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SENATE BILL 52

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Stephen H. Fischmann

AN ACT

RELATING TO PUBLIC RECORDS; PROVIDING FOR DELIVERY OF COPIES OF
PUBLIC RECORDS IN ELECTRONIC FORMAT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 14-2-9 NMSA 1978 (being Laws 1993,
Chapter 258, Section 6) is amended to read:

"14-2-9. PROCEDURE FOR INSPECTION.--

A. Requested public records containing information
that is exempt and nonexempt from disclosure shall be separated
by the custodian prior to inspection, and the nonexempt
information shall be made available for inspection. If
necessary to preserve the integrity of computer data or the
confidentiality of exempt information contained in a database,
a partial printout of data containing public records or
information may be furnished in lieu of an entire database.

.182477.3

underscoring material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

1 B. A custodian shall provide a copy of a public
2 record in electronic format if the public record is available
3 in electronic format and an electronic copy is specifically
4 requested.

5 C. A custodian may transmit a copy of a public
6 record by mail or by any other reasonable delivery method. If
7 a public record is available in electronic format, and delivery
8 by electronic mail is specifically requested, the custodian
9 shall transmit a copy of a public record by electronic mail if
10 the custodian can reasonably and efficiently produce and
11 transmit the copy with available personnel and with existing
12 and available software and hardware.

13 ~~[B-]~~ D. A custodian:

14 (1) may charge reasonable fees for copying the
15 public records, unless a different fee is otherwise prescribed
16 by law;

17 (2) shall not charge fees in excess of one
18 dollar (\$1.00) per printed page for documents eleven inches by
19 seventeen inches in size or smaller;

20 (3) may charge the actual costs associated
21 with downloading copies of public records to a computer disk or
22 storage device, including the actual cost of the computer disk
23 or storage device;

24 (4) may charge the actual costs associated
25 with transmitting copies of public records by mail, electronic

.182477.3

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[bracketed material] = delete

1 mail or facsimile;

2 [~~(3)~~] (5) may require advance payment of the
3 fees before making copies of public records;

4 [~~(4)~~] (6) shall not charge a fee for the cost
5 of determining whether any public record is subject to
6 disclosure; and

7 [~~(5)~~] (7) shall provide a receipt, upon
8 request.

9 E. Nothing in this section shall be construed to
10 require a public body to respond to a request for a copy of a
11 public record by creating or compiling a record that does not
12 exist or putting a record into an electronic format that is not
13 maintained in an electronic format. If a custodian agrees to
14 create or compile a record or convert it to an electronic
15 format, the custodian may charge a reasonable fee not to exceed
16 the actual costs of compiling or converting and duplicating the
17 public records."