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FISCAL IMPACT REPORT

SPONSOR Sandoval DATE TYPED 01/02/05 HB 353

SHORT TITLE Military Discharge Public Records Exception SB _____

ANALYST Chabot

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 92

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)

State Commission of Public Records (SCPR)

Veterans' Services Department (VSD)

SUMMARY

Synopsis of Bill

House Bill 353 amends Section 14-2-1 NMSA RIGHT TO INSPECT PUBLIC RECORDS—EXCEPTIONS.— to exempt discharge pagers of a veteran of the armed forces with specific requirements depending on the date filed with the county clerk. It limits disclosure to next of kin, executive or personal representative or those designated with a power of attorney by the veteran.

Significant Issues

SCPR states military discharge records are regulated by federal regulations governing disclosure of personal information. The provisions with respect to commingled records **may** conflict with these federal requirements. SCPR further states “Importantly, the bill bases the exemption for records based upon the filing system employed and filing location—not on privacy issues.” Also, since there is no time limit for maintaining confidentiality, records may be maintained after the need exists.

VSD states “under the current rules, military discharge papers can be accessed by anyone who pays a small fee. These papers contain vital personal information such as Social Security Numbers, dates of military service, characters of service that can now be used to steal someone’s identity.

PERFORMANCE IMPLICATIONS

SCPR is concerned with the mission and related performance measures found in the general appropriation act for State Records which is facilitating, within legal limits, access to public records.

ADMINISTRATIVE IMPLICATIONS

Administrative processes will need to be developed to restrict access to discharge certificates.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

A similar bill in the 2003 legislative session (HB 112) was pocket vetoed.

OTHER SUBSTANTIVE ISSUES

The bill covers discharge papers filed with county clerks but does not address papers filed elsewhere such as VSD, county assessors, and state archives.

According to SCPR, the bill would seem to release county clerks from the liability of inadvertently disclosing personal information contained in veterans’ discharge papers that are commingled with other documents. It also provides no means of requesting an exemption from disclosure for commingled records of deceased veterans.

According to DFA, many states have passed similar legislation including Colorado, Connecticut, Florida, Georgia, Iowa, Kansas, Michigan, Mississippi, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, Virginia, Washington and Wisconsin.

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