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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:

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

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

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

- (1) a written application for normal

1 retirement, in the form prescribed by the association, is  
2 filed with the association;

3 (2) employment is terminated with all  
4 employers covered by any state system or the educational  
5 retirement system;

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

8 (4) the member meets the age and service  
9 credit requirement for normal retirement specified in the  
10 coverage plan applicable to the member.

11 B. The amount of normal retirement pension is  
12 determined in accordance with the coverage plan applicable to  
13 the member.

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

18 (1) the retired member has not been employed  
19 as an employee of an affiliated public employer or retained  
20 as an independent contractor by the affiliated public  
21 employer from which the retired member retired for at least  
22 twelve consecutive months from the date of retirement to the  
23 commencement of subsequent employment or reemployment with an  
24 affiliated public employer;

25 (2) the retired member's pension shall be

1 suspended upon commencement of the subsequent employment;

2 (3) except as provided in Subsection G of  
3 this section, the retired member shall not become a member  
4 and shall not accrue service credit, and the retired member  
5 and that person's subsequent affiliated public employer shall  
6 not make contributions under any coverage plan pursuant to  
7 the Public Employees Retirement Act; and

8 (4) upon termination of the subsequent  
9 employment, the retired member's pension shall resume in  
10 accordance with the provisions of Subsection A of this  
11 section.

12 D. Notwithstanding the provisions of Subsection B  
13 of Section 10-11-118 NMSA 1978, on and after July 1, 2013, if  
14 a retired member becomes employed with an employer pursuant  
15 to the Educational Retirement Act, and effective  
16 July 1, 2014, if a retired member who, subsequent to  
17 retirement, is employed and covered pursuant to the Judicial  
18 Retirement Act:

19 (1) the retired member's cost-of-living  
20 pension adjustment shall be suspended upon commencement of  
21 the employment; and

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

1           E. The provisions of Subsections C, H and I of  
2 this section do not apply to:

3                   (1) a retired member employed by the  
4 legislature for legislative session work;

5                   (2) a retired member employed temporarily as  
6 a precinct board member for a municipal election or an  
7 election covered by the Election Code; or

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

11                           (a) the retired member files an  
12 irrevocable exemption from membership with the association  
13 within thirty days of taking office; and

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

16           F. A retired member who returns to employment  
17 during retirement pursuant to Subsection E of this section is  
18 entitled to receive retirement benefits but is not entitled  
19 to accrue service credit or to acquire or purchase service  
20 credit in the future for the period of the retired member's  
21 subsequent employment with an affiliated public employer.

22           G. At any time during a retired member's  
23 subsequent employment pursuant to Subsection C of this  
24 section, the retired member may elect to become a member and  
25 the following conditions shall apply:

1 (1) the previously retired member and the  
2 subsequent affiliated public employer shall make the required  
3 employee and employer contributions, and the previously  
4 retired member shall accrue service credit for the period of  
5 subsequent employment; and

6 (2) when the previously retired member  
7 terminates the subsequent employment with an affiliated  
8 public employer, the previously retired member shall retire  
9 according to the provisions of the Public Employees  
10 Retirement Act, subject to the following conditions:

11 (a) payment of the pension shall resume  
12 in accordance with the provisions of Subsection A of this  
13 section;

14 (b) unless the previously retired  
15 member accrued at least three years of service credit on  
16 account of the subsequent employment, the recalculation of  
17 pension shall: 1) employ the form of payment selected by the  
18 previously retired member at the time of the first  
19 retirement; and 2) use the provisions of the coverage plan  
20 applicable to the member on the date of the first retirement;  
21 and

22 (c) the recalculated pension shall not  
23 be less than the amount of the suspended pension.

24 H. A retired member who returned to work with an  
25 affiliated public employer prior to July 1, 2010 shall be

1 subject to the provisions of this section in effect on the  
2 date the retired member returned to work; provided that:

3 (1) on and after July 1, 2010, the retired  
4 member shall pay the employee contribution in an amount  
5 specified in the Public Employees Retirement Act for the  
6 position in which the retired member is subsequently  
7 employed;

8 (2) notwithstanding the provisions of  
9 Subsection B of Section 10-11-118 NMSA 1978, on and after  
10 July 1, 2013, the retired member's cost-of-living pension  
11 adjustment shall be suspended; and

12 (3) upon termination of the subsequent  
13 employment with the affiliated public employer, the retired  
14 member's cost-of-living pension adjustment shall be  
15 reinstated as provided in Subsection B of Section 10-11-118  
16 NMSA 1978.

17 I. Effective July 1, 2014, if a retired member  
18 who, subsequent to retirement, is employed and covered  
19 pursuant to the provisions of the Magistrate Retirement Act,  
20 during the period of subsequent employment:

21 (1) the member shall be entitled to receive  
22 retirement benefits;

23 (2) the retired member's cost-of-living  
24 pension adjustment shall be suspended upon commencement of  
25 the employment; and

1                   (3) upon termination of the employment, the  
2 retired member's suspended cost-of-living pension adjustment  
3 shall be reinstated as provided under Subsection B of Section  
4 10-11-118 NMSA 1978.

5                   J. The pension of a member who has earned service  
6 credit under more than one coverage plan shall be determined  
7 as follows:

8                   (1) the pension of a member who has three or  
9 more years of service credit earned on or before  
10 June 30, 2013 under each of two or more coverage plans shall  
11 be determined in accordance with the coverage plan that  
12 produces the highest pension;

13                   (2) the pension of a member who has service  
14 credit earned on or before June 30, 2013 under two or more  
15 coverage plans but who has three or more years of service  
16 credit under only one of those coverage plans shall be  
17 determined in accordance with the coverage plan in which the  
18 member has three or more years of service credit. If the  
19 service credit is acquired under two different coverage plans  
20 applied to the same affiliated public employer as a  
21 consequence of an election by the members, adoption by the  
22 affiliated public employer or a change in the law that  
23 results in the application of a coverage plan with a greater  
24 pension, the greater pension shall be paid a member retiring  
25 from the affiliated public employer under which the change in

1 coverage plan took place regardless of the amount of service  
2 credit under the coverage plan producing the greater pension;  
3 provided that the member has three or more years of  
4 continuous employment with that affiliated public employer  
5 immediately preceding or immediately preceding and  
6 immediately following the date the coverage plan changed;

7 (3) the pension of a member who has service  
8 credit earned on or before June 30, 2013 under each of two or  
9 more coverage plans and who has service credit earned under  
10 any coverage plan on or after July 1, 2013 shall be equal to  
11 the sum of:

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

15 (b) the pension attributable to the  
16 service credit earned under each coverage plan on or after  
17 July 1, 2013;

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

22 (5) the provisions of each coverage plan for  
23 the purpose of this subsection shall be those in effect at  
24 the time the member ceased to be covered by the coverage  
25 plan. "Service credit", for the purposes of this subsection,

1 shall be only personal service rendered an affiliated public  
2 employer and credited to the member under the provisions of  
3 Subsection A of Section 10-11-4 NMSA 1978. Service credited  
4 under any other provision of the Public Employees Retirement  
5 Act shall not be used to satisfy the three-year service  
6 credit requirement of this subsection."

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

9 "10-12C-2. DEFINITIONS.--As used in the Magistrate  
10 Retirement Act:

11 A. "association" means the public employees  
12 retirement association provided for in the Public Employees  
13 Retirement Act;

14 B. "board" means the retirement board provided for  
15 in the Public Employees Retirement Act;

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

19 D. "educational retirement system" means the  
20 retirement system provided for in the Educational Retirement  
21 Act;

22 E. "effective date of retirement" means the first  
23 day of the month following the month in which the member met  
24 all requirements for retirement;

25 F. "final average salary" means the amount that is

1 one-sixtieth of the greatest aggregate amount of salary paid  
2 a member for sixty consecutive, but not necessarily  
3 continuous, months of service credit;

4 G. "former member" means a person no longer in  
5 office who was previously covered pursuant to the provisions  
6 of Sections 10-12A-1 through 10-12A-13 NMSA 1978, but who has  
7 not retired pursuant to the provisions of the Magistrate  
8 Retirement Act and who has received a refund of member  
9 contributions pursuant to the provisions of Sections 10-12C-1  
10 through 10-12C-18 NMSA 1978;

11 H. "fund" means the magistrate retirement fund;

12 I. "magistrate" means a magistrate judge;

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

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

24 L. "minor child" means a natural or adopted child  
25 who has not reached his eighteenth birthday and who has not

1 been emancipated by marriage or otherwise;

2 M. "pension" means a series of monthly payments to  
3 a retired member or survivor beneficiary pursuant to the  
4 provisions of the Magistrate Retirement Act;

5 N. "refund beneficiary" means a person designated  
6 by the member, in writing in the form prescribed by the  
7 association, as the person who would be refunded the member's  
8 accumulated member contributions payable if the member dies  
9 and no survivor pension is payable, or as the person who  
10 would receive the difference between pension paid and  
11 accumulated member contributions if the retired member dies  
12 before receiving in pension payments the amount of the  
13 accumulated member contributions;

14 O. "retire" means to:

15 (1) terminate employment with all employers  
16 covered by any state system or the educational retirement  
17 system; and

18 (2) receive a pension from one state system  
19 or the educational retirement system;

20 P. "retired member" means a person who has met all  
21 requirements for retirement and who is receiving a pension  
22 from the fund;

23 Q. "salary" means the base salary or wages paid a  
24 member, including longevity pay, for personal services  
25 rendered; provided that salary does not include overtime pay;

1 allowances for housing, clothing, equipment or travel;  
2 payments for unused sick leave, unless the unused sick leave  
3 payment is made through continuation of the member on the  
4 regular payroll for the period represented by that payment;  
5 and any other form of remuneration not specifically  
6 designated by law as included in salary pursuant to the  
7 provisions of the Magistrate Retirement Act;

8 R. "state system" means the retirement programs  
9 provided pursuant to the provisions of the Public Employees  
10 Retirement Act, the Magistrate Retirement Act and the  
11 Judicial Retirement Act;

12 S. "surviving spouse" means the spouse to whom the  
13 member was married at the time of the member's death;

14 T. "survivor beneficiary" means a person who  
15 receives a pension or who has been designated to be paid a  
16 pension as a result of the death of a member or retired  
17 member; and

18 U. "years of service" means a period of time  
19 beginning on the date a person commences to hold office as a  
20 magistrate because of appointment or election and ending on  
21 the date a person ceases to hold office as a magistrate  
22 because of expiration of the magistrate's term, voluntary  
23 resignation, death or disability and shall include any  
24 fractions of years of service."

25 SECTION 3. Section 10-12C-4 NMSA 1978 (being Laws 1992,

1 Chapter 118, Section 4) is amended to read:

2 "10-12C-4. MEMBERSHIP.--Every magistrate while in  
3 office shall become a member and shall be subject to the  
4 provisions of the Magistrate Retirement Act; provided,  
5 however, that a magistrate who, prior to July 1, 2014,  
6 applied for and received an exemption from membership shall  
7 not become a member until such exemption ends. A magistrate  
8 who is retired under any state system or the educational  
9 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  
13 pursuant 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  
24 to the nearest month. In no case shall any member be  
25 credited with a year of service for less than twelve months

1 of service in any calendar year or more than a month of  
2 service for all service in any calendar month or more than a  
3 year of service 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  
25 subject to the following conditions:

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

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

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

24 (4) service credit shall not be given for  
25 periods of intervening service in the uniformed services that

1 are used to obtain or increase a benefit from another state  
2 system or the retirement program provided under the  
3 Educational Retirement Act; and

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

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

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

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

19 (2) the member has the applicable minimum  
20 number of years of service credit accrued according to the  
21 provisions of the Magistrate Retirement Act;

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

1 provision of the Magistrate Retirement Act;

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

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

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

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

1 The association shall not pay interest on the portion of the  
2 purchase cost refunded to the member.

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

6 (1) the member has the applicable minimum  
7 number of years of service credit acquired as a result of  
8 personal service rendered under the Magistrate Retirement  
9 Act;

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

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

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

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

23 SECTION 5. Section 10-12C-8 NMSA 1978 (being Laws 1992,  
24 Chapter 118, Section 8) is amended to read:

25 "10-12C-8. AGE AND SERVICE CREDIT REQUIREMENTS FOR

1 NORMAL RETIREMENT.--

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

5 (1) age sixty-five years or older and five  
6 or more years of service credit;

7 (2) age sixty years or older and fifteen or  
8 more years of service credit; or

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

11 B. For a magistrate who initially became a member  
12 on or after July 1, 2014, the age and service requirements  
13 for normal retirement provided for in the Magistrate  
14 Retirement Act are:

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

17 (2) age sixty years or older and fifteen or  
18 more years of service credit; or

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

21 C. Except for a member who is retired under any  
22 state system or the educational retirement system, if a  
23 member leaves office for any reason, other than removal  
24 pursuant to Article 6, Section 32 of the constitution of New  
25 Mexico before meeting the age and service credit requirements

1 for retirement pursuant to the provisions of this section and  
2 if that member leaves the member contributions on deposit in  
3 the fund, that member may apply for retirement when that  
4 member meets the age and service credit requirements for  
5 retirement pursuant to the provisions of the Magistrate  
6 Retirement Act or provisions of the Public Employees  
7 Retirement Reciprocity Act.

8 D. No member shall be eligible to receive a  
9 pension pursuant to the provisions of the Magistrate  
10 Retirement Act while still in office."

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

13 "10-12C-9. AMOUNT OF PENSION.--

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

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

19 seventy-five percent

20 of salary received (number of years of  
21 during last year in X .05 X service, not exceeding  
22 office prior to fifteen years,  
23 retirement plus five years); and

24 (2) for service credit earned on and after  
25 July 1, 2014, an amount equal to one-sixtieth of the greatest

1 aggregate amount of salary received for sixty consecutive,  
2 but not necessarily continuous, months in office multiplied  
3 by the product of three and one-half percent times the sum of  
4 the number of years of service.

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

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

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

1 SECTION 7. Section 10-12C-10 NMSA 1978 (being Laws  
2 1992, Chapter 118, Section 10, as amended) is amended to  
3 read:

4 "10-12C-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

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

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

1 contribution. The provisions of this section are mandatory,  
2 and the member shall have no option concerning the pick up or  
3 concerning the receipt of the contributed amounts directly  
4 instead of having the amounts paid by the employer to the  
5 retirement system. Implementation occurs upon authorization  
6 by the board. In no event may implementation occur other  
7 than at the beginning of a pay period applicable to the  
8 member."

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

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

13 A. The state, through the administrative office of  
14 the courts, shall contribute to the fund fifteen percent of  
15 salary for each member in office, except that, from  
16 July 1, 2014 through June 30, 2015, the state contribution  
17 rate shall be eleven percent of salary for each member in  
18 office.

19 B. Twenty-five dollars (\$25.00) from each civil  
20 case docket fee paid in magistrate court and ten dollars  
21 (\$10.00) from each civil jury fee paid in magistrate court  
22 shall be paid by the court clerk to the employer's  
23 accumulation fund."

24 SECTION 9. Section 10-12C-12 NMSA 1978 (being Laws  
25 1992, Chapter 118, Section 12) is amended to read:

1 "10-12C-12. DISABILITY RETIREMENT PENSION.--

2 A. A magistrate with the applicable minimum number  
3 of years of service credit accrued pursuant to the provisions  
4 of the Magistrate Retirement Act who becomes unable to carry  
5 out the duties of that office due to physical or mental  
6 disability shall, upon determination of the disability and  
7 relinquishment of office, receive a pension from the fund so  
8 long as the disability continues. Determination of  
9 disability shall be made by the board in accordance with the  
10 provisions of the Public Employees Retirement Act and rules  
11 promulgated pursuant to that act.

12 B. The amount of the pension shall be calculated  
13 using the formula for normal retirement set out in Section  
14 10-12C-9 NMSA 1978.

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

22 SECTION 10. Section 10-12C-13 NMSA 1978 (being Laws  
23 1992, Chapter 118, Section 13) is amended to read:

24 "10-12C-13. SURVIVOR'S PENSION.--For a member whose  
25 initial term in office began prior to July 1, 2014:

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

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

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

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

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

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

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

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

20 "10-12C-13.1. ELECTION FORM OF PENSION.--For a member  
21 whose initial term in office begins on or after July 1, 2014,  
22 except as otherwise provided in Section 10-12C-7 NMSA 1978:

23 A. the member may elect to have pension payments  
24 made under any one of the forms of payment provided in  
25 Section 10-12C-13.2 NMSA 1978. The election of form of

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

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

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

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

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

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

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

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

1 the new pension amount; and

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

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

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

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

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

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

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

24 "10-12C-13.2. FORM OF PENSION PAYMENT.--

25 A. Straight life pension is form of payment A.

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

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

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

24 D. Life payments with temporary survivor benefits  
25 for children is form of payment D. The retired member is

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

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

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

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

6 "10-12C-13.3. DEATH BEFORE RETIREMENT--SURVIVOR  
7 PENSION.--For a member whose initial term in office begins on  
8 or after July 1, 2014:

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

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

25 (1) the amount as calculated pursuant to the

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

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

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

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

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

22 The total amount of survivor pension shall be divided  
23 equally among all eligible surviving children. If there is  
24 only one eligible child, the amount of pension shall be  
25 twenty-five percent of the deceased member's final average

1 salary;

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

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

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

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

1 the time of death, a survivor pension shall be payable to and  
2 divided equally among all eligible surviving children, if  
3 any. The total amount of survivor pension payable for all  
4 eligible surviving children shall be the greater of:

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

12 (2) thirty percent of the deceased member's  
13 final average salary;

14 F. an eligible surviving spouse is the spouse to  
15 whom the deceased member was married at the time of death.

16 An eligible surviving child is a child under the age of  
17 eighteen years and who is an unmarried, natural or adopted  
18 child of the deceased member;

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

23 H. if there is no designated survivor beneficiary  
24 and there is no eligible surviving child, the eligible  
25 surviving spouse may elect to be refunded the deceased

1 member's accumulated member contributions instead of  
2 receiving a survivor pension;

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

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

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

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

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

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

24 J. if there is a designated survivor beneficiary  
25 and the board finds the death to have been the natural and

1 proximate result of causes arising solely and exclusively out  
2 of and in the course of the member's performance of duty  
3 while in office, a survivor pension shall be payable to the  
4 designated survivor beneficiary. The amount of the survivor  
5 pension shall be the greater of:

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

12 (2) fifty percent of the deceased member's  
13 final average salary;

14 K. if there is a designated survivor beneficiary,  
15 if the member had the applicable minimum number of years of  
16 service credit required for normal retirement and if the  
17 board did not find 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  
20 while 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  
25 of death as though the deceased member had retired the day

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

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

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

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

18 SECTION 14. Section 10-12C-14 NMSA 1978 (being Laws  
19 1992, Chapter 118, Section 14) is amended to read:

20 "10-12C-14. COST-OF-LIVING ADJUSTMENT.--A qualified  
21 pension recipient is eligible for a cost-of-living adjustment  
22 payable pursuant to the provisions of the Magistrate  
23 Retirement Act as follows:

24 A. beginning July 1, 2014 and continuing through  
25 June 30, 2016, there shall not be a cost-of-living adjustment

1 applied to a pension payable pursuant to the Magistrate  
2 Retirement Act; and

3 B. beginning on May 1, 2016 and no later than each  
4 May 1 thereafter:

5 (1) the board shall certify to the  
6 association the actuarial funded ratio of the fund as of  
7 June 30 of the preceding calendar year;

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

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

19 (a) if, pursuant to Paragraph (1) of  
20 this subsection, the funded ratio of the fund is greater than  
21 or equal to one hundred percent, and if, pursuant to  
22 Paragraph (2) of this subsection, the projected funded ratio  
23 is greater than or equal to one hundred percent, the amount  
24 of pension payable beginning July 1 of the next fiscal year  
25 shall be increased two percent. The amount of the increase

1 shall be determined by multiplying the amount of the pension  
2 inclusive of all prior adjustments by two percent; and

3 (b) if the funded ratio of the fund, as  
4 certified pursuant to Paragraph (1) or (2) of this  
5 subsection, is less than one hundred percent, the amount of  
6 pension payable shall not include a cost-of-living increase;  
7 provided, however, that, if, pursuant to the provisions of  
8 this subparagraph, the cost-of-living adjustment is suspended  
9 for the two consecutive fiscal years immediately prior to the  
10 most recent certification by the board of the funded ratio:

11 1) the amount of pension payable in the fiscal year  
12 immediately following the two-year suspension shall be  
13 increased two percent regardless of the certified funded  
14 ratio; and 2) thereafter, if, pursuant to the  
15 provisions of Paragraph (1) of this subsection, the certified  
16 funded ratio is less than one hundred percent, the provisions  
17 of this subsection shall apply without exception in the next  
18 succeeding fiscal year."

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

21 "10-12C-14.1. QUALIFIED PENSION RECIPIENT--  
22 COST-OF-LIVING ADJUSTMENT WAIT PERIOD--DECLINING INCREASE.--

23 A. Pursuant to the Magistrate Retirement Act, a  
24 qualified pension recipient is a:

25 (1) normal retired member who retires:

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

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

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

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

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

24 (3) disability retired member who has been  
25 retired for at least one full calendar year from the

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

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

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

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

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

18 SECTION 17. EFFECTIVE DATE.--The effective date of the  
19 provisions of this act is July 1, 2014. \_\_\_\_\_

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