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HOUSE BILL 34

**53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

INTRODUCED BY

Roberto "Bobby" J. Gonzales and James P. White

ENDORSED BY THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

RELATING TO PUBLIC EMPLOYEES; PROVIDING FOR SEPARATE PAYMENT BY THE PUBLIC EMPLOYEES RETIREMENT ASSOCIATION AND THE EDUCATIONAL RETIREMENT BOARD OF RETIREMENT BENEFITS ACCUMULATED UNDER MULTIPLE STATE SYSTEMS.

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

**SECTION 1.** Section 10-13A-4 NMSA 1978 (being Laws 1992, Chapter 116, Section 16, as amended) is amended to read:

"10-13A-4. NORMAL RETIREMENT--PENSION BENEFIT.--If a member has one month or more of eligible reciprocal service credit under each of two or more state systems, the following provisions shall apply, together with the applicable provisions of the Public Employees Retirement Reciprocity Act, the Educational Retirement Act, the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act

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1 and the rules and regulations for those acts promulgated by the  
2 board:

3 A. a member's total eligible reciprocal service  
4 credit under all state systems shall be used in satisfying the  
5 service credit requirements for normal retirement under the  
6 state system from which the member retires;

7 B. when a member with eligible reciprocal service  
8 credit retires, the member shall receive a pension that is  
9 equal to the sum of the pensions attributable to the service  
10 credit the member has accrued under each state system, subject  
11 to the following restrictions:

12 (1) the salary used in calculating each  
13 component of the pension shall be the salary, average annual  
14 salary or final average salary, as those terms are defined  
15 under the applicable act, earned while the member was covered  
16 under the state system calculating that component as follows:

17 (a) the member's entire salary history  
18 under the public employees retirement system and the  
19 educational retirement system shall be used to determine the  
20 final average salary and annual average salary under each state  
21 system if the member has eligible reciprocal service credit  
22 under both state systems;

23 (b) the member's entire salary history  
24 under the educational retirement system and the judicial  
25 retirement system or the magistrate retirement system, or both,

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1 shall be used to determine the average annual salary under the  
2 Educational Retirement Act if the member has eligible  
3 reciprocal service credit under those state systems but has  
4 less than five years of service credit under the educational  
5 retirement system;

6 (c) the member's salary history under  
7 the educational retirement system shall be used to determine  
8 the average annual salary under that system if the member has  
9 eligible reciprocal service credit under the Educational  
10 Retirement Act and the Judicial Retirement Act or the  
11 Magistrate Retirement Act, or both, and has five or more years  
12 of service credit under the educational retirement system; or

13 (d) if a member has less than twelve  
14 months of credited service under the judicial retirement system  
15 or the magistrate retirement system, the final year's salary  
16 shall be the aggregate amount of salary paid to the member for  
17 the period of credited service divided by the member's credited  
18 service times twelve;

19 (2) the member shall meet the age and service  
20 credit requirements for retirement under each applicable state  
21 system before the component of the pension attributable to  
22 service credit accrued under that state system may be paid;  
23 provided that the member's total eligible reciprocal service  
24 credit under all state systems shall be used in satisfying the  
25 service credit requirement for normal retirement under each

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1 state system;

2 (3) the member shall terminate employment  
3 under all state systems before the member may receive a pension  
4 from any state system; and

5 (4) the member shall file an application for  
6 retirement under the state system under which the member was  
7 last employed, in accordance with the requirements of that  
8 state system;

9 C. subject to the restrictions contained in this  
10 section, the component of the pension attributable to each  
11 state system shall be calculated based upon:

12 (1) the member's eligible reciprocal service  
13 credit acquired as a member of that state system; and

14 (2) the pension calculation formula applicable  
15 to the member under that state system;

16 D. the following limitations shall apply to  
17 pensions calculated under the Public Employees Retirement  
18 Reciprocity Act:

19 (1) in no case shall the total amount of the  
20 pension, calculated under the Public Employees Retirement  
21 Reciprocity Act and received by a member attributable to all  
22 state systems, exceed the amount allowable under Section 415 of  
23 the Internal Revenue Code; and

24 (2) where the member has less than five years  
25 of service credit in one state system, the pension from that

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1 state system shall not exceed six hundred twenty-five [~~one~~]  
2 thousandths percent per month of service under that state  
3 system multiplied by the following amount applicable under that  
4 state system:

5 (a) one-twelfth of the member's  
6 magistrate salary received during the last year in office;

7 (b) one-twelfth of the member's judicial  
8 salary received during the last year in office; or

9 (c) the member's final average salary as  
10 defined pursuant to the Public Employees Retirement Act;

11 E. the state system from which a member [~~with~~]  
12 earned eligible reciprocal service credit [~~retires shall be the~~  
13 ~~payor fund for the pension; provided that:~~

14 ~~(1) each state system shall reimburse the~~  
15 ~~payor fund] shall pay~~ the amount of the component of the  
16 pension attributable to service credit accrued under that state  
17 system; [~~and~~

18 ~~(2) reimbursements shall be made in the manner~~  
19 ~~and frequency determined by the boards;]~~

20 F. in no case shall any member retire from more  
21 than one state system; and

22 G. if a member retires from any state system with  
23 eligible reciprocal service credit and is subsequently employed  
24 by any employer covered by a state system, the retired member's  
25 eligibility to continue to receive pension payments shall be

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1 governed by the retirement act governing the state system from  
2 which the member retired. Subsequent membership in the  
3 retirement program under which the subsequent employee is  
4 covered shall be governed by that retirement act."

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