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State of New Mexico

Susana Martinez
Governor

April 8, 2011

HOUSE EXECUTIVE MESSAGE NO. 33

The Honorable Ben Luján and
Members of the House of Representatives
State Capitol Building
Santa Fe, NM 87501

Honorable Speaker Luján and Members of the House:

Pursuant to the Constitution of the State of New Mexico, Article IV, Section 22, I hereby VETO and am returning HOUSE BILL 58, as amended, enacted by the Fiftieth Legislature, First Session, 2011.

This bill directs docket fees to be deposited into the State's general fund and appropriates \$3.05 million from this fund to increase employer contributions to judicial and magistrate retirement funds.

The State is currently facing significant challenges related to the solvency of employee retirement funds. Because this is an issue that affects numerous public employees and involves a variety of complex issues, I believe that substantive reform of the State's multiple pension funds is best achieved if they all are reviewed concurrently.

I also am concerned that the bill appropriates general fund monies in excess of \$3 million without providing assurance that this amount will be collected in docket fees. In a time requiring increased fiscal discipline, any gap in funding has the potential to impact the State's general fund adversely.

Respectfully yours,

Susana Martinez
Governor

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The Honorable Ben Luján
April 8, 2011
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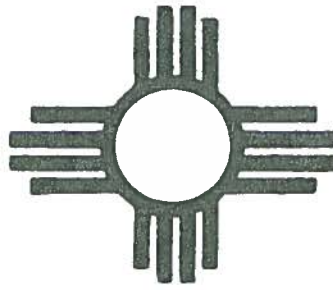
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Time: 8:29 a.m. p.m.
Date: April 8 2011

By Betty Ua
Secretary of State

Time: _____ a.m. p.m.
Date: _____ 2011

By _____
Chief Clerk of the House



The Legislature
of the
State of New Mexico

50th Legislature, 1st Session

LAWS 2011

CHAPTER

HOUSE BILL 58, as amended

Introduced by

REPRESENTATIVE MIMI STEWART



VETOED

1 AN ACT

2 RELATING TO JUDICIAL RETIREMENT; PROVIDING THAT CERTAIN
3 AMOUNTS OF THE CIVIL DOCKET AND JURY FEES BE DEPOSITED INTO
4 THE GENERAL FUND; PROVIDING THAT CONTRIBUTIONS TO JUDICIAL AND
5 MAGISTRATE RETIREMENT BE PROVIDED FROM THE GENERAL FUND;
6 INCREASING CONTRIBUTIONS TO THE JUDICIAL AND MAGISTRATE
7 RETIREMENT FUNDS; MAKING AN APPROPRIATION.
8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

12 "10-12B-1. SHORT TITLE.--Chapter 10, Article 12B NMSA
13 1978 may be cited as the "Judicial Retirement Act"."

14 SECTION 2. Section 10-12B-3 NMSA 1978 (being Laws 1992,
15 Chapter 111, Section 3, as amended) is amended to read:

16 "10-12B-3. JUDICIAL RETIREMENT FUND ESTABLISHED--
17 ADMINISTRATION OF FUND--ACCOUNTING FUNDS.--

18 A. There is established in the state treasury the
19 "judicial retirement fund". The fund is comprised of money
20 received from employer and employee contributions and any
21 investment earnings on contributions. The board is the
22 trustee of the fund and shall administer and invest the fund.
23 Investment of the fund shall be conducted pursuant to the
24 provisions of the Public Employees Retirement Act. The
25 provisions of the Judicial Retirement Act shall be

1 administered by the board. The board is authorized to
2 promulgate rules. Expenses related to the investment of the
3 fund and administration of the Judicial Retirement Act shall
4 be paid from the fund.

5 B. For purposes of this section, the accounting
6 funds shall be known as the "member contribution fund",
7 "employer's accumulation fund", "retirement reserve fund" and
8 "income fund". The maintenance of separate accounting funds
9 shall not require the actual segregation of the assets of the
10 fund.

11 C. The accounting funds provided for in this
12 section are trust funds and shall be used only for the
13 purposes provided for in the Judicial Retirement Act.

14 D. The member contribution fund is the accounting
15 fund in which shall be accumulated contributions of members
16 and from which shall be made refunds and transfers of
17 accumulated member contributions as provided in the Judicial
18 Retirement Act. The member's court shall cause member
19 contributions to be deducted from the salary of the member and
20 shall remit the deducted member contributions to the
21 association in accordance with procedures and schedules
22 established by the association. The association may assess an
23 interest charge and a penalty charge on any late remittance.
24 Each member shall be deemed to consent and agree to the
25 deductions made and provided for in this section.

1 Contributions by members shall be credited to the members'
2 individual accounts in the member contribution fund. A
3 member's accumulated member contributions shall be transferred
4 to the retirement reserve fund when a pension becomes payable.

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

13 F. The retirement reserve fund is the accounting
14 fund from which shall be paid all pensions to retired members
15 and survivor beneficiaries and all residual refunds to refund
16 beneficiaries of retired members and survivor beneficiaries.

17 G. Each year, following receipt of the report of
18 the annual actuarial valuation, the excess, if any, of the
19 reported actuarial present value of pensions being paid and
20 likely to be paid to retired members and survivor
21 beneficiaries and residual refunds likely to be paid to refund
22 beneficiaries of retired members and survivor beneficiaries
23 over the balance in the retirement reserve fund shall be
24 transferred to the retirement reserve fund from the employer's
25 accumulation fund.

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

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

15 **SECTION 3.** Section 10-12B-11 NMSA 1978 (being Laws
16 1992, Chapter 111, Section 11, as amended) is amended to read:

17 "10-12B-11. EMPLOYER CONTRIBUTIONS.--The member's court
18 shall contribute the following amounts to the fund:

19 A. from July 1, 2011 through June 30, 2012,
20 twenty-seven and nine-hundredths percent of salary for each
21 member in office;

22 B. from July 1, 2012 through June 30, 2013,
23 twenty-eight and eighty-four hundredths percent of salary for
24 each member in office; and

25 C. on or after July 1, 2013, thirty and thirty-

1 four hundredths percent of salary for each member in office."

2 SECTION 4. Section 10-12C-11 NMSA 1978 (being Laws
3 1992, Chapter 118, Section 11, as amended) is amended to read:

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

7 A. from July 1, 2011 through June 30, 2012,
8 twenty-one and ninety-two hundredths percent of salary for
9 each member in office;

10 B. from July 1, 2012 through June 30, 2013,
11 twenty-three and sixty-seven hundredths percent of salary for
12 each member in office; and

13 C. on or after July 1, 2013, twenty-five and
14 seventeen-hundredths percent of salary for each member in
15 office."

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

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

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

23 docket fee, criminal actions under Section 29-5-1 NMSA
24 1978 \$ 1.00;

25 docket fee, to be collected prior to docketing any other

1 criminal action, except as provided in Subsection B
2 of Section 35-6-3 NMSA 1978 20.00.

3 Proceeds from this docket fee shall be transferred
4 to the administrative office of the courts for
5 deposit in the court facilities fund;

6 docket fee, twenty dollars (\$20.00) of which shall be
7 deposited in the court automation fund, fifteen
8 dollars (\$15.00) of which shall be deposited in the
9 civil legal services fund and twenty-five dollars
10 (\$25.00) of which shall be deposited in the general
11 fund, to be collected prior to docketing any civil
12 action, except as provided in Subsection A of
13 Section 35-6-3 NMSA 1978 72.00;

14 jury fee, ten dollars (\$10.00) of which shall be
15 deposited in the general fund, to be collected from
16 the party demanding trial by jury in any civil
17 action at the time the demand is filed or made
18 25.00;

19 copying fee, for making and certifying copies of any
20 records in the court, for each page copied by
21 photographic process50.

22 Proceeds from this copying fee shall be transferred
23 to the administrative office of the courts for
24 deposit in the court facilities fund; and

25 copying fee, for computer-generated or electronically

1 transferred copies, per page 1.00.
2 Proceeds from this copying fee shall be transferred
3 to the administrative office of the courts for
4 deposit in the court automation fund.

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

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

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

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

22 (1) corrections fee, to be collected upon
23 conviction from persons convicted of violating any provision
24 of the Motor Vehicle Code involving the operation of a motor
25 vehicle, convicted of a crime constituting a misdemeanor or a

1 petty misdemeanor or convicted of violating any ordinance that
2 may be enforced by the imposition of a term of imprisonment as
3 follows:

4 in a county with a metropolitan court \$10.00;
5 in a county without a metropolitan court 20.00;

6 (2) court automation fee, to be collected upon
7 conviction from persons convicted of violating any provision
8 of the Motor Vehicle Code involving the operation of a motor
9 vehicle, convicted of a crime constituting a misdemeanor or a
10 petty misdemeanor or convicted of violating any ordinance that
11 may be enforced by the imposition of a term of imprisonment
12 10.00;

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

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

23 (5) jury and witness fee, to be collected upon
24 conviction from persons convicted of operating a motor vehicle
25 in violation of the Motor Vehicle Code, convicted of a crime

1 constituting a misdemeanor or a petty misdemeanor or convicted
2 of violating any ordinance punishable by a term of
3 imprisonment 5.00;

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

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

16 in a county with a metropolitan court 24.00;
17 in any other county 10.00.

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

24 SECTION 6. APPROPRIATION.--Three million fifty-one
25 thousand dollars (\$3,051,000) is appropriated from the general

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1 fund to the department of finance and administration for
2 expenditure in fiscal year 2012 for distribution to the
3 supreme court, court of appeals, district courts, Bernalillo
4 county metropolitan court and the administrative office of the
5 courts to pay the increased employer contributions. Any
6 unexpended or unencumbered balance remaining at the end of
7 fiscal year 2012 shall not revert to the general fund.

8 SECTION 7. EFFECTIVE DATE.--The effective date of the
9 provisions of this act is July 1, 2011. _____

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OFFICE OF THE CLERK OF THE SUPREME COURT
SOUTH PLAZA 338 N. 10TH ST.
DENVER, CO 80202

S/ BEN LUJAN
BEN LUJAN, SPEAKER
HOUSE OF REPRESENTATIVES

S/ STEPHEN R. ARIAS
STEPHEN R. ARIAS, CHIEF CLERK
HOUSE OF REPRESENTATIVES

S/ JOHN A. SANCHEZ
JOHN A. SANCHEZ, PRESIDENT
SENATE

S/ LENORE M. NARANJO
LENORE M. NARANJO, CHIEF CLERK
SENATE

Approved by me this _____ day of _____, 2011

SUSANA MARTINEZ, GOVERNOR
STATE OF NEW MEXICO

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11/10/11