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SENATE BILL 551

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

INTRODUCED BY

John C. Ryan

AN ACT

RELATING TO PUBLIC LIABILITY; PROVIDING FOR SOVEREIGN IMMUNITY
AND LIMITED LIABILITY FOR ATTORNEY FEES AND COSTS FOR CERTAIN
PUBLIC EMPLOYEES.

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--SOVEREIGN IMMUNITY--LIMITED
LIABILITY FOR ATTORNEY FEES AND COSTS.--

A. 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.

B. When the state brings or intervenes in a private
action brought pursuant to the Fraud Against Taxpayers Act,
sovereign immunity is not waived, and a governmental entity

1 shall not be liable for attorney fees, costs or expenses of a
2 public employee or any final judgment or settlement that may
3 result from that action.

4 C. When the state does not intervene in a private
5 action brought pursuant to the Fraud Against Taxpayers Act,
6 sovereign immunity is not waived, and the state shall not be
7 liable for any final judgment or settlement that may result
8 from that action; provided, however, that the state shall
9 provide a defense for a public employee who is sued pursuant to
10 that act and shall be liable for attorney fees, costs or
11 expenses unless the public employee is found to have violated
12 the law, in which case the public employee shall reimburse the
13 state and be liable for all attorney fees, costs or expenses
14 incurred on behalf of the public employee."

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underscored material = new
[bracketed material] = delete