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FISCAL IMPACT REPORT

ORIGINAL DATE 2/23/09

SPONSOR Cisneros LAST UPDATED _____ HB _____

SHORT TITLE Dept of Info Technology Email Discovery Software SB 671

ANALYST Archuleta

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	\$500.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

The HAFC recommendation for general appropriations includes reductions in some areas where federal funds can be used. These reductions will have to be made up to maintain the current level of appropriations in FY11 and FY12. In FY11, \$150 million will have to be restored and in FY12, \$330 million will have to be restored. This is in addition to other appropriation increases required in FY11 to maintain current service levels or to implement statutorily scheduled funding increases, such as ERB contributions, instructional material funding replacement, and restoring Medicaid funding from the general fund instead of the tobacco settlement program fund. These add up to \$80 million to \$100 million.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$1,520.0	\$200.0	\$1,720.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Information Technology (DoIT)

No Response Received From

Department of Finance and Administration (DFA)

Commission on Public Records (CPR)

SUMMARY

Synopsis of Bill

Senate Bill 671 appropriates \$500,000 from the General Fund to the Department of Information Technology for purchase of email discovery software to allow for electronic data to be sought, located, secured and searched for use as evidence in a civil or criminal legal case.

FISCAL IMPLICATIONS

According to DoIT, the estimated cost of implementing an email discovery system to satisfy the requirements as intended in the bill is \$2.02 million.

SIGNIFICANT ISSUES

DoIT notes the following background information:

- E-mail discovery is inherently related to e-mail storage and archiving methods.
- The state e-mail system is backed up nightly for 30 days.
- After 30 days the media is recycled.
- Employee e-mail boxes are limited to 100Megabytes in size. Employees decide how best to manage their storage... i.e. which e-mails to save or delete.
- Messages existing in a users e-mail box overnight are backed up.
- Messages received\sent and deleted the same day are not be backed up. E-mail users may individually archive e-mail off the state system in “personal folders” for example, in order to increase their own storage capacity. Individual archiving is managed individually, not at an enterprise level. Some agencies approach individual archiving systematically by placing “personal folders” in agency network storage for later retrieval. Agencies may utilize this type of approach in order to institute a mechanism to accommodate the records retention requirements. However, individual archiving does not accommodate enterprise level searching.
- E-mail discovery software would not be capable of searching through unique agency archiving methods and media off the state system.

In light of the background information above, a “catch all” approach to all e-mail messages would be necessary to satisfy the requirements of the proposed bill. The current messaging environment would require significant expansion. A combination of software, hardware, and staffing components would be necessary in achieving a “catch all” system for e-mail. A general description of an overall “catch-all” system for e-mail is located in the Technical Issues section.

PERFORMANCE IMPLICATIONS

DoIT indicates that the current environment will need to be upgraded and expanded significantly to accommodate an e-mail discovery system. The current systems and infrastructure do not have the capacity to support the necessary integrated environment of an e-mail discovery system.

ADMINISTRATIVE IMPLICATIONS

According to DoIT, an enterprise level e-mail discovery system will require full time administration by DoIT staff. Two additional FTE's will be required to operate and maintain the system. Comprehensive training for DoIT staff will be necessary.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

According to DoIT, an email discovery system requires additional components including archiving software and mailbox journaling software. Both products add overhead to the current messaging environment and require a significant amount of storage. The current environment is not technically capable of supporting email discovery. Implementing an email discovery system will require additional software, hardware infrastructure, and storage capacity. The system must be able to support granular administration for 60 plus agencies. Furthermore, the software must be certified to be used for evidence in civil or criminal legal cases.

E-mail discovery software would be a component of an integrated e-mail system in order to satisfy the intent of the bill. The initial investment for an integrated e-mail discovery system for 20,000 users will exceed the appropriated amount of \$500,000.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The DoIT will continue to operate the state e-mail system within its current environment. E-mail discovery and availability will continue according to individual agency record retention policies and schedules.

DA/mt