

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the New Mexico Legislature. 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 New Mexico Legislative Website (www.nmlegis.gov).

FISCAL IMPACT REPORT

SPONSOR Hochman-Vigil ORIGINAL DATE 2/1/22
LAST UPDATED 2/9/22 HB 151/aHJC
SHORT TITLE NM Supreme Court Justice Salaries SB _____
ANALYST Dick-Peddie/Jorgenson

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY22	FY23	FY24	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$1,103.0	\$7,000.0	\$7,000.0	\$15,103.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to Senate Bill 2
Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From
Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amends the bill to have an effective date of July 1, 2022.

Synopsis of Bill

House Bill 151 (HB 151) amends Section 34-1-9 NMSA 1978 to increase the salary of a supreme court justice to that of a federal magistrate judge. Because statewide, district, metropolitan, and magistrate judge pay is linked to the salary of a supreme court justice in the above statute, this would increase pay for all lower court judges, with the exception of magistrate judges, which are removed from the statute all together.

The legislation is endorsed by the Courts, Corrections, and Justice Committee.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

The annual cost to set justice pay at the level of a federal magistrate judge in New Mexico is approximately \$7 million. HB 151 does not contain an appropriation.

The substitute for House Bill 2 includes a total of about \$2.6 million spread throughout the base budgets of every court to increase judge pay by about 10 percent, which in combination with the proposed 7 percent increase for all employees, results in a 17 percent increase for judges.

The increase proposed in HB151 would be about 33 percent. Pension spiking occurs any time there is a dramatic increase in a salary in a short time rather than a series of gradual increases. If an employee receives significant salary increases in the years before retirement, their monthly retirement benefit may exceed what their contributions would be expected to fund. It is likely that a single-year salary increase of over 30 percent will create a spiking effect in the judicial and magistrate retirement funds.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

SIGNIFICANT ISSUES

House Bill 151 decouples magistrate judge compensation from other judge pay. It is unclear what entity is responsible for setting magistrate judge pay if it is not set in statute or by the Legislature. If magistrate salary is set by the judiciary as a result of the statute change, the Legislature may be responsible for funding salaries it had no role in setting, regardless of available of funds.

Similarly, the bill sets supreme court justice salaries at that of a federal magistrate, but if federal magistrate salaries increase at a faster rate than state funding increases, the Legislature would still be responsible for “providing” the funding, which could lead to budget solvency issues. The LFC has concerns with these indefinite appropriation commitments given historic revenue volatility.

In agency analysis, AOC notes that the judiciary has struggled to attract and retain qualified candidates for judgeships. The 2021 Judicial Compensation Commission reports:

The salary of New Mexico Supreme Court Justices as of July e2021 (\$153,394) ranks 48 out of 55 in the United States based on salaries in other states and territories. In addition to low pay in comparison to Justices and Judges in other states, Judges are paid less than lawyers in New Mexico with comparable experience as well as local and state management level employees, the low pay has significantly reduced the Judiciary’s ability to attract and retain judges, especially those with proficiency in civil law. “For example, a current vacancy that arose in December in the Third Judicial District (Las Cruces) resulted in only one qualified candidate being forwarded to Govern Lujan Grisham for consideration for appointment to the bench.