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## FISCAL IMPACT REPORT

SPONSOR: Burpo DATE TYPED: 02/27/01 HB 332/aHGUAC  
 SHORT TITLE: Information Systems Division Act SB \_\_\_\_\_  
 ANALYST: Carrillo

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		Indeterminate		Recurring	General Fund, Other State Funds, Federal Funds

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

General Services Department (GSD)  
 State Highway and Transportation Department (SHTD)  
 Information Technology Management Office  
 Public Employees Retirement Association (PERA)  
 Department of Health (DOH)  
 New Mexico Environment Department (NMED)  
 Corrections Department  
 Department of Public Safety (DPS)

### SUMMARY

#### Synopsis of the HGUAC Amendment

The HGUAC amendment to House Bill 332 propose the following:

- Changes the definition of information system services to mean “computer systems operated by the division and used by other state agencies”.
- Removes the mandatory participation in the state’s information systems services and limits it to the state’s central communications systems.
- Removes the reference to information systems services regarding lease of purchase of central communications system equipment.
- Adds a new subsection; “An agency may appeal a decision by the (information systems division) director to the information technology commission or its successor agency.”

The remainder of the FIR is unchanged.

Synopsis of Original Bill

House Bill 332 proposes to establish the Information Systems Division Act. The provisions of the Act include:

- Creating the Information Systems Division (ISD);
- Mandating the division as the primary information systems services provider for the state;
- Delineating the duties of state agencies as related to information systems and radio communications;
- Enumerating the exclusions from the Act;
  - < A state agency within the Judicial Department
  - < An educational institution included in Article 12, Section 11 of the New Mexico Constitution
  - < A state agency that has been excluded by the Information Systems Division
- C Authorizing services fees;
- C Creating an Information Systems Division Operating Fund;
- C Creating an Information Systems Division Equipment Revolving Fund;
- C Providing temporary provisions for transferring of property and budgets; and
- C Repealing Sections 15-2-1 through 15-2-5, 15-2-8 (Communications Division), and 15-5-1 through 15-5-6 (Telecommunications Bureau) NMSA 1978.

The effective date is July 1, 2001.

Significant Issues

Sections 9-17-3, 15-2-1, and 15-5-1 NMSA 1978 create ISD, the Communications Division and the Telecommunications Bureau within the General Services Department. Section 9-17-3(C) NMSA 1978 gives the governor the power to merge divisions of the department to create additional divisions by executive order in the interest of efficiency or economy. In addition, Section 9-17-5(E) provides for the secretary to make and adopt such reasonable administrative and procedural rules and regulations as may be necessary to carry out the duties of the department and its divisions. However, unless otherwise provided by statute, no regulation affecting any person or agency outside the department shall be adopted, amended or repealed without a public hearing on the proposed action before the secretary or a designated hearing officer.

According to General Services Department (GSD) staff:

ISD is the tactical arm of information technology in state government, providing daily operations, infrastructure, development and support for information technology solutions. The bill reflects the current organization and operations of ISD. ISD has adapted its structure to the rapidly changing information technology environment of today's world. HB 322 sets out more clearly define the role of ISD in state and local information services and communications systems management.

ISD has undergone an internal transition over the last few years and must continue to adapt to be competitive in information technology. As a result of the reorganization, ISD can better serve the needs of its customer agencies. Operating under updated, clearly defined statutory authority would benefit ISD's clients and others, and eliminate unnecessary confusion.

Staff from the Environment Department (NMED) comments:

The bill prohibits state agencies from purchasing data processing equipment and information systems from providers who can offer better, competitive and less expensive services and equipment. The private sector has the resources and expertise to provide information system services far superior than state government. State government does not have the resources or processes to compete successfully in the information technology field.

NMED is considering outsourcing specific information services such as e-mail and web server administration to private sector providers because these services can be provided at a much more affordable rate than state government can provide. The department has spoken to a private sector provider of e-mail services who can provide more and better services than are currently available from ISD and at \$5 per employee per month vs. the current rate of \$50 per employee per month.

Issues reported by the Public Employees Retirement Association (PERA) staff include:

PERA uses GSD for WEB hosting and WEB development. Also, GSD is the agency's Internet service provider.

A significant service PERA would have to obtain from GSD is e-mail. Currently, PERA maintains an exchange e-mail server and does not rely on a centralized system. If centralized, PERA would have to compete with 17,000 plus users for routing capability to receive e-mail. At present, PERA does not pay for each e-mail box on the server, while GSD has charged up to \$45 for each e-mail box.

PERA information systems staff supports the agency's local area network (LAN) and wide area network (WAN). The staff has extensive knowledge of its systems. Previously, PERA has been involved with GSD on several projects and GSD has not been able to provide consistent knowledgeable resources.

For new application development, agencies will be required to use this new division. PERA relies on vendors with public pension administration and other pension related systems expertise. This new division will not have the consistent knowledge and expertise required for specialized pension and investment related systems.

Department of Public Safety (DPS) states this bill will inflict an undue financial obligation that DPS is not prepared to meet, and may put them in a position of putting officer safety at risk. In many cases, as with NCIC\*, NMLETS\*, NLETS\* and CJIS\*, the system requires immediate attention for technical problems. This bill appears to propose adding another layer of communication required before a response could be provided in what may be an emergency situation. Federal requirements for the chief technical officer to be NCIC, CJIS, NMLETS and LEA knowledgeable would not be met.

\*NCIC – National Criminal Information Center

\*NMLETS – New Mexico Law Enforcement Telecommunications Systems

\*NLETS – National Law Enforcement Telecommunications Systems

\*CJIS – Criminal Justice Information System

The Corrections Department staff points out:

In addition to the already centralized control of radio and telecommunication functions, the bill authorizes the newly created division to exercise general control over “data communications systems” including “large scale computing” systems, which includes “application development, web enablement, electronic mail and local area and wide area network support.” The Department would be mandated to acquire central communication and information system services from the new division.

At the present time, governance of informational structure and networks resides with the agency. The agency acts in concert with the Information Technology Management Office on an informal basis to assure generalized, basic standards for purchasing and administering the departments network. The bill would result in the “micro managing” of the department systems. Coupled with the relative un-sophistication of the State’s overall communications information infrastructure, this bill imposes a new structure that is too centralized and rigid to have a beneficial effect on the provision of state information management at this time. It would be better to wait until the State’s information infrastructure matures, i.e., until the State’s information “backbone” is in place, as well as other technological preconditions obtain, before imposing a centralized, uniform system of communications administration. It make far better sense to allow the department to exercise extensive autonomy over its systems at this time.

Department of Health (DOH) staff reports:

There are many opportunities to more efficiently provide communications services by using the combined purchasing power of all executive agencies. The State can get a better rate for these services through one large contract or service agreement, rather than each agency negotiating its own agreements. DOH currently utilizes both the data and voice services offered by GSD, where such services are available. DOH has offices in many towns across the State where no GSD-related voice services are offered. In those cases, DOH contracts with the local communications providers for services.

To broaden that control to include computer software and hardware, application development, web enablement, e-mail and network support, however, is another matter. DOH has the following concerns about this broadened control:

- A. Does this mean GSD must approve every purchase of hardware and software made by DOH? DOH questions the value added of such a requirement, as well as whether GSD has sufficient staff to efficiently approve such purchases in a timely manner.
- B. DOH has numerous applications necessary to meet its business processes. Some have been developed internally, while others are commercial off-the-self solutions. If this bill is interpreted that in the future DOH must allow GSD to develop future applications, that is unacceptable to the department.
- C. DOH has its own web servers, all of which are connected through GSD to the State government web site. It is unclear how this bill might alter that arrangement.
- D. GSD currently supports an Exchange e-mail system. Because DOH had in place a large investment in a Lotus Notes e-mail system prior to the establishment of the State standards, an exemption from this standard has been granted by the chief information officer. DOH is working on connecting the address books from the two systems

together so e-mail can be seamless by all users. Would passage of this bill mean the department would be required to move to the Exchange e-mail system?

- E. Regarding network support, it is unclear if this is in partnership or in conflict with the statewide MAGnet initiative. Will GSD be taking over the total responsibility for all network support from the agencies? Does this include planning purchase, installation, maintenance and replacement as needed of all network equipment including routers, CSU/DSUs, switches, building wiring, etc. that had heretofore been the responsibility of each agency? GSD would need to be in the position to respond quickly to changing needs and reported problems in over 135 locations across new Mexico to support the DOH. DOH believes that supporting a large, complex, centralized system is not as responsive as decentralized support of local and wide area networks.
- F. Regarding ownership of equipment, it is unclear whether the agencies will own the “computer, voice or communications software and hardware” or whether GSD will own the equipment. If GSD owns all equipment, GSD will be responsible for inventory tagging and control, which will take a large staff to manage across all agencies.

DOH believes it is appropriate for the State to impose standards to ensure compatibility of systems, but it appears to be extremely cumbersome to funnel every purchase, lease or contract through a central location. Agencies do not need an additional level of bureaucracy to help them make every technological decision.

## **PERFORMANCE IMPLICATIONS**

DPS staff comments in the past, GSD/ISD has not provided the level of response to network needs that is demanded in a public safety environment. Performance measures may also be affected, and would be out of our control.

Corrections Department staff states there could be significant performance implications associated with the powers of this new division beyond what is required at this time. Most salient is the loss of control the agency would experience in regard to its critical networks.

The Information Technology Management Office (ITMO) staff comments:

The existing information systems division within the general services department has not demonstrated effective responsiveness to both cost and quality of service issues raised by their existing state agency clients. This act requires all state agencies, except those judicial and educational agencies excluded by the act, to receive information system services and central communications systems services from a division that has been unable to deliver to a much more limited roster of clients a less ambitious array of services cost effectively. This could have a direct negative impact on the budgets of agencies receiving these services with a concomitant impact on program efficiencies, quality and outcomes.

Subsection B of Section 4 of the act adds another information and communication system approval, in addition to the one required by the information technology management office specified in Section 15-1C-7(2)(B) NMSA 1978. This redundancy may further delay an already cumbersome process for the acquisition of technology and services which may be outdated by the time approval is received, given the speed at which information technology products and services are changing.

## **FISCAL IMPLICATIONS**

HB 332 creates the Information Systems Division Operating and Information Systems Division Equipment Revolving Funds. Both funds are subject to appropriation and investment income will be credited to the respective fund. Balances from the appropriations will revert to each of the funds.

The State Highway and Transportation Department staff estimates the additional recurring cost to the department will be about \$2.3 million or about 10 percent of activities covered under this act. The department cannot absorb such increase. Due to the additional cost, the department could miss out on federal funding.

Staff from the Corrections Department indicates the bill will result in increased financial burdens to the agency. The newly interposed division will most likely add their own fee structure upon services already being rendered to the department from other sources. There would be no “value added” component to the services that the new division would provide to justify the additional fiscal burden.

DPS staff states:

This service will cost additional funds that have not been requested, nor budgeted. DPS currently has a full time staff of three that support the network, and this service will not negate the need for these FTE. No rate schedule has been provided to date. There is no mention of how the depreciation and replacement schedule would be determined. This bill also does not take into consideration the unique requirements of each agency, allowing for differing replacement schedules based on amount of wear and tear on equipment.

This bill would require DPS to have an additional FTE just to audit the billing reports on a monthly basis. It also does not account that DPS pays user fees for the use of NLETS (\$20.0). Will GSD absorb this cost?

Federal dollars paid for the DPS network, and continue to provide funding in support of that network. If this becomes part of the greater State network, and may or may not be the sole support of law enforcement, that funding may be at risk. This bill is contrary to some FBI policies that DPS is required to meet.

## **ADMINISTRATIVE IMPLICATIONS**

DPS staff indicates this bill does not appear to provide any relief in the number of FTEs required by the agency to support the network. This bill would require current user agreements to be renegotiated and monitored, contrary to FBI policy. In some cases DPS has requested support from GSD, and been told they do not support that anymore, such as Ethernet radios. A lot of the DPS network equipment is owned by the federal government, and would not be able to participate in a program of this type.

Corrections Department staff comments there would be an increase in administrative activity. The department is projected to have increased paperwork responsibilities toward the new division, as well as the potentially cumbersome requirements of petitioning in writing the new division to be exempted from its enactments should the enactments prove to be infeasible or impractical to apply to the agency.

The New Mexico Environment Department (NMED) staff states:

The bill have significant administrative implications on the department. No expected level of service is set in the bill. Without some guarantee of service quality (through a service level agreement between customer agencies and the information systems division), no expectations can be set for the level, frequency, quality, availability or turnaround time on requests for such fundamental services as e-mail and Internet access. Again, without competition from other service providers there may be a lack of incentive to provide high quality, efficient and cost effective services. This could severely impact the level of service state agencies can provide to the public.

Data processing infrastructure has historically been under funded and behind the curve in state government. Because of limited flexibility and ability to respond to changing customer needs and a rapidly changing climate, state government is frequently not in the best position to provide high end, efficient and cost effective information technology services. Limiting the pool of potential information technology service providers to one state agency will restrict all agencies' ability to respond to the needs of their customers and create additional tension between state government agencies as they struggle to meet their individual statutory and regulatory obligations.

### **CONFLICT/RELATIONSHIP**

HB 332 relates to HB203 (Create law Enforcement Telecommunication Fund) and HB356 Amend Information Technology Management Act).

NMED staff state the Information Technology Management Act (Section 15-1C NMSA 1978) created the Information Technology Management Office with certain powers and duties including "coordinate central and individual executive agency information technology in a manner that ensures that the most cost-effective and efficient information and communication systems and resources ate being used by executive agencies". HB 332 obligates state agencies to purchase services from the information systems division. Depending on the service levels (e.g., service availability, reliability, functionality, response time.,etc.) and costs associated with information systems division services, agencies may be prohibited from receiving the most cost-effective and efficient information systems.

### **OTHER SUBSTANTIVE ISSUES**

DPS staff is requesting an exception to this bill. It is highly recommended that the State wait until the MAGnet project is compete through Phase 1 before implementing a bill like this. This would then be in support of MAGnet, and not in opposition.

WJC/prr:ar:njw