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SENATE BILL 285

**54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

INTRODUCED BY

Jacob R. Candelaria

AN ACT

RELATING TO PUBLIC RECORDS; CLARIFYING THAT A FAILURE TO PERMIT  
INSPECTION OF NONEXEMPT RESPONSIVE RECORDS IS A VIOLATION OF  
THE INSPECTION OF PUBLIC RECORDS ACT AND SUBJECT TO STATUTORY  
DAMAGES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 14-2-11 NMSA 1978 (being Laws 1993,  
Chapter 258, Section 8) is amended to read:

"14-2-11. PROCEDURE FOR DENIED REQUESTS--FAILURE TO  
PERMIT INSPECTION.--

A. Unless a written request has been determined to  
be excessively burdensome or broad, a written request for  
inspection of public records that has not been permitted within  
fifteen days of receipt by the office of the custodian may be  
deemed denied. The person requesting the public records may

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underscoring material = new  
[bracketed material] = delete

underscored material = new  
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1 pursue the remedies provided in the Inspection of Public  
2 Records Act.

3 B. If a written request has been denied, the  
4 custodian shall provide the requester with a written  
5 explanation of the denial. The written denial shall:

- 6 (1) describe the records sought;  
7 (2) set forth the names and titles or  
8 positions of each person responsible for the denial; and  
9 (3) be delivered or mailed to the person  
10 requesting the records within fifteen days after the request  
11 for inspection was received.

12 C. A custodian [~~who does not deliver or mail a~~  
13 ~~written explanation of denial within fifteen days after receipt~~  
14 ~~of a written request for inspection]~~ is subject to an action to  
15 enforce the provisions of the Inspection of Public Records Act  
16 and the requester may be awarded damages if the custodian:

- 17 (1) does not deliver or mail a written  
18 explanation of denial within fifteen days after receipt of a  
19 written request for inspection; or  
20 (2) fails to permit inspection of all records  
21 responsive to the written request that are not exempt from the  
22 Inspection of Public Records Act pursuant to Section 14-2-1  
23 NMSA 1978.

24 D. Damages pursuant to Subsection C of this section  
25 shall:

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underscoring material = new  
~~[bracketed material] = delete~~

1 (1) be awarded if the failure to provide a  
2 timely explanation of denial or the failure to permit  
3 inspection of all nonexempt responsive records is determined to  
4 be unreasonable;

5 (2) not exceed one hundred dollars (\$100) per  
6 day;

7 (3) accrue from the day the public body is in  
8 noncompliance until a written denial is issued or the  
9 inspection of all nonexempt responsive records is permitted;  
10 and

11 (4) be payable from the funds of the public  
12 body."