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\_\_\_\_\_ BILL

**56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO MAGISTRATE RETIREMENT; ALLOWING FOR THE  
APPROPRIATION OF MONEY INTO THE MAGISTRATE RETIREMENT FUND;  
INCREASING THE SERVICE CREDIT MULTIPLIERS PROVIDED IN THE  
MAGISTRATE RETIREMENT ACT.

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

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

"10-12C-3. MAGISTRATE RETIREMENT FUND ESTABLISHED--  
ADMINISTRATION OF FUND--ACCOUNTING FUNDS.--

A. There is established in the state treasury the  
"magistrate retirement fund". The fund ~~[is comprised]~~ consists  
of appropriations, money received from docket fees of  
magistrate courts, employer and member contributions and ~~[any]~~  
all income derived from the investment ~~[earnings on fees and~~

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1 ~~contributions]~~ of the fund. The board is the trustee of the  
2 fund and shall administer and invest the fund. Investment of  
3 the fund shall be conducted pursuant to the provisions of the  
4 Public Employees Retirement Act. The provisions of the  
5 Magistrate Retirement Act shall be administered by the board.  
6 The board is authorized to promulgate rules. Expenses related  
7 to the investment of the fund and administration of the  
8 Magistrate Retirement Act shall be paid from the fund.

9 B. For purposes of this section, the accounting  
10 funds shall be known as the "member contribution fund",  
11 "employer's accumulation fund", "retirement reserve fund" and  
12 "income fund". The maintenance of separate accounting funds  
13 shall not require the actual segregation of the assets of the  
14 fund.

15 C. The accounting funds provided for in this  
16 section are trust funds and shall be used only for the purposes  
17 provided for in the Magistrate Retirement Act.

18 D. The member contribution fund is the accounting  
19 fund in which shall be accumulated contributions of members and  
20 from which shall be made refunds and transfers of accumulated  
21 member contributions as provided in the Magistrate Retirement  
22 Act. The member's court shall cause member contributions to be  
23 deducted from the salary of the member and shall remit the  
24 deducted member contributions to the association in accordance  
25 with procedures and schedules established by the association.

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1 The association may assess an interest charge and a penalty  
2 charge on any late remittance. Each member shall be deemed to  
3 consent and agree to the deductions made and provided for in  
4 this section. Contributions by members shall be credited to  
5 the members' individual accounts in the member contribution  
6 fund. A member's accumulated member contributions shall be  
7 transferred to the retirement reserve fund when a pension  
8 becomes payable.

9 E. The employer's accumulation fund is the  
10 accounting fund in which shall be accumulated the contributions  
11 paid by the state through the administrative office of the  
12 courts. The state, through the administrative office of the  
13 courts, shall remit its contributions to the association in  
14 accordance with procedures and schedules established by the  
15 association. The board may assess an interest charge and a  
16 penalty charge on any late remittance.

17 F. The retirement reserve fund is the accounting  
18 fund from which shall be paid all pensions to retired members  
19 and survivor beneficiaries and all residual refunds to refund  
20 beneficiaries of retired members and survivor beneficiaries.

21 G. Each year, following receipt of the report of  
22 the annual actuarial valuation, the excess, if any, of the  
23 reported actuarial present value of pensions being paid and  
24 likely to be paid to retired members and survivor beneficiaries  
25 and residual refunds likely to be paid to refund beneficiaries

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1 of retired members and survivor beneficiaries over the balance  
2 in the retirement reserve fund shall be transferred to the  
3 retirement reserve fund from the employer's accumulation fund.

4 H. The income fund is the accounting fund to which  
5 shall be credited all interest, dividends, rents and other  
6 income from investments of the fund, all gifts and bequests,  
7 all unclaimed member contributions and all other money the  
8 disposition of which is not specifically provided for in the  
9 Magistrate Retirement Act. Expenses related to the  
10 administration of the Magistrate Retirement Act shall be paid  
11 for from the income fund.

12 I. The association shall at least annually  
13 distribute all or a portion of the balance in the income fund  
14 to the member contribution fund, the retirement reserve fund  
15 and the employer's accumulation fund. Distribution rates shall  
16 be determined by the board and may vary for the respective  
17 accounting funds."

18 SECTION 2. Section 10-12C-9 NMSA 1978 (being Laws 1992,  
19 Chapter 118, Section 9, as amended by Laws 2014, Chapter 39,  
20 Section 6 and by Laws 2014, Chapter 43, Section 6) is amended  
21 to read:

22 "10-12C-9. AMOUNT OF PENSION.--

23 A. For a magistrate who was a member on June 30,  
24 2014, the monthly pension is an amount equal to the sum of:

25 (1) for service credit earned on or before

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1 June 30, 2014, the amount is equal to one-twelfth of:  
2 seventy-five percent  
3 of salary received (number of years of  
4 during last year in X .05 X service, not exceeding  
5 office prior to fifteen years,  
6 retirement plus five years); and  
7 (2) for service credit earned on and after  
8 July 1, 2014, an amount equal to one-sixtieth of the greatest  
9 aggregate amount of salary received for sixty consecutive, but  
10 not necessarily continuous, months in office multiplied by the  
11 product of three and one-half percent times the sum of the  
12 number of years of service.

13 B. For a magistrate who initially became a member  
14 on or after July 1, 2014, the amount of monthly pension is  
15 equal to one-sixtieth of the greatest aggregate amount of  
16 salary received for sixty consecutive, but not necessarily  
17 continuous, months in office multiplied by the product of three  
18 percent times the sum of the number of years of service.

19 C. The amount of monthly pension under form of  
20 payment A for a pension calculated pursuant to Subsection B of  
21 this section shall not exceed [~~eighty-five~~] one hundred percent  
22 of one-sixtieth of the greatest aggregate amount of salary  
23 received for sixty consecutive, but not necessarily continuous,  
24 months prior to the member leaving office.

25 D. The amount of monthly pension payable for a  
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1 pension calculated pursuant to Subsection A of this section  
2 shall not exceed [~~eighty-five~~] one hundred percent of one-  
3 sixtieth of the greatest aggregate amount of salary received  
4 for sixty consecutive, but not necessarily continuous, months  
5 prior to the member leaving office. A pension benefit  
6 determined pursuant to this subsection shall not be less than  
7 the benefit earned as of June 30, 2014."

8 SECTION 3. Section 10-12C-10 NMSA 1978 (being Laws 1992,  
9 Chapter 118, Section 10, as amended by Laws 2014, Chapter 39,  
10 Section 7 and by Laws 2014, Chapter 43, Section 7) is amended  
11 to read:

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

13 A. [~~On and after~~] From July 1, 2014 through June  
14 30, 2024, members, while in office, shall contribute ten and  
15 one-half percent of salary to the member contribution fund.

16 B. On and after July 1, 2024, members, while in  
17 office, shall contribute twelve and one-half percent of  
18 salary to the member contribution fund.

19 [~~B-~~] C. Upon implementation, the state, acting as  
20 employer of members covered pursuant to the provisions of the  
21 Magistrate Retirement Act, shall, solely for the purpose of  
22 compliance with Section 414(h) of the Internal Revenue Code of  
23 1986, pick up, for the purposes specified in that section,  
24 member contributions required by this section for all annual  
25 salary earned by the member. Member contributions picked up

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1 pursuant to the provisions of this section shall be treated as  
2 employer contributions for purposes of determining income tax  
3 obligations under the Internal Revenue Code of 1986; however,  
4 such picked-up member contributions shall be included in the  
5 determination of the member's gross annual salary for all other  
6 purposes under federal and state laws. Member contributions  
7 picked up pursuant to the provisions of this section shall  
8 continue to be designated member contributions for all purposes  
9 of the Magistrate Retirement Act and shall be considered as  
10 part of the member's annual salary for purposes of determining  
11 the amount of the member's contribution. The provisions of  
12 this section are mandatory, and the member shall have no option  
13 concerning the pick up or concerning the receipt of the  
14 contributed amounts directly instead of having the amounts paid  
15 by the employer to the retirement system. Implementation  
16 occurs upon authorization by the board. In no event may  
17 implementation occur other than at the beginning of a pay  
18 period applicable to the member."

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

23 "10-12C-11. EMPLOYER CONTRIBUTIONS.--

24 A. The state, through the administrative office of  
25 the courts, shall contribute to the fund fifteen percent of

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1 salary for each member in office, except that, from July 1,  
2 2014 through June 30, 2015, the state contribution rate shall  
3 be eleven percent of salary for each member in office and  
4 except that, on or after July 1, 2024, the state contribution  
5 rate shall be twenty-one and one-half percent of salary for  
6 each member in office.

7 B. Twenty-five dollars (\$25.00) from each civil  
8 case docket fee paid in magistrate court and ten dollars  
9 (\$10.00) from each civil jury fee paid in magistrate court  
10 shall be paid by the court clerk to the employer's accumulation  
11 fund."

12 SECTION 5. EFFECTIVE DATE.--The effective date of the  
13 provisions of this act is July 1, 2024.