F I S C A L I M P A C T R E P O R T

SPONSOR Irwin **DATE TYPED** 02/07/05 **HB** 456

SHORT TITLE Public Record Reproduction Cost Recovery **SB**

ANALYST Ford

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			Indeterminate		

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
Corrections Department (CD)
Public Education Department (PED)
State Commission on Public Records (SCPR)

SUMMARY

Synopsis of Bill

House Bill 456 amends the Inspection of Public Records Act to limit the copying fees a custodian of public records may charge to the actual cost of reproduction.

Significant Issues

Current law allows the custodian of a public record to charge "reasonable fees for copying the public records, unless a different fee is otherwise prescribed by law." (Section 14-2-9 NMSA 1978). This bill would restrict those costs by instead providing that "in no event" shall the fees exceed the actual cost of reproduction.

The State Commission on Public Records, the PED, the Corrections Department and the AOC all note that the actual cost of reproduction is not defined. Does this include staff time to make the

copies? Toner for the copy machine or printer? A portion of the copy machine lease? The Corrections Department notes that it would take administrative efforts on the part of agencies to determine the actual cost of reproduction, and without guidelines from the legislation, that determination could vary widely from one agency to another.

In addition, the language would seem to override other sections of current law that specifically set fees. For example, Section 35-6-1 NMSA 1978 requires magistrate courts to charge $0.50 per page for photocopies and $1.00 per page for computer printouts. Section 14-3-19 NMSA 1978 allows the State Commission on Public Records to charge cost plus 5% for its services.

FISCAL IMPLICATIONS

The bill will result in indeterminate costs to the State Commission on Public Records to promulgate a new fee schedule. The bill may also result in indeterminate costs to public entities to determine "actual" cost of reproduction. The bill may result in a loss of fee revenue to various public entities, including the State Commission on Public Records, which indicates that it may require additional general fund money if fees are lowered.

TECHNICAL ISSUES

House Bill 456 is unclear as to the definition of "actual cost to the public body of reproduction." In addition, it is unclear whether the intent of the bill is to override other sections of law that specifically establish copying fees or whether it is intended only to limit the definition of "reasonable fees."

EF/njw