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\_\_\_\_\_ BILL

**54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO JUDICIAL RETIREMENT; ALLOWING FOR THE APPROPRIATION OF MONEY INTO THE JUDICIAL RETIREMENT FUND; ALLOWING FOR THE APPROPRIATION OF MONEY INTO THE MAGISTRATE RETIREMENT FUND; 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.--

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

20 "10-12C-3. MAGISTRATE RETIREMENT FUND ESTABLISHED--  
21 ADMINISTRATION OF FUND--ACCOUNTING FUNDS.--

22 A. There is established in the state treasury the  
23 "magistrate retirement fund". The fund [~~is comprised~~] consists  
24 of appropriations, money received from docket fees of  
25 magistrate courts, employer and member contributions and [~~any~~]

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1 all income derived from the investment [~~earnings on fees and~~  
2 ~~contributions~~] of the fund. The board is the trustee of the  
3 fund and shall administer and invest the fund. Investment of  
4 the fund shall be conducted pursuant to the provisions of the  
5 Public Employees Retirement Act. The provisions of the  
6 Magistrate 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 Magistrate 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 Magistrate 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 Magistrate 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 administrative office of the  
13 courts. The state, through the administrative office of the  
14 courts, shall remit its contributions to the association in  
15 accordance with procedures and schedules established by the  
16 association. The board may assess an interest charge and a  
17 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 Magistrate Retirement Act. Expenses related to the  
11 administration of the Magistrate Retirement Act shall be paid  
12 for 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 3. APPROPRIATION.**--Thirty-two million five  
20 hundred thousand dollars (\$32,500,000) is appropriated from the  
21 general fund to the judicial retirement fund for expenditure in  
22 fiscal year 2021 and subsequent fiscal years to address  
23 solvency issues related to the Judicial Retirement Act. Any  
24 unexpended or unencumbered balance remaining at the end of a  
25 fiscal year shall not revert to the general fund.

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