provided, however, that a magistrate who, prior to July 1,  
6 2014, applied for and received an exemption from membership  
7 shall not become a member until such exemption ends. A  
8 magistrate who is retired under any state system or the  
9 educational retirement system shall:

10 A. pay the applicable member contributions and the  
11 state, through the administrative office of the courts, shall  
12 pay the applicable employer contributions as provided pursuant  
13 to the Magistrate Retirement Act; and

14 B. not accrue a service credit and shall not be  
15 eligible to purchase service credit nor to retire pursuant to  
16 the Magistrate Retirement Act."

17 SECTION 4. Section 10-12C-5 NMSA 1978 (being Laws 1992,  
18 Chapter 118, Section 5, as amended) is amended to read:

19 "10-12C-5. SERVICE CREDIT--REINSTATEMENT OF FORFEITED  
20 SERVICE--PRIOR SERVICE--MILITARY SERVICE.--

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

1 in any calendar year or more than a month of service for all  
2 service in any calendar month or more than a year of service  
3 for all service in any calendar year.

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

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

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

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

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

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

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

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1 Retirement Act; and

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

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

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

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

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

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

25 (4) service credit may not be purchased for

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1 periods of service in the uniformed services that are used to  
2 obtain or increase a benefit from another retirement program;  
3 and

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

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

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

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1           H. At any time prior to retirement, a member may  
2 purchase service credit in monthly increments, subject to the  
3 following conditions:

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

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

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

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

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

19           **SECTION 5.** 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. Except for a member who is retired under  
18 any state system or the educational retirement system, if a  
19 member leaves office for any reason, other than removal  
20 pursuant to Article 6, Section 32 of the constitution of New  
21 Mexico before meeting the age and service credit requirements  
22 for retirement pursuant to the provisions of this section and  
23 if that member leaves [~~his~~] the member contributions on deposit  
24 in the fund, that member may apply for retirement when that  
25 member meets the age and service credit requirements for

1 retirement pursuant to the provisions of the Magistrate  
 2 Retirement Act or provisions of the Public Employees Retirement  
 3 Reciprocity Act. [~~if enacted by the second session of the~~  
 4 ~~fortieth legislature of the state of New Mexico.~~

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

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

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

11 A. For a magistrate who was a member on June 30,  
 12 2014, the monthly pension is an amount equal to the sum of:

13 (1) for service credit earned on or before  
 14 June 30, 2014, the amount [~~of pension~~] is equal to one-twelfth  
 15 of:

16 seventy-five percent

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

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

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1 number of years of service.

2 B. For a magistrate who initially became a member  
3 on or after July 1, 2014, the amount of monthly pension is  
4 equal to one-sixtieth of the greatest aggregate amount of  
5 salary received for sixty consecutive, but not necessarily  
6 continuous, months in office multiplied by the product of three  
7 percent times the sum of the number of years of service.

8 C. The amount of monthly pension under form of  
9 payment A for a pension calculated pursuant to Subsection B of  
10 this section shall not exceed eighty-five percent of one-  
11 sixtieth of the greatest aggregate amount of salary received  
12 for sixty consecutive, but not necessarily continuous, months  
13 prior to the member leaving office.

14 D. The amount of monthly pension payable for a  
15 pension calculated pursuant to Subsection A of this section  
16 shall not exceed eighty-five percent of one-sixtieth of the  
17 greatest aggregate amount of salary received for sixty  
18 consecutive, but not necessarily continuous, months prior to  
19 the member leaving office. A pension benefit determined  
20 pursuant to this subsection shall not be less than the benefit  
21 earned as of June 30, 2014."

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

24 "10-12C-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

25 A. On and after July 1, 2014, members, while in

1 office, shall contribute [~~the following amounts~~] ten and one-  
 2 half percent of salary to the member contribution fund.

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

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

8 [~~(a) from July 1, 2009 through June 30,~~  
 9 ~~2011, the member contribution rate shall be nine percent of~~  
 10 ~~salary;~~

11 [~~(b) from July 1, 2011 through June 30,~~  
 12 ~~2012, the member contribution rate shall be ten and three-~~  
 13 ~~fourths percent of salary; and~~

14 [~~(c) from July 1, 2012 through June 30,~~  
 15 ~~2013, the member contribution rate shall be nine percent of~~  
 16 ~~salary]~~

17 B. Upon implementation, the state, acting as  
 18 employer of members covered pursuant to the provisions of the  
 19 Magistrate Retirement Act, shall, solely for the purpose of  
 20 compliance with Section 414(h) of the Internal Revenue Code of  
 21 1986, pick up, for the purposes specified in that section,  
 22 member contributions required by this section for all annual  
 23 salary earned by the member. Member contributions picked up  
 24 pursuant to the provisions of this section shall be treated as  
 25 employer contributions for purposes of determining income tax

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1 obligations under the Internal Revenue Code of 1986; however,  
2 such picked-up member contributions shall be included in the  
3 determination of the member's gross annual salary for all other  
4 purposes under federal and state laws. Member contributions  
5 picked up pursuant to the provisions of this section shall  
6 continue to be designated member contributions for all purposes  
7 of the Magistrate Retirement Act and shall be considered as  
8 part of the member's annual salary for purposes of determining  
9 the amount of the member's contribution. The provisions of  
10 this section are mandatory, and the member shall have no option  
11 concerning the pick up or concerning the receipt of the  
12 contributed amounts directly instead of having the amounts paid  
13 by the employer to the retirement system. Implementation  
14 occurs upon authorization by the board. In no event may  
15 implementation occur other than at the beginning of a pay  
16 period applicable to the member."

17 SECTION 8. Section 10-12C-11 NMSA 1978 (being Laws 1992,  
18 Chapter 118, Section 11, as amended) is amended to read:

19 "10-12C-11. EMPLOYER CONTRIBUTIONS.--

20 A. The state, through the administrative office of  
21 the courts, shall contribute ~~[the following amounts]~~ to the  
22 fund fifteen percent of salary for each member in office,  
23 except that,

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

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

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

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

11                   ~~(c)]~~ from July 1, [2012] 2014 through  
 12 [~~June 30, 2013~~] June 30, 2015, the state contribution rate  
 13 shall be [~~nine and one-half~~] eleven percent of salary for each  
 14 member in office.

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

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

22                   "10-12C-12. DISABILITY RETIREMENT PENSION.--

23                   A. A magistrate with [~~five~~] the applicable minimum  
 24 number of years [~~or more~~] of service credit accrued pursuant to  
 25 the provisions of the Magistrate Retirement Act who becomes

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

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

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

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

20 "10-12C-13. SURVIVOR'S PENSION.--For a member whose  
21 initial term in office began prior to July 1, 2014:

22 A. unless [a] the member has designated a survivor  
23 beneficiary in accordance with Subsection B of this section, a  
24 survivor pension shall be paid for life to a member's or  
25 retired member's surviving spouse;

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

18           C. if there is no surviving spouse and no  
19 designated survivor beneficiary or if the surviving spouse dies  
20 while there are still minor and dependent children of the  
21 member, the survivor's pension shall be paid to all minor and  
22 dependent children, if any, of the member, in equal shares, so  
23 long as each child remains a minor or dependent child. As each  
24 child ceases to be a minor or dependent child, the number of  
25 shares shall be reduced and the amount payable to each

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1 remaining child increased proportionately so that the total  
2 survivor's pension remains unchanged as long as there is any  
3 such child;

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

6 E. survivor beneficiaries shall be eligible for  
7 other benefits provided pursuant to the provisions of the  
8 Magistrate Retirement Act, including cost-of-living adjustments  
9 and continuation of group insurance benefits; and

10 F. if a member dies while receiving a disability  
11 retirement pension, the survivor beneficiary shall receive the  
12 survivor pension provided pursuant to the provisions of the  
13 Magistrate Retirement Act."

14 SECTION 11. A new section of the Magistrate Retirement  
15 Act, Section 10-12C-13.1 NMSA 1978, is enacted to read:

16 "10-12C-13.1. [NEW MATERIAL] ELECTION FORM OF PENSION.--  
17 For a member whose initial term in office begins on or after  
18 July 1, 2014, except as otherwise provided in Section 10-12C-7  
19 NMSA 1978:

20 A. the member may elect to have pension payments  
21 made under any one of the forms of payment provided in Section  
22 10-12C-13.2 NMSA 1978. The election of form of payment and  
23 naming of survivor pension beneficiary shall be made on a form  
24 furnished by and filed with the association prior to the date  
25 the first pension payment is made. An election of form of

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

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

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

18 B. the amount of pension under forms of payment B,  
19 C and D shall have the same actuarial present value, computed  
20 as of the effective date of the pension, as the amount of  
21 pension under form of payment A;

22 C. if the member is a retired member who is being  
23 paid a pension under form of payment B or C with the member's  
24 spouse as the designated survivor pension beneficiary, the  
25 retired member may, upon becoming divorced from the named

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1 spouse and subject to an order of a court as provided for in  
2 Section 10-12C-7 NMSA 1978, elect to have future payments made  
3 under form of payment A;

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

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

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

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

22 E. if the member is a retired member who is being  
23 paid a pension under form of payment B or C with a living  
24 designated survivor pension beneficiary other than the retired  
25 member's spouse or former spouse, the retired member may

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1 exercise a one-time irrevocable option to deselect the  
2 designated beneficiary and elect to:

3 (1) designate another survivor pension  
4 beneficiary; provided that:

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

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

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

15 (2) have future payments made under form of  
16 payment A."

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

19 "10-12C-13.2. [NEW MATERIAL] FORM OF PENSION PAYMENT.--

20 A. Straight life pension is form of payment A. The  
21 retired member is paid the pension for life under form of  
22 payment A. All payments stop upon the death of the retired  
23 member, except as provided by Subsection E of this section.  
24 The amount of pension is determined in accordance with the  
25 coverage plan applicable to the retired member.

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

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

19           D. Life payments with temporary survivor benefits  
20 for children is form of payment D. The retired member is paid  
21 a reduced pension for life under form of payment D. When the  
22 retired member dies, each declared eligible child is paid a  
23 share of the reduced pension until death or age twenty-five  
24 years, whichever occurs first. The share is the share  
25 specified in writing and filed with the association by the

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

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

22 **SECTION 13.** A new section of the Magistrate Retirement  
 23 Act, Section 10-12C-13.3 NMSA 1978, is enacted to read:

24 "10-12C-13.3. [NEW MATERIAL] DEATH BEFORE RETIREMENT--  
 25 SURVIVOR PENSION.--For a member whose initial term in office

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1 begins on or after July 1, 2014:

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

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

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

24 (2) fifty percent of the deceased member's  
25 final average salary;

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

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

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

15 The total amount of survivor pension shall be divided  
16 equally among all eligible surviving children. If there is  
17 only one eligible child, the amount of pension shall be  
18 twenty-five percent of the deceased member's final average  
19 salary;

20 D. if the member had the applicable minimum number  
21 of years of service credit required for normal retirement but  
22 the board did not find the death to have been the natural and  
23 proximate result of causes arising solely and exclusively out  
24 of and in the course of the member's performance of duty while  
25 in office and there is no designated survivor beneficiary, a

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1 survivor pension shall be payable to the eligible surviving  
2 spouse. The amount of the survivor pension shall be the  
3 greater of:

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

10 (2) thirty percent of the deceased member's  
11 final average salary;

12 E. if the member had the applicable minimum number  
13 of years of service credit required for normal retirement but  
14 the board did not find 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 and there is no designated survivor beneficiary, and  
18 if there is no eligible surviving spouse at the time of death,  
19 a survivor pension shall be payable to and divided equally  
20 among all eligible surviving children, if any. The total  
21 amount of survivor pension payable for all eligible surviving  
22 children shall be the greater of:

23 (1) the amount as calculated under the  
24 coverage plan applicable to the deceased member at the time of  
25 death as though the deceased member had retired the day

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1 preceding death under form of payment B with the oldest  
2 eligible surviving child as the survivor beneficiary using the  
3 total amount of actual service credit attributable to the  
4 deceased member at the time of death; or

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

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

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

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

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

24 (1) a written designation, in the form  
25 prescribed by the association, is filed by the member with the

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1 association;

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

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

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

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

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

23 (1) the amount as calculated under the  
24 coverage plan applicable to the deceased member at the time of  
25 death as though the deceased member had retired the day

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1 preceding death under form of payment B using the actual amount  
2 of service credit attributable to the member at the time of  
3 death; or

4 (2) fifty percent of the deceased member's  
5 final average salary;

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

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

21 (2) thirty percent of the deceased member's  
22 final average salary;

23 L. if all pension payments permanently terminate  
24 before there is paid an aggregate amount equal to the deceased  
25 member's accumulated member contributions at time of death, the

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1 difference between the amount of accumulated member  
2 contributions and the aggregate amount of pension paid shall be  
3 paid to the deceased member's refund beneficiary. If no refund  
4 beneficiary survives the survivor beneficiary, the difference  
5 shall be paid to the estate of the deceased member; and

6 M. and for purposes of this section, "service  
7 credit" means only the service credit earned by a member during  
8 periods in office as a magistrate."

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

11 "10-12C-14. COST-OF-LIVING ADJUSTMENT.--A [~~yearly~~]  
12 qualified pension recipient is eligible for a cost-of-living  
13 adjustment [~~shall be made to each pension~~] payable pursuant to  
14 the provisions of the Magistrate Retirement Act [~~as provided in~~  
15 the Public Employees Retirement Act] as follows:

16 A. beginning July 1, 2014 and continuing through  
17 June 30, 2016, there shall not be a cost-of-living adjustment  
18 applied to a pension payable pursuant to the Magistrate  
19 Retirement Act; and

20 B. beginning on May 1, 2016 and no later than each  
21 May 1 thereafter:

22 (1) the board shall certify to the association  
23 the actuarial funded ratio of the fund as of June 30 of the  
24 preceding calendar year;

25 (2) if, pursuant to Paragraph (1) of this

1 subsection, the certified funded ratio is greater than or equal  
2 to one hundred percent, the board shall next certify the  
3 projected funded ratio of the fund on July 1 of the next  
4 succeeding calendar year if, effective July 1 of the current  
5 calendar year, a cost-of-living increase of two percent is  
6 applied to all payable pensions; and

7 (3) on each July 1 following the board's  
8 certification of the funded ratio, the cost-of-living  
9 adjustment, if any, applied to a pension payable pursuant to  
10 the Magistrate Retirement Act shall be determined as follows:

11 (a) if, pursuant to Paragraph (1) of  
12 this subsection, the funded ratio of the fund is greater than  
13 or equal to one hundred percent, and if, pursuant to Paragraph  
14 (2) of this subsection, the projected funded ratio is greater  
15 than or equal to one hundred percent, the amount of pension  
16 payable beginning July 1 of the next fiscal year shall be  
17 increased two percent. The amount of the increase shall be  
18 determined by multiplying the amount of the pension inclusive  
19 of all prior adjustments by two percent; and

20 (b) if the funded ratio of the fund, as  
21 certified pursuant to Paragraph (1) or (2) of this subsection,  
22 is less than one hundred percent, the amount of pension payable  
23 shall not include a cost-of-living increase; provided, however,  
24 that, if, pursuant to the provisions of this subparagraph, the  
25 cost-of-living adjustment is suspended for the two consecutive

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1 fiscal years immediately prior to the most recent certification  
2 by the board of the funded ratio: 1) the amount of pension  
3 payable in the fiscal year immediately following the two-year  
4 suspension shall be increased two percent regardless of the  
5 certified funded ratio; and 2) thereafter, if, pursuant to the  
6 provisions of Paragraph (1) of this subsection, the certified  
7 funded ratio is less than one hundred percent, the provisions  
8 of this subsection shall apply without exception in the next  
9 succeeding fiscal year."

10 SECTION 15. A new section of the Magistrate Retirement  
11 Act, Section 10-12C-14.1 NMSA 1978, is enacted to read:

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

15 A. Pursuant to the Magistrate Retirement Act, a  
16 qualified pension recipient is a:

17 (1) normal retired member who retires:

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

22 (b) between July 1, 2014 and June 30,  
23 2015 and has been retired for at least three full calendar  
24 years from the effective date of the latest retirement prior to  
25 July 1 of the year in which the pension is being adjusted;

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1 (c) between July 1, 2015 and June 30,  
2 2016 and has been retired for at least four full calendar years  
3 from the effective date of the latest retirement prior to July  
4 1 of the year in which the pension is being adjusted; or

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

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

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

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

20 (5) survivor beneficiary of a deceased retired  
21 member who otherwise would have been retired at least two full  
22 calendar years from the effective date of the latest retirement  
23 prior to July 1 of the year in which the pension is being  
24 adjusted.

25 B. A qualified pension recipient may decline an

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1 increase in a pension by giving the association written notice  
2 of the decision to decline the increase at least thirty days  
3 prior to the date the increase would take effect."

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

7 SECTION 17. EFFECTIVE DATE.--The effective date of the  
8 provisions of this act is July 1, 2014.

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