

1 HOUSE BILL 234

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

3 INTRODUCED BY

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11 AN ACT

12 RELATING TO PENSIONS; AMENDING THE PUBLIC EMPLOYEES RETIREMENT
13 ACT BY CREATING THE PENSION INVESTMENT PLAN FOR CERTAIN RETIRED
14 LAW ENFORCEMENT OFFICERS; CREATING THE PENSION INVESTMENT PLAN
15 ACCUMULATION FUND; PROVIDING THAT A PARTICIPANT IN THE PENSION
16 INVESTMENT PLAN SHALL MAKE MEMBER CONTRIBUTIONS AND THE
17 SUBSEQUENT AFFILIATED PUBLIC EMPLOYER SHALL NOT MAKE EMPLOYER
18 CONTRIBUTIONS.

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

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

23 "10-11-2. DEFINITIONS.--As used in the Public Employees
24 Retirement Act:

25 A. "accumulated member contributions" means the

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1 amounts deducted from the salary of a member and credited to
2 the member's individual account, together with interest, if
3 any, credited to that account;

4 B. "affiliated public employer" means the state and
5 any public employer affiliated with the association as provided
6 in the Public Employees Retirement Act, but does not include an
7 employer pursuant to the Magistrate Retirement Act, the
8 Judicial Retirement Act or the Educational Retirement Act;

9 C. "association" means the public employees
10 retirement association established under the Public Employees
11 Retirement Act;

12 D. "disability retired member" means a retired
13 member who is receiving a pension pursuant to the disability
14 retirement provisions of the Public Employees Retirement Act;

15 E. "disability retirement pension" means the
16 pension paid pursuant to the disability retirement provisions
17 of the Public Employees Retirement Act;

18 F. "educational retirement system" means that
19 retirement system provided for in the Educational Retirement
20 Act;

21 G. "employee" means any employee of an affiliated
22 public employer;

23 H. "federal social security program" means that
24 program or those programs created and administered pursuant to
25 the act of congress approved August 14, 1935, Chapter 531, 49

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1 Stat. 620, as that act may be amended;

2 I. "final average salary" means the final average
3 salary calculated in accordance with the provisions of the
4 applicable coverage plan;

5 J. "form of payment" means the applicable form of
6 payment of a pension provided for in Section 10-11-117 NMSA
7 1978;

8 K. "former member" means a person who was
9 previously employed by an affiliated public employer, who has
10 terminated that employment and who has received a refund of
11 member contributions;

12 L. "fund" means the funds included under the Public
13 Employees Retirement Act;

14 M. "member" means a currently employed,
15 contributing employee of an affiliated public employer or a
16 person who has been but is not currently employed by an
17 affiliated public employer, who has not retired and who has not
18 received a refund of member contributions; [~~"member" also~~] and
19 includes the following:

20 (1) "adult correctional officer member" means
21 a member who is employed as an adult correctional officer or an
22 adult correctional officer specialist by a state correctional
23 facility of the corrections department or its successor agency;

24 (2) "juvenile correctional officer member"
25 means a member who is employed as a juvenile correctional

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1 officer by the children, youth and families department or its
2 successor agency;

3 (3) "municipal detention officer member" means
4 a member who is employed by an affiliated public employer other
5 than the state and who has inmate custodial responsibilities at
6 a facility used for the confinement of persons charged with or
7 convicted of a violation of a law or ordinance;

8 (4) "municipal fire member" means any member
9 who is employed as a full-time nonvolunteer firefighter by an
10 affiliated public employer and who has taken the oath
11 prescribed for firefighters;

12 (5) "municipal police member" means any member
13 who is employed as a police officer by an affiliated public
14 employer, other than the state, and who has taken the oath
15 prescribed for police officers; and

16 (6) "state police member" means a member who
17 is an officer of the New Mexico state police and who has taken
18 the oath prescribed for such officers, except that a state
19 police member shall not include a member who is an officer of
20 the New Mexico state police division and who was certified and
21 commissioned as of June 30, 2015 in the former motor
22 transportation division or the former special investigations
23 division of the department of public safety;

24 N. "membership" means membership in the
25 association;

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1 O. "pension" means a series of monthly payments to
2 a retired member or survivor beneficiary as provided in the
3 Public Employees Retirement Act;

4 P. "pension investment plan" means the pension
5 investment plan administered by the association pursuant to the
6 provisions of the Public Employees Retirement Act;

7 Q. "pension investment plan account" means the
8 balance accumulated in a pension investment plan account during
9 a period of subsequent employment from deposits of a pension
10 investment plan participant's pension, any cost-of-living
11 adjustments and investment earnings on the balance in the
12 account, if any, as determined by the retirement board;

13 R. "pension investment plan participant" means a
14 retired adult correctional officer member, a retired juvenile
15 correctional officer member, a retired municipal detention
16 officer member, a retired municipal fire member, a retired
17 municipal police member or a retired state police member who is
18 subsequently employed by an affiliated public employer and who
19 elects to participate in the pension investment plan;

20 [~~P.~~] S. "public employer" means the state, any
21 municipality, city, county, metropolitan arroyo flood control
22 authority, economic development district, regional housing
23 authority, soil and water conservation district, entity created
24 pursuant to a joint powers agreement, council of government,
25 conservancy district, irrigation district, water and sanitation

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1 district, water district and metropolitan water board,
2 including the boards, departments, bureaus and agencies of a
3 public employer, so long as these entities fall within the
4 meaning of governmental plan as that term is used in Section
5 414(d) of the Internal Revenue Code of 1986, as amended;

6 [Q-] T. "refund beneficiary" means a person
7 designated by the member, in writing, in the form prescribed by
8 the association, as the person who would be refunded the
9 member's accumulated member contributions payable if the member
10 dies and no survivor pension is payable or who would receive
11 the difference between pension paid and accumulated member
12 contributions if the retired member dies before receiving in
13 pension payments the amount of the accumulated member
14 contributions;

15 [R-] U. "retire" means to:

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

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

21 [S-] V. "retired member" means a person who has met
22 all requirements for retirement and who is receiving a pension
23 from the fund;

24 [T-] W. "retirement board" means the retirement
25 board provided for in the Public Employees Retirement Act;

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1 ~~[U-]~~ X. "salary" means the base salary or wages
2 paid a member, including longevity pay, for personal services
3 rendered an affiliated public employer. "Salary" shall not
4 include overtime pay, allowances for housing, clothing,
5 equipment or travel; payments for unused sick leave, unless the
6 unused sick leave payment is made through continuation of the
7 member on the regular payroll for the period represented by
8 that payment; and any other form of remuneration not
9 specifically designated by law as included in salary for Public
10 Employees Retirement Act purposes. Salary in excess of the
11 limitations set forth in Section 401(a)(17) of the Internal
12 Revenue Code of 1986, as amended, shall be disregarded. The
13 limitation on compensation for eligible employees shall not be
14 less than the amount that was allowed to be taken into account
15 under the state retirement system acts in effect on July 1,
16 1993. For purposes of this subsection, "eligible employee"
17 means an individual who was a member of a state system before
18 the first plan year beginning after December 31, 1995;

19 ~~[V-]~~ Y. "state system" means the retirement
20 programs provided for in the Public Employees Retirement Act,
21 the Magistrate Retirement Act and the Judicial Retirement Act;

22 ~~[W-]~~ Z. "state retirement system acts" means
23 collectively the Public Employees Retirement Act, the
24 Magistrate Retirement Act, the Judicial Retirement Act and the
25 Volunteer Firefighters Retirement Act; and

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1 [~~X~~] AA. "survivor beneficiary" means a person who
2 receives a pension or who has been designated to be paid a
3 pension as a result of the death of a member or retired
4 member."

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

7 "10-11-4. SERVICE CREDIT--CERTAIN SERVICE CREDIT NOT
8 ACQUIRED--REQUIREMENTS FOR--FORFEITURE--REINSTATEMENT.--

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

20 B. Personal service rendered an affiliated public
21 employer prior to August 1, 1947 shall be credited to a member
22 if the member acquires one year of service credit for personal
23 service rendered an affiliated public employer.

24 C. Personal service rendered an affiliated public
25 employer after July 31, 1947 but prior to the date the public

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1 employer became an affiliated public employer is prior service
2 and shall be credited to a member if:

3 (1) the member has the applicable minimum
4 number of years of service credit required for normal
5 retirement. As used in this paragraph, "service credit" means
6 only the service credit earned by the member during periods of
7 employment with an affiliated public employer; and

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

10 D. The purchase cost for each month of service
11 credit purchased under the provisions of this section is equal
12 to the member's final average salary multiplied by the sum of
13 the member contribution rate and employer contribution rate
14 determined in accordance with the coverage plan applicable to
15 the member at the time of the written election to purchase.
16 Full payment shall be made in a single lump-sum amount in
17 accordance with the procedures established by the retirement
18 board. The portion of the purchase cost derived from the
19 employer contribution rate shall be credited to the employers
20 accumulation fund and shall not be refunded to the member in
21 the event of cessation of membership. In no case shall any
22 member be credited with a month of service for less than the
23 purchase cost as defined in this section.

24 E. Service credit shall be forfeited if a member
25 terminates employment with an affiliated public employer and

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1 withdraws the member's accumulated member contributions.

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

14 G. Personal service rendered by a retired member
15 who is a pension investment plan participant shall not be
16 considered service credit for any purpose, and the pension
17 investment plan participant shall not accrue service credit for
18 any subsequent employment with an affiliated public employer."

19 SECTION 3. Section 10-11-5 NMSA 1978 (being Laws 1987,
20 Chapter 253, Section 5, as amended) is amended to read:

21 "10-11-5. [~~CREDITED~~] SERVICE CREDIT--MUNICIPAL ELECTION
22 TO MAKE [~~EMPLOYEE~~] EMPLOYEES' CONTRIBUTIONS.--A municipal
23 affiliated public employer may elect by resolution of its
24 governing body or by execution of a collective bargaining
25 agreement and in the manner prescribed by the retirement board

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1 to be responsible for making contributions of up to seventy-
2 five percent of its employees' member contributions as follows:

3 A. the resolution or collective bargaining
4 agreement shall be irrevocable, except that:

5 (1) if the resolution is passed or the
6 collective bargaining agreement is executed on or before
7 June 30, 2013, the percentage of [~~the employee~~] employees'
8 contributions that the municipal affiliated public employer
9 elects to be responsible for making shall apply to the
10 statutory [~~employee~~] member contribution rate in effect on June
11 30, 2013 and shall not apply to any increase in the statutory
12 [~~employee~~] member contribution rate that may occur after that
13 date; and

14 (2) if the resolution is passed or the
15 collective bargaining agreement is executed on or after
16 July 1, 2013, the percentage of the [~~employee~~] employees'
17 contributions that the municipal affiliated public employer
18 elects to be responsible for making shall apply to the
19 statutory [~~employee~~] member contribution rate in effect on the
20 date that the resolution is passed or the collective bargaining
21 agreement is executed and shall not apply to any increases in
22 the statutory [~~employee~~] member contribution rate that may
23 occur after that date; provided, however, that if the statutory
24 [~~employee~~] member contribution rate is decreased after the date
25 that the resolution is passed or the collective bargaining

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1 agreement is executed, the percentage of [~~the employee~~
2 employees' contributions that the municipal public affiliated
3 employer is responsible for making shall apply to the decreased
4 statutory [~~employee~~] member contribution rate;

5 B. a municipal affiliated public employer may by
6 subsequent resolution or collective bargaining agreement:

7 (1) elect to increase the percentage of
8 [~~employee~~] employees' member contributions for which it will be
9 responsible;

10 (2) elect to be responsible for a percentage
11 of any increase to the statutory [~~employee~~] member contribution
12 rate in effect after the passing of an earlier resolution or
13 the execution of an earlier collective bargaining agreement; or

14 (3) at the time a new coverage plan is
15 adopted, elect to be responsible under the new coverage plan
16 for making a different percentage of [~~employee~~] employees'
17 member contributions than that which it elected under a
18 previous coverage plan;

19 C. the resolution or executed collective bargaining
20 agreement shall apply to all employees or else to specified
21 employee divisions of the municipal affiliated public employer
22 and shall be effective the first pay period of the month
23 following the filing of the resolution with the retirement
24 board;

25 D. except as provided in Subsection G of this

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1 section, the portion of the [~~employee~~] member contributions
2 made by the municipal affiliated public employer on behalf of a
3 member shall be credited to the member's individual accumulated
4 member contribution account in the member contribution fund.

5 The member shall be responsible for the difference between the
6 contributions the member would be required to make if the
7 municipal affiliated public employer had not made the election
8 provided for in this section and the amount contributed by the
9 municipal affiliated public employer pursuant to the provisions
10 of this section;

11 E. pensions payable to members whose municipal
12 affiliated public employer makes the election provided for in
13 this section shall be the same as if the member had made the
14 entire member contribution; [~~and~~]

15 F. any municipal affiliated public employer
16 increasing the percentage of the [~~employee~~] employees' member
17 contributions [~~it~~] the municipal affiliated public employer
18 elects to make pursuant to this section shall submit a
19 resolution or executed collective bargaining agreement to the
20 association by July 1 of the fiscal year in which the increase
21 will take place indicating the percentage of the [~~employee~~]
22 employees' member contributions that will be made by the
23 municipal affiliated public employer; and

24 G. the portion of the member contributions made by
25 the municipal affiliated public employer on behalf of a pension

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1 investment plan participant shall be credited to the member
2 contribution fund and shall not be credited to the retired
3 member's pension investment plan account. The pension
4 investment plan participant shall be responsible for the
5 difference between the contributions that the pension
6 investment plan participant would be required to make if the
7 municipal affiliated public employer had not made the election
8 provided for in this section and the amount contributed by the
9 municipal affiliated public employer pursuant to the provisions
10 of this section."

11 SECTION 4. Section 10-11-8 NMSA 1978 (being Laws 1987,
12 Chapter 253, Section 8, as amended by Laws 2014, Chapter 35,
13 Section 1 and by Laws 2014, Chapter 39, Section 1 and also by
14 Laws 2014, Chapter 43, Section 1) is amended to read:

15 "10-11-8. NORMAL RETIREMENT [~~RETURN TO EMPLOYMENT~~--
16 ~~BENEFITS CONTINUED--CONTRIBUTIONS~~].--

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

20 (1) a written application for normal
21 retirement, in the form prescribed by the association, is filed
22 with the association;

23 (2) employment is terminated with all
24 employers covered by any state system or the educational
25 retirement system;

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

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

6 B. The amount of normal retirement pension is
7 determined in accordance with the coverage plan applicable to
8 the member.

9 ~~[G. Except as provided in Subsection E of this~~
10 ~~section, on or after July 1, 2010, a retired member may be~~
11 ~~subsequently employed by an affiliated public employer only~~
12 ~~pursuant to the following provisions:~~

13 ~~(1) the retired member has not been employed~~
14 ~~as an employee of an affiliated public employer or retained as~~
15 ~~an independent contractor by the affiliated public employer~~
16 ~~from which the retired member retired for at least twelve~~
17 ~~consecutive months from the date of retirement to the~~
18 ~~commencement of subsequent employment or reemployment with an~~
19 ~~affiliated public employer;~~

20 ~~(2) the retired member's pension shall be~~
21 ~~suspended upon commencement of the subsequent employment;~~

22 ~~(3) except as provided in Subsection G of this~~
23 ~~section, the retired member shall not become a member and shall~~
24 ~~not accrue service credit, and the retired member and that~~
25 ~~person's subsequent affiliated public employer shall not make~~

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1 ~~contributions under any coverage plan pursuant to the Public~~
2 ~~Employees Retirement Act; and~~

3 ~~(4) upon termination of the subsequent~~
4 ~~employment, the retired member's pension shall resume in~~
5 ~~accordance with the provisions of Subsection A of this section.~~

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

15 ~~(1) the retired member's cost-of-living~~
16 ~~pension adjustment shall be suspended upon commencement of the~~
17 ~~employment; and~~

18 ~~(2) upon termination of the employment, the~~
19 ~~retired member's suspended cost-of-living pension adjustment~~
20 ~~shall be reinstated as provided under Subsection B of Section~~
21 ~~10-11-118 NMSA 1978.~~

22 ~~E. The provisions of Subsections C, H and I of this~~
23 ~~section do not apply to:~~

24 ~~(1) a retired member employed by the~~
25 ~~legislature for legislative session work;~~

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1 ~~(2) a retired member employed temporarily as a~~
2 ~~precinct board member for a municipal election or an election~~
3 ~~covered by the Election Code; or~~

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

7 ~~(a) the retired member files an~~
8 ~~irrevocable exemption from membership with the association~~
9 ~~within thirty days of taking office; and~~

10 ~~(b) the irrevocable exemption shall be~~
11 ~~for the elected official's term of office.~~

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

18 ~~G. At any time during a retired member's subsequent~~
19 ~~employment pursuant to Subsection C of this section, the~~
20 ~~retired member may elect to become a member and the following~~
21 ~~conditions shall apply:~~

22 ~~(1) the previously retired member and the~~
23 ~~subsequent affiliated public employer shall make the required~~
24 ~~employee and employer contributions, and the previously retired~~
25 ~~member shall accrue service credit for the period of subsequent~~

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1 employment; and

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

7 ~~(a) payment of the pension shall resume~~
8 ~~in accordance with the provisions of Subsection A of this~~
9 ~~section;~~

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

17 ~~(c) the recalculated pension shall not~~
18 ~~be less than the amount of the suspended pension.~~

19 ~~H. A retired member who returned to work with an~~
20 ~~affiliated public employer prior to July 1, 2010 shall be~~
21 ~~subject to the provisions of this section in effect on the date~~
22 ~~the retired member returned to work; provided that:~~

23 ~~(1) on and after July 1, 2010, the retired~~
24 ~~member shall pay the employee contribution in an amount~~
25 ~~specified in the Public Employees Retirement Act for the~~

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1 ~~position in which the retired member is subsequently employed;~~

2 ~~(2) notwithstanding the provisions of~~
3 ~~Subsection B of Section 10-11-118 NMSA 1978, on and after July~~
4 ~~1, 2013, the retired member's cost-of-living pension adjustment~~
5 ~~shall be suspended; and~~

6 ~~(3) upon termination of the subsequent~~
7 ~~employment with the affiliated public employer, the retired~~
8 ~~member's cost-of-living pension adjustment shall be reinstated~~
9 ~~as provided in Subsection B of Section 10-11-118 NMSA 1978.~~

10 ~~I. Effective July 1, 2014, if a retired member who,~~
11 ~~subsequent to retirement, is employed and covered pursuant to~~
12 ~~the provisions of the Magistrate Retirement Act or Judicial~~
13 ~~Retirement Act, during the period of subsequent employment:~~

14 ~~(1) the member shall be entitled to receive~~
15 ~~retirement benefits;~~

16 ~~(2) the retired member's cost-of-living~~
17 ~~pension adjustment shall be suspended upon commencement of the~~
18 ~~employment; and~~

19 ~~(3) upon termination of the employment, the~~
20 ~~retired member's suspended cost-of-living pension adjustment~~
21 ~~shall be reinstated as provided under Subsection B of Section~~
22 ~~10-11-118 NMSA 1978.~~

23 ~~J.] C.~~ The pension of a member who has earned
24 service credit under more than one coverage plan shall be
25 determined as follows:

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

6 (2) the pension of a member who has service
7 credit earned on or before June 30, 2013 under two or more
8 coverage plans but who has three or more years of service
9 credit under only one of those coverage plans shall be
10 determined in accordance with the coverage plan in which the
11 member has three or more years of service credit. If the
12 service credit is acquired under two different coverage plans
13 applied to the same affiliated public employer as a consequence
14 of an election by the members, adoption by the affiliated
15 public employer or a change in the law that results in the
16 application of a coverage plan with a greater pension, the
17 greater pension shall be paid a member retiring from the
18 affiliated public employer under which the change in coverage
19 plan took place regardless of the amount of service credit
20 under the coverage plan producing the greater pension; provided
21 that the member has three or more years of continuous
22 employment with that affiliated public employer immediately
23 preceding or immediately preceding and immediately following
24 the date the coverage plan changed;

25 (3) the pension of a member who has service

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1 credit earned on or before June 30, 2013 under each of two or
2 more coverage plans and who has service credit earned under any
3 coverage plan on or after July 1, 2013 shall be equal to the
4 sum of:

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

8 (b) the pension attributable to the
9 service credit earned under each coverage plan on or after July
10 1, 2013;

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

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

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

25 SECTION 5. Section 10-11-123 NMSA 1978 (being Laws 1987,

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1 Chapter 253, Section 123) is amended to read:

2 "10-11-123. FUNDS OF ASSOCIATION.--

3 A. The accounting funds of the association are the
4 "member contribution fund", "employers accumulation fund",
5 "retirement reserve fund", [~~and~~] "income fund" and "pension
6 investment plan accumulation fund". The maintenance of
7 separate accounting funds shall not require the actual
8 segregation of the assets of the association among the various
9 funds.

10 B. The accounting funds provided for in Subsection
11 A of this section are trust funds and shall be used only for
12 the purposes provided in the Public Employees Retirement Act."

13 SECTION 6. Section 10-11-129 NMSA 1978 (being Laws 1987,
14 Chapter 253, Section 129) is amended to read:

15 "10-11-129. DISTRIBUTION OF INCOME FUND.--The association
16 shall at least annually distribute all or a portion of the
17 balance in the income fund to the member contribution fund, the
18 retirement reserve fund, [~~and~~] the [~~employer~~] employers
19 accumulation fund and the pension investment plan accumulation
20 fund. Distribution rates shall be determined by the retirement
21 board and may vary by fund."

22 SECTION 7. A new section of the Public Employees
23 Retirement Act is enacted to read:

24 "[NEW MATERIAL] RETURN TO EMPLOYMENT.--A retired member
25 may be subsequently employed by a public employer if the

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1 retired member:

2 A. returns to work after not having been employed
3 as an employee of an affiliated public employer or retained as
4 an independent contractor by the affiliated public employer
5 from which the retired member retired for at least twelve
6 consecutive months from the date of retirement to the
7 commencement of subsequent employment or reemployment with an
8 affiliated public employer and:

9 (1) the retired member elects to not become a
10 member during the subsequent employment and:

11 (a) upon commencement and for the
12 duration of the subsequent employment, the retired member's
13 pension and any cost-of-living adjustment are suspended;

14 (b) for the duration of the subsequent
15 employment: 1) the retired member shall not make member
16 contributions; 2) the retired member shall not accrue service
17 credit; and 3) the retired member's subsequent affiliated
18 public employer shall not make contributions under any coverage
19 plan pursuant to the Public Employees Retirement Act; and

20 (c) at the conclusion of the subsequent
21 employment, upon application to the association, the retired
22 member's: 1) pension shall be reinstated in accordance with
23 the coverage plan under which the retired member originally
24 retired; and 2) cost-of-living pension adjustment shall be
25 reinstated as provided in Subsection B of Section 10-11-118

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1 NMSA 1978;

2 (2) the retired member elects to become a
3 member and:

4 (a) the previously retired member's
5 pension shall be terminated;

6 (b) the previously retired member and
7 the subsequent affiliated public employer shall make the
8 required member and employer contributions;

9 (c) the previously retired member shall
10 accrue service credit for the period of subsequent employment;
11 and

12 (d) when the previously retired member
13 terminates the subsequent employment with an affiliated public
14 employer, the pension shall be recalculated based on the form
15 of payment selected by the previously retired member at the
16 time of the first retirement and the provisions of the coverage
17 plan applicable to the member on the date of the first
18 retirement and the recalculated pension shall not be less than
19 the amount of the terminated pension; or

20 (3) within five calendar years from the date
21 of retirement, the retired adult correctional officer member,
22 the retired juvenile correctional officer member, the retired
23 municipal detention officer member, the retired municipal fire
24 member, the retired municipal police member or the retired
25 state police member elects to become a pension investment plan

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1 participant pursuant to the provisions of Section 10 of this
2 2016 act and:

3 (a) upon commencement of and for the
4 duration of the subsequent employment, the pension investment
5 plan participant's pension, including any cost-of-living
6 adjustments, is deposited into an account in the participant's
7 name in the pension investment plan accumulation fund during
8 the time of subsequent employment with an affiliated public
9 employer; and

10 (b) for the duration of the subsequent
11 employment: 1) the pension investment plan participant shall
12 make non-refundable member contributions to the member
13 contribution fund pursuant to the coverage plan applicable to
14 the participant's subsequent employment; 2) the pension
15 investment plan participant's subsequent affiliated public
16 employer shall not make the employer contributions pursuant to
17 the coverage plan applicable to the participant's subsequent
18 employment; 3) the pension investment plan participant shall
19 not earn service credit for any period of the subsequent
20 employment; and 4) the pension investment plan participant
21 shall terminate participation in the pension investment plan
22 within ten years of the date of retirement;

23 B. returns to employment during retirement pursuant
24 to the provisions of the Magistrate Retirement Act, Judicial
25 Retirement Act or the Educational Retirement Act. Such retired

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1 member is not subject to the provisions of Subsection A of this
2 section and shall continue to receive a pension. Upon
3 commencement and for the duration of the subsequent employment
4 of a retired member pursuant to the provisions of this
5 subsection, the retired member's cost-of-living pension
6 adjustment shall be suspended. Upon termination of the
7 subsequent employment, the retired member's cost-of-living
8 pension adjustment shall be reinstated as provided in
9 Subsection B of Section 10-11-118 NMSA 1978;

10 C. returns to employment as an employee of the
11 legislature for a legislative session or a precinct board
12 member for a municipal election or an election covered by the
13 Election Code. Such retired member is entitled to continue to
14 receive a pension during the subsequent employment and is not
15 entitled to accrue service credit or purchase service credit in
16 the future for all or any part of subsequent employment;

17 D. returns to employment after being elected to
18 serve in an office covered pursuant to the Public Employees
19 Retirement Act. Such retired member shall file an irrevocable
20 application with the association within thirty days of taking
21 office to:

22 (1) continue to receive a pension during the
23 term of elected office; provided that during the term of
24 elected office:

25 (a) the elected official shall not

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1 accrue service credit and shall not purchase service credit in
2 the future for all or any part of the term of elected office;
3 and

4 (b) the elected official shall not make
5 member contributions and the affiliated public employer shall
6 not make employer contributions;

7 (2) terminate retirement and reinstate
8 membership during the term of elected office; provided that
9 during the term of elected office:

10 (a) payment of the pension shall be
11 discontinued;

12 (b) the elected official shall accrue
13 service credit;

14 (c) the elected official and the
15 affiliated public employer shall make the appropriate
16 contributions; and

17 (d) at the conclusion of the term of
18 elected office, the elected official shall retire under the
19 terms of the retirement plan under which the elected official
20 first retired; or

21 (3) within five calendar years from the date
22 of retirement, the retired member elects to become a pension
23 investment plan participant pursuant to the provisions of
24 Section 10 of this 2016 act and:

25 (a) upon commencement of and for the

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1 duration of the subsequent employment, the pension investment
2 plan participant's pension, including any cost-of-living
3 adjustments, is deposited into an account in the participant's
4 name in the pension investment plan accumulation fund during
5 the time of subsequent employment with an affiliated public
6 employer; and

7 (b) for the duration of the subsequent
8 employment: 1) the pension investment plan participant shall
9 make member contributions to the member contribution fund
10 pursuant to the coverage plan applicable to the participant's
11 subsequent employment; 2) the pension investment plan
12 participant's subsequent affiliated public employer shall not
13 make the employer contributions pursuant to the coverage plan
14 applicable to the participant's subsequent employment; 3) the
15 pension investment plan participant shall not earn service
16 credit for any period of the subsequent employment; and 4) the
17 pension investment plan participant shall terminate
18 participation in the pension investment plan within ten years
19 of the date of retirement; or

20 E. returned to employment with an affiliated public
21 employer prior to July 1, 2010; provided that:

22 (1) the retired member shall pay the member
23 contribution in an amount specified in the Public Employees
24 Retirement Act for the position in which the retired member is
25 subsequently employed; and

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1 (2) notwithstanding the provisions of Section
2 10-11-118 NMSA 1978, the retired member's cost-of-living
3 pension adjustment shall be suspended."

4 SECTION 8. A new section of the Public Employees
5 Retirement Act is enacted to read:

6 "[NEW MATERIAL] PENSION INVESTMENT PLAN PURPOSE.--The
7 purpose of the pension investment plan is to improve the funded
8 status of the public employees retirement association funds,
9 while also providing an incentive for skilled and trained
10 members who retire after meeting the age and service
11 requirements for normal retirement, to return to work for
12 affiliated public employers, make the applicable employee
13 contributions for that employment and invest their pensions
14 into the public employees retirement association funds."

15 SECTION 9. A new section of the Public Employees
16 Retirement Act is enacted to read:

17 "[NEW MATERIAL] PENSION INVESTMENT PLAN ACCUMULATION FUND
18 CREATED.--The "pension investment plan accumulation fund" is
19 the accounting fund in which shall be accumulated the pensions
20 of participants in the pension investment plan and from which
21 shall be paid all pensions deposited therein, together with
22 investment earnings as determined by the retirement board and
23 less any annual association service fee due and any penalties
24 or taxes withheld pursuant to state or federal law, pursuant to
25 the provisions of the Public Employees Retirement Act."

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1 SECTION 10. A new section of the Public Employees
2 Retirement Act is enacted to read:

3 "[NEW MATERIAL] PENSION INVESTMENT PLAN CREATED--SERVICE
4 FEES.--

5 A. The "pension investment plan" is created. The
6 pension investment plan and each pension investment plan
7 account shall be administered by the association pursuant to
8 the provisions of the Public Employees Retirement Act. The
9 money deposited into the pension investment plan accumulation
10 fund shall be invested by the retirement board as provided in
11 the Public Employees Retirement Act.

12 B. Each pension investment plan account shall be
13 debited a service fee in an amount equal to ten percent of the
14 earnings on the balance in the account or one thousand two
15 hundred dollars (\$1,200) per year, whichever is greater.

16 C. A distribution from a pension investment plan
17 account may be debited a withdrawal fee of ten percent of the
18 lump-sum amount withdrawn. If applicable, the association may
19 withhold from a distribution the amount of penalties or taxes
20 incurred for such distribution under state or federal law.

21 D. Within three months of termination of subsequent
22 employment consisting of twelve consecutive months or longer, a
23 pension investment plan participant shall direct the
24 association to distribute the pension investment plan account
25 pursuant to an irrevocable election of one of the following

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1 payment options:

2 (1) a one-time payment of the balance, less
3 the service fee due under Subsection B of this section and any
4 withdrawal fee due under Subsection C of this section;

5 (2) a monthly payment of a portion of the
6 balance for ten to thirty years in an amortized amount. The
7 account shall be debited the service fee due under Subsection B
8 of this section until the balance is zero; or

9 (3) a one-time payment of up to fifty percent
10 of the balance, less the service fee due under Subsection B of
11 this section and any withdrawal fee due under Subsection C of
12 this section, and a monthly payment of a portion of the balance
13 for ten to thirty years in an amortized amount. The account
14 shall be debited the service fee due under Subsection B of this
15 section until the balance is zero.

16 E. If the duration of subsequent employment is less
17 than twelve consecutive months and the pension investment plan
18 participant is not employed by another affiliated public
19 employer within two months of termination of the subsequent
20 employment, participation in the pension investment plan shall
21 be terminated and the pension investment plan participant shall
22 forfeit any investment earnings on the balance in the pension
23 investment plan account. The service fee due under Subsection
24 B of this section and any withdrawal fee due under Subsection C
25 of this section shall be debited prior to the distribution of

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the balance pursuant to the provisions of this subsection.

F. In the case of death prior to termination of the subsequent employment, the balance in the pension investment plan account, less the service fee due under Subsection B of this section, shall be paid to the named beneficiary with no withdrawal fee."

SECTION 11. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2016.