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AN ACT
RELATING TO GOVERNMENTAL CONDUCT; LIMITING GIFTS TO
CANDIDATES FOR STATE OFFICE AND STATE OFFICERS AND EMPLOYEES
AND THEIR FAMILIES; PROVIDING FOR PENALTIES.

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

Section 1. SHORT TITLE.--This act may be cited as the
"Gift Act".

Section 2. DEFINITIONS.--As used in the Gift Act:

A. "family" means a spouse and dependent children;

B. "gift" means any donation or transfer without
commensurate consideration of money, property, service, loan,
promise or any other thing of value, including food, lodging,
transportation and tickets for entertainment or sporting
events, but does not include:

(1) any activity, including but not limited
to the acceptance of a donation, transfer or contribution, or
the making of an expenditure or reimbursement, that is
authorized by the Campaign Reporting Act or the Federal
Election Campaign Act of 1971, as amended;

(2) a gift given under circumstances that
make it clear that the gift is motivated by a family
relationship or close personal relationship rather than the
recipient's position as a state officer or employee or
candidate for state office;

1 (3) compensation for services rendered or
2 capital invested that is:

3 (a) normal and reasonable in amount;

4 (b) commensurate with the value of the
5 service rendered or the magnitude of the risk taken on the
6 investment;

7 (c) in no way increased or enhanced by
8 reason of the recipient's position as a state officer or
9 employee or candidate for state office; and

10 (d) not otherwise prohibited by law;

11 (4) payment for a sale or lease of tangible
12 or intangible property that is commensurate with the value of
13 the services rendered and is in no way increased or enhanced
14 by reason of the recipient's position as a state officer or
15 employee or candidate for state office;

16 (5) a commercially reasonable loan made in
17 the ordinary course of the lender's business on terms that
18 are available to all similarly qualified borrowers;

19 (6) reimbursement for out-of-pocket expenses
20 actually incurred in the course of performing a service for
21 the person making the reimbursement;

22 (7) any gift accepted on behalf of and to be
23 used by the state or a political subdivision of the state,
24 including travel, subsistence and related expenses accepted
25 by a state agency in connection with a state officer's or

1 employee's official duties that take place away from the
2 state official's or employee's station of duty;

3 (8) anything for which fair market value is
4 paid or reimbursed by the state officer or employee or
5 candidate for state office;

6 (9) reasonable expenses for a bona fide
7 educational program that is directly related to the state
8 officer's or employee's official duties; or

9 (10) a retirement gift;

10 C. "market value" means the retail cost a person
11 would incur to purchase a gift;

12 D. "restricted donor" means a person who:

13 (1) is or is seeking to be a party to any
14 one or any combination of sales, purchases, leases or
15 contracts to, from or with the agency in which the donee
16 holds office or is employed;

17 (2) will personally be, or is the agent of a
18 person who will be, directly and substantially affected
19 financially by the performance or nonperformance of the
20 donee's official duty in a way that is greater than the
21 effect on the public generally or on a substantial class of
22 persons to which the person belongs as a member of a
23 profession, occupation, industry or region;

24 (3) is personally, or is the agent of a
25 person who is, the subject of or party to a matter that is

1 pending before a regulatory agency and over which the donee
2 has discretionary authority as part of the donee's official
3 duties or employment within the regulatory agency; or

4 (4) is a lobbyist or a client of a lobbyist
5 with respect to matters within the donee's jurisdiction; and

6 E. "state officer or employee" means any person
7 who has been elected to, appointed to or hired for any state
8 office and who receives compensation in the form of salary or
9 is eligible for per diem or mileage.

10 Section 3. LIMITATION ON GIFTS.--

11 A. A state officer or employee or a candidate for
12 state office, or that person's family, shall not knowingly
13 accept from a restricted donor, and a restricted donor shall
14 not knowingly donate to a state officer or employee or a
15 candidate for state office, or that person's family, a gift
16 of a market value greater than two hundred fifty dollars
17 (\$250).

18 B. A lobbyist registered with the secretary of
19 state, the lobbyist's employer or a government contractor
20 shall not donate gifts of an aggregate market value greater
21 than one thousand dollars (\$1,000) in a calendar year to any
22 one state officer or employee or to any one candidate for
23 state office.

24 C. A state officer or employee shall not solicit
25 gifts for a charity from a business or corporation regulated

1 by the state agency for which the state officer or employee
2 works and shall not otherwise solicit donations for a charity
3 in such a manner that it appears that the purpose of the
4 donor in making the gift is to influence the state officer or
5 employee in the performance of an official duty.

6 Section 4. PENALTIES.--A person who violates the
7 provisions of the Gift Act is guilty of a petty misdemeanor
8 and upon conviction shall be sentenced in accordance with the
9 provisions of Section 31-19-1 NMSA 1978.

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