

1 SENATE JOINT MEMORIAL 32

2 **49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010**

3 INTRODUCED BY

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10 A JOINT MEMORIAL

11 CONDEMNING THE INCLUSION IN CONTRACTS OF CLAUSES THAT LIMIT THE
12 RIGHTS OF INDIVIDUALS EMPLOYED UNDER THOSE CONTRACTS TO PURSUE
13 LEGAL ACTION IN CASES OF SEXUAL ASSAULT AND CALLING UPON ALL
14 BRANCHES OF STATE AND LOCAL GOVERNMENT TO REFUSE TO CONTRACT
15 WITH ANY ENTITY HAVING EMPLOYMENT CONTRACTS CONTAINING SUCH
16 CLAUSES.

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18 WHEREAS, federal, state and local branches of government
19 engage in contracts every year to accomplish special projects
20 and complete the work of government; and

21 WHEREAS, these contracts collectively exceed billions of
22 dollars in expenditures each year; and

23 WHEREAS, the content and provisions of such contracts are
24 legitimately within the purview of the governments that hold
25 them, and those governments have an obligation to ensure that

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1 public expenditures are made only for reasonable purposes; and

2 WHEREAS, contractors frequently subcontract with employees
3 to conduct the work required by the government contract; and

4 WHEREAS, the content and provisions of subcontracts
5 should, in no way, abridge the rights of individuals employed
6 under them to seek legal recourse in instances of alleged
7 sexual assault, battery or discrimination; and

8 WHEREAS, sexual assault takes many forms, including rape,
9 attempted rape, unwanted sexual contact and threats; and

10 WHEREAS, Jamie Leigh Jones, an employee of
11 Halliburton/KBR, alleges that in 2005 she was drugged and gang-
12 raped by seven American contractors while working in Baghdad
13 and that she was subsequently detained in a shipping carton for
14 at least twenty-four hours under armed guard; and

15 WHEREAS, Ms. Jones was prevented from taking legal action
16 against her attackers or against the company because of a
17 clause in her employment contract that stipulated that sexual
18 assault allegations only be heard in private arbitration; and

19 WHEREAS, clauses such as the one in Ms. Jones's employment
20 contract may have the potential of creating a climate in which
21 some workers believe they can get away with crimes such as
22 sexual assault; and

23 WHEREAS, on October 6, 2009, the United States senate
24 approved by a vote of sixty-eight to thirty an amendment to the
25 2010 department of defense appropriations bill, sponsored by

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1 Senator Al Franken, to withhold defense contracts from
2 companies if they require their employees or independent
3 contractors to sign mandatory arbitration clauses regarding
4 claims of sexual assault, battery or discrimination; and

5 WHEREAS, any clause, in any subcontract of any
6 government-funded contract, that seeks to limit the right of an
7 individual to seek legal recourse in cases of alleged sexual
8 assault, battery or discrimination should be condemned, and no
9 government should enter into a contract with any entity that
10 includes such clauses in its employment contracts;

11 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
12 STATE OF NEW MEXICO that the inclusion in contracts of clauses
13 that limit the rights of individuals employed under those
14 contracts to pursue legal action in cases of sexual assault be
15 condemned; and

16 BE IT FURTHER RESOLVED that all branches of state and
17 local government be called upon to refuse to contract with any
18 entity having employment contracts containing such clauses; and

19 BE IT FURTHER RESOLVED that all branches of state and
20 local government identify whether they are in such a
21 contractual relationship and, if they are, that such contracts
22 be discontinued, and a report of this action be made to the
23 department of finance and administration and the legislative
24 council service; and

25 BE IT FURTHER RESOLVED that copies of this memorial be

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1 transmitted to the New Mexico congressional delegation, the
2 governor, the New Mexico legislature, the administrative office
3 of the courts, the New Mexico association of counties and the
4 New Mexico municipal league.

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