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Final Fiscal Note

Drafting Number: LLS 21-0325 **Date:** July 19, 2021
Prime Sponsors: Sen. Sonnenberg **Bill Status:** Postponed Indefinitely
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Bill Topic: **PROHIBIT ELECTRONIC TRANSFER OF RECORDS**

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill prohibits the Division of Motor Vehicles from transferring electronic records in bulk. For FY 2021-22, the bill changes state revenue and increases state expenditures. Fiscal impacts are ongoing.

Appropriation Summary: For FY 2021-22, the bill requires an appropriation of \$355,358 to the Department of Revenue.

Fiscal Note Status: The fiscal note reflects the introduced bill with preliminary estimates only. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Table 1
State Fiscal Impacts Under SB 21-159

	Budget Year	Out Year
	FY 2021-22	FY 2022-23
Revenue	-	-
Expenditures		
General Fund	\$355,358	\$373,787
Centrally Appropriated	\$14,613	\$18,816
Total Expenditures	\$369,971	\$392,603
Total FTE	0.8 FTE	1.0 FTE
Transfers	-	-
TABOR Refund	-	-

Summary of Legislation

Current law requires that the Division of Motor Vehicles (DMV) in the Department of Revenue make records available to legally authorized users either as individual records or in bulk. The DMV is required to have a system for the electronic transfer of bulk information to primary users and vendors permitted to inspect the records under the Colorado Open Records Act (CORA), or under federal law. The DMV may collect a fee from primary users or vendors to cover costs.

This bill repeals the authority of the DMV to make records available in bulk, or to make bulk electronic transfers of records to individuals or vendors.

Background

Under CORA, certain persons are legally authorized to inspect information contained in a driver's license or identification card application, a title or motor vehicle registration, or in other official documents maintained by the DMV. Authorized users include any government agency, or any private person acting on behalf of a federal, state, or local agency in carrying out its functions. Authorized uses also include private businesses and their agents verifying the accuracy of personal information submitted to the business, or seeking to obtain correct information for the purposes of preventing fraud or pursuing legal remedies. DMV data may also be inspected for use in statistical research, in connection with insurance claims, to provide notice of towed vehicles, and for purposes of maintaining a federal organ tissue donor registry, among many other legally authorized uses. On average, 3.8 million title and registration records and 2.6 million driver records are requested each month, equating to over 77 million records inspected by government agencies and other authorized users annually.

State Revenue

Under current law, the DMV receives revenue from the authorized vendor subscriber fees, which is estimated at about \$645,000 annually. This bill eliminates the current revenue stream for bulk transfers and requires that the DMV establish a system for primary users and governmental agencies to inspect individual records. Current fees are \$9.00 for each driver record and \$2.20 for every title and registration record. Depending on the information technology system created to replace the vendor transfers of records, DMV revenue will change. The analysis of state revenue impacts is ongoing and the fiscal note will be revised at a later date.

State Expenditures

For FY 2021-22, state expenditures will increase by at least \$369,971 and 0.8 FTE to create an alternative electronic process for the dissemination of legally transferable records. For FY 2022-23, new costs are estimated as a minimum of \$392,603 and 1.0 FTE. Additional FTE costs may be incurred but have not been estimated at this time. This preliminary fiscal note will be revised at a later date. New expenditures are displayed in Table 2 and described below.

Table 2
State Expenditures under SB 21-159

Cost Components	FY 2021-22	FY 2022-23
Department of Revenue		
Personal Services	\$73,078	\$97,437
Operating Expenses	\$1,080	\$1,350
Capital Outlay Costs	\$6,200	-
Colorado DRIVES	\$275,000	\$275,000
Centrally Appropriated Costs ¹	\$14,613	\$18,816
Total	\$369,971	\$392,603
Total FTE	0.8 FTE	1.0 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

At a minimum, the DMV will require new staff to work with the department's IT vendor to modify the Colorado Driver License, Record, Identification and Vehicle Enterprise Solution (Colorado DRIVES), and to establish an electronic process for the provision of individual records. New staff are required to negotiate and establish end user agreements for an estimated 133 governmental agencies and an estimated 233 end user companies that subscribe to the existing vendor service. Until a new system can be established in DRIVES, the DMV will likely experience a large volume of requests that will require additional FTE in order to manually process authorized individual records. This additional staff expense has not been estimated but will be included in a revised fiscal note at a later date.

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 \$14,613 in FY 2021-22 and \$18,816 in FY 2022-23.

Effective Date

The bill was postponed indefinitely by the Senate State, Veterans, and Military Affairs Committee on March 23, 2021.

State Appropriations

For FY 2021-22, the bill requires a General Fund appropriation of at least \$355,358 to the Department of Revenue, and 0.8 FTE.

Departmental Difference

The DOR estimates that the bill requires the manual processing of 77 million annual records. This will increase state revenue from fees by approximately \$385 million annually beginning in FY 2021-22. This revenue increase assumes that the same volume of records requests will be processed individually at set cost per record. The department also estimates that it requires a General Fund appropriation of about \$214 million and 4,393 FTE in FY 2021-22. Staffing estimates for FY 2022-23 and future years are 4,792 FTE. While this fiscal note agrees that staffing costs will increase for the DMV to continue to provide legally accessible records, it is assumed that an automated solution should be pursued and that manual processing of requests should only be temporary. Also, it is unlikely that the department would be able to secure more than 4,000 FTE in the time periods discussed to implement the bill.

State and Local Government Contacts

Public Safety

Revenue