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## FISCAL IMPACT REPORT

SPONSOR Sen. Wirth/Rep. Chandler LAST UPDATED \_\_\_\_\_  
ORIGINAL DATE 2/7/2025  
BILL \_\_\_\_\_  
SHORT TITLE Auto License Plate Reader Act NUMBER Senate Bill 71  
ANALYST Dinces

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

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
DPS	No fiscal impact	\$243.8	\$236.8	\$480.6	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files  
Congressional Research Service

Agency Analysis Received From  
New Mexico Attorney General (NMAG)  
Regulation and Licensing Department (RLD)  
Department of Public Safety (DPS)

Agency Analysis was Solicited but Not Received From  
Taxation and Revenue Department (TRD)

## SUMMARY

### Synopsis of Senate Bill 71

Senate Bill 71 (SB71) creates the Automatic License Plate Reader Act, outlining permitted uses for automatic license plate readers, limiting the retention of license plate data by law enforcement agencies, and protecting the security of collected license plate data.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

## FISCAL IMPLICATIONS

The Department of Public Safety (DPS) states:

DPS received funding in FY24 and FY25 for the purpose of continuing a statewide License Plate Reader (LPR) program as part of DPS' intelligence lead policing initiative. These funds are being used in furtherance of investigations, intelligence gathering, coordination, operational planning, patrol, enforcement or prosecution related to violent crimes state both state-wide and in the Bernalillo County Metro area.

To ensure the continued success of the LPR program, the department will require funding for two full-time employees, specifically Data Analyst IIs at pay band 75. These positions are essential for compiling data and providing the annual reports to the legislature as mandated by this bill. The initial personnel costs for FY26 will be \$243.8 thousand, followed by recurring costs of \$236.8 thousand in FY27.

## SIGNIFICANT ISSUES

According to the Congressional Research Service,<sup>1</sup> a Bureau of Justice Statistics' 2020 survey found nearly 90 percent of sheriffs' offices with 500 or more sworn deputies and 100 percent of police departments serving over 1 million residents use license plate reader technology. As New Mexico has received funding to use automatic license plate readers, creating statute regarding the use of this technology as well as creating provisions around data collected is likely needed.

The New Mexico Attorney General (NMAG) highlights several significant issues:

**Uncertainty regarding procedures to request preservation of license plate data:** Section 4 (B) provides that license plate data shall be deleted after fourteen days if there is no alert, while also providing that the data shall be retained under certain circumstances, including “upon written request of a law enforcement agency, a prosecutor or a defendant in a criminal case to preserve the license plate data.” It does not specify to whom a written request must be submitted and it may be beneficial to provide some guidance for purposes of clarity, particularly given the brief period within which a retention request would need to be made. Additionally, there is no clear provision for final disposition of the data following a retention request and it may be beneficial to consider adding language regarding ultimate disposition under such circumstances.

**Uncertainty regarding data disposal after one year for plate with alerts:** Section 4 (A) provides that license plate data for which there is an alert shall be retained for one-year. It does not clearly state that the data shall be deleted upon expiration of the one-year period and there is no provision, as there is for data falling within the fourteen-day period, that a law enforcement agency, a prosecutor or a defendant in a criminal case may make a written request to preserve it for a longer period of time. This may create confusion regarding what must or may be done with the data following the one-year retention period. This may also lead to the possibility of issues arising regarding preservation of evidence for criminal matters. It may be beneficial to consider whether language should be added permitting extension of the retention period under the same or similar circumstances as provided for in Section 4 (B) and clarifying ultimate disposition of the data following the retention period.

**Lack of consequences for failure to comply:** There are no consequences contained within the bill of failing to comply with the provisions stated therein. There is also no provision for how data should be retained or deleted, and the consequences for failure to do so in accordance with the provisions of the bill.

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<sup>1</sup> <https://crsreports.congress.gov/product/pdf/R/R48160>

DPS states:

Section 2 Item D reads: "license plate data" means a vehicle's characteristics, including make, model, color and license plate number; a photo of the vehicle, driver or passengers; the global positioning system coordinates; and date and time of travel. This language needs revision to specify the cameras are aimed to photograph the license plate and not the driver or passengers.

DPS identified several issues regarding the use of LPRs by law enforcement in their analysis of a similar bill from the 2024 legislative session:

**Retention Schedule:** DPS expresses concerns with the proposed 14-day retention schedule for LPR data as unfeasible, advocating instead for a longer retention period. It highlights that data related to missing persons and criminal investigations is retained until a case concludes and is adjudicated. This approach supports law enforcement in serious criminal investigations like human trafficking, child abductions, and violent crimes by enhancing investigative capacity and contributing to public safety.

**Privacy and Identifiability:** LPR data, which includes license plate numbers, is not considered personally identifiable information on its own. The International Association of Chiefs of Police notes that while a license plate can be linked to an individual, such linkage requires additional steps using other databases. The public display of a license plate exists in part so that law enforcement can easily verify that the vehicle complies with state law. Furthermore, New Mexico and federal courts have found that individuals do not have a reasonable expectation of privacy interest in their license plate number or VIN. Thus, even though LPR systems automate the collection of license plate numbers, it is the investigative process by law enforcement that identifies individuals, making the use of LPRs less intrusive.

**Data:** Law enforcement agencies throughout the nation are increasing adopting the use of LPR technologies. The use of LPR enhances investigative capabilities, expands collection of relevant data, and expedites the tedious and time-consuming process of manually comparing vehicle license plate with a list of potential interest, however data is not entered manually.

**Challenges with Exculpatory Data:** DPS acknowledges the difficulty in collecting exculpatory evidence via LPRs since the system captures only license plate images. This limitation means that LPR hits must be independently verified through additional steps, underscoring the tool's role in preliminary investigations rather than as a sole basis for legal action

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB71 is almost identical to 2024 SB208.

SD/rl/SL2