

HOUSE BILL 537

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

INTRODUCED BY

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AN ACT

RELATING TO GOVERNMENTAL CONDUCT; DEFINING TERMS RELATED TO
PROHIBITED POLITICAL ACTIVITY; DEFINING "PUBLIC NOTICE";
CLARIFYING ACCEPTABLE USES OF PUBLIC RESOURCES.

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

SECTION 1. Section 10-16-2 NMSA 1978 (being Laws 1967,
Chapter 306, Section 2, as amended) is amended to read:

"10-16-2. DEFINITIONS.--As used in the Governmental
Conduct Act:

A. "business" means a corporation, partnership,
sole proprietorship, firm, organization or individual carrying
on a business;

B. "confidential information" means information
that by law or practice is not available to the public;

C. "contract" means an agreement or transaction

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1 having a value of more than one thousand dollars (\$1,000) with
2 a state or local government agency for:

3 (1) the rendition of services, including
4 professional services;

5 (2) the furnishing of any material, supplies
6 or equipment;

7 (3) the construction, alteration or repair of
8 any public building or public work;

9 (4) the acquisition, sale or lease of any land
10 or building;

11 (5) a licensing arrangement;

12 (6) a loan or loan guarantee; or

13 (7) the purchase of financial securities or
14 instruments;

15 D. "employment" means rendering of services for
16 compensation in the form of salary as an employee;

17 E. "family" means an individual's spouse, parents,
18 children or siblings, by consanguinity or affinity;

19 F. "financial interest" means an interest held by
20 an individual or the individual's family that is:

21 (1) an ownership interest in business or
22 property; or

23 (2) any employment or prospective employment
24 for which negotiations have already begun;

25 G. "local government agency" means a political

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1 subdivision of the state or an agency of a political
2 subdivision of the state;

3 H. "official act" means an official decision,
4 recommendation, approval, disapproval or other action that
5 involves the use of discretionary authority;

6 I. "political purpose" means to support or oppose
7 the nomination or election of candidates in elections or
8 passage or defeat of ballot propositions;

9 J. "public notice" means disclosing in written form
10 to the state agency or local public body with which the public
11 office or employee is associated along with posting of the
12 disclosure in a public space, agency web site or local
13 newspaper in a manner adequate to serve the purposes of
14 transparency and accountability;

15 [~~F.~~] K. "public officer or employee" means any
16 elected or appointed official or employee of a state agency or
17 local government agency who receives compensation in the form
18 of salary or is eligible for per diem or mileage but excludes
19 legislators;

20 L. "public resources" means facilities, services,
21 vehicles, property or supplies produced or paid for with public
22 funds and includes the service of public officers or employees
23 during normal working hours;

24 [~~J.~~] M. "standards" means the conduct required by
25 the Governmental Conduct Act;

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1 ~~[K-]~~ N. "state agency" means any branch, agency,
2 instrumentality or institution of the state; and

3 ~~[L-]~~ O. "substantial interest" means an ownership
4 interest that is greater than twenty percent."

5 SECTION 2. Section 10-16-3.1 NMSA 1978 (being Laws 2007,
6 Chapter 362, Section 9, as amended) is amended to read:

7 "10-16-3.1. PROHIBITED POLITICAL ACTIVITIES--USE OF
8 PUBLIC RESOURCES.--A public officer or employee is prohibited
9 from:

10 A. directly or indirectly coercing or attempting to
11 coerce another public officer or employee to pay, lend or
12 contribute anything of value to a party, committee,
13 organization, agency or person for a political purpose;

14 B. threatening to deny a promotion or pay increase
15 to an employee who does or does not vote for certain candidates
16 or ballot issues, requiring an employee to contribute a
17 percentage of the employee's pay to a political fund,
18 influencing a subordinate employee to purchase a ticket to a
19 political fundraising dinner or similar event, advising an
20 employee to take part in political activity or similar
21 activities; or

22 C. violating the officer's or employee's duty not
23 to use ~~[property]~~ public resources belonging to a state agency
24 or local government agency, or allow its use, ~~[for]~~ other than
25 for purposes authorized ~~[purposes]~~ by law or for any political

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1 purpose; provided that this prohibition not be construed to
2 prohibit the following:

3 (1) a statement by an elected official in
4 support of or in opposition to any ballot proposition at an
5 open press conference or in response to a specific inquiry;

6 (2) a communication that factually describes
7 the purposes of a measure if the communication does not
8 advocate the passage or defeat of the measure;

9 (3) de minimis use of public resources by
10 elected officials incidental to the preparation or delivery of
11 communications, including written and verbal communications
12 initiated by them, of their views on ballot propositions that
13 foreseeably may affect a matter that falls within their
14 constitutional or statutory responsibilities; and

15 (4) activities that are part of the normal and
16 regular duties of the office or agency."