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## FISCAL IMPACT REPORT

<b>SPONSOR</b>	<u>Egolf</u>	<b>ORIGINAL DATE</b>	02/01/16	
		<b>LAST UPDATED</b>	02/04/16	<b>HB</b> <u>173</u>
<b>SHORT TITLE</b>	<u>Web-Based Capital Outlay Publication</u>	<b>SB</b>	<u></u>	
		<b>ANALYST</b>	<u>Kehoe</u>	

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		
N/A	N/A	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to Senate Bill 48 and Senate Concurrent Resolution 1

### SOURCES OF INFORMATION

LFC Files  
 Department of Finance and Administration (DFA)  
 New Mexico Finance Authority (NMFA)  
 Office of the State Engineer (OSE)  
 Public Schools Facilities Authority (PSFA)  
 State Investment Council (SIC)

### SUMMARY

#### Synopsis of Bill

House Bill 173 provides for a new section of Chapter 2, Article 3 NMSA 1978, notwithstanding the provisions of Section 2-3-13. The bill proposes to require the Legislative Council Service (LCS) to publish on the legislative website a listing of capital projects and the names of legislators or the governor who allocated a portion of the capital outlay appropriation or bond authorization for each project and the amount of the allocation designated by each legislator and the governor. The bill further provides that the projects listing be published within twenty-four hours after the governor has acted on the capital outlay bill, and requires LCS to provide paper copies of the web-based publication if requested. The bill contains an emergency clause.

### SIGNIFICANT ISSUES

Article 3, Section 2-3-13 currently reads as follows: “Neither the director nor any employee of the council service shall reveal to any person outside of the service the contents or nature of any request or statement for service, except with the consent of the person making such request or

statement. They shall not urge or oppose any legislation, nor give to any member of the legislature advice concerning the economic or social effect of any bill or proposed bill except upon the request of such member.”

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Senate Bill 48 duplicates this bill in part. This bill proposes the listing of capital projects be published on a website within three days after the governor has acted on the bill and the bill requires LCS to design a user-friendly website with searchable capabilities. Senate Executive Message 10 submitted to the New Mexico State Senate on January 21, 2016 determined the bill germane.

Senate Concurrent Resolution 1 proposes a new Joint Rule 13-1 requiring approval by two-thirds of the membership of each house, to report funding allocated by each legislator or the governor to each project in a capital expenditures bill and to be published by the Legislative Council Service within three days after the governor has acted on the bill.

### **TECHNICAL ISSUES**

PSFA indicates House Bill 173 may only affect two schools PSFA works with that are constitutional schools, the New Mexico School for the Deaf and the New Mexico School for the Blind and Visually Impaired.

### **OTHER SUBSTANTIVE ISSUES**

The Department of Finance and Administration analysis states the following: “Transparency entails operating in a manner that easily allows others to see what actions are performed. Having access to how public money is allocated is important for New Mexico's citizens to be able to assess the actions of their elected officials. State law already requires that government budgets, revenues, employees, contracts and more be made available to the public for the purpose of governmental transparency and accountability. This bill would impose a form of transparency on capital outlay funding decisions to bring it into the light with the vast majority of other state government functions.

For the last several years, capital reform has been discussed and both executive and legislative leaders have acknowledged that something needs to be done. As noted in a recent report by Think New Mexico, New Mexico is the only state that allows elected officials to divide the public infrastructure budget into 112 individual shares based on a political formula. Decisions on which projects legislators choose to fund are made on private capital request forms visible only to the legislative sponsor and staff of the LCS.

The current process for legislative capital outlay consists of legislators submitting a capital request form to the LCS for each project for which they are seeking capital outlay funding. The form contains critical information about the project. This information is not shared with anyone but the sponsor and LCS staff, even after the bill has passed both the House and the Senate and been signed by the Governor. Because the executive is not privy to the capital request form information, DFA's Capital Outlay Bureau and State Board of Finance create duplicate work for agencies and local entities. We require that they complete an online survey containing much of the same information. It should also be noted that the LCS asks for documentation that would be

**House Bill 173– Page 3**

helpful in determining whether there are anti-donation issues. Acquiring duplicate documentation slows down the bond sale process and the spending of the capital funds.

DFA responds to Legislative and other requests for information on capital project status regularly. Knowing the sponsor of a project will help DFA, SBOF, state agencies and local governments respond more efficiently.”

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