

LFC Requester:

Fischer

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

[AgencyAnalysis.nmlegis.gov](https://www.nmlegis.gov/AgencyAnalysis) 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:** 2/3/25 Check all that apply:  
**Bill Number:** 220 Original  Correction   
 Amendment  Substitute

**Sponsor:** Sen. Pat Woods & Sen. Gabriel Ramos **Agency Name and Code Number:** NM DoIT – 361  
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**Short Title:** Publication of Legal Settlement Terms **Phone:** 505-500-9291 **Email:** Jason.clack@doit.nm.gov

**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
0	0		

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
0	0	0		

(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>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Synopsis: Senate Bill 220 (SB 220) would create a new section of the Sunshine Portal Transparency Act requiring State agencies that enter into an agreement to settle a potential legal or other claim without the assistance of the risk management division of the general services department to provide the terms of the settlement agreements for publication on the sunshine portal, in a downloadable format, for free public access, within 30 days of the settlement agreement.

Section 2 of SB 220 would add a new definition to Section 15-7-1 NMSA 1978, for the term "division" to mean "the risk management division of the general services department."

Section 3 of SB 220 would add a new section to Chapter 15, Article 7 NMSA 1978 requiring a state agency to notify the risk management division (RMD) immediately upon becoming aware of an individual's death or serious injury or other substantial loss that is alleged or suspected to be caused at least in part by the actions of a state agency. The director of RMD would then be required to appoint a loss prevention review team along with defense counsel, within 30 days. The review team would be led by an attorney, appointed by the director and additional persons identified by the loss prevention review team lead, who may include independent consultants, contractors, experts or state employees, but shall not include a person directly involved in the loss or risk of loss giving rise to a loss prevention review or a person with testimonial knowledge of the incident to be reviewed. The review team would then investigate the incident, evaluate its causes, and recommend steps to reduce the risk of such incidents occurring in the future. After the final judgment resolving any claims related to the loss and rights to appeal have been exhausted or any settlement agreements have been signed by the state and parties related to the loss, the review team will submit a report in writing to the director and the head of the state agency involved in the loss or risk of loss. The agency would be required to provide the review team with ready access to relevant documents in the agency's possession and ready access to the agency's employees. Any interviews, transcripts, reports, recommendations, communications or other documents adduced or created in connection with a loss review investigation would remain confidential until after final disposition of any related claims.

The director would be able to promulgate rules to implement this new section.

On or before October 1 of each year, the director would be required to submit a report to the legislature identifying the loss prevention reviews conducted in the past fiscal year.

The new section would also contain definitions for the terms: "serious injury" meaning "an injury that involves a substantial risk of death, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ or mental faculty;" and (2) "substantial loss" meaning "a loss in a possible amount greater than two hundred fifty thousand dollars (\$250,000) or a lesser amount as determined by the director."

Section 4 establishes an effective date of July 1, 2025.

## **FISCAL IMPLICATIONS**

There may be a fiscal impact if agencies are supposed upload these settlements into the Sunshine Portal directly. Currently, GSD uploads settlements into the Sunshine Portal. If each individual agency will be expected to upload their individual settlements, then there will be a need for additional licenses for them to interact with the portal and upload the required documents. Currently, licenses are ~\$190 each. The fiscal impact would depend on the number of agencies required to upload these documents and the number of employees at each agency that would need a license.

## **SIGNIFICANT ISSUES**

SB 220 is unclear as to whether each agency will be responsible for uploading these settlements to the Sunshine Portal, or if they will be required to send them to GSD for GSD to upload them to the Portal. Currently GSD has permission and licenses to upload settlement agreements to the Sunshine Portal. If other agencies will be required to upload settlements, then there will be a need to purchase new licenses for those agencies, to give them access to the application.

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

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

## **TECHNICAL ISSUES**

SB 220 would create a new provision in the law that would say, “Any interviews, transcripts, reports, recommendations, communications or other documents adduced or created in connection with a loss review investigation shall remain confidential until after final disposition of any related claims pursuant to Section 15-7-9 NMSA 1978.” However, Section 15-7-9 NMSA 1978 does not provide protections for witness statements or other oral communications. That Section only provides protections for records but does not provide confidentiality for communications that are not contained in a record.

## **OTHER SUBSTANTIVE ISSUES**

This bill contains an unfunded mandate that will result in budget strains for every agency impacted.

## **ALTERNATIVES**

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

## **AMENDMENTS**