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HOUSE BILL 501

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Matthew McQueen

AN ACT

RELATING TO PUBLIC OFFICIALS; CREATING THE PUBLIC CORRUPTION ACT; ENACTING PENALTIES; REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Public Corruption Act".

SECTION 2. [NEW MATERIAL] DEFINITION.--As used in the Public Corruption Act, "public official" means a person campaigning for or elected to an office in an election covered by the Campaign Reporting Act or a person appointed to an office that is subject to an election covered by that act.

SECTION 3. [NEW MATERIAL] PUBLIC CORRUPTION.--Public corruption is committed by a public official who is convicted of or pleads guilty or nolo contendere to:

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1 A. a violation with a first, second or third degree
2 felony penalty for any of the following offenses:

3 (1) fraud, as provided in Section 30-16-6 NMSA
4 1978;

5 (2) embezzlement, as provided in Section
6 30-16-8 NMSA 1978;

7 (3) extortion, as provided in Section 30-16-9
8 NMSA 1978;

9 (4) forgery, as provided in Section 30-16-10
10 NMSA 1978;

11 (5) bribery of public officer or public
12 employee, as provided in Section 30-24-1 NMSA 1978;

13 (6) demanding or receiving bribe by public
14 officer or public employee, as provided in Section 30-24-2 NMSA
15 1978;

16 (7) bribery or intimidation of a witness or
17 retaliation against a witness, as provided in Section 30-24-3
18 NMSA 1978;

19 (8) racketeering, as provided in the
20 Racketeering Act;

21 (9) a computer crime, as provided in the
22 Computer Crimes Act; and

23 (10) money laundering, as provided in the
24 Money Laundering Act;

25 B. any of the following offenses:

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1 (1) perjury, as provided in Section 30-25-1
2 NMSA 1978;

3 (2) soliciting or receiving a kickback, bribe
4 or rebate, as provided in Section 30-41-1 NMSA 1978; and

5 (3) offering or paying a kickback, bribe or
6 rebate, as provided in Section 30-41-2 NMSA 1978; and

7 C. conspiracy to commit any of the offenses set
8 forth in this section, as provided in Section 30-28-2 NMSA
9 1978.

10 SECTION 4. [NEW MATERIAL] PENALTIES.--

11 A. A public official who has committed public
12 corruption shall, in addition to the penalties for the offense
13 prescribed in the Criminal Sentencing Act, forfeit all service
14 credit accrued pursuant to the Public Employees Retirement Act
15 during all periods of service as a public official; provided
16 that:

17 (1) if the public official has not retired,
18 the member contributions paid by the public official during
19 time served as a public official shall be refunded;

20 (2) if the public official has retired and has
21 not received an amount in pension payments equal to the amount
22 of member contributions paid during time served as a public
23 official, the difference between the amount of pension payments
24 received and the amount of member contributions paid during
25 time served as a public official shall be refunded to the

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1 public official; or

2 (3) if the public official has retired and has
3 received an amount in pension payments equal to or greater than
4 the amount of member contributions paid during time served as a
5 public official, no member contributions shall be refunded and
6 the public official shall not be required to pay back any
7 pension payments received.

8 B. Service credit accrued, if any, by the public
9 official during employment by an affiliated public employer
10 shall not be forfeited.

11 C. If a public official subject to the penalty
12 described in this section has been receiving a pension based in
13 part on service credit accrued during employment by an
14 affiliated public employer, that pension shall be recalculated
15 without the forfeited service credit of the public official.

16 SECTION 5. REPEAL.--Section 31-18-15.4 NMSA 1978 (being
17 Laws 2012, Chapter 3, Section 1) is repealed.

18 SECTION 6. EFFECTIVE DATE.--The effective date of the
19 provisions of this act is July 1, 2017.