

Legislation 2015 Session

1. Judgeships in the Second and the Third District courts - Add one judge and staff to the Second Judicial District Court and one Judge and staff to the Third Judicial District Court at a cost of \$822,200.
2. Municipal court appeals to the Supreme Court - Section 35-15-11 currently directs that appeals from municipal court on the validity of ordinances first go to district court, and then directly to the Supreme Court. This system of appeals from municipal court predates the creation of the court of appeals, which is the intermediate appellate court in New Mexico. The amendment would direct that appeals from municipal court would still first go through district court, but then through the court of appeals. HB 42 introduced in 2013 session died on Senate floor.
3. Civil Judgments in Magistrate Courts - There are three time limitation statutes that refer to magistrate civil judgments. The first, 39-1-20, allows seven years from the date of a magistrate judgment to execute on it. This is a relatively short period of time to balance the interests of debtors and creditors. The second, 37-1-2, allows 14 years from the date of judgment to “revive” it. This is done with a separately filed “petition for revivor.” The third, 37-1-3, allows for a claim to be filed based on a magistrate judgment within six years.

Sections 39-1-20 and 37-1-2 are reconcilable. A magistrate judgment may be executed in seven years, and after seven years but before 14 years, the judgment can be revived by petition and executed again for seven years. Section 37-1-3, on the other hand, is the outlier because it provides for limitations of actions based on certain private written instruments, but a claim based on a magistrate judgment is thrown in as well. The problem is that it is possible to read 37-1-3 to suggest that a revivor petition must be filed in six years, which is clearly inconsistent with the 14 year time limit in 37-1-3. Legislation would thus amend 37-1-3 to delete all references to judgments from “courts not of record.”

4. Separate Jury Fund from (new) Language Access Fund – Create “Language Access Fund” with language broad enough to authorize funding for activities relating to language access (pay interpreters, provide training, operate the NMCLA on revenues, pay AOC language access staff, etc.) and fund those activities separately from the existing Jury and Witness Fund.

5. Statutory duties of the AOC director – authorize the AOC director to receive non-general fund monies, expenditure of which is subject to appropriation. This legislation allows the AOC director to receive public and private funds, as is already authorized for Secretaries in the executive departments, to carry out the programs, duties or services required of the AOC. Examples would be receiving funds from attendees at a training to cover the cost of the training, or receiving out-of-state payments to the NMCLA for on-line training programs developed by NMCLA.
6. Credit against fines and fees for time served in county jails – The current statute can be applied in ways that may cause concern, such as credit for 8 hours at \$7.25 per hour, whether the defendant is incarcerated for any minimum time or 23 hours that day. The proposal requires a 24 hour period of incarceration with a minimum, of 8 hours on the final period of incarceration to receive credit for that day.
7. Sliding fee scale for ADR program - Courts are responding to the increase of self-represented litigants by working to establish court-connected ADR programs. The various filing fees are insufficient to support expanding ADR services, and there is no authority to generally assess costs. This legislation would amend Section 34-6-45 to authorize the assessment of costs based on a sliding scale approved by the Supreme Court.
8. Magistrate Court compliance and probations activities – A memorial to explore Magistrate Courts employing compliance personnel and operating compliance programs.



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52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO COURTS; CREATING ADDITIONAL JUDGESHIPS IN THE SECOND AND THIRD JUDICIAL DISTRICTS; MAKING APPROPRIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 34-6-5 NMSA 1978 (being Laws 1968, Chapter 69, Section 8, as amended) is amended to read:

"34-6-5. JUDGES--SECOND JUDICIAL DISTRICT.--There shall be ~~[twenty-seven]~~ twenty-eight district judges in the second judicial district."

SECTION 2. Section 34-6-6 NMSA 1978 (being Laws 1968, Chapter 69, Section 9, as amended) is amended to read:

"34-6-6. JUDGES--THIRD JUDICIAL DISTRICT.--There shall be ~~[eight]~~ nine district judges in the third judicial district."

SECTION 3. TEMPORARY PROVISION--DISTRICT JUDGES-- APPOINTMENTS.--The additional district judgeships provided for .197780.1SA

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1 in this act shall be filled by appointment by the governor
2 pursuant to the provisions of Article 6 of the constitution of
3 New Mexico.

4 SECTION 4. APPROPRIATIONS.--

5 A. The following amounts are appropriated from the
6 general fund to the following agencies for expenditure in
7 fiscal year 2016 for the following purposes:

8 (1) three hundred eighty-five thousand seven
9 hundred dollars (\$385,700) to the second judicial district,
10 court for salaries and benefits and furniture, supplies and
11 equipment for one additional district judge and support staff;
12 and

13 (2) four hundred thirty-six thousand five
14 hundred dollars (\$436,500) to the third judicial district court
15 for salaries and benefits and furniture, supplies and equipment
16 for one additional district judge and support staff.

17 B. Any unexpended or unencumbered balance remaining
18 at the end of fiscal year 2016 shall revert to the general
19 fund.

20 SECTION 5. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2015.

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52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO COURTS; PROVIDING THAT A MUNICIPALITY MAY APPEAL TO THE COURT OF APPEALS FROM ANY DECISION OF THE DISTRICT COURT RELATING TO THE VIOLATION OF AN ORDINANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 35-15-11 NMSA 1978 (being Laws 1935, Chapter 28, Section 1, as amended) is amended to read:

"35-15-11. MUNICIPALITY MAY APPEAL.--[The] A municipality [shall have] has the right to appeal to the district court from the municipal court and to the [supreme] court of appeals from any decision of the district court in every case brought for the violation of an ordinance of [said] the municipality. The municipality shall be allowed an appeal from the municipal court to the district court only when the municipal court has held an ordinance or section [thereof] of an ordinance invalid

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1 or unconstitutional or that the complaint is not legally
2 sufficient."

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52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO MAGISTRATE COURT CIVIL JUDGMENTS; REMOVING THE REFERENCE TO COURTS NOT OF RECORD FROM THE STATUTE PROVIDING FOR LIMITATIONS ON ACTIONS BASED ON CERTAIN PRIVATE WRITTEN INSTRUMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 37-1-3 NMSA 1978 (being Laws 1880, Chapter 5, Section 3, as amended) is amended to read:

"37-1-3. NOTES--WRITTEN INSTRUMENTS--~~[JUDGMENTS OF COURTS NOT OF RECORD]~~ PERIOD OF LIMITATION--COMPUTATION OF PERIOD.--

A. ~~[Those]~~ Actions founded upon any bond, promissory note, bill of exchange or other contract in writing ~~[or upon any judgment of any court not of record]~~ shall be brought within six years.

If the payee of any bond, promissory note, bill of

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1 exchange or other contract in writing [~~or upon any judgment of~~
2 ~~any court not of record~~] enters into any contract or agreement
3 in writing to defer the payment thereof, or contracts or agrees
4 not to assert any claim against the payor or against the assets
5 of the payor until the happening of some contingency, the time
6 during the period from the execution of [such] the contract or
7 agreement and the happening of [such] the contingency shall not
8 be included in computing the six-year period of limitation
9 [above] provided in this subsection.

10 B. [~~These~~] Actions against any banking or financial
11 organization subject to the provisions of the Uniform
12 [~~Disposition of~~] Unclaimed Property Act (1995) founded upon a
13 bill of exchange shall be brought within ten years.

14 C. [~~These~~] Actions founded upon a traveler's check
15 shall be brought within fifteen years."

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52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO COURT ADMINISTRATION; CREATING THE LANGUAGE ACCESS
FUND TO PROVIDE FOR LANGUAGE ACCESS SERVICES IN THE COURTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of Chapter 34, Article 9 NMSA
1978 is enacted to read:

"[NEW MATERIAL] LANGUAGE ACCESS FUND--CREATED.--

A. There is created in the state treasury the
"language access fund" to be administered by the administrative
office of the courts.

B. All balances in the language access fund may be
expended only upon appropriation by the legislature to the
administrative office of the courts for the purpose of paying
the costs of:

- (1) court interpreters;

.197783.2SA

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1 (2) operating and staffing the New Mexico
2 center for language access to accomplish its mission to provide
3 and support programs that will help courts obtain, improve or
4 increase the availability of language access services;

5 (3) operating and staffing language access
6 services for the administrative office of the courts;

7 (4) training for the purpose of enhancing
8 language access services in the courts; and

9 (5) additional activities deemed necessary by
10 the director of the administrative office of the courts to meet
11 constitutional and statutory requirements for language access
12 services in court and for court-related activities.

13 C. All fees and other revenue collected by the New
14 Mexico Center for language access and interest earned on money
15 in the language access fund shall be credited to the fund.
16 Payments shall be made upon certification by judicial agencies
17 of eligible amounts. No part of the fund shall revert at the
18 end of any fiscal year.

19 D. Payments from the language access fund shall be
20 made upon vouchers issued and signed by the director of the
21 administrative office of the courts or the director's designee
22 upon warrants drawn by the secretary of finance and
23 administration."

24 SECTION 2. Section 34-9-11 NMSA 1978 (being Laws 1993,
25 Chapter 106, Section 1, as amended) is amended to read:

.197783.2SA

1 "34-9-11. JURY AND WITNESS FEE FUND CREATED--

2 ADMINISTRATION--DISTRIBUTION.--

3 A. There is created in the state treasury the "jury
4 and witness fee fund" to be administered by the administrative
5 office of the courts.

6 B. All balances in the jury and witness fee fund
7 may be expended only upon appropriation by the legislature to
8 the administrative office of the courts for the purpose of
9 paying the costs of:

10 (1) jurors and prospective jurors;

11 (2) witnesses of fact or character subpoenaed
12 by the court, the prosecution or the defense;

13 (3) expert witnesses for grand juries and
14 magistrate courts; and

15 [~~(4) court interpreters; and~~

16 ~~(5)] (4) defending persons whom the court has
17 ordered the public defender to represent, when those persons do
18 not meet the public defender's indigency standards.~~

19 C. All jury fees that the courts collect from
20 parties requesting civil juries, except for jury demand fees as
21 set forth in Section 35-6-1 NMSA 1978, and interest earned on
22 money in the jury and witness fee fund shall be credited to the
23 fund. Payments shall be made upon certification by judicial
24 agencies of eligible amounts. No part of the fund shall revert
25 at the end of any fiscal year.

.197783.2SA

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52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO THE ADMINISTRATIVE OFFICE OF THE COURTS; ALLOWING THE DIRECTOR TO RECEIVE FUNDS TO CARRY OUT THE DUTIES OF THE OFFICE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 34-9-3 NMSA 1978 (being Laws 1959, Chapter 162, Section 3, as amended) is amended to read:

"34-9-3. DIRECTOR--DUTIES.--The director of the administrative office of the courts shall, under the supervision and direction of the supreme court:

A. supervise all matters relating to administration of the courts;

B. examine fiscal matters and the state of the dockets of the courts, secure information as to the courts' need of assistance and prepare and transmit to the supreme

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1 court statistical data and reports as to the business of the
2 courts;

3 C. submit to the supreme court and to the
4 legislature by January 30 of each year a report of the
5 activities of the administrative office of the courts and of
6 the state of business of the courts, including the statistical
7 data submitted to the supreme court pursuant to Subsection B of
8 this section, and the director's recommendations. This report
9 is a public document;

10 D. deal with the problems of finance of those
11 courts supported by legislative appropriation and be concerned
12 with adequate but economical financing of each of these courts
13 and the equitable distribution of available funds among them.
14 For this purpose, the director shall receive, adjust and
15 approve proposed budgets submitted by these courts prior to
16 submission of the budgets to the state budget division of the
17 department of finance and administration for inclusion in the
18 executive budget. The district courts of all counties within a
19 judicial district shall be included within a single budget.
20 Budget proposals shall be submitted by the courts at the time
21 and in the form prescribed by the director;

22 E. perform other duties in aid of the
23 administration of justice and the administration and dispatch
24 of the business of the courts as directed by the supreme court.
25 The courts shall comply with all requests of the director for

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1 information; [and]

2 F. encourage that any behavioral health services,
3 including mental health and substance abuse services, funded,
4 provided, contracted for or approved by the office be in
5 compliance with the requirements of Section 9-7-6.4 NMSA 1978;
6 and

7 G. apply for and receive, in the name of the
8 administrative office of the courts, any public or private
9 funds, including United States government funds, available to
10 carry out its programs, duties or services."

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52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO JAILS; REQUIRING A MINIMUM OF EIGHT HOURS OF INCARCERATION IN ORDER FOR TIME SERVED TO BE CREDITED AGAINST FINES OR COSTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 33-3-11 NMSA 1978 (being Laws 1889, Chapter 9, Section 1, as amended) is amended to read:

"33-3-11. JAIL FOR NONPAYMENT OF FINE.--

A. Whenever any person is committed to jail for nonpayment of any fine or costs or both, [he] the person shall be credited with eight times the federal hourly minimum wage a day in reduction thereof for each day or portion of a day of incarceration; provided that incarceration must be a minimum of eight hours in a day in order to receive credit toward a fine or costs or both. When the person has remained incarcerated a

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1 sufficient length of time to extinguish the fine or cost or
2 both, computed at this rate, or has paid to the sentencing
3 court the amount of the fine or costs or both, remaining after
4 deducting credit allowed by this section and obtaining from the
5 court an order of release from commitment, the officer having
6 the prisoner in custody shall discharge ~~him~~ the prisoner from
7 custody under commitment.

8 B. If the person in custody makes an affidavit that
9 ~~he~~ the person has no property out of which ~~he~~ the person
10 can pay the fine and costs, either or any part, the prisoner
11 shall not be retained in custody longer than sixty days even
12 though the fine and costs or either exceeds the amount credited
13 toward repayment during those sixty days. The affidavit shall
14 be delivered to the sheriff or jail administrator as defined in
15 Section 4-44-19 NMSA 1978 having custody of the prisoner."

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BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO DISTRICT COURTS; ALLOWING DISTRICT COURTS TO
REQUIRE PARTIES TO PAY COSTS FOR AN ALTERNATIVE DISPUTE
RESOLUTION PROGRAM ON A SLIDING FEE SCALE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 34-6-45 NMSA 1978 (being Laws 1986,
Chapter 26, Section 2, as amended) is amended to read:

"34-6-45. DISTRICT COURTS--ALTERNATIVE DISPUTE
RESOLUTION--FEE.--In addition to fees collected pursuant to,
and subject to exceptions set forth in, Section 34-6-40 NMSA
1978 for docketing of civil cases, in any judicial district
that has established an alternative dispute resolution program
by judicial district court rule approved by the supreme court,
including but not limited to arbitration, mediation and
settlement facilitation programs, the district court clerk

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1 shall collect a fee of fifteen dollars (\$15.00) on all new and
2 reopened civil cases except domestic relations cases. The
3 district court may require the parties to pay costs for
4 services rendered by an alternative dispute resolution program
5 pursuant to a sliding fee scale approved by the supreme court.
6 The sliding fee scale shall be based on ability to pay for the
7 specific service rendered by the alternative dispute resolution
8 program. The [fee] fees shall be deposited for credit to the
9 district court alternative dispute resolution fund pursuant to
10 the provisions of Section 34-6-37 NMSA 1978."

