

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

ORIGINAL DATE 01/28/11

SPONSOR Saavedra LAST UPDATED 03/06/11 HB 188/aHAFC

SHORT TITLE Additional 8<sup>th</sup> District Judgeship SB \_\_\_\_\_

ANALYST Sanchez, C.

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>			+\$1.0	+\$1.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)  
 Corrections Department (NMDC)

### SUMMARY

#### Synopsis of HAFC Amendment

The House Appropriations and Finance Committee amendment to House Bill 188 strikes the original appropriation of \$423 thousand. Funding for the judgeship is included in the general appropriation act (HB 2). In the HAFC substitute for HB 2, HAFC moved \$70,000 from the AOC judges pro tempore fund and \$187,800 from the 8<sup>th</sup> judicial district court's contractual services budget to personal services and benefits. This \$257,800 will allow the Eighth District Court to fund this additional judgeship.

The original bill required 2 judges to maintain their principal office in Taos and one judge to maintain his or her principal office in Colfax or Union county. The HAFC amendment requires at least one judge in Taos and one judge in Colfax or Union County. Therefore, the third judge is not limited and can be from either Taos or Colfax or Union county.

Synopsis of Original Bill

House Bill 188 creates an additional judgeship in the Eighth Judicial District (Taos, Colfax, Union)

The additional district judgeship shall be filled by appointment by the governor pursuant to the provisions of Article 6 of the Constitution of New Mexico.

The bill also provides an appropriation of \$423,087 for salaries and benefits and furniture, supplies and equipment for the additional judge and support staff.

Unused funds remaining at the end of FY 12 shall revert to the general fund. The effective date of this bill is July 1, 2011.

**FISCAL IMPLICATIONS**

The original bill contained an appropriation of \$423 thousand for salaries and benefits and furniture, supplies and equipment for an additional judge and support staff.

Future changes to judicial salaries and retirement benefits and contributions could impact the estimated additional cost of this judgeship.

According to the Department of Corrections (NMCD), any time one new criminal judge position is created, that position requires two new probation and parole officers (2 FTEs) in order to properly supervise the number of offenders placed on probation/parole by that new judge. There is not an appropriation in this bill to the Corrections Department to cover what could be the need for two additional probation and parole officers. The annual cost for salaries, benefits and operational costs for two new probation and parole officers is approximately \$104,048.

The bill might generate a minimal amount of revenue for NMCD because offenders placed on probation or parole by the new judge would have to pay monthly probation or parole supervision fees. These fees are then placed into the Intensive Supervision Fund. However, the monthly fees are generally low (not less than \$25 per month and not more than \$150 per month), and are waived by the sentencing judge in many cases. Further, these supervision fees do not cover the per-client costs of NMCD to provide the supervision.

**SIGNIFICANT ISSUES**

The New Mexico Sentencing Commission with the assistance of the National Center for State Courts conducted a workload assessment study in 2007 for the judiciary, district attorneys, and public defenders. The Eighth Judicial District (Taos, Colfax, and Union counties) has two judges and needs an additional 2.62 judges. The district is presently operating with less than half of the judges needed to adjudicate the caseload that existed in FY 2010.

According to the AOC, without the addition of a new judge, the Eighth Judicial District is at risk to fail to meet its constitutional and statutory duties.

The Chief Judges Council reviewed all district, metropolitan, and magistrate judgeship requests statewide and considered both the need as determined by the workload assessment study applied

to FY 10 filings, as well as cost, additional narrative and testimonial information. Despite the need for more than 35 judges in courts statewide, the Judiciary is seeking to add only one judgeship for the Eighth Judicial District in FY 2012.

### **PERFORMANCE IMPLICATIONS**

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the Eighth Judicial District court in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

### **ADMINISTRATIVE IMPLICATIONS**

According to the AOC, judges at the Eight Judicial District are struggling to keep up with filings. An additional judgeship is desperately needed to help to fill the critical shortage of judgeships that exists in the Eighth Judicial District Court.

### **OTHER SUBSTANTIVE ISSUES**

According to the AOC, without the addition of a new judge, the Eighth Judicial District is at risk to fail to meet its constitutional and statutory duties.

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

Status Quo

CS/bym:svb