

1 SENATE BILL 442

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 John M. Sapien

5
6
7
8
9
10 AN ACT

11 RELATING TO PUBLIC RECORDS; ALLOWING A CUSTODIAN OF PUBLIC
12 RECORDS TO CHARGE A REASONABLE FEE FOR ELECTRONIC DOCUMENTS.

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. Section 14-2-9 NMSA 1978 (being Laws 1993,
16 Chapter 258, Section 6, as amended) is amended to read:

17 "14-2-9. PROCEDURE FOR INSPECTION.--

18 A. Requested public records containing information
19 that is exempt and nonexempt from disclosure shall be separated
20 by the custodian prior to inspection, and the nonexempt
21 information shall be made available for inspection. If
22 necessary to preserve the integrity of computer data or the
23 confidentiality of exempt information contained in a database,
24 a partial printout of data containing public records or
25 information may be furnished in lieu of an entire database.

.211667.1

underscoring material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

1 Exempt information in an electronic document shall be removed
2 along with the corresponding metadata prior to disclosure by
3 utilizing methods or redaction tools that prevent the recovery
4 of exempt information from a redacted electronic document.

5 B. A custodian shall provide a copy of a public
6 record in electronic format if the public record is available
7 in electronic format and an electronic copy is specifically
8 requested. However, a custodian is only required to provide
9 the electronic record in the file format in which it exists at
10 the time of the request.

11 C. A custodian:

12 (1) may charge reasonable fees for copying the
13 public records, unless a different fee is otherwise prescribed
14 by law;

15 (2) shall not charge fees in excess of one
16 dollar (\$1.00) per printed page for documents eleven inches by
17 seventeen inches in size or smaller;

18 (3) may charge ~~[the actual costs associated~~
19 ~~with]~~ reasonable fees for downloading copies of public records
20 to a computer disk or storage device, including the actual cost
21 of the computer disk or storage device;

22 (4) shall not charge fees in excess of one
23 dollar (\$1.00) per page for electronic documents;

24 ~~[(4)]~~ (5) may charge the actual costs
25 associated with transmitting copies of public records by mail,

.211667.1

underscoring material = new
~~[bracketed material] = delete~~

1 electronic mail or facsimile;

2 [~~(5)~~] (6) may require advance payment of the
3 fees before making copies of public records;

4 [~~(6)~~] (7) shall not charge a fee for the cost
5 of determining whether any public record is subject to
6 disclosure; and

7 [~~(7)~~] (8) shall provide a receipt, upon
8 request.

9 D. Nothing in this section regarding the provision
10 of public data in electronic format shall limit the ability of
11 the custodian to engage in the sale of data as authorized by
12 Sections 14-3-15.1 and 14-3-18 NMSA 1978, including imposing
13 reasonable restrictions on the use of the database and the
14 payment of a royalty or other consideration."