

LFC Requester:	Fischer
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to 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: 2/1/2025 *Check all that apply:*
Bill Number: SB 220 Original Correction
 Amendment Substitute

Sponsor: <u>Sens. Pat Woods & Gabriel</u>	Agency Name	<u>General Services Department - 350</u>
Short Title: <u>PUBLICATION OF LEGAL SETTLEMENT TERMS</u>	and Code Number:	
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NA	NA	NA	NA

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NA	NA	NA	NA	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0	Indeterminate	Indeterminate	Indeterminate	Recurring	Public liability fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB 287 (2024)
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB 220 bill amends the Sunshine Portal Transparency Act. The legislation would require agencies to notify the director of the Risk Management Division (RMD) “immediately” when learning of a death, serious injury, or other substantial loss is alleged to be caused by that agency. Upon notification, the RMD director would then be mandated to appoint a loss prevention review team within thirty (30) days. The results of a loss prevention review investigation and the agency’s response to it would be public record. The bill would also require agencies who negotiate settlement agreements independent of RMD to post the terms of those settlements to the Sunshine portal within 30 days of entering into a settlement agreement.

The effective date of this legislation is July 1, 2025.

SB 220 is similar to HB 287 (2024).

FISCAL IMPLICATIONS

Independent experts and other consultants, called for in the appointment of loss prevention review teams, would dramatically increase costs. The bill is silent as to funding, but presumably it would rely upon the public liability fund. Experts can range in costs upwards from \$5,000 per expert, per case. Requiring a review team that includes outside experts in every substantial loss, of which there are many, would be a costly endeavor—independent of the other increased costs and liabilities.

SIGNIFICANT ISSUES

Section 3(B) would require the appointment of a loss prevention review team within thirty (30) days of notification of a substantial loss. This raises several concerns, all of which would have an adverse impact on state liabilities and on the public liability fund.

Whether a claim will ultimately lead to a “substantial loss” is seldom known at the claims stage, but claimants have a financial interest in erring on the high-side of estimating damages. Moreover, many claims never result in litigation or settlement. The appointment of a loss prevention review team “immediately upon becoming aware” would require the commitment of a substantial amount of financial and human resources to notice of a possible “substantial loss” that may never materialize into litigation.

Section 3(E) provides that any materials adduced or created in connection with a loss review investigation shall remain confidential until after final disposition of a claim. This confidentiality is sure to be challenged by plaintiffs’ counsel. The anticipated litigation associated with

defending this confidentiality provision is likely to dramatically increase costs. If claimants can successfully obtain this information, while litigation is proceeding, it will also increase the cost of defending and resolving the claim(s).

There is concern that even if the investigative materials were to remain confidential during the pendency of all related claims, it would increase the state's liability by giving public notice of potential future claims. These reports may also affect the types of claims brought in future litigation.

The bill requires the director to submit a report to the legislature on or before October 1 of each year identifying the reviews conducted.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

Substantial loss is defined as a loss greater than \$250,000 or a lesser amount determined by the director. The term "lesser" is vague and can change causing confusion for agencies.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS