F I S C A L   I M P A C T   R E P O R T

	ORIGINAL DATE	01/08/15		
SPONSOR Roch	**LAST UPDATED**	02/24/15	**HB**	163/aHEC
SHORT TITLE School Use of Social Security Numbers			**SB**	
			ANALYST	Gudgel

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	**FY16**	**FY17**	**3 Year Total Cost**	**Recurring or Nonrecurring**	**Fund Affected**
Total		Potentially Significant				HED and PED Operating Budgets

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Attorney General's Office (AGO)
Department of Information Technology (DOIT)
Higher Education Department (HED)
Public Education Department (PED)

SUMMARY

Synopsis of HEC Amendment

House Education Committee Substitute to House Bill 163 makes a number of amendments to address concerns noted below related to the prohibition on the use of social security numbers and other personally identifiable information for purposes related to the data system. The amendment eliminates the definition of "personally identifiable information" as a person's social security number (SSN) and reinserts the term "personally identifiable information" as is currently in law. The bill as amended expressly prohibits the use of a SSN as an identifier in the data system. It also prohibits the collection or distribution of personally identifiable information by the data system partners (PED and HED).

Synopsis of Bill

House Bill 163, endorsed by the Legislative Education Study Committee, amends an existing section of the Public School Code and enacts two new sections of the Public School Code to prohibit the use of a person's social security number (SSN) in certain instances. First, the bill

amends Section 22-1-11 NMSA 1978 to prohibit the use of a person's SSN as an identifier and the use of a person's SSN in the unified prekindergarten through post-graduate education accountability data system (P-20 data system) in addition to the collection of educator and student SSN's by the data system partners. The bill enacts a new section of the Assessment and Accountability Act to prohibit the use of SSNs for any purpose under the Act. Lastly, it enacts a new section of the School Personnel Act to restrict the use of a person's SSN to performing a background check pursuant to Section 22-10A-5 NMSA 1978; processing a request for or issuing a license pursuant to the provisions of the School Personnel Act; executing payroll and benefit requirements; complying with a court-issued order or subpoena; and releasing information containing the SSN, as requested in writing by the owner of the SSN.

FISCAL IMPLICATIONS

LFC staff notes the bill both prohibits the use of SSN as an identifier in the data system, prohibits the use of SSN in the data system, and prohibits the data system partners – the Public Education Department and Higher Education Department – from collecting or distributing personally identifiable information.

PED notes the department's business rules already prohibit the use of student SSNs in its student teachers accountability reporting (STARS) data system. PED collects teacher and other staff SSNs as permitted both under the school personnel act and the bill. Section 3 of the bill permits using SSNs for the purposes PED already uses it — for performing background checks, processing licensure requests, payroll and benefits, compliance with court-issued orders or subpoenas and releasing linked information as requested in writing by the owner of the social security number.

HED notes data matches between institutions and data systems is greatly facilitated by the use of student SSNs and are not subject to the same error as matches based on name and birthdate, as names are not always spelled the same way in different data systems and sometimes nicknames are entered in the place of full legal names. Additionally, HED notes a student's birthdate is not always available (it is rarely provided in the UI files for the purpose of matching job placement data with public and higher education data). Mandates to track student success and the effectiveness of programs designed to affect student success is more difficult and expensive when a common identifier, such as SSN is not available.

HED's analysis also notes that PED's process for developing a common system across public elementary and secondary education schools to assign consistent and unique STARS ID's for students is expensive and subject to error. There are many cases where a school administrator may be unaware that a student already has a STARS ID and a duplicate ID may be assigned.

HED also notes that if HB163 is broadly interpreted to preclude the use of the SSN in the department's DEAR system, costs to the department would be immense. One of the main advantages of the DEAR data is its ability to track student transfer and student transition into the workforce. If each institution submitted their own internal ID instead of SSN. matches across institutions would be very difficult and subject to many errors, and matches to the workforce UI file would no longer be feasible. There is already a fairly high cost involved in the name/birthdate match between DEAR data and PED data. There are many cases where a match is ambiguous and someone has to manually decide which match is correct. There are also cases where a match isn't possible, which lessens the overall accuracy of the reports and analyses that

will come from the SLDS.

SIGNIFICANT ISSUES

Public Education Department Analysis
PED notes that the department's data systems assigns a "unique identifier" to track students for purposes of study and evaluation. PED uses the student's unique identifier to have a single identifier common to all levels of education and that follows a student throughout school and into the workforce. Using the identifier avoids the problem of exposing student SSNs to uses that are illegal, unfair, or otherwise improper or intrusive.

PED enters into agreements to share personally identifiable information (PII) as defined in federal law to include basic information such as student names, demographics, and grades under terms limited by FERPA—for studies, evaluations, and audits. The agreements require masking PII as it is broadly defined under federal law to ensure that information is released only for the purposes set forth in the agreement and that the PII is kept only so long as it is needed for the purposes agreed to between PED and external evaluators. PED has such an agreement that allows it to share PII (as broadly defined in federal law) with the Legislative Finance Committee, for instance, in order to allow LFC the data needed to evaluate student performance. PED notes that the Legislature should be careful to not limit the use of student and personnel data for research and evaluation.

Higher Education Department (HED) Analysis
The Educational Data System (often referred to as a student longitudinal data system or SLDS) is currently under development. The eventual system will include data from several state departments.

Data for prekindergarten through high school enrollment comes from the Public Education Department's (PED) internal data system – the student, teacher accountability reporting system or STARS – which does not use student SSNs. All students are assigned a unique ID, often referred to as a STARS ID.

Data for student enrolled in higher education comes from HED's data editing and reporting (DEAR) system -- a unit record data collection from all public colleges and universities on students, courses, financial aid, and degrees and certificates awarded. DEAR data has been collected since 1995 and it does use SSN as a unique identifier. SSN matching is a required component of the DEAR system, partially because the data is used to verify financial aid awards, and because it is currently the only feasible way to track students as they move between institutions.

However, the SSN will NOT be entered into the SLDS or educational data system. Name and birthday matches are done with PED to identify students from PED who enroll in higher education. When a match is found, the student's STARS ID is used. Institutions are also encouraged to report STARS ID's for their enrolled students when that data is available on the student's high school transcript and for all dual credit enrollments. In these cases, the STARS ID is already available. For students who didn't attend a public secondary school, a centralized unique number may be assigned for use in the SLDS. The Data System Council has determined that job placement data in NM would also be a very important component of the SLDS. This can most readily be done by matching to the unemployment insurance (UI) file maintained by the

Workforce Solutions Department (WSD). SSN is critical to this match since employers typically don't report birthdates to the WSD and a simple name match would return too many false matches. Currently, matches from HED to the UI file can be made using SSN, but employment results entered into the SLDS would not include the SSN. Without SSN's available for PED students who do not attend a NM public college or university, matches to the UI file would be non-productive.

As the SLDS is expanded to include data from the Children, Youth and Families Department (CYFD), the Human Services Department (HSD), or other state entities, SSN remains the most viable way to match, though in some cases name and birthdate might also be feasible. But regardless of the matching method, SSN will not be entered into the SLDS.

In all cases, the SSN, plus all other sensitive data is carefully protected by the departments that collect that data. All federal and state laws regarding privacy are vigilantly followed. One of the criteria for the SLDS is that no personal data be released. SSN will not be entered into the SLDS. No reports will be generated that would allow an individual student to be identified.

Department of Information Technology's (DoIT) Analysis
DoIT's analysis notes the agency is the centralized consolidated IT provider for the state and the Office of the Chief Information Office (CIO) and as such both holds and secures personally identifiable information (PII) as well as provides oversight and support for executive agencies concerning PII. In these roles, DoIT notes it is important that consistency exists regarding the definition of PII and the appropriate protection of PII. A consistent definition of PII ensures related issues and administrative implications are addressed consistently. The widely accepted standard definition for PII is from the National Institute of Standards and Technology (NIST). It states "Any information about an individual maintained by an agency, including (1) any information that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and (2) any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information." DoIT notes that the narrow definition of PII in this bill (only a SSN) provides less protection of other important student information such as date of birth or address.

ADMINISTRATIVE IMPLICATIONS

If provisions of this bill prohibit PED and HED from collecting (and therefore using) student and educator SSNs, administrative implications could be significant. HED currently collects and uses student SSNs in the DEAR system. HED would be required to use some other form of identification for higher education students, resulting in the need to update the DEAR system to conform.

OTHER SUBSTANTIVE ISSUES

According to the Social Security Administration
The use of the SSN has expanded substantially since its inception in 1936. Created merely to keep track of the earnings history of U.S. workers for Social Security entitlement and benefit computation purposes, it has become a number assigned at birth and used by many government agencies to identify individuals and by private industry to track an individual's financial history.

That trend has begun to shift. As early as December 2004, IRTPA legislation prohibited states from displaying the SSN on driver's licenses or motor vehicle registrations. In 2007, the President's Identity Theft Task Force (2007, 3) included among its SSN recommendations that "federal agencies should reduce the unnecessary use of SSNs, the most valuable commodity for an identity thief."

On November 18, 2008, President George W. Bush issued EO 13478 rescinding the 1943 EO requiring all federal agencies to use the SSN as an identifier. Then in December, the FTC (2008) issued a plea to companies, schools, and other private entities to find better ways to authenticate identities than using the SSN. State and local entities have begun to delete SSNs on electronic versions of public records. Congress has also considered legislation that would require the Centers for Medicare and Medicaid Services to use an alternative to the SSN as the Medicare claim number. Even SSA, which created the SSN for its program use, has ceased to print the full SSN on some of its correspondence with beneficiaries (Lockhart 2002). The agency now advises individuals to keep their Social Security card in a safe place and not to carry it with them (SSA 2007a).

Federal survey-takers are also finding that as respondents have become more aware of the risk of identity theft, they are less willing to supply SSNs that are useful in linking the agency's survey data with administrative records from other agencies. For the Census Bureau's Survey of Income and Program Participation, the share of respondents who did not provide their SSN increased from 12 percent in 1996 to 35 percent in 2004. Likewise, the share of respondents who did not provide an SSN for the Census Bureau's Current Population Survey increased from 10 percent in 1994 to almost 23 percent in 2003 (Bates 2004, 4). The National Center for Health Statistics reports a similar problem.

Still, it is highly unlikely that use of the SSN as a unique identifier will cease entirely. In order to share data among government agencies or between commercial firms, a unique identifier to match records is critically important, and the SSN is the one unique tag that follows an individual throughout life. People may change their names and addresses throughout their lives, but their SSNs generally will remain the same. Of course, the SSN will also still be used for its original purpose—to track earnings in SSA records. The SSN is here to stay for the foreseeable future.

The Social Security Administration will continue to assess its policies and procedures to further strengthen the integrity of the enumeration process to prevent SSN fraud and misuse, as well as to protect the important personal information with which it is entrusted. SSA is a member of the Identity Theft Task Force and will continue to work with other members to protect, to the maximum extent possible, the integrity of the SSN.

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