

LFC Requester:

Connor Jorgensen

AGENCY BILL ANALYSIS
2019 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original Amendment
Correction Substitute

Date 2/13/19

Bill No: SB259

Sponsor: Sen. Bill Tallman
Short Title: DISCLOSE FINALISTS FOR APPOINTIVE POSITIONS

Agency Name and Code

Number: PED-924

Person Writing Daniel Manzano
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|---------------------------|---------------|
| FY19 | FY20 | | |
| NFI | NFI | | |
| NFI | NFI | | |

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------|---------------|
| FY19 | FY20 | FY21 | | |
| NFI | NFI | NFI | | |
| NFI | NFI | NFI | | |

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY19 | FY20 | FY21 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|-------------|-------------|-------------|------------------------------|--------------------------------------|--------------------------|
| Total | NFI | NFI | NFI | | | |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

None identified at this time.

Duplicates/Relates to Appropriation in the General Appropriation Act

None identified at this time.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB 259 relates to public records, requiring disclosure of the names of finalists for appointive executive positions, and providing an exemption to the Inspection of Public Records Act for other public employment applicants.

FISCAL IMPLICATIONS

None identified at this time.

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

SB 259 exempts from inspection records that reveal the identity of an applicant for public employment, except for finalists as provided in this section. Subparagraph A may clarify further whether the intent is to have the identities of the applicants redacted, or the documents withheld as a whole. The bill may clarify further whether the intent is to have other information redacted also if it makes clear to others who the applicant might be, or if it is permissible to simply withhold those records.

SB 259l may clarify whether it is ever proper to release education records, such as transcripts, even when submitted as part of an application, to make clear how FERPA should apply. The bill also has a provision that requires that an agency post at least three finalists for an appointive executive position. However, the provision may clarify an exact number as opposed to providing a minimum to avoid litigation about whether including the minimum satisfies the statute regardless of the circumstances.

SB 259 may also clarify further whether the mention of letters of reference being exempt only applies to letters, or whether it applies to references submitted or provided in any form. The bill

may also include that notes taken by panel members of interviewees during interviews are exempt from inspection, even for finalists.

SB 259 defines appointive executive position as a non-elected executive position of a state agency or institution or political subdivision of the state, but does not include a political appointment, including a cabinet secretary. The bill may clarify further what is meant by political appointment, and whether this means only those positions confirmed by the senate, or something different.

PERFORMANCE IMPLICATIONS

None identified at this time.

ADMINISTRATIVE IMPLICATIONS

None identified at this time.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None identified at this time.

TECHNICAL ISSUES

None identified at this time.

OTHER SUBSTANTIVE ISSUES

None identified at this time.

ALTERNATIVES

None identified at this time.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

None identified at this time.

AMENDMENTS

None identified at this time.