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ROLL NUMBER

DESCRIPTION

2152

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Operator's Signature

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2003 SENATE FINANCE AND TAXATION

SB 2152

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Cheryl A. Jones
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10/16/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2152

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date January 13, 2002

Tape Number	Side A	Side B	Meter #
1	X		10
Committee Clerk Signature <i>[Signature]</i>			

Minutes:

Senator Urlacher opened the hearing on SB2152 relating to the enforcement of the Uniform Unclaimed Property Act. All committee members are present.

Gary Preszler State Land Commissioner-testified in support of SB2152. Written testimony is attached. We are concerned about the risk of paying claims to fraudulent owners. The third list of unclaimed property that is available to the public is also available to outside vendors. This list includes the names, including dollar amount of unclaimed property. Outside vendors also request unclaimed property information electronically and at this time we can not deny any request for that list. We can not control where this list goes after it has been released. Identity theft has become more and more of a problem. This bill proposes removing the dollar amount from the list and combine list #2 and list #3 that are prepared by the state. Would also make personal identification information confidential. Attorney General's Office suggested using exemption status, that allows us to use our discretion when releasing file information.

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[Signature]
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10-16-03
Date

Page 2

Senate Finance and Taxation Committee

Bill/Resolution Number SB2152

Hearing Date January 13, 2003

Senator Urlacher-Can anyone get ID numbers from the unclaimed property file?

Mr. Preszler- Under open records law today, anyone can request information and if it is open we have to release it. Any record we would have including social security numbers would be open.

Linda Fisher, Unclaimed Property Administrator-(meter #680) I will go through each section of the bill for the impact of SB2152. Written testimony is attached. Respectively request a "Do-Pass".

Senator Wardner-Open records question. Section 6, any identification information is open to the public?

Ms. Fisher-Yes, I would have to provide that information if it is requested.

Senator Urlacher-Is there any opposition to SB2152?

Jack McDonald-On behalf of the ND Newspaper Association and the ND Broadcasters

Association-Written testimony is attached. We oppose the part of section six that makes records that are now open, confidential. We would support closing some types of records.

Senator Wardner-Your saying, you would have no problem exempting social security numbers?

Mr. McDonald-We would propose specific information being exempt rather than the current proposal of exempting all information.

Senator Urlacher-Mr. Preszler, do you see an ability to compromise?

Mr. Preszler-(meter #1915)-No, I don't, because we may not know what kind of information that will be submitted. By making it exempt, that allows us the discretion to be able to give out the information to who we chose to verify ownership.

Senator Urlacher-Hearing closed on SB2152.

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Y. Preszler
Operator's Signature

10-16-03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2152

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date January 15, 2003

Tape Number	Side A	Side B	Meter #
1	X		#720
Committee Clerk Signature <i>[Signature]</i>			

Minutes:

Senator Urlacher opened the hearing on SB2152. All committee members were present.

Senator Wardner - Would like to ask Mr. McDonald a question. I would like your reaction to what Mr. Preszler said, regarding the unclaimed property section 6, after he discussed how it worked, I would just like your reaction.

Mr. McDonald - Suggested specifying personal information records be confidential, rather than the entire file. He indicated that sometimes the unclaimed property itself is personal information. I wouldn't have a problem if you want to pass it out of the committee as it is.

Senator Wardner motioned Do Pass. Second by Senator Seymour. Roll call vote 6 yea, 0 nay, 0 absent. Carrier Senator Wardner.

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[Signature]
Operator's Signature

10-16-03
Date

Date: 1-18-2003
Roll Call Vote #:

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2152

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken DO PASS

Motion Made By Sen. Lundberg Seconded By Senators Seymour

Senators	Yes	No	Senators	Yes	No
Senator Urlacher - Chairman	/		Senator Nichols	/	
Senator Wardner - Vice Chairman	/		Senator Seymour	/	
Senator Syverson	/				
Senator Tollefson	/				

Total (Yes) 6 No 0

Absent

Floor Assignment Senator Lundberg

If the vote is on an amendment, briefly indicate intent:

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10-16-03
Date

REPORT OF STANDING COMMITTEE (410)
January 15, 2008 12:06 p.m.

Module No: SR-07-0575
Carrier: Wardner
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2152: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends DO
PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2152 was placed on the
Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-07-0575

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Yubereca d. La
Operator's Signature

10-16-03
Date

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2152

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Yuberena J. Ace
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10-16-03
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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2152

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date March 4, 2003

Tape Number	Side A	Side B	Meter #
2		x	20.7-end
3	x		0.0-17.5
Committee Clerk Signature <i>Judith Hammer</i>			

Minutes: **Chairman Kelser** opened the hearing on SB 2152.

Gary Preszler, State Land Commissioner, introduced the bill and testified in its support. (See attachment #1)

Rep. Klein: How much is the administrative fee you charge for the list? And the claimant's documentation and records, do you mean to say that at the present time these are open and accessible to anybody?

Preszler: The fee is \$150. Yes, those records are open.

Rep. Froseth: How much identify fraud, how many times have you been able to prove that fraud has occurred in the past few years?

Preszler: I don't think we've detected any but that doesn't mean we haven't been victimized. I'll let Linda Fisher elaborate on this for you. SB 2152 is preventative legislation. Not publishing the dollar amounts being held for individuals will dissuade unscrupulous persons from targeting a claim. There is a lot of personal information contained in our files that is subject to open records.

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Yvonne A. Lee
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10-16-03
Date

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number SB 2152

Hearing Date March 4, 2003

We want to protect that information for the citizens of our state. The legal publication in the paper only publishes names, not amounts and that is the first list. The second list is provided for heir finders after two years and that includes the dollar amounts. They pay \$150 to obtain a copy of that. We want to combine the two. We get up to ten requests a year from heir finders.

Rep. Severson: I got an e-mail saying I had unclaimed property. Are those the people who request information from you?

Preszler: We input all the state legislator's names for just a test search. Sometimes the public will get on our case for carrying such obvious names on our list. That e-mail solicitation is just giving you information that is free and available to you anyway.

Chairman Kelser: This is tough, if the legitimate professionals don't think it's worthwhile they won't pursue the owners. But we do want this property to be claimed by its rightful owners, not keep it in the fund. How do we get around this?

Preszler: Unclaimed property adjusters take the heat for this. Each of you would recognize some of the names on the list of 34,000 names. Some people do not respond to our claim forms that we send to them. We send out state warrants for payment and people don't cash them.

Rep. Froseth: How many years is this property held in trust?

Preszler: The principal is held forever. The interest earnings from the trust get paid to the schools fund.

Rep. Nottestad: Do other states make more concerted efforts to track down unclaimed property owners? Do you cross reference with other state agencies, now that we're in the computer age?

Preszler: We do pay out about 50% of the claims we're holding. But our budget doesn't allow us to hire private investigators and purchase software to increase that percentage.

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Theresa J. Lee
rator's Signature

10-16-03
Date

Page 3

House Industry, Business and Labor Committee

Bill/Resolution Number SB 2152

Hearing Date March 4, 2003

Linda Fisher, Unclaimed Property Administrator for the North Dakota State Land

Department, testified in support of SB 2152 and analyzed the legislation section by section for the committee. (See attachment #2) The public is increasingly reluctant to provide personal and confidential information, even to our investigators. We could reduce administrative costs if we combined and published only one list. Amounts \$50 or greater get published. We have no way of knowing what the value of contents of safety deposit boxes are until they are sold. We haven't had an auction since 1993, they are expensive to produce. Personal ephemera with little appraisal value is given to the State Historical Society.

Rep. Ruby: If something of value is sold, is that money held by you until the owner is located?

Fisher: Correct. Back rent and drilling fees are to be deducted from those proceeds under current legislation but this bill would change that to make the owner responsible for the back rent. Half of the owners in our database that hold stock have 10 shares or less. We are asking in this bill to not have to issue dividends if the total is under \$5. Our web site is designed to increase exposure to the owners of unclaimed property.

Rep. Dosch: Under this open records law, how long are you required to maintain records after a claim has been paid out?

Fisher: It has been permanent, but we are in the process of making that 15 years, due to the volume of records.

Chairman Kelser: How long have you been in the position as unclaimed property administrator?

Fisher: Since January of 2000. Gift certificates are now exempt from North Dakota statute, so don't be surprised if we're back here in the next session to take on that issue.

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Yubereca d. Lee
Operator's Signature

10-16-03
Date

Page 4
House Industry, Business and Labor Committee
Bill/Resolution Number SB 2152
Hearing Date March 4, 2003

As there was no one else present to testify either in support of or in opposition to SB 2152, the hearing was closed.

Rep. Klein moved a Do Pass.

Rep. Kasper seconded the motion.

Rep. Froseth stated he will resist the Do Pass. He fails to understand how this bill will get the unclaimed property to its rightful owner. "It will reduce the workload for the Department and probably some of their costs but since they haven't supportive evidence of any fraudulent identity thefts, I don't see what purpose this serves. And aren't professional finders connecting owners with their unclaimed property? Has there been any instances of fraudulent activity with the professional finders? Where's the problem?"

Rep. Klein: There are two good reasons to pass this. Open records are closed to unscrupulous people and the professional finders won't get wind of the amounts. That is key to this bill.

Rep. Kasper: With identity theft such an issue on our radar screens now, this is proactive legislation.

Chairman Kelser: I'm divided on this. We are taking the qualified and professional finders out of this. The privacy parts are good. But without an incentive for heir finders to reunite the property with its rightful owners, the property will stay within the fund. I will also resist the motion.

Results of the roll call vote were: 10-3-1.

Rep. Ruby will carry this on the floor.

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10-16-03
Date

Date: 3/4/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2152

House INDUSTRY BUSINESS & LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Klein Seconded By Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		✓	Boe		✓
Vice-Chair Severson		✓	Ekstrom	✓	
Dosch	✓		Thorpe	✓	
Froseth		✓	Zaiser	✓	
Johnson	✓				
Kasper	✓				
Klein	✓				
Nottestad	✓				
Ruby	✓				
Tieman	✓				

Total (Yes) 10 No 3

Absent 1

Floor Assignment Ruby

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Y. Theresa J. Lee
Operator's Signature

10-16-03
Date

REPORT OF STANDING COMMITTEE (410)
March 4, 2003 4:59 p.m.

Module No: HR-38-3910
Carrier: Ruby
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2152: Industry, Business and Labor Committee (Rep. Kelsor, Chairman) recommends
DO PASS (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). SB 2152 was placed
on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-38-3910

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Deanna Baller
Operator's Signature

10/31/03
Date

2003 TESTIMONY

SB 2152

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10-16-03
Date

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Gary D. Preszler, Commissioner

TESTIMONY OF LINDA FISHER
Unclaimed Property Administrator

IN SUPPORT OF SENATE BILL 2152
Senate Finance and Taxation Committee

January 13, 2003

Same testimony given to House

The North Dakota Uniform Unclaimed Property Act (NDCC 47-30.1) provides for the collection, publication, and return of property to the individual or business that can provide proof of ownership.

If passed as proposed, the bill before you would accomplish the following:

- **Section 2:** Allow for the publication of one owner list instead of two; and allow the Unclaimed Property Division to exclude property values from any publication;
- **Section 3:** Require owners to work directly with Financial Institutions to clear up outstanding safe deposit box fees prior to claim approval;
- **Section 4:** Allow the Division to limit dividend accrual payments to those \$5.00 and greater;
- **Section 5:** Remove the 3-year requirement for safe deposit box auctions;
- **Section 6:** Allow for exemption of claim documentation from open records law;
- **Section 7:** Clarify the time frame within which a "finder" could contract with an owner for property recovery.

Section 2: Publication of Lists

Commissioner Preszler briefly touched on this subject when he expressed concerns related to the increasing potential for unclaimed property fraud. In his testimony, he made mention of the owner lists that we make available to any member of the public for a fee. Currently, the statute requires that one list contain all property information, including amounts, for property held by our office longer than 24 months. The second list includes the "newer" property, but is statutorily required to withhold property values.

Besides reducing the potential for fraudulent claims, consolidating the lists and exempting the property values from any and all publications would reduce administrative costs associated with maintaining and printing separate lists. It would also eliminate the confusion we sometimes encounter when trying to explain the difference in lists to the public.

Section 3 and Section 5: Safe Deposit Boxes

Section 3: When a safe deposit box held by a financial institution is not accessed by the owner, or is more than three years delinquent in box rental, the contents of the box becomes unclaimed property. Besides the back rent on the box, the financial institution now incurs drilling costs, which in smaller, remote locations may include mileage reimbursement to the driller, etc.

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Linda Fisher

Operator's Signature

10-16-03

Date

Currently, the statute requires the Unclaimed Property Division to pay the financial institution out of sale proceeds. The fact is, a majority of the boxes do not contain any saleable items, and of those that do, sale proceeds would be far less than the amount owed to the institution. Passing this section of legislation would require an owner/heir to settle up with the financial institution before a claim would be approved on safe deposit box contents.

Section 5: The current statute requires us to sell safe deposit box contents after holding it for three years. To comply with that statute, we would need to hold an auction every year to sell the contents that had a 3-year anniversary since the last sale.

We ask for a change to the statute for two reasons: 1) Auctions can be very costly 2) Once property is sold or destroyed, potential for recovery by the owner is lost forever. I stated earlier that many of the boxes contain non-saleable items. A few boxes do contain coin collections, stamp collections, and jewelry but what most boxes contain are pictures, baptismal certificates, birth certificates, military medals and discharge papers, real estate abstracts, etc. Since we receive a small amount of tangible property each year, it is not cost-prohibitive for us to hold these properties longer than three years. Revising this statute would allow us to hold an auction when it became feasible instead of on a pre-determined schedule.

Section 4: Dividend Payments

The 2001 Legislative Assembly approved legislation requiring dividend payments to owners on securities held in custody by the Unclaimed Property Division. 42% of our stock owners hold 10 shares or less, meaning there isn't always a large accumulation of dividends. This section of legislation would allow us to withhold payment if the total accumulation was less than \$5.00, thereby eliminating the administrative costs associated with processing a \$.18 check.

Section 6: Exemption of Claim Documentation from Open Records Law

Potential claimants are required to provide proof of property ownership before a claim will be approved. Many applicants send copies of bank statements, insurance policies, tax returns, social security benefit statements, etc. In an era of increasing public skepticism regarding identity theft, we believe it is necessary for us to be able to assure claimants that the personal information they provide to us will be protected from potential public scrutiny.

Section 7: Time Frame for Finder Contract Eligibility

Many unclaimed property offices across the nation operate under reciprocity agreements, meaning property can be passed from one state unclaimed property office to another, depending on the last-known address of the owner. The North Dakota Uniform Act says that "within twenty-four months after the date payment or delivery is made" a Finder contract with an owner is not enforceable. Thus, the question has been: "Does the 24-month period begin when the property is reported to a reciprocal state, or when it is received in North Dakota". The proposed revision simply clarifies the statute.

I respectfully request a "do pass" recommendation on Senate Bill 2152.

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Gary D. Preszler, Commissioner

TESTIMONY OF GARY D. PRESZLER
State Land Commissioner

IN SUPPORT OF SENATE BILL 2152
Senate Finance and Taxation Committee

January 13, 2003

Since becoming Commissioner for the Land Department in August 2001, I have discussed with the Department's Unclaimed Property Administrator on several occasions whether adequate safeguards are in place to prevent and protect the Common Schools Trust Fund against attempted fraud. The area of greatest risk is the potential for fraudulent activity through the payment of property claims to a wrongful owner. Responsibilities of the Administrator include annually publishing lists of owner property. The Department also has owner search capability available on our website. Additionally, the Administrator is also required to make a list available, including amounts, after two years to anyone willing to pay the administrative fee. This list is typically purchased by those that are considered professional finders. It is becoming more common for requests for the lists to be in electronic media form. That makes the lists much easier to disseminate to others and therefore it is totally out of our control as to the subsequent acquirer's intent. The public therefore has complete knowledge of all unclaimed property owner names, and after two years even the dollar amount.

Identity theft has increased, and continues to increase, at an alarming rate as it is becoming more and more easy for anyone to manufacture someone else's identification records from Internet providers. Once an owner's unclaimed property is targeted and identification papers are counterfeited, all that remains is for the fraudulent claim to be filed. If the Administrator accepts the claim as authentic and makes payment, the trust fund would still have a continuing liability to pay the claim if the rightful owner subsequently submits a claim.

SB 2152 provides for an additional safeguard to deter this type of fraudulent activity by exempting unclaimed property amounts from the open records laws. Consequently, there is no longer an incentive to commit the crime as the reward for those actions is not known. The likely criminal will not know by searching our lists if the risk to commit the crime yields a six figure amount or just \$50. The uncertainty that is created will hopefully steer the would-be criminal away to easier targets.

But most importantly for the trusts, liability and risk can be managed and minimized as large property amounts are not continually displayed as an invitation to steal.

SB 2152 also exempts claimant documentation and records from the open records law. I have reviewed a number of paid claim files and was surprised at the extent of the types of personal records we hold, including copies of driver's licenses and records with social security numbers. Because the information is not exempted from the open records law the information is available to anyone. The Department owes an obligation to protect this personal information from falling into the wrong hands.

The Department's Unclaimed Property Administrator will provide a section-by-section analysis of the bill.

I urge the committee to grant favorable consideration and give SB2152 a "do pass" recommendation.

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Gubereau d. Lee
Operator's Signature

10-16-03
Date

JANUARY 13, 2003

SENATE FINANCE & TAXATION COMMITTEE
SB 2152

SENATOR URLACHER AND COMMITTEE MEMBERS:

My name is Jack McDonald. I am appearing today on behalf of the North Dakota Newspaper Association and the North Dakota Broadcasters Association. We support the provisions of this bill that make certain records exempt rather than confidential, but we oppose Section Six that makes records that are now open records confidential.

Under North Dakota law, there are three classifications of records: open, exempt or confidential. **Open records**, of course, are open and available to the public. **Exempt records** are not open automatically, but may be released at the discretion of the record custodian. **Confidential records** are closed, and any release is a criminal law violation.

SB 2152 makes certain records exempt, rather than confidential, which is good. However, in Section Six, it makes records that are now open confidential. The world has not come to an end with these records being open, and we don't see any reason why they shouldn't remain open. The public should be able to see who is making a claim to property being held by a public agency for public distribution. Therefore, we urge you to amend SB 2152 to delete Section Six.

If you have any questions, I'd be glad to try and answer them. Thank you for your time and consideration.

PROPOSED AMENDMENTS TO SB 2152

On page 3, delete lines 20-31.

On page 4, delete lines 1-8.

Renumber accordingly.

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Yuhereca J. Lee
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Helping to Fund Education

Gary D. Preszler, Commissioner

**TESTIMONY OF GARY D. PRESZLER
State Land Commissioner**

**IN SUPPORT OF SENATE BILL 2152
House Industry, Business and Labor Committee
March 4, 2003**

Since becoming Commissioner for the Land Department in August 2001, I have discussed with the Department's Unclaimed Property Administrator on several occasions whether adequate safeguards are in place to prevent and protect the Common Schools Trust Fund against attempted fraud. The area of greatest risk is the potential for fraudulent activity through the payment of property claims to a wrongful owner. Responsibilities of the Administrator include annually publishing lists of owner property. The Department also has owner search capability available on our website. Additionally, the Administrator is also required to make a list available, including amounts, after two years to anyone willing to pay the administrative fee. This list is typically purchased by those that are considered professional finders. It is becoming more common for requests for the lists to be in electronic media form. That makes the lists much easier to disseminate to others and therefore it is totally out of our control as to the subsequent acquirer's intent. The public therefore has complete knowledge of all unclaimed property owner names, and after two years even the dollar amount.

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SB 2152 provides for an additional safeguard to deter this type of fraudulent activity by exempting unclaimed property amounts from the open records laws. Consequently, there is no longer an incentive to commit the crime as the reward for those actions is not known. The likely criminal will not know by searching our lists if the risk to commit the crime yields a six figure amount or just \$50. The uncertainty that is created will hopefully steer the would-be criminal away to easier targets.

But most importantly for the trusts, liability and risk can be managed and minimized as large property amounts are not continually displayed as an invitation to steal.

SB 2152 also exempts claimant documentation and records from the open records law. I have reviewed a number of paid claim files and was surprised at the extent of the types of personal records we hold. A typical claim file includes a copy of a driver's license, tax return, personal letter, or records with social security numbers. Because the information is currently not exempt from the open records law the information is available to anyone. The change makes the records exempt as opposed to confidential allowing agency discretion as to release of the records. The Department owes an obligation to protect this personal information from falling into the wrong hands.

The Department's Unclaimed Property Administrator will provide a section-by-section analysis of the bill.

I urge the committee to grant favorable consideration and give SB2152 a "do pass" recommendation.

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Operator's Signature

Date