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## Legislative Fact Sheet

### House Bill 10-1393: Transparency Online Project Information (Representative Nikkel/Senator Kopp)

#### Summary of Legislative Proposal

HB10-1393 makes modifications to HB09-1288, which codified in statute the requirement for the state to develop and maintain an online searchable database of revenues and expenditures (i.e., TOP System). The bill clarifies the requirements of the system to address important confidentiality and privacy issues that have been identified since passage of the 2009 legislation. Specifically, the bill:

- Allows a state agency Chief Financial Officer (CFO) or Executive Director (ED) to exclude from the TOP System information that would adversely impact the privacy, safety, or security of individuals, even if that information is discoverable under the Colorado Open Records Act (CORA). Exclusion from the TOP System does not prevent a citizen from inspecting records under CORA.
- Applies all exemptions allowed under CORA to the TOP system.
- Requires the web-based system to describe the information excluded and creates a process for any citizen to challenge an exclusion.
- Ensures that the State Controller and the State Chief Information Officer are not liable for any information in the TOP System that is presented based upon reasonable reliance on representations by a state agency. If they fail to meet the requirements of the governmental immunity statute, an agency CFO or ED remains liable for the failure to exclude protected information.

#### Background and Problem Statement

The TOP System was developed by the Office of Information Technology (OIT) on behalf of the State Controller, who is the custodian of the expenditure and revenue data housed in the web-based system. Before the system went live, the State Controller worked with state agencies to determine what information should be excluded from the public-facing system. HB09-1288 allows for the exclusion of any information that is not a public record and/or is confidential according to state and federal law. However, the review process identified several data fields that while not technically excludable under the enabling legislation could in fact affect the safety, security, and privacy of citizens if made public. These fields included information such as reimbursements to exonerated persons, payments to jurors, witnesses in judicial proceedings, and other sensitive legal information. Further, it became apparent that the State Controller and OIT could be held liable for unknowingly releasing confidential information based on agency review.

#### Proposed Solution

HB10-1393 strengthens the TOP System by (1) ensuring the information contained within does not pose a safety, security, or privacy threat to any Colorado citizen; (2) creating a fair process to challenge an exclusion; and (3) addressing important liability issues related to publishing the state's financial information. This bill is supported by the Governor's Office, the Office of the Attorney General, the Department of Personnel & Administration, and the Office of Information Technology.

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