

1 SENATE BILL 364

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Gregory A. Baca and Peter Wirth

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10 AN ACT

11 RELATING TO GOVERNMENTAL CONDUCT; CLARIFYING THAT PROHIBITIONS  
12 AGAINST REFERENCES TO A LEGISLATOR'S LEGISLATIVE CAPACITY OR  
13 AGAINST USE OF LEGISLATIVE STATIONERY DO NOT APPLY WHEN A  
14 LEGISLATOR APPEARS FOR, REPRESENTS OR ASSISTS ANOTHER PERSON  
15 BEFORE A STATE AGENCY IN CERTAIN MATTERS WITHOUT COMPENSATION  
16 AND FOR THE BENEFIT OF A CONSTITUENT; DECLARING AN EMERGENCY.

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

19 SECTION 1. Section 10-16-9 NMSA 1978 (being Laws 1967,  
20 Chapter 306, Section 9, as amended) is amended to read:

21 "10-16-9. CONTRACTS INVOLVING LEGISLATORS--REPRESENTATION  
22 BEFORE STATE AGENCIES.--

23 A. A state agency shall not enter into a contract  
24 for services, construction or items of tangible personal  
25 property with a legislator, the legislator's family or with a

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underscoring material = new  
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1 business in which the legislator or the legislator's family has  
2 a substantial interest unless the legislator has disclosed the  
3 legislator's substantial interest and unless the contract is  
4 awarded in accordance with the provisions of the Procurement  
5 Code, except the potential contractor shall not be eligible for  
6 a sole source or small purchase contract. A person negotiating  
7 or executing a contract on behalf of a state agency shall  
8 exercise due diligence to ensure compliance with the provisions  
9 of this subsection.

10 B. Except as provided in Subsection C of this  
11 section, a legislator shall not appear for, represent or assist  
12 another person in a matter before a state agency, unless that  
13 appearance, representation or assistance is provided:

14 (1) without compensation; ~~[or]~~ and

15 (2) for the benefit of a constituent. ~~[except~~  
16 ~~for legislators who are attorneys or other professional persons~~  
17 ~~engaged in the conduct of their professions and, in those~~  
18 ~~instances, the]~~

19 C. A legislator may appear for, represent or assist  
20 another person in a matter before a state agency when the  
21 legislator is an attorney or other professional who is making  
22 that appearance or providing that representation or assistance  
23 while engaged in the conduct of that legislator's profession.

24 That legislator shall ~~[refrain from]~~ not:

25 (1) make references to the legislator's

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~~[bracketed material] = delete~~

1 legislative capacity except as to matters of scheduling [~~from~~  
2 ~~communications on~~]; or

3 (2) use legislative stationery, [~~and from~~  
4 ~~threats or implications relating to legislative actions]~~

5 legislative email or any other indicia of the legislator's  
6 legislative capacity.

7 D. A legislator shall not make direct or indirect  
8 threats related to legislative actions in any instance in which  
9 the legislator appears for, represents or assists another  
10 person in a matter before a state agency."

11 **SECTION 2. EMERGENCY.**--It is necessary for the public  
12 peace, health and safety that this act take effect immediately.