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FISCAL IMPACT REPORT

ORIGINAL DATE 01/25/09
 LAST UPDATED 02/17/09 HB 103

SPONSOR O'Neil

SHORT TITLE Exempt Building Plans from Public Inspection SB _____

ANALYST Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		(\$1,200.0)	(\$1,200.0)	(\$3,300.0)	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Commission of Public Records (CPR)
 Department of Public Safety (DPS)
 Higher Education Department (HED)
 Taxation and Revenue Department (TRD)

No Responses Received From

Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

House Bill 103 includes new language that adds exceptions for building and security plans and specifications, security protection systems and procedures, security camera video footage, and confidential personal information (including social security numbers, birth dates, personal bank or other financial account numbers, driver license numbers, home addresses, personal phone numbers and personal email addresses).

FISCAL IMPLICATIONS

Motor Vehicle Divisions estimates that it receives, and uses for operations, approximately \$1.2 million annually from vehicle and driver data sold under restrictive guidelines established by existing privacy and confidentiality laws, including the Driver's Privacy and Protection Act (DPPA). Customers of the division include companies involved with insurance, driver safety monitoring and title and registration processing. If such information was deemed confidential, the Department would incur loss of revenue.

SIGNIFICANT ISSUES

According to Taxation and Revenue Department, the bill creates uncertainty and potential legal challenges about how the exception under public records inspection for "*confidential personal information including a social security number, birth date, personal bank or other financial account numbers, driver license number, home address, personal phone numbers and personal email addresses*" may interact with the Motor Vehicle Code Section 66-2-7.1 NMSA 1978.

Public records provisions start from the perspective that records are presumed to be open, except for ... in this case, certain confidential personal information. On the other hand, the Motor Vehicle Code (66-2-7.1) starts from the perspective that all information is confidential, except for ... certain recipients for specific uses.

Since MVD records are generally confidential, there is no problem or conflict in regard to releasing information to the general public. However there could be a conflict as far as the bill appears to offer a promise of confidentiality for personal information. Section 66-2-7.1 does not *require* MVD to release information, but is a protection against the current version of Section 14-2-1 to the extent that it prohibits release of information except to certain persons for certain uses.

The MVD is quite concerned this bill may affect its ability to provide specific information to specific entities for specific uses under Section 66-2-7.1 NMSA 1978. For example: insurance companies need access to driver records to evaluate risk, and without access to the date MVD is concerned that insurance rates may go up; many companies, including school bus operators, access MVD personal data on a regular basis to evaluate driver records and without such access MVD is concerned that the risk to public safety would increase.

TECHNICAL ISSUES

The Commission of Public Records suggests harmonizing definition of personal identification information found in the bill with the definition of personal identification information found in Subsection F of Section 14-3-2 NMSA 1978 of the Public Records Act. This is the definition: "personal identification information" means the name, social security number, military identification number, home address, telephone number, email address, fingerprint, photograph, identifying biometric data, genetic identification, personal financial account number, state identification number, including driver's license number, alien registration number, government passport number, personal taxpayer identification number, or government benefit account number of a natural person.