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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Rep. Chandler/Sen. Trujillo</u>	<b>LAST UPDATED</b> <u>2/26/25</u>	<b>ORIGINAL DATE</b> <u>2/22/25</u>
<b>SHORT TITLE</b> <u>Law Enforcement Records Changes</u>	<b>BILL NUMBER</b> <u>House Bill 283/aHGEIC</u>	<b>ANALYST</b> <u>Sanchez</u>

### REVENUE\* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
DPS	No Fiscal Impact	Indeterminate but minimal gain	Indeterminate but minimal gain	Indeterminate but minimal gain	Indeterminate but minimal gain	Recurring	General Fund
Local Governments	No Fiscal Impact	Indeterminate but minimal gain	Indeterminate but minimal gain	Indeterminate but minimal gain	Indeterminate but minimal gain	Recurring	Local General Fund

Parentheses ( ) 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
DPS and Local Governments	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund

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

### Sources of Information

LFC Files

Agency Analysis Received From  
Office of the Attorney General (NMAG)  
Department of Public Safety (DPS)  
Municipal League (ML)

Agency Analysis was Solicited but Not Received From  
Council of Governments (COGs)

Agency Declined to Respond  
Administrative Office of the Courts (AOC)

## SUMMARY

### Synopsis of HGEIC Amendment to House Bill 283

The House Government, Elections and Indian Affairs Committee amendments to House Bill 283 modify provisions related to the definition of "commercial purpose" and the enforcement

timeline for alleged violations of the Inspection of Public Records Act (IPRA).

One amendment revises the definition of "commercial purpose" by adding "an online media outlet" to the list of entities exempt from the bill's provisions regarding commercial-use restrictions and fees. This change aligns online media outlets with newspapers, periodicals, radio stations, and television stations, which were already excluded from the definition.

Another amendment adjusts the timeline for enforcement actions under IPRA. The original bill required a requester to provide written notice of an alleged violation. It allowed public bodies two separate 15-day periods—one for response and another for remedy—before legal action could proceed. The amendment removes the reference to "two periods" and instead specifies a single 15-day period for response and potential resolution. Additionally, language referring to when damages begin accruing is removed.

### **Synopsis of House Bill 283**

House Bill 283 (HB283) would make several substantive changes to the Inspection of Public Records Act (IPRA). It proposes amendments to Section 14-2-1.3, NMSA 1978, to prohibit the use of law enforcement records for soliciting victims or their relatives. It requires requesters of such records to certify that they will not use the records for solicitation purposes. Additionally, the bill amends Section 14-2-6, NMSA 1978, to define "commercial purpose" as any use of public records that generates profit through sale, resale, or solicitation but exempts certain media and legal uses.

The bill further amends Section 14-2-8 NMSA 1978 to mandate that a written request for public records must include certification regarding whether the record will be used for a commercial purpose. If the requester intends to use the record for such purposes, a public body may impose a fee of up to \$30 per hour for time spent preparing the record beyond the first hour. Public bodies must provide an estimate of the cost before proceeding with the request, and requesters must confirm their willingness to pay the fee in advance.

HB283 also amends Section 14-2-11, NMSA 1978, to require that before filing an enforcement action under IPRA, a requester must first notify the public body of the alleged violation and allow 15 calendar days for the issue to be resolved. The bill also establishes a two-year statute of limitations for bringing enforcement actions against public bodies under IPRA.

The bill also creates an Inspection of Public Records Task Force, composed of representatives from the Attorney General's Office, Legislative Council Service, local government associations, public schools, higher education institutions, media organizations, and record custodians from different levels of government. The task force is tasked with reviewing and recommending further improvements to the administration of IPRA.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

### **FISCAL IMPLICATIONS**

HB283 introduces a commercial-use fee structure for public records requests, establishes new administrative requirements for public bodies, and creates a temporary task force to study IPRA. The bill allows public bodies to charge a fee of up to \$30 per hour for processing records

requests beyond the first hour when the requested records are intended for a commercial purpose. This provision may generate additional revenue for public agencies, offsetting costs associated with fulfilling large or complex records requests. However, the fiscal impact is indeterminate, as agencies do not currently track the proportion of requests made for commercial purposes, making it unclear how much revenue may be generated.

The bill also creates an Inspection of Public Records Task Force, to be chaired by the Attorney General, which will study and make recommendations regarding enforcement mechanisms, administrative processes, and the use of ombuds services. No appropriation is provided for this task force, and the extent of administrative costs for convening meetings, conducting research, and preparing reports is unclear.

The bill's procedural changes may also have financial implications for public bodies. The requirement that requesters provide written certification regarding the intended use of records may lead to additional administrative steps in processing requests. Additionally, the requirement that requesters provide public bodies with written notice of an alleged violation before initiating legal action could impact litigation-related costs. By allowing public bodies 15 days to respond and another 15 days to remedy a violation before enforcement actions proceed, the bill may result in fewer immediate legal disputes and associated costs. However, the extent to which this provision will reduce litigation expenses or delay enforcement actions is uncertain.

Local governments, particularly law enforcement agencies, report an increase in requests for body-worn camera footage and other law enforcement records, which can be time-intensive to process. The ability to charge a fee for commercial-use requests may provide cost recovery for agencies handling such requests. However, it is unclear whether the introduction of this fee will significantly alter the volume of requests submitted by commercial entities, such as data brokers.

Overall, the bill's fiscal impact will depend on the number of commercial-use requests received, the extent to which fees offset administrative costs, and whether procedural changes reduce litigation expenses.

## **SIGNIFICANT ISSUES**

HB283 makes several substantive changes to IPRA, particularly regarding the certification requirements for public records requests, the enforcement process for alleged violations, and the regulation of commercial-use requests. The bill requires that requesters affirmatively certify the intended use of records, which may introduce procedural changes in how public bodies process and review requests. While this requirement may help clarify the purpose of records requests, it could also affect the timeliness of responses if additional verification is needed before a request is considered complete.

The bill also establishes a new enforcement structure by requiring written notice to a public body before legal action may be pursued for an alleged violation of IPRA. This procedural step could influence how disputes over records requests are handled and may change the way public bodies approach compliance efforts. However, it is unclear how this change will impact access to records or the resolution of disputes over time.

Additionally, HB283 modifies the definition of "commercial purpose" within IPRA, explicitly excluding news organizations, legal proceedings, and certain informational uses. This distinction may have implications for how records are requested and used by various entities, particularly in

sectors that rely on public data for analysis, reporting, or research. The bill does not introduce specific penalties for requesters who misrepresent the intended use of records, leaving enforcement of the certification requirement to the administrative process established within public agencies.

Finally, the bill establishes a temporary task force to study potential improvements to IPRA's administration, enforcement, and dispute resolution mechanisms. The composition and responsibilities of this task force suggest an effort to balance the needs of public agencies and records requesters while evaluating alternative enforcement approaches. The extent to which the task force's recommendations will influence future legislative or administrative changes remains to be determined.

## **PERFORMANCE IMPLICATIONS**

HB283 introduces procedural changes to IPRA that could affect the efficiency and workload of public agencies responsible for processing records requests. The requirement that requesters certify the intended use of records and acknowledge potential commercial-use fees may lead to changes in how agencies track and manage requests, particularly for entities that process a high volume of records. Public bodies may need to update their request intake processes, train staff on the new certification requirements, and develop tracking mechanisms to differentiate between commercial and non-commercial requests.

The bill's enforcement provisions, including the requirement for written notice before litigation, may also impact agency performance by altering response timelines and legal workflows. Public agencies may need to establish new internal procedures for handling notice of alleged violations, ensuring compliance within the prescribed response period. The effectiveness of these measures in reducing disputes or improving compliance with IPRA requirements will likely depend on the consistency of implementation across different agencies.

Additionally, agencies with high volumes of public records requests, such as law enforcement entities managing body-worn camera footage and investigative reports, may experience shifts in workload distribution. If the commercial-use fee structure results in fewer large-scale requests from commercial entities, agencies may be able to reallocate resources to other operational priorities. However, if new administrative requirements increase processing times, agencies may need to adjust workflows accordingly. The long-term impact of these procedural changes on response efficiency and public access to records remains to be seen.

## **ADMINISTRATIVE IMPLICATIONS**

HB283 introduces new administrative requirements for public bodies processing records requests, including the need to verify certifications regarding the intended use of records and to calculate and communicate potential commercial-use fees. Agencies may need to update existing forms, databases, and online portals to incorporate certification fields and fee estimates. This could require modifications to case management or records tracking systems to ensure compliance with the bill's provisions.

Public bodies will also need to establish internal procedures for handling the new statutory notice requirement for alleged IPRA violations. This may involve designating staff to monitor and respond to formal notices within the prescribed timeframe, tracking resolution efforts, and

maintaining records of compliance. Ensuring consistency across agencies in implementing this process could require guidance or training for records custodians and legal staff.

Additionally, the bill's creation of an Inspection of Public Records Task Force will require coordination among multiple state and local agencies. The task force's review of enforcement mechanisms and administrative procedures may result in further recommendations that could lead to additional administrative changes in the future. The extent of these potential administrative impacts will depend on how agencies adapt their workflows to comply with the bill's new requirements.

## **OTHER SUBSTANTIVE ISSUES**

Analysis from the Office of the Attorney General noted the bill specifies certain deadlines are measured in "calendar days," which may introduce unnecessary confusion. The Uniform Statute and Rule Construction Act (Section 12-2A-7, NMSA 1978) already establishes standard methods for computing time periods, including how days are counted in statutory deadlines. The inclusion of "calendar days" in the bill may create ambiguity about whether a different counting method is intended, potentially leading to inconsistent interpretations or implementation across agencies.

Additionally, the bill does not specify enforcement mechanisms for instances in which a requester misrepresents the intended use of a record in their certification. While the bill requires requesters to confirm whether they will use records for a commercial purpose, it does not outline any penalties or remedies if records are later found to have been used in a way that contradicts the original certification.

There is also some ambiguity regarding whether the requirement to provide written notice before filing an enforcement action applies only to individual requesters or also to enforcement actions initiated by the Attorney General or district attorneys. Clarifying this distinction may help prevent delays or unintended procedural barriers in cases where government entities seek to enforce IPRA compliance.

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