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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 14-2-6 NMSA 1978 (being Laws 1993,  
Chapter 258, Section 3) is amended to read:

"14-2-6. DEFINITIONS.--As used in the Inspection of  
Public Records Act:

A. "custodian" means any person responsible for  
the maintenance, care or keeping of a public body's public  
records, regardless of whether the records are in that  
person's actual physical custody and control;

B. "file format" means the internal structure of  
an electronic file that defines the way it is stored and  
used;

C. "inspect" means to review all public records  
that are not excluded in Section 14-2-1 NMSA 1978;

D. "person" means any individual, corporation,  
partnership, firm, association or entity;

E. "public body" means the executive, legislative  
and judicial branches of state and local governments and all  
advisory boards, commissions, committees, agencies or  
entities created by the constitution or any branch of  
government that receives any public funding, including

1 political subdivisions, special taxing districts, school  
2 districts and institutions of higher education; and

3 F. "public records" means all documents, papers,  
4 letters, books, maps, tapes, photographs, recordings and  
5 other materials, regardless of physical form or  
6 characteristics, that are used, created, received, maintained  
7 or held by or on behalf of any public body and relate to  
8 public business, whether or not the records are required by  
9 law to be created or maintained."

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

12 "14-2-9. PROCEDURE FOR INSPECTION.--

13 A. Requested public records containing information  
14 that is exempt and nonexempt from disclosure shall be  
15 separated by the custodian prior to inspection, and the  
16 nonexempt information shall be made available for inspection.  
17 If necessary to preserve the integrity of computer data or  
18 the confidentiality of exempt information contained in a  
19 database, a partial printout of data containing public  
20 records or information may be furnished in lieu of an entire  
21 database. Exempt information in an electronic document shall  
22 be removed along with the corresponding metadata prior to  
23 disclosure by utilizing methods or redaction tools that  
24 prevent the recovery of exempt information from a redacted  
25 electronic document.

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. However, a custodian is only required to provide  
5 the electronic record in the file format in which it exists  
6 at the time of the request.

7           C. A custodian:

8                   (1) may charge reasonable fees for copying  
9 the public records, unless a different fee is otherwise  
10 prescribed by law;

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

14                   (3) may charge the actual costs associated  
15 with downloading copies of public records to a computer disk  
16 or storage device, including the actual cost of the computer  
17 disk or storage device;

18                   (4) may charge the actual costs associated  
19 with transmitting copies of public records by mail,  
20 electronic mail or facsimile;

21                   (5) may require advance payment of the fees  
22 before making copies of public records;

23                   (6) shall not charge a fee for the cost of  
24 determining whether any public record is subject to  
25 disclosure; and

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(7) shall provide a receipt, upon request.

D. Nothing in this section regarding the provision of public data in electronic format shall limit the ability of the custodian to engage in the sale of data as authorized by Section 14-3-15.1 NMSA 1978, including imposing reasonable restrictions on the use of the database and the payment of a royalty or other consideration."