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SENATE BILL 931

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

INTRODUCED BY

John T. L. Grubestic

AN ACT

RELATING TO GOVERNMENTAL CONDUCT; LIMITING GIFTS TO CANDIDATES FOR STATE OFFICE, STATE OFFICERS AND EMPLOYEES AND THEIR FAMILY MEMBERS; PROVIDING FOR REPORTING REQUIREMENTS; 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 member" means a person within the fourth degree of consanguinity or affinity of the other person;

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

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1 events, but does not include:

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

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

12 (3) compensation for services rendered or  
13 capital invested that is:

14 (a) normal and reasonable in amount;

15 (b) commensurate with the value of the  
16 service rendered or the magnitude of the risk taken on the  
17 investment;

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

21 (d) not otherwise prohibited by law;

22 (4) payment for a sale or lease of tangible or  
23 intangible property that is commensurate with the value of the  
24 services rendered and is in no way increased or enhanced by  
25 reason of the recipient's position as a state officer or

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1 employee or candidate for state office;

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

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

8 (7) any gift accepted on behalf of and to be  
9 used by the state or a political subdivision of the state,  
10 including travel, subsistence and related expenses accepted by  
11 a state agency in connection with a state officer's or  
12 employee's official duties that take place away from the state  
13 official's or employee's station of duty; or

14 (8) anything for which fair market value is  
15 paid or reimbursed by the state officer or employee or  
16 candidate for state office;

17 C. "market value" means the retail cost a person  
18 would incur to purchase a gift; and

19 D. "state officer or employee" means any person who  
20 has been elected to, appointed to or hired for any state office  
21 and who receives compensation in the form of salary or is  
22 eligible for per diem or mileage.

23 Section 3. LIMITATION ON GIFTS--REPORTING OF GIFTS.--

24 A. A state officer or employee, family member of a  
25 state officer or employee, a candidate for state office or

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1 family member of a candidate for state office shall not  
2 knowingly accept, and a person shall not knowingly donate to  
3 them a gift of a market value greater than two hundred fifty  
4 dollars (\$250).

5 B. A state officer or employee or a candidate for  
6 state office shall not accept, and a person shall not donate to  
7 a state officer or employee or candidate for state office, a  
8 gift of a market value greater than one hundred dollars (\$100)  
9 during a legislative session.

10 C. A lobbyist registered with the secretary of  
11 state, the lobbyist's employer or a government contractor shall  
12 not donate gifts of an aggregate market value greater than one  
13 thousand dollars (\$1,000) in a calendar year to any one state  
14 officer or employee or to a family member of a state officer or  
15 employee or to any one candidate for state office or to a  
16 family member of a candidate for state office.

17 D. A state officer or employee or a candidate for  
18 state office shall report the receipt of all gifts having a  
19 market value greater than one hundred dollars (\$100) to the  
20 secretary of state in accordance with rules promulgated by the  
21 secretary of state.

22 E. A state officer or employee shall not solicit  
23 gifts for a charity from a business or corporation regulated by  
24 the state agency for which the state officer or employee works  
25 and shall not otherwise solicit donations for a charity in such

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1 a manner that it appears that the purpose of the donor in  
2 making the gift is to influence the state officer or employee  
3 in the performance of an official duty.

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

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