

A MEMORIAL

REQUESTING THE LEGISLATIVE FINANCE COMMITTEE TO CONVENE A WORKING GROUP TO STUDY AND MAKE RECOMMENDATIONS TO ADDRESS THE ADMINISTRATIVE AND FISCAL BURDENS OF COMPLYING WITH INSPECTION OF PUBLIC RECORDS ACT REQUESTS MADE TO PUBLIC POST-SECONDARY EDUCATIONAL INSTITUTIONS AND PUBLIC SCHOOL DISTRICTS.

WHEREAS, the Inspection of Public Records Act is intended to provide the public with information about the affairs of state and local government, including public post-secondary educational institutions and public school districts; and

WHEREAS, the Inspection of Public Records Act requires each public body to designate a records custodian to respond to requests to inspect its records; and

WHEREAS, a records custodian must provide certain conditions for the inspection of the records of the public body, including reasonable office hours and office space and available personnel; and

WHEREAS, the records of the public body must be made available immediately or as soon as practicable to a requester; and

WHEREAS, a record of the public body may contain information that is disclosable, information that is exempt from disclosure and information that is prohibited from being

disclosed pursuant to other laws; and

WHEREAS, to comply with the Inspection of Public Records Act, a records custodian must determine what information may be disclosed and what information is prohibited from disclosure; and

WHEREAS, under the Inspection of Public Records Act, a records custodian may charge a fee for the costs of copying records but not for the costs of finding documents; preparing correspondence for responding to requests; researching whether a record is or is not subject to disclosure; or the time spent redacting information contained within a record that is exempt from disclosure under the Inspection of Public Records Act; and

WHEREAS, public post-secondary educational institutions and public school districts generate and possess many more records than other public bodies, including many more records that contain personal information about employees and students, much of which is prohibited from being disclosed; and

WHEREAS, the disclosure of the records of the public body that are prohibited from being disclosed could subject a public body to potential liability; and

WHEREAS, the disclosure of records that relate to a potential or existing civil action or criminal prosecution could subject a public body to liability; and

WHEREAS, the disclosure of records that contain personal or unverified information about an individual could result in harm to the individual and have the effect of discouraging complaints from individuals and discouraging the exercise of individual rights;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NEW MEXICO that the legislative finance committee be requested to convene a working group to study and make recommendations to address the administrative and fiscal burdens on public post-secondary educational institutions and public school districts of complying with the Inspection of Public Records Act and to study and make recommendations for preserving the privacy needs and the potential claims of individuals; and

BE IT FURTHER RESOLVED that the working group consist of a staff member of the legislative finance committee and:

A. one representative from the council of university presidents;

B. one representative from the New Mexico association of community colleges;

C. one representative from the New Mexico coalition of educational leaders;

D. one representative from the New Mexico school superintendents association;

E. one representative of the risk management

division of the general services department;

F. one representative from the New Mexico association of counties;

G. one representative from the New Mexico municipal league; and

H. one representative from the New Mexico foundation for open government; and

BE IT FURTHER RESOLVED that the working group report to the legislative interim committee that addresses issues related to courts, corrections and justice and to the legislative finance committee by November 1, 2015; and

BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the co-chairs of the New Mexico legislative council and to the legislative finance committee, the council of university presidents, the New Mexico association of community colleges, the New Mexico coalition of educational leaders, the New Mexico school superintendents association, the New Mexico association of counties, the New Mexico municipal league, the risk management division of the general services department and the New Mexico foundation for open government.