

# HOUSE BILL No. 6012

April 27, 2006, Introduced by Reps. Ward, Stahl, Stakoe, Vander Veen, Taub, Bieda, Mortimer, Elsenheimer, Ball, Moore, Gaffney, Brandenburg, Casperson, Marleau, Gosselin, Farhat, Kahn, Walker, Caul, Wenke and Van Regenmorter and referred to the Committee on House Oversight, Elections, and Ethics.

A bill to prescribe standards of conduct for legislators and certain other persons; to require reports; to prescribe the powers and duties of the secretary of state and certain other persons; to provide protection for persons reporting violations of this act; and to prescribe penalties and provide remedies.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1                                   CHAPTER 1 - GENERAL PROVISIONS

2                   Sec. 101. This act shall be known and may be cited as the  
3 "legislative ethics act".

4                   Sec. 103. For the purposes of this act, the words and phrases  
5 defined in sections 105 to 109 have the meanings ascribed to them  
6 in those sections.

7                   Sec. 105. (1) "Administrative action" means conduct related to

1 the development, drafting, consideration, promulgation, defeat,  
2 application, or interpretation of a rule, regulation, or other  
3 action in a regulatory proceeding or a proceeding involving a  
4 license, permit, franchise, or entitlement for use.

5 (2) "Anything of value" means a tangible or intangible item  
6 that the recipient might find sufficiently desirable to exchange  
7 for some action. Anything of value includes, but is not limited to,  
8 any of the following:

9 (a) Money.

10 (b) Products or merchandise.

11 (c) A work of art or collectible.

12 (d) Stocks, bonds, notes, or options.

13 (e) An interest in real property.

14 (f) A contract or a promise of a future interest in a  
15 contract.

16 (g) An interest or a promise of a future interest in a  
17 business.

18 (h) A meal, beverage, or lodging.

19 (i) Transportation.

20 (j) A service, including loan of the services of an employee.

21 (k) A loan, a loan guarantee, or the co-signing of a loan.

22 (l) Forgiveness of a debt.

23 (m) A discount or rebate not extended to the public in  
24 general.

25 (n) Preferential treatment.

26 (o) A ticket or admission.

27 (p) Free or discounted use of an office.

1 (q) A loan of office equipment.

2 (r) Radio or television time.

3 (s) A promise or offer of present or future employment.

4 (t) Use of an automobile, boat, or apartment or other  
5 recreational or lodging facility.

6 (u) Intangible rights such as a cause of action.

7 (v) A license, patent, or copyright or interest in a license,  
8 patent, or copyright.

9 (w) Any other item, tangible or intangible, that has economic  
10 value and that could reasonably be considered to be an advantage or  
11 of worth, use, or service to the person upon whom it is conferred.

12 (3) "Anything of value" does not include any of the following:

13 (a) An unsolicited token or award with a value of less than  
14 \$150.00.

15 (b) An unsolicited advertising item with a value of less than  
16 \$50.00.

17 (c) An unsolicited publication with a market value of less  
18 than \$50.00 on an annual basis.

19 (d) A discount afforded to the general public or a specified  
20 group or occupation under normal business conditions except that  
21 the discount may not be based on the fact of legislative service  
22 unless it is a discount program approved by the governmental ethics  
23 board.

24 (e) A contribution to a bona fide charity, made in response to  
25 a direct solicitation from a legislator or a person acting at his  
26 or her direction.

27 (4) "Close economic association" means a financial

1 relationship between a legislator and another person that creates  
2 any of the following economic interests in the legislator:

3 (a) A relationship involving compensation as an employee,  
4 agent, representative, counselor, adviser, or consultant, including  
5 professional services between a lawyer and client or a financial  
6 planner and client.

7 (b) A financial interest resulting from an investment,  
8 business enterprise, or interest in real property as a partner,  
9 investor, associate, or major stockholder.

10 (c) A relationship of a landlord and tenant or co-tenants  
11 sharing housing expenses.

12 (d) A relationship involving a debt, loan, or loan guarantee.

13 (e) Any other relationship in which the legislator has a  
14 substantial economic involvement.

15 (5) "Close economic association conflict of interest" means a  
16 close economic association between a legislator and a person that  
17 is likely to be substantially affected by an official action or  
18 decision of a legislator that conflicts with the public duty or  
19 obligation of the legislator to exercise objective independent  
20 judgment or that creates the appearance that the person may have  
21 undue access to confidential information or may otherwise receive  
22 favored treatment regarding a public action.

23 (6) "Close personal relationship" means a special relationship  
24 between a legislator and another person that creates strong bonds  
25 of loyalty, friendship, or love, or all of these feelings. Close  
26 personal relationship includes, but is not limited to, the  
27 relationship with an immediate family member, a long-term personal

1 friend, a former business associate, or a person with whom the  
2 legislator has a significant and continuous romantic relationship.

3 (7) "Close personal relationship conflict of interest" means a  
4 close personal relationship with a person who is likely to be  
5 substantially affected by an official action or a decision of a  
6 legislator that conflicts with the public duty or obligation of the  
7 legislator to exercise objective independent judgment or that  
8 creates the appearance that the person has undue access to  
9 confidential information or may otherwise receive favored treatment  
10 regarding a public action.

11 (8) "Confidential information" means information made  
12 confidential by law or information that is conveyed or accepted  
13 with the understanding that the information will only be used for  
14 official purposes.

15 (9) "Employer" means a person that has provided compensation  
16 to a legislator arising out of an employment relationship.

17 Sec. 107. (1) "Financial conflict of interest" means a  
18 circumstance in which a legislator or a person with whom he or she  
19 has a close personal relationship has a substantial financial  
20 interest that may be materially affected by an official action or a  
21 decision that the legislator may make. The interest must be so  
22 substantial and the potential effect on that interest must be so  
23 material that a reasonable, objective person is likely to believe  
24 that the ability of the legislator with the financial interest to  
25 make an objective, fair, and impartial professional judgment will  
26 be impeded by self-interest. A financial conflict of interest does  
27 not exist if the economic effect that an official action or a

1 decision will have on a legislator's private financial interests is  
2 no greater than the effect on a substantial class of persons to  
3 which he or she belongs as a member of a profession, occupation,  
4 industry, or region.

5 (2) "Governmental ethics board" means the ethics board created  
6 under the governmental ethics board act.

7 (3) "Honorarium" means anything of value that a legislator  
8 receives in recognition of, or in consideration for, an appearance,  
9 speech, presentation, or published work by the legislator that is  
10 not primarily related to a current or former occupation of the  
11 legislator other than the holding of legislative office. Honorarium  
12 does not include a nonmonetary token of appreciation with a value  
13 of \$20.00 or less. Honorarium does not include reasonable royalties  
14 or other reasonable payment paid to a legislator by a publisher for  
15 a work personally written by the legislator exceeding 10 pages that  
16 is placed in general circulation unless and to the extent the  
17 intent of the payment by the publisher or purchaser of the  
18 published work is directly or indirectly to provide consideration  
19 to the legislator.

20 (4) "Immediate family member" means a spouse, parent,  
21 grandparent, child, including a stepchild or an adopted child,  
22 grandchild, sibling, or parent-in-law.

23 (5) "Informal representation" means uncompensated  
24 representation, including, but not limited to, a request for  
25 information made to a state or local governmental entity or an  
26 official or employee of the entity on behalf of a person who is a  
27 client, constituent, or political contributor.

1           (6) "Intent to influence" means offering or conferring  
2 anything of value on a public official to induce the public  
3 official to do an act he or she would otherwise not have done or to  
4 refrain from doing an act he or she would otherwise have done.

5           (7) "Legislative action" means conduct relating to the  
6 development, drafting, consideration, sponsorship, enactment,  
7 defeat, or support of or opposition to a law, amendment,  
8 resolution, report, nomination, or other matter affected by  
9 legislative action or inaction.

10           (8) "Legislative employee" means a person, other than a  
11 legislator, who is compensated by the legislative branch in return  
12 for regular or substantial personal services, regardless of the  
13 person's pay level or technical status as a full-time or part-time  
14 employee, independent contractor, or consultant.

15           (9) "Lobbyist" means that term as defined in section 5 of 1978  
16 PA 472, MCL 4.415.

17           (10) "Nonpublic information" means information that is not  
18 available to the general public, the use or disclosure of which  
19 results in an unwarranted benefit or advantage.

20           Sec. 109. (1) "Oath or affirmation" means a statement to  
21 affirm, swear, verify, or certify the truth under penalty of  
22 perjury.

23           (2) "Person" means an individual, corporation, business  
24 enterprise, or other entity either public or private and any legal  
25 successor, representative, agent, or agency of that individual,  
26 corporation, business enterprise, or other entity, or any other  
27 organization or group of persons acting jointly, including a state

1 agency or a political subdivision of this state.

2 (3) "Political action" means conduct in which a public  
3 official uses his or her official position or political contacts to  
4 exercise informal influence on a state or local governmental  
5 employee or entity. Political action includes, but is not limited  
6 to, any of the following:

7 (a) Intervening on behalf of a constituent with a government  
8 agency.

9 (b) Endorsing, pledging support, or actively supporting a  
10 legislative matter or a nominee or a candidate for public office.

11 (4) "Professional representation" means representation for  
12 compensation.

13 (5) "Public official" means an official in the executive or  
14 legislative branch of state government.

15 (6) "Reasonably should know" means a situation when, under the  
16 circumstances, a person of reasonable prudence and competence would  
17 ascertain or know a fact. A person shall not willfully blind  
18 himself or herself to facts and inferences in the desire not to  
19 know.

20 (7) "Representation" means an action taken on behalf of  
21 another whether taken for compensation or not.

22 (8) "Sexual harassment" means that term as described in  
23 section 103(i) of the Elliott-Larsen civil rights act, 1976 PA 453,  
24 MCL 37.2103.

25 (9) "Substantial interest in legislative, administrative, or  
26 political action" means a situation in which a person or  
27 organization meets any of the following criteria:



1 (a) Is regulated by the legislature.

2 (b) Provides goods or services to the legislature for  
3 compensation or profit.

4 (c) Seeks employment in the legislative branch or in a  
5 government agency or private organization in which a legislator  
6 has, or reasonably appears to have, the ability to influence an  
7 employment decision.

8 (d) Will be directly or substantially affected, either  
9 financially or personally, by a contemplated legislative,  
10 administrative, or political action.

11 (e) Has or seeks a contract for goods or services with an  
12 agency of state government.

13 (f) Is a registered lobbyist.

14 (g) Employs a registered lobbyist.

15 (h) Represents a person or organization described in  
16 subdivisions (a) to (g).

17 CHAPTER 2 - CODE OF CONDUCT

18 Sec. 201. (1) A legislator shall not seek or accept anything  
19 of value as a result of the performance of public responsibilities.  
20 This subsection does not prohibit solicitation for and acceptance  
21 of a campaign contribution, a pledge, a political endorsement,  
22 support in a political campaign, or a promise of political  
23 endorsement or support under permitted circumstances.

24 (2) A legislator shall not accept anything of value if the  
25 legislator knows or reasonably should know that the thing of value  
26 is offered with the intent to influence a legislative,  
27 administrative, or political action.

1           (3) In addition to any other remedy authorized under this act,  
2 a person who violates this section is guilty of a misdemeanor.

3           Sec. 203. A legislator who receives an offer that clearly  
4 appears to be intended as an attempt to improperly influence  
5 legislative, administrative, or political action shall firmly and  
6 unequivocally reject the offer and caution the person making the  
7 offer that the offer may be a violation of this act or of undue  
8 influence and bribery laws. The legislator shall report the matter  
9 to the appropriate law enforcement authority.

10          Sec. 205. (1) A legislator shall not use state funds to mail  
11 200 or more pieces of substantially similar material during the 50  
12 days immediately preceding a primary or general election.

13          (2) A legislator shall not use state funds to mail material  
14 describing a ballot proposal during the 30 days immediately  
15 preceding a general election. Material describing a ballot proposal  
16 shall be approved, before it is mailed, by the majority and  
17 minority leaders of the senate if the sender is a senator or by the  
18 speaker and minority leader of the house of representatives if the  
19 sender is a member of the house of representatives.

20          (3) A legislator, person on behalf of a legislator, or  
21 candidate committee of the legislator shall not accept a campaign  
22 contribution in a facility or office ordinarily used to conduct  
23 state government business. If an unsolicited contribution is  
24 offered or sent, the contribution shall be refused or returned  
25 promptly.

26          (4) A legislator, person on behalf of the legislator, or  
27 candidate committee of the legislator shall not distribute or post

1 literature or any other communication designed to influence the  
2 outcome of an election in a facility or office ordinarily used to  
3 conduct state government business. This provision does not prohibit  
4 a legislator from inviting colleagues to a fund-raising function on  
5 behalf of the legislator.

6 (5) In addition to any other remedy authorized under this act,  
7 a person who violates this section is guilty of a misdemeanor.

8 Sec. 207. (1) A legislative employee who knows or reasonably  
9 should know that he or she has been asked to perform an illegal  
10 personal or political task shall refuse to perform the task.

11 (2) The personnel policies of each house of the legislature  
12 shall provide that if a legislator requests or demands that a  
13 legislative employee perform an improper task, or if a reprisal is  
14 threatened or a sanction imposed as a result of the refusal to  
15 perform the task, the legislative employee subjected to the  
16 request, demand, threat, or sanction shall report the matter as  
17 provided in the policies.

18 Sec. 209. (1) A legislator shall not sexually harass a  
19 legislator or legislative employee.

20 (2) In addition to any other remedy authorized under this act,  
21 a person who violates this section is guilty of a misdemeanor.

22 Sec. 211. (1) Other than in the performance of an official  
23 duty or as required by law, a legislator shall not use or disclose  
24 nonpublic or confidential information acquired in the course of and  
25 by reason of legislative service to obtain private gain for the  
26 legislator or any person or business.

27 (2) In addition to any other remedy authorized under this act,

1 a person who violates this section is guilty of a misdemeanor.

2       Sec. 213. (1) A legislator shall not use, or allow another to  
3 use, the authority, title, or prestige of the legislator's office  
4 to obtain an unwarranted private economic benefit for the  
5 legislator or another person.

6       (2) A legislator shall not use official letterhead or refer to  
7 the legislator's public position to induce or intimidate a person  
8 to resolve a private dispute more favorably, provide preferential  
9 treatment, or give a free ticket, discount, favor, or other  
10 advantage that does not relate to the legislator's public position.

11       (3) A legislator shall not use, or allow another to use, the  
12 authority, title, or prestige of the legislator's office to endorse  
13 a commercial product or service and shall not use official  
14 letterhead in materials endorsing a product, service, or candidate  
15 for office. This subsection does not prohibit the use of either of  
16 the following:

17       (a) A legislator's official title or letterhead in the course  
18 of an otherwise proper recommendation of a person for employment.

19       (b) A legislator's official title and name used in a dignified  
20 manner as part of a political endorsement.

21       (4) A legislator shall not solicit or accept compensation that  
22 is not commensurate with the service performed or that would create  
23 in the mind of a reasonable, objective observer the perception that  
24 the stature of the office has been unduly exploited for private  
25 gain.

26       Sec. 215. (1) For a period of 1 year after leaving office, a  
27 former legislator shall not use or disclose nonpublic or

1 confidential information acquired in the course of or by reason of  
2 legislative service to obtain personal gain or for the gain of  
3 another.

4 (2) For a period of 1 year after leaving office, a former  
5 legislator shall not seek a position as or agree or contract to be  
6 or become a lobbyist, representative, consultant, adviser, or  
7 advocate to influence any of the following to take or withhold  
8 official action:

9 (a) A legislator or legislative employee.

10 (b) A state agency, public official, or employee with  
11 responsibility in an area in which the person, while a legislator,  
12 had special oversight or budget authority.

13 (3) For purposes of this act, a person had special oversight  
14 or budget authority over an agency if he or she served, within the  
15 last year of his or her legislative term, as the senate majority  
16 leader, speaker of the house of representatives, chairperson of the  
17 senate finance committee, chairperson of the house taxation  
18 committee, or chairperson of a committee directly concerned on a  
19 regular basis with activity of the agency.

20 (4) For a period of 1 year after leaving office, a former  
21 legislator shall not solicit or accept compensation that is not  
22 commensurate with the service performed or that would create in the  
23 mind of a reasonable, objective observer the perception that the  
24 stature of the office has been unduly exploited for private gain.

25 Sec. 217. (1) A legislator shall not engage, either directly  
26 or through another acting on behalf of the legislator, in conduct  
27 that the legislator knows or reasonably should know is likely to

1 create the belief or impression that the person or cause he or she  
2 represents will receive more or less favorable consideration by the  
3 legislator or that the person will be given more or less  
4 opportunity to personally state his or her case or otherwise be  
5 benefited or disadvantaged as a direct result of that person's  
6 willingness to provide money for a campaign contribution or a cause  
7 favored by the legislator, to provide the legislator with personal  
8 benefits, or to provide the legislator with political support.

9 (2) A legislator shall not do any of the following either  
10 directly or through another acting on behalf of the legislator:

11 (a) Agree to, or threaten to, take or withhold legislative,  
12 administrative, or political action because of a person's decision  
13 to provide or not provide a political contribution to the  
14 legislator.

15 (b) State or imply that the legislator will perform or refrain  
16 from performing a lawful constituent service because of a person's  
17 decision to provide or not provide a political contribution.

18 (c) Accept a contribution given or offered in violation of a  
19 statute.

20 (3) In addition to any other remedy authorized under this act,  
21 a person who violates this section is guilty of a misdemeanor.

22 Sec. 219. (1) A legislator shall not engage in an activity  
23 that creates a financial conflict of interest.

24 (2) A legislator shall not engage in an activity with a person  
25 with a substantial interest in legislative action.

26 (3) A legislator shall not engage in an activity that creates  
27 a close economic association conflict of interest.

1           Sec. 221. (1) A legislator shall avoid a close personal  
2 relationship conflict of interest. Unless a relationship violates a  
3 specific legal limitation, a close personal relationship conflict  
4 of interest is not subject to mandatory disclosure. If a situation  
5 is not reasonably avoidable, a legislator shall take an affirmative  
6 step to publicly disclose a conflict that is not apparent and  
7 refrain, if reasonably possible, from making a decision or taking  
8 an action affected by the conflict.

9           (2) The legislature shall not employ an immediate family  
10 member of a legislator for compensation in the legislative house in  
11 which the legislator is a member unless the family member was  
12 employed by the legislature at the time of the marriage.

13           (3) For purposes of this section, a legislator is not an  
14 employee of the legislature.

15           Sec. 223. (1) A legislator shall not provide personal service  
16 for compensation for or on behalf of a lobbyist or lobbyist agent  
17 that regularly engages in lobbying the legislature or a state  
18 agency, board, or commission.

19           (2) A legislator shall not have a financial interest in a  
20 business that receives a substantial part of its income from a  
21 lobbyist or lobbyist agent that regularly engages in lobbying the  
22 legislature or a state agency, board, or commission.

23           Sec. 225. A legislator shall not serve on a governing or  
24 advisory board of an organization that regularly has a substantial  
25 interest in the legislative, administrative, or political actions  
26 of the legislator unless the legislator discloses the relationship  
27 and disqualifies himself or herself from any action relating to the

1 organization's interests.

2       Sec. 227. A legislator shall not have an equity or ownership  
3 interest in a business, investment, real property, lease, or other  
4 enterprise if the interest has a cost or fair market value of  
5 \$25,000.00 or more and the financial interest is likely to be  
6 materially affected by a legislative, administrative, or political  
7 action of the legislator, unless the legislator disqualifies  
8 himself or herself from any action relating to the interest  
9 involved.

10       Sec. 229. (1) A legislator shall not professionally represent  
11 a person or entity in a legal action against the state if the state  
12 is the real party in interest or receive compensation or anything  
13 of value for acting as an informal representative, adviser, or  
14 consultant to a person regarding an action against the state. This  
15 subsection does not prevent a legislator who is an attorney from  
16 representing a client in a proceeding if the state is not a real  
17 party in interest.

18       (2) A legislator shall not professionally represent a person  
19 as an advocate, adviser, or consultant in an action before a state  
20 agency, board, or commission unless the proceeding is adjudicatory  
21 in nature and there is no reasonable basis to conclude that the  
22 side represented by the legislator has an unfair advantage. A  
23 matter is adjudicatory in nature when opposing sides have separate  
24 representation.

25       (3) This section does not prohibit an attorney from  
26 representing a client in an otherwise permissible action before a  
27 court and does not prevent a legislator from representing personal



1 interests in an otherwise proper proceeding.

2 (4) A legislator shall not professionally represent a person  
3 to obtain or retain a state license, permit, franchise, grant,  
4 loan, or other entitlement, whether or not other parties contending  
5 for the state benefit are represented, unless the granting of the  
6 benefit is a purely ministerial matter.

7 (5) A legislator acting as an attorney or representative of  
8 another shall not seek or accept special treatment, a privilege, a  
9 right, or a concession solely by reason of his or her service in  
10 the legislature.

11 (6) This section does not prohibit a legislator from  
12 informally advising a constituent about a procedure or the  
13 appropriateness of bringing an action against this state. If a  
14 legislator advises a constituent or other person in an action  
15 against this state or before a state agency, the legislator shall  
16 not reveal any nonpublic or confidential information.

17 (7) If the legislator is an attorney and is disqualified under  
18 this section, the firm of the legislator is also disqualified.

19 (8) If for any reason it is unreasonably difficult to comply  
20 with the restrictions in this section, until January 1, 2008, a  
21 legislator may represent a person in a proceeding that would be  
22 prohibited under this section if a statement that includes all of  
23 the following is promptly published in the journal of the  
24 appropriate house:

25 (a) The name of the client.

26 (b) An identifying name or number of the action.

27 (c) A brief description of the nature of the action.

1 (d) The amount of compensation received or anticipated  
2 relating to the representation.

3 (9) Changes in the statement required by subsection (8) shall  
4 be filed every 90 days until the representation is completed or  
5 January 1, 2008, whichever occurs first.

6 Sec. 231. (1) A legislator or an immediate family member of a  
7 legislator may be a party to, or have a financial interest in, a  
8 state contract or lease only if 1 or more of the following  
9 circumstances apply:

10 (a) The contract is let through competitive sealed bidding and  
11 the legislator has filed a statement disclosing the nature and  
12 extent of the financial interest with the secretary of state at the  
13 time the bid is made.

14 (b) The total amount of the contract or lease over the course  
15 of a year is less than \$1,000.00 and the contract or lease was let  
16 under circumstances that raise no substantial question of undue  
17 influence.

18 (c) The contract or lease was developed and standardized under  
19 published guidelines and the benefits and rights conferred are  
20 widely available to the general public under the same terms and  
21 conditions.

22 (2) A legislator shall not seek or accept compensation on a  
23 state contract and a legislator shall not receive compensation for  
24 a service relating to recommending, supporting, or advocating a  
25 contract between a person or business and this state, a local  
26 government that receives substantial state funds, or a private  
27 enterprise that does a substantial portion of its business with

1 this state.

2 (3) For a period of 1 year after leaving legislative office, a  
3 former legislator shall not seek or accept a contract for a good or  
4 personal service or other compensation concerning a matter on which  
5 the legislator worked extensively within the last year of his or  
6 her legislative service.

7 (4) A legislator may participate in a state assistance or  
8 benefit program or receive a loan from the state if the program or  
9 loan is generally available to a member of the public, is subject  
10 to a fixed objective eligibility standard, and requires minimal  
11 discretion in determining qualification.

12 Sec. 233. (1) A legislator shall not solicit, accept, or  
13 receive, directly or indirectly, anything of value as a gratuity  
14 from a person or entity, except that a legislator may accept a  
15 gratuity if the aggregate value is less than \$100.00 from a single  
16 source for a year, if the gift is reported to the secretary of  
17 state as to source and amount, and if the gratuity is not accepted  
18 under circumstances in which it could be reasonably inferred that  
19 the gift is intended to influence the performance of an official  
20 duty, action, or judgment.

21 (2) A legislator may accept anything of value as a gratuity  
22 without regard to the \$100.00 limit under subsection (1) and need  
23 not report the gratuity if it is any of the following:

24 (a) A gift from an immediate family member.

25 (b) A birthday, wedding, anniversary, or similar ceremonial  
26 gift from a friend if the donor does not have a substantial  
27 interest in the legislative, administrative, or political action of

1 the recipient.

2 (c) A gift of sample merchandise, a promotional item such as a  
3 pen or calendar, or a token of appreciation such as candy, a fruit  
4 basket, or flowers if the gift is of nominal value, the gift is  
5 given to a customer or a potential customer in the ordinary course  
6 of business, and there is no special fact creating a conflict of  
7 interest or the appearance of impropriety.

8 (d) An unsolicited award with a value of less than \$100.00.

9 (e) Informational material, a brochure, a pamphlet, or an  
10 unsolicited publication, including a newspaper or magazine, with a  
11 market value of less than \$50.00 on an annual basis.

12 (f) Food or foodstuffs indigenous to the state that are shared  
13 generally as a cultural or social norm, a meal or beverage provided  
14 and consumed at a social or fund-raising event, conference, or  
15 professional meeting, or a meal or beverage provided and consumed  
16 as part of personal hospitality at the residence or place of  
17 business of the host, but excluding the following:

18 (i) A gift of packaged liquor, wine, or foodstuffs.

19 (ii) A restaurant meal not consumed with the person providing  
20 the gift.

21 (g) A gift presented by a representative of a foreign  
22 government. However, if it is worth more than \$100.00, the gift  
23 must be turned over to the presiding officer of either house of the  
24 legislature for display in a public area of the capitol or for sale  
25 at auction with the proceeds going to charity or the general fund.  
26 If the gift is worth less than \$100.00 and intended as a personal  
27 gift, it may be kept if it is reported to the secretary of state.

1           (h) Reasonable and necessary expenses including reimbursement  
2 for travel and related food and lodging if the expenses are  
3 incidental to a trip paid for by a government agency or a bona fide  
4 nonprofit educational or charitable institution for a government or  
5 educational purpose and if lodging expense is limited to the day  
6 preceding and the day or days of the event.

7           (i) Hospitality including overnight lodging, food, and  
8 beverage at the residence or other home of the host if the host is  
9 present. If the host is a personal friend and has no substantial  
10 interest in the legislative, administrative, or political actions  
11 of the recipient and no other fact creates a conflict of interest,  
12 there is no limit on the number of days stayed. If the host has a  
13 substantial interest in the legislative, administrative, or  
14 political actions of the recipient, the exempt stay shall not  
15 exceed 2 nights and the gratuity shall be reported on a financial  
16 disclosure form to the secretary of state. This subdivision does  
17 not permit the use of a lodging, motor home, or boat if the host is  
18 not personally present or, regardless of the presence of the host,  
19 if the purpose is to provide the legislator with a paid or  
20 subsidized vacation. A legislator may accept transportation in a  
21 host's personal or company car or van to the place of a social  
22 event. A legislator shall not accept unusual or expensive travel,  
23 such as by air or limousine, to the residence of the host or other  
24 place.

25           (3) A person shall not directly or indirectly provide, offer,  
26 or promise anything of value to a legislator with the intent to  
27 influence legislative, administrative, or political action.

1           Sec. 235. (1) A legislator shall not seek, accept, or retain  
2 employment, including employment as an adviser or consultant, that  
3 does any of the following:

4           (a) Makes it unreasonably difficult to fulfill a legislative  
5 obligation.

6           (b) Requires the disclosure or use of nonpublic or  
7 confidential information acquired in the course of legislative  
8 service.

9           (c) Requires the improper use of a government relationship or  
10 the authority, prestige, or title associated with legislative  
11 office.

12           (d) Involves a payment that by a reasonable, objective  
13 standard is not commensurate with a service rendered and appears to  
14 involve a premium as a result of the legislator's position in the  
15 legislature.

16           (e) Requires the legislator under a conflict of interest and  
17 disqualification requirement to refrain from taking a legislative,  
18 administrative, or political action in a certain situation.

19           (f) Requires the legislator to compromise an ethical or legal  
20 duty.

21           (2) A legislator who accepts otherwise permissible employment  
22 with a person who has a substantial interest in a legislative,  
23 administrative, or political action shall comply with the special  
24 disclosure provisions of the financial disclosure act and shall  
25 scrupulously avoid conduct that would lead a reasonable, objective  
26 person to believe that the legislator is unable or unwilling to  
27 exercise independent, objective, and impartial judgment in

1 considering a matter that affects an interest of the legislator's  
2 employer.

3 (3) A legislator shall not accept an honorarium. If a  
4 legislator or his or her immediate family member uses  
5 transportation, obtains lodging, or consumes food or beverages in  
6 connection with an undertaking in the discharge of the duties of  
7 elective office and if the cost of the transportation, lodging,  
8 food, or beverages or a combination of the costs is more than  
9 \$50.00 and is paid or reimbursed by a person or persons other than  
10 the legislator or the house of the legislature in which he or she  
11 serves, the legislator shall report the name and address of and the  
12 amount of costs paid or reimbursed by each paying person on a form  
13 provided by the secretary of state.

14 Sec. 237. (1) A legislator shall exercise his or her power and  
15 prerogative without prejudice or favoritism and shall not use  
16 public authority to reward, hinder, or punish a relative, friend,  
17 or political supporter or to reward, hinder, or punish an  
18 adversary.

19 (2) In addition to any other remedy authorized under this act,  
20 a person who violates this section is guilty of a misdemeanor.

21 Sec. 239. (1) A legislator shall not interfere with the  
22 ability or willingness of a state or municipal governmental body,  
23 official, or employee to use independent judgment in making an  
24 official decision or in taking an appropriate action on the merits  
25 of an issue.

26 (2) A legislator shall not use or appear to use political  
27 influence in a way that is likely to cause another public official

1 to consider an inappropriate factor in exercising public authority.  
2 An act either intended to or likely to be construed as enticement,  
3 trade-off, threat, ingratiation, intimidation, or coercion is  
4 improper. Except to assure that a particular person is being  
5 treated fairly according to an established rule or procedure, a  
6 legislator shall not interfere with or seek to influence any of the  
7 following:

8 (a) The outcome or substantive finding of an adjudicatory  
9 proceeding of a governmental regulatory body.

10 (b) A decision regarding the commencement, scope, or  
11 termination of an investigatory process of a governmental agency.

12 (c) An action of a governmental agency concerning the granting  
13 or revoking of a license, permit, franchise, or similar  
14 entitlement.

15 (3) This section does not prevent a legislator from doing any  
16 of the following:

17 (a) Inquiring about the status of a matter.

18 (b) Openly advocating the position of a constituent on the  
19 merits if no effort is made to unduly influence the decision-making  
20 process by express or implied political pressure in a matter  
21 involving a discretionary decision of an administrative body that  
22 will have direct and significant economic or social impact on the  
23 legislator's district.

24 (c) Exercising vigilant oversight with respect to the policy,  
25 regulation, procedure, or implementation of a practice of an  
26 agency.

27 (4) In addition to any other remedy authorized under this act,



1 a person who violates this section is guilty of a misdemeanor.

2       Sec. 241. A legislator shall disclose to the governmental  
3 ethics board a financial, professional, or personal interest that  
4 is likely to create in the mind of a reasonable, objective person  
5 the belief that the legislator's objectivity and ability to  
6 exercise independent judgment in the public interest have been  
7 adversely affected by that interest.

8       Sec. 243. (1) A legislator shall comply with the open meetings  
9 act, 1976 PA 267, MCL 15.261 to 15.275, and exercise the authority  
10 of his or her office openly so that the public is informed about  
11 governmental decisions and the citizenry can hold him or her  
12 accountable for his or her actions.

13       (2) A legislator shall assure that anyone to whom he or she  
14 has delegated responsibility, including staff or an administrative  
15 agency, carries out the delegated responsibility efficiently,  
16 equitably, and ethically.

17       (3) A legislator who believes that a policy or rule of a house  
18 of the legislature is not achieving its intended purpose, is  
19 creating an unintended harm, or is wasteful or inefficient shall  
20 take an affirmative step to improve the procedure to increase the  
21 fairness and quality of government service and assure that the  
22 policy is implemented efficiently, equitably, and economically.

23       Sec. 245. (1) A legislator shall maintain the integrity and  
24 trustworthiness of government by preventing an unethical practice,  
25 unlawful conduct, corruption, mismanagement, waste of public funds,  
26 danger to public safety, or any other abuse of public position,  
27 authority, or resource.

1           (2) A legislator who has a good faith, reasonable belief that  
2 the public interest requires the disclosure of a governmental  
3 policy or action thought to be unlawful or improper shall reveal  
4 that information to the appropriate authority.

5           (3) A legislator shall not, directly or indirectly, subject a  
6 person to reprisal, retaliation, harassment, discrimination, or  
7 ridicule for reporting to a government entity conduct the person  
8 reasonably believes is a violation of this act or other state law.  
9 A legislative employee who is discharged, disciplined,  
10 involuntarily transferred, or otherwise penalized by a legislator  
11 is protected by the whistleblowers' protection act, 1980 PA 469,  
12 MCL 15.361 to 15.369.

#### 13                           CHAPTER 3 - REMEDIES AND SANCTIONS

14           Sec. 301. A person who violates this act or makes a false,  
15 deliberately misleading or incomplete, or unnecessarily delayed  
16 disclosure of a violation of this act is subject to 1 or more of  
17 the following sanctions:

18           (a) A civil fine of \$5,000.00 for each offense or twice the  
19 amount improperly gained by the misconduct, whichever is less.

20           (b) Divestiture of a specified asset or withdrawal from a  
21 specified relationship.

22           (c) Detailed disclosure with or without an additional periodic  
23 reporting requirement.

24           (d) Restitution or reimbursement.

25           (e) Written reprimand.

26           (f) Consideration by the legislature of means by which  
27 legislation, a part of legislation, or other action resulting from

1 conduct in violation of this act could be nullified.

2 (g) Censure and disqualification from serving as a member,  
3 chairperson, or co-chairperson on a legislative committee for the  
4 remainder of the legislator's term in office.

5 (h) Expulsion of a legislator.

6 (i) Any other sanction to achieve the purposes of this act.

7 Sec. 303. (1) The governmental ethics board is the  
8 administrative body with authority to conduct administrative  
9 proceedings under this act.

10 (2) The attorney general or, upon failure of the attorney  
11 general to bring an action within 60 days after a written request  
12 to do so, any citizen may bring a civil action for a violation of  
13 this act.

14 (3) The right to proceed in a separate civil suit under this  
15 section is independent of any proceeding conducted by the  
16 governmental ethics board but, to the extent that a civil fine is  
17 ordered for any offense, a person shall be fined \$5,000.00 for each  
18 offense or twice the amount improperly gained by the misconduct,  
19 whichever is less.

20 (4) When paid, a civil fine that is ordered pursuant to this  
21 act shall be deposited in the general fund of the state.

22 Sec. 305. An offense designated as a misdemeanor under this  
23 act is punishable as provided in section 504 of the Michigan penal  
24 code, 1931 PA 328, MCL 750.504.

25 Sec. 307. Conduct that is criminal under this act or another  
26 state law may be separately prosecuted without regard to the  
27 resolution or pendency of a charge before an administrative body or

1 a civil court.

2       Sec. 309. The attorney general shall assist the legislature  
3 with the enforcement of corrective action and shall assist the  
4 legislature with the enforcement of a sanction imposed under this  
5 act. The attorney general may independently bring a civil or  
6 criminal action based on a violation of this act.

7       Enacting section 1. This act takes effect April 1, 2007.

8       Enacting section 2. This act does not take effect unless all  
9 of the following bills of the 93rd Legislature are enacted into  
10 law:

11       (a) House Bill No. 5938.

12       (b) House Bill No. 5939.