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FISCAL IMPACT REPORT

ORIGINAL DATE 2/24/19

SPONSOR Pratt LAST UPDATED _____ HB 26

SHORT TITLE Fees For Public Documents SB _____

ANALYST Woods

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See Fiscal Implications.				

(Parenthesis () Indicate Expenditure Decreases)

Relationship to SB442

SOURCES OF INFORMATION

LFC Files

Responses Received From

Commission of Public Records (CPR)

New Mexico Department of Transportation (NMDOT)

SUMMARY

Synopsis of Bill

House Bill 26 amends NMSA 1978, Section 14-2-9 of the Inspection of Public Records Act (IPRA). HB26 authorizes a custodian of public records to charge a fee (no longer a “reasonable” fee) for providing a copy of a public record that shall not exceed the actual cost to the public body to provide the copy of the public record. The bill limits the maximum fee to 10 cents per printed page for documents that are 8.5 inches by 17 inches in size or smaller. HB26 limits the maximum fee an agency may charge to \$10 for downloading copies of public records to a computer disk or storage device.

FISCAL IMPLICATIONS

Currently by rule, agency charges 25 cents per page for hard copy or pdf copy when staff is asked to produce a record. CPR states this bill would result in a 60 percent decrease in the

amount of fees collected, an annual loss of about \$1,200. It is unknown how much revenue would be lost by any electronic (pdf) records request that would be capped at \$10.

NMDOT notes cost variables related to IPRA document production for NMDOT include salaries of responding personnel (\$19 to \$60 an hour), use of NMDOT systems databases to access and print records, time attributed to collecting and evaluating responsive records, and costs of materials including paper. Depending on the nature and extent of a public records request, time attributed to a response may range from one to 80-plus hours for any one request. NMDOT requests sometimes contain over 6,000 documents. HB26 does not recognize any of these cost variables.

Additionally, the bill reduces the fee that may be charged for providing print records from \$1 per page to 10 cents per page. Though the impact on NMDOT operations is indeterminate at this time, money diverted from NMDOT's funds at the impact of other operational services for which these funds are intended would experience diminished opportunity for recoupment under HB26.

SIGNIFICANT ISSUES

In 2017, NMDOT sent out responses to 271 IPRA requests. All these responses were sent out in an electronic format. In 2018, NMDOT sent out responses to 422 IPRA requests. All but one of the 422 responses were sent to the requestor in an electronic format. Almost 100 percent of the time, requestors ask for the response in electronic format so they may avoid the statutory fee for print documents. Responses that are not too voluminous are sent via electronic mail. The responses that are larger in data content, must be sent via U.S. mail after being copied on a compact disk or flash drive.

ADMINISTRATIVE IMPLICATIONS

NMDOT states if HB26 become law, the NMDOT records custodian would have to adjust the fee schedule currently in use. NMDOT internal policies and procedures addressing fees would also have to be revised.

RELATIONSHIP

SB442 would allow agencies to charge reasonable fees for electronic documents of up to \$1 per page.

CW/al