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HOUSE BILL 43

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

Cynthia Borrego and Joseph L. Sanchez and D. Wonda Johnson
and Tara L. Lujan and Nicole Chavez

ENDORSED BY THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

RELATING TO PUBLIC EMPLOYEE PENSIONS; CLARIFYING PROVISIONS
RELATING TO DISABILITY PENSIONS AND SURVIVOR PENSIONS; ALLOWING
STATE FIRE MEMBERS ELIGIBILITY FOR CERTAIN SERVICE CREDIT
RELATING TO WORKERS' COMPENSATION LEAVE; REMOVING
INCONSISTENCIES RELATING TO SURVIVOR PENSIONS; CLARIFYING THE
AMOUNT OF PENSION EARNED BY CERTAIN PUBLIC REGULATION
COMMISSION COMMISSIONERS; ALLOWING THE PUBLIC EMPLOYEES
RETIREMENT ASSOCIATION TO SHARE CERTAIN INFORMATION WITH THE
EDUCATIONAL RETIREMENT BOARD REGARDING CERTAIN RECIPROCITY
RETIRES; CLARIFYING CERTAIN PROVISIONS RELATING TO GIFTS;
CLARIFYING THE REQUIREMENTS FOR A RETIRED MEMBER WHO FILES AN
EXEMPTION FROM MEMBERSHIP UNDER THE MAGISTRATE RETIREMENT ACT;
MAKING TECHNICAL CHANGES.

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

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1 SECTION 1. Section 10-11-4 NMSA 1978 (being Laws 1987,
2 Chapter 253, Section 4, as amended) is amended to read:

3 "10-11-4. SERVICE CREDIT--REQUIREMENTS FOR--FORFEITURE--
4 REINSTATEMENT.--

5 A. Personal service rendered an affiliated public
6 employer by a member shall be credited to the member's service
7 credit account in accordance with retirement board rules and
8 regulations. Service shall be credited to the nearest month.
9 In no case shall any member be credited with a year of service
10 for less than twelve months of service in any calendar year or
11 more than a month of service for all service in any calendar
12 month or more than a year of service for all service in any
13 calendar year. In no case shall any member be allowed to
14 purchase service credit unless the purchase is authorized in
15 the Public Employees Retirement Act.

16 B. Personal service rendered an affiliated public
17 employer prior to August 1, 1947 shall be credited to a member
18 if the member acquires one year of service credit for personal
19 service rendered an affiliated public employer.

20 C. Personal service rendered an affiliated public
21 employer after July 31, 1947 but prior to the date the public
22 employer became an affiliated public employer is prior service
23 and shall be credited to a member if:

24 (1) the member has the applicable minimum
25 number of years of service credit required for normal

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1 retirement. As used in this paragraph, "service credit" means
2 only the service credit earned by the member during periods of
3 employment with an affiliated public employer; and

4 (2) the member pays the association the amount
5 determined in accordance with Subsection D of this section.

6 D. The purchase cost for each month of service
7 credit purchased under the provisions of this section is equal
8 to the member's final average salary multiplied by the sum of
9 the member contribution rate and employer contribution rate
10 determined in accordance with the coverage plan applicable to
11 the member at the time of the written election to purchase.

12 ~~[Full]~~ Payment shall be made in ~~[a single lump sum amount in]~~
13 accordance with the procedures established by the retirement
14 board. The portion of the purchase cost derived from the
15 employer contribution rate shall be credited to the employers
16 accumulation fund and shall not be refunded to the member in
17 the event of cessation of membership. In no case shall any
18 member be credited with a month of service for less than the
19 purchase cost as defined in this section.

20 E. Service credit shall be forfeited if a member
21 terminates employment with an affiliated public employer and
22 withdraws the member's accumulated member contributions.

23 F. A member or former member who is a member of
24 another state system or the educational retirement system and
25 who has forfeited service credit by withdrawal of member

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1 contributions may reinstate the forfeited service credit by
2 repaying the amount withdrawn plus compound interest from the
3 date of withdrawal to the date of repayment at the rate set by
4 the retirement board. Withdrawn member contributions [~~may~~]
5 shall be repaid in [~~increments of one year in~~] accordance with
6 the procedures established by the retirement board [~~Full~~
7 ~~payment of each one-year increment shall be made in a single~~
8 ~~lump-sum amount in accordance with procedures established by~~
9 ~~the retirement board~~]."

10 SECTION 2. Section 10-11-4.2 NMSA 1978 (being Laws 1993,
11 Chapter 239, Section 1, as amended) is amended to read:

12 "10-11-4.2. CORRECTION OF ERRORS AND OMISSIONS--
13 ESTOPPEL.--

14 A. If an error or omission results in an
15 overpayment to a member or beneficiary of a member, the
16 association shall correct the error or omission and adjust all
17 future payments accordingly. The association shall recover all
18 overpayments made for a period of up to one year prior to the
19 date the error or omission was discovered.

20 B. A person who is paid more than the amount that
21 is lawfully due [~~him~~] to that person as a result of fraudulent
22 information provided by the [~~member or beneficiary~~] person
23 shall be liable for the repayment of that amount to the
24 association plus interest on that amount at the rate set by the
25 retirement board plus all costs of collection, including

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1 attorney fees [~~if necessary~~]. Recovery of such overpayments
2 shall extend back to the date the first payment was made based
3 on the fraudulent information.

4 C. Statements of fact or law made by retirement
5 board members or employees of the retirement board or the
6 association shall not estop the retirement board or the
7 association from acting in accordance with the applicable
8 statutes."

9 SECTION 3. Section 10-11-6.1 NMSA 1978 (being Laws 2016,
10 Chapter 39, Section 2) is amended to read:

11 "10-11-6.1. SERVICE CREDIT FOR CERTAIN INJURED MEMBERS ON
12 APPROVED WORKERS' COMPENSATION LEAVE.--

13 A. A member whose affiliated public employer has
14 provided written certification to the association, in the form
15 and manner prescribed by the association, that the employee was
16 injured while performing a work-related function or duty in an
17 inherently dangerous location or under inherently dangerous
18 circumstances and that the member is absent from work and has
19 been placed on approved workers' compensation leave as a result
20 of the injury shall accrue service credit for the period of
21 absence from work while on workers' compensation leave;
22 provided that:

23 (1) the member is a peace officer covered
24 pursuant to state general member coverage plan 3; a state
25 police member; a state fire member; an adult correctional

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1 officer member; a municipal fire member; a municipal police
2 member; or a municipal detention officer member;

3 (2) the member retains membership in the
4 association during the period of absence from work on approved
5 workers' compensation leave; and

6 (3) the member's affiliated public employer
7 pays the injured employee's member contributions as well as the
8 employer contributions and remits to the association the total
9 amount of employee and employer contributions that would have
10 been paid if the member had not been absent from work while on
11 approved workers' compensation leave. The contribution amounts
12 shall be calculated based upon a salary equal to the member's
13 salary at the time of the injury.

14 B. The affiliated public employer shall provide an
15 appeal process for an injured employee on approved workers'
16 compensation leave who is determined by the affiliated public
17 employer not to meet the criteria in Subsection A of this
18 section."

19 SECTION 4. Section 10-11-10.1 NMSA 1978 (being Laws 1993,
20 Chapter 160, Section 3, as amended) is amended to read:

21 "10-11-10.1. DISABILITY RETIREMENT.--

22 A. There is created a "disability review committee"
23 of the retirement board. The disability review committee shall
24 consist of at least three but not more than five retirement
25 board members and at least one licensed physician [~~licensed in~~

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1 ~~New Mexico~~] appointed by the retirement board. The board shall
2 give preference to a physician licensed in New Mexico. The
3 disability review committee shall review all applications for
4 disability retirement, review reports required under this
5 section and approve or deny applications for disability
6 retirement.

7 B. The disability review committee may retire a
8 member on account of disability before the time the member
9 would otherwise be eligible for retirement if the following
10 requirements are satisfied:

11 (1) the member applying for disability
12 retirement was a member at the time the disability was
13 incurred;

14 (2) a written application for disability
15 retirement, in the form and containing the information
16 prescribed by the association, has been filed with the
17 association by the member, the member's representative or ~~[by]~~
18 the member's affiliated public employer;

19 (3) employment is terminated within forty-five
20 days of the date of approval of the application for disability
21 retirement;

22 (4) if:

23 (a) the member has the applicable
24 minimum number of years of service credit required for normal
25 retirement. For the purposes of this subparagraph, "service

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1 credit" means only the service credit earned by the member
2 during periods of employment with an affiliated public
3 employer; or

4 (b) the disability review committee
5 finds the disability to have been the natural and proximate
6 result of causes arising solely and exclusively out of and in
7 the course of the member's performance of duty with an
8 affiliated public employer;

9 (5) the member submits to all medical
10 examinations and tests and furnishes copies of all medical
11 reports requested by the association or disability review
12 committee; provided that if the disability review committee
13 requires independent medical or other examinations, those
14 examinations shall be performed at the association's expense;
15 and

16 (6) the disability review committee makes the
17 determination required under Subsection C of this section.

18 C. The disability review committee shall review
19 applications for disability retirement to determine whether:

20 (1) if the member is a currently employed,
21 contributing employee of an affiliated public employer:

22 (a) the member is mentally or physically
23 totally incapacitated for continued employment with an
24 affiliated public employer; and

25 (b) the incapacity is likely to be

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1 permanent; or

2 (2) if the member is not a currently employed,
3 contributing employee of an affiliated public employer:

4 (a) the member is mentally or physically
5 totally incapacitated for any gainful employment; and

6 (b) the incapacity is likely to be
7 permanent.

8 D. The disability retirement pension shall be paid
9 for a period of one year after approval of the initial
10 application unless the disability review committee for good
11 cause shown grants disability retirement for a longer period of
12 time. ~~[After approval]~~ Payment shall be effective commencing
13 the first of the month following ~~[submission]~~ approval of the
14 initial application and termination of employment.

15 E. At the end of the first year that a disability
16 retirement pension is paid, the disability retired member's
17 condition shall be reevaluated to determine eligibility for
18 continuation of payment of a disability retirement pension. If
19 the disability retired member has applied for disability
20 benefits under the federal social security program, the member
21 shall submit copies of the member's application. The
22 association shall continue payment of the state disability
23 retirement pension if the disability retired member presents a
24 written final determination from the federal social security
25 administration that the disability retired member qualifies,

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1 based on the same conditions as presented in the application
2 for a state disability retirement pension, for federal
3 disability benefits.

4 F. If the disability retired member applied for
5 federal disability benefits within thirty days of receiving
6 approval for a state disability retirement pension but the
7 federal social security administration has not made a written
8 final determination of entitlement by the end of the first year
9 that the disability retired member has received a state
10 disability retirement pension, eligibility for continued
11 payment of the state disability retirement pension shall be
12 determined by the disability review committee. The state
13 disability retirement pension shall be discontinued if the
14 disability review committee finds that the disability retired
15 member is capable of any gainful employment.

16 G. The disability retired member shall notify the
17 association of the federal social security administration's
18 final determination within fifteen working days of the date of
19 issuance of the final written determination. If the federal
20 social security administration denies federal disability
21 benefits, the state disability retirement pension shall be
22 discontinued effective the first of the month following the
23 month in which the written final determination of the federal
24 social security administration was issued. If the federal
25 social security administration grants federal disability

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1 benefits, the state disability retirement pension shall be
2 continued so long as the disability retired member provides
3 annually, on or before the anniversary date of commencement of
4 payment of the state disability retirement pension, written
5 evidence of continuation of payment of federal disability
6 benefits. If the disability review committee has denied
7 continuation of payment of a state disability retirement
8 pension and the disability retired member is later granted
9 federal disability benefits, the state disability retirement
10 pension shall be reinstated effective the first of the month
11 following the month in which the state disability retirement
12 pension was discontinued.

13 H. If, at the time of reevaluation under Subsection
14 E of this section, the disability retired member has applied
15 for and has qualified for federal disability benefits, but for
16 a different condition than was reviewed by the disability
17 review committee, the disability review committee shall review
18 the disability retired member's condition as described by the
19 application for federal disability benefits. The process set
20 forth in Subsection I of this section shall be followed to
21 determine whether payment of a state disability retirement
22 pension should be continued.

23 I. If the disability retired member is not eligible
24 to apply for federal disability benefits or is not a member of
25 the federal social security program, the disability review

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1 committee annually shall determine eligibility for continuation
2 of payment of a state disability retirement pension. To make
3 its determination of continued entitlement, the disability
4 review committee shall use the guidelines established by the
5 federal social security administration for determination of
6 eligibility for federal disability benefits. The determination
7 shall be based on:

8 (1) the medical and all other information
9 provided by the disability retired member;

10 (2) at least one independent medical or other
11 examination performed at the association's expense if required
12 by the disability review committee; and

13 (3) any medical, vocational or other
14 information related to the disability compiled during the
15 period of disability by any medical or other practitioner
16 consulted by the disability retired member regarding the
17 disability ~~[which]~~ that was not paid for by the association.

18 J. Each disability retired member annually shall
19 submit to the association, prior to July 1, a statement of
20 earnings from gainful employment during the preceding calendar
21 year. The statement of earnings shall be in the form
22 prescribed by the association. Payment of the state disability
23 retirement pension shall be discontinued if the amount of
24 earnings from gainful employment is one hundred percent or more
25 of the amount that causes a decrease or suspension of an old

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1 age benefit under the federal social security program [~~or~~
2 ~~fifteen thousand dollars (\$15,000), whichever is less~~].

3 Payment of the state disability retirement pension shall be
4 discontinued starting with the month of July if the statement
5 of earnings is not received by the association prior to July 1.

6 K. Upon prior approval by the association, a
7 disability retired member may return to employment with an
8 affiliated public employer or other employer for a trial period
9 not to exceed one hundred twenty calendar days without becoming
10 a member or causing suspension or discontinuation of payment of
11 a state disability retirement pension. If the trial period of
12 employment is successfully completed, payment of the disability
13 retirement pension shall be discontinued beginning the first of
14 the month following the one hundred twentieth day of the trial
15 period of employment. Trial periods of employment shall be
16 limited to two in any five-year period following disability
17 retirement.

18 L. If the disability retired member meets the
19 minimum age and service credit requirements for normal
20 retirement while receiving a disability retirement pension, the
21 disability retirement pension shall be reclassified by the
22 association as a normal retirement pension, and no further
23 determinations of eligibility for continuation of payment of
24 the disability retirement pension shall be made. Upon
25 reclassification as a normal retirement pension, all the

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1 provisions of the Public Employees Retirement Act regarding
2 normal retirement shall be applicable.

3 M. If the disability review committee found the
4 disability to be the natural and proximate result of causes
5 arising solely and exclusively out of and in the course of the
6 member's employment with an affiliated public employer, service
7 credit shall continue to accrue during the disability
8 retirement period as though the disability retired member was
9 actively employed.

10 N. The amount of a disability retirement pension
11 shall be calculated according to the provisions of the coverage
12 plan applicable to the member at the time of application,
13 except that the service credit requirement shall be waived and
14 the actual amount of service credit shall be used instead. If
15 the disability is the natural and proximate result of causes
16 arising solely and exclusively out of and in the course of the
17 member's performance of duty for an affiliated public employer,
18 the amount of disability retirement pension shall be calculated
19 according to the provisions of the coverage plan applicable to
20 the member, imputing the amount of service credit necessary to
21 meet the minimum service credit requirements for normal
22 retirement.

23 O. For the purposes of this section, the following
24 definitions apply:

25 (1) "continued employment with the affiliated

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1 public employer" means the ability of the member to fulfill the
2 required duties of the position in which the member was last
3 employed by an affiliated public employer;

4 (2) "gainful employment" means remunerative
5 employment or self-employment that is commensurate with the
6 applicant's background, age, education, experience and any new
7 skills or training the applicant may have acquired after
8 terminating public employment or incurring the disability;

9 (3) "state disability retirement pension"
10 means the pension paid pursuant to the provisions of this
11 section; and

12 (4) "federal disability benefits" means those
13 benefits paid by the federal social security program."

14 SECTION 5. Section 10-11-14.5 NMSA 1978 (being Laws 1993,
15 Chapter 160, Section 4, as amended) is amended to read:

16 "10-11-14.5. DEATH BEFORE RETIREMENT--SURVIVOR
17 PENSIONS.--

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

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1 legally authorized to represent them.

2 B. If ~~[there is no designated survivor beneficiary~~
3 ~~and]~~ the retirement 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 with an affiliated public employer, a
7 survivor pension shall be payable to the designated survivor
8 beneficiary. If there is no designated survivor beneficiary, a
9 survivor pension shall be payable to the eligible surviving
10 spouse. The amount of the survivor pension shall be the
11 greater of:

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

18 (2) fifty percent of the deceased member's
19 final average salary.

20 C. A survivor pension shall also be payable to
21 eligible surviving children if ~~[there is no designated survivor~~
22 ~~beneficiary and]~~ the retirement board finds the death to have
23 been the natural and proximate result of causes arising solely
24 and exclusively out of and in the course of the member's
25 performance of duty with an affiliated public employer. The

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

5 (1) fifty percent of the deceased member's
6 final average salary if an eligible surviving spouse or
7 designated survivor beneficiary is not paid a pension; or

8 (2) twenty-five percent of the deceased
9 member's final average salary if an eligible surviving spouse
10 or designated survivor beneficiary is paid a pension.

11 ~~[The total amount of survivor pension shall be divided~~
12 ~~equally among all eligible surviving children. If there is~~
13 ~~only one eligible child, the amount of pension shall be twenty-~~
14 ~~five percent of the deceased member's final average salary.]~~

15 D. If the member had the applicable minimum number
16 of years of service credit required for normal retirement, but
17 the retirement board did not find the death to have been the
18 natural and proximate result of causes arising solely and
19 exclusively out of and in the course of the member's
20 performance of duty with an affiliated public employer, [~~and~~
21 ~~there is no designated survivor beneficiary~~] a survivor pension
22 shall be payable to the designated survivor beneficiary. If
23 there is no designated survivor beneficiary, a survivor pension
24 shall be payable to the eligible surviving spouse. The amount
25 of the survivor pension shall be the greater of:

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

7 (2) thirty percent of the deceased member's
8 final average salary.

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

21 (1) the amount as calculated under the
22 coverage plan applicable to the deceased member at the time of
23 death as though the deceased member had retired the day
24 preceding death under form of payment B with the oldest
25 eligible surviving child as the survivor beneficiary using the

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

3 (2) thirty percent of the deceased member's
4 final average salary.

5 F. An eligible surviving spouse is the spouse to
6 whom the deceased member was married at the time of death. An
7 eligible surviving child is a child under the age of eighteen
8 years and who is an unmarried, natural or adopted child of the
9 deceased member and who is not the designated survivor
10 beneficiary of the deceased member.

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

15 H. If there is ~~[no designated survivor beneficiary~~
16 ~~and there is]~~ no eligible surviving child, the designated
17 survivor beneficiary or eligible surviving spouse may elect to
18 be refunded the deceased member's accumulated member
19 contributions instead of receiving a survivor pension.

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

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

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

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

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

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

15 ~~[J. If there is a designated survivor beneficiary~~
16 ~~and the retirement board finds the death to have been the~~
17 ~~natural and proximate result of causes arising solely and~~
18 ~~exclusively out of and in the course of the member's~~
19 ~~performance of duty with an affiliated public employer, a~~
20 ~~survivor pension shall be payable to the designated survivor~~
21 ~~beneficiary. The amount of the survivor pension shall be the~~
22 ~~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~~
9 ~~retirement board did not find the death to have been the~~
10 ~~natural and proximate result of causes arising solely and~~
11 ~~exclusively out of and in the course of the member's~~
12 ~~performance of duty with an affiliated public employer, a~~
13 ~~survivor pension shall be payable to the designated survivor~~
14 ~~beneficiary. The amount of the survivor pension shall be the~~
15 ~~greater of:~~

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

22 ~~(2) thirty percent of the deceased member's~~
23 ~~final average salary.~~

24 ~~L.] J.~~ If all pension payments permanently
25 terminate before there is paid an aggregate amount equal to the

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

7 [M.] K. For purposes of this section, "service
8 credit" means only the service credit earned by a member during
9 periods of employment with an affiliated public employer."

10 SECTION 6. Section 10-11-26.3 NMSA 1978 (being Laws 1994,
11 Chapter 128, Section 4, as amended) is amended to read:

12 "10-11-26.3. STATE GENERAL MEMBER COVERAGE PLAN 3--AMOUNT
13 OF PENSION--FORM OF PAYMENT A.--Under state general member
14 coverage plan 3:

15 A. for a member with age and service requirements
16 provided under Paragraph (1) or (3) of Subsection A of Section
17 10-11-26.2 NMSA 1978, the amount of pension under form of
18 payment A is equal to three percent of final average salary
19 multiplied by service credit. The amount shall not exceed one
20 hundred percent of the final average salary; and

21 B. for a member with age and service requirements
22 provided under Paragraph (2) or (4) of Subsection A of Section
23 10-11-26.2 NMSA 1978, the amount of pension under form of
24 payment A is equal to two and one-half percent of the final
25 average salary multiplied by service credit. The amount shall

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1 not exceed one hundred percent of the final average salary."

2 SECTION 7. Section 10-11-130 NMSA 1978 (being Laws 1987,
3 Chapter 253, Section 130, as amended) is amended to read:

4 "10-11-130. RETIREMENT BOARD--AUTHORITY--MEMBERSHIP.--

5 A. The "retirement board" is created and is the
6 trustee of the association and the funds created by the state
7 retirement system acts and has all the powers necessary or
8 convenient to carry out and effectuate the purposes and
9 provisions of the state retirement system acts, including, in
10 addition to any specific powers provided for in the Public
11 Employees Retirement Act but without limiting the generality of
12 the foregoing, the power to:

13 (1) administer the state retirement system
14 acts, including the management of the association and making
15 effective the provisions of those acts, as well as to
16 administer and manage any other employee benefit acts as
17 provided by law;

18 (2) in addition to utilizing services of the
19 attorney general and notwithstanding any other provision of
20 law, employ or contract with and compensate competent legal
21 counsel to handle the legal matters and litigation of the
22 retirement board and the association and to give advice and
23 counsel in regard to any matter connected with the duties of
24 the retirement board;

25 (3) administer oaths;

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1 (4) adopt and use a seal for authentication of
2 records, processes and proceedings;

3 (5) create and maintain records relating to
4 all members, affiliated public employers and all activities and
5 duties required of the retirement board;

6 (6) issue subpoenas and compel the production
7 of evidence and attendance of witnesses in connection with any
8 hearings or proceedings of the retirement board;

9 (7) make and execute contracts;

10 (8) purchase, acquire or hold land adjacent to
11 the state capitol grounds or other suitable location and build
12 thereon a building to house the association and its employees
13 and, in the event additional office space is available in the
14 building after the retirement board and its employees have been
15 housed, to rent or lease the additional space to any public
16 agency or private person; provided that first priority for the
17 rental or leasing shall be to public agencies; and further
18 provided that for the purpose of purchasing, acquiring or
19 holding the land and the building thereon, the retirement board
20 may use funds from the income fund and any other funds
21 controlled by the retirement board the use of which for such
22 purposes is not prohibited by law;

23 (9) after the sale of the land and building
24 acquired pursuant to Paragraph (8) of this subsection, acquire
25 land and build thereon a new building to house the association

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1 and its employees and hold the building and land in fee simple
2 in the name of the association. In order to acquire the land
3 and plan, design and construct the building, the retirement
4 board may expend the proceeds of the sale of the land and
5 building acquired pursuant to Paragraph (8) of this subsection
6 or any funds controlled by the board, the use of which for such
7 purposes is not otherwise prohibited by law;

8 (10) make and adopt such reasonable rules as
9 may be necessary or convenient to carry out the duties of the
10 retirement board and activities of the association, including
11 any rules necessary to preserve the status of the association
12 as a qualified pension plan under the provisions of the
13 Internal Revenue Code of 1986, as amended, or under successor
14 or related provisions of law;

15 (11) designate committees and designate
16 committee members, including individuals who may not be members
17 of the association; and

18 (12) select and contract for the services of
19 one or more custodian banks for all funds under the retirement
20 board's management. For the purpose of this paragraph,
21 "custodian bank" means a financial institution with the general
22 fiduciary duties to manage, control and collect the assets of
23 an investment fund, including receiving all deposits and paying
24 all disbursements as directed by staff, safekeeping of assets,
25 coordination of asset transfers, timely settlement of

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1 securities transactions and accurate and timely reporting of
2 the assets by individual account and in total.

3 B. The retirement board consists of:

- 4 (1) the secretary of state;
- 5 (2) the state treasurer;
- 6 (3) four members under a state coverage plan
7 to be elected by the members under state coverage plans;
- 8 (4) four members under a municipal coverage
9 plan to be elected by the members under municipal coverage
10 plans; provided that one member shall be a municipal member
11 employed by a county; and
- 12 (5) two retired members to be elected by the
13 retired members of the association.

14 C. The results of elections of elected members of
15 the retirement board shall be certified at the annual meeting
16 of the association. Elections shall be conducted according to
17 rules the retirement board adopts from time to time.

18 D. The regular term of office of the elected
19 members of the retirement board is four years. The term of one
20 retirement board member under a state coverage plan expires
21 annually on December 31. The terms of retirement board members
22 under a municipal coverage plan expire on December 31 of
23 noncoinciding years in the pattern set by the retirement board.
24 Members of the retirement board serve until their successors
25 have qualified.

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1 E. A member elected to the retirement board who
2 fails to attend four consecutively scheduled meetings of the
3 retirement board, unless in each case excused for cause by the
4 retirement board members in attendance, is considered to have
5 resigned from the retirement board, and the retirement board
6 shall by resolution declare the office vacated as of the date
7 of adoption of the resolution. A vacancy occurring on the
8 retirement board, except in the case of an elected official,
9 shall be filled by the remaining retirement board members,
10 without requirement that a quorum be present. The member
11 appointed to fill the vacancy serves for the remainder of the
12 vacated term.

13 F. Members of the retirement board serve without
14 salary for their services as retirement board members, but they
15 shall receive those amounts authorized under the Per Diem and
16 Mileage Act.

17 G. The retirement board shall hold four regular
18 meetings each year and shall designate in advance the time and
19 place of the meetings. Special meetings and emergency meetings
20 of the retirement board may be held upon call of the chair or
21 any three members of the retirement board. Written notice of
22 special meetings shall be sent to each member of the retirement
23 board at least seventy-two hours in advance of the special
24 meeting. Verbal notice of emergency meetings shall be given to
25 as many members as is feasible at least eight hours before the

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1 emergency meeting, and the meeting shall commence with a
2 statement of the nature of the emergency. The retirement board
3 shall adopt its own rules of procedure and shall keep a record
4 of its proceedings. All meetings of the retirement board shall
5 comply with the Open Meetings Act. A majority of retirement
6 board members shall constitute a quorum. Each attending member
7 of the retirement board is entitled to one vote on each
8 question before the retirement board, and at least a majority
9 of a quorum shall be necessary for a decision by the retirement
10 board.

11 H. Annual meetings of the members of the
12 association shall be held in Santa Fe at such time and place as
13 the retirement board shall from time to time determine.
14 Special meetings of the members of the association shall be
15 held in Santa Fe upon call of any seven retirement board
16 members. The retirement board shall send a written notice to
17 the last known residence address of each member currently
18 employed by an affiliated public employer at least ten days
19 prior to any meeting of the members of the association. The
20 notice shall contain the call of the meeting and the principal
21 purpose of the meeting. All meetings of the association shall
22 be public and shall be conducted according to procedures the
23 retirement board shall from time to time adopt. The retirement
24 board shall keep a record of the proceedings of each meeting of
25 the association.

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1 I. ~~[Neither the retirement board nor the~~
2 ~~association shall allow public inspection of, or disclosure of,~~
3 ~~information from any member or retiree file unless a prior~~
4 ~~release and consent, in the form prescribed by the association,~~
5 ~~has been executed by the member or retiree; except that~~
6 ~~applicable coverage plans, amounts of retirement plan~~
7 ~~contributions made by members and affiliated public employers,~~
8 ~~pension amounts paid and the names and addresses of public~~
9 ~~employees retirement association members or retirees requested~~
10 ~~for election purposes by candidates for election to the~~
11 ~~retirement board may be produced or disclosed without release~~
12 ~~or consent.] Except as provided in Subsection J of this~~
13 ~~section, neither the retirement board nor the association shall~~
14 ~~allow public inspection of, or disclosure of, the following~~
15 ~~information:~~

16 (1) information from any member or retiree
17 file unless a prior release and consent, in the form prescribed
18 by the association, has been executed by the member or retiree;
19 or

20 (2) information otherwise protected by law.

21 J. Notwithstanding the provisions of Paragraph (1)
22 of Subsection I of this section, the association may disclose
23 the following information:

24 (1) applicable coverage plans, amounts of
25 retirement plan contributions made by members and affiliated

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1 public employers and aggregate pension amounts paid;

2 (2) the names and addresses of members or
3 retirees that are requested solely for election purposes by
4 candidates for election to the retirement board; and

5 (3) member file information to the educational
6 retirement board for the purpose of administering the
7 provisions of the Public Employees Retirement Reciprocity Act."

8 SECTION 8. Section 10-11-130.1 NMSA 1978 (being Laws
9 1999, Chapter 153, Section 1) is amended to read:

10 "10-11-130.1. RESTRICTIONS ON RECEIPT OF GIFTS--
11 RESTRICTION ON CAMPAIGN CONTRIBUTIONS--REQUIRED REPORTING.--

12 ~~[A. Except for gifts of food or beverage given in a~~
13 ~~place of public accommodation, consumed at the time of receipt,~~
14 ~~not exceeding fifty dollars (\$50.00) for a single gift and the~~
15 ~~aggregate value of which gifts may not exceed one hundred fifty~~
16 ~~dollars (\$150) in a calendar year, neither a retirement board~~
17 ~~member nor an employee of the retirement board or association~~
18 ~~shall receive or accept anything of value directly or~~
19 ~~indirectly from a person who:~~

20 ~~(1) has a current contract with the retirement~~
21 ~~board or association;~~

22 ~~(2) is a potential bidder, offeror or~~
23 ~~contractor for the provision of services or personal property~~
24 ~~to the retirement board or association;~~

25 ~~(3) is authorized to invest public funds~~

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1 ~~pursuant to state or federal law or is an employee or agent of~~
2 ~~such a person; or~~

3 ~~(4) is an organization, association or other~~
4 ~~entity having a membership that includes persons described in~~
5 ~~Paragraphs (1) through (3) of this subsection.]~~

6 A. Members of the retirement board and employees of
7 the association shall comply with the provisions of the Gift
8 Act.

9 B. No person who is a candidate in a primary or
10 general election for a position that qualifies the person for
11 ex-officio membership on the retirement board, no member
12 serving ex officio on the retirement board and no person who is
13 a nominee for retirement board membership by election by some
14 or all of the members of the association pursuant to the Public
15 Employees Retirement Act shall accept anything of a value of
16 more than twenty-five dollars (\$25.00) as a contribution to an
17 ex-officio member's statewide campaign in a primary or general
18 election or as a contribution to the campaign of a nominee for
19 membership on the board as a member elected by all or some of
20 the members of the association from a person who:

21 (1) has a current contract with the retirement
22 board or association;

23 (2) is a potential bidder, offeror or
24 contractor for the provision of services or personal property
25 to the retirement board or association;

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1 (3) is authorized to invest public funds
2 pursuant to state or federal law or is an employee or agent of
3 such a person; or

4 (4) is an organization, association or other
5 entity having a membership that includes persons described in
6 Paragraphs (1) through (3) of this subsection.

7 C. Within ten days after an election in which one
8 or more board members are elected by some or all of the members
9 of the association pursuant to the Public Employees Retirement
10 Act, all persons who were candidates for board membership in
11 that election shall file with the association a report
12 disclosing all contributions to their respective campaigns
13 whether made directly to the candidate, a political action
14 committee or to some other entity supporting the candidate's
15 election. The contributions shall be reported by amount and
16 specific source. Within sixty days after the election, the
17 association shall publish the reports required by this
18 subsection."

19 SECTION 9. Section 10-11-135 NMSA 1978 (being Laws 1987,
20 Chapter 253, Section 135, as amended) is amended to read:

21 "10-11-135. FUNDS NOT SUBJECT TO PROCESS.--Except as
22 provided in Sections 10-11-136 and 10-11-136.1 NMSA 1978, none
23 of the money, pensions or other benefits mentioned in the
24 Public Employees Retirement Act shall be assignable either in
25 law or in equity or be subject to execution, levy, attachment,

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1 garnishment or other legal process, except as required by
2 federal law or pursuant to federal action or order of a federal
3 court or federal agency."

4 SECTION 10. Section 10-11A-7 NMSA 1978 (being Laws 1983,
5 Chapter 263, Section 7, as amended) is amended to read:

6 "10-11A-7. RETIREMENT ANNUITY--SURVIVING BENEFICIARY.--A
7 member may designate a spouse or dependent child as a
8 beneficiary. In the event a retirement annuitant dies, the
9 surviving beneficiary shall receive an annuity equal to two-
10 thirds of the retirement annuity being paid to the retirement
11 annuitant at the time of death; provided that the annuity paid
12 to a beneficiary spouse shall cease upon the surviving spouse's
13 [~~marriage or~~] death and the annuity paid to a beneficiary
14 dependent child shall cease upon the child reaching eighteen
15 years of age or upon the child's death, whichever comes first."

16 SECTION 11. Section 10-12C-4 NMSA 1978 (being Laws 1992,
17 Chapter 118, Section 4, as amended by Laws 2014, Chapter 39,
18 Section 3 and by Laws 2014, Chapter 43, Section 3) is amended
19 to read:

20 "10-12C-4. MEMBERSHIP.--Unless an irrevocable exemption
21 is filed pursuant to Subsection C of Section 10-12C-16 NMSA
22 1978, every magistrate while in office shall become a member
23 and shall be subject to the provisions of the Magistrate
24 Retirement Act [~~provided, however, that a magistrate who, prior~~
25 ~~to July 1, 2014, applied for and received an exemption from~~

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1 ~~membership shall not become a member until such exemption~~
2 ~~ends~~]. A magistrate who is retired under any state system or
3 the educational retirement system, including a magistrate who
4 is otherwise exempt from the provisions of the Magistrate
5 Retirement Act, shall:

6 A. pay the applicable member contributions and the
7 state, through the administrative office of the courts, shall
8 pay the applicable employer contributions as provided pursuant
9 to the Magistrate Retirement Act; and

10 B. not accrue a service credit and shall not be
11 eligible to purchase service credit nor to retire pursuant to
12 the Magistrate Retirement Act."

13 SECTION 12. Section 10-12C-8 NMSA 1978 (being Laws 1992,
14 Chapter 118, Section 8, as amended by Laws 2014, Chapter 39,
15 Section 5 and by Laws 2014, Chapter 43, Section 5) is amended
16 to read:

17 "10-12C-8. AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL
18 RETIREMENT.--

19 A. For a magistrate who was a member on June 30,
20 2014, the age and service credit requirements for retirement
21 provided for in the Magistrate Retirement Act are:

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

24 (2) age sixty years or older and fifteen or
25 more years of service credit; or

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

3 B. For a magistrate who initially became a member
4 on or after July 1, 2014, the age and service requirements for
5 normal retirement provided for in the Magistrate Retirement Act
6 are:

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

9 (2) age sixty years or older and fifteen or
10 more years of service credit; or

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

13 C. Except for a member who is retired under any
14 state system or the educational retirement system, if a member
15 leaves office for any reason, other than removal pursuant to
16 Article 6, Section 32 of the constitution of New Mexico before
17 meeting the age and service credit requirements for retirement
18 pursuant to the provisions of this section and if that member
19 leaves the member contributions on deposit in the fund, that
20 member may apply for retirement when that member meets the age
21 and service credit requirements for retirement pursuant to the
22 provisions of the Magistrate Retirement Act or provisions of
23 the Public Employees Retirement Reciprocity Act.

24 D. No member shall be eligible to receive a pension
25 pursuant to the provisions of the Magistrate Retirement Act

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1 while [~~still in office~~] serving a term of office for which
2 service credit is accrued."

3 SECTION 13. APPLICABILITY.--The provisions of Section 3
4 of this act shall apply to approved workers' compensation leave
5 that was taken by a member prior to or after the effective date
6 of this act.

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