

LFC Requester:	Helen Gaussoin
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

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

Date Prepared: 3/1/2025

Check all that apply:

Bill Number: HB 429

Original X Correction
 Amendment Substitute

Sponsor: Rep. Micaela Lara Cadena

Agency Name and Code Number: 305 – New Mexico Department of Justice

Short Title: APPOINTIVE EXEC. POSITION NAMES & DATA

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: This bill inserts a new section into the Inspection of Public Records Act (“IPRA”) law and repeals 21-1-16.1 NMSA relating to the selection process for certain public executive officers.

Section 1 creates a new section of the Inspection of Public Records Act specifically related to finalists for an “an appointive executive position”. That term is defined in the statute and applies to every “state agency or institution or political subdivision of the state”. The bill requires the agency to make available on its website the “names and resumes of no fewer than three finalists” at least ten days prior to the final decision. It clarifies that if there are fewer than three applicants overall or who meet the minimum qualifications for the position, those people shall be considered finalists.

The section also requires the hiring body to create a system for “voluntary and anonymous” collection of demographic data from candidates, and this data shall be made publicly available in aggregate and anonymous format when the finalists are announced.

The section makes records that would reveal the identity of candidates for these positions exempt from IPRA, until they are finalists. It also prohibits letters of reference and medical or psychological data concerning finalists from being made public.

Section 2 repeals NMSA 1978, Section 21-1-16.1 (2011). This existing statutory section is specific to applicants or nominees for the position of president of a public institution of higher education. The current statute exempts all public records containing the identity or identifying information of these individuals from IPRA requirements. It also allows the disclosure of the information. The existing statute also has requirements for the publication of at least five finalists for the position, and for publication of notice of the meeting where final action will be taken on the selection.

Section 3 sets an effective date of July 1, 2025.

FISCAL IMPLICATIONS

None.

SIGNIFICANT ISSUES

The scope of the statute is unclear. “State agency” is not defined in the bill, but NMSA 1978, Section 6-3-1 defines it as “any department, institution, board, bureau, commission, district or committee of government of the state of New Mexico and means every office or officer of any of the above.” This is not exactly the same as “public body” which is currently defined in IPRA at NMSA 1978, Section 14-2-6 (G). Because the bill also includes political subdivisions, it would presumably apply to counties, municipalities, and other public boards across the state. It is less clear if it applies to a board or commission that is part of a political subdivision.

The term “appointive executive position” is unclear. The bill defines the term to mean a non-elected chief executive officer of a state agency or institution or political subdivision of the state, but not a political appointment, including a cabinet secretary. The term “chief executive officer” is sometimes the actual title of a position, but this bill presumably intends to cover more than just positions that are literally titled that way. Given the wide range of job titles, roles, and methods of selecting executive officers for public bodies all over the state, it is difficult to predict in advance which would qualify as chief executives and which would count as political appointees.

The requirement to create a system for gathering voluntary and anonymous demographic data may be a high burden for many of the smaller entities, such as boards and commissions, that would likely be covered under this bill. It appears that each entity would be responsible for maintaining this data, and then published with the announcement of finalists.

PERFORMANCE IMPLICATIONS

The NMDOJ advises many government entities, and specifically virtually all boards and commissions created by the legislature. This would likely require substantial time from NMDOJ attorneys to advise these entities on the new requirements each time they are hiring for a covered position.

ADMINISTRATIVE IMPLICATIONS

As above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Related to SB 36, which prohibits the release of sensitive personal information.
Related to HB 283 and HB 139, which would amend IPRA.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo.

AMENDMENTS

None.