

1 BILL

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

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5
6 DISCUSSION DRAFT

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10 AN ACT

11 RELATING TO JUDICIAL RETIREMENT; PROVIDING THAT CERTAIN AMOUNTS
12 OF THE CIVIL DOCKET AND JURY FEES BE DEPOSITED INTO THE GENERAL
13 FUND; PROVIDING THAT CONTRIBUTIONS TO JUDICIAL AND MAGISTRATE
14 RETIREMENT BE PROVIDED FROM THE GENERAL FUND; INCREASING
15 CONTRIBUTIONS TO THE JUDICIAL AND MAGISTRATE RETIREMENT FUNDS;
16 MAKING AN APPROPRIATION.

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

19 SECTION 1. Section 10-12B-3 NMSA 1978 (being Laws 1992,
20 Chapter 111, Section 3, as amended) is amended to read:

21 "10-12B-3. JUDICIAL RETIREMENT FUND ESTABLISHED--
22 ADMINISTRATION OF FUND--ACCOUNTING FUNDS.--

23 A. There is established in the state treasury the
24 "judicial retirement fund". The fund is ~~[comprised]~~ composed
25 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

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

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
5 June 30, 2012, twelve percent of salary for each member in
6 office, except that for members whose annual salary is greater
7 than 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;

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)]~~ (3) 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; and

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. on and after July 1, 2013, twenty-eight and
24 fifty-six hundredths percent of salary for each member in
25 office."

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

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

5 A. There is established in the state treasury the
6 "magistrate retirement fund". The fund is ~~[comprised]~~ composed
7 of money received from ~~[docket fees of magistrate courts]~~
8 employer and member contributions and any investment earnings
9 on fees and contributions. The board is the trustee of the
10 fund and shall administer and invest the fund. Investment of
11 the fund shall be conducted pursuant to the provisions of the
12 Public Employees Retirement Act. The provisions of the
13 Magistrate Retirement Act shall be administered by the board.
14 The board is authorized to promulgate rules. Expenses related
15 to the investment of the fund and administration of the
16 Magistrate Retirement Act shall be paid from the fund.

17 B. For purposes of this section, the accounting
18 funds shall be known as the "member contribution fund",
19 "employer's accumulation fund", "retirement reserve fund" and
20 "income fund". The maintenance of separate accounting funds
21 shall not require the actual segregation of the assets of the
22 fund.

23 C. The accounting funds provided for in this
24 section are trust funds and shall be used only for the purposes
25 provided for in the Magistrate Retirement Act.

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

17 E. The employer's accumulation fund is the
18 accounting fund in which shall be accumulated the contributions
19 paid by the state through the administrative office of the
20 courts. The state, through the administrative office of the
21 courts, shall remit its contributions to the association in
22 accordance with procedures and schedules established by the
23 association. The board may assess an interest charge and a
24 penalty charge on any late remittance.

25 F. The retirement reserve fund is the accounting

1 fund from which shall be paid all pensions to retired members
2 and survivor beneficiaries and all residual refunds to refund
3 beneficiaries of retired members and survivor beneficiaries.

4 G. Each year, following receipt of the report of
5 the annual actuarial valuation, the excess, if any, of the
6 reported actuarial present value of pensions being paid and
7 likely to be paid to retired members and survivor beneficiaries
8 and residual refunds likely to be paid to refund beneficiaries
9 of retired members and survivor beneficiaries over the balance
10 in the retirement reserve fund shall be transferred to the
11 retirement reserve fund from the employer's accumulation fund.

12 H. The income fund is the accounting fund to which
13 shall be credited all interest, dividends, rents and other
14 income from investments of the fund, all gifts and bequests,
15 all unclaimed member contributions and all other money the
16 disposition of which is not specifically provided for in the
17 Magistrate Retirement Act. Expenses related to the
18 administration of the Magistrate Retirement Act shall be paid
19 for from the income fund.

20 I. The association shall at least annually
21 distribute all or a portion of the balance in the income fund
22 to the member contribution fund, the retirement reserve fund
23 and the employer's accumulation fund. Distribution rates shall
24 be determined by the board and may vary for the respective
25 accounting funds."

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1 SECTION 4. Section 10-12C-11 NMSA 1978 (being Laws 1992,
2 Chapter 118, Section 11, as amended) is amended to read:

3 "10-12C-11. EMPLOYER CONTRIBUTIONS.--~~[A.]~~ The state,
4 through the administrative office of the courts, shall
5 contribute the following amounts to the fund:

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

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

12 ~~[(a)]~~ (1) from July 1, 2009 through June 30,
13 2011, the state contribution rate shall be nine and one-half
14 percent of salary for each member in office;

15 ~~[(b)]~~ (2) from July 1, 2011 through June 30,
16 2012, the state contribution rate shall be seven and three-
17 fourths percent of salary for each member in office; and

18 ~~[(c)]~~ (3) from July 1, 2012 through June 30,
19 2013, the state contribution rate shall be nine and one-half
20 percent of salary for each member in office; and

21 ~~[B. Twenty-five dollars (\$25.00) from each civil~~
22 ~~case docket fee paid in magistrate court and ten dollars~~
23 ~~(\$10.00) from each civil jury fee paid in magistrate court~~
24 ~~shall be paid by the court clerk to the employer's accumulation~~
25 ~~fund.]~~

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

3 SECTION 5. Section 35-6-1 NMSA 1978 (being Laws 1968,
4 Chapter 62, Section 92, as amended) is amended to read:

5 "35-6-1. MAGISTRATE COSTS--SCHEDULE--DEFINITION OF
6 "CONVICTED".--

7 A. Magistrate judges, including metropolitan court
8 judges, shall assess and collect and shall not waive, defer or
9 suspend the following costs:

10 docket fee, criminal actions under Section 29-5-1 NMSA
11 1978 \$ 1.00;

12 docket fee, to be collected prior to docketing any other
13 criminal action, except as provided in Subsection B
14 of Section 35-6-3 NMSA 1978 20.00.

15 Proceeds from this docket fee shall be transferred
16 to the administrative office of the courts for
17 deposit in the court facilities fund;

18 docket fee, twenty dollars (\$20.00) of which shall be
19 deposited in the court automation fund ~~[and]~~,

20 fifteen dollars (\$15.00) of which shall be deposited
21 in the civil legal services fund and twenty-five
22 dollars (\$25.00) of which shall be deposited in the

23 general fund, to be collected prior to docketing any
24 civil action, except as provided in Subsection A of
25 Section 35-6-3 NMSA 1978 72.00;

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1 jury fee, ten dollars (\$10.00) of which shall be deposited
2 in the general fund, to be collected from the party
3 demanding trial by jury in any civil action at the
4 time the demand is filed or made 25.00;
5 copying fee, for making and certifying copies of any
6 records in the court, for each page copied by
7 photographic process 0.50.
8 Proceeds from this copying fee shall be transferred
9 to the administrative office of the courts for
10 deposit in the court facilities fund; and
11 copying fee, for computer-generated or electronically
12 transferred copies, per page 1.00.
13 Proceeds from this copying fee shall be transferred
14 to the administrative office of the courts for
15 deposit in the court automation fund.

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

18 B. Except as otherwise provided by law, no other
19 costs or fees shall be charged or collected in the magistrate
20 or metropolitan court.

21 C. The magistrate or metropolitan court may grant
22 free process to any party in any civil proceeding or special
23 statutory proceeding upon a proper showing of indigency. The
24 magistrate or metropolitan court may deny free process if it
25 finds that the complaint on its face does not state a cause of

1 action.

2 D. As used in this subsection, "convicted" means the
3 defendant has been found guilty of a criminal charge by the
4 magistrate or metropolitan judge, either after trial, a plea of
5 guilty or a plea of nolo contendere. Magistrate judges,
6 including metropolitan court judges, shall assess and collect
7 and shall not waive, defer or suspend the following costs:

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

15 in a county with a metropolitan court \$10.00;

16 in a county without a metropolitan court 20.00;

17 (2) court automation fee, to be collected upon
18 conviction from persons convicted of violating any provision of
19 the Motor Vehicle Code involving the operation of a motor
20 vehicle, convicted of a crime constituting a misdemeanor or a
21 petty misdemeanor or convicted of violating any ordinance that
22 may be enforced by the imposition of a term of
23 imprisonment 10.00;

24 (3) traffic safety fee, to be collected upon
25 conviction from persons convicted of violating any provision of

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1 the Motor Vehicle Code involving the operation of a motor
2 vehicle 3.00;

3 (4) judicial education fee, to be collected upon
4 conviction from persons convicted of operating a motor vehicle
5 in violation of the Motor Vehicle Code, convicted of a crime
6 constituting a misdemeanor or a petty misdemeanor or convicted
7 of violating any ordinance punishable by a term of
8 imprisonment 3.00;

9 (5) jury and witness fee, to be collected upon
10 conviction from persons convicted of operating a motor vehicle
11 in violation of the Motor Vehicle Code, convicted of a crime
12 constituting a misdemeanor or a petty misdemeanor or convicted
13 of violating any ordinance punishable by a term of
14 imprisonment 5.00;

15 (6) brain injury services fee, to be collected
16 upon conviction from persons convicted of violating any
17 provision of the Motor Vehicle Code involving the operation of
18 a motor vehicle 5.00;
19 and

20 (7) court facilities 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

1 follows:

2 in a county with a metropolitan court 24.00;

3 in any other county 10.00.

4 E. Metropolitan court judges shall assess and collect
5 and shall not waive, defer or suspend as costs a mediation fee
6 not to exceed five dollars (\$5.00) for the docketing of small
7 claims and criminal actions specified by metropolitan court
8 rule. Proceeds of the mediation fee shall be deposited into
9 the metropolitan court mediation fund.

10 SECTION 6. APPROPRIATION.--Two million nine hundred
11 ninety-nine thousand six hundred dollars (\$2,999,600) is
12 appropriated from the general fund to the department of finance
13 and administration for expenditure in fiscal year 2014 for
14 distribution to the supreme court, court of appeals, district
15 courts, Bernalillo county metropolitan court and the
16 administrative office of the courts to pay the increased
17 employer contributions. Any unexpended or unencumbered balance
18 remaining at the end of fiscal year 2014 shall not revert to
19 the general fund.

20 SECTION 7. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2013.