



New Mexico **J**udiciary

Judicial Compensation Commission

2013 Report to the
Legislative Finance Committee
and the
Department of Finance and Administration

August 2013

Cover: A few of New Mexico's older county courthouses

Top, left to right:

One of the WPA projects of the 1930's, the Art Deco-style Roosevelt County Courthouse in Portales was built in 1939 with the designs of William M. Bickel.

The Luna County Courthouse in Deming was built in 1910 and was designed by W. E. Corwin.

Built in 1909, the Union County Courthouse in Clayton is New Mexico's oldest county courthouse in continuous use. It was designed by the architectural firm of D. P. Kaufman & Son.

Middle, left to right:

The Grant County Courthouse in Silver City was erected in 1930 with the designs of architect George Williamson.

The Chaves County Beaux-Arts-style courthouse in Roswell was completed in 1912, the year New Mexico became a state.

The Mission-style Eddy County courthouse in Carlsbad was erected in 1891 and its appearance was altered to its current style in 1939.

Bottom, left to right:

The Hidalgo County Courthouse in Lordsburg was built in 1926-1927 with Classical Revival elements. The firm of Thorman and Frazer designed it.

The Guadalupe County Courthouse in Santa Rosa was built in 1909 with Romanesque Revival elements. In 1946 an addition was added to the building's left.

The 1917 Rio Arriba County Courthouse in Tierra Amarilla hosted a shoot-out in the 1970's that resulted over a land rights quarrel.

Members of the New Mexico Judicial Compensation Commission

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 currently comprised of:

David Herring, Dean of the University of New Mexico School of Law, statutorily designated as the chair of the Commission;

Carlo Lucero, Owner and President, Sparkle Maintenance, Inc., appointed by the Governor of New Mexico;

Debra Seligman, appointed by the President Pro Tempore of the New Mexico Senate;

Juanita Sena-Shannon, appointed by the Speaker of the New Mexico House of Representatives;

Andrew Cloutier, 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.

Introduction

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. The comparisons suffer further when the cost of living is considered because costs in New Mexico are slightly higher than the national average, while judges with comparable salaries are generally found in states with a lower cost of living. To attract high quality judges to the bench in New Mexico and to encourage them to remain on the bench, the Commission has consistently asked that these disparities be addressed.

The New Mexico Judicial Compensation Commission must “report to the legislative finance committee and the department of finance and administration its findings and recommendations on salaries for judges and justices” on or before December 1 annually. NMSA 1978 § 34-1-10 (G). Judicial compensation in New Mexico is set through a statutory formula based on the salary the legislature sets for Justices of the Supreme Court. NMSA 1978 § 34-1-9.

The Chief Justice salary is set \$2,000 higher than the salary of a Justice. Each judge of the Court of Appeals earns a salary equal to 95% of the salary of a Supreme Court Justice. Each District Court Judge earns a salary equal to 95% of the salary of a judge of the Court of Appeals. Each Metropolitan Court Judge earns a salary equal to 95% of the salary of a Judge of the District Court. Each Magistrate earns a salary that is 75% of the salary of a Metropolitan Court judge. Salaries for Chief Judges are set according to the same general formula, based on the Chief Justice’s salary.

On Tuesday, July 2, 2013, the Commission met to execute its statutory responsibility. Ms. Seligman was out of the country but all other members were present. After careful consideration, the members of the Commission unanimously adopted the recommendations set forth in this report.

Update on 2013 Legislative Session

In its fifth annual report on October 1, 2012, the Judicial Compensation Commission made the following recommendations on judicial compensation for the 2013 legislative session:

- Provide an average 5% salary increase in 2013 and another 5% in 2014, with the two-year result bringing the salary of a New Mexico Supreme Court Justice to approximately that of a justice in Oklahoma (\$137,655). The statutory salary formula that sets the salary of judges in each successive court level at 95% of the previous court would act to also raise the salaries of all other judges.
- Give judges who have been on the bench at least five years by July 1, 2013, a longevity increase of 5% more than the base statutory salary. Those with 10 years would receive 10%, those with 15 years would receive 15% and those with 20 or more years would receive 20%. Under this proposal no judge would receive more than a 20% increase and there would be no compounding. The details of this recommendation were included.
- Eliminate reliance on docket fees as a source of funding for judicial retirement.

During the 2013 legislative session, Senator Mary Kay Papen introduced SB 384, to raise salaries an average of 5%, at a total recurring cost of \$1,038,470. The statutory formula would begin with setting the Justice salary at \$130,143. SB 384 passed the Senate Judiciary Committee but did not get a hearing in the Senate Finance Committee.

Senator Papen also introduced SB 391, to accomplish the Commission's longevity pay recommendations, at a recurring cost of \$733,200. SB 391 passed the Senate Judiciary Committee but did not get a hearing in the Senate Finance Committee.

Senator George Muñoz introduced SB 25, a bill to comprehensively reform the funding of judicial pensions that included as one element the elimination of docket fees as a source of retirement funding. Representative Jim Trujillo introduced similar legislation in HB 95. SB 25 passed the House and Senate unanimously but Governor Martinez vetoed the legislation.

2014 Salary Recommendation

The Commission reiterates the salary recommendation made last year. **The salary of a New Mexico Supreme Court Justice should be \$137,655.** This salary would approximate the salary of a Justice in Oklahoma.¹ This requires an increase with a recurring cost of \$2,336,382.² The Commission further recommends that, until judicial salaries are reasonably increased as recommended in this report, the action on retention pay recommended in the 2012 report be deferred.

To make a salary recommendation for the 2014 legislature, the Commission examined local, regional, and national data. As of January 1, 2013, New Mexico ranks last, 51st out of 51 jurisdictions, in the pay for general jurisdiction trial judges. New Mexico is next to last in pay for Court of Appeals Judges and ranks last in pay for Supreme Court Justices among the nine states in the mountain west region.

Judicial compensation in New Mexico is not just at the bottom by comparison with other states, it also falls well behind the pay of employees in state and local government in New Mexico. Although a Justice of the Supreme Court must win statewide election to an office that not only directs the Judicial Branch of government but also decides the most critical legal issues facing the people of New Mexico, very many state and local employees are paid more than a Justice of the Supreme Court. Administrators in the other branches of government and in counties and cities in New Mexico receive higher compensation than a Justice of the Supreme Court.

For example, the Bernalillo County Attorney in Albuquerque is paid \$23,000 per year more than the Chief Justice of the New Mexico Supreme Court, while the NMSU General Counsel is paid more than \$52,000 above the salary of the Chief Justice. Even the Assistant City Manager in Las Cruces is better compensated than the Chief Justice. The comparison only worsens for appellate and trial judges. It is past time to implement the recommendation of the Commission to very modestly increase judicial compensation in New Mexico.

1. Oklahoma is a western state with a large metropolitan area (Oklahoma City), significant Native American populations and reservations, and large tracts of rural land. New Mexico has Albuquerque, many pueblos and reservations, and large tracts of rural area. While the median household income in the United States is \$52,762, in Oklahoma it is \$44,287 and in New Mexico it is slightly higher at \$44,631.

2. The recurring costs reflect published salaries as of 2013. A slight adjustment may be made in any legislation proposed in 2014 because New Mexico judges received a 1% pay increase on July 1, 2013, and Oklahoma judges may or may not receive an increase before the New Mexico Legislature convenes in January 2014.

National Salary Comparison³

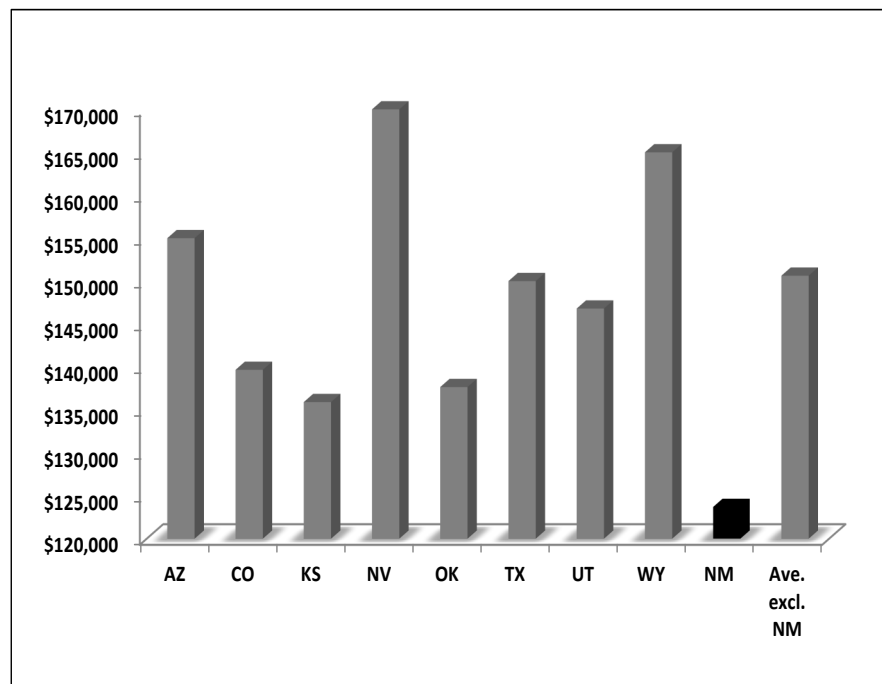
- New Mexico Supreme Court Justice salary ranks 46 out of 51.
- New Mexico Intermediate Appellate Court (Court of Appeals) Judge salary ranks 38 out of 39 (not all states have an Intermediate Appellate Court).
- New Mexico general-jurisdiction trial court judge salary ranks 51 out of 51.
- The state that consistently ranks lower than New Mexico, Mississippi, has a cost of living that is 94.79% of the national average, while the New Mexico cost of living is 102.39% of the national average.
- The mean national salary of a Supreme Court Justice is \$154,695 and the median is \$150,000; the New Mexico salary is \$123,691 as of January 1, 2013. The Justice salary increased to \$124,927 on July 1, 2013 with the Chief Justice salary increasing to \$126,927.
- Oklahoma, where the Justice salary is at the target rate of \$137,655 per year, has a median family income that is lower than the median family income in New Mexico.

Regional Salary Comparison

The Commission has consistently examined judicial salaries in New Mexico relative to those in the eight western region states of Arizona, Colorado, Kansas, Nevada, Oklahoma, Texas, Utah, and Wyoming. As has been true for a long time, New Mexico judicial salaries rank last among all nine states. Excluding New Mexico, the average salary for a Supreme Court Justice in these eight mountain west states is \$150,627. The average in the five states that geographically touch New Mexico (AZ, CO, OK, TX, UT) is \$145,823.

Supreme Court Justice salaries as of 1/1/2013 in western comparison states:

Arizona	\$155,000
Colorado	\$139,660
Kansas	\$135,905
Nevada	\$170,000
Oklahoma	\$137,655
Texas	\$150,000
Utah	\$146,800
Wyoming	\$165,000
New Mexico	\$123,691
Ave. excl. NM	\$150,627



3. Data is from the *Survey of Judicial Salaries* published in July the National Center for State Courts based on salaries effective January 1 of each year. The *Survey* is at: <http://www.ncsc.org/judicialsalaries>.

State and Local Salary Comparison⁴

The pay of a New Mexico Supreme Court Justice, the highest ranking position in the Judicial Branch, elected by a statewide electorate, also suffers by comparison with state and local government employees as well as university employees.

New Mexico Supreme Court Chief Justice: 7/1/2013	\$126,927
New Mexico Supreme Court Justice: 7/1/2013	\$124,927

Executive and Legislative Employees

Miners Colfax Medical Center, 12 Physicians	\$325,000 to \$130,000
State Investment Council, Senior Investment Officer	\$252,500
State Investment Council, Dep. Director of Investments	\$227,508
Department of Health, 24 Positions	\$199,576 to \$130,000
Educational Retirement Board, Chief Investment Officer	\$193,414
Military Affairs, Adjutant General	\$190,985
CYFD, A/O I Psychiatrist	\$184,624
Miners Colfax Medical Center, GEN II Hosp. Admin.	\$164,320
Miners Colfax Medical Center, Hosp. Admin.	\$159,999
Miners Colfax Medical Center, Pharmacist	\$151,499
Legislative Finance Committee, Director	\$148,497
Educational Retirement Board, Exec. Director	\$144,938
PERA, Executive Director	\$143,892
Medical Examiners Board, A/O II Physician	\$131,005
SpacePort Authority, Executive Director	\$126,250
State Engineer	\$126,250
Public Education Dept., DFA, Higher Ed. Dept. & Tourism Dept., Cabinet Secretaries	\$126,250
Legislative Council Service, Director	\$126,249

University of New Mexico

Dean, VP Health Sciences Office	\$518,604
Athletics, Football Coach-4	\$363,600
President	\$355,000
Exec. Vice Dean, School of Medicine	\$330,000
Vice President for Athletics	\$311,475
Professors (31)	\$303,663 to \$128,422
Athletics, Men's Basketball Coach-4	\$300,000
Executive Vice President	\$299,370
Vice President for Translation	\$288,895
Provost/Exec VP for Academic Affairs	\$278,100

4. Data is from salaries reported on the New Mexico and UNM sunshine portals, various local and state agency websites, budget reports, and on the *New Mexico Watchdog* website. Salaries were confirmed by telephone and email as well as by cross-checking agency websites. This roster is not a comprehensive list and salaries are subject to change.

Athletics, Women's Basketball Coach-4	\$266,640
University Counsel	\$240,000
Vice Chancellor for Diversity	\$234,775
Athletics, Football Coach-3	\$220,000
Vice Chancellor	\$219,838
Director, School of Public Administration	\$215,806
Vice Provost	\$215,000
Vice President for Student Affairs	\$194,756
Chief Information Officer	\$191,900
Vice President for Equity and Inclusion	\$190,550
Chief Compliance Officer	\$186,850
Assoc. Director, Athletics/Administration	\$176,905
Assoc. VP, Plng, Bdgt & Analysis	\$169,534
Chief of Staff, Office of President	\$165,674
Athletics, Football Coach-2	\$165,000
Chief Procurement Officer	\$152,308
Athletics, Men's Baseball Coach-4	\$146,900
Chief Financial Services Officer	\$145,874
Assoc. VP, Research Administration	\$145,140
Assoc. VP, Student Life	\$134,893
Asst. VP for Student Services	\$132,274
Senior Associate University Counsel	\$131,299
Chief HR Operations Officer	\$130,029

UNM School of Law

Dean	\$230,000
Highest paid Law School Professor	\$192,273
Associate Dean for Finance and Admin	\$168,642
Associate Dean for Academic Affairs	\$164,414
Associate Dean for Clinical Affairs	\$160,637
Highest paid Law School Associate Professor	\$127,633

New Mexico State University

Head Football Coach	\$366,630
President	\$363,600
Head Basketball Coach	\$288,971
Executive Vice President & Provost	\$247,450
Athletics, Director	\$241,519
Vice President, University Advancement	\$237,062
Senior Vice President, Admin & Finance	\$226,755
Dean, Business & VP for Economic Development	\$215,823
Vice President, Research	\$203,453
Physical Science Laboratory, Director	\$202,000

Dean, Engineering	\$186,479
Dean, Arts & Sciences	\$185,532
Senior VP, External Relations/Chief of Staff	\$183,434
General Counsel	\$179,332
Dean, Education	\$178,063
Dean, Agricultural, Consumer and Env. Studies	\$166,567
Vice President, Student Affairs & Enrollment	\$157,621
Cooperative Extension Service, Director	\$147,131
Agricultural Experiment Station, Director	\$144,228
Department of Agriculture, Director	\$128,725

New Mexico Institute of Mining and Technology

President	\$325,000
Vice President, Administration & Finance	\$199,160
Vice President, Academic Affairs	\$188,909
Vice President, Research	\$186,924
Director, Petroleum Recovery Research Ctr.	\$163,111
Vice President, Student & University Relations	\$161,262
Associate Vice President for Budget	\$135,559

Local Public Officials

Albuquerque Public Schools, Superintendent	\$256,000
Santa Fe Public Schools, Superintendent	\$171,000
Las Cruces Public Schools, Superintendent	\$168,759
Albuquerque Public Schools, Chief Financial Officer	\$165,000
City of Las Cruces, City Manager	\$166,260
County of Los Alamos, County Administrator	\$169,671
County of Los Alamos, Utilities Manager	\$164,920
Bernalillo County, County Manager	\$158,000
County of Santa Fe, County Manager	\$156,550
Rio Rancho Public Schools, Superintendent	\$151,880
City of Rio Rancho, City Manager	\$150,010
Bernalillo County, County Attorney	\$150,000
County of Los Alamos, Chief Financial Officer	\$149,277
City of Albuquerque, Director of Municipal Dev.	\$144,773
City of Albuquerque, Chief Administrative Officer	\$143,355
County of Los Alamos, Comm. & Econ. Dev. Dir.	\$142,551
County of Los Alamos, Police Chief	\$142,169
San Juan County, Chief Exec. Officer	\$146,142
County of Los Alamos, County Attorney	\$138,720
City of Albuquerque, Chief of Police	\$138,063
City of Farmington, City Manager	\$138,008
Albuquerque Public Schools, Chief Operations Officer	\$136,680
County of Los Alamos, Fire Chief	\$131,750
City of Santa Fe, City Manager	\$130,568
City of Las Cruces, Assistant City Manger	\$127,000

2014 Recommendation to Reform Judicial Retirement Funding

In addition to salary, the Commission examined retirement benefits, including employer and employee contributions, for judges in the eight mountain west states. In FY 2013 New Mexico judges paid a higher percentage of salary in contributions to judicial retirement than every state except Wyoming. By contrast, the State of New Mexico makes contributions to judicial retirement at the lowest rate of any of the states (note that Oklahoma is required by statute to increase the employer contribution to 22% by 2019). In addition, New Mexico's maximum benefit of 75% of salary at retirement exceeds only Kansas, where the maximum is 70%, although the annual salary of judges in Kansas is 9.87% higher than in New Mexico.

Four states provide a maximum retirement benefit of 100% of salary and another state provides a maximum benefit of 90% of salary. By any measure, not only is the compensation for New Mexico judges significantly lower than the comparison mountain states, the retirement benefits are at best in the lower range of average while the percentage of salary contributed by the judges is very high and the amount contributed by the State is very low. Given concerns that exist regarding the level and adequacy of judicial retirement funding, it is clear that judges are already carrying a much higher burden to fund their retirement than is found in other states.

The Commission recommends that state contributions increase to meet the state's funding obligations and to replace docket fees. More generally, the Commission supports judicial pension reform legislation that addresses funding issues in a manner similar to the reforms adopted in SB25 during the 2013 legislative session.

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