

LFC Requester:	
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**AGENCY BILL ANALYSIS
2017 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	<input checked="" type="checkbox"/>	Amendment	<input type="checkbox"/>	Date	<u>1-12-17</u>
Correction	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Bill No:	<u>SB60</u>

Sponsor:	<u>Peter Wirth</u>	Agency Code:	<u>264</u>
Short Title:	<u>Uniform Fiduciary Access to Digital Assets</u>	Person Writing	<u>Gail MacQuesten</u>
		Phone:	<u>466-0532</u>
		Email	<u>gailmacquesten@gmail.com</u>

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
0	0	n/a	n/a

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
0	0	0	n/a	n/a

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	0	0	0	0	n/a	n/a

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: SB61
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB60, the Revised Uniform Fiduciary Access to Digital Assets Act, sets out a framework for fiduciaries to manage digital property, but restricts access to electronic communications such as email, text messages and social media accounts unless the original user consented in a will, trust power of attorney or other document. SB60 also gives custodians of digital accounts and electronic communications legal authority to deal with the fiduciaries of their users, while respecting the user’s reasonable expectation of privacy for personal communications.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SB60 has no financial impact for the district attorneys.

SIGNIFICANT ISSUES

Existing laws provide a framework for fiduciaries to manage tangible property, but does not give fiduciaries the power to manage digital property. Digital assets may include business files stored in “the cloud,” electronic communications, social media accounts, electronically stored photographs, and many other types of electronic property. This creates problems when people who have digital assets die or lose the ability to manage their internet assets. The Revised Uniform Fiduciary Access to Digital Assets Act addresses that issue. The Act was developed by the Uniform Law Commission and has been enacted in 21 states. Six additional states are considering adoption this year.

The fiduciaries affected by the Act are original, additional or successor personal representatives, conservators, agents or trustees.

PERFORMANCE IMPLICATIONS

SB60 does not directly impact the district attorneys, except for the provision in Section 15 E, which clarifies that a fiduciary with authority over the tangible, personal property of a decedent,

protected person, principal or settler is an authorized user for the purpose of computer-fraud and unauthorized-computer-access laws, including those offenses enumerated in the Computer Crimes Act.

ADMINISTRATIVE IMPLICATIONS

See Performance Implications, above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB61, enacting the “Electronic Communications Privacy Act,” sets out procedures for government access to electronic communications.

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

None proposed.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

No standard procedures will be in place giving fiduciaries power to manage digital assets and setting out the limits of that power.

AMENDMENTS

None proposed.