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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/24/12

SPONSOR Payne LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Judicial Nominating Commission Fund SB 24

ANALYST Chabot

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY12	FY13		
\$50.0		Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	\$50.0			\$50.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)  
Higher Education Department (HED)  
State Treasurer's Office (STO)

#### Response Not Received From

University of New Mexico

### SUMMARY

#### Synopsis of Bill

Senate Bill 24 appropriates \$50 thousand from the general fund to the created judicial nominating commission fund for the operation and costs of judicial nominating commissions.

### FISCAL IMPLICATIONS

The appropriation of \$50 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not

revert. Money in the proposed judicial nominating commission fund is subject to appropriation by the legislature to the AOC for the costs of judicial nominating commissions to include the expense of organizing the commission and per diem and mileage of commission members.

## **SIGNIFICANT ISSUES**

The New Mexico Constitution creates the Judicial Nominating Commission for appellate, district and metropolitan courts. This bill creates the judicial nominating commission fund. AOC states past practice has funded commissions out of the appropriation to the UNM Law School whose dean serves as the chair of the nominating commissions. The amount set-aside for this purpose has been reduced due to budget pressures and a fund for this purpose needs to be established to insure commissions are funded. The proposed fund would be administered by the AOC but only under the direction of the dean of the UNM Law School. However, this is not stated in the bill. The AOC will assume the responsibility to process payments related to commission expenses.

AOC assesses the need for FY13 for \$22,500 with subsequent annual recurring appropriations.

LFC staff assesses that there is little to be gained in creating a small fund which then needs appropriation by the legislature before it can be used. The appropriation for the AOC should include an amount determined by the legislature to fund judicial nominating commissions. Expenditures can be separately tracked by AOC through the operating budget to justify inclusion in appropriation requests. The other option is to continue the tradition of UNM Law School funding the commission activities. In both options the legislature could use language designating use.

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

## **TECHNICAL ISSUES**

AOC states the appropriation should begin in 2013 and be a recurring appropriation and proposes the following language: “Notwithstanding appropriations made to the University of New Mexico and the Administrative Office of the Courts, the appropriations to the University of New Mexico are reduced by \$27,500 and the appropriations to the Administrative Office of the Courts are increased by \$27,500 for the judicial nominating commission fund.”

STO recommends on page 1, line 17 striking “state treasury” and inserting in its place “statewide accounting system.”

## **ALTERNATIVES**

Use Legislative earmarking language in either the UNM or AOC appropriation stating an amount and that it will be used for expenses related to judicial nominating commissions.

GAC/svb:amm