



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2021 Biennium

Bill # SB0019

Title: Revise laws related to local government budgeting and accounting

Primary Sponsor: Roger Webb (R) SD 23

Status: As Introduced

- Significant Local Gov Impact
 Needs to be included in HB 2
 Technical Concerns
 Included in the Executive Budget
 Significant Long-Term Impacts
 Dedicated Revenue Form Attached

FISCAL SUMMARY

	<u>FY 2020</u> <u>Difference</u>	<u>FY 2021</u> <u>Difference</u>	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>
Expenditures:				
General Fund	\$214,770	\$180,259	\$182,456	\$185,193
Other/Proprietary	\$30,000	\$0	\$0	\$0
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Other	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>(\$214,770)</u>	<u>(\$180,259)</u>	<u>(\$182,456)</u>	<u>(\$185,193)</u>

Description of fiscal impact: This bill requires updates to the Department of Administration's databases and other computer systems as well as additional FTE and operating costs for the Department of Justice. There are also significant local government impacts and technical concerns related to this legislation.

FISCAL ANALYSIS

Assumptions:

Department of Administration

1. Microsoft Dynamics/CRM and similar electronic tracking system updates will be required to help ensure proper maintenance of reports, filing fees, audit fees, and any related financial assistance withheld or released. The department estimates a cost of \$15,535 to update CRM and \$14,465 to update integration with SABHRS and other internal systems. There also will be unknown ongoing maintenance and hosting costs for additional features added to the systems necessary for compliance tracking under the bill. Funding will be from proprietary funds.
2. The department will absorb the additional monitoring and tracking effort with existing FTE resources.

Department of Justice

3. It is assumed there will be a significant workload involved in the monitoring, and possibly investigation, of local government entities. This workload would require 2.00 FTE to perform the necessary tasks required in the bill - an auditor with criminal investigation knowledge and a criminal investigator.
4. Salary and benefits for the criminal investigator position are estimated at \$83,655 annually; salary and benefits for the auditor position are estimated at \$73,117 annually. These amounts are inflated by 1.5% for fiscal years 2022 and 2023.
5. If violations are alleged, the criminal investigator would determine if a criminal violation exists. The auditor would work with the criminal investigator to build a case against the local government entity.
6. A vehicle would be required to enable the criminal investigator to work undercover operations. This expense is estimated at \$25,365.
7. Operating expenditures include one-time-only office set up costs (\$7,896 in fiscal year 2020) and expenses associated with the use of law enforcement vehicles (\$1,750 in fiscal year 2020 and \$500 in fiscal year 2021). Ongoing operating expenditures, estimated at \$22,987 annually, are inflated by 1.5% for fiscal years 2022 and 2023.

	<u>FY 2020</u> <u>Difference</u>	<u>FY 2021</u> <u>Difference</u>	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>
<u>Fiscal Impact: Department of Administration</u>				
<u>Expenditures:</u>				
Operating Expenses	\$30,000	\$0	\$0	\$0
TOTAL Expenditures	<u>\$30,000</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
Other	\$30,000	\$0	\$0	\$0
TOTAL Funding of Exp.	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
Other	\$0	\$0	\$0	\$0
TOTAL Revenues	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	\$0	\$0	\$0	\$0
Other	(\$30,000)	\$0	\$0	\$0

	<u>FY 2020 Difference</u>	<u>FY 2021 Difference</u>	<u>FY 2022 Difference</u>	<u>FY 2023 Difference</u>
Fiscal Impact: Department of Justice				
FTE	2.00	2.00	2.00	2.00
Expenditures:				
Personal Services	\$156,772	\$156,772	\$159,124	\$161,511
Operating Expenses	\$32,633	\$23,487	\$23,332	\$23,682
Equipment	\$25,365	\$0	\$0	\$0
TOTAL Expenditures	<u>\$214,770</u>	<u>\$180,259</u>	<u>\$182,456</u>	<u>\$185,193</u>
Funding of Expenditures:				
General Fund (01)	\$214,770	\$180,259	\$182,456	\$185,193
TOTAL Funding of Exp.	<u>\$214,770</u>	<u>\$180,259</u>	<u>\$182,456</u>	<u>\$185,193</u>
Revenues:				
General Fund (01)	\$0	\$0	\$0	\$0
Other	\$0	\$0	\$0	\$0
TOTAL Revenues	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	(\$214,770)	(\$180,259)	(\$182,456)	(\$185,193)

Effect on County or Other Local Revenues or Expenditures:

Department of Administration

1. This bill may require local governments to spend additional sums for which no specific means of financing are provided. 1-2-114, MCA, provides that bills that have such an impact may not be introduced.
2. The amendments to 2-7-517, MCA, have an unknown annual local government impact, due to the variety of sources of "financial assistance" to be withheld and the varying circumstances when, and for how long, financial assistance could be withheld. The department is uncertain what other additional costs and liabilities may occur during periods of withholdings (e.g., interest on short-term/operating loans).
3. The department estimates that, on average, 266 local governments, excluding school districts, will submit annual financial reports after deadlines. These local governments would potentially be subject to withholding of financial assistance each year.
4. The department estimates that approximately 42 local governments, excluding school districts, will submit filing fees after deadlines. These local governments would also be potentially subject to withholding of financial assistance each year.

Local Government Impact:

Department of Administration

1. The amendments to 2-7-503(5), MCA, have a total estimated local government impact of \$1,972,089. If a local government does not timely submit an annual financial report, audit report, or financial review report, the department will require the local government to procure an audit or a financial review.
2. Because these audits or financial reviews cannot build upon untimely performed and filed audits, the local government will need to recontract any previously contracted engagement not submitted by the due date, regardless of the degree of work performed.

3. The department estimates that approximately 78 local governments will submit annual financial reports later than 12 months after fiscal year-end. Of these, 22 are expected to meet the threshold established in 2-7-503(3)(a), MCA, requiring an audit.
4. The average financial review and audit costs for the period between fiscal year 2013 and fiscal year 2018 were \$1,434 and \$12,849, respectively. By mandating all untimely annual financial reports to result in either a contract for a financial review, or a contract/recontract for an audit, the estimated annual local government impact is \$362,982.
5. The department estimates that approximately 143 local governments will submit financial review and audit reports after the report due date. Of these, 123 are expected to meet the threshold established in 2-7-503(3)(a), MCA, requiring an audit.
6. The total average annual local government impact due to untimely financial reviews and audits is estimated at \$1,609,107, based on the average financial review and audit costs noted above.
7. An unknown amount related to unperformed duties of cancelled contracts may net against, and lower, the total estimate of \$1,972,089. The amount remains unknown, because circumstances are too varied to estimate which portion of the cancelled contracts will be performed and which portions of the delinquencies would be attributable to the audit firm or the local government.

Technical Notes:

Department of Administration

1. The amendment to 2-7-506(5), MCA, presents the two following issues: 1) the amendment will not likely provide enough time for many local governments to procure an executed audit contract, and 2) the amendment includes terms that present significant issues to the procurement of audits and to the maintenance of auditor independence in accordance with professional auditing standards.
2. The amendments to 2-7-508, MCA, and 2-7-511, MCA, do not address the concept of materiality in the scope of an audit engagement. The application of materiality is necessary in the conduct of audit engagements, because it is impractical for an auditor to review every account. Without the application of a materiality concept, the cost of an audit would be excessive.

Montana Association of Counties and Montana League of Cities and Towns

3. In addition to the fiscal impacts to local governments identified by the Department of Administration, SB 19 creates a new, independent cause of action for any taxpayer “aggrieved by the failure of a local government entity to comply with its audit and reporting duties.” There is no definition of “aggrieved” in this bill and no process provided by which a taxpayer must provide notice or evidence of an action that would allow a local government to address an alleged failure to perform its duties under the proposed law. This would result in unquantifiable fiscal impacts to local governments in litigation costs and attorney’s fees, even if the local government were to prevail.

NO SPONSOR SIGNATURE

Sponsor’s Initials

Date

Tom Lewis

Budget Director’s Initials

1/5/19

Date