

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL

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

INTRODUCED BY

Joseph Cervantes

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.--

.221183.1

underscoring material = new  
~~[bracketed material] = delete~~

underscoring material = new  
[bracketed material] = delete

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

.221183.1

underscored material = new  
~~[bracketed material] = delete~~

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.

.221183.1

underscored material = new  
~~[bracketed material] = delete~~

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.--

.221183.1

underscored material = new  
[bracketed material] = delete

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

.221183.1

underscored material = new  
[bracketed material] = delete

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:

.221183.1

underscored material = new  
[bracketed material] = delete

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.

.221183.1

underscored material = new  
[bracketed material] = delete

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

.221183.1



underscored material = new  
[bracketed material] = delete

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

.221183.1

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

.221183.1

underscored material = new  
~~[bracketed material] = delete~~

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

.221183.1

underscored material = new  
[bracketed material] = delete

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

.221183.1

underscored material = new  
[bracketed material] = delete

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  
.221183.1

underscoring material = new  
[bracketed material] = delete

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;

.221183.1

underscored material = new  
[bracketed material] = delete

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~~

.221183.1

underscored material = new  
[bracketed material] = delete

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

.221183.1



underscoring material = new  
~~[bracketed material] = delete~~

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.