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Fiscal Note

Drafting Number: LLS 21-0513
Prime Sponsors: Rep. McKean

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Bill Status: House SCMVA
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Bill Topic: **CONSENT COLLECTION PERSONAL INFORMATION**

Summary of Fiscal Impact:

- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

The bill requires governmental entities that maintain an individual's personal information to notify the individual every 90 days. It increases state and local expenditures on an ongoing basis, beginning in FY 2021-22.

Appropriation Summary:

The bill requires an appropriation of \$2.8 billion to various state departments.

Fiscal Note Status:

The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 21-1111

		Budget Year FY 2021-22	Out Year FY 2022-23
Revenue		-	-
Expenditures	Various State and Federal Funds	\$2.7 billion	\$2.0 billion
	Total FTE	6,800 FTE	4,500 FTE
Transfers		-	-
TABOR Refund		-	-

Summary of Legislation

The bill requires that any governmental entity that maintains, owns, or licenses computerized data that includes personal information about a Colorado resident, including data maintained by a third-party service provider, notifies such residents every 90 days and include an option for the resident request that the governmental entity dispose of any documents containing the information at no cost to the resident. The notice may be delayed if a law enforcement official determines that the notice would impede a criminal investigation.

The bill defines personal information as:

- medical information;
- biometric data;
- username or email address with a password that permits access to an online account;
- an account number, credit card number, or debit card number, in combination with a required security code, access code, or password that permits access to the account;
- an internet protocol (IP) address; or
- geolocation information.

The bill does not apply to publicly available information that is lawfully made public from federal, state, or local government records.

Assumptions

The Department of Personnel and Administration's (DPA) Integrated Document Solutions Mail Operations (IDS) provides outgoing mail services for state agencies that process large volumes of mail by obtaining maximum postage discounts. DPA's cost for bulk mail is estimated to be \$1.172 per letter, including a self-addressed, stamped envelope for the return mailing of the notification response. The fiscal note assumes that state agencies will opt for these services. To the extent that agencies choose other mailing options, expenditures may increase.

Disparate data storage systems, even within the same agency, may not be compatible and therefore require multiple notifications to one person. As coordinating data from such systems would require additional costs for programming or data cleaning, the fiscal note assumes that each individual will receive separate notifications from each system that contains their personal information. To the extent that a state agency is able to consolidate notifications from different systems into a single mailing, expenditures may decrease.

Types of documents. The data, documents, and programs which trigger the bill's notification requirements may include:

- vehicle titling and registration;
- state identification credentials, including driver's licenses;
- income tax returns;
- professional licenses, certifications, and registrations;
- state criminal history and background check information;
- student and alumni records (primary, secondary, and postsecondary schools);

- state employee records;
- court documents;
- vital statistics and other public health data;
- Medicaid; and
- any state or local program which provides online access via a password-protected account.

State Expenditures

The bill increases state expenditures on an ongoing basis, beginning in FY 2021-22. Costs are expected to exceed \$2.7 billion in FY 2021-22. Table 2 summarizes the total expenditures (excluding centrally appropriated costs), FTE, and number of mailings assigned to DPA for each state agency in FY 2021-22. The number of notifications sent by other means are not included, although the costs to send those are attributed to that agency. Some agencies are not included if expenditures are only incurred in DPA for mailing or the Office of Internet Technology (OIT) for IT systems work.

**Table 2
 State Agency Expenditures and Mailings, FY 2021-22**

Agency	Quarterly Notifications	Total Expenditures¹	Total FTE
Department of Health Care Policy and Financing	-	\$25,056,702	4.7
Department of Higher Education	856,000	\$320,478	5.0
Department of Human Services	-	\$48,954,959	185.7
Department of Labor and Employment	385,000	\$41,364	1.0
Department of Law	-	\$574,236	3.0
Department of Military and Veterans Affairs	156,510	\$37,849	0.9
Department of Natural Resources	-	\$864,034	1.0
Department of Personnel and Administration (except IDS)	38,409,612	-	-
DPA—IDS ²	N/A	\$2,386,849,117	5,369.0
Department of Public Health and Environment	68,192,000	\$12,628,654	77.5
Department of Public Safety	12,156,662	\$79,115,720	1,079.5
Department of Revenue	249,140,093	\$389,675	5.7
Department of State	4,000	\$506,435	1.0
Department of Transportation	240,000	-	-
Office of Information Technology ²	-	\$94,127,136	3.5
Judicial Department	469,672	\$3,287,337	40.6
Total	370,009,549	\$2,652,753,696	6,778.1

¹ Excluding centrally appropriated costs.

² Requires reappropriation from other agencies.

Process. State agencies will be required to review documents to determine if any contain personal information, as defined by the bill. In some cases, data may be pulled from electronic databases; in other cases, documents must be reviewed manually.

When qualifying personal information is identified, each such individual will be notified by mail, email, or telephone. That individual may then assent to continued storage of the personal information or request that the agency dispose of any documents containing the data. When agencies can contact individuals electronically, expenditures are low. Most of the expenditures in Table 2 come from mailing supplies and postage, as described below.

Mailing. DPA's centralized mailing service requires one high speed inserter and 2.5 FTE for every 30 million increase in quarterly outgoing mail volume. The fiscal note estimates the mail volume at 370 million letters every quarter. Incoming mail also has equipment and personnel requirements based on volume. This includes approximately one x-ray machine, two joggers, two mail opening machines, and 59.3 FTE per 10 million increase in incoming mail volume. Assuming that 40% of notified individuals who receive one or more mailings respond over the course of a year, the fiscal note estimates incoming mail volume at 148 million letters every quarter.

Disposal of personal information. Once agencies have received responses from notified individuals, workload will increase to dispose of documents as requested.

IT systems infrastructure. Many agencies maintain electronic systems through OIT or through third-party contractors. Many of these systems require updating to facilitate the identification of personal information or to reprogram system infrastructure to enable the disposal of personal information.

Finally, the amounts identified in Table 2 are based on estimates as available at the time of publication. It does not include costs for specific institutions of higher education and other state agencies for which the estimate was indeterminate. It is likely that additional sources of personal information will be identified and state expenditures will increase. Additionally, in future years, costs will increase as new data is collected; however, a portion of this will be offset by a decrease in data as individuals request that documents be deleted.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$76 million in FY 2021-22 and \$45 million in FY 2022-23.

Local Government, School Districts, and Statutory Public Entities

As with state agencies, local governments, school districts, and statutory public entities will experience increased workload and expenditures to comply with the requirements of the bill.

Technical Note

Some personal information, as defined by the bill, is necessary for governmental agencies to maintain in order to comply with other state or federal laws. If a governmental entity retains such data, it will continue to notify individuals even if they request that the data be discarded.

To the extent that governmental entities need to update electronic systems or review documents that may contain personal information, they may be unable to meet the bill's effective date.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2021-22, the bill requires appropriations to several state agencies, most of which is reappropriated to the Department of Public Administration and the Office of Information Technology. See Table 2 for details; further information is available upon request.

State and Local Government Contacts

All State and Local Agencies