LFC Requester:	Gray

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

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SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: *January 28, 2025* *Check all that apply:*
Bill Number: *SB138* Original *X* Correction __
Amendment __ Substitute __

Sponsor: Sen. Muñoz
Short Title: Oil and Gas Funds to Judicial Retirement

Agency Name and Code Number: AOC - 218
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
(2,400,000)	(2,400,000)	Recurring	Judicial and Magistrate Retirement Funds

(Parenthesis ( ) indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis ( ) indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

SB150 and SB151 provide increases of 4.24% in the contribution rate by judges and 4.24% in the contribution rate by the employing courts, all without additional funding to judges or the courts.

SECTION III: NARRATIVE

BILL SUMMARY

NMSA 7-1-6.43 currently directs $100,000 per month from revenue from the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act to the two retirement funds managed by PERA for the benefit of magistrates (Magistrate Retirement Account, or MRA) and all other judges and justices (Judicial Retirement Account, or JRA). In addition, beginning on July 1, 2025, the statute directs at least $75,000 per month to the Legislative Retirement Fund (LRF), or an increased amount to ensure the LRF is 100% funded. SB138 would eliminate the revenue, $2,400,000 annually, currently required to go to the MRA and JRA. According to PERA, as for FY24 the MRA is funded at 52.4% and JRA is funded at 56.1%. The LRF is funded at 94.3%. If passed, SB138 would further erode the MRA and JRA funded percentages. Additionally, current law already requires additional disbursements beginning July 1, 2025 to the LRF to reach 100% funding.

FISCAL IMPLICATIONS

SB138 would eliminate an annual appropriation from the Oil and Gas severance tax revenue by $2,400,000, a reduction in appropriated funds. The fiscal impact to JRA and MRA would be dramatic, as discussed in Significant Issues herein. In short, SB138 would eliminate about 36% of the current total annual investment in MRA and 14% of the current total annual investment in JRA.

SIGNIFICANT ISSUES

1) <u>The impact of SB 138 on JRA and MRA would be severe</u>.
    a. <u>JRA</u>: As stated in annual reports issued by PERA, for FY24, the $1.2 million in Oil and Gas funds to JRA made up 13% of the total revenue ($9.2 million) into the JRA. It was 14% in FY23 and 16% in FY22 (ignoring the $20 million one-time appropriation to JRA in FY22).
    b. <u>MRA</u>: In FY24 the Oil and Gas funds made up 34% of total MRA revenue ($3.466 million), which was 36% in FY23 and 39% in FY22.

2) This session the Judiciary is supporting SB150 and SB151, to increase judicial contributions to JRA and MRA by 8.48% (4.24% from the employer and 4.24% from judges, without any additional appropriation to judges or courts). Even if SB150 and SB151 succeed, SB135 would create a funding shortfall of 36% in MRA and $14% in JRA, overwhelming the progress SB150 and SB151 would make toward adequate funding of JRA and MRA. SB138 will cause both JRA and MRA to have reduced funded ratios from the current FY24 funded ratios of 56.1% in JRA and 52.4% in MRA.

3) Impact to LRF: NMSA 7-1-6.43 directs at least $900,000 annually of revenue from the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act to the LRF, increasing the amount to whatever is needed to fully fund the LRF beginning July 1, 2025. SB 122 sponsored by Senator Candelaria in the 2020 session also provided that $100,000 per month ($1.2 million per year) would go from the Oil and Gas tax to both JRA and MRA. SB 122, which is the current law, required PERA to inform the legislature if MRA or JRA achieved 100% funding which would end the Oil and Gas revenue distributions to JRA and/or MRA. In addition, the existing law (per SB 122) provides that as of July 1, 2025, the Oil and Gas tax will send every month to the LRF "seventy-five thousand dollars ($75,000) or, if larger, in an amount equal to one-twelfth of the amount necessary to pay out the retirement benefits due under state legislator member coverage plan 2 and Paragraph (2) of Subsection C of Section 10-11-41 NMSA 1978 for the succeeding calendar year."

   Under current law, the LRF will receive at least $900,000 per year ($75,000 per month) and, if necessary, more revenue to make the LRF fully funded. This significant revenue boost to the LRF revenue will arrest the funding challenges recently encountered by the LRF which experienced a decline of the LRF's funded ratio from 119.6% in FY23 to 94.3% in FY24. The PERA analysis in its FY24 report on the LRF states, "the funded ratio—actuarial value of assets divided by the actuarial accrued liability—decreased from 119.6% to 94.3%, as of June 30, 2024. This increase in the unfunded liability is primarily due to benefit changes made during the 2024 legislative session and a funding shortfall for the division" (emphasis added). Those "benefit changes" were from SB165; "Senate Bill 165 increased the multiplier from 60 to 90 for all legislators serving on or after the effective date of the legislation (i.e. the annual benefit formula was updated to be: [14% x Per Diem Rate x 90 x Service])."

   Although the LRF is now underfunded because benefits were increased, the existing law provides that Oil and Gas tax funds will provide $900,000 and that amount will be increased beginning in FY26 (July 1, 2025) to whatever amount is needed to ensure the LRF goes up to at least 100% funding. The FY23 PERA report states that total contributions to the LRF from employer and employees in FY23 were $930,000. The current law will at least double contributions to the LRF, ensuring its fiscal viability.

ADMINISTRATIVE IMPLICATIONS

PERA will have to exercise its duty to oversee the funding of retirement funds for judges without an adequate revenue stream to make those funds solvent.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

As discussed above, SB150 and SB151 relate to funding of MRA and JRA.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

Do not enact SB138. Enact SB 150 and SB151 to continue JRA and MRA's path to solvency.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Not enacting this bill will place JRA and MRA on a better track to solvency while also ensuring that current law brings LRF to 100% funding in the near term.

AMENDMENTS