

<b>LFC Requester:</b>	<b>Micaela Fischer</b>
-----------------------	------------------------

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**

**[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)**

*(Analysis must be uploaded as a PDF)*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** 02/26/2025 *Check all that apply:*  
**Bill Number:** SB220 Original  Correction   
 Amendment  Substitute

**Sponsor:** Pat Woods **Agency Name** New Mexico Public Schools  
Gabriel Ramos **and Code** Insurance Authority 34200  
Nicole Tobiassen **Number:** \_\_\_\_\_  
**Person Writing** Dominique Williams  
**Short Title:** PUBLICATION OF LEGAL SETTLEMENT TERMS **Email** Dominique.williams@psia.nm.gov  
**Phone:** 505-469-5541 :

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						No fiscal impact

(Parenthesis ( ) Indicate Expenditure Decreases)

## **SECTION III: NARRATIVE**

### **BILL SUMMARY**

#### Synopsis:

Original Senate Bill 220 is focused on risk management and transparency in legal settlements. State agencies that settle legal claims without the Risk Management Division's involvement must publish the terms on the Sunshine Portal within 30 days for public access. Agencies must notify the Risk Management Division about deaths, serious injuries, or substantial losses. A review team, led by an appointed attorney, will investigate causes, recommend preventive measures, and report findings. The Risk Management Division must submit a yearly report to the legislature summarizing trends in incidents, effectiveness of loss prevention efforts, and legislative recommendations. Investigation materials remain confidential until all related claims are resolved. The law would take effect on July 1, 2025.

The Amendment of SB220 clarifies the language of the bill. The bill now specifies that *all* state agencies, whether they settle claims *with or without* the assistance of the Risk Management Division, must publish the settlement terms on the Sunshine Portal within 30 days. Some textual changes have been made to definitions related to "state agency" and "public employee." Refinements were made to the language governing team composition and reporting.

Final Amendments are reflected in Section 3:

B. adding that the director shall appoint a loss prevention review team when the occurrence of an individual's death or serious injury or other substantial loss is alleged or suspected to be caused at least in part by the actions of a state agency "*only in matters where the claim is pending before a court of competent jurisdiction.*"

H. (2) defining substantial loss as an "amount greater than one million dollars", from two hundred and fifty thousand dollars.

### **FISCAL IMPLICATIONS**

This amendment does not have any financial implications for NMPSIA.

### **SIGNIFICANT ISSUES**

NMPSIA would note that within the last year, a federal court did seal a minor settlement involving another school district which was jointly requested by the family and the school district which precluded its disclosure under the Inspection of Public Records Act. The Court's rationale was to protect the minor client from "financial exploitation" when it could have done so simply by only using the minor plaintiff's initials or by redacting the minor's name. Of note, the Order sealing the case cited to language in *Dunn v. Brandt*, 2019-NMCA-061, 450 P.3d 398., which stated "...nothing in IPRA's plain language or in IPRA case law suggesting that our Legislature intended to require a governmental entity to disclose public records in defiance of a court order," and further opined that "to view IPRA as superseding a protective order would be contrary to constitutional separation of powers principles." In essence, this order suggests that a federal court's order could super cede an IPRA request and preclude a response. See *Jane Doe v. Board of Education of Albuquerque Public Schools*, et. al., United States District Court for New

Mexico, No. 1:21-cv-01199 (January 26, 2024).

NMPSIA points this out because it would not want to be in a position to defy a statute or to defy a federal court order. While such situations are rare, this order by the U.S. District Court may create a conflict for NMPSIA and public schools to report settlements.

### **ADDITIONAL CONCERS AFTER AMENDMENT**

1. An increase in the amount of settlements which need to be reported is helpful because it focuses on larger settlements and decreases the time necessary to report smaller, less significant case settlements which may be resolved for “nuisance value.”
2. Another aspect of this bill that is concerning is the requirement for a report to evaluate causes and recommended steps to reduce the risk of such incidents occurring in the future. While such a report is critical to reducing risks, it should be done so with some type of confidentiality similar to Review Organization Immunity Act, NMSA 41-9-1 to 41-9-7 which safeguards the disclosure of information acquired or generated during an internal peer review of medical treatment and patient care from discovery and trial in civil litigation. Confidentiality would promote a better review process.

### **PERFORMANCE IMPLICATIONS**

It should be noted that in certain situations, settlements on claims with little or no merit are resolved on the basis of “nuisance value” or the cost of defending the litigation to a dispositive motion.

This forces NMPSIA to make economic decisions to spend more money defending a claim and bring it to resolution, then to pay in a settlement. The downside of nuisance value settlements is that it may encourage additional claims with attorneys knowing that something will eventually be paid regardless of the merit of the case.

It may be worthwhile to consider an amount that must be reported, potentially, over \$100,000, rather than having to report every settlement.

### **ADMINISTRATIVE IMPLICATIONS**

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

### **TECHNICAL ISSUES**

### **OTHER SUBSTANTIVE ISSUES**

### **ALTERNATIVES**

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

### **AMENDMENTS**

The sponsors of this bill may wish to consider financial cap on what settlements need to be reported and what settlements do not. This may have the effect of discouraging meritless cases.