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FISCAL IMPACT REPORT

ORIGINAL DATE 2/11/19

SPONSOR Candelaria LAST UPDATED _____ HB _____

SHORT TITLE IPRA Failure to Permit Inspections SB 285

ANALYST Hawker

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Indeterminate but minimal					

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 232

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Department of Environment (NMED)

SUMMARY

Synopsis of Bill

Senate Bill 285 amends Section 14-2-11 NMSA 1978, denied public records requests. Language is added specifying a custodian who has denied a request, who does not deliver or mail a written explanation of the denial within 15 days after the receipt of the written request or who fails to permit inspection of all records responsive to the written request that are nonexempt is in violation of the Inspection of Public Records Act.

FISCAL IMPLICATIONS

Public entities could be found liable for penalties for failure to permit inspection of nonexempt public records or for failing to provide written explanation of denial within 15 days of receipt of the written request.

Public bodies who are in violation of the Inspection of Public Records Act are to pay damages not too exceed \$100 per day, paid from the funds of the public body.

SIGNIFICANT ISSUES

SB 285 requires the custodian to be provide either the nonexempt records for inspection or deliver or mail a written explanation of the denial of inspection within 15 days of receipt of the written request.

NMED observes additional staff time could be used defending NMED against claims it is liable for penalties in cases where the inspection is permitted, but later than 15 days from the date of the written request, for a reason, that is eventually judged reasonable. NMED states the department regularly encounters situations where it takes longer than 15 days to make the records available, due to the age or location of the records, or the volume of records requested.

RELATIONSHIP

SB 232 allows public bodies to charge additional costs for certain public records requests.

VKH/sb