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FISCAL IMPACT REPORT

SPONSOR: Feldman DATE TYPED: 02/05/01 HB _____
 SHORT TITLE: Telephone Consumer Privacy Act SB 220
 ANALYST: Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		See Narrative		Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY01	FY02			
	See Narrative		Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

Relates to HB 234

SOURCES OF INFORMATION

Public Regulation Commission (PRC)

No Response

Attorney General's Office (AG)

SUMMARY

Synopsis of Bill

SB220 creates the Telephone Consumer Privacy Act which would require the Attorney General to keep a "do not call" database of individuals who do not want telemarketers to call them. Telemarketers would then be subject to penalty for calling any person on the list. It also amends the Unfair Practices Act to prohibit telemarketing calls between 5:00p.m. and 7:00 p.m.

Specifically, the AG (or a contractor hired by the agency) is required to establish and provide for the operation of a database consisting of a list of telephone numbers of residential subscribers who object

to telemarketing. By January 1, 2002, the AG must promulgate rules addressing at least the following: (1) methods by which objections and revocations are to be collected and added to the database, and the length of time the notice of objection would be effective; (2) methods by which telemarketers may obtain access to the database; (3) a fee schedule and time and method of payment of authorized fees; and (4) methods for keeping the database current. .

A residential subscriber wishing to place an objection in the data base will be charged a fee of up to ten dollars (\$10.00) by the AG and persons desiring to engage in telemarketing who desire access to the database will be charged a fee of up to \$200.00 annually. The information in the database is confidential and is not subject to public inspection or disclosure. Persons engaged in telemarketing are prohibited from blocking or circumventing a subscriber's use of caller ID. If the FCC establishes a national database, the AG is required to include any part of the database that relates to New Mexico.

Significant Issues

SB 220 has an internal conflict regarding the confidentiality of the database. On one hand, a telemarketer pays up to \$200 annually to gain access to the database (Section 6), but Section 7 states that the information in the database is confidential and is not subject to public inspection or disclosure. Does the payment by the telemarketer negate the confidentiality of the database? If the database is subject to disclosure to telemarketers, it will effectively be public?

FISCAL IMPLICATIONS

SB 220 will require additional staffing and support, but the AG has not provided information.

There will be some revenues provide through fees, but it is not possible to estimate the amount.

RELATIONSHIP

HB 234 creates the Telemarketing Regulation Act but assigns the duty to regulate the activities of telemarketers to the PRC. In the analysis of that bill, the PRC analyst suggested that the duties could more appropriately be placed with the AG as SB220 does.

DW/njw:ar