

HOUSE BILL 416

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Cynthia Borrego

AN ACT

RELATING TO PUBLIC EMPLOYEE PENSIONS; CLARIFYING PROVISIONS
RELATING TO DISABILITY PENSIONS AND SURVIVOR PENSIONS; REMOVING
INCONSISTENCIES RELATING TO SURVIVOR PENSIONS; PROVIDING AN
EXEMPTION TO THE PROCUREMENT CODE FOR THE COLLECTION OF
OVERPAYMENTS; 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 RETIREES; 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:

SECTION 1. Section 10-11-4 NMSA 1978 (being Laws 1987,

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1 Chapter 253, Section 4, as amended) is amended to read:

2 "10-11-4. SERVICE CREDIT--REQUIREMENTS FOR--FORFEITURE--
3 REINSTATEMENT.--

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

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

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

23 (1) the member has the applicable minimum
24 number of years of service credit required for normal
25 retirement. As used in this paragraph, "service credit" means

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1 only the service credit earned by the member during periods of
2 employment with an affiliated public employer; and

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

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

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

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

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

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

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

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

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

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

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1 shall extend back to the date the first payment was made based
2 on the fraudulent information.

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

8 D. The provisions of the Procurement Code shall not
9 apply to the procurement of services related to the collection
10 of overpayments as provided in this section."

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

13 "10-11-10.1. DISABILITY RETIREMENT.--

14 A. There is created a "disability review committee"
15 of the retirement board. The disability review committee shall
16 consist of at least three but not more than five retirement
17 board members and at least one licensed physician [~~licensed in~~
18 ~~New Mexico~~] appointed by the retirement board. The board shall
19 give preference to a physician licensed in New Mexico. The
20 disability review committee shall review all applications for
21 disability retirement, review reports required under this
22 section and approve or deny applications for disability
23 retirement.

24 B. The disability review committee may retire a
25 member on account of disability before the time the member

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1 would otherwise be eligible for retirement if the following
2 requirements are satisfied:

3 (1) the member applying for disability
4 retirement was a member at the time the disability was
5 incurred;

6 (2) a written application for disability
7 retirement, in the form and containing the information
8 prescribed by the association, has been filed with the
9 association by the member, the member's representative or ~~[by]~~
10 the member's affiliated public employer;

11 (3) employment is terminated within
12 forty-five days of the date of approval of the application for
13 disability retirement;

14 (4) if:

15 (a) the member has the applicable
16 minimum number of years of service credit required for normal
17 retirement. For the purposes of this subparagraph, "service
18 credit" means only the service credit earned by the member
19 during periods of employment with an affiliated public
20 employer; or

21 (b) the disability review committee
22 finds the disability to have been the natural and proximate
23 result of causes arising solely and exclusively out of and in
24 the course of the member's performance of duty with an
25 affiliated public employer;

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1 (5) the member submits to all medical
2 examinations and tests and furnishes copies of all medical
3 reports requested by the association or disability review
4 committee; provided that if the disability review committee
5 requires independent medical or other examinations, those
6 examinations shall be performed at the association's expense;
7 and

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

10 C. The disability review committee shall review
11 applications for disability retirement to determine whether:

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

14 (a) the member is mentally or physically
15 totally incapacitated for continued employment with an
16 affiliated public employer; and

17 (b) the incapacity is likely to be
18 permanent; or

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

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

23 (b) the incapacity is likely to be
24 permanent.

25 D. The disability retirement pension shall be paid

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1 for a period of one year after approval of the initial
2 application unless the disability review committee for good
3 cause shown grants disability retirement for a longer period of
4 time. [~~After approval~~] Payment shall be effective commencing
5 the first of the month following [~~submission~~] approval of the
6 initial application and termination of employment.

7 E. At the end of the first year that a disability
8 retirement pension is paid, the disability retired member's
9 condition shall be reevaluated to determine eligibility for
10 continuation of payment of a disability retirement pension. If
11 the disability retired member has applied for disability
12 benefits under the federal social security program, the member
13 shall submit copies of the member's application. The
14 association shall continue payment of the state disability
15 retirement pension if the disability retired member presents a
16 written final determination from the federal social security
17 administration that the disability retired member qualifies,
18 based on the same conditions as presented in the application
19 for a state disability retirement pension, for federal
20 disability benefits.

21 F. If the disability retired member applied for
22 federal disability benefits within thirty days of receiving
23 approval for a state disability retirement pension but the
24 federal social security administration has not made a written
25 final determination of entitlement by the end of the first year

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1 that the disability retired member has received a state
2 disability retirement pension, eligibility for continued
3 payment of the state disability retirement pension shall be
4 determined by the disability review committee. The state
5 disability retirement pension shall be discontinued if the
6 disability review committee finds that the disability retired
7 member is capable of any gainful employment.

8 G. The disability retired member shall notify the
9 association of the federal social security administration's
10 final determination within fifteen working days of the date of
11 issuance of the final written determination. If the federal
12 social security administration denies federal disability
13 benefits, the state disability retirement pension shall be
14 discontinued effective the first of the month following the
15 month in which the written final determination of the federal
16 social security administration was issued. If the federal
17 social security administration grants federal disability
18 benefits, the state disability retirement pension shall be
19 continued so long as the disability retired member provides
20 annually, on or before the anniversary date of commencement of
21 payment of the state disability retirement pension, written
22 evidence of continuation of payment of federal disability
23 benefits. If the disability review committee has denied
24 continuation of payment of a state disability retirement
25 pension and the disability retired member is later granted

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1 federal disability benefits, the state disability retirement
2 pension shall be reinstated effective the first of the month
3 following the month in which the state disability retirement
4 pension was discontinued.

5 H. If, at the time of reevaluation under Subsection
6 E of this section, the disability retired member has applied
7 for and has qualified for federal disability benefits, but for
8 a different condition than was reviewed by the disability
9 review committee, the disability review committee shall review
10 the disability retired member's condition as described by the
11 application for federal disability benefits. The process set
12 forth in Subsection I of this section shall be followed to
13 determine whether payment of a state disability retirement
14 pension should be continued.

15 I. If the disability retired member is not eligible
16 to apply for federal disability benefits or is not a member of
17 the federal social security program, the disability review
18 committee annually shall determine eligibility for continuation
19 of payment of a state disability retirement pension. To make
20 its determination of continued entitlement, the disability
21 review committee shall use the guidelines established by the
22 federal social security administration for determination of
23 eligibility for federal disability benefits. The determination
24 shall be based on:

25 (1) the medical and all other information

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1 provided by the disability retired member;

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

5 (3) any medical, vocational or other
6 information related to the disability compiled during the
7 period of disability by any medical or other practitioner
8 consulted by the disability retired member regarding the
9 disability [~~which~~] that was not paid for by the association.

10 J. Each disability retired member annually shall
11 submit to the association, prior to July 1, a statement of
12 earnings from gainful employment during the preceding calendar
13 year. The statement of earnings shall be in the form
14 prescribed by the association. Payment of the state disability
15 retirement pension shall be discontinued if the amount of
16 earnings from gainful employment is one hundred percent or more
17 of the amount that causes a decrease or suspension of an old
18 age benefit under the federal social security program [~~or~~
19 ~~fifteen thousand dollars (\$15,000), whichever is less~~].

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

23 K. Upon prior approval by the association, a
24 disability retired member may return to employment with an
25 affiliated public employer or other employer for a trial period

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1 not to exceed one hundred twenty calendar days without becoming
2 a member or causing suspension or discontinuation of payment of
3 a state disability retirement pension. If the trial period of
4 employment is successfully completed, payment of the disability
5 retirement pension shall be discontinued beginning the first of
6 the month following the one hundred twentieth day of the trial
7 period of employment. Trial periods of employment shall be
8 limited to two in any five-year period following disability
9 retirement.

10 L. If the disability retired member meets the
11 minimum age and service credit requirements for normal
12 retirement while receiving a disability retirement pension, the
13 disability retirement pension shall be reclassified by the
14 association as a normal retirement pension, and no further
15 determinations of eligibility for continuation of payment of
16 the disability retirement pension shall be made. Upon
17 reclassification as a normal retirement pension, all the
18 provisions of the Public Employees Retirement Act regarding
19 normal retirement shall be applicable.

20 M. If the disability review committee found the
21 disability to be the natural and proximate result of causes
22 arising solely and exclusively out of and in the course of the
23 member's employment with an affiliated public employer, service
24 credit shall continue to accrue during the disability
25 retirement period as though the disability retired member was

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1 actively employed.

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

15 O. For the purposes of this section, the following
16 definitions apply:

17 (1) "continued employment with the affiliated
18 public employer" means the ability of the member to fulfill the
19 required duties of the position in which the member was last
20 employed by an affiliated public employer;

21 (2) "gainful employment" means remunerative
22 employment or self-employment that is commensurate with the
23 applicant's background, age, education, experience and any new
24 skills or training the applicant may have acquired after
25 terminating public employment or incurring the disability;

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1 (3) "state disability retirement pension"
2 means the pension paid pursuant to the provisions of this
3 section; and

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

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

8 "10-11-14.5. DEATH BEFORE RETIREMENT--SURVIVOR
9 PENSIONS.--

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

19 B. If [~~there is no designated survivor beneficiary~~
20 ~~and~~] the retirement board finds the death to have been the
21 natural and proximate result of causes arising solely and
22 exclusively out of and in the course of the member's
23 performance of duty with an affiliated public employer, a
24 survivor pension shall be payable to the designated survivor
25 beneficiary. If there is no designated survivor beneficiary, a

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

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

10 (2) fifty percent of the deceased member's
11 final average salary.

12 C. A survivor pension shall also be payable to
13 eligible surviving children if [~~there is no designated survivor~~
14 ~~beneficiary and~~] the retirement board finds the death to have
15 been the natural and proximate result of causes arising solely
16 and exclusively out of and in the course of the member's
17 performance of duty with an affiliated public employer. The
18 survivor pension shall be payable to and divided equally among
19 all eligible surviving children, if any. The total amount of
20 survivor pension payable for all eligible surviving children
21 shall be either:

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

25 (2) twenty-five percent of the deceased

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1 member's final average salary if an eligible surviving spouse
2 or designated survivor beneficiary is paid a pension.

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

7 D. If the member had the applicable minimum number
8 of years of service credit required for normal retirement, but
9 the 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, ~~[and~~
13 ~~there is no designated survivor beneficiary]~~ a survivor pension
14 shall be payable to the designated survivor beneficiary. If
15 there is no designated survivor beneficiary, a survivor pension
16 shall be payable to the eligible surviving spouse. The amount
17 of the survivor pension shall be the greater of:

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

24 (2) thirty percent of the deceased member's
25 final average salary.

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1 E. If the member had the applicable minimum number
2 of years of service credit required for normal retirement, but
3 the retirement board did not find 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 and
7 there is no designated survivor beneficiary, and if there is no
8 eligible surviving spouse at the time of death, a survivor
9 pension shall be payable to and divided equally among all
10 eligible surviving children, if any. The total amount of
11 survivor pension payable for all eligible surviving children
12 shall be the greater of:

13 (1) the amount as calculated under the
14 coverage plan applicable to the deceased member at the time of
15 death as though the deceased member had retired the day
16 preceding death under form of payment B with the oldest
17 eligible surviving child as the survivor beneficiary using the
18 total amount of actual service credit attributable to the
19 deceased member at the time of death; or

20 (2) thirty percent of the deceased member's
21 final average salary.

22 F. An eligible surviving spouse is the spouse to
23 whom the deceased member was married at the time of death. An
24 eligible surviving child is a child under the age of eighteen
25 years and who is an unmarried, natural or adopted child of the

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1 deceased member and who is not the designated survivor
2 beneficiary of the deceased member.

3 G. An eligible surviving spouse's pension shall
4 terminate upon death. An eligible surviving child's pension
5 shall terminate upon death or marriage or reaching age eighteen
6 years, whichever comes first.

7 H. If there is ~~[no designated survivor beneficiary~~
8 ~~and there is]~~ no eligible surviving child, the designated
9 survivor beneficiary or eligible surviving spouse may elect to
10 be refunded the deceased member's accumulated member
11 contributions instead of receiving a survivor pension.

12 I. A member may designate a survivor beneficiary to
13 receive a pre-retirement survivor pension, subject to the
14 following conditions:

15 (1) a written designation, in the form
16 prescribed by the association, is filed by the member with the
17 association;

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

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

25 (4) if the member is divorced subsequent to

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1 the time of designation, any prior designation of the former
2 spouse as survivor beneficiary shall automatically be revoked
3 upon the date of divorce; and

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

7 ~~[J. If there is a designated survivor beneficiary~~
8 ~~and the retirement board finds the death to have been the~~
9 ~~natural and proximate result of causes arising solely and~~
10 ~~exclusively out of and in the course of the member's~~
11 ~~performance of duty with an affiliated public employer, a~~
12 ~~survivor pension shall be payable to the designated survivor~~
13 ~~beneficiary. The amount of the survivor pension shall be the~~
14 ~~greater of:~~

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

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

23 K. ~~If there is a designated survivor beneficiary,~~
24 ~~if the member had the applicable minimum number of years of~~
25 ~~service credit required for normal retirement and if the~~

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1 ~~retirement board did not find the death to have been the~~
2 ~~natural and proximate result of causes arising solely and~~
3 ~~exclusively out of and in the course of the member's~~
4 ~~performance of duty with an affiliated public employer, a~~
5 ~~survivor pension shall be payable to the designated survivor~~
6 ~~beneficiary. The amount of the survivor pension shall be the~~
7 ~~greater of:~~

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

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

16 ~~L.]~~ J. If all pension payments permanently
17 terminate before there is paid an aggregate amount equal to the
18 deceased member's accumulated member contributions at time of
19 death, the difference between the amount of accumulated member
20 contributions and the aggregate amount of pension paid shall be
21 paid to the deceased member's refund beneficiary. If no refund
22 beneficiary survives the survivor beneficiary, the difference
23 shall be paid to the estate of the deceased member.

24 ~~[M.]~~ K. For purposes of this section, "service
25 credit" means only the service credit earned by a member during

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1 periods of employment with an affiliated public employer."

2 SECTION 5. Section 10-11-26.3 NMSA 1978 (being Laws 1994,
3 Chapter 128, Section 4, as amended) is amended to read:

4 "10-11-26.3. STATE GENERAL MEMBER COVERAGE PLAN 3--AMOUNT
5 OF PENSION--FORM OF PAYMENT A.--Under state general member
6 coverage plan 3:

7 A. for a member with age and service requirements
8 provided under Paragraph (1) or (3) of Subsection A of Section
9 10-11-26.2 NMSA 1978, the amount of pension under form of
10 payment A is equal to three percent of final average salary
11 multiplied by service credit. The amount shall not exceed one
12 hundred percent of the final average salary; and

13 B. for a member with age and service requirements
14 provided under Paragraph (2) or (4) of Subsection A of Section
15 10-11-26.2 NMSA 1978, the amount of pension under form of
16 payment A is equal to two and one-half percent of the final
17 average salary multiplied by service credit. The amount shall
18 not exceed one hundred percent of the final average salary."

19 SECTION 6. Section 10-11-130 NMSA 1978 (being Laws 1987,
20 Chapter 253, Section 130, as amended) is amended to read:

21 "10-11-130. RETIREMENT BOARD--AUTHORITY--MEMBERSHIP.--

22 A. The "retirement board" is created and is the
23 trustee of the association and the funds created by the state
24 retirement system acts and has all the powers necessary or
25 convenient to carry out and effectuate the purposes and

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1 provisions of the state retirement system acts, including, in
2 addition to any specific powers provided for in the Public
3 Employees Retirement Act but without limiting the generality of
4 the foregoing, the power to:

5 (1) administer the state retirement system
6 acts, including the management of the association and making
7 effective the provisions of those acts, as well as to
8 administer and manage any other employee benefit acts as
9 provided by law;

10 (2) in addition to utilizing services of the
11 attorney general and notwithstanding any other provision of
12 law, employ or contract with and compensate competent legal
13 counsel to handle the legal matters and litigation of the
14 retirement board and the association and to give advice and
15 counsel in regard to any matter connected with the duties of
16 the retirement board;

17 (3) administer oaths;

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

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

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

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1 (7) make and execute contracts;

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

15 (9) after the sale of the land and building
16 acquired pursuant to Paragraph (8) of this subsection, acquire
17 land and build thereon a new building to house the association
18 and its employees and hold the building and land in fee simple
19 in the name of the association. In order to acquire the land
20 and plan, design and construct the building, the retirement
21 board may expend the proceeds of the sale of the land and
22 building acquired pursuant to Paragraph (8) of this subsection
23 or any funds controlled by the board, the use of which for such
24 purposes is not otherwise prohibited by law;

25 (10) make and adopt such reasonable rules as

.229640.4SA

1 may be necessary or convenient to carry out the duties of the
2 retirement board and activities of the association, including
3 any rules necessary to preserve the status of the association
4 as a qualified pension plan under the provisions of the
5 Internal Revenue Code of 1986, as amended, or under successor
6 or related provisions of law;

7 (11) designate committees and designate
8 committee members, including individuals who may not be members
9 of the association; and

10 (12) select and contract for the services of
11 one or more custodian banks for all funds under the retirement
12 board's management. For the purpose of this paragraph,
13 "custodian bank" means a financial institution with the general
14 fiduciary duties to manage, control and collect the assets of
15 an investment fund, including receiving all deposits and paying
16 all disbursements as directed by staff, safekeeping of assets,
17 coordination of asset transfers, timely settlement of
18 securities transactions and accurate and timely reporting of
19 the assets by individual account and in total.

20 B. The retirement board consists of:

- 21 (1) the secretary of state;
22 (2) the state treasurer;
23 (3) four members under a state coverage plan
24 to be elected by the members under state coverage plans;
25 (4) four members under a municipal coverage

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1 plan to be elected by the members under municipal coverage
2 plans, provided one member shall be a municipal member employed
3 by a county; and

4 (5) two retired members to be elected by the
5 retired members of the association.

6 C. The results of elections of elected members of
7 the retirement board shall be certified at the annual meeting
8 of the association. Elections shall be conducted according to
9 rules the retirement board adopts from time to time.

10 D. The regular term of office of the elected
11 members of the retirement board is four years. The term of one
12 retirement board member under a state coverage plan expires
13 annually on December 31. The terms of retirement board members
14 under a municipal coverage plan expire on December 31 of
15 noncoinciding years in the pattern set by the retirement board.
16 Members of the retirement board serve until their successors
17 have qualified.

18 E. A member elected to the retirement board who
19 fails to attend four consecutively scheduled meetings of the
20 retirement board, unless in each case excused for cause by the
21 retirement board members in attendance, is considered to have
22 resigned from the retirement board, and the retirement board
23 shall by resolution declare the office vacated as of the date
24 of adoption of the resolution. A vacancy occurring on the
25 retirement board, except in the case of an elected official,

.229640.4SA

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1 shall be filled by the remaining retirement board members,
2 without requirement that a quorum be present. The member
3 appointed to fill the vacancy serves for the remainder of the
4 vacated term.

5 F. Members of the retirement board serve without
6 salary for their services as retirement board members, but they
7 shall receive those amounts authorized under the Per Diem and
8 Mileage Act.

9 G. The retirement board shall hold four regular
10 meetings each year and shall designate in advance the time and
11 place of the meetings. Special meetings and emergency meetings
12 of the retirement board may be held upon call of the chair or
13 any three members of the retirement board. Written notice of
14 special meetings shall be sent to each member of the retirement
15 board at least seventy-two hours in advance of the special
16 meeting. Verbal notice of emergency meetings shall be given to
17 as many members as is feasible at least eight hours before the
18 emergency meeting, and the meeting shall commence with a
19 statement of the nature of the emergency. The retirement board
20 shall adopt its own rules of procedure and shall keep a record
21 of its proceedings. All meetings of the retirement board shall
22 comply with the Open Meetings Act. A majority of retirement
23 board members shall constitute a quorum. Each attending member
24 of the retirement board is entitled to one vote on each
25 question before the retirement board, and at least a majority

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1 of a quorum shall be necessary for a decision by the retirement
2 board.

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

18 I. ~~[Neither the retirement board nor the~~
19 ~~association shall allow public inspection of, or disclosure of,~~
20 ~~information from any member or retiree file unless a prior~~
21 ~~release and consent, in the form prescribed by the association,~~
22 ~~has been executed by the member or retiree; except that~~
23 ~~applicable coverage plans, amounts of retirement plan~~
24 ~~contributions made by members and affiliated public employers,~~
25 ~~pension amounts paid and the names and addresses of public~~

.229640.4SA

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1 ~~employees retirement association members or retirees requested~~
2 ~~for election purposes by candidates for election to the~~
3 ~~retirement board may be produced or disclosed without release~~
4 ~~or consent.] Except as provided in Subsection J of this~~
5 ~~section, neither the retirement board nor the association shall~~
6 ~~allow public inspection of, or disclosure of, the following~~
7 ~~information:~~

8 (1) information from any member or retiree
9 file unless a prior release and consent, in the form prescribed
10 by the association, has been executed by the member or retiree;
11 or

12 (2) information otherwise protected by law.

13 J. Notwithstanding the provisions of Paragraph (1)
14 of Subsection I of this section, the association may disclose
15 the following information:

16 (1) applicable coverage plans, amounts of
17 retirement plan contributions made by members and affiliated
18 public employers and aggregate pension amounts paid;

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

22 (3) member file information to the educational
23 retirement board for the purpose of administering the
24 provisions of the Public Employees Retirement Reciprocity Act."

25 SECTION 7. Section 10-11-130.1 NMSA 1978 (being Laws

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1 1999, Chapter 153, Section 1) is amended to read:

2 "10-11-130.1. RESTRICTIONS ON RECEIPT OF GIFTS--
3 RESTRICTION ON CAMPAIGN CONTRIBUTIONS--REQUIRED REPORTING.--

4 ~~[A. Except for gifts of food or beverage given in a~~
5 ~~place of public accommodation, consumed at the time of receipt,~~
6 ~~not exceeding fifty dollars (\$50.00) for a single gift and the~~
7 ~~aggregate value of which gifts may not exceed one hundred fifty~~
8 ~~dollars (\$150) in a calendar year, neither a retirement board~~
9 ~~member nor an employee of the retirement board or association~~
10 ~~shall receive or accept anything of value directly or~~
11 ~~indirectly from a person who:~~

12 ~~(1) has a current contract with the retirement~~
13 ~~board or association;~~

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

17 ~~(3) is authorized to invest public funds~~
18 ~~pursuant to state or federal law or is an employee or agent of~~
19 ~~such a person; or~~

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

23 A. Members of the retirement board and employees of
24 the association shall comply with the provisions of the Gift
25 Act.

.229640.4SA

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

13 (1) has a current contract with the retirement
14 board or association;

15 (2) is a potential bidder, offeror or
16 contractor for the provision of services or personal property
17 to the retirement board or association;

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

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

24 C. Within ten days after an election in which one
25 or more board members are elected by some or all of the members

.229640.4SA

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1 of the association pursuant to the Public Employees Retirement
2 Act, all persons who were candidates for board membership in
3 that election shall file with the association a report
4 disclosing all contributions to their respective campaigns
5 whether made directly to the candidate, a political action
6 committee or to some other entity supporting the candidate's
7 election. The contributions shall be reported by amount and
8 specific source. Within sixty days after the election, the
9 association shall publish the reports required by this
10 subsection."

11 SECTION 8. Section 10-11-135 NMSA 1978 (being Laws 1987,
12 Chapter 253, Section 135, as amended) is amended to read:

13 "10-11-135. FUNDS NOT SUBJECT TO PROCESS.--Except as
14 provided in Sections 10-11-136 and 10-11-136.1 NMSA 1978, none
15 of the money, pensions or other benefits mentioned in the
16 Public Employees Retirement Act shall be assignable either in
17 law or in equity or be subject to execution, levy, attachment,
18 garnishment or other legal process, except as required by
19 federal law or pursuant to federal action or order of a federal
20 court or federal agency."

21 SECTION 9. Section 10-11A-7 NMSA 1978 (being Laws 1983,
22 Chapter 263, Section 7, as amended) is amended to read:

23 "10-11A-7. RETIREMENT ANNUITY--SURVIVING BENEFICIARY.--A
24 member may designate a spouse or dependent child as a
25 beneficiary. In the event a retirement annuitant dies, the

.229640.4SA

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1 surviving beneficiary shall receive an annuity equal to two-
2 thirds of the retirement annuity being paid to the retirement
3 annuitant at the time of death; provided that the annuity paid
4 to a beneficiary spouse shall cease upon the surviving spouse's
5 ~~[marriage or]~~ death and the annuity paid to a beneficiary
6 dependent child shall cease upon the child reaching eighteen
7 years of age or upon the child's death, whichever comes first."

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

12 "10-12C-4. MEMBERSHIP.--Unless an irrevocable exemption
13 is filed pursuant to Subsection C of Section 10-12C-16 NMSA
14 1978, every magistrate while in office shall become a member
15 and shall be subject to the provisions of the Magistrate
16 Retirement Act ~~[provided, however, that a magistrate who, prior~~
17 ~~to July 1, 2014, applied for and received an exemption from~~
18 ~~membership shall not become a member until such exemption~~
19 ~~ends]~~. A magistrate who is retired under any state system or
20 the educational retirement system, including a magistrate who
21 is otherwise exempt from the provisions of the Magistrate
22 Retirement Act, shall:

23 A. pay the applicable member contributions and the
24 state, through the administrative office of the courts, shall
25 pay the applicable employer contributions as provided pursuant
26 .229640.4SA

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1 to the Magistrate Retirement Act; and

2 B. not accrue a service credit and shall not be
3 eligible to purchase service credit nor to retire pursuant to
4 the Magistrate Retirement Act."

5 SECTION 11. Section 10-12C-8 NMSA 1978 (being Laws 1992,
6 Chapter 118, Section 8, as amended by Laws 2014, Chapter 39,
7 Section 5 and by Laws 2014, Chapter 43, Section 5) is amended
8 to read:

9 "10-12C-8. AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL
10 RETIREMENT.--

11 A. For a magistrate who was a member on June 30,
12 2014, the age and service credit requirements for retirement
13 provided for in the Magistrate Retirement Act are:

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

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

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

20 B. For a magistrate who initially became a member
21 on or after July 1, 2014, the age and service requirements for
22 normal retirement provided for in the Magistrate Retirement Act
23 are:

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

.229640.4SA

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

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

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

16 D. No member shall be eligible to receive a pension
17 pursuant to the provisions of the Magistrate Retirement Act
18 while [~~still in office~~] serving a term of office for which
19 service credit is accrued."