

LFC Requester:	Emily Hilla
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

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(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 2/21/2025 *Check all that apply:*
Bill Number: HB 497 Original Correction
 Amendment Substitute

Sponsor: Rep. Cathrynn Brown **Agency Name and Code Number:** General Services Department – 350
Short Title: INSPECTION OF PUBLIC RECORDS ACT CHANGES **Person Writing:** Liliana Benitez De Luna
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NA	NA	NA	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NA	NA	NA	NA	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0	Uknown	Unknown	Unknown	Recurring	Public Liability Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

- Duplicates/Conflicts with HB 139 (2025 Session) (Rep. Kathleen Cates).

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 497 (like HB 139 introduced by Rep. Kathleen Cates) would repeal and replace substantial portions of the Inspection of Public Records Act (“IPRA”), Chapter 14, Article 2 NMSA 1978. Broadly, the changes would create a clarified enforcement section with additional protections for public entities. The bill also delineates several categories of records that are exempt from disclosure; designates additional records as law enforcement records; vastly expands the definitions section of IPRA; and clarifies procedures and deadlines for requests.

The Procedure for Denied Requests section of HB 497 (HB 497, Section 6 at pp. 24-25), along with the Enforcement section (HB 497, Section 7 at pp. 26-27), would have the greatest impact on the Risk Management Division. A written request that has not been deemed excessively burdensome or broad that is not acted upon within twenty-one business days of receipt will be deemed denied. The requester may pursue the remedies provided in IPRA only after providing the public body with written notice of the claimed violation. Once the public body has received the written notice, the public body shall have twenty-one calendar days to respond to the written notice, and then, twenty-one calendar days to remedy the violation. After the two twenty-one-calendar-day periods have elapsed, the public body shall be subject to the Enforcement provisions in IPRA (Section 14-2-12), as amended (*infra*).

For comparison, HB 139 would require a requester to first give notice to the public body of their intent to sue with reference to the unfulfilled request and the records that have been withheld prior to filing suit. The public body would have sixty (60) days to cure the alleged violation before the requestor could file suit (*see* HB 139, Section 25(E) at pp. 42-43).

The Procedure for Denied Requests section of HB 497 also limits the potential damages under IPRA. HB 497 notes that damages may be awarded if the public body fails to provide an explanation of denial within twenty-one business days after receipt. Damages cannot exceed one hundred dollars (\$100) per business day and would accrue from the twenty-first business day following the day the public body received the written notice of a claimed violation until a written denial is issued. (HB 497, Section 6 at p. 25).

The Enforcement section of HB 497 (like HB 139) further limits potential damages for IPRA violations. Under HB 497, a court may (not shall) award damages, costs or reasonable attorney fees to any person whose written request has been denied and who is successful in a court action. Importantly, damages would only be available in cases where the public body did not act in good faith or failed to provide a reasonable denial. Both “good faith” and “reasonable denial” are defined terms in HB 497 and mirror the definitions in HB 139.

Like HB 139, HB 497 contains the following provisions that would likely impact litigation costs:

- Requests would have to be made in writing (including electronically)—currently,

- IPRA requests can be in writing or orally;
- A public body may decline to provide an opportunity to inspect a record to a person who has already inspected that same record;
 - “Broad and burdensome” is defined as a request that takes more than three (3) hours to fulfill, including the time it takes to redact the responsive records; HB 139 defined it as a request that takes more than one (1) hour to fulfill.

The effective date of this legislation is June 20, 2025.

FISCAL IMPLICATIONS

Several provisions of HB 497 would have a significant impact on IPRA-related lawsuits. For example, the notice and opportunity to cure provision is likely to reduce the frequency and severity of IPRA-related litigation. In addition, the proposed amendment regarding the court having discretion to award damages, costs, or attorney fees, “where the public body did not act in good faith or failed to provide a reasonable denial” is also likely to reduce the frequency and severity of IPRA-related litigation, as well as reduce settlement awards. Further, the additional exemptions could lead to fewer lawsuits given that more records would be excluded from public inspection. Finally, the provision allowing for duplicate requests to be denied would likely reduce the severity of IPRA-related litigation.

SIGNIFICANT ISSUES

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 139 introduced by Rep. Kathleen Cates during this 2025 Session provides for significant amendments to IPRA that conflict and/or are duplicative of some of the provisions proposed in HB 497.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS