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SENATE MEMORIAL 50

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

William H. Payne

A MEMORIAL

REQUESTING THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO
CONDUCT A STUDY REGARDING THE EXTENT TO WHICH NEW MEXICO ISSUES
CONTRACTS TO NONPROFIT ENTITIES AND THE EFFECT OF THOSE
CONTRACTS ON THE STATE IN TERMS OF LOST TAX REVENUES.

WHEREAS, New Mexico issues thousands of contracts on a
yearly basis, resulting in hundreds of millions of dollars of
expenditures of appropriated state funds; and

WHEREAS, the department of finance and administration is
responsible for review and approval of all professional
services contracts that result in expenditures of greater than
five thousand dollars (\$5,000); however, the judicial and
legislative branches of government, state educational
institutions, the New Mexico state fair, the public school
insurance authority and the New Mexico finance authority are

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1 exempt from this requirement; and

2 WHEREAS, there is no central location for collection of
3 data regarding the number, amount and nature of contracts
4 issued by the state; and

5 WHEREAS, the criteria for nonprofit organizations to
6 contract with the state are not uniform among agencies with
7 contracting authority; and

8 WHEREAS, nonprofit organizations are not subject to the
9 same disclosure requirements as for-profit entities when
10 entering into a contract with the state; and

11 WHEREAS, the number of contracts issued to nonprofit
12 organizations versus the number of contracts issued to for-
13 profit entities is not known; and

14 WHEREAS, there may be a perceived competitive advantage to
15 issuing a contract to a nonprofit organization, as a nonprofit
16 organization may be able to submit a lower bid than a for-
17 profit entity for provision of the same services; and

18 WHEREAS, there is a potential hidden cost to the state of
19 favoring contracts with nonprofits in terms of lost tax
20 revenues, including corporate income tax, personal income tax
21 and gross receipts tax revenues; and

22 WHEREAS, the department of finance and administration does
23 not require an entity submitting a bid for a contract to reveal
24 its corporate status; and

25 WHEREAS, New Mexico would benefit from standardized

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1 contracting requirements and the disclosure of data regarding
2 the corporate status of a contractor and from making a
3 determination of the potential lost revenues that result from a
4 disproportionate number of contracts being awarded to nonprofit
5 organizations;

6 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE
7 OF NEW MEXICO that the department of finance and administration
8 be requested to conduct a study regarding the extent to which
9 New Mexico issues contracts to nonprofit entities and the
10 effect of those contracts on the state in terms of lost tax
11 revenues; and

12 BE IT FURTHER RESOLVED that the department of finance and
13 administration consult with the judicial and legislative
14 branches of government, state educational institutions, the New
15 Mexico state fair, the public school insurance authority and
16 the New Mexico finance authority to determine the various
17 processes and criteria that those entities are using to review
18 and award contracts; and

19 BE IT FURTHER RESOLVED that the study consider and make
20 recommendations regarding the requirement of disclosure of the
21 corporate status of contractors and the potential for a central
22 location for collection of data regarding contracts issued by
23 the state so that an assessment of lost tax revenues can be
24 determined and posted on the sunshine portal; and

25 BE IT FURTHER RESOLVED that a report of the findings and

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1 recommendations of the study be presented to the interim
2 revenue stabilization and tax policy committee; and

3 BE IT FURTHER RESOLVED that a copy of this memorial be
4 transmitted to the secretary of finance and administration.

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