SENATE BILL 234

**50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

INTRODUCED BY

John C. Ryan

AN ACT

RELATING TO PUBLIC LIABILITY; PROVIDING THAT SOVEREIGN IMMUNITY OF A GOVERNMENTAL ENTITY AND A PUBLIC EMPLOYEE ACTING WITHIN THE SCOPE OF DUTY IS NOT WAIVED FOR CLAIMS BROUGHT PURSUANT TO THE FRAUD AGAINST TAXPAYERS ACT; PROVIDING THAT, IN THE EVENT A PUBLIC EMPLOYEE IS SUED UNDER THAT ACT, A GOVERNMENTAL ENTITY SHALL NOT PROVIDE A DEFENSE OR PAY ANY COSTS, JUDGMENT OR SETTLEMENT; DECLARING AN EMERGENCY.

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

**SECTION 1.** Section 44-9-10 NMSA 1978 (being Laws 2007, Chapter 40, Section 10) is amended to read:

"44-9-10.  STATE NOT LIABLE--<u>SOVEREIGN IMMUNITY</u>.--

<u>A.</u>  The state shall not be liable for expenses or fees that a qui tam plaintiff may incur in investigating or bringing an action pursuant to the Fraud Against Taxpayers Act.

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B.  Sovereign immunity is not waived in the Fraud Against Taxpayers Act.  A governmental entity and any public employee while acting within the scope of duty are immune from liability for any claim brought pursuant to the Fraud Against Taxpayers Act.

C.  In the event an action is brought against a public employee pursuant to the Fraud Against Taxpayers Act, a governmental entity shall not be liable for fees, costs or expenses or any judgment or settlement that a public employee may incur in defense of that action.

D.  As used in this section, "governmental entity" and "public employee" have the same meaning as those terms are defined in the provisions of Section 41-4-3 NMSA 1978 of the Tort Claims Act."

SECTION 2.  EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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