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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 2-8-09

**SPONSOR** Cervantes **LAST UPDATED** \_\_\_\_\_ **HB** 598

**SHORT TITLE** Electronic Public Record Inspection Requests **SB** \_\_\_\_\_

**ANALYST** Ortiz

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Conflicts with HB507 and HB534

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

- Administrative Office of the Courts (AOC)
- Attorney General’s Office (AGO)
- Public Education Department (PED)
- Department of Finance and Administration (DFA)

### SUMMARY

#### Synopsis of Bill

House Bill 598 amends Section 14-2-8 NMSA 1978 to allow a person wishing to inspect public records to submit a written request, which includes electronic communication (email) or facsimile.

### SIGNIFICANT ISSUES

Currently, Inspection of Public Records Act (IPRA) refers only to “oral” and “written” requests to inspect public records. IPRA’s procedures for making and responding to inspection requests apply only to written requests and a public body is subject to IPRA’s penalties for failing to respond to a written request. Some public bodies do not treat electronic inspection requests, particularly email requests, as written requests. If a requester is required to put his or her email request in writing, it can delay the requester’s access to the requested records. The amendment clarifies that a public body must treat an electronic communication requesting inspection of public records, including via email or facsimile, as a written request covered by IPRA’s

procedures and penalties. To the extent that IPRA's reference to "written" requests has obstructed the right to inspect public records, the amendment should increase access to those records and is beneficial.

**CONFLICT**

The bill conflicts with HB507 and HB534, both of which have amendments that allow inspection requests by email and facsimile.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The current confusion over what constitutes a "written" request to inspect public records under IPRA will remain.

EO/mt