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## FISCAL IMPACT REPORT

SPONSOR Tallman ORIGINAL DATE 1/22/2021  
LAST UPDATED 1/25/2021 HB \_\_\_\_\_  
SHORT TITLE Names of Finalists for Executive Positions SB 39/ec  
ANALYST Becerra

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	NFI	NFI			

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Commission of Public Records (CPR)  
Public Education Department (PED)  
Higher Education Department (HED)

### SUMMARY

#### Synopsis of Bill

Senate Bill 39 (SB39) relates to public records and requires publication of the names and resumes of at least three finalists for appointed executive positions other than political appointments, including cabinet secretaries. The names and resumes are to be posted for at least 10 days before a selection is made. SB39 exempts applicants from public record inspection prior to being selected as a finalist. The bill exempts medical and psychological records of published finalists from public record inspection.

This bill contains an emergency clause and would become effective immediately upon signature by the governor.

### FISCAL IMPLICATIONS

The changes proposed have no fiscal implication.

### SIGNIFICANT ISSUES

The Higher Education Department responded to this bill noting that:

14-2-1 NMSA, et. seq., the Inspection of Public Records Act (IPRA), governs New Mexico citizens' fundamental right to inspect public records. SB39 requires that a minimum of three (3) finalists for appointed executive positions be disclosed prominently at least ten (10) days prior to final selection. Records that would reveal the identity of an applicant prior to being selected as a finalist are exempt from inspection under IPRA.

SB39 does not indicate in which section of the statute the new material is to be enacted but would presumably be chaptered within IPRA.

21-1-16.1 NMSA, state institutions of higher education; presidential searches, exempts public records containing the identity or identifying information of presidential finalists under IPRA. However, it requires the governing board to publish a list of five finalists at least 21 days before final selection is made.

Higher education presidential searches would remain exempt from IPRA under the provisions of SB259 but other executive searches may be subject to the legislation, e.g., dean, chief financial officer, and chief academic officer/provost searches.

MB/al