Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (<u>www.nmlegis.gov</u>) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR Cervantes		ORIGINAL DATE LAST UPDATED	02/12/2020 HB		
SHORT TITLE Supreme Cou		Court Justice Salaries, CA	SJR	11	

ANALYST Dick-Peddie

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY20	FY21	FY22	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total			\$10,435.93	\$10,560.93	Recurring	General Fund
		\$125.0-\$150.0			Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act Relates to Senate Bill 280

SOURCES OF INFORMATION

LFC Files

<u>Responses Received From</u> New Mexico Attorney General (NMAG) Secretary of State (SOS) Administrative Office of the Courts (AOC)

<u>No Response Received</u> Administrative Office of the District Attorneys (AODA) New Mexico Supreme Court State Personnel Office (SPO) Public Employee Retirement Association (PERA)

SUMMARY

Synopsis of Bill

Senate Joint Resolution 11 proposes a constitutional amendment to set the salary of the chief justice of the Supreme Court to be equal to the salary of a federal district court judge for the previous fiscal year as provided by law.

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As a constitutional amendment, the proposal will be submitted for voters to approve or disapprove at the next general or special election.

FISCAL IMPLICATIONS

Under Section 1-16-4 NMSA 1978, SOS is required to print the full text of each proposed constitutional amendment, in both Spanish and English, in an amount equal to ten percent of the registered voters in the state. SOS is also constitutionally required to publish the full text of each proposed constitutional amendment once a week for four weeks preceding the election in newspapers in every county in the state. The estimated cost per constitutional amendment is \$125 thousand - \$150 thousand, depending upon the number and length of the constitutional amendments, number of registered voters, and whether additional ballot printing systems are needed.

Senate Joint Resolution 11 would increase the annual salary of the chief justice of the New Mexico Supreme Court from the current rate of \$150.8 thousand, to that of a New Mexico federal district court judge, \$210.9 thousand. The raise would result in all judge salaries increasing, as district, metropolitan, and magistrate court judge salaries are statutorily tied to the Supreme Court salaries. Currently, the Chief Justice of the Supreme Court, as well as chief judges of district courts receive a \$2,000 pay differential. It is unclear if the salary provided for in SJR11 includes this differential.

SJR11 would increase the chief justice of the New Mexico Supreme Court Justice salary by \$60.1 thousand annually, or about 40 percent. With five Supreme Court justices, the recurring increase for the Supreme Court would cost about \$300.5 thousand. Court of appeals judges are statutorily set at 95 percent of a Supreme Court Justice salary, increasing the salary of each the 10 court of appeals judges from 142.6 thousand to \$200 thousand a year. Most notably, if Senate Joint Memorial 11 were enacted, magistrate court judge salaries would increase from \$95.3 thousand annually to \$137 thousand annually. Magistrate judges need only a high school education or equivalent to serve under 35-2-1 NMSA 1978.

The table below demonstrates the salary increases of all judges according to the provisions in SJR11, resulting in a total recurring cost of \$10.45 million. The table assumes that under SJR 11 the Supreme Court chief justice salary of \$210.9 thousand includes the \$2,000 pay differential, and that other chief judges will continue to receive the same differential.

Judicial Salary Breakdown (in thousands of dollars)											
		Current				llar	%	Number of		Total Recurring	
Judicial Agency		Salary		SJR 11 Salary		crease	Increase	Judges Increa		rease	
Chief Justice Supreme Court	\$	150.80	\$	210.90	\$	60.10	40%	1	\$	60.10	
Supreme Court Justice		148.80	\$	208.90	\$	60.10	43%	4	\$	240.40	
Chief Judge Court of Appeals	\$	142.70	\$	202.50	\$	59.80	42%	1	\$	59.80	
Court of Appeals Judge	\$	140.80	\$	200.50	\$	59.70	42%	9	\$	537.30	
Chief District Court Judge		135.60	\$	194.38	\$	58.78	43%	13	\$	764.08	
District Court Judge		133.80	\$	192.38	\$	58.58	44%	83	\$	4,862.14	
Chief Metro Judge	\$	128.80	\$	184.76	\$	55.96	43%	1	\$	55.96	
Metro Judge	\$	127.10	\$	182.76	\$	55.66	44%	19	\$	1,057.56	
Magistrate Judge		95.30	\$	137.07	\$	41.77	44%	67	\$	2,798.59	
TOTAL									\$	10,435.93	

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The FY21 column in the Estimated Additional Operating Budget Impact Table reflects the cost of producing the constitutional amendment. The FY22 column reflects the total recurring increase shown in the table above, assuming voters approve the amendment in calendar year 2020 when courts are preparing fiscal year 2022 budgets.

SIGNIFICANT ISSUES

The 2019 Judicial Compensation Commission report recommended an 8 percent increase for judges in FY20, significantly less than the 40 percent increase included in SJR11. The Committee Substitute for House Bills 2&3 includes 3 percent salary increases for judges in the base budget of each court, as well as a 3 percent overall increase for state employees, resulting in a total salary increase of 6 percent for judges.

The Association of District Attorneys released a statement in January 2020 requesting that district attorney salaries be raised at the same rate as judge salaries, to improve recruitment and retention. It is unclear if salary increases provided for in SJR11 would affect the district attorney's request. AODA did not submit a response to SJR11 on behalf of the district attorneys or the association.

PERA did not submit a response to SJR11, but submitted the following impact statement for similar legislation:

State Supreme Court Justices are members of the Judicial Retirement Fund. For the year ending June 30, 2019, the Judicial Retirement Fund has a funded ratio of 55.1 percent and is projected to become insolvent by the year 2049. Pension benefits are calculated using a formula that includes a justice's final average salary. Increasing the salaries of participating members of the Judicial Retirement Fund will necessarily result in higher retirement benefits and increased liabilities to the underfunded Judicial Retirement Fund.

Additionally, the sudden and steep increase of judge salaries could result in compaction of salaries for other court staff, judicial agencies, and elected officials. The proposed salary for even district court judges would surpass the salaries of the New Mexico Attorney General (approximately \$109 thousand), the Secretary of State (\$97.7 thousand) and the Governor's salary of \$110 thousand. The 40 percent increase in judge pay would also be in stark contrast to the proposed 3 percent pay raise for all other state employees.

RELATIONSHIP

Relates to Senate Bill 280, which amends NMSA 1978, §§ 34-1-9 mandating that justices of the state supreme court be compensated at a salary equal to the annual salary received by New Mexico federal district court judges.

TECHNICAL ISSUES

As mentioned in the fiscal impact section, it is unclear is SJR11 intends to change the pay differential provided for the chief justice of the New Mexico Supreme Court currently provided for in statute.

The New Mexico Attorney General also noted that language included in SJR11 setting the chief

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justice salary to "equal to the salary of a federal district court judge for the previous fiscal year as provided by law" is unclear.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The annual salaries of the chief justice of the New Mexico Supreme Court Justices will continue to be set by the New Mexico state legislature.

ADP/sb