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HOUSE BILL 595

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

Monica Youngblood

AN ACT

RELATING TO PUBLIC DISCLOSURE; EXPANDING THE APPLICATION OF THE FINANCIAL DISCLOSURE ACT TO INCLUDE GOVERNOR EXEMPT EMPLOYEES; SPECIFYING TERMS OF REQUIRED FINANCIAL DISCLOSURE; PROHIBITING CERTAIN ONLINE POSTING OF PERSONAL INFORMATION BY STATE AGENCIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 10-16A-2 NMSA 1978 (being Laws 1993, Chapter 46, Section 40) is amended to read:

"10-16A-2. DEFINITIONS.--As used in the Financial Disclosure Act:

A. "business" means a corporation, partnership, sole proprietorship, firm, organization or individual carrying on a business;

B. "employment" means rendering of services for

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1 compensation in the form of salary as an employee;

2 C. "financial interest" means an interest held by  
3 ~~[an individual or his]~~ a person, a person's spouse or a member  
4 of the person's household that is:

5 (1) an ownership interest in business; or

6 (2) any employment or prospective employment  
7 for which negotiations have already begun;

8 D. "governor exempt employee" means an employee of  
9 a state agency who is in a policymaking or supervisory position  
10 and who serves at the pleasure of the governor or an appointing  
11 authority who was appointed by the governor;

12 ~~[D-]~~ E. "official act" means an official decision,  
13 recommendation, approval, disapproval or other action that  
14 involves the use of discretionary authority;

15 ~~[E-]~~ F. "person" means an individual or entity; and

16 ~~[F-]~~ G. "public officer or employee" means any  
17 person who has been elected to, appointed to or hired for any  
18 state office or employment and who receives compensation in the  
19 form of salary or is eligible for per diem or mileage, but  
20 excludes legislators and judges."

21 **SECTION 2.** Section 10-16A-3 NMSA 1978 (being Laws 1993,  
22 Chapter 46, Section 41, as amended) is amended to read:

23 "10-16A-3. REQUIRED DISCLOSURES FOR CERTAIN CANDIDATES  
24 AND PUBLIC OFFICERS AND EMPLOYEES--CONDITION FOR PLACEMENT ON  
25 BALLOT OR APPOINTMENT.--

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1           A. At the time of filing a declaration of candidacy  
2 or nominating petition, a candidate for legislative or  
3 statewide office shall file with the proper filing officer, as  
4 defined in Section 1-8-25 NMSA 1978, a financial disclosure  
5 statement on a prescribed form. In addition, each year  
6 thereafter during the month of January, a legislator and a  
7 person holding a statewide office shall file with the proper  
8 filing officer a financial disclosure statement. If the proper  
9 filing officer is not the secretary of state, the proper filing  
10 officer shall forward a copy of the financial disclosure  
11 statement to the secretary of state within seventy-two hours.

12           B. A state agency head or official whose  
13 appointment to a board or commission is subject to confirmation  
14 by the senate shall file with the secretary of state a  
15 financial disclosure statement within thirty days of  
16 appointment and during the month of January every year  
17 thereafter that ~~[he]~~ the state agency head or official holds  
18 public office.

19           C. A governor exempt employee shall file with the  
20 secretary of state a financial disclosure statement within  
21 thirty days of hire and during the month of January of every  
22 year that the employee remains a governor exempt employee.

23           ~~[G.]~~ D. The financial disclosure statement shall  
24 include for any person identified in Subsection A, ~~[or]~~ B or C  
25 of this section, ~~[and]~~ the person's spouse and all members of

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1 the person's household who are eighteen years of age or older  
2 the following information for the prior calendar year:

3 (1) the full name, mailing address and  
4 residence address of each person covered in the disclosure  
5 statement, except the address of the spouse and the household  
6 member need not be disclosed; the name and address of the  
7 [~~person's and spouse's~~] employer of each person covered in the  
8 disclosure statement and the title or position held; and a  
9 brief description of the nature of the business or occupation;

10 (2) all sources of gross income of more than  
11 five thousand dollars (\$5,000) but less than ten thousand  
12 dollars (\$10,000); of ten thousand dollars (\$10,000) or more  
13 but less than twenty thousand dollars (\$20,000); and of twenty  
14 thousand dollars (\$20,000) or more to each person covered in  
15 the disclosure statement, identified by general category  
16 descriptions that disclose the nature of the income source, in  
17 the following broad categories: law practice or consulting  
18 operation or similar business, finance and banking, farming and  
19 ranching, medicine and health care, insurance (as a business  
20 and not as payment on an insurance claim), oil and gas,  
21 transportation, utilities, general stock market holdings,  
22 bonds, government, education, manufacturing, real estate,  
23 consumer goods sales with a general description of the consumer  
24 goods and the category "other", with direction that the income  
25 source be similarly described. In describing a law practice,

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1 consulting operation or similar business of ~~[the]~~ each person  
2 ~~[or spouse]~~ covered in the disclosure statement, the major  
3 areas of specialization or income sources shall be described  
4 ~~[and]~~. If ~~[the spouse or]~~ a person ~~[in the reporting]~~ covered  
5 in the disclosure statement or someone in that person's ~~[or~~  
6 ~~spouse's]~~ law firm, consulting operation or similar business is  
7 or was during the reporting calendar year or the prior calendar  
8 year a registered lobbyist under the Lobbyist Regulation Act,  
9 the names and addresses of all clients represented for lobbying  
10 purposes during those two years shall be disclosed;

11 (3) a general description and the name of the  
12 donor of all gifts with a single or combined value of more than  
13 five hundred dollars (\$500); provided that for the purposes of  
14 this paragraph, "gifts" excludes items and money received:

15 (a) by will or intestate succession or  
16 from an inter vivos trust;

17 (b) from a testamentary trust  
18 established by a spouse or ancestor;

19 (c) from a household member;

20 (d) from a person related by  
21 consanguinity within the second degree; and

22 (e) as a political contribution when  
23 reported on a campaign report;

24 ~~[(-3)]~~ (4) a general description of the type of  
25 real estate owned in New Mexico, other than a personal

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1 residence, and the county where it is located;

2 [~~(4)~~] (5) all other New Mexico business  
3 interests not otherwise listed of [~~ten thousand dollars~~  
4 ~~(\$10,000)~~] five thousand dollars (\$5,000) or more but less than  
5 ten thousand dollars (\$10,000); of ten thousand dollars  
6 (\$10,000) or more but less than twenty thousand dollars  
7 (\$20,000); and of twenty thousand dollars (\$20,000) or more in  
8 a New Mexico business or entity, including any position held  
9 and a general statement of purpose of the business or entity;

10 [~~(5)~~] (6) all memberships held by [~~the~~  
11 ~~reporting individual and his spouse~~] a person covered in the  
12 disclosure statement on boards of for-profit businesses in New  
13 Mexico;

14 [~~(6)~~] (7) all New Mexico professional licenses  
15 held;

16 [~~(7)~~] (8) each state agency that was sold  
17 goods or services in excess of five thousand dollars (\$5,000)  
18 but less than ten thousand dollars (\$10,000); of ten thousand  
19 dollars (\$10,000) or more but less than twenty thousand dollars  
20 (\$20,000); and of twenty thousand dollars (\$20,000) or more  
21 during the prior calendar year by a person covered in the  
22 disclosure statement;

23 [~~(8)~~] (9) each state agency, other than a  
24 court, before which a person covered in the disclosure  
25 statement represented or assisted clients in the course of

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1     ~~[his]~~ the person's employment during the prior calendar year;  
2     and

3                     ~~[(9)]~~ (10) a general category that allows the  
4     person filing the disclosure statement to provide whatever  
5     other financial interest or additional information the person  
6     believes should be noted to describe potential areas of  
7     interest that should be disclosed.

8                     ~~[D-]~~ E. A complete financial disclosure statement  
9     shall be filed every year. The secretary of state shall mail  
10    each elected official required to file a financial disclosure  
11    statement a copy of any statement the person filed the previous  
12    year.

13                    ~~[E-]~~ F. The financial disclosure statements filed  
14    pursuant to this section are public records open to public  
15    inspection during regular office hours and shall be retained by  
16    the state for five years from the date of filing.

17                    G. A reporting person shall have the option to  
18    withhold from public view on a web site of the state the home  
19    address, home phone number and personal email address of any  
20    person covered in the reporting person's disclosure statement.  
21    A state agency shall not post for public view on its web site  
22    the information that a reporting person lawfully chooses to  
23    withhold from public view.

24                    ~~[F-]~~ H. A person who files a financial disclosure  
25    statement may file an amended statement at any time to reflect

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1 significant changed circumstances that occurred since the last  
2 statement was filed.

3 ~~[G. Any]~~ I. A candidate for a legislative or  
4 statewide office who fails or refuses to file a financial  
5 disclosure statement required by this section before the final  
6 date for the withdrawal of candidates provided for in the  
7 Election Code shall not have ~~[his]~~ the candidate's name printed  
8 on the election ballot.

9 ~~[H.]~~ J. For a state agency head or an official  
10 whose appointment to a board or commission is subject to  
11 confirmation by the senate, the filing of the financial  
12 disclosure statement required by this section is a condition of  
13 entering upon and continuing in state employment or holding an  
14 appointed position."