

**NOTE: As provided in LFC policy, this report is intended for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used in any other situation.**

**Only the most recent FIR version, excluding attachments, is available on the Intranet. Previously issued FIRs and attachments may be obtained from the LFC office in Suite 101 of the State Capitol Building North.**

## FISCAL IMPACT REPORT

SPONSOR: Beam DATE TYPED: 01/21/02 HB 63

 RT TITLE: Increase Judicial Salaries SB \_\_\_\_\_

ANALYST: Hayes

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY02	FY03	FY02	FY03		
	\$737.8			Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)\_\_\_\_\_

Relates to SB 36

### SOURCES OF INFORMATION

Administrative Office of the Courts (AOC)  
*Judiciary Unified Budget* document  
 LFC files

### SUMMARY

#### Synopsis of Bill

House Bill 63 appropriates \$737,860 from the general fund to the Administrative Office of the Courts (AOC) for the purpose of providing a 4.5 percent salary increase to justices, judges, magistrates, special commissioners and hearing officers to make up for past instances, in 1997 and 1998, when they did not receive the same salary increase appropriated for other state employees.

The effective date of this increase is the first full pay period after July 1, 2002.

#### Significant Issues

Neither the *Judiciary Unified Budget* nor the analysis provided by the AOC justified the need for this salary increase other than as a “catch up” salary increase for executive action taken over five years ago. Both sources simply state that New Mexico’s judges did not receive the same salary increase that was appropriated for all other state employees. However, in researching past compensation legislation, it was discovered that the 1997 Legislature’s compensation appropriation also did not include a salary appropriation for the District Attorneys or for state exempt staff either (see Chapter 175 for FY98 compensation language). Should the Legislature consider a “catch up” salary increase bill for these other employees? What about other years when teachers received a

higher compensation increase than all other state employees, such as in 2001? In these instances, do other state employees have the right to request a “catch up” salary increase?

The *Judiciary Unified Budget* further states that the “salaries of the Supreme Court justices are 44<sup>th</sup> in the nation. Salaries of judges of other courts also remain at or near the bottom of the national pay scale. If this [“catch up”] increase is approved, the salary of a Supreme Court justice would increase from \$96,283 to \$100,683. Whether or not this “catch up” increase is enacted, judges should receive the same percentage increase given all other state employees.”

Given this excerpt, it appears that the main justification for the requested salary increase is not necessarily due to receiving back pay, but to raise salary rates since, according to the judiciary, the justices, et al are underpaid compared to their counterparts elsewhere in the country. Therefore, if a salary increase is needed because of a perceived market inequity, then the judiciary should provide a comparative market analysis to the Legislature for review. A compensation analysis such as the Hay Management Consultants NM.HR.2001 project conducted for the executive would provide the Legislature with the information necessary to determine whether or not an upward adjustment to judges’ salaries is necessary based on national comparative data.

### **FISCAL IMPLICATIONS**

The appropriation of \$737.8 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY03 shall revert to the general fund.

If other state agencies or personnel also requested a salary increase based on similar grounds, i.e., recipient of a different salary rate or long ago veto action, then the fiscal impact would be much higher. The amount or the impact of such a request is unknown.

### **RELATIONSHIP**

Senate Bill 36 changes the statutory formula for compensating district and metropolitan judges along with magistrate judges at a higher level.

### **TECHNICAL ISSUES**

If HB63 were approved, it is unclear which judges would receive this “catch up” increase. Will increases be given to all current judges who were not judges in 1997? Would retired judges who were active judges in 1997 receive a lump-sum compensation check? There is no language in the bill delineating or clarifying these issues. In addition, how will this affect retirement contributions? Does the \$737.8 include the amount needed to pay to the State’s portion of associated taxes and other applicable employee benefits?

CMH/njw:ar