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SENATE BILL 829

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Michael S. Sanchez

AN ACT

RELATING TO PUBLIC RECORDS; PROVIDING FOR COMPUTER DATABASE
INFORMATION OF THE STATE AS PUBLIC RECORDS.

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

Section 1. A new section of the Public Records Act is
enacted to read:

"[NEW MATERIAL] STATE RECORDS--COMPUTER DATABASES--COPY
FEES. --

A. Except as otherwise provided by federal or
state law, information contained in a computer database is a
public record and shall be subject to disclosure in printed or
typed format if the state has inserted that information into
the database, in accordance with the Public Records Act.

B. The state shall authorize an electronic copy of
information contained in a computer database that is a public

underscored material = new
[bracketed material] = delete

1 record on a currently available electronic medium for a person
2 if the person agrees to pay a reasonable fee based upon the
3 cost of:

4 (1) materials;

5 (2) making an electronic copy of the computer
6 database; and

7 (3) personnel time to research and retrieve
8 the electronic record.

9 C. Subject to any confidentiality provisions of
10 law, the state may permit another federal, state or local
11 government entity access to all or any portion of a computer
12 database created by the state.

13 D. The state may at its option, and if it has the
14 capability, permit access or use of its computer and network
15 system to search, manipulate or retrieve information from a
16 computer database and charge reasonable fees based on the cost
17 of materials, personnel time, access time and the use of the
18 computer network. "

19 Section 2. Section 14-3-15.1 NMSA 1978 (being Laws 1986,
20 Chapter 81, Section 9, as amended) is amended to read:

21 "14-3-15.1. RECORDS OF STATE AGENCIES--PUBLIC RECORDS--
22 COPY FEES--COMPUTER DATABASES--CRIMINAL PENALTY.--

23 A. Except as otherwise provided by federal or
24 state law, information contained in information systems
25 databases shall be a public record and shall be subject to

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1 disclosure in printed or typed format by the state agency that
2 has inserted that information into the database, in accordance
3 with the Public Records Act, upon the payment of a reasonable
4 fee for the service.

5 B. The administrator shall recommend to the
6 commission the procedures, schedules and technical standards
7 for the retention of computer databases.

8 ~~[C. The state agency that has inserted data in a~~
9 ~~database may authorize a copy to be made of a computer tape or~~
10 ~~other medium containing a computerized database of a public~~
11 ~~record for any person if the person agrees:~~

12 ~~(1) not to make unauthorized copies of the~~
13 ~~database;~~

14 ~~(2) not to use the database for any political~~
15 ~~or commercial purpose unless the purpose and use is approved~~
16 ~~in writing by the state agency that created the database;~~

17 ~~(3) not to use the database for solicitation~~
18 ~~or advertisement when the database contains the name, address~~
19 ~~or telephone number of any person unless such use is otherwise~~
20 ~~specifically authorized by law;~~

21 ~~(4) not to allow access to the database by~~
22 ~~any other person unless the use is approved in writing by the~~
23 ~~state agency that created the database; and~~

24 ~~(5) to pay a royalty or other consideration~~
25 ~~to the state as may be agreed upon by the state agency that~~

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1 ~~created the database.~~

2 ~~D.]~~ C. If more than one state agency is
3 responsible for the information inserted in the database, the
4 agencies shall enter into an agreement designating a lead
5 agency. If the agencies cannot agree as to the designation of
6 a lead state agency, the commission shall designate one of the
7 state agencies as the lead agency to carry out the
8 responsibilities set forth in this section.

9 ~~E.]~~ D. Subject to any confidentiality provisions
10 of law, any state agency may permit another state agency
11 access to all or any portion of a computerized database
12 created by a state agency.

13 ~~F.]~~ E. If information contained in a database is
14 searched, manipulated or retrieved or a copy of the database
15 is made for any private or nonpublic use, a fee shall be
16 charged by the state agency permitting access or use of the
17 database.

18 ~~[G. Except as authorized by law or rule of the~~
19 ~~commission, any person who reveals to any unauthorized person~~
20 ~~information contained in a computer database or who uses or~~
21 ~~permits the unauthorized use or access of any computer~~
22 ~~database is guilty of a misdemeanor, and upon conviction the~~
23 ~~court shall sentence that person to jail for a definite term~~
24 ~~not to exceed one year or to payment of a fine not to exceed~~
25 ~~five thousand dollars (\$5,000) or both. That person shall not~~

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~~be employed by the state for a period of five years after the
date of conviction.]"~~