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FISCAL IMPACT REPORT

LAST UPDATED _____
ORIGINAL DATE 3/17/2025

SPONSOR Cates

BILL
NUMBER House Bill 139

SHORT TITLE IPRA Changes

ANALYST Gaussoin

REVENUE* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
		See Fiscal Implications					

Parenteses () indicate revenue decreases.
 *Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		See Fiscal Implications				

Parenteses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Relates to House Bills 283, 429, and 497 and Senate Bills 36, 57, and 171

Sources of Information

LFC Files

Agency Analysis Received From
 New Mexico Attorney General (NMAG)
 Department of Finance and Administration (DFA)
 Commission of Public Records (CPR)
 State Ethics Commission (SEC)
 Health Care Authority (HCA)
 Department of Health (DOH)
 Children, Youth and Families Department (CYFD)

SUMMARY

Synopsis of House Bill 139

House Bill 139 (HB139) repeals the existing Inspection of Public Records Act and replaces it with a new act that creates more exceptions to disclosure and more greatly constrains access to records.

Among its provisions that differ from existing law:

- Public bodies could deny access to a record based on “public policy.”
- Records created or received more than a year previously would be considered archived.
- Any records request that takes more than an hour would be considered “broad and burdensome.”
- The public body could work with the requester to clarify or narrow the request.
- Public bodies could charge \$30 an hour after the first hour for locating records.
- Public bodies could refuse requesters who are disruptive.
- Only public bodies would be liable under IPRA; records custodians would be exempt.
- Public bodies would have an opportunity to address an alleged violation before being sued.

The bill expands the records exempt from inspection to include numerous records related to law enforcement. In addition to adding more crimes for which the identifying information of victims is protected, the bill exempts identifying information for undercover officers and confidential informants. The bill also exempts body camera video from private places unless the footage involves an alleged crime, an injury or the discharge of a firearm, or is part of a legal action against the office or law enforcement agency. Law enforcement agencies would have 45 days from the time they became aware of a possible crime to respond to requests for information on the crime.

HB139’s list of new exemptions also include pre-agreement settlement records and other legal records not now exempt, education records, election records from 56 days before the election until the voter certification, cybersecurity and other public building infrastructure records, records of library computer use and the use of other library services, government procurement and property appraisal records, unemployment and public assistance recipient records, and public utility customer records.

In addition, the bill allows public bodies to file a petition with the State Commission of Public Records to have a requester declared “vexatious.” The petition would include a description of the requester’s conduct, including any behavior with another public body. The bill establishes procedures and a hearing schedule and provides that no public body is obligated to respond to requests from a vexatious requester for three years. The requester can appeal the commission’s decision to the district court.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

The Commission of Public Records anticipates the need to hire additional staff under HB139 at an initial cost of \$131.2 thousand and higher costs in future years.

While several agencies indicated they would save on operational costs as a result of HB139, the Department of Finance and Administration suggests public body costs could increase for, among other activities, training staff, creating electronic records management systems, and responding to legal challenges. The Children, Youth and Families Department indicates it would need to increase its public records staff—from four to five positions—under the more “nuanced” approach of HB139.

The State Ethics Commission, however, indicates its IPRA-related operational and litigation expenses, which now total roughly \$10 thousand a year, could be reduced by limiting “vexatious” requests, prohibited but not clearly defined in HB139. If HB139 has a chilling effect on records requests, the savings across all state agencies would be significant. However, because the savings would be spread out over dozens of agencies, the reduction in IPRA requests is unlikely to result in a reduction in positions or spending in state agencies.

Similarly, the ability to charge \$30 an hour would generate income for some agencies. The Department of Finance and Administration indicates, based on the time it dedicates to IPRA requests, the fee would generate \$5,000 a year. Multiplied over all state agencies, the income could be significant but is unlikely to be substantial for any single agency.

SIGNIFICANT ISSUES

The Attorney General’s Office (NMAG) notes claims of vexatious behavior are sometimes identified in litigation, but the term has not historically been applied to information requests and is not clearly defined in HB139, making it possible it would deter valid requests. The agency notes barring the public from information goes against the legislative intent of the Inspection of Public Records Act. NMAG suggests several other provisions of HB139 would limit access to records and limit public recourse.

The Commission of Public Records states the bill would narrow the scope of IPRA and is not in keeping with the spirit of the law:

From a bird’s eye view, there is question whether the substantive revisions to IPRA detract from the original declaration of IPRA public policy in Section 14-2-5 NMSA 1978:

Recognizing that a representative government is dependent upon an informed electorate, the intent of the Legislature in enacting the Inspection of Public Records Act is to ensure, and it is declared to be the public policy of this state, that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of public officers and employees. It is the further intent of the Legislature, and it is declared to be the public policy of this state, that to provide persons with such information is an essential function of a representative government and an integral part of the routine duties of public officers and employees.

The Department of Health (DOH) suggests HB139 would help protect public bodies from those who abuse IPRA by providing a disincentive for broad and burdensome requests and by providing a means to bar vexatious requesters. The department says it dedicates thousand of hours a year to collecting requested documents and redacting confidential information.

The Children, Youth and Families echoes DOH, stating New Mexico has very broad public records inspections laws compared to other states that lead to an “unworkable number” of requests:

This bill balances the public interest of ensuring an informed public with the public interest of ensuring an agency that serves the public is not distracted from its primary mission. This bill, by requiring individuals to better define and target their requests, will provide the requester with a more useful set of records for inspection

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill relates to House Bill 497, which makes many of the same changes as HB139 but through amendment of the existing law; House Bill 429, which would make the names of finalists for college president and other chief officer positions more public; and House Bill 283, which would amend IPRA to restrict the use of law enforcement records.

It also relates to Senate Bill 36, which would restrict the disclosure of sensitive personal information, including disability, sexual orientation, immigration status, or status as a recipient of public assistance; Senate 57, which would create protections in IPRA for certain medical providers; and Senate Bill 171, which would allow personal identifying information to be redacted from county clerk records.

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