

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 1/25/07
 SPONSOR Cervantes LAST UPDATED 2/20/07 HB 299/aHAFC
 SHORT TITLE Judicial Performance Evaluation Fund SB _____
 ANALYST C. Sanchez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
 Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of HAFC Amendment

House Appropriation and Finance Committee amends the bill so that money in the judicial fund is not appropriated but is subject to appropriation by the legislature.

Synopsis of Original Bill

House Bill 299 creates a fund for the judicial performance evaluation program. The administrative office of the courts shall administer the fund. Balances in the fund shall not revert to the general fund at the end of any fiscal year.

Money in the fund shall be used by the administrative office of the courts for the operation and costs of the judicial performance evaluation commission (JPEC) to perform the duties required by the Supreme Court to evaluate appellate, district and metropolitan court judges.

Payments from the fund shall be made upon vouchers issued and signed by the director of the administrative office of the courts or the director's designee upon warrants signed by the secretary of finance and administration.

FISCAL IMPLICATIONS

The non-reverting fund allows funds to carry over when fewer evaluations are done to cover the costs when a significant number of evaluations are completed by the judicial performance evaluation commission (JPEC).

Continuing Appropriations language

This bill (HB299) creates a new fund. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

SIGNIFICANT ISSUES

The administrative office of the courts seeks this non-reverting fund at the direction of the Supreme Court. The Supreme Court's Order of 2/12/97 requires the JPEC to conduct evaluations of all appellate, district and metropolitan court judges halfway through their terms of office and before their retention election. The creation of the non-reverting fund will enable the JPEC to have the funds necessary to evaluate these judges (interim, final or follow up with a judge). The number of evaluations conducted each year is dependent upon when a judge's term of office comes up for retention. Thus, the JPEC follows the schedule below to evaluate these judges:

Judge	Number of Judges	Interim Evaluation	Final Evaluation
Appellate Court	15	every 4 years	every 8 years
District Court	84	every 3 years	every 6 years
Metropolitan Court	19	every 2 years	every 4 years

The University of Denver report points out that six states - Alaska, Arizona, Colorado, New Mexico, Tennessee and Utah -- currently have wide-scale, official programs for judicial performance evaluation and may be considered the leaders of the comprehensive judicial performance evaluation (JPE) movement. Without adequate funding JPEC cannot offer a comprehensive judicial performance evaluation program.

Judicial performance evaluations are similar to routine performance evaluations that many Americans encounter in their own jobs. It is an opportunity to assess periodically a worker's strengths and weaknesses, and make sure that the "employee" and the "employer" are focused on the same goals. Just as an employee who performs well on his/her evaluation can congratulate herself on a job well done, judges who receive strong evaluations can be confident that their approaches to the job are effective. Conversely, just as an employee who rates poorly in some areas understands the need to improve, judges who do not perform well in certain areas will recognize the need to do better. Just as workplace evaluations lead to more efficient and more confident employees, judicial evaluations can lead to more effective and productive courts.

PERFORMANCE IMPLICATIONS

Judicial performance evaluation programs carry several significant advantages. First, every judge who is evaluated benefits from the feedback of the evaluation, and is given an opportunity for self-improvement. Due to the nature of a judge's professional relationship with attorneys, court staff, and litigants, it is often difficult for a judge to get constructive feedback on his

performance. JPE allows for anonymous feedback so judges can learn about strengths and weaknesses they otherwise might not have received.

Second, JPE provides a valuable source of information to voters. In many cases, it is the only source of information. Voters typically have no experience with individual judges, much less a sense of which judges are doing a good job on the bench.

ADMINISTRATIVE IMPLICATIONS

The AOC claims that without the increase in funding and the non-reverting fund, JPEC will have to scale its program back. However, the LFC feels creating a new fund is unnecessary since a non-reverting appropriation to the AOC will achieve similar goals.

The Legislative Finance Committee is recommending an increase of \$110,500 for the evaluation of the judges, with the following non reverting language: that any unexpended balance for the judicial performance evaluation commission remaining at the end of the fiscal year 2008 from the general fund shall not revert.

ALTERNATIVES

A bill that appropriates additional funding without creating a new fund within the state treasury.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

A specific fund will not be created in the state treasury for JPEC. JPEC will continue to receive funds via the AOC.

CS/mt:csd