

LFC Requester:	Gaussion
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**AGENCY BILL ANALYSIS
2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

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{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date 1/31/2025
Bill No: HB 139

Sponsor: Cates
Short IPRA Changes
Title: _____

Agency Name and Code Commission of Public Records
Number: 36900
Person Writing Matthew Ortiz
Phone: 476-7941 **Email** matt.ortiz@srca.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NFI	NFI	n/a	
0	0		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NFI	NFI	NFI	n/a	

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	131.2	133.8	265.0	R	200, 400

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Inspection of Public Records Act, Section 14-2-1 et seq., NMSA 1978 (“IPRA”).

Public Records Act, Section 14-3-1 et seq., NMSA 1978.

SB 036, A. Sedillo-Lopez, Sensitive Personal Information Non-Disclosure

SB 171, L. Trujillo, Redaction of Personal Info in Public Records

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 139 repeals IPRA and effectively puts in its place, a vastly different version of definitions, exceptions from records production, requirements, procedure for requesting written and electronic records, cost recovery allowed and provide new enforcement actions available to requestors and agencies to cure enforcement actions.

HB 139 creates or expands, detailed exceptions for whole categories of records: attorney-client privilege – litigation ; economic development ; education ; law enforcement – correctional ; infrastructure ; library ; medical ; procurement ; public employee ; social services ; utility ; and victims of crimes.

HB 139 creates a process for an agency to identify a ‘vexatious requester’ and puts the responsibility of coming up with a process to determine whether a person is ‘vexatious’ on the commission of public records (“CPR”). No definition of ‘vexatious’ is given. The CPR would have to determine on a case-by-case basis and by written order designate whether a person is ‘vexatious’ and thus barred from requesting public records for three years.

FISCAL IMPLICATIONS

Because of the obligation to administer and hold quasi-judicial hearings under Section 24 – “VEXACIOUS REQUESTORS” of the bill, SRCA can expect additional expenditures of two FTEs in category 200 and additional expenditures for office equipment and materials in category 400. See, estimated costs above for FY26 and for FY27 (with an estimated two percent increase over FY26).

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

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.

All the specified exceptions for whole categories of records: attorney-client privilege – litigation ; economic development ; education ; law enforcement – correctional ; infrastructure ; library ; medical ; procurement ; public employee ; social services ; utility ; and victims of crimes all narrow the scope of IPRA. The philosophical, political, and practical arguments in favor of and against these exceptions are beyond the scope and concern for this agency.

Under the Public Records Act, Sections 14-3-1 et seq. NMSA 1978, this agency is charged with custodian and archival responsibilities for all records transferred from any public office of the state or from any other source. The CPR has adopted rules concerning the proper classification, disposal, and retainment of public records. To the extent that the bill attempts to revise or define public records for purposes of IPRA production or exclusion from production, e.g. archived documents, there is potential for conflict with terms defined in Public Records Act and in the rule that sets out retention schedule for agency documents. See, 1.21.2 NMAC.

Section 24 of the bill specifically grants quasi-judicial powers and enforcement to CPR to determine who can be designated a 'vexatious requestor'. Vexatious is not defined in this bill. There are no standards and no language that would give any direction to either the CPR or to potential requestors who could be categorized as 'vexatious'. Given the dearth of any guidance for what is 'vexatious', the process, hearing, and decision that the CPR is to hold upon an agency's petition [as outlined in Subsections D through H of Section 24] will result in a case-by-case decision. Since the consequences of being labeled 'vexatious' is a three year period where any public body does not have to respond, the CPR and agency can expect to be subject to increased threat of litigation over its decision-making process.

Like the notice requirement under the Tort Claims Act, Section 25 of the bill would require a 60 day written notice in advance of filing an enforcement action in district court. This notice period allows a public body a last effort to cure any alleged IPRA violations. This notice period may prevent enforcement actions in courts if agencies take serious action to cure the alleged violations.

PERFORMANCE IMPLICATIONS

See, Significant Issues above.

ADMINISTRATIVE IMPLICATIONS

See, Significant Issues above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

See, Significant Issues above.

TECHNICAL ISSUES

See, Significant Issues above.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS