

1 SENATE BILL 262

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Jacob R. Candelaria

5
6
7
8
9
10 AN ACT

11 RELATING TO GOVERNMENTAL CONDUCT; AMENDING THE CONFLICT OF
12 INTEREST PROVISION OF THE NEW MEXICO FINANCE AUTHORITY ACT TO
13 INCLUDE ANY INTEREST IN A BUSINESS THAT REPRESENTS A CLIENT
14 THAT HAS OR IS SEEKING A CONTRACT WITH THE AUTHORITY; AMENDING
15 THE GOVERNMENTAL CONDUCT ACT TO PROHIBIT CERTAIN BUSINESS
16 TRANSACTIONS INVOLVING PUBLIC OFFICERS AND EMPLOYEES.

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

19 SECTION 1. Section 6-21-24 NMSA 1978 (being Laws 1992,
20 Chapter 61, Section 24) is amended to read:

21 "6-21-24. CONFLICTS OF INTEREST--PENALTY.--

22 A. If any member, officer or employee of the
23 authority has an interest, either direct or indirect, in any
24 contract to which the authority is or is to be a party, or has
25 an interest in a business that represents a client that has or

.199135.1

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 is seeking such a contract, such interest shall be disclosed to
2 the authority in writing and shall be set forth in the minutes
3 of the authority. The member, officer or employee having such
4 interest shall not participate in any action by the authority
5 with respect to such contract.

6 B. Any person who has a conflict of interest as
7 ~~[defined]~~ provided in this section and participates in any
8 transaction involving such conflict of interest or fails to
9 notify the authority of such conflict is guilty of a
10 misdemeanor and upon conviction shall be sentenced to
11 imprisonment in the county jail for a definite term of less
12 than one year or to the payment of a fine of not more than one
13 thousand dollars (\$1,000), or to both."

14 SECTION 2. Section 10-16-13.2 NMSA 1978 (being Laws 2007,
15 Chapter 362, Section 8, as amended) is amended to read:

16 "10-16-13.2. CERTAIN BUSINESS ~~[SALES TO THE]~~ TRANSACTIONS
17 INVOLVING PUBLIC OFFICERS OR EMPLOYEES ~~[OF STATE AGENCIES AND~~
18 ~~LOCAL GOVERNMENT AGENCIES]~~ PROHIBITED.--

19 A. A public officer or employee shall not sell,
20 offer to sell, coerce the sale of or be a party to a
21 transaction to sell goods, services, construction or items of
22 tangible personal property directly or indirectly through the
23 public officer's or employee's family or a business in which
24 the public officer or employee has a substantial interest, to
25 an employee supervised by the public officer or employee. A

.199135.1

underscored material = new
[bracketed material] = delete

1 public officer or employee shall not receive a commission or
2 shall not profit from the sale or a transaction to sell goods,
3 services, construction or items of tangible personal property
4 to an employee supervised by the public officer or employee.

5 The provisions of this subsection shall not apply if the
6 supervised employee initiates the sale. It is not a violation
7 of this subsection if a public officer or employee, in good
8 faith, is not aware that the employee to whom the goods,
9 services, construction or items of tangible personal property
10 are being sold is under the supervision of the public officer
11 or employee.

12 B. A public officer or employee shall not sell,
13 offer to sell, coerce the sale of or be a party to a
14 transaction to sell goods, services, construction or items of
15 tangible personal property, directly or indirectly through the
16 public officer's or employee's family or a business in which
17 the public officer or employee has a substantial interest, to a
18 person over whom the public officer or employee has regulatory
19 authority.

20 C. A public officer or employee shall not receive a
21 commission or profit directly or indirectly through the public
22 officer's or employee's family or a business in which the
23 public officer or employee has a substantial interest from the
24 sale or a transaction to sell goods, services, construction or
25 items of tangible personal property to a person over whom the

.199135.1

underscoring material = new
~~[bracketed material] = delete~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

public officer or employee has regulatory authority.

D. A public officer or employee shall not accept from a person over whom the public officer or employee has regulatory authority an offer of employment or an offer of a contract in which the public officer or employee provides goods, services, construction, items of tangible personal property or other things of value to the person over whom the public officer or employee has regulatory authority."