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HOUSE BILL 72

**50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

INTRODUCED BY

Mimi Stewart

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

AN ACT

RELATING TO JUDICIAL RETIREMENT; PROVIDING THAT CERTAIN AMOUNTS  
OF THE CIVIL DOCKET AND JURY FEES BE DEPOSITED INTO THE GENERAL  
FUND; PROVIDING THAT CONTRIBUTIONS TO JUDICIAL AND MAGISTRATE  
RETIREMENT BE PROVIDED FROM THE GENERAL FUND; INCREASING  
CONTRIBUTIONS TO THE JUDICIAL AND MAGISTRATE RETIREMENT FUNDS;  
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]~~ composed  
of money received from ~~[docket and jury fees of metropolitan~~

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1 ~~courts, district courts, the court of appeals and the supreme~~  
2 ~~court]~~ employer and employee contributions and any investment  
3 earnings on ~~[fees and]~~ contributions. The board is the trustee  
4 of the fund and shall administer and invest the fund.

5 Investment of the fund shall be conducted pursuant to the  
6 provisions of the Public Employees Retirement Act. The  
7 provisions of the Judicial Retirement Act shall be administered  
8 by the board. The board is authorized to promulgate rules.  
9 Expenses related to the investment of the fund and  
10 administration of the Judicial Retirement Act shall be paid  
11 from the fund.

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

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

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

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

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

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

23 G. Each year, following receipt of the report of  
24 the annual actuarial valuation, the excess, if any, of the  
25 reported actuarial present value of pensions being paid and

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

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

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

20 SECTION 2. Section 10-12B-11 NMSA 1978 (being Laws 1992,  
21 Chapter 111, Section 11, as amended) is amended to read:

22 "10-12B-11. EMPLOYER CONTRIBUTIONS.--~~[A.]~~ The member's  
23 court shall contribute the following amounts to the fund:

24 [~~(1)~~] A. prior to July 1, 2005, nine percent of  
25 salary for each member in office;

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1           ~~[(2)]~~ B. from July 1, 2005 through June 30, 2006,  
2 ten and one-half percent of salary for each member in office;  
3 [~~and~~

4           ~~(3) on and after]~~ C. from July 1, 2006 through June  
5 30, 2012, twelve percent of salary for each member in office,  
6 except that for members whose annual salary is greater than  
7 twenty thousand dollars (\$20,000):

8           ~~[(a)]~~ (1) from July 1, 2009 through June 30,  
9 2011, the member's court contribution rate shall be ten and  
10 one-half percent of salary for each member in office; and

11           ~~[(b)]~~ (2) from July 1, 2011 through June 30,  
12 2012, the member's court contribution rate shall be eight and  
13 three-fourths percent of salary for each member in office; [~~and~~

14           ~~(c) from July 1, 2012 through June 30,~~  
15 ~~2013, the member's court contribution rate shall be ten and~~  
16 ~~one-half percent of salary for each member in office.~~

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

23           D. from July 1, 2012 through June 30, 2013, twenty-  
24 eight and fifty-six hundredths percent of salary for each  
25 member in office; except that for members whose annual salary

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1 is greater than twenty thousand dollars (\$20,000), the member's  
2 court contribution rate shall be twenty-seven and six-  
3 hundredths percent of salary; and

4 E. on and after July 1, 2013, twenty-eight and  
5 fifty-six hundredths percent of salary for each member in  
6 office."

7 SECTION 3. Section 10-12C-11 NMSA 1978 (being Laws 1992,  
8 Chapter 118, Section 11, as amended) is amended to read:

9 "10-12C-11. EMPLOYER CONTRIBUTIONS.--~~[A.]~~ The state,  
10 through the administrative office of the courts, shall  
11 contribute the following amounts to the fund:

12 ~~[(1)]~~ A. through June 30, 2006, ten percent of  
13 salary for each member in office; ~~[and~~

14 ~~(2) on and after]~~ B. from July 1, 2006 through June  
15 30, 2012, eleven percent of salary for each member in office,  
16 except that for members whose annual salary is greater than  
17 twenty thousand dollars (\$20,000):

18 ~~[(a)]~~ (1) from July 1, 2009 through June 30,  
19 2011, the state contribution rate shall be nine and one-half  
20 percent of salary for each member in office; and

21 ~~[(b)]~~ (2) from July 1, 2011 through June 30,  
22 2012, the state contribution rate shall be seven and three-  
23 fourths percent of salary for each member in office; ~~[and~~

24 ~~(c) from July 1, 2012 through June 30,~~  
25 ~~2013, the state contribution rate shall be nine and one-half~~

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1 ~~percent of salary for each member in office.~~

2 ~~B. Twenty-five dollars (\$25.00) from each civil~~  
3 ~~case docket fee paid in magistrate court and ten dollars~~  
4 ~~(\$10.00) from each civil jury fee paid in magistrate court~~  
5 ~~shall be paid by the court clerk to the employer's accumulation~~  
6 ~~fund]~~

7 C. from July 1, 2012 through June 30, 2013, twenty-  
8 four and six-hundredths percent of salary for each member in  
9 office; except that for members whose annual salary is greater  
10 than twenty thousand dollars (\$20,000), the member's court  
11 contribution rate shall be twenty-two and fifty-six hundredths  
12 percent of salary; and

13 D. on and after July 1, 2013, twenty-four and six-  
14 hundredths percent of salary for each member in office."

15 SECTION 4. Section 35-6-1 NMSA 1978 (being Laws 1968,  
16 Chapter 62, Section 92, as amended) is amended to read:

17 "35-6-1. MAGISTRATE COSTS--SCHEDULE--DEFINITION OF  
18 "CONVICTED".--

19 A. Magistrate judges, including metropolitan court  
20 judges, shall assess and collect and shall not waive, defer or  
21 suspend the following costs:

22 docket fee, criminal actions under Section 29-5-1 NMSA  
23 1978 . . . . . \$ 1.00;  
24 docket fee, to be collected prior to docketing any other  
25 criminal action, except as provided in Subsection B

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1 of Section 35-6-3 NMSA 1978 . . . . . 20.00.  
2 Proceeds from this docket fee shall be transferred  
3 to the administrative office of the courts for  
4 deposit in the court facilities fund;  
5 docket fee, twenty dollars (\$20.00) of which shall be  
6 deposited in the court automation fund [~~and~~],  
7 fifteen dollars (\$15.00) of which shall be deposited  
8 in the civil legal services fund and twenty-five  
9 dollars (\$25.00) of which shall be deposited in the  
10 general fund, to be collected prior to docketing any  
11 civil action, except as provided in Subsection A of  
12 Section 35-6-3 NMSA 1978 . . . . . 72.00;  
13 jury fee, ten dollars (\$10.00) of which shall be deposited  
14 in the general fund, to be collected from the party  
15 demanding trial by jury in any civil action at the  
16 time the demand is filed or made . . . . . 25.00;  
17 copying fee, for making and certifying copies of any  
18 records in the court, for each page copied by  
19 photographic process . . . . . 0.50.  
20 Proceeds from this copying fee shall be transferred  
21 to the administrative office of the courts for  
22 deposit in the court facilities fund; and  
23 copying fee, for computer-generated or electronically  
24 transferred copies, per page . . . . . 1.00.  
25 Proceeds from this copying fee shall be transferred



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1 to the administrative office of the courts for  
2 deposit in the court automation fund.

3 Except as otherwise specifically provided by law, docket  
4 fees shall be paid into the court facilities fund.

5 B. Except as otherwise provided by law, no other  
6 costs or fees shall be charged or collected in the magistrate  
7 or metropolitan court.

8 C. The magistrate or metropolitan court may grant  
9 free process to any party in any civil proceeding or special  
10 statutory proceeding upon a proper showing of indigency. The  
11 magistrate or metropolitan court may deny free process if it  
12 finds that the complaint on its face does not state a cause of  
13 action.

14 D. As used in this subsection, "convicted" means the  
15 defendant has been found guilty of a criminal charge by the  
16 magistrate or metropolitan judge, either after trial, a plea of  
17 guilty or a plea of nolo contendere. Magistrate judges,  
18 including metropolitan court judges, shall assess and collect  
19 and shall not waive, defer or suspend the following costs:

20 (1) corrections fee, to be collected upon  
21 conviction from persons convicted of violating any provision of  
22 the Motor Vehicle Code involving the operation of a motor  
23 vehicle, convicted of a crime constituting a misdemeanor or a  
24 petty misdemeanor or convicted of violating any ordinance that  
25 may be enforced by the imposition of a term of imprisonment as

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1 follows:

2 in a county with a metropolitan court . . . . . \$10.00;

3 in a county without a metropolitan court . . . . . 20.00;

4 (2) court automation fee, to be collected upon  
5 conviction from persons convicted of violating any provision of  
6 the Motor Vehicle Code involving the operation of a motor  
7 vehicle, convicted of a crime constituting a misdemeanor or a  
8 petty misdemeanor or convicted of violating any ordinance that  
9 may be enforced by the imposition of a term of  
10 imprisonment . . . . . 10.00;

11 (3) traffic safety fee, to be collected upon  
12 conviction from persons convicted of violating any provision of  
13 the Motor Vehicle Code involving the operation of a motor  
14 vehicle . . . . . 3.00;

15 (4) judicial education fee, to be collected upon  
16 conviction from persons convicted of operating a motor vehicle  
17 in violation of the Motor Vehicle Code, convicted of a crime  
18 constituting a misdemeanor or a petty misdemeanor or convicted  
19 of violating any ordinance punishable by a term of  
20 imprisonment . . . . . 3.00;

21 (5) jury and witness fee, to be collected upon  
22 conviction from persons convicted of operating a motor vehicle  
23 in violation of the Motor Vehicle Code, convicted of a crime  
24 constituting a misdemeanor or a petty misdemeanor or convicted  
25 of violating any ordinance punishable by a term of

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1 imprisonment . . . . . 5.00;

2 (6) brain injury services fee, to be collected  
3 upon conviction from persons convicted of violating any  
4 provision of the Motor Vehicle Code involving the operation of  
5 a motor vehicle . . . . . 5.00;

6 and

7 (7) court facilities fee, to be collected upon  
8 conviction from persons convicted of violating any provision of  
9 the Motor Vehicle Code involving the operation of a motor  
10 vehicle, convicted of a crime constituting a misdemeanor or a  
11 petty misdemeanor or convicted of violating any ordinance that  
12 may be enforced by the imposition of a term of imprisonment as  
13 follows:

14 in a county with a metropolitan court . . . . . 24.00;  
15 in any other county . . . . . 10.00.

16 E. Metropolitan court judges shall assess and collect  
17 and shall not waive, defer or suspend as costs a mediation fee  
18 not to exceed five dollars (\$5.00) for the docketing of small  
19 claims and criminal actions specified by metropolitan court  
20 rule. Proceeds of the mediation fee shall be deposited into  
21 the metropolitan court mediation fund.

22 SECTION 5. APPROPRIATION.--Two million nine hundred  
23 ninety-nine thousand six hundred dollars (\$2,999,600) is  
24 appropriated from the general fund to the department of finance  
25 and administration for expenditure in fiscal year 2013 for

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1 distribution to the supreme court, court of appeals, district  
2 courts, Bernalillo county metropolitan court and the  
3 administrative office of the courts to pay the increased  
4 employer contributions. Any unexpended or unencumbered balance  
5 remaining at the end of fiscal year 2013 shall not revert to  
6 the general fund.

7 SECTION 6. EFFECTIVE DATE.--The effective date of the  
8 provisions of this act is July 1, 2012.

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