FISCAL IMPACT REPORT

BILL NUMBER: Senate Bill 40

SHORT TITLE: Driver Privacy and Safety Act

SPONSOR: Sens. Wirth, Nava, Berghmans, and O'Malley/Rep. Chandler

LAST UPDATE: 1/29/2026   **ORIGINAL DATE:** 01/28/2026   **ANALYST:** Sanchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
DPS	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

<u>Agency or Agencies Providing Analysis</u>
Law Offices of the Public Defender
Administrative Office of the Courts

<u>Agency or Agencies That Were Asked for Analysis but did not Respond</u>
Office of the Attorney General
Department of Public Safety
Municipal League

SUMMARY

Synopsis of Senate Bill 40

Senate Bill 40 (SB40), which would create the Driver Privacy and Safety Act, proposes new statutory provisions regulating the use, retention, and dissemination of data collected through automated license plate readers (ALPRs). The bill does not amend existing statutes but rather would enact new material to be codified. SB40 defines "automated license plate reader" as an electronic device capable of photographing or recording data from vehicle license plates and cross-referencing that information with law enforcement databases for investigative purposes. The bill applies to devices owned or operated by governmental entities, as well as private parties acting on their behalf.

The bill establishes a framework governing permissible uses of ALPRs, limiting their deployment to specific law enforcement purposes, such as identifying stolen vehicles, locating missing persons, responding to felony arrest warrants, and investigating serious criminal offenses. SB40 explicitly prohibits the use of ALPRs for civil traffic enforcement or general surveillance activities not linked to ongoing investigations or law enforcement functions.

Agencies employing ALPR systems would be required to adopt and publish written policies detailing allowable uses, data access protocols, and training requirements for personnel authorized to access the data. The bill further bars the sharing of ALPR data with entities not engaged in law enforcement, unless pursuant to a valid court order or to the extent necessary to comply with existing legal obligations.

Under the act, law enforcement agencies must submit annual public reports detailing the volume of data collected, the frequency of matched "hits" against law enforcement databases, and the number of instances in which ALPR data was shared or used in a criminal case. The bill empowers the attorney general to enforce compliance, including through civil actions and administrative penalties, and imposes civil liability on any person or agency that unlawfully discloses or misuses ALPR data. Individuals whose information is improperly collected, used, or disclosed may seek civil remedies, including damages, attorney fees, and injunctive relief. The bill emphasizes that nothing in the act permits the use of ALPRs in ways that infringe on rights guaranteed by the state or federal constitutions.

The effective date of this bill is July 1, 2026.

FISCAL IMPLICATIONS

SB40 may result in minimal but non-negligible administrative costs associated with implementation across several agencies. Law enforcement entities utilizing ALPR systems may incur costs for policy development, employee training, compliance documentation, and reporting infrastructure necessary to fulfill the bill's quarterly reporting requirements to the Office of the Attorney General. These reporting obligations include disclosure of all third-party requests for ALPR data, accompanying declarations of use, and requests lacking such declarations. Agencies may also need to invest in internal data governance protocols to ensure compliance with the bill's restrictions on access, retention, and data sharing.

The judiciary may experience an increase in caseloads stemming from civil enforcement actions initiated by the attorney general, district attorneys, or private parties seeking injunctive relief or damages for the misuse or unauthorized dissemination of ALPR data. Any growth in civil filings could lead to additional workload for courts, particularly in matters involving constitutional challenges or the adjudication of statutory penalties, which under the bill may amount to the greater of $10 thousand or actual damages per violation. These potential increases in case volume could require additional court resources, although the scale of impact is currently indeterminate.

Neither SB40 nor the associated analyses identify a direct appropriation; however, the bill may result in operational and compliance costs that agencies would need to absorb within existing resources or request through future budget cycles. Because enforcement authority is assigned to prosecutorial offices and the attorney general, those entities may also face workload increases if the volume of complaints or investigations rises following implementation. Additionally, local law enforcement agencies may face indirect fiscal pressure depending on the number and scope of out-of-state data requests, the cost of technical system upgrades for compliance, and legal consultation on the permissible use of ALPR data under the new statutory framework.

SIGNIFICANT ISSUES

SB40 raises several legal and operational considerations for agencies that use ALPR systems. By limiting how ALPR data can be accessed, shared, and used—especially by out-of-state or federal entities—the bill introduces new compliance requirements that may complicate interjurisdictional cooperation. Agencies responding to requests from outside New Mexico would need to obtain written declarations from requestors, confirming that any use of ALPR data complies with state law. This process could delay or reduce data sharing, particularly in cases involving differing legal standards across states.

The bill also designates ALPR data as confidential and explicitly excludes it from the definition of a public record under the Inspection of Public Records Act. This change may reduce public transparency around the use of surveillance technologies. While intended to protect individual privacy, the exclusion could raise questions about oversight, particularly among members of the public or civil liberties organizations interested in how law enforcement is using the technology.

SB40's enforcement provisions give both the attorney general and district attorneys authority to bring actions for violations and also allow individuals to pursue civil claims. This broad enforcement mechanism could lead to increased litigation, especially in the early stages of implementation, because agencies interpret and adjust to the new requirements. Statutory penalties, the greater of actual damages or $10 thousand per violation, create a strong incentive for compliance but also raise the stakes for missteps.

Agencies using older or vendor-managed ALPR systems may need to update contracts, automate deletion processes, and establish clearer guidelines for when and how data can be retained or purged. These operational shifts may not carry immediate costs but will require time and coordination to execute effectively. Overall, SB40 introduces a more restrictive legal framework around ALPR use that will shape how law enforcement agencies collect, store, and share vehicle surveillance data in New Mexico.

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