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## FISCAL IMPACT REPORT

SPONSOR Cadena LAST UPDATED \_\_\_\_\_  
ORIGINAL DATE 3/7/2025  
BILL \_\_\_\_\_  
SHORT TITLE Appointive Exec. Position & Data NUMBER House Bill 429  
ANALYST Gaussoin

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

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal			

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

Relates to House Bills 139, 283, and 497 and Senate Bills 36, 57, and 171.

### Sources of Information

LFC Files

#### Agency Analysis Received From

New Mexico Attorney General  
Commissioner of Public Records  
Workforce Solutions Department

#### Agency Analysis was Solicited but Not Received From

New Mexico Counties

## SUMMARY

### Synopsis of House Bill 429

House Bill 429 (HB429) repeals a section of the Inspection of Public Records Act (IPRA) that allows colleges and universities to withhold information on college presidential candidates and creates a new section of the act that requires state agencies, public colleges and universities, and political subdivisions of the state to publish online the names and resumes of no fewer than three finalists for an “appointive executive position” at least 10 days before the final decision on selection. It defines appointive executive position as a nonelected chief executive officer of the entity but not cabinet secretaries or other political appointees.

It further requires the organization to collect demographic data from applicants and candidates—including the candidate’s self-reported sex, gender identity, sexual orientation, race, ethnicity, and primary and other languages spoken—and make that data available in the aggregate when the finalists are announced. Information on each individual would not be disclosed and is exempt from inspection.

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

## FISCAL IMPLICATIONS

HB429 requires state agencies, colleges and universities, local governments, and certain other government organizations to perform additional administrative duties related to hiring for certain positions. While the bill represents additional work for these organizations, it is likely the costs for performing those duties can be absorbed within existing budgets. The Office of Attorney General (N MAG), which consults with agencies on IPRA issues, contends its attorneys would have to dedicate “substantial” time to answering questions “each time they are hiring for a covered position;” however, the agency likely has sufficient staff for the additional workload.

## SIGNIFICANT ISSUES

Generally, personnel information is exempted from public disclosure but finalists for high-profile taxpayer-funded jobs are often considered an exception. The Commission of Public Records notes making finalists’ names and resumes public is a natural extension of the intent of IPRA and quotes the purpose statement from the act:

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 agency also points out making the information public would eliminate the need for IPRA inspection requests and repealing the exemption for college presidents puts higher education institutions “on par” with all other state agencies. However, the agency contends, collecting demographic data “touches” on Human Rights Act prohibitions:

Requiring demographic data publicly available may allow the public and, possibly, unsuccessful applicants/candidates to inquire more deeply into the hiring and selection decisions based upon those employment classifications deemed illegal under the HRA.

The Workforce Solutions Department, like the Commission of Public Records, also raises concerns about the collection of demographic data:

The collection of demographic data to include self-reported sex, gender identity, sexual orientation, race, ethnicity, and primary other languages spoken is voluntary and purported to be released to the public anonymously, but if the applicant pool is small, the identity of the applicants would be easily detectable. The challenge presented under this bill would be the ability to protect the data and ensure that it cannot be connected to any particular applicant.

The department expresses additional concerns about publishing the names of candidates:

Publication of names of applicants or candidates for appointive executive positions could limit applicants, subjecting candidates to unnecessary public scrutiny for executive positions. Application information is already available to interested parties through the IPRA process.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

This bill relates to House Bills 139, which would repeal the existing IPRA and replace it with a new act with greater curtailments on information requests; 283, which would amend IPRA to restrict the the use of law enforcement records; and 497, which would amend IPRA to broaden exceptions to public disclosure and make it easier for public entities to reject inspection requests.

It also relates to Senate Bills 36, which would restrict the disclosure of sensitive personal information, including disability, sexual orientation , immigration status or status as a recipient of public assistance or as a crime victim; 57, which would create protections in IPRA for certain medical providers; and 171, which would allow county clerks to redact the date of birth, social security number, and driver’s license number on information on individuals otherwise considered public under IPRA.

## **TECHNICAL ISSUES**

NMAG raises a number of concerns with what it deems to be lack of clarity in the bill that could create implementation issues. It notes “state agency” is not defined in the bill, and the definition provided under state statute on public finances conflicts with the IPRA definition of “public body.” Further, because the bill includes “political subdivisions,” it clearly applies to counties, municipalities, and other public boards, but “it is less clear if it applies to a bord or commission that part of a political subdivision.”

NMAG also contends the definition for “appointive executive position” is open to interpretation because it refers to the organization’s chief executive office and not all agencies use that title for their head administrator.

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