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## FISCAL IMPACT REPORT

SPONSOR: Taylor, J.G. DATE TYPED: 02/22/01 HB 596  
 SHORT TITLE: Increase Judges' Salaries SB \_\_\_\_\_  
 ANALYST: Hayes

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
	\$ 1,491.6		\$ (82.7)	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to Appropriation in The General Appropriation Act HB2/a, Section 9, plus relates to SB409, SB340, SB68 and HB8.

### SOURCES OF INFORMATION

LFC budget files  
 Administrative Office of the Courts (AOC)  
 Bernalillo County Metropolitan Court (BCMC)

### SUMMARY

#### Synopsis of Bill

HB596 amends Section 34-1-9 NMSA 1978, which established the relationship and formula by which the salaries of judges of different courts are funded:

-The bill would increase the relative salary of a metropolitan court judge from 90 percent to 95 percent of the salary of a district judge.

-The bill would increase the relative salary of a full-time magistrate from 75 percent to 95 percent of the salary of a metropolitan court judge.

HB596 appropriates \$1,491.6 from the general fund to BCMC and to magistrate courts statewide for the purpose of providing salary increases to judges at metropolitan court (5.6%) and judges in magistrate courts (33.7%).

The effective date of this bill is July 1, 2001.

#### Significant Issues

## House Bill 596 -- Page 2

Section 34-1-9 was enacted in 1993 to resolve the annual competition among judges for salary increases. Legislators faced competing claims from judges of different courts that their salaries were unfair in comparison to the salaries of judges of other courts. Various bills were introduced proposing different percentages of salary increases for judges at all court levels. The Legislature had no consistent basis for ensuring that judicial salaries were, or would remain, equitable. In 1993, the judiciary assisted in formulating a fair ratio among the salaries of the various levels of courts. This became Section 34-1-9 NMSA 1978, which established the principle that all judicial salaries would be, and remain, related to each other according to a set formula:

The salary of a Court of Appeals judge would be 95% of the salary of a Supreme Court justice.  
The salary of a district court judge would be 95% of the salary of a Court of Appeals judge.  
The salary of a metropolitan court judge would be 90% of the salary of a district court judge.  
The salary of a magistrate would be 75% of the salary of a metropolitan court judge.

Representatives from all of the levels of courts agreed in 1993 that the formula was fair and equitable.

This salary funding and distribution process has worked successfully for the past eight years. The Legislature has enacted an annual salary increase that applies equally to all judges. This bill proposes to change the formula percentages.

Of note is that HB596's proposed amendments to Section 34-1-9 regarding changing the salary formula were *not* submitted to, or approved by, the Chief Judges Council, its budget committee nor the New Mexico Supreme Court. The increases as such are *not* supported by the Judiciary Unified Budget.

### **FISCAL IMPLICATIONS**

The appropriation of \$1,490.6 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2002 shall revert to the general fund.

Accounting for amendments and salary formula changes, the appropriation amount contained in this bill is miscalculated. Given the provisions of HB596, the total dollar amount should be \$1,408,913 according to LFC analyst calculations. The Administrative Office of the Courts confirmed the adjusted amount and stated the appropriation included in the bill is "too high."

### **CONFLICT/DUPLICATION/RELATIONSHIP**

In the HAFC substitute for HB2, Section 9, COMPENSATION APPROPRIATIONS, an amount is already indicated for the justices and judges totaling \$1,009.4 million. This provides for a seven percent (7%) increase for all justices and judges on average, which is consistent with the same percentage increase proposed for almost all other state employees.

HB8 duplicates HB2/a in its proposed salary levels for the entire judiciary, including those of the magistrate judges.

SB340 duplicates HB596.

SB409 relates to HB596 in regards to increasing salaries for justices and judges. However, it does not propose amending the salary funding formula established in 1993.

It is suggested that House Bill 2 be the vehicle by which appropriations for compensation increases are utilized.

### **OTHER SUBSTANTIVE ISSUES**

In 1999, the Administrative Office of the Courts, at the request of the Chief Judges Council Budget Committee, conducted a study of comparable judicial salaries throughout the United States to determine whether there was a reason to change the formula for magistrates as set forth in Section 34-1-9 NMSA 1978. The data showed, in general, that New Mexico judges are underpaid. However, the study found no evidence that magistrates are disproportionately underpaid. In fact, magistrates have a higher relative pay in New Mexico than in any of the six states that have comparable judicial positions – limited jurisdiction courts wherein judges are not required to be lawyers. The results of that study are shown in the attached table.

After reviewing the results of this 1999 study, the judicial budget committee reported to the Chief Judges Council its conclusion that no change to the salary formula was warranted.

### **POSSIBLE QUESTIONS**

1. Given that the salary level of magistrates are ranked as one of the highest among comparable court jurisdictions, why is the funding formula being amended?
2. Why was this amendment not presented to or reviewed by the Chief Judges Council, its budget committee or the Supreme Court?

CMH/ar

### **TABLE 1. COMPARATIVE AVERAGE SALARIES**

State	General jurisdiction judge's salary (District Courts)	Limited jurisdiction judge's salary (Magistrate Courts)	Ratio of limited to general jurisdiction judge's salary
Arizona	\$113,000	\$53,675	.48
Colorado	\$86,090	\$56,778	.65
Delaware	\$119,200	\$50,300	.42
Georgia	\$110,772	\$46,573	.42
Vermont	\$90,176	\$48,470	.54
West Virginia	\$90,000	\$33,813	.38
<b>New Mexico</b>	<b>\$79,215</b>	<b>\$53,471</b>	<b>.68</b>

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*Prepared by the Administrative Office of the Courts*