

FIFTIETH LEGISLATURE
FIRST SESSION, 2011

SB 19/a

February 16, 2011

Mr. President:

Your **JUDICIARY COMMITTEE**, to whom has been referred

SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE
SUBSTITUTE FOR SENATE BILL 19, as amended

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 15, line 16 through page 16, line 7, strike Subsection F in its entirety.
2. Reletter the succeeding subsections accordingly.
3. On page 16, line 19, after "a", insert "construction".
4. On page 18, between lines 20 and 21, insert a new section:

"SECTION 5. Section 13-1-178 NMSA 1978 (being Laws 1984, Chapter 65, Section 151) is amended to read:

"13-1-178. CAUSES FOR DEBARMENT OR SUSPENSION--TIME LIMIT.--
The causes for debarment or suspension occurring within three years of a procurement include but are not limited to the following:

A. conviction of a bidder, offeror or contractor for commission of a criminal offense related to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

B. conviction of a bidder, offeror or contractor under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records or receiving stolen property;

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C. conviction of a bidder, offeror or contractor under state or federal antitrust statutes arising out of the submission of bids or proposals;

D. violation by a bidder, offeror or contractor of contract provisions, as set forth in this subsection, of a character [~~which~~] that is reasonably regarded by the state purchasing agent or a central purchasing office to be so serious as to justify suspension or debarment action:

(1) willful failure to perform in accordance with one or more contracts, provided that this failure has occurred within a reasonable time preceding the decision to impose debarment; or

(2) a history of failure to perform or of unsatisfactory performance of one or more contracts, provided that this failure or unsatisfactory performance has occurred within a reasonable time preceding the decision to impose debarment and provided further that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;

E. any other cause occurring within three years of a procurement [~~which~~] that the state purchasing agent or a central purchasing office determines to be so serious and compelling as to affect responsibility as a contractor; [~~or~~]

F. [~~for a~~] willful violation by a bidder, offeror or contractor of the provisions of the Procurement Code within three years of a procurement; or

G. providing false information in order to obtain a preference for contract certificate pursuant to Section 13-1-22 NMSA 1978 or using a certificate to obtain a resident business or resident contractor preference for a bid or proposal and failing to perform the percentage of the contract specified in the bid or proposal."

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5. Renumber the succeeding sections accordingly.

6. On page 22, lines 19 and 20, strike "branch of government" and insert in lieu thereof "agency or entity".

7. On page 25, between lines 18 and 19, insert the following new section:

"SECTION 8. A new section of the Procurement Code is enacted to read:

"[NEW MATERIAL] FALSE CERTIFICATION--FAILURE TO PERFORM--
ADDITIONAL CIVIL PENALTY.--Upon a showing that a business or contractor provided false information to the taxation and revenue department in order to obtain a certificate pursuant to Section 13-1-22 NMSA 1978 or that a business or contractor used a certificate to obtain a resident business or resident contractor preference for a bid or proposal and the resident business or contractor did not perform the percentage of the contract specified in the bid or proposal, the business or contractor is subject to a civil penalty of up to fifty thousand dollars (\$50,000) for each violation in addition to and pursuant to the terms and conditions of Section 13-1-196 NMSA 1978."".

8. Renumber the succeeding sections accordingly.

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Respectfully submitted,

Richard C. Martinez, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against
Yes: 6
No: 0
Excused: Eichenberg, Lopez, Payne, Ryan, Wirth
Absent: None

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