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HOUSE BILL 1294

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Antonio "Moe" Maestas

AN ACT

RELATING TO CRIMINAL LAW; INCREASING THE PENALTY FOR BRIBERY OF
A PUBLIC OFFICER OR PUBLIC EMPLOYEE AND DEMANDING OR RECEIVING
A BRIBE BY A PUBLIC OFFICER OR PUBLIC EMPLOYEE; INCREASING THE
PENALTIES FOR SOLICITING OR RECEIVING AN ILLEGAL KICKBACK AND
OFFERING OR PAYING AN ILLEGAL KICKBACK.

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

Section 1. Section 30-24-1 NMSA 1978 (being Laws 1963,
Chapter 303, Section 24-1) is amended to read:

"30-24-1. BRIBERY OF A PUBLIC OFFICER OR PUBLIC
EMPLOYEE.--

A. Bribery of a public officer or public employee
consists of [~~any~~] a person giving or offering to give, directly
or indirectly, anything of value to [~~any~~] a public officer or
public employee, with intent to induce or influence [~~such~~] that

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1 public officer or public employee to:

2 [A.] (1) give or render [~~any~~] an official
3 opinion, judgment or decree;

4 [B.] (2) be more favorable to one party than
5 to the other in [~~any~~] a cause, action, suit, election,
6 appointment, matter or thing pending or to be brought before
7 [~~such~~] that person;

8 [C.] (3) procure [~~him~~] the person to vote or
9 withhold [~~his~~] the person's vote on [~~any~~] a question, matter or
10 proceeding [~~which~~] that is then or may thereafter be pending,
11 and [~~which~~] that may by law come or be brought before [~~him~~] the
12 person in [~~his~~] the person's public capacity;

13 [D.] (4) execute any of the powers [~~in him~~]
14 vested in the person; or

15 [E.] (5) perform [~~any~~] a public duty otherwise
16 than as required by law, or to delay in or omit to perform
17 [~~any~~] a public duty required of [~~him~~] the person by law.

18 B. Whoever commits bribery of a public officer or
19 public employee is guilty of a [~~third degree felony~~]:

20 (1) second degree felony if the value of the
21 bribe is more than twenty thousand dollars (\$20,000); or

22 (2) third degree felony if the value of the
23 bribe does not exceed twenty thousand dollars (\$20,000)."

24 Section 2. Section 30-24-2 NMSA 1978 (being Laws 1963,
25 Chapter 303, Section 24-2) is amended to read:

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1 "30-24-2. DEMANDING OR RECEIVING A BRIBE BY A PUBLIC
2 OFFICER OR PUBLIC EMPLOYEE.--

3 A. Demanding or receiving a bribe by a public
4 officer or public employee consists of [~~any~~] a public officer
5 or public employee soliciting or accepting, directly or
6 indirectly, anything of value, with intent to have [~~his~~] the
7 officer's or employee's decision or action on [~~any~~] a question,
8 matter, cause, proceeding or appointment influenced [~~thereby~~]
9 by it, and [~~which~~] that by law is pending or might be brought
10 before [~~him~~] the officer or employee in [~~his~~] the officer's or
11 employee's official capacity.

12 B. Whoever commits demanding or receiving a bribe
13 by a public officer or public employee is guilty of a [~~third~~
14 ~~degree felony, and~~]:

15 (1) second degree felony if the value of the
16 bribe is more than twenty thousand dollars (\$20,000); or

17 (2) third degree felony if the value of the
18 bribe does not exceed twenty thousand dollars (\$20,000).

19 C. Upon conviction, [~~thereof such~~] that public
20 officer or public employee shall forfeit the office then held
21 by [~~him~~] the officer or employee."

22 Section 3. Section 30-41-1 NMSA 1978 (being Laws 1979,
23 Chapter 384, Section 1) is amended to read:

24 "30-41-1. SOLICITING OR RECEIVING AN ILLEGAL KICKBACK.--
25 [~~Whoever~~]

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1 A. Soliciting or receiving an illegal kickback
2 consists of a person knowingly [~~solicits~~] soliciting or
3 [~~receives~~] receiving any remuneration in the form of any
4 kickback, bribe or rebate, directly or indirectly, overtly or
5 covertly, in cash or in kind from [~~a~~] another person:

6 [~~A.~~] (1) in return for referring an individual
7 to that person for the furnishing or arranging for the
8 furnishing of any item or service for which payment may be made
9 in whole or in part with public money; or

10 [~~B.~~] (2) in return for purchasing, leasing,
11 ordering or arranging for or recommending purchasing, leasing
12 or ordering any goods, facilities, services or items for which
13 payment may be made in whole or in part with public money
14 [~~shall be guilty of a fourth degree felony~~].

15 B. Whoever commits soliciting or receiving an
16 illegal kickback is guilty of a:

17 (1) second degree felony if the value of the
18 kickback, bribe or rebate is more than twenty thousand dollars
19 (\$20,000); or

20 (2) third degree felony if the value of the
21 kickback, bribe or rebate does not exceed twenty thousand
22 dollars (\$20,000)."

23 Section 4. Section 30-41-2 NMSA 1978 (being Laws 1979,
24 Chapter 384, Section 2) is amended to read:

25 "30-41-2. OFFERING OR PAYING AN ILLEGAL KICKBACK.--

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1 [Whoever]

2 A. Offering or paying an illegal kickback consists
3 of a person knowingly [offers] offering or [pays] paying any
4 remuneration in the form of any kickback, bribe or rebate,
5 directly or indirectly, overtly or covertly, in cash or in kind
6 to [any] another person to induce [such] the person:

7 [A.] (1) to refer an individual to a person
8 for the furnishing or arranging for the furnishing of any item
9 or service for which payment may be made in whole or in part
10 with public money; or

11 [B.] (2) to purchase, lease, order or arrange
12 for or recommend purchasing, leasing or ordering any goods,
13 facilities, services or items for which payment may be made in
14 whole or in part with public money [shall be guilty of a fourth
15 degree felony].

16 B. Whoever commits offering or paying an illegal
17 kickback is guilty of a:

18 (1) second degree felony if the value of the
19 kickback, bribe or rebate is more than twenty thousand dollars
20 (\$20,000); or

21 (2) third degree felony if the value of the
22 kickback, bribe or rebate does not exceed twenty thousand
23 dollars (\$20,000)."

24 Section 5. EFFECTIVE DATE.--The effective date of the
25 provisions of this act is July 1, 2007.

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