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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/17/08  
 SPONSOR Rawson LAST UPDATED 2/5/08 HB \_\_\_\_\_  
 SHORT TITLE Additional Dona Ana Magistrate SB 9a/SJC  
 ANALYST Sanchez

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	\$17.85	Non-Recurring	General
	\$53.049	Recurring	General

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	FY08	FY09	FY10	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		\$0	\$51.55	\$51.55	Recurring	General

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)  
 Commission on Higher Education (NMHED)

### SUMMARY

#### Synopsis of SJC Amendment

The Senate Judiciary amendment to SB 9 on page 2, strikes lines 1 through 4.

The amendment strikes language that requires a judge to be a member of the New Mexico bar and practiced law in New Mexico for a period of at least three years.

#### Synopsis of Original Bill

Senate Bill 9 appropriates \$70.9 thousand from the general fund to the Administrative Office of the Courts (AOC) for the purpose of creating a magistrate judge in Dona Ana County.

## Senate Bill 9/aSJC – Page 2

The bill requires that the person elected or appointed to the office of magistrate for division 6 be a member of the New Mexico State bar and must have practiced law for at least three years.

The bill provides for the magistrate to be appointed by the governor. The magistrate shall serve until succeeded by a qualified magistrate elected at the general election in 2010.

The bill provides for an appropriation of \$70,899 thousand for salaries and benefits and furniture, supplies and equipment for the additional judge and support staff.

The effective date of the Act is January 1, 2009.

Any unexpended or unencumbered balance remaining at the end of fiscal year 2009 shall revert to the general fund.

### FISCAL IMPLICATIONS

There is sufficient funding for the new magistrate to start on January 1, 2009. The appropriation only covers 50 percent of salaries and benefits since due to the judicial election cycle the new judge will only serve for half the fiscal year. After FY09 the recurring costs will be \$104.6 thousand.

### SIGNIFICANT ISSUES

In July 2007, the New Mexico Sentencing Commission published a report commissioned by the National Center for State Courts (NCSC) that examined case filing data to determine the need for judges as well as related staff in the offices of the district attorneys and the public defenders. The study shows need for six magistrates statewide. **See spreadsheet below.** The Unified Budget request seeks to partly address the gap by seeking the creation of two magistrates, including this one.

This proposed magistrate is reflected the judiciary's unified budget.

The bill requires the new judge to be an attorney. The judiciary believes this is a legislative decision and therefore takes no position on this issue.

### PERFORMANCE IMPLICATIONS

FY 08 is the fifth year that the courts are participating in performance based budgeting. This bill may have an impact on the measures of the district in the following areas:

- cases disposed as a percent of cases filed (district and magistrate)
- percent change in case filings by case type (district)
- clearance rate

### ADMINISTRATIVE IMPLICATIONS

The primary long-term administrative effect on the courts upon passage of this bill could be more efficient and expeditious disposal of cases in the district court.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Potential consequences of not funding Senate Bill 9 are that the increase in current caseloads would result in a backlog of cases and may result in some of those being dropped.

**POSSIBLE QUESTIONS**

Is there a large enough pool of qualified lawyers interested in filling this position?

Currently the University of New Mexico School of Law (located in Albuquerque) is the only law school in the state. About 350 students attend the school with approximately 115 enrolled in the first year class. According to the school, the majority of individuals, however who take the bar each year are not from the University of New Mexico School of Law. On average, latest figures indicate roughly 85 individuals who took the bar were from the school while over 100 were not.

CS/mt