

FORTY-SIXTH LEGISLATURE
SECOND SESSION, 2004

February 17, 2004

Mr. Speaker:

Your **APPROPRIATIONS AND FINANCE COMMITTEE**, to whom has been referred

SENATE BILL 222, as amended

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 1, line 11, after the first occurrence of a semicolon insert "AMENDING THE JUDICIAL RETIREMENT ACT TO INCREASE MEMBER CONTRIBUTIONS; AMENDING THE MAGISTRATE RETIREMENT ACT TO INCREASE MEMBER CONTRIBUTIONS;".

2. On page 1, lines 11 and 12, strike "; AMENDING A SECTION OF THE NMSA 1978; MAKING AN APPROPRIATION".

3. On page 1, between lines 14 and 15, insert the following new sections:

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

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

A. Members, while in office, shall contribute five and one-half percent of salary to the member contribution fund.

B. Upon implementation, the state, acting as employer of members covered pursuant to the provisions of the Judicial Retirement Act, shall, solely for the purpose of compliance with Section 414(h) of the Internal Revenue Code of 1986, pick up for the purposes specified in that section member contributions required by this section for all annual salary earned by the member. Member contributions picked up pursuant to the provisions of this section shall be treated as employer contributions for purposes of determining income tax obligations under the Internal Revenue Code of 1986; however, such picked-up member contributions shall be included in the determination of the member's gross annual salary for all other purposes under federal and state laws. Member contributions picked up pursuant to the provisions of this section shall continue to be designated member contributions for all purposes of the Judicial Retirement Act and shall be considered as

FORTY-SIXTH LEGISLATURE
SECOND SESSION, 2004

Page 2

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

C. The increase in member contributions provided for in this 2004 act is contingent upon the inclusion of not less than a six percent salary increase for justices and judges in legislation enacted into law by the second session of the forty-sixth legislature."

Section 2. Section 10-12C-10 NMSA 1978 (being Laws 1992, Chapter 118, Section 10) is amended to read:

"10-12C-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

A. Members, while in office, shall contribute five and one-half percent of salary to the member contribution fund.

B. Upon implementation, the state, acting as employer of members covered pursuant to the provisions of the Magistrate Retirement Act, shall, solely for the purpose of compliance with Section 414(h) of the Internal Revenue Code of 1986, pick up for the purposes specified in that section member contributions required by this section for all annual salary earned by the member. Member contributions picked up pursuant to the provisions of this section shall be treated as employer contributions for purposes of determining income tax obligations under the Internal Revenue Code of 1986; however, such picked-up member contributions shall be included in the determination of the member's gross annual salary for all other purposes under federal and state laws. Member contributions picked up pursuant to the provisions of this section shall continue to be designated member contributions for all purposes of the Magistrate Retirement Act and shall be considered as part of the member's annual salary for purposes of determining the amount of the member's contribution. The provisions of this section are mandatory, and the member shall have no option concerning the pick up or to the receipt of the contributed amounts directly instead of having the amounts paid by the employer to the retirement system. Implementation occurs upon authorization by the board. In no event may implementation occur other than at the beginning of a pay period applicable to the member.

FORTY-SIXTH LEGISLATURE
SECOND SESSION, 2004

Page 3

C. The increase in member contributions provided for in this 2004 act is contingent upon the inclusion of not less than a six percent salary increase for justices and judges in legislation enacted into law by the second session of the forty-sixth legislature."

4. Renumber the succeeding sections accordingly.
5. On page 3, strike lines 22 through 25 in their entirety and on page 4, strike lines 1 through 3 in their entirety.
6. Renumber the succeeding section accordingly.

Respectfully submitted,

Max Coll, Chairman

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____

The roll call vote was 14 For 0 Against
Yes: 14
No: 0
Excused: Begaye, Bratton, Lundstrom, Marquardt
Absent: None

.151647.1

SB0222AF1.wpd