

LFC Requester:	Caroline Malone
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**AGENCY BILL ANALYSIS
2015 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original Amendment _____
Correction _____ Substitute _____

Date
Prepared: 2/19/15
Bill No: SB 616

Sponsor: Sen. Sander Rue

Agency Code: Attorney General's Office

Short Title: State Fund Review & Recommendations

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

BILL SUMMARY

Synopsis:

SB 616 would establish a mechanism for ongoing legislative review of special funds that do not revert to the general fund and the programs they support, except for funds that are:

- Constitutionally created as non-reverting funds or statutory funds created to carry out Enabling Act for New Mexico or constitutional mandates
- Actuarially obligated
- Created or made non-reverting pursuant to court order
- Funded by severance tax bonds or other bonds for active projects under contract that have not been completed
- Permanent, trust or endowment funds
- Sinking funds, unless the project for which the fund was created is completed
- Suspense funds
- Revolving loan funds
- Gifts, grants or donations that are specific to purpose

The Department of Finance and Administration (DFA) would be responsible for developing a list each year that includes at least one fifth of non-reverting special funds not exempted by the bill that are recommended for continuance, reversion, repeal, or amendment and reporting the recommendations to the Legislative Finance Committee and other appropriate legislative interim committees by November 1 of each year.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

One of the exceptions to the bill's reversion requirement applies to special non-reverting funds that are "created pursuant to court order or made non-reverting pursuant to court order." This raises two potential issues: (1) do courts have authority to create non-reverting funds in the state treasury and (2) if so, does that authority unconstitutionally interfere with the legislature's plenary authority over spending? *See* N.M Const. art. III, §1 (separation of powers) and Art. IV, Sec. 30 (money shall be paid out of the treasury only by appropriations made by the legislature).

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB209, Reversion of Special Funds & Review of Funds.

TECHNICAL ISSUES

In line 22 of the bill, it is not clear from the language "that are recommended for continuance, reversion, repeal or amendment" whether DFA would make the recommendations or whether other agencies might make the recommendations for DFA to compile and transmit. If the intention is for DFA to make the recommendations, use of the active voice (e.g., "that DFA recommends") would make that clear.

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

AMENDMENTS

N/A