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SENATE BILL 2

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

Joseph Cervantes and Peter Wirth and George K. Munoz
and Mimi Stewart

AN ACT

RELATING TO THE JUDICIARY; ALLOWING FOR THE APPROPRIATION OF
MONEY INTO THE JUDICIAL RETIREMENT FUND AND THE MAGISTRATE
RETIREMENT FUND; INCREASING CERTAIN SERVICE CREDIT MULTIPLIERS
PROVIDED IN THE JUDICIAL RETIREMENT ACT AND THE MAGISTRATE
RETIREMENT ACT; PROVIDING THAT JUSTICES OF THE STATE SUPREME
COURT SHALL EACH RECEIVE AN ANNUAL SALARY EQUAL TO THE ANNUAL
SALARY RECEIVED BY NEW MEXICO FEDERAL MAGISTRATE COURT JUDGES;
REMOVING SALARY FORMULAS FOR MAGISTRATES; MAKING
APPROPRIATIONS.

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

SECTION 1. Section 10-12B-3 NMSA 1978 (being Laws 1992,
Chapter 111, Section 3, as amended) is amended to read:

"10-12B-3. JUDICIAL RETIREMENT FUND ESTABLISHED--
ADMINISTRATION OF FUND--ACCOUNTING FUNDS.--

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1 A. There is established in the state treasury the
2 "judicial retirement fund". The fund [~~is comprised~~] consists
3 of appropriations, money received from docket and jury fees of
4 metropolitan courts, district courts, the court of appeals and
5 the supreme court, employer and employee contributions and
6 [~~any~~] all income derived from the investment [~~earnings on fees~~
7 ~~and contributions~~] of the fund. The board is the trustee of
8 the fund and shall administer and invest the fund. Investment
9 of the fund shall be conducted pursuant to the provisions of
10 the Public Employees Retirement Act. The provisions of the
11 Judicial Retirement Act shall be administered by the board.
12 The board is authorized to promulgate rules. Expenses related
13 to the investment of the fund and administration of the
14 Judicial Retirement Act shall be paid from the fund.

15 B. For purposes of this section, the accounting
16 funds shall be known as the "member contribution fund",
17 "employer's accumulation fund", "retirement reserve fund" and
18 "income fund". The maintenance of separate accounting funds
19 shall not require the actual segregation of the assets of the
20 fund.

21 C. The accounting funds provided for in this
22 section are trust funds and shall be used only for the purposes
23 provided for in the Judicial Retirement Act.

24 D. The member contribution fund is the accounting
25 fund in which shall be accumulated contributions of members and

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1 from which shall be made refunds and transfers of accumulated
2 member contributions as provided in the Judicial Retirement
3 Act. The member's court shall cause member contributions to be
4 deducted from the salary of the member and shall remit the
5 deducted member contributions to the association in accordance
6 with procedures and schedules established by the association.
7 The association may assess an interest charge and a penalty
8 charge on any late remittance. Each member shall be deemed to
9 consent and agree to the deductions made and provided for in
10 this section. Contributions by members shall be credited to
11 the members' individual accounts in the member contribution
12 fund. A member's accumulated member contributions shall be
13 transferred to the retirement reserve fund when a pension
14 becomes payable.

15 E. The employer's accumulation fund is the
16 accounting fund in which shall be accumulated the contributions
17 paid by the state through the member's court. The state,
18 through the member's court, shall remit its contributions to
19 the association in accordance with procedures and schedules
20 established by the association. The board may assess an
21 interest charge and a penalty charge on any late remittance.

22 F. The retirement reserve fund is the accounting
23 fund from which shall be paid all pensions to retired members
24 and survivor beneficiaries and all residual refunds to refund
25 beneficiaries of retired members and survivor beneficiaries.

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1 G. Each year, following receipt of the report of
2 the annual actuarial valuation, the excess, if any, of the
3 reported actuarial present value of pensions being paid and
4 likely to be paid to retired members and survivor beneficiaries
5 and residual refunds likely to be paid to refund beneficiaries
6 of retired members and survivor beneficiaries over the balance
7 in the retirement reserve fund shall be transferred to the
8 retirement reserve fund from the employer's accumulation fund.

9 H. The income fund is the accounting fund to which
10 shall be credited all interest, dividends, rents and other
11 income from investments of the fund, all gifts and bequests,
12 all unclaimed member contributions and all other money the
13 disposition of which is not specifically provided for in the
14 Judicial Retirement Act. Expenses related to the
15 administration of the Judicial Retirement Act shall be paid for
16 from the income fund.

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

23 SECTION 2. Section 10-12B-9 NMSA 1978 (being Laws 1992,
24 Chapter 111, Section 9, as amended) is amended to read:

25 "10-12B-9. AMOUNT OF PENSION.--

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1 A. For a judge or justice who occupied such an
2 office prior to July 1, 1980, but who had ceased to hold such
3 an office prior to that date and who elected to be excluded
4 from the provisions of the Judicial Retirement Act; or a judge
5 or justice who occupied such an office on July 1, 1980, but who
6 elected to be covered under the provisions of the retirement
7 plan in effect at that time, the amount of monthly pension is
8 an amount equal to one-twelfth of:

9 seventy-five percent
10 of salary received X number of years of
11 during last year in service, not exceeding
12 office prior to ten years, divided
13 retirement by ten.

14 B. For a judge or justice who initially became a
15 member before July 1, 2005 and who initially occupied such an
16 office after July 1, 1980; or a judge or justice who occupied
17 such an office on or before July 1, 1980 and who has elected to
18 be covered pursuant to the provisions of the Judicial
19 Retirement Act, the amount of monthly pension is an amount
20 equal to the sum of:

21 (1) for service credit earned on or before
22 June 30, 2014, an amount equal to one-twelfth of:
23 seventy-five (number of years of
24 percent of salary service not
25 received during X .05 X exceeding fifteen

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1 last year in office years, plus five
2 prior to retirement years); ~~and~~

3 (2) for service credit earned on and after
4 July 1, 2014 but on or before June 30, 2022, an amount equal to
5 one-sixtieth of the greatest aggregate amount of salary
6 received for sixty consecutive, but not necessarily continuous,
7 months in office multiplied by the product of three and one-
8 half percent times the number of years of service credit; and

9 (3) for service credit earned on or after July
10 1, 2022:

11 (a) if the judge or justice has occupied
12 that office for less than ten years, an amount equal to one-
13 sixtieth of the greatest aggregate amount of salary received
14 for sixty consecutive, but not necessarily continuous, months
15 in office multiplied by the product of four percent times the
16 number of years of service credit; or

17 (b) if the judge or justice has occupied
18 that office for ten years or more, an amount equal to one-
19 sixtieth of the greatest aggregate amount of salary received
20 for sixty consecutive, but not necessarily continuous, months
21 in office multiplied by the product of three and one-half
22 percent times the number of years of service credit.

23 C. For a judge or justice who initially became a
24 member after June 30, 2005 but on or before June 30, 2014, the
25 amount of monthly pension is an amount equal to the sum of:

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1 (1) for service credit earned on or before
2 June 30, 2014, an amount equal to one-twelfth of the salary
3 received during the last year in office prior to retirement
4 multiplied by the product of three and seventy-five hundredths
5 percent times the sum of the number of years of service; ~~and~~

6 (2) for service credit earned on and after
7 July 1, 2014 but on or before June 30, 2022, an amount equal to
8 one-sixtieth of the greatest aggregate amount of salary
9 received for sixty consecutive, but not necessarily continuous,
10 months in office multiplied by the product of three and one-
11 half percent times the number of years of service credit; and

12 (3) for service credit earned on or after July
13 1, 2022:

14 (a) if the judge or justice has occupied
15 that office for less than ten years, an amount equal to one-
16 sixtieth of the greatest aggregate amount of salary received
17 for sixty consecutive, but not necessarily continuous, months
18 in office multiplied by the product of four percent times the
19 number of years of service credit; or

20 (b) if the judge or justice has occupied
21 that office for ten years or more, an amount equal to one-
22 sixtieth of the greatest aggregate amount of salary received
23 for sixty consecutive, but not necessarily continuous, months
24 in office multiplied by the product of three and one-half
25 percent times the number of years of service credit.

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1 D. For a judge or justice who initially became a
2 member on or after July 1, 2014, the amount of monthly pension
3 under form of payment A is an amount equal to the sum of:

4 (1) for service credit earned on and after
5 July 1, 2014 but on or before June 30, 2022, one-sixtieth of
6 the greatest aggregate amount of salary received for sixty
7 consecutive, but not necessarily continuous, months in office
8 multiplied by the product of three and one-fourth percent times
9 the number of years of service; and

10 (2) for service credit earned on or after July
11 1, 2022, provided that the judge or justice has occupied that
12 office for less than ten years, an amount equal to one-sixtieth
13 of the greatest aggregate amount of salary received for sixty
14 consecutive, but not necessarily continuous, months in office
15 multiplied by the product of four percent times the number of
16 years of service credit; or

17 (3) for service credit earned on or after July
18 1, 2022, provided that the judge or justice has occupied that
19 office for ten years or more, an amount equal to one-sixtieth
20 of the greatest aggregate amount of salary received for sixty
21 consecutive, but not necessarily continuous, months in office
22 multiplied by the product of three and one-half percent times
23 the number of years of service credit.

24 E. The amount of pension under form of payment A
25 for a pension calculated pursuant to Subsection D of this

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1 section shall not exceed eighty-five percent of one-sixtieth of
2 the greatest aggregate amount of salary received for sixty
3 consecutive, but not necessarily continuous, months prior to
4 the member leaving office.

5 F. The amount of pension payable for a pension
6 calculated pursuant to Subsection A, B or C of this section
7 shall not exceed eighty-five percent of one-sixtieth of the
8 greatest aggregate amount of salary received for sixty
9 consecutive, but not necessarily continuous, months prior to
10 the member leaving office. A pension benefit determined
11 pursuant to this subsection shall not be less than the benefit
12 earned as of June 30, 2014."

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

15 "10-12C-3. MAGISTRATE RETIREMENT FUND ESTABLISHED--
16 ADMINISTRATION OF FUND--ACCOUNTING FUNDS.--

17 A. There is established in the state treasury the
18 "magistrate retirement fund". The fund ~~[is comprised]~~ consists
19 of appropriations, money received from docket fees of
20 magistrate courts, employer and member contributions and ~~[any]~~
21 all income derived from the investment ~~[earnings on fees and~~
22 ~~contributions]~~ of the fund. The board is the trustee of the
23 fund and shall administer and invest the fund. Investment of
24 the fund shall be conducted pursuant to the provisions of the
25 Public Employees Retirement Act. The provisions of the

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1 Magistrate Retirement Act shall be administered by the board.
2 The board is authorized to promulgate rules. Expenses related
3 to the investment of the fund and administration of the
4 Magistrate Retirement Act shall be paid from the fund.

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

11 C. The accounting funds provided for in this
12 section are trust funds and shall be used only for the purposes
13 provided for in the Magistrate Retirement Act.

14 D. The member contribution fund is the accounting
15 fund in which shall be accumulated contributions of members and
16 from which shall be made refunds and transfers of accumulated
17 member contributions as provided in the Magistrate Retirement
18 Act. The member's court shall cause member contributions to be
19 deducted from the salary of the member and shall remit the
20 deducted member contributions to the association in accordance
21 with procedures and schedules established by the association.
22 The association may assess an interest charge and a penalty
23 charge on any late remittance. Each member shall be deemed to
24 consent and agree to the deductions made and provided for in
25 this section. Contributions by members shall be credited to

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1 the members' individual accounts in the member contribution
2 fund. A member's accumulated member contributions shall be
3 transferred to the retirement reserve fund when a pension
4 becomes payable.

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

13 F. The retirement reserve fund is the accounting
14 fund from which shall be paid all pensions to retired members
15 and survivor beneficiaries and all residual refunds to refund
16 beneficiaries of retired members and survivor beneficiaries.

17 G. Each year, following receipt of the report of
18 the annual actuarial valuation, the excess, if any, of the
19 reported actuarial present value of pensions being paid and
20 likely to be paid to retired members and survivor beneficiaries
21 and residual refunds likely to be paid to refund beneficiaries
22 of retired members and survivor beneficiaries over the balance
23 in the retirement reserve fund shall be transferred to the
24 retirement reserve fund from the employer's accumulation fund.

25 H. The income fund is the accounting fund to which

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

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

14 SECTION 4. Section 10-12C-9 NMSA 1978 (being Laws 1992,
15 Chapter 118, Section 9, as amended by Laws 2014, Chapter 39,
16 Section 6 and by Laws 2014, Chapter 43, Section 6) is amended
17 to read:

18 "10-12C-9. AMOUNT OF PENSION.--

19 A. For a magistrate who was a member on June 30,
20 2014, the monthly pension is an amount equal to the sum of:

21 (1) for service credit earned on or before
22 June 30, 2014, the amount is equal to one-twelfth of:

23 seventy-five percent

24 of salary received (number of years of

25 during last year in X .05 X service, not exceeding

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1 office prior to fifteen years,
2 retirement plus five years); and

3 (2) for service credit earned on and after
4 July 1, 2014, an amount equal to one-sixtieth of the greatest
5 aggregate amount of salary received for sixty consecutive, but
6 not necessarily continuous, months in office multiplied by the
7 product of three and one-half percent times the sum of the
8 number of years of service.

9 B. For a magistrate who initially became a member
10 on or after July 1, 2014, the amount of monthly pension is
11 equal to:

12 (1) for service credit earned on and after
13 July 1, 2014 but on or before June 30, 2022, an amount equal to
14 one-sixtieth of the greatest aggregate amount of salary
15 received for sixty consecutive, but not necessarily continuous,
16 months in office multiplied by the product of three percent
17 times the sum of the number of years of service; or

18 (2) for service credit earned on and after
19 July 1, 2022, an amount equal to one-sixtieth of the greatest
20 aggregate amount of salary received for sixty consecutive, but
21 not necessarily continuous, months in office multiplied by the
22 product of three and one-half percent times the sum of the
23 number of years of service.

24 C. The amount of monthly pension under form of
25 payment A for a pension calculated pursuant to Subsection B of
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1 this section shall not exceed eighty-five percent of one-
2 sixtieth of the greatest aggregate amount of salary received
3 for sixty consecutive, but not necessarily continuous, months
4 prior to the member leaving office.

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

13 SECTION 5. Section 34-1-9 NMSA 1978 (being Laws 1993,
14 Chapter 278, Section 1, as amended) is amended to read:

15 "34-1-9. SALARIES OF JUSTICES, JUDGES AND MAGISTRATES.--

16 A. Justices of the supreme court shall each receive
17 an annual salary [~~as provided by the legislature~~] equal to the
18 annual salary received by New Mexico federal magistrate court
19 judges. The chief justice of the supreme court shall receive
20 an annual salary that is two thousand dollars (\$2,000) more
21 than the annual salary of a justice of the supreme court.

22 B. The chief judge of:

23 (1) the court of appeals shall receive an
24 annual salary that is ninety-five percent of the annual salary
25 of the chief justice of the supreme court;

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1 (2) a district court shall receive an annual
2 salary that is ninety-five percent of the annual salary of the
3 chief judge of the court of appeals; and

4 (3) a metropolitan court shall receive an
5 annual salary that is ninety-five percent of the annual salary
6 of the chief judge of a district court.

7 ~~[G. The presiding magistrate of a magistrate~~
8 ~~district where three or more divisions operate as a single~~
9 ~~court shall receive an annual salary that is seventy-five~~
10 ~~percent of the annual salary of the chief judge of a~~
11 ~~metropolitan court.~~

12 ~~D.]~~ C. Notwithstanding any other provision of law
13 or any other provision of this section, the annual salaries of
14 the following judges [~~and magistrates~~] shall be established as
15 follows:

16 (1) a judge of the court of appeals shall
17 receive an annual salary that is ninety-five percent of the
18 annual salary of a justice of the supreme court;

19 (2) a district court judge shall receive an
20 annual salary that is ninety-five percent of the annual salary
21 of a judge of the court of appeals; and

22 (3) a metropolitan court judge shall receive
23 an annual salary that is ninety-five percent of the annual
24 salary of a district court judge.

25 ~~[(4) a full-time magistrate shall receive an~~

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1 ~~annual salary that is seventy-five percent of the annual salary~~
2 ~~of a metropolitan court judge;~~

3 ~~(5) a half-time magistrate shall receive an~~
4 ~~annual salary that is fifty percent of the annual salary of a~~
5 ~~full-time magistrate; and~~

6 ~~(6) a quarter-time magistrate shall receive an~~
7 ~~annual salary that is twenty-five percent of the annual salary~~
8 ~~of a full-time magistrate.~~

9 E.] D. For fiscal year 1995 and all subsequent
10 fiscal years, the annual salary for justices of the supreme
11 court, judges of the court of appeals, district court judges,
12 metropolitan court judges and magistrates shall be
13 [~~established~~] provided by the legislature in an appropriations
14 act.

15 [F.] E. No additional salaries shall be paid to
16 justices, judges or magistrates on account of services rendered
17 the state. Justices of the supreme court, judges of the court
18 of appeals, district court judges, metropolitan court judges
19 and magistrates shall receive per diem and mileage for
20 necessary travel on official business of the court as provided
21 in the Per Diem and Mileage Act."

22 SECTION 6. APPROPRIATION.--Thirty-five million dollars
23 (\$35,000,000) is appropriated from the general fund to the
24 judicial retirement fund for expenditure in fiscal year 2023
25 and subsequent fiscal years to address solvency issues related

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1 to the Judicial Retirement Act. Any unexpended or unencumbered
2 balance remaining at the end of a fiscal year shall not revert
3 to the general fund.

4 SECTION 7. APPROPRIATION.--Ten million dollars
5 (\$10,000,000) is appropriated from the general fund to the
6 magistrate retirement fund for expenditure in fiscal year 2023
7 and subsequent fiscal years to address solvency issues related
8 to the Magistrate Retirement Act. Any unexpended or
9 unencumbered balance remaining at the end of a fiscal year
10 shall not revert to the general fund.