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AN ACT

RELATING TO EDUCATION; BROADENING THE SCOPE OF UNIVERSITY RESEARCH AND ECONOMIC DEVELOPMENT; AMENDING CERTAIN SECTIONS OF THE NMSA 1978.

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

Section 1. Section 21-28-1 NMSA 1978 (being Laws 1989, Chapter 264, Section 1) is amended to read:

"21-28-1. SHORT TITLE.--Chapter 21, Article 28 NMSA 1978 may be cited as the "University Research Park and Economic Development Act"."

Section 2. Section 21-28-2 NMSA 1978 (being Laws 1989, Chapter 264, Section 2, as amended) is amended to read:

"21-28-2. RESEARCH PARK--PURPOSE.--The purpose of the University Research Park and Economic Development Act is to:

- A. promote the public welfare and prosperity of the people of New Mexico;
- B. foster economic development within New Mexico;
- C. forge links between New Mexico's educational institutions, business and industrial communities and government through the development of research parks on university real property; or
- D. engage in other cooperative ventures of innovative technological significance that will advance education, science, research, conservation, health care or

1 economic development within New Mexico."

2 Section 3. Section 21-28-3 NMSA 1978 (being Laws 1989,  
3 Chapter 264, Section 3, as amended) is amended to read:

4 "21-28-3. DEFINITIONS.--As used in the University  
5 Research Park and Economic Development Act:

6 A. "bond" or "bonds" means any bond, note or other  
7 evidence of indebtedness;

8 B. "regents" means:

9 (1) in the case of an educational  
10 institution named in Article 12, Section 11 of the  
11 constitution of New Mexico, the board of regents of the  
12 institution;

13 (2) in the case of a community college, the  
14 community college board; or

15 (3) in the case of a technical and  
16 vocational institute, the governing board of the technical  
17 and vocational institute district;

18 C. "research park" means research and development  
19 facilities, research institutes, testing laboratories,  
20 buildings, offices, light manufacturing, utility facilities,  
21 health care facilities, related businesses, government  
22 installations and similar facilities, including land and  
23 projects for the development of real property; all necessary  
24 appurtenances; and rights and franchises acquired,  
25 constructed, managed and developed by a university or under

1 its authority that are suitable or necessary to promote the  
2 social welfare of New Mexico through the advancement of  
3 education, science, research, conservation, health care,  
4 economic development and related purposes regardless of  
5 whether the activities conducted in those facilities are  
6 directly related to research;

7 D. "research park corporation" means any  
8 corporation formed pursuant to the provisions of the  
9 University Research Park and Economic Development Act;

10 E. "technological innovations" means research,  
11 development, prototype assembly, manufacture, patenting,  
12 licensing, marketing and sale of inventions, ideas,  
13 practices, applications, processes, machines, technology and  
14 related property rights of all kinds; and

15 F. "university" means:

16 (1) a New Mexico educational institution  
17 named in Article 12, Section 11 of the constitution of New  
18 Mexico;

19 (2) a community college organized pursuant  
20 to the Community College Act; or

21 (3) a technical and vocational institute  
22 organized pursuant to the Technical and Vocational Institute  
23 Act."

24 Section 4. Section 21-28-4 NMSA 1978 (being Laws 1989,  
25 Chapter 264, Section 4) is amended to read:

1 "21-28-4. RESEARCH PARK CORPORATIONS--AUTHORIZATION--  
2 MEMBERS--TERMS--MEETINGS--BYLAWS.--

3 A. Any university may form, pursuant to the  
4 provisions of the Nonprofit Corporation Act or the Business  
5 Corporation Act, one or more research park corporations,  
6 separate and apart from the state and the university, to  
7 promote, develop and administer research parks or  
8 technological innovations for scientific, educational and  
9 economic development opportunities in accordance with bylaws  
10 adopted by the research park corporation or economic  
11 development initiatives that support the teaching, research  
12 or service mission of the university.

13 B. Each research park corporation shall be  
14 governed by, and all of its functions, powers and duties  
15 shall be exercised by, a board of directors appointed by the  
16 regents. Members of the board of directors may include the  
17 president of the university, the regents, officers and  
18 employees of the university and other persons selected by the  
19 regents.

20 C. The board of directors shall elect a chair and  
21 other officers as the board of directors deems necessary.

22 D. The board of directors shall adopt bylaws, in  
23 accordance with the provisions of the Nonprofit Corporation  
24 Act or the Business Corporation Act, as appropriate,  
25 governing the conduct of the research park corporation in the

1 performance of its duties under the University Research Park  
2 and Economic Development Act."

3 Section 5. Section 21-28-5 NMSA 1978 (being Laws 1989,  
4 Chapter 264, Section 5) is amended to read:

5 "21-28-5. POWERS OF UNIVERSITY AS RELATED TO RESEARCH  
6 PARKS.--

7 A. The regents of each university shall have the  
8 power to implement and further the purposes of the University  
9 Research Park and Economic Development Act, including the  
10 power:

11 (1) to establish, acquire, develop, maintain  
12 and operate research parks, including all necessary or  
13 suitable buildings, facilities and improvements, and to  
14 acquire, purchase, construct, improve, remodel, add to,  
15 extend, maintain, equip and furnish research parks or any  
16 building or facility, including research and service  
17 facilities and areas intended for the common use of research  
18 park tenants;

19 (2) to form research park corporations to  
20 aid and assist the university to acquire, construct, finance,  
21 operate and manage research parks;

22 (3) to form research park corporations to  
23 engage in economic development activities that support the  
24 teaching, research and service mission of the university,  
25 including creating learning opportunities for the students of

1 the university;

2 (4) to lease, sell, exchange or transfer to  
3 research park corporations personal property, money and all  
4 or part of the land and facilities included in a research  
5 park, on terms and conditions established by the regents that  
6 are fair, just and reasonable to the university, and to enter  
7 into any other contract or agreement with the research park  
8 corporation for the construction, financing, operation and  
9 management of the research park;

10 (5) to lease, either directly or through a  
11 research park corporation, to any person, firm, partnership,  
12 government entity or any other lawful entity recognized under  
13 the laws of the state, any part or all of the land, buildings  
14 and facilities of the research park under guidelines  
15 established by the regents;

16 (6) to allow a lessee, exchanger or  
17 purchaser of university land to acquire or construct  
18 necessary or suitable buildings, facilities and improvements  
19 upon university land; provided that any improvements acquired  
20 or constructed upon university land during the term of any  
21 lease of university land shall revert to and become the  
22 property of the university on termination of the lease or any  
23 renewal or extension;

24 (7) to construct buildings, facilities and  
25 improvements and to acquire, purchase, construct, improve,

1 remodel, add to, extend, maintain, equip and furnish research  
2 parks or any building or facility, including research and  
3 service facilities and areas intended for common use of  
4 research park occupants;

5 (8) to finance all or part of the costs of  
6 the research park, including the purchase, construction,  
7 reconstruction, improvement, remodeling, addition to,  
8 extension, maintenance, equipment and furnishing;

9 (9) to conduct, sponsor, finance and  
10 contract in connection with technological innovations of all  
11 kinds; and

12 (10) to do anything else that the regents  
13 deem appropriate to further the purposes of the University  
14 Research Park and Economic Development Act either directly or  
15 indirectly.

16 B. The specification of powers in this section is  
17 not exclusive and shall not be construed to impair or negate  
18 any other power or authority enjoyed by the regents under the  
19 constitution or laws of this state."

20 Section 6. Section 21-28-6 NMSA 1978 (being Laws 1989,  
21 Chapter 264, Section 6, as amended) is amended to read:

22 "21-28-6. POWERS OF RESEARCH PARK CORPORATION.--A  
23 research park corporation shall have all the powers necessary  
24 and convenient to carry out and effectuate the provisions of  
25 the University Research Park and Economic Development Act,

1 including the power to:

2 A. approve or disapprove proposals;

3 B. sue and be sued in its corporate name;

4 C. purchase, take, receive or otherwise acquire;  
5 own, hold, manage, develop, dispose of or use; and otherwise  
6 deal in and with property, including an interest in or  
7 ownership of intangible personal property, intellectual  
8 property or technological innovations;

9 D. sell, convey, pledge, exchange, transfer, lease  
10 or otherwise dispose of its assets and properties for  
11 consideration upon terms and conditions that the corporation  
12 shall determine; provided that any sale, conveyance, pledge,  
13 exchange, transfer, lease or disposal of a real property  
14 interest by a research park corporation shall be made in  
15 accordance with the provisions of Section 13-6-2 NMSA 1978;

16 E. make contracts, incur liabilities or borrow  
17 money at rates of interest that the research park corporation  
18 may determine;

19 F. make and execute all contracts, agreements or  
20 instruments necessary or convenient in the exercise of the  
21 powers and functions of the corporation granted by the  
22 University Research Park and Economic Development Act;

23 G. receive and administer grants, contracts and  
24 private gifts;

25 H. invest and reinvest its funds;



1 I. conduct its activities, carry on its  
2 operations, have offices and exercise the powers granted by  
3 the University Research Park and Economic Development Act;

4 J. make and alter bylaws that may contain  
5 provisions indemnifying any person who is or was a director,  
6 officer, employee or agent of the corporation and that are  
7 consistent with the University Research Park and Economic  
8 Development Act, for the administration and regulation of the  
9 affairs of research park corporations;

10 K. employ officers and employees that it deems  
11 necessary, set their compensation and prescribe their duties;

12 L. enter into agreements with insurance carriers  
13 to insure against any loss in connection with its operations;

14 M. authorize retirement programs and other  
15 benefits for salaried officers and employees of the research  
16 park corporation;

17 N. employ fiscal consultants, attorneys and other  
18 consultants that may be required and to fix and pay their  
19 compensation; and

20 O. enter into license agreements and contracts,  
21 including those involving intellectual property and  
22 technological innovations such as patents, copyrights,  
23 franchises and trademarks."

24 Section 7. Section 21-28-8 NMSA 1988 (being Laws 1989,  
25 Chapter 264, Section 8) is amended to read:

1 "21-28-8. ISSUANCE OF REVENUE BONDS.--A research park  
2 corporation may issue negotiable revenue bonds or notes or  
3 both. The proceeds of the sale of bonds issued pursuant to  
4 the University Research Park and Economic Development Act  
5 shall be used to carry out the provisions of that act and to  
6 fund reserves for the research park corporation to pay  
7 interest on the bonds and to pay the necessary expenses of  
8 issuing the bonds, including bond counsel and fiscal adviser  
9 fees and other legal, consulting and printing fees and costs.  
10 All bonds may be issued in one or more series. The bonds of  
11 each issue shall be dated and bear interest as prescribed by  
12 the research park corporation. The bonds shall mature  
13 serially or otherwise not later than forty years from their  
14 date and may be redeemable before maturity at the option of  
15 the research park corporation at prices and under terms and  
16 conditions fixed by the research park corporation in its  
17 resolution or trust agreement providing for issuance of the  
18 bonds. The resolution or trust agreement shall also  
19 determine the form of the bonds, including the form of any  
20 interest coupons to be attached thereto, and shall fix the  
21 denominations of the bonds and the place of the payment of  
22 the principal and interest thereon. The bonds shall be  
23 executed on behalf of the research park corporation as  
24 special obligations of the research park corporation payable  
25 only from the funds specified in the University Research Park

1 and Economic Development Act and shall not be a debt of this  
2 state, any political subdivision of this state or any  
3 university, and neither this state nor any political  
4 subdivision nor university shall be liable for the debts of  
5 the research park corporation. The resolution or trust  
6 agreement may provide for registration of the bonds as to  
7 ownership and for successive conversion and reconversion from  
8 registered to bearer bonds and vice versa. The bonds may be  
9 registered in the principal office of the research park  
10 corporation. After the registration and delivery to the  
11 purchasers, the bonds are incontestable and constitute  
12 special obligations of the research park corporation, and the  
13 bonds and coupons are negotiable instruments under the laws  
14 of this state. The bonds may be sold at public or private  
15 sale by the research park corporation at prices and in  
16 accordance with procedures and terms the research park  
17 corporation determines to be advantageous and reasonably  
18 obtainable. The research park corporation may provide for  
19 replacement of any bond that may be mutilated or destroyed."

20 Section 8. Section 21-28-9 NMSA 1978 (being Laws 1989,  
21 Chapter 264, Section 9) is amended to read:

22 "21-28-9. STATUS OF BONDS.--Bonds and other obligations  
23 issued under the provisions of the University Research Park  
24 and Economic Development Act shall be deemed issued on behalf  
25 of the university, but shall not be deemed to constitute a

1 debt, liability, obligation of or a pledge of the faith and  
2 credit of this state or any political subdivision thereof or  
3 any university, but shall be payable solely from the revenue  
4 or assets of the research park corporation pledged for that  
5 payment. Each obligation issued on behalf of the research  
6 park corporation under the University Research Park and  
7 Economic Development Act shall contain on its face a  
8 statement to the effect that neither this state nor any  
9 political subdivision, university or research park  
10 corporation shall be obligated to pay the same or the  
11 interest thereon except from the revenues or assets pledged  
12 therefor and that neither the faith and credit nor the taxing  
13 power of this state, any political subdivision thereof or any  
14 university is pledged to the payment of the principal of or  
15 the interest on such obligation."

16 Section 9. Section 21-28-10 NMSA 1978 (being Laws 1989,  
17 Chapter 264, Section 10) is amended to read:

18 "21-28-10. REFUNDING BONDS.--The board of directors of  
19 a research park corporation may by resolution provide for the  
20 issuance of refunding bonds to refund any outstanding bonds  
21 issued under the University Research Park and Economic  
22 Development Act, together with redemption premiums, if any,  
23 and interest accrued or to accrue thereon. Provisions  
24 governing the issuance and sale of bonds under the University  
25 Research Park and Economic Development Act govern the

1 issuance and sale of refunding bonds insofar as applicable.  
2 Refunding bonds may be exchanged for the outstanding bonds or  
3 may be sold and the proceeds used to retire the outstanding  
4 bonds. Pending the application of the proceeds of any  
5 refunding bonds, with any other available funds, to the  
6 payment of the principal, interest and any redemption  
7 premiums on the bonds being refunded, and if so provided or  
8 permitted in the resolution of the research park corporation  
9 authorizing the issuance of such refunding bonds, to the  
10 payment of any interest on refunding bonds and any expenses  
11 incurred in connection with refunding, the proceeds may be  
12 placed in escrow and invested in securities that are  
13 unconditionally guaranteed by the United States and that  
14 shall mature or be subject to redemption by the holders  
15 thereof, at the option of the holders, not later than the  
16 respective dates when the proceeds, together with the  
17 interest accruing thereon, will be required for the purposes  
18 intended."

19 Section 10. Section 21-28-11 NMSA 1978 (being Laws  
20 1989, Chapter 264, Section 11) is amended to read:

21 "21-28-11. TRUST AGREEMENTS AUTHORIZED.--In the  
22 discretion of the research park corporation, any bonds issued  
23 under the provisions of the University Research Park and  
24 Economic Development Act may be secured by a trust agreement  
25 by and between the research park corporation and a corporate

1 trustee, which may be a bank or trust company having trust  
2 powers within or without the state. The trust agreement or  
3 the resolution providing for the issuance of bonds may pledge  
4 or assign all or any part of the revenues or assets of the  
5 research park corporation. The trust agreement or resolution  
6 may contain provisions for protecting and enforcing the  
7 rights and remedies of the holders of any bonds as may be  
8 reasonable and proper and not in violation of law, including  
9 covenants setting forth the duties of the research park  
10 corporation in relation to the purposes to which bond  
11 proceeds may be applied, the disposition or pledging of the  
12 revenues or assets of the research park corporation and the  
13 custody, safeguarding and application of all money. It is  
14 lawful for any bank or trust company incorporated under the  
15 laws of the state that may act as depository of the proceeds  
16 of bond revenues or other money hereunder to furnish  
17 indemnifying bonds or to pledge securities that may be  
18 required by the research park corporation. Any trust  
19 agreement or resolution may set forth the rights and remedies  
20 of the holders of any bonds and of the trustee and may  
21 restrict the individual right of action by any holders. In  
22 addition, any trust agreement or resolution may contain other  
23 provisions as the research park corporation may deem  
24 reasonable and proper for the security of the holders of any  
25 bonds. All expenses incurred in carrying out the provisions

1 of a trust agreement or resolution may be paid from the  
2 revenues or assets pledged or assigned to the payment of the  
3 principal of and the interest on bonds or from any other  
4 funds available to the research park corporation."

5 Section 11. Section 21-28-13 NMSA 1978 (being Laws  
6 1989, Chapter 264, Section 13, as amended) is amended to  
7 read:

8 "21-28-13. ALL MONEY RECEIVED FROM SALE OF BONDS DEEMED  
9 TRUST FUNDS.--All money received by a research park  
10 corporation from bonds issued under the provisions of the  
11 University Research Park and Economic Development Act shall  
12 be deemed funds to be held in trust, applied as provided in  
13 that act or transferred to other research park corporations,  
14 nonprofit corporations or the university as the research park  
15 corporation deems appropriate. The resolution authorizing  
16 any obligations or the trust agreement securing the  
17 obligations may provide that any of the money covered by this  
18 section may be temporarily invested pending its disbursement.  
19 The resolution shall provide that any officer with whom, or  
20 any bank or trust company with which, the money is deposited  
21 shall act as trustee of the money and shall hold and apply  
22 the money for the purposes of the University Research Park  
23 and Economic Development Act, subject to provisions that  
24 rules under that act and the resolution or trust agreement  
25 may specify. Any such money described in this section

1 received by a research park corporation may be invested as  
2 provided in the University Research Park and Economic  
3 Development Act."

4 Section 12. Section 21-28-15 NMSA 1978 (being Laws  
5 1989, Chapter 264, Section 15) is amended to read:

6 "21-28-15. RIGHTS OF HOLDERS OF BONDS.--Any holder of  
7 bonds issued under the provisions of the University Research  
8 Park and Economic Development Act or any coupons appertaining  
9 thereto, and the trustee under any trust agreement or  
10 resolution authorizing the issuance of those bonds, except as  
11 the rights given pursuant to that act may be restricted by a  
12 trust agreement or resolution, may, either at law or in  
13 equity, by suit, mandamus or other proceeding, protect and  
14 enforce any and all rights under the laws of this state or  
15 granted by that act or under the trust agreement or  
16 resolution or under any other contract executed by the  
17 research park corporation pursuant to that act, and may  
18 enforce and compel the performance of all duties required by  
19 that act or by the trust agreement or resolution to be  
20 performed by the research park corporation or by any officer  
21 thereof."

22 Section 13. Section 21-28-16 NMSA 1978 (being Laws  
23 1989, Chapter 264, Section 16, as amended) is amended to  
24 read:

25 "21-28-16. LEGAL INVESTMENTS--TAX EXEMPTION.--All bonds



1 issued by a research park corporation under the University  
2 Research Park and Economic Development Act are legal and  
3 authorized investments for banks, savings banks, trust  
4 companies, savings and loan associations, insurance  
5 companies, fiduciaries, trustees and guardians and for the  
6 sinking funds of political subdivisions, departments,  
7 institutions and agencies of this state. When accompanied by  
8 all unmatured coupons appurtenant to them, the bonds are  
9 sufficient security for all deposits of state funds and of  
10 all funds of any board in control of public money at the par  
11 value of the bonds. The bonds and the income from the bonds  
12 are free from taxation within this state, except estate  
13 taxes. The research park corporation in its discretion and  
14 by those means as it deems appropriate may waive the  
15 exemption from federal income taxation of interest on the  
16 bonds. The bonds subject to federal income taxation issued  
17 by the research park corporation shall be payable as to  
18 principal and interest with such frequency as may be required  
19 by the research park corporation."

20 Section 14. Section 21-28-17 NMSA 1978 (being Laws  
21 1989, Chapter 264, Section 17) is amended to read:

22 "21-28-17. ANNUAL REPORT AND AUDIT.--

23 A. A research park corporation shall, within  
24 ninety days following the close of each fiscal year, submit  
25 an annual report of its activities for the preceding year as

1 required by the Nonprofit Corporation Act or the Business  
2 Corporation Act under which the research park is  
3 incorporated. The board of directors of the research park  
4 corporation shall annually contract with an independent  
5 certified public accountant, licensed by the state, to  
6 perform an examination and audit of the accounts and books of  
7 the research park corporation, including its receipts,  
8 disbursements, contracts, leases, sinking funds, investments  
9 and any other records and papers relating to its financial  
10 standing, and the certified public accountant shall make a  
11 determination as to whether the research park corporation has  
12 complied with the provisions of the University Research Park  
13 and Economic Development Act. The person performing the  
14 audit shall furnish copies of the audit report to the regents  
15 of the university and the public regulation commission where  
16 they shall be placed on file and made available for  
17 inspection by the general public.

18 B. Subject to the provisions of any contract with  
19 bondholders or noteholders, a research park corporation shall  
20 prescribe a system of accounts.

21 C. The costs of audits and examinations performed  
22 pursuant to this section shall be paid by the research park  
23 corporation."

24 Section 15. Section 21-28-20 NMSA 1978 (being Laws  
25 1989, Chapter 264, Section 20) is amended to read:

1 "21-28-20. CONFLICTS OF INTEREST.--

2 A. If any director, officer or employee of a  
3 research park corporation is interested either directly or  
4 indirectly or is an officer or employee of or has any  
5 ownership interest in any firm or legal entity interested  
6 directly or indirectly in any contract with the research park  
7 corporation, except for any agency, instrumentality,  
8 department or political subdivision of the state, such  
9 interest shall be disclosed to and shall be set forth in the  
10 minutes of the research park corporation that is a party to  
11 the contract. The director, officer or employee having that  
12 interest shall not participate on behalf of the research park  
13 corporation in the authorization of the contract.

14 B. No director, officer or employee of a research  
15 park corporation or state officer shall accept any gratuities  
16 in connection with the issuance of bonds under the University  
17 Research Park and Economic Development Act, nor shall that  
18 individual be reimbursed for expenses incident to the issuing  
19 of bonds except such expenses as are reimbursed as provided  
20 under the provisions of rules of the regents.

21 C. Nothing in this section shall prohibit an  
22 officer, director or employee of a financial institution from  
23 participating as a member of the board of directors of a  
24 research park corporation in setting general policies of the  
25 research park corporation, nor shall any provision of this

1 section be construed as prohibiting a financial institution  
2 of New Mexico from making loans guaranteed pursuant to the  
3 provisions of the University Research Park and Economic  
4 Development Act because an officer, director or employee of  
5 the financial institution serves as a member of the board of  
6 directors of the research park corporation.

7 D. Any person who violates the provisions of this  
8 section is guilty of a misdemeanor and shall be sentenced for  
9 a definite term of less than one year, a fine of one thousand  
10 dollars (\$1,000), or both."

11 Section 16. Section 21-28-22 NMSA 1978 (being Laws  
12 1989, Chapter 264, Section 22) is amended to read:

13 "21-28-22. AGREEMENT WITH THE STATE.--The state does  
14 hereby pledge to and agree with the holders of any bonds or  
15 notes issued under the University Research Park and Economic  
16 Development Act that the state will not limit or alter the  
17 rights hereby vested in the research park corporation by that  
18 act to fulfill the terms of any agreement made with the  
19 holders thereof or in any way impair the rights and remedies  
20 of those holders until the bonds or notes, together with the  
21 interest thereon, with interest on any unpaid installments of  
22 interest and all costs and expenses in connection with any  
23 action or proceedings by or on behalf of those holders, are  
24 fully met and discharged. A research park corporation is  
25 authorized to include this pledge and agreement of the state

1 in any agreement with the holders of the bonds or notes."

2 Section 17. Section 21-28-23 NMSA 1978 (being Laws  
3 1989, Chapter 264, Section 23) is amended to read:

4 "21-28-23. WORK TO CONFORM TO FEDERAL LAW WHEN AIDED BY  
5 FEDERAL APPROPRIATIONS.--In the event of congress making  
6 appropriations for the conduct of work similar to that  
7 specified in the University Research Park and Economic  
8 Development Act, the work of the research park shall conform  
9 to the requirements imposed as the conditions for those  
10 federal appropriations in order that the work of the research  
11 park may be aided and extended by means of those federal  
12 appropriations for scientific, engineering and industrial  
13 research."

14 Section 18. Section 21-28-24 NMSA 1978 (being Laws  
15 1989, Chapter 264, Section 24) is amended to read:

16 "21-28-24. CONTRACTS INVOLVING OFFICERS OR EMPLOYEES OF  
17 EDUCATIONAL INSTITUTIONS AND STATE AGENCIES OR POLITICAL  
18 SUBDIVISIONS.--A research park corporation shall not enter  
19 into any contract involving services or property of a value  
20 in excess of twenty thousand dollars (\$20,000) with an  
21 employee of the university or with a business in which the  
22 employee has a controlling interest, except as provided in  
23 Section 21-28-25 NMSA 1978 if the employee has a controlling  
24 interest, unless the president of the university or the  
25 president's designee makes a determination, in writing, that

1 the employee is able to provide services that are not readily  
2 available from another person or is able to provide services  
3 that are less expensive or of higher quality than is  
4 otherwise available." \_\_\_\_\_

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