

LFC Requester:

Emily Hilla

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to 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 2/21/25

Check all that apply:

Bill Number: HB0497

Original Correction

Amendment Substitute

Sponsor: Cathrynn N. Brown

Agency Name

and Code

Dept. of Workforce Solutions-631

Number:

Person Writing

Analysis:

Sarita Nair

Short

Inspection of Public Records

Email

Title:

Act Changes

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	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

BILL SUMMARY

Synopsis: House Bill 497 (HB 497) proposes significant revisions to the Inspection of Public Records Act (IPRA). The key changes pertain to exemptions, procedural revisions and enforcement modifications.

Exemptions. This bill expands the enumerated exemptions to IPRA to include:

- Medical records
- Certain procurement documents
- Certain student records in their cumulative files
- Cybersecurity information
- IT system infrastructure
- Certain law enforcement records
- Security system records or plans
- Certain competitive bid documentation
- Certain information about public benefit recipients (such as unemployment benefit recipients)
- Crime victim and witness information

Note: The above is not an exhaustive list of all the new exemptions proposed by this bill.

Revised Procedures: HB 497:

- Extends agency deadline to respond from 15 to 21 days for “current records” and up to 60 days for non-current records or for audio or visual records.
- Tolls an agency’s time to respond if a request is misdirected to the wrong records custodian.
- Defines “broad or burdensome requests” as those requiring more than 3 hours to respond to.
- Requires all requests be written not oral.
- Disallows anonymous requests.
- Limits requests for certain violent or graphic law enforcement videos.
- Expressly relieves agencies from having to:
 - compile, reformat or tailor records beyond their existing format or provide records in a medium not currently used by the agency;
 - provide records that are included in reports or documents that are printed or published, including those published on the internet; and
 - answer questions, conduct research, provide advice or issue legal opinions.
- Permits agencies to seek clarification from requesters and discuss with them how to fulfill voluminous requests.
- Increases copying fees to \$2 per page for standard documents.
- Permits agencies to charge up to \$30 per hour after the first 3 hours for retrieval and redaction.

- Permits agencies to decline multiple inspections of the same records.
- Permits agencies to treat 5 or more requests within a 45-day period as a single request.
- Allows requestors to use personal devices to duplicate records, subject to the agency's reasonable procedures to protect record integrity.

Revised Enforcement Provisions: HB 497's modified enforcement provisions include:

- Requester must give agency written notice of alleged violation, allowing 21 business days to correct the issue, before filing suit to enforce IPRA.
- Enforcement lawsuits can only be filed in the county of the agency's principal office.
- Only the agency or public body may be sued for alleged IPRA violations. Records custodians, employees and officials cannot be sued.
- No peremptory or alternate writs of mandamus can be issued.
- Writs of mandamus or injunctions may only issue after agency has been given due process per the Rules of Civil Procedure and a court has found that a violation of IPRA has occurred.
- Damages, costs and attorney fees are awardable only if the agency acted in bad faith or failed to provide a "reasonable denial," as defined in the bill.

FISCAL IMPLICATIONS

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

House Bill 497 seeks to address administrative and financial burdens that public agencies face under the current Inspection of Public Records Act while maintaining the fundamental principle of government transparency. The bill introduces safeguards to protect sensitive personal information, improve efficiency in processing requests, and limit exposure to costly litigation based on technical violations or overly broad demands. By adjusting how and when damages and attorney fees are awarded, it also seeks to deter lawsuits filed primarily for financial gain rather than for legitimate public access concerns.

One of the bill's key provisions strengthens protections for personally identifiable information (PII) held by public agencies. Individuals who apply for unemployment benefits, economic assistance, or other government services must provide sensitive personal data, including home addresses, email addresses, phone numbers, financial account details, and Social Security numbers. While public accountability is important, the government also has a duty to protect those who entrust their information to state agencies. The bill explicitly exempts certain categories of PII from disclosure to prevent potential identity theft, fraud, or other privacy violations, ensuring that transparency does not come at the cost of individual security.

At the same time, HB 497 reinforces the requirement that records requests be made with "reasonable particularity." Agencies frequently receive vague or overly broad requests that require them to conduct extensive searches with little clear direction. Under the new standard, requesters must specify identifiable records, such as by providing a document title, subject, author, or defined date range. For audio and visual records, they must include details like a case number, officer name, or other specific criteria. This change prevents agencies from having to sift through vast amounts of data to interpret what the requester might be looking for, allowing them to allocate

resources more efficiently.

Recognizing that agencies need a realistic timeframe to process complex or voluminous requests, the bill also extends the standard response deadline from 15 to 21 business days, with up to 60 business days allowed for non-current or multimedia records. Additionally, agencies are given more discretion in handling “broad or burdensome” requests that require more than three hours to fulfill. These provisions acknowledge the practical challenges agencies face in balancing records requests with other operational responsibilities.

The bill also addresses a major concern under the current law: the risk of agencies being sued over technical violations or delays, even when they act in good faith. Under existing provisions, agencies face mandatory penalties of up to \$100 per day for failing to meet deadlines, and they are required to pay attorney fees to prevailing requesters, regardless of whether the delay or denial was intentional. This has created an environment where some attorneys exploit IPRA’s strict deadlines as a way to generate lawsuits and collect fees, diverting public funds from essential services to legal defense and settlements.

HB 497 makes several key adjustments to reduce the incentive for opportunistic litigation while maintaining strong accountability measures. It eliminates automatic damages and instead allows courts to award damages only where an agency did not act in good faith or failed to provide a reasonable denial. This change ensures that public bodies are still held accountable for unjustified withholding of records but are not punished for honest mistakes, administrative challenges, or circumstances beyond their control. The bill also introduces a requirement that requesters provide written notice of a claimed violation and allow the agency 21 business days to either correct the issue or explain its position before litigation can proceed. By creating a buffer period for resolution, the bill discourages unnecessary lawsuits while still allowing requesters to challenge improper denials.

Additionally, the bill clarifies that enforcement actions must be brought against the agency itself rather than individual employees. Under the current law, records custodians can be personally named in lawsuits, exposing them to legal liability for simply carrying out their duties. HB 497 ensures that only the public body is subject to enforcement actions, protecting employees from personal litigation risks.

Together, these changes reflect an effort to bring balance to public records law. Government transparency remains paramount, but the process must also be structured in a way that protects personal privacy, ensures agencies can function efficiently, and prevents legal exploitation of minor procedural issues. By refining the scope of requests, adjusting response timelines, and reducing the incentive for frivolous litigation, HB 497 strengthens the integrity of public records law while allowing agencies to fulfill their duties without undue strain.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If House Bill 497 is not enacted, the following issues will persist:

- **Administrative Burden:** Agencies will continue to be overwhelmed by vague, overly broad, or voluminous requests without strengthened “reasonable particularity” requirements.
- **Short Deadlines:** The 15-business-day response time will remain, forcing rushed reviews and increasing the risk of inadvertent errors.
- **Privacy Risks:** Personally identifiable information (PII) will remain more exposed, increasing risks of identity theft, fraud, or harassment.
- **Legal Exposure:** Agencies will still face automatic damages and mandatory attorney fee awards, encouraging lawsuits over technical violations rather than genuine transparency concerns.
- **Diverted Resources:** Public funds will continue to be spent on litigation and settlements instead of government operations and services.

Without these reforms, agencies will struggle to balance transparency with practical governance, allowing inefficiencies and legal vulnerabilities to persist.

AMENDMENTS