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_____ BILL

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

INTRODUCED BY

DISCUSSION DRAFT

ENDORSED BY THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE AND
THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

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

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.--

A. There is established in the state treasury the
"judicial retirement fund". The fund [~~is comprised~~] consists
of appropriations, money received from docket and jury fees of
metropolitan courts, district courts, the court of appeals and
the supreme court, employer and employee contributions and

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

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

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

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

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

10 E. The employer's accumulation fund is the
11 accounting fund in which shall be accumulated the contributions
12 paid by the state through the member's court. The state,
13 through the member's court, shall remit its contributions to
14 the association in accordance with procedures and schedules
15 established by the association. The board may assess an
16 interest charge and a 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 Judicial Retirement Act. Expenses related to the
10 administration of the Judicial Retirement Act shall be paid for
11 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 10-12B-9 NMSA 1978 (being Laws 1992,
19 Chapter 111, Section 9, as amended) is amended to read:

20 "10-12B-9. AMOUNT OF PENSION.--

21 A. For a judge or justice who occupied such an
22 office prior to July 1, 1980, but who had ceased to hold such
23 an office prior to that date and who elected to be excluded
24 from the provisions of the Judicial Retirement Act; or a judge
25 or justice who occupied such an office on July 1, 1980, but who

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1 elected to be covered under the provisions of the retirement
2 plan in effect at that time, the amount of monthly pension is
3 an amount equal to one-twelfth of:

4 seventy-five percent
5 of salary received X number of years of
6 during last year in service, not exceeding
7 office prior to ten years, divided
8 retirement by ten.

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

16 (1) for service credit earned on or before
17 June 30, 2014, an amount equal to one-twelfth of:
18 seventy-five (number of years of
19 percent of salary service not
20 received during X .05 X exceeding fifteen
21 last year in office years, plus five
22 prior to retirement years); [~~and~~]

23 (2) for service credit earned on and after
24 July 1, 2014 but on or before June 30, 2022, an amount equal to
25 one-sixtieth of the greatest aggregate amount of salary

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1 received for sixty consecutive, but not necessarily continuous,
2 months in office multiplied by the product of three and one-
3 half percent times the number of years of service credit; and
4 (3) for service credit earned on or after July
5 1, 2022:

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

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

18 C. For a judge or justice who initially became a
19 member after June 30, 2005 but on or before June 30, 2014, the
20 amount of monthly pension is an amount 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 the salary
23 received during the last year in office prior to retirement
24 multiplied by the product of three and seventy-five hundredths
25 percent times the sum of the number of years of service; ~~and~~

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

7 (3) for service credit earned on or after July
8 1, 2022:

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

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

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

24 (1) for service credit earned on and after
25 July 1, 2014 but on or before June 30, 2022, one-sixtieth of

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1 the greatest aggregate amount of salary received for sixty
2 consecutive, but not necessarily continuous, months in office
3 multiplied by the product of three and one-fourth percent times
4 the number of years of service; and

5 (2) for service credit earned on or after July
6 1, 2022, provided that the judge or justice has occupied that
7 office for less than ten years, an amount equal to one-sixtieth
8 of the greatest aggregate amount of salary received for sixty
9 consecutive, but not necessarily continuous, months in office
10 multiplied by the product of four percent times the number of
11 years of service credit; or

12 (3) for service credit earned on or after July
13 1, 2022, provided that the judge or justice has occupied that
14 office for ten years or more, an amount equal to one-sixtieth
15 of the greatest aggregate amount of salary received for sixty
16 consecutive, but not necessarily continuous, months in office
17 multiplied by the product of three and one-half percent times
18 the number of years of service credit.

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

25 F. The amount of pension payable for a pension

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

8 SECTION 3. APPROPRIATION.--Thirty-five million dollars
9 (\$35,000,000) is appropriated from the general fund to the
10 judicial retirement fund for expenditure in fiscal year 2023
11 and subsequent fiscal years to address solvency issues related
12 to the Judicial Retirement Act. Any unexpended or unencumbered
13 balance remaining at the end of a fiscal year shall not revert
14 to the general fund.