



New Mexico **J**udiciary

Judicial Compensation Commission

2009 Report to the
Legislative Finance Committee
and the
Department of Finance and Administration

September 1, 2009

Introduction

In 2004, the Legislature enacted Senate Bill 263 creating the Judicial Compensation Commission, an independent six-member Commission charged with recommending to the Legislative Finance Committee and the Department of Finance and Administration a compensation and benefits plan for New Mexico judges.

The Commission is comprised of:

Kevin Washburn, Dean of the University of New Mexico School of Law, statutorily designated as the chair of the Commission;

Jackie Baca, President, Bueno Foods, appointed by the Governor of New Mexico;

Tom Brown, Tom Brown Consulting, appointed by the President Pro Tempore of the New Mexico Senate;

Sam Sanchez, Eighth Judicial District Judge, appointed by the Speaker of the New Mexico House of Representatives;

Henry A. Alaniz, President of the New Mexico State Bar

William F. Fulginiti, Executive Director of the New Mexico Municipal League, appointed by the Chief Justice of the New Mexico Supreme Court.

Since its inception, the Commission has repeatedly found that judicial salaries in New Mexico are among the very lowest in the region. Based on national data, they are also among the lowest in the United States. To continue to attract high quality judges to the bench in New Mexico and to encourage them to remain on the bench, these disparities must be addressed. The Commission has consistently recommended that judicial salaries in New Mexico be increased so that New Mexico judges earn the average salary of their peers in the region.

On Monday, June 29, 2009, the Commission met to meet its responsibility under Senate Bill 263, all members being present. After careful consideration, the members of the Commission unanimously adopted the recommendations set forth in this report. This year, the Commission has adopted a more modest approach that will provide little immediate benefit to underpaid New Mexico judges, but will attempt to guide the Legislature, over the long term, to gradually reduce pay disparities for New Mexico judges.

Update on 2009 Legislative Session

In its third annual report in July 2008, the Judicial Compensation Commission made the following recommendations on judicial compensation for FY10:

Adopting the average of the nine-state region, excluding New Mexico, as a formula for determining the salary of a Supreme Court justice, the Commission recommended as a one-time corrective measure raising the pay of a Supreme Court Justice to \$137,558.00 for FY10, to meet the average of the 9-state region, excluding New Mexico. *The House Appropriations and Finance Committee (HAFC) rejected the recommendation. The Judiciary received no salary increases for FY 2010.*

2009 Salary Computation

In 2009, the Judicial Compensation Commission reviewed judge salary data for the nine-state region being used by the HAY Group to compare New Mexico state employee salaries for the Executive Branch. The Commission determined to use this group as the comparison market upon which to base its judicial salary recommendations for FY2011. It was decided by the Commission that salaries to be in effect on January 1 of the next legislative session will be used each year when the Commission meets. The Current HAY data, excluding New Mexico, results in an average salary for a Supreme Court Justice to be \$144,758.

HAY Comparison States			
	Supreme Court Justice Salary as of 1/1/2010	Salary as of 1/1/2009	% Increase FY09 to FY10
Texas	\$150,000	\$150,000	0%
Utah	\$143,350	\$143,350	0%
Arizona	\$155,000	\$142,300	+8.9%
Nevada	\$170,000	\$140,000	+21.42%
Kansas	\$135,905	\$135,905	0%
Oklahoma	\$137,655	\$131,100	+5%
Colorado	\$139,660	\$129,207	+8%
Wyoming	\$126,500	\$126,500	0%
New Mexico	\$123,691	\$123,691	0%
Average of States Excluding NM	\$144,758	\$137,558	+5.415%

Recommendation for FY 2011

Consistent with a policy adopted several years ago, the Commission employs the average of the nine-state region, excluding New Mexico, as a formula for determining the recommended salary of a Supreme Court Justice. As can be seen below, almost all of the HAY comparison states have experienced significant increases in those salaries over the years. The Commission has steadfastly recommended to the Legislature and the Governor a salary increase consistent with salaries in those states; however, such an increase has not been forthcoming. While the Commission feels an increase in the salary of a Supreme Court Justice to \$144,758 is appropriate, in light of the current economic situation, the Commission recommends that the increase be implemented over a five-year period, set out in detail in the charts on the following pages. The Commission also recommends that it be coupled with an increase in both the judges' and the state's contributions to the JRA and MRA retirement funds, the details of which are included in the charts on the following pages.

HAY AVERAGE JUSTICE SALARY FY03 – FY10*			
Fiscal Year	Salary	Percentage Increase	Dollar Increase
FY03	\$116,498		
FY04	\$116,712	.18%	\$ 214
FY05	\$118,871	1.8%	\$2,159
FY06	\$125,564	5.6%	\$6,693
FY07	\$131,394	4.6%	\$5,830
FY08	\$134,894	2.4%	\$3,200
FY09	\$137,558	1.97%	\$2,665
FY10	\$144,758	5.23%	\$7,200

*Average of the eight HAY comparison states (excluding New Mexico).

Recommendation: Gradually Increase Judicial Salaries by Modestly Increasing Increments Over a 5-year Period

The Commission recommends implementation of a five-year plan for increasing the salary of New Mexico judges in modest incremental steps for fiscal years FY11, FY12, FY13, FY14 and FY15. The Commission proposes increases as follows: 2% salary increase in the first year, 3% in the second year, 4% in the third year, 5% in the fourth year, and 6% in the fifth year. Although the current Legislature cannot commit a future Legislature to future salary increases, the Commission urges the Legislature to agree in principle to this long term approach that, over time, will help us achieve the important goal of fair salaries for our judges.

The charts on the following page set out in detail the financial implications of such a plan. The Legislature would take the first step in executing this plan by approving a 2% increase in January 2010, to be effective July 1, 2010. This amounts to an increase of just \$2,474.00 for a Supreme Court Justice and a total recurring cost of just \$488,292.00. If the plan is implemented fully, over the course of the next five years, a Supreme Court Justice's salary would eventually reach \$144,758 and lower court judges would also see gradual increases, resulting salaries that are more fair.

The PERA of New Mexico recently published an Experience Study of both the MRA and the JRA for the periods July 1, 2002 through June 30, 2007. In both studies, the actuaries recommend that reliance on docket fees as a source of funding for these retirement funds be eliminated. This is consistent with similar recommendations made in the past twenty years to eliminate docket fees as a source of pension funding. Docket fees currently account for close to half the revenue to these retirement funds. If employee and employer contributions are increased along with the salary recommended by the Commission, experience with the increased contributions to these accounts should demonstrate an improving funding status for both retirement funds. When such data is available, reliance on docket and court fees as a source of funding for the retirement accounts should be reduced until it can be eliminated.

The Commission remains concerned about the status of judicial retirement funding and its impact on the real value of judicial salaries. If the Commission's salary recommendation is adopted, the Commission recommends that the judges' contributions to JRA and MRA be increased 1/2% and the State's contribution to JRA and MRA be increased 1% each year for fiscal years FY11, FY12, FY13, FY14 and FY15.

FIVE-YEAR PLAN TO MOVE NEW MEXICO JUDGE SALARIES TO THE AVERAGE OF THE HAY GROUP COMPARISON STATES

Recommendation: FY 2013 Inc. Justice Salary by 4%

	No.	Current Rate	New Rate	Diff	Benefits	Total	Percent Increase
Chief Justice	1	\$ 128,165	\$ 133,211	\$ 5,047	\$ 1,093	\$ 6,139	3.9%
Justice	4	\$ 126,165	\$ 131,211	\$ 5,047	\$ 1,093	\$ 24,557	4.0%
Chief Judge COA	1	\$ 121,757	\$ 126,551	\$ 4,794	\$ 1,038	\$ 5,832	3.9%
COA Judge	9	\$ 119,857	\$ 124,651	\$ 4,794	\$ 1,038	\$ 52,490	4.0%
Chief District Judge	13	\$ 115,669	\$ 120,223	\$ 4,555	\$ 986	\$ 72,028	3.9%
District Judge	75	\$ 113,864	\$ 118,418	\$ 4,555	\$ 986	\$ 415,546	4.0%
Chief Metro Judge	1	\$ 109,885	\$ 114,212	\$ 4,327	\$ 937	\$ 5,264	3.9%
Metro Judge	18	\$ 108,171	\$ 112,497	\$ 4,327	\$ 937	\$ 94,744	4.0%
Presiding Magistrate	2	\$ 82,414	\$ 85,659	\$ 3,245	\$ 670	\$ 7,830	3.9%
Magistrate Judge	64	\$ 81,128	\$ 84,373	\$ 3,245	\$ 670	\$ 250,575	4.0%
Hear Off/ Spec							
Comm	11.5	\$ 91,091	\$ 94,735	\$ 3,644	\$ 956	\$ 52,897	4.0%
Totals	199.5					\$ 987,902	

Recommendation: FY 2014 Inc. Justice Salary by 5%

	No.	Current Rate	New Rate	Diff	Benefits	Total	Percent Increase
Chief Justice	1	\$ 133,211	\$ 139,772	\$ 6,561	\$ 1,420	\$ 7,981	4.9%
Justice	4	\$ 131,211	\$ 137,772	\$ 6,561	\$ 1,420	\$ 31,924	5.0%
Chief Judge COA	1	\$ 126,551	\$ 132,783	\$ 6,233	\$ 1,349	\$ 7,582	4.9%
COA Judge	9	\$ 124,651	\$ 130,883	\$ 6,233	\$ 1,349	\$ 68,237	5.0%
Chief District Judge	13	\$ 120,223	\$ 126,144	\$ 5,921	\$ 1,282	\$ 93,636	4.9%
District Judge	75	\$ 118,418	\$ 124,339	\$ 5,921	\$ 1,282	\$ 540,209	5.0%
Chief Metro Judge	1	\$ 114,212	\$ 119,837	\$ 5,625	\$ 1,218	\$ 6,843	4.9%
Metro Judge	18	\$ 112,497	\$ 118,122	\$ 5,625	\$ 1,218	\$ 123,168	5.0%
Presiding Magistrate	2	\$ 85,659	\$ 89,878	\$ 4,219	\$ 871	\$ 10,180	4.9%
Magistrate Judge	64	\$ 84,373	\$ 88,592	\$ 4,219	\$ 871	\$ 325,747	5.0%
Hear Off/ Spec							
Comm	11.5	\$ 94,735	\$ 99,471	\$ 4,737	\$ 1,243	\$ 68,766	5.0%
Totals	199.5					\$ 1,284,273	

Recommendation: FY 2015 Inc. Justice Salary by 6%

	No.	Current Rate	New Rate	Diff	Benefits	Total	Percent Increase
Chief Justice	1	\$ 139,772	\$ 148,038	\$ 8,266	\$ 1,790	\$ 10,056	5.9%
Justice	4	\$ 137,772	\$ 146,038	\$ 8,266	\$ 1,790	\$ 40,224	6.0%
Chief Judge COA	1	\$ 132,783	\$ 140,636	\$ 7,853	\$ 1,700	\$ 9,553	5.9%
COA Judge	9	\$ 130,883	\$ 138,736	\$ 7,853	\$ 1,700	\$ 85,979	6.0%
Chief District Judge	13	\$ 126,144	\$ 133,605	\$ 7,460	\$ 1,615	\$ 117,982	5.9%
District Judge	75	\$ 124,339	\$ 131,800	\$ 7,460	\$ 1,615	\$ 680,664	6.0%
Chief Metro Judge	1	\$ 119,837	\$ 126,924	\$ 7,087	\$ 1,534	\$ 8,622	5.9%
Metro Judge	18	\$ 118,122	\$ 125,210	\$ 7,087	\$ 1,534	\$ 155,191	6.0%
Presiding Magistrate	2	\$ 89,878	\$ 95,193	\$ 5,316	\$ 1,098	\$ 12,826	5.9%
Magistrate Judge	64	\$ 88,592	\$ 93,907	\$ 5,316	\$ 1,098	\$ 410,442	6.0%
Hear Off/ Spec							
Comm	11.5	\$ 99,471	\$ 105,440	\$ 5,968	\$ 1,566	\$ 86,645	6.0%
Totals	199.5					\$ 1,618,184	

Recommendation: FY 2011 Inc. Justice Salary by 2%

	No.	Current Rate	New Rate	Diff	Benefits	Total	Percent Increase
Chief Justice	1	\$ 125,691	\$ 128,165	\$ 2,474	\$ 564	\$ 3,038	2.0%
Justice	4	\$ 123,691	\$ 126,165	\$ 2,474	\$ 564	\$ 12,153	2.0%
Chief Judge COA	1	\$ 119,406	\$ 121,757	\$ 2,350	\$ 536	\$ 2,886	2.0%
COA Judge	9	\$ 117,506	\$ 119,857	\$ 2,350	\$ 536	\$ 25,977	2.0%
Chief District Judge	13	\$ 113,436	\$ 115,669	\$ 2,233	\$ 509	\$ 35,646	2.0%
District Judge	75	\$ 111,631	\$ 113,864	\$ 2,233	\$ 509	\$ 205,651	2.0%
Chief Metro Judge	1	\$ 107,764	\$ 109,885	\$ 2,121	\$ 484	\$ 2,605	2.0%
Metro Judge	18	\$ 106,050	\$ 108,171	\$ 2,121	\$ 484	\$ 46,889	2.0%
Presiding Magistrate	2	\$ 80,823	\$ 82,414	\$ 1,591	\$ 347	\$ 3,876	2.0%
Magistrate Judge	64	\$ 79,537	\$ 81,128	\$ 1,591	\$ 347	\$ 124,018	2.0%
Hear Off/ Spec							
Comm	11.5	\$ 89,305	\$ 91,091	\$ 1,786	\$ 436	\$ 25,553	2.0%
Totals	199.5					\$ 488,292	

Recommendation: FY 2012 Inc. Justice Salary by 3%

	No.	Current Rate	New Rate	Diff	Benefits	Total	Percent Increase
Chief Justice	1	\$ 128,165	\$ 131,950	\$ 3,785	\$ 813	\$ 4,598	3.0%
Justice	4	\$ 126,165	\$ 129,950	\$ 3,785	\$ 813	\$ 18,392	3.0%
Chief Judge COA	1	\$ 121,757	\$ 125,352	\$ 3,596	\$ 772	\$ 4,368	3.0%
COA Judge	9	\$ 119,857	\$ 123,452	\$ 3,596	\$ 772	\$ 39,314	3.0%
Chief District Judge	13	\$ 115,669	\$ 119,085	\$ 3,416	\$ 734	\$ 53,947	3.0%
District Judge	75	\$ 113,864	\$ 117,280	\$ 3,416	\$ 734	\$ 311,234	3.0%
Chief Metro Judge	1	\$ 109,885	\$ 113,130	\$ 3,245	\$ 697	\$ 3,942	3.0%
Metro Judge	18	\$ 108,171	\$ 111,416	\$ 3,245	\$ 697	\$ 70,961	3.0%
Presiding Magistrate	2	\$ 82,414	\$ 84,848	\$ 2,434	\$ 499	\$ 5,865	3.0%
Magistrate Judge	64	\$ 81,128	\$ 83,562	\$ 2,434	\$ 499	\$ 187,673	3.0%
Hear Off/ Spec							
Comm	11.5	\$ 91,091	\$ 93,824	\$ 2,733	\$ 713	\$ 39,621	3.0%
Totals	199.5					\$ 739,915	

Judicial Retirement Account

Judges contribute to the Judicial Retirement Account (JRA) at a rate of 9.0%, with a contribution from the State of New Mexico at 10.5%.

Magistrates contribute to the Magistrate Retirement Account (MRA) at a rate of 9.0%, with a contribution from the State of New Mexico of 9.5%.

Normal Retirement Eligibility Requirements for JRA and MRA

JRA age and service credit eligibility requirements for an individual who initially became a member **prior to** July 1, 2005:

- Age 60 or older with 15 or more years of service credit; [5% per year = 75% at 15 years]; or
- Age 64 or older with 5 or more years of service credit.

JRA age and service credit eligibility requirements for an individual who initially became a member **on or after** July 1, 2005:

- Age 55 or older with 20 or more years of service credit [3.75% per year = 75% at 20 years]; or
- Age 64 or older with 5 or more years of service credit.

JRA was funded at 78.26% based on the June 30, 2008 Valuation

MRA age and service credit eligibility requirements:

- Any age and 24 or more years of service credit [3.125% per year = 75% at 24 years]; or
- Age 60 or older with 15 or more years of service credit; or
- Age 64 or older with 5 or more years of service credit.

MRA was funded at 93.16% based on the June 30, 2008 Valuation.



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