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HOUSE MEMORIAL 125

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

W. Ken Martinez

A MEMORIAL

REQUESTING THE LEGISLATIVE FINANCE COMMITTEE TO CONVENE A
WORKING GROUP TO STUDY AND MAKE RECOMMENDATIONS TO ADDRESS THE
ADMINISTRATIVE AND FISCAL BURDENS OF COMPLYING WITH INSPECTION
OF PUBLIC RECORDS ACT REQUESTS MADE TO PUBLIC POST-SECONDARY
EDUCATIONAL INSTITUTIONS AND PUBLIC SCHOOL DISTRICTS.

WHEREAS, the Inspection of Public Records Act is intended
to provide the public with information about the affairs of
state and local government, including public post-secondary
educational institutions and public school districts; and

WHEREAS, the Inspection of Public Records Act requires
each public body to designate a records custodian to respond to
requests to inspect its records; and

WHEREAS, a records custodian must provide certain
conditions for the inspection of the records of the public

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1 body, including reasonable office hours and office space and
2 available personnel; and

3 WHEREAS, the records of the public body must be made
4 available immediately or as soon as practicable to a requester;
5 and

6 WHEREAS, a record of the public body may contain
7 information that is disclosable, information that is exempt
8 from disclosure and information that is prohibited from being
9 disclosed pursuant to other laws; and

10 WHEREAS, to comply with the Inspection of Public Records
11 Act, a records custodian must determine what information may be
12 disclosed and what information is prohibited from disclosure;
13 and

14 WHEREAS, under the Inspection of Public Records Act, a
15 records custodian may charge a fee for the costs of copying
16 records but not for the costs of finding documents; preparing
17 correspondence for responding to requests; researching whether
18 a record is or is not subject to disclosure; or the time spent
19 redacting information contained within a record that is exempt
20 from disclosure under the Inspection of Public Records Act; and

21 WHEREAS, public post-secondary educational institutions
22 and public school districts generate and possess many more
23 records than other public bodies, including many more records
24 that contain personal information about employees and students,
25 much of which is prohibited from being disclosed; and

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1 WHEREAS, the disclosure of the records of the public body
2 that are prohibited from being disclosed could subject a public
3 body to potential liability; and

4 WHEREAS, the disclosure of records that relate to a
5 potential or existing civil action or criminal prosecution
6 could subject a public body to liability; and

7 WHEREAS, the disclosure of records that contain personal
8 or unverified information about an individual could result in
9 harm to the individual and have the effect of discouraging
10 complaints from individuals and discouraging the exercise of
11 individual rights;

12 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF
13 REPRESENTATIVES OF THE STATE OF NEW MEXICO that the legislative
14 finance committee be requested to convene a working group to
15 study and make recommendations to address the administrative
16 and fiscal burdens on public post-secondary educational
17 institutions and public school districts of complying with the
18 Inspection of Public Records Act and to study and make
19 recommendations for preserving the privacy needs and the
20 potential claims of individuals; and

21 BE IT FURTHER RESOLVED that the working group consist of a
22 staff member of the legislative finance committee and:

23 A. one representative from the council of
24 university presidents;

25 B. one representative from the New Mexico

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1 association of community colleges;

2 C. one representative from the New Mexico coalition
3 of educational leaders;

4 D. one representative from the New Mexico school
5 superintendents association;

6 E. one representative of the risk management
7 division of the general services department;

8 F. one representative from the New Mexico
9 association of counties;

10 G. one representative from the New Mexico municipal
11 league; and

12 H. one representative from the New Mexico
13 foundation for open government; and

14 BE IT FURTHER RESOLVED that the working group report to
15 the legislative interim committee that addresses issues related
16 to courts, corrections and justice and to the legislative
17 finance committee by November 1, 2015; and

18 BE IT FURTHER RESOLVED that copies of this memorial be
19 transmitted to the co-chairs of the New Mexico legislative
20 council and to the legislative finance committee, the council
21 of university presidents, the New Mexico association of
22 community colleges, the New Mexico coalition of educational
23 leaders, the New Mexico school superintendents association, the
24 New Mexico association of counties, the New Mexico municipal
25 league, the risk management division of the general services

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1 department and the New Mexico foundation for open government.

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