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## FISCAL IMPACT REPORT

SPONSOR: Leavell DATE TYPED: 1/25/01 HB \_\_\_\_\_  
 SHORT TITLE: Magistrate Judge Pro Tempore Compensation SB 46  
 ANALYST: Hayes

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
			\$ 25.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB90 and HB96

### SOURCES OF INFORMATION

Legislative Finance Committee (LFC) files  
 Administrative Office of the Courts (AOC)  
 HB90 and HB96

### SUMMARY

#### Synopsis of Bill

This bill would amend Section 35-2-6 NMSA 1978 to authorize compensation for magistrate judges pro tempore in an amount equal to the hourly salary paid to magistrate judges along with reimbursement of expenses in accordance with the Per Diem and Mileage Act that apply to nonsalaried public officers.

#### Significant Issues

According to AOC, there has been extensive use of retired magistrate judges as judges pro tempore since 1998. (“Pro tempore” means “for the time being;” in other words, as a temporary or a substitute.) Approximately twelve judges qualified as magistrates pro tem in 1999 and serve without compensation. However, several of them have informed the AOC that they would not continue to serve in their pro tempore capacity without some sort of compensation.

### **FISCAL IMPLICATIONS**

The Magistrate Court Program will not have sufficient funding in its FY02 budget, at current recommendation levels, to pay compensation to the magistrate judges pro tempore. If this bill is enacted, the Magistrate Court Program will need an additional estimated \$20.0 to pay such compensation.

Cost estimates are based on the average number of days per year a magistrate judge pro tempore is utilized (100 days) times 8 hours, assuming an eight-hour day, multiplied by the average hourly rate for salaried magistrate judges (\$25.00 per hour). The estimated impact is \$5.0.

### **ADMINISTRATIVE IMPLICATIONS**

A personnel classification review will need to be completed for the magistrate judge pro tempore position if those judges will be receiving compensation from the state. The review should determine if the position will be classified as an "exempt" or a "temporary" position, if any benefits will be associated with the classification or if the judges will be considered contractors. Moreover, whether employee or contractor, the AOC will need to develop a methodology for timekeeping in order to compensate the judges pro tempore at the appropriate amount.

### **RELATIONSHIP**

This bill relates to HB90 and HB96. Mileage (\$.25) and per diem reimbursement (\$65.00) are paid to the magistrate judges pro tempore from contractual services in the Magistrate Court Program of AOC at the current, state rates. If the Per Diem and Mileage Act is amended as proposed in HB90 and HB96, reimbursement costs will increase by approximately \$5.0.

### **POSSIBLE QUESTIONS**

1. If the Per Diem and Mileage Act were amended to increase reimbursements rates, would that alone the judges pro tempore?
2. If compensation is not provided to the magistrate pro tempore judges, would the current judges still function as judges pro tempore? If not, what would be the implication?

CH/njw