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FISCAL IMPACT REPORT

ORIGINAL DATE 02/03/10

SPONSOR Rue & Espinoza LAST UPDATED _____ HB _____

SHORT TITLE Transparency in Government Act SB 42

ANALYST Sanchez, A.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY10	FY11	FY12	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	In determinate	Insignificant				

(Parenthesis () Indicate Expenditure Decreases)

Relates to Senate Bill 195

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)
 Department of Finance and Administration (DFA)
 Department of Information Technology (DoIT)
 State Personnel Office (SPO)
 Workforce Solutions Department (WSD)
 Environment Department (NMED)

SUMMARY

Synopsis of Bill

Senate Bill 42 creates the Transparency in Government Act to provide for the development of a free public access web site (by the Department of Information Technology) no later than January 1, 2011. The web site would provide interested parties access to how state government agencies spend their revenues, who state agencies employ and at what cost, what loans the state board of finance makes and what capital projects the legislature funds and how much has been spent. It also requires links to other state websites that provide information on state agency financial audits and program evaluations, delinquent taxpayers, parents who fail to pay child support and persons whose licenses or permits have been revoked or suspended.

FISCAL IMPLICATIONS

In its response, DoIT states that it will cost between \$1 million and \$3 million to implement a transparency web site and \$750 thousand to \$1 million per year to operate and maintain. It is unclear from the response how DoIT arrived at these numbers.

According to LFC research of other state portal and data gathered by the Center for Fiscal Accountability, Missouri spent about \$293 thousand of internal resources for its portal and did not require additional appropriations. South Carolina and Texas reallocated resources and built their sites. Oklahoma purchased software for \$8 thousand and the site was built and loaded using existing staff. It is highly likely that New Mexico can do the same. Moreover, Oklahoma uses the same PeopleSoft application for financials and human resources as does New Mexico and has offered the extract programs they developed to New Mexico at no cost.

Making public information available through electronic means has proven to be a money saver in other states. Three of the states that have had a transparency portal/website (Texas, Missouri and Kansas) report savings from consolidating purchases, revising their business model, avoiding duplicate studies and contracts, renegotiating existing contracts or subscriptions and not having to respond to freedom of information requests because the information is readily available and free.

There is no appropriation to development or implement the website, DoIT is required to develop the site using existing internal resources.

SIGNIFICANT ISSUES

According to DFA, passage of this bill would make state government more transparent.

According to DFA, the time needed to pull the data from SHARE may take longer than the date that the bill anticipates having a fully developed web site. DFA also indicates that information on Board of Finance loans may not be in an electronic format that could be easily put on the web site.

Although DFA raises concerns about including information on state employees' salaries because the public information is part of a larger subset of data that includes personally identifiable information, the bill clearly excludes the disclosure of any information that is confidential under state or federal law.

DoIT states in its response that it "is not the keeper of the data." However, the largest data set (revenues, expenditures and a list of state employees and salaries) is contained in the statewide human resource, accounting and management reporting (SHARE) system. DoIT is the state agency responsible for the management and support of SHARE. Granted financial and human resource information is created by each individual agency, but the system holds all the information (all agencies, boards, commissions, branches) and DoIT can create the requisite reporting structure with input from DFA and SPO so that the information resident in SHARE is presented in a format that is understandable. Moreover, at the press conference for Senate Bill 195, DoIT demonstrated a mock up of the sunshine portal proposed to make the public information available.

PERFORMANCE IMPLICATIONS

Three of the states that have had a transparency portal/website (Texas, Missouri and Kansas) report savings from consolidating purchases, revising their business model, avoiding duplicate studies and contracts, renegotiating existing contracts or subscriptions and not having to respond to freedom of information requests because the information is readily available and free. Additionally, the portal provided lawmakers information about spending that they could then use to ask agencies probing questions.

ADMINISTRATIVE IMPLICATIONS

According to TRD the administrative impact to it is low to moderate since it already posts reports required by the act. TRD has recently undertaken a project to expand the number of revenue sources with monthly reports posted online. Additional work would be required to automate new reports that could be produced monthly and would not contain confidential taxpayer information.

SPO indicates it can work with DoIT to promulgate rules to ensure confidentiality of protected information. Additionally, SPO is already required by the State Personnel Act to publish a roster of all state employees annually.

NMED indicates that DoIT, although given rule making authority, it may not have authority to require elected officials or other branches to comply with rule regarding the Transparency Act.

TECHNICAL ISSUES

DoIT in its response states that SHARE does not track source of funding for expenditures, yet static revenue and expenditure (budget status) reports do show the source of the revenue by program and the expenditures by program. Coupled together these two reports laid out in a different format can provide total revenue by source (federal grants, general fund appropriation, and miscellaneous revenue) and the expenditures against the total revenue. Additionally, revenue from museum entrance fees, traffic citations, or licensing may be handled differently by different agencies, but all are required to deposit receipts with the state treasurer.

NMED expressed concern that DoIT may need to contract for database design and development since DoIT may not have qualified or sufficient resources to complete the web site by the established due date. NMED suggests extending the deadline for implementing the web site.

OTHER SUBSTANTIVE ISSUES

DFA suggests removing the requirement to include contracts over \$20 thousand since GSD already has a database for this purpose. However, having multiple transparency sites requires any interested party to know where that information is and defeats the purpose and intent of a single transparency web site. The purpose of transparency, as shown by the federal government and other states, is to allow parties that are not intimately knowledgeable with state government the ability to easily search and locate information they seek.

ALTERNATIVES

DoIT suggests phasing in the transparency web site. One year to create the architecture and information exchange process and another year to publicize the information. Thereby expanding the time for full implementation to January 2012.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The public would continue to use a slow paper-based request process to access public information. State agencies would continue to incur costs to fulfill public records requests.