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\_\_\_\_\_ BILL

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

INTRODUCED BY

DISCUSSION DRAFT

ENDORSED BY THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO JUDICIAL RETIREMENT; ALLOWING FOR THE APPROPRIATION OF MONEY INTO THE JUDICIAL RETIREMENT FUND; ADJUSTING AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL RETIREMENT; 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

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

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

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

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

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

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

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

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

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

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

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

19 SECTION 2. Section 10-12B-8 NMSA 1978 (being Laws 1992,  
20 Chapter 111, Section 8, as amended) is amended to read:

21 "10-12B-8. AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL  
22 RETIREMENT.--

23 A. For an individual who initially became a member  
24 prior to July 1, 2005, the age and service credit requirements  
25 for retirement provided for in the Judicial Retirement Act are:

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1 (1) age sixty-five years or older and five or  
2 more years of service credit; or

3 (2) age sixty years or older and fifteen or  
4 more years of service credit.

5 B. For an individual who initially became a member  
6 after June 30, 2005 but on or before June 30, 2014, the age and  
7 service credit requirements for retirement provided for in the  
8 Judicial Retirement Act are:

9 (1) age sixty-five years or older and five or  
10 more years of service credit; or

11 (2) age fifty-five years or older and sixteen  
12 or more years of service credit.

13 C. For an individual who initially became a member  
14 on or after July 1, 2014, the age and service requirements  
15 provided for in the Judicial Retirement Act are:

16 (1) age sixty-five years and [~~eight~~] five or  
17 more years of service credit; or

18 (2) age sixty years and fifteen or more years  
19 of service credit.

20 D. Except for a member who is retired under any  
21 state system or the educational retirement system, if a member  
22 leaves office for any reason, other than removal pursuant to  
23 Article 6, Section 32 of the constitution of New Mexico, before  
24 meeting the age and service credit requirements for retirement  
25 pursuant to the provisions of this section and if that member

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1 leaves the member contributions on deposit in the fund, that  
2 member may apply for retirement when that member meets the age  
3 and service credit requirements for retirement pursuant to the  
4 provisions of the Judicial Retirement Act or provisions of the  
5 Public Employees Retirement Reciprocity Act.

6 E. No member shall be eligible to receive a pension  
7 pursuant to the provisions of the Judicial Retirement Act while  
8 still in office."

9 SECTION 3. Section 10-12B-9 NMSA 1978 (being Laws 1992,  
10 Chapter 111, Section 9, as amended) is amended to read:

11 "10-12B-9. AMOUNT OF PENSION.--

12 A. For a judge or justice who occupied such an  
13 office prior to July 1, 1980, but who had ceased to hold such  
14 an office prior to that date and who elected to be excluded  
15 from the provisions of the Judicial Retirement Act; or a judge  
16 or justice who occupied such an office on July 1, 1980, but who  
17 elected to be covered under the provisions of the retirement  
18 plan in effect at that time, the amount of monthly pension is  
19 an amount equal to one-twelfth of:

20 seventy-five percent  
21 of salary received X number of years of  
22 during last year in service, not exceeding  
23 office prior to ten years, divided  
24 retirement by ten.

25 B. For a judge or justice who initially became a

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1 member before July 1, 2005 and who initially occupied such an  
2 office after July 1, 1980; or a judge or justice who occupied  
3 such an office on or before July 1, 1980 and who has elected to  
4 be covered pursuant to the provisions of the Judicial  
5 Retirement Act, the amount of monthly pension is an amount  
6 equal to the sum of:

7 (1) for service credit earned on or before  
8 June 30, 2014, an amount equal to one-twelfth of:

9 seventy-five (number of years of  
10 percent of salary service not  
11 received during X .05 X exceeding fifteen  
12 last year in office years, plus five  
13 prior to retirement years); and

14 (2) for service credit earned on and after  
15 July 1, 2014, an amount equal to one-sixtieth of the greatest  
16 aggregate amount of salary received for sixty consecutive, but  
17 not necessarily continuous, months in office multiplied by the  
18 product of three and one-half percent times the number of years  
19 of service credit.

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

23 (1) for service credit earned on or before  
24 June 30, 2014, an amount equal to one-twelfth of the salary  
25 received during the last year in office prior to retirement

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1 multiplied by the product of three and seventy-five hundredths  
2 percent times the sum of the number of years of service; ~~and~~

3 (2) for service credit earned on and after  
4 July 1, 2014 but on or before June 30, 2024, 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  
10 July 1, 2024, an amount equal to one-sixtieth of the greatest  
11 aggregate amount of salary received for sixty consecutive, but  
12 not necessarily continuous, months in office multiplied by the  
13 product of the number of years of service credit times:

14 (a) four percent for ten years of the  
15 judge or justice's service credit; and

16 (b) three and one-half percent for years  
17 of the judge or justice's service credit exceeding ten years.

18 D. For a judge or justice who initially became a  
19 member on or after July 1, 2014 but on or before June 30, 2024,  
20 the amount of monthly pension under form of payment A is an  
21 amount equal to the sum of:

22 (1) for service credit earned on or after July  
23 1, 2014 but on or before June 30, 2024, one-sixtieth of the  
24 greatest aggregate amount of salary received for sixty  
25 consecutive, but not necessarily continuous, months in office

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1 multiplied by the product of three and one-fourth percent times  
2 the number of years of service; and

3 (2) for service credit earned on or after July  
4 1, 2024, an amount equal to one-sixtieth of the greatest  
5 aggregate amount of salary for sixty consecutive, but not  
6 necessarily continuous, months in office multiplied by the  
7 product of the number of years of service credit times:

8 (a) four percent for ten years of the  
9 judge or justice's service credit; and

10 (b) three and one-half percent for years  
11 of the judge or justice's service credit exceeding ten years.

12 E. The amount of pension under form of payment A  
13 for a pension calculated pursuant to Subsection D of this  
14 section shall not exceed [~~eighty-five~~] one hundred percent of  
15 one-sixtieth of the greatest aggregate amount of salary  
16 received for sixty consecutive, but not necessarily continuous,  
17 months prior to the member leaving office.

18 F. The amount of pension payable for a pension  
19 calculated pursuant to Subsection A, B or C of this section  
20 shall not exceed eighty-five percent of one-sixtieth of the  
21 greatest aggregate amount of salary received for sixty  
22 consecutive, but not necessarily continuous, months prior to  
23 the member leaving office. A pension benefit determined  
24 pursuant to this subsection shall not be less than the benefit  
25 earned as of June 30, 2014."

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1           SECTION 4. Section 10-12B-10 NMSA 1978 (being Laws 1992,  
2 Chapter 111, Section 10, as amended) is amended to read:

3           "10-12B-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

4           A. On and after July 1, 2014 but on or before June  
5 30, 2024, members, while in office, shall contribute ten and  
6 one-half percent of salary to the member contribution fund.

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

10           ~~[B-]~~ C. Upon implementation, the state, acting as  
11 employer of members covered pursuant to the provisions of the  
12 Judicial Retirement Act, shall, solely for the purpose of  
13 compliance with Section 414(h) of the Internal Revenue Code of  
14 1986, pick up, for the purposes specified in that section,  
15 member contributions required by this section for all annual  
16 salary earned by the member. Member contributions picked up  
17 pursuant to the provisions of this section shall be treated as  
18 employer contributions for purposes of determining income tax  
19 obligations under the Internal Revenue Code of 1986; however,  
20 such picked-up member contributions shall be included in the  
21 determination of the member's gross annual salary for all other  
22 purposes under federal and state laws. Member contributions  
23 picked up pursuant to the provisions of this section shall  
24 continue to be designated member contributions for all purposes  
25 of the Judicial Retirement Act and shall be considered as part

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1 of the member's annual salary for purposes of determining the  
2 amount of the member's contribution. The provisions of this  
3 section are mandatory, and the member shall have no option  
4 concerning the pickup or concerning the receipt of the  
5 contributed amounts directly instead of having the amounts paid  
6 by the employer to the retirement system. Implementation  
7 occurs upon authorization by the board. In no event may  
8 implementation occur other than at the beginning of a pay  
9 period applicable to the member."

10 SECTION 5. Section 10-12B-11 NMSA 1978 (being Laws 1992,  
11 Chapter 111, Section 11, as amended) is amended to read:

12 "10-12B-11. EMPLOYER CONTRIBUTIONS.--

13 A. The member's court shall contribute [~~fifteen~~]  
14 twenty-one and one-half percent of salary to the fund for each  
15 member in office.

16 B. Thirty-eight dollars (\$38.00) from each civil  
17 case docket fee paid in the district court, twenty-five dollars  
18 (\$25.00) from each civil docket fee paid in metropolitan court  
19 and ten dollars (\$10.00) from each jury fee paid in  
20 metropolitan court shall be paid by the court clerk to the  
21 employer's accumulation fund."

22 SECTION 6. APPROPRIATION.--Three million one hundred  
23 fifty thousand three hundred sixty-four dollars (\$3,150,364) is  
24 appropriated from the general fund to the department of finance  
25 and administration for expenditure in fiscal year 2025 and

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1 subsequent fiscal years for distribution to the supreme court,  
2 the court of appeals, district courts and the Bernalillo county  
3 metropolitan court to pay increased employer retirement  
4 contributions. Any unexpended or unencumbered balance  
5 remaining at the end of a fiscal year shall not revert to the  
6 general fund.

7 SECTION 7. EFFECTIVE DATE.--The effective date of the  
8 provisions of this act is July 1, 2024.

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