

LFC Requester:

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**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](https://www.legis.nm.gov/AgencyAnalysis) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)****(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}***Date Prepared:** 1/29/25*Check all that apply:***Bill Number:** HB139Original  Correction Amendment  Substitute **Sponsor:** Rep. Kathleen Cates**Short Title:** IPRA Changes**Agency Name****and Code**HCA 630**Number:****Person Writing**Chris Foster OGC**Phone:** 827-1335**Email** Christophert.foster@h**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

| Appropriation |      | Recurring<br>or Nonrecurring | Fund<br>Affected |
|---------------|------|------------------------------|------------------|
| FY25          | FY26 |                              |                  |
| N/A           | N/A  | N/A                          | N/A              |
|               |      |                              |                  |

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

| Estimated Revenue |        |        | Recurring<br>or<br>Nonrecurring | Fund<br>Affected |
|-------------------|--------|--------|---------------------------------|------------------|
| FY25              | FY26   | FY27   |                                 |                  |
| N/A               | <\$5.0 | <\$5.0 | Nonrecurring                    | GF+              |
|                   |        |        |                                 |                  |

(Parenthesis ( ) indicate revenue decreases)

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

|              | FY25 | FY26 | FY27 | 3 Year<br>Total Cost | Recurring or<br>Nonrecurring | Fund<br>Affected |
|--------------|------|------|------|----------------------|------------------------------|------------------|
| <b>Total</b> | N/A  | N/A  | N/A  | N/A                  | N/A                          | N/A              |

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

##### Synopsis:

HB 139 is an extensive repeal and re-write of the Inspection of Public Records Act (IPRA). Sections 14-2-1 through 14-2-1.2 (Exceptions, PI, Law Enforcement) are repealed and Sections 14-2-6 through 14-2-12 (Definitions, Custodian, Requesting, Inspecting, Burdensome, Denial and Enforcement) are repealed.

Section 14-2-2 is retained (VA benefits records) and Sections 14-2-4 and 5 are retained (Short Title, Purpose), presumably to be re-compiled. The new material is detailed in the Bill as Sections 1-27 and a broad area of focus is exemptions.

- Section 1 is an extensive re-write of definitions.
- Section 2 details Custodian duties and procedures and follows previous statute.
- Section 3 details request procedure and interplay between agency and requestor.
- Section 4 focuses on electronic records and continued availability thereof.
- Section 5 Clarifies procedure for requests submitted to an incorrect agency. Section 5 covers a minor detail regarding the essential aspect of actual delivery of information.
- Section 7 quite significantly allows for Cost Recovery of up to \$30 per hour.
- Section 8 details seven areas of preclusion.
- Section 9 deals with agency attorney to client agency exemption from disclosure.
- Section 10 deals with economic development approximating business secret and security exemptions.
- Section 11 exempts certain educational records dealing with individuals.
- Section 12 delays reporting of election records for recent elections.
- Section 13 deals with law enforcement record exemptions and exceptions.
- Section 14 deals with cyber security exemptions.
- Section 15 would exempt library records.
- Section 16 comes to point for HCA in dealing with Medical Records.
- Section 17, similarly to section 10 deals with business-oriented exemptions.
- Section 18 exempts certain state employee records.
- Section 19 fleshes out security exemptions.
- Section 20, on point for HCA, exempts human services to individuals record.
- Section 21 is in regards to utility record exemptions.
- Section 22 follows court provisions for protection of crime victims.
- Section 23 labels a variety of exemptions as “exceptions.
- Section 24 pertains to “vexatious” requestors in providing procedure to engage with bad-faith requestors.
- Section 25 is a detailed re-write of enforcement procedures that would now be more complex.
- Sections 26 and 27 are wrap-up provisions.

This Bill is an extensive update of IPRA and proposes relief agencies.

## **FISCAL IMPLICATIONS**

The Cost Recovery allowed by this could generate minimal revenue. Broadly, at current work-load projections and an assumption of 4 hours per request, likely less than \$5,000.

## **SIGNIFICANT ISSUES**

Section 16 A. states a medical record or a record containing medical information in the possession of a public body is exempt from inspection. Section 16 A. states The medical condition of an individual, medical treatment provided to an individual and the name of an individual who received medical treatment from a public entity during an emergency medical response are exempt from inspection.

Section 20 states Records concerning individual applicants or recipients of unemployment insurance or economic assistance or support are exempt from inspection. These exempt records include applications, income or eligibility verification assessments or other personal, medical or financial data are exempt from inspection as well as information (e.g. name, address) that could be used to identify an individual.

## **PERFORMANCE IMPLICATIONS**

None

## **ADMINISTRATIVE IMPLICATIONS**

The HCA Custodian and record extractors will require a tool to track cost recovery.

For vendor contract requirements related to retrieval of contractor stored public data, The State Purchasing Division (SPD) may need to create appropriate contract articles or terms to address this requirement across all state agencies.

It is not clear if agencies referring requestors to the state sunshine portal for posted records would be considered to have met the statute requirements. If agencies are required to build their own systems to allow online public inspection of records, then they would incur the costs and overhead of finding, installing, and maintaining a database for the public to access records.

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

Much of the material to be excepted in Definitions under (Q) can be gleaned from tech vendor contracts that are not excepted.

In Definitions at P. 7, (U) it is unclear what type of agencies are being described as HCA itself is a “state agency” but is not actually a “law enforcement agency” and the same issue arise as to a “political subdivision”.

Section 3(C) precludes anonymous and pseudonymous requests, which conflicts with any person being allowed to submit a request and clashes with the purpose of government transparency.

Section 4 (E) pertains to an issue that could rise to spoliation allegations in a dismissive stance on deletions.

Section 9 goes beyond Attorney /Client exception in inviting in a civil procedure judicial overlay, though the measures detailed are pre-existing and likely incomplete.

Section 13 (C) details “individuals who are accused but not charged,” which is a legal nullity.

Section 17 will need close reconciliation with Section 23 (B) (Trade Secrets) and with current Procurement Code under NMSA Ch. 13. This area would benefit from requirements that contractors initially designate information to be exempted and then have an agency analyze.

Section 23 (E) may pose a conflict in that IPRA requests are currently subject to IPRA in their entirety.

Section 23 (F) is contradictory.

**TECHNICAL ISSUES**

None

**OTHER SUBSTANTIVE ISSUES**

None

**ALTERNATIVES**

None

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

Status quo

**AMENDMENTS**

None