



# HOUSE BILL No. 5660

March 7, 1996, Introduced by Rep. Fitzgerald and referred to the Committee on House Oversight and Ethics.

A bill to prescribe standards of conduct for legislators, legislative employees, and certain other persons; to create certain commissions, committees, and boards and prescribe their powers and duties; to prescribe the powers and duties of 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       Sec. 101. This act shall be known and may be cited as the  
2 "Michigan legislative ethics act".

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

6       Sec. 105. (1) "Administrative action" means conduct related  
7 to the development, drafting, consideration, promulgation,

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

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

8       (a) Money.

9       (b) Products or merchandise.

10       (c) A work of art or collectible.

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

12       (e) An interest in real property.

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

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

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

18       (i) Transportation.

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

1 (p) The free or discounted use of an office.

2 (q) A loan of office equipment.

3 (r) Radio or television time.

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

5 (t) The use of an automobile, boat, or apartment or other  
6 recreational or lodging facility.

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

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

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

14 (3) "Anything of value" does not include all of the  
15 following:

16 (a) An unsolicited token or award with a value of less than  
17 \$150.00.

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

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

22 (d) A discount afforded to the general public or a specified  
23 group or occupation under normal business conditions. However,  
24 the discount may not be based on the fact of legislative service  
25 unless it is a discount program approved by the LEC.

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

4 (4) "Board of ethics" means the board of ethics created in  
5 section 3 of Act No. 196 of the Public Acts of 1973, being  
6 section 15.343 of the Michigan Compiled Laws.

7 (5) "Category A income" means a benefit received from a  
8 person that is known or reasonably should be known to have a sub-  
9 stantial interest in legislative, administrative, or political  
10 action.

11 (6) "Category B income" means a benefit received from a  
12 person or entity that is not category A income.

13 (7) "Close economic association" means a financial relation-  
14 ship between a legislator or legislative employee and another  
15 person that creates 1 or more of the following economic interests  
16 in the legislator or legislative employee:

17 (a) A relationship involving compensation as an employee,  
18 agent, representative, counselor, adviser, or consultant, includ-  
19 ing professional services between a lawyer and client or a finan-  
20 cial planner and client.

21 (b) A financial interest resulting from an investment, busi-  
22 ness enterprise, or interest in real property as a partner,  
23 investor, associate, or major stockholder.

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

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

1 (e) Any other relationship in which the legislator or  
2 legislative employee has a substantial economic involvement.

3 (8) "Close economic association conflict of interest" means  
4 a close economic association between a legislator or legislative  
5 employee and a person that is likely to be substantially affected  
6 by an official action or decision of a legislator or legislative  
7 employee that conflicts with the public duty or obligation of the  
8 legislator or legislative employee to exercise objective indepen-  
9 dent judgment or that creates the appearance that the person may  
10 have undue access to confidential information or may otherwise  
11 receive favored treatment regarding a public action.

12 (9) "Close personal relationship" means a special relation-  
13 ship between a legislator or legislative employee and another  
14 person that creates strong bonds of loyalty, friendship, or love,  
15 or all of these feelings. Close personal relationship includes,  
16 but is not limited to, the relationship with an immediate family  
17 member, a long-term personal friend, a former business associate,  
18 or a person with whom the legislator or legislative employee has  
19 a significant and continuous romantic relationship.

20 (10) "Close personal relationship conflict of interest"  
21 means a close personal relationship with a person who is likely  
22 to be substantially affected by an official action or a decision  
23 of a legislator or legislative employee that conflicts with the  
24 public duty or obligation of the legislator or legislative  
25 employee to exercise objective independent judgment or that cre-  
26 ates the appearance that the person has undue access to

1 confidential information or may otherwise receive favored  
2 treatment regarding a public action.

3 (11) "Commissioner" means a duly appointed and certified  
4 member of the legislative ethics commission.

5 (12) "Confidential information" means information made con-  
6 fidential by law or information that is conveyed or accepted with  
7 the understanding that the information will only be used for  
8 official purposes.

9 (13) "Employer" means a person that has provided compensa-  
10 tion to a legislator or legislative assistant arising out of an  
11 employment relationship.

12 Sec. 107. (1) "Financial conflict of interest" means a cir-  
13 cumstance in which a legislator or legislative employee, or a  
14 person with whom he or she has a close personal relationship, has  
15 a substantial financial interest that may be materially affected  
16 by an official action or a decision that the legislator or legis-  
17 lative employee may make. The interest must be so substantial  
18 and the potential effect on that interest must be so material  
19 that a reasonable, objective person is likely to believe that the  
20 ability of the legislator or legislative employee with the finan-  
21 cial interest to make an objective, fair, and impartial profes-  
22 sional judgment will be impeded by self-interest. A financial  
23 conflict of interest does not exist if the economic effect an  
24 official action or a decision will have on a legislator's or leg-  
25 islative employee's private financial interests is no greater  
26 than the effect on a substantial class of persons to which he or

1 she belongs as a member of a profession, occupation, industry, or  
2 region.

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

19       (3) "Immediate family member" means a spouse, parent, grand-  
20 parent, child, including a step-child or an adopted child, grand-  
21 child, sibling, or parent-in-law.

22       (4) "Informal representation" means uncompensated represen-  
23 tation including, but limited to, a request for information made  
24 to a state or local governmental entity or an official or  
25 employee of the entity on behalf of a person who is a client,  
26 constituent, or political contributor.

1       (5) "Intent to influence" means offering or conferring  
2 anything of value on a public official to induce the public  
3 official to act in a manner he or she would otherwise not have  
4 acted or to refrain from acting in a manner he or she would oth-  
5 erwise have acted.

6       (6) "LEC" means the legislative ethics commission estab-  
7 lished in section 111.

8       (7) "Legislative action" means conduct that relates to the  
9 development, drafting, consideration, sponsorship, enactment,  
10 defeat, or support of or opposition to, a law, amendment, resolu-  
11 tion, report, nomination, or other matter affected by legislative  
12 action or inaction.

13       (8) "Legislative assistant" means a legislative employee  
14 whose assigned duties involve the exercise of substantial  
15 judgment. A person who performs purely clerical or ministerial  
16 functions is not a legislative assistant.

17       (9) "Legislative employee" means a person, other than a leg-  
18 islator, who is compensated by the legislative branch in return  
19 for regular or substantial personal services, regardless of the  
20 person's pay level or technical status as a full-time or  
21 part-time employee, independent contractor, or consultant.  
22 Members and the staff of the legislative ethics commission are  
23 legislative employees. An individual who performs functions that  
24 are purely incidental to legislative functions, such as a securi-  
25 ty, delivery, maintenance, or printing, is not a legislative  
26 employee.



1 (10) "Lobbyist" means that term as defined in section 5 of  
2 Act No. 472 of the Public Acts of 1978, being section 4.415 of  
3 the Michigan Compiled Laws.

4 (11) "Nonpublic information" means information that is not  
5 available to the general public, the use or disclosure of which  
6 results in an unwarranted benefit or advantage.

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

10 (2) "Person" means an individual, corporation, business  
11 enterprise, or other entity either public or private and a legal  
12 successor, representative, agent, or agency of that individual,  
13 corporation, business enterprise, or other entity, or other  
14 organization or group of persons acting jointly, including a  
15 state agency or a political subdivision of this state.

16 (3) "Public official" means an official in the executive or  
17 legislative branch of state government.

18 (4) "Political action" means conduct in which a public offi-  
19 cial uses his or her official position or political contacts to  
20 exercise informal influence on a state or local government  
21 employee or entity. Political action includes, but is not  
22 limited to, the following:

23 (a) An intervention on behalf of a constituent with a gov-  
24 ernment agency.

25 (b) An endorsement, pledge of support, or active support of  
26 a legislative matter or a nominee or a candidate for public  
27 office.

1 (5) "Professional representation" means representation for  
2 compensation.

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

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

10 (8) "Select committee on ethics" means the joint select com-  
11 mittee on ethics composed of the following members:

12 (a) One member appointed by each of the following:

13 (i) The majority caucus of the senate.

14 (ii) The minority caucus of the senate.

15 (iii) The majority caucus of the house of representatives.

16 (iv) The minority caucus of the house of representatives.

17 (b) One member appointed by the LEC.

18 (9) "Sexual harassment" means that term as described in sec-  
19 tion 103(i) of the Elliott-Larsen civil rights act, Act No. 453  
20 of the Public Acts of 1976, being section 37.2103 of the Michigan  
21 Compiled Laws.

22 (10) "Substantial interest in legislative, administrative,  
23 or political action" means a situation in which a person or  
24 organization meets 1 or more of the following criteria:

25 (a) Is regulated by the legislature.

26 (b) Provides goods or services to the legislature for  
27 compensation or profit.

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

5 (d) Will be directly or substantially affected, either  
6 financially or personally, by a contemplated legislative, admin-  
7 istrative, or political action.

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

10 (f) Is a registered lobbyist.

11 (g) Employs a registered lobbyist.

12 (h) Represents a person or organization described in  
13 subdivisions (a) to (g).

14 Sec. 111. (1) The legislative ethics commission is estab-  
15 lished within the legislature and shall consist of 9 members  
16 selected as follows:

17 (a) One member appointed jointly by the majority leader of  
18 the senate and the minority leader of the senate.

19 (b) One member appointed jointly by the speaker of the house  
20 of representatives and the minority leader of the house of  
21 representatives.

22 (c) One member appointed by the majority leader of the  
23 senate.

24 (d) One member appointed by the minority leader of the  
25 senate.

26 (e) One member appointed by the speaker of the house of  
27 representatives.

1 (f) One member appointed by the minority leader of the house  
2 of representatives.

3 (g) Not more than 30 days after the appointment of the mem-  
4 bers appointed pursuant to subdivisions (a) through (f), those  
5 members shall select 3 additional members.

6 (2) Not more than 120 days after the effective date of this  
7 act, the initial members shall be appointed.

8 (3) The members appointed pursuant to subsection (2)(a) to  
9 (f) shall be chosen from lists presented to the legislature. The  
10 total number of names presented shall equal the number of LEC  
11 members to be chosen multiplied by 3, 1/3 of that number shall be  
12 presented by the governor, 1/3 by the chief justice of the  
13 Michigan supreme court, and 1/3 by the president of the state bar  
14 of Michigan. If the same name is presented by more than 1 pre-  
15 senter, the presenters who were not the first presenter shall  
16 submit alternative names. If all of the names presented are  
17 rejected, all presenters shall submit new lists. If a vacancy  
18 exists for more than 60 days after complete second lists are  
19 presented, the governor shall appoint an individual to fill each  
20 such vacancy.

21 (4) Upon appointment, each appointee shall execute the writ-  
22 ten oath or affirmation set forth in section 1 of article XI of  
23 the state constitution of 1963. When the oath or affirmation is  
24 executed, an appointee is certified as a commissioner of the LEC  
25 and is immediately considered to have begun serving his or her  
26 appointed term.

1 (5) Not more than 45 days after certification, a  
2 commissioner may be decertified by a majority vote of both houses  
3 of the legislature, if the legislature is in session, or by a 2/3  
4 vote of the members of the legislative council if the legislature  
5 is not in session. A decertified commissioner is disqualified  
6 from membership on the legislative ethics commission and a  
7 replacement shall be appointed to fill the vacancy in the same  
8 manner as the original appointment.

9 (6) A commissioner or LEC employee shall not be a legisla-  
10 tor, a legislative employee, an elected or appointed public offi-  
11 cial, a commissioner or director of any governmental body except  
12 the LEC, an officer of a political party, or a candidate for  
13 public office.

14 (7) The commissioners serve staggered terms of 5 years. The  
15 initial commissioners shall serve the following terms:

16 (a) The commissioners appointed under subsection (1)(g)  
17 shall serve a term of 5 years.

18 (b) The commissioners appointed under subsection (1)(a) and  
19 (b) shall serve terms of 4 years.

20 (c) The commissioner appointed under subsection (1)(c) shall  
21 serve a term of 3 years.

22 (d) The commissioner appointed under subsection (1)(e) shall  
23 serve a term of 2 years.

24 (e) The commissioners appointed under subsection (1)(d) and  
25 (f) shall serve terms of 1 year.

26 (8) A commissioner shall serve for not more than 10  
27 consecutive years, except that a commissioner shall continue in

1 office until a successor has been appointed. The appointment of  
2 commissioners is not subject to the advice and consent of the  
3 senate.

4       (9) A vacancy for the remainder of an unexpired term of a  
5 commissioner shall be filled not more than 30 days after the  
6 vacancy occurs in the same manner as an original appointment was  
7 made. If the appointing authority does not make an appointment  
8 within 30 days after a written request by the LEC to fill a  
9 vacancy is made, then the appointment shall be made by the LEC.

10       (10) At the first meeting of the LEC in each even numbered  
11 year, the LEC shall elect from its members a chairperson and a  
12 vice-chairperson, each to serve for a 2-year term with a limit of  
13 2 consecutive terms. The vice-chairperson shall act as chair-  
14 person in the absence of the chairperson or if there is a vacancy  
15 in the chair.

16       Sec. 113. (1) The LEC, by a majority vote, shall hire an  
17 executive director who shall serve at the pleasure of the LEC.  
18 The executive director shall appoint and discharge employees,  
19 including special investigators, fix the compensation of employ-  
20 ees, and prescribe the duties of employees. Each year the LEC  
21 shall review the performance of the executive director in a meet-  
22 ing with the executive director.

23       (2) On recommendation of the executive director, the LEC  
24 shall hire legal counsel to manage, direct, and prosecute cases.  
25 Legal counsel shall serve at the pleasure of the LEC. The execu-  
26 tive director may serve as legal counsel.

1 (3) If the LEC determines an investigation is necessary that  
2 cannot be efficiently, promptly, or adequately handled by the LEC  
3 staff, the executive director shall nominate a special investiga-  
4 tor to be appointed upon ratification by the LEC. The executive  
5 director shall create and maintain a list of individuals quali-  
6 fied to serve as special investigators based on their experience,  
7 reputation, availability, willingness to serve, and freedom from  
8 a conflict of interest. A special investigator is subject to the  
9 same standards and requirements that apply to a commissioner or  
10 LEC employee.

11 (4) The LEC may employ a technical, professional, or cleri-  
12 cal services expert or consultant as necessary to carry out the  
13 LEC's duties. The LEC may also contract for services that cannot  
14 be satisfactorily performed by employees of the LEC.

15 Sec. 115. (1) A commissioner may be removed from office by  
16 a vote of 2/3 of both houses of the legislature for good cause,  
17 including, but not limited to, substantial neglect of duty,  
18 inability to discharge the powers and duties of office, violation  
19 of this act, gross misconduct, or conviction of a felony.

20 (2) A commissioner shall receive compensation of at least  
21 \$125.00 for each day he or she attends or participates in an LEC  
22 meeting of at least 1 hour in length, either in person or by  
23 teleconference. The chairperson and vice chairperson shall  
24 receive an additional stipend of \$500.00 per year. The LEC shall  
25 develop and implement policies related to internal operation and  
26 expense allowances for commissioners and employees that are  
27 reasonably consistent with the policies for reimbursement of

1 travel costs and the payment of per diem expense allowances  
2 within state government.

3 (3) A commissioner or LEC employee shall comply with this  
4 act and shall be held to the same standards and requirements as a  
5 legislative assistant.

6 (4) In addition to being bound by this act and other appli-  
7 cable statutes, a commissioner or LEC employee shall not do 1 or  
8 more of the following:

9 (a) Participate in political management or in a political  
10 campaign during his or her term of office or term of employment.

11 (b) Participate in the campaign of, attend campaign  
12 fund-raising events for, or make a financial contribution to any  
13 of the following:

14 (i) A candidate for the legislature.

15 (ii) A current legislator or legislative employee who is a  
16 candidate for any other office.

17 (iii) A person running against a present legislator or leg-  
18 islative employee who is a candidate for the legislature or any  
19 other office.

20 (c) Register as a lobbyist or participate in lobbying activ-  
21 ities that require the commissioner or employee to register as a  
22 lobbyist.

23 (d) Take an action or make a statement that is likely to  
24 create in the mind of a reasonable, objective observer a belief  
25 that the commissioner or employee is not impartial or independent  
26 or is otherwise unable to properly perform public duties.



1 (5) If a commissioner violates this act, he or she shall be  
2 treated by the LEC in the same manner as any person who violates  
3 this act.

4 (6) During the pendency of a complaint against a commis-  
5 sioner or LEC employee, the commissioner or LEC employee shall  
6 not participate in an official action of the LEC.

7 Sec. 117. (1) The LEC shall meet at least once every 3  
8 months at the call of the chairperson. Additional meetings may  
9 be held at the call of the chairperson or a majority of  
10 commissioners.

11 (2) A quorum of the LEC is 5 commissioners.

12 (3) A vote of the majority of commissioners present at a  
13 meeting at which a quorum is present is required for an action on  
14 which a vote is required.

15 Sec. 119. The LEC shall administer this act and shall do  
16 all of the following:

17 (a) Authorize and train staff to give informal or formal  
18 written or oral advice regarding the spirit and requirements of  
19 this act.

20 (b) On request or its own initiative, issue formal written  
21 advisory opinions on a specific situation or clarify a provision  
22 of this act.

23 (c) Consider a request for, and grant or deny, a waiver of a  
24 provision of this act as provided in section 125.

25 (d) Investigate and adjudicate a complaint and recommend  
26 disciplinary action to the legislature.

1 (e) Authorize research in the field of legislative ethics  
2 and carry out the educational program required by this act or any  
3 additional program necessary to effectuate the policy and purpose  
4 of this act.

5 (f) Prepare and distribute the legislative ethics manual  
6 required by section 207.

7 (g) Prepare a biennial report to the legislature summarizing  
8 the activity of the LEC for the 2 years immediately preceding the  
9 report, evaluating the effectiveness of this act in accomplishing  
10 the stated purpose of this act, and recommending any legislative  
11 reform necessary to improve the administration of this act and to  
12 better advance the goal of this act.

13 Sec. 121. The LEC, by its employees, may give oral advice  
14 or provide a written informal nonbinding advice letter to a  
15 person seeking guidance as to the spirit or legal requirements of  
16 this act if the advice is given with all of the following express  
17 stipulations:

18 (a) The opinion of the employee who gives the oral or writ-  
19 ten advice is not necessarily the opinion of the LEC.

20 (b) Although the advice is given in good faith, the person  
21 seeking the advice relies on the advice at his or her own risk  
22 because it is not binding on the LEC.

23 (c) Information voluntarily provided to an LEC employee is  
24 not necessarily confidential and may be used against the person  
25 seeking the advice if the information becomes material to a pro-  
26 ceeding before the LEC. However, by a vote of the commission,  
27 the LEC may grant approval for an employee to assure, in writing,

1 the confidentiality of oral information given by a person who has  
2 requested a written informal nonbinding advice letter seeking  
3 advice in advance of a contemplated action on which the advice is  
4 sought.

5       Sec. 123. (1) The LEC may issue a formal written advisory  
6 opinion on its own initiative, at the request of a person to whom  
7 this act applies or may apply, or at the request of a person who  
8 is a candidate for or is elected to the legislature who on the  
9 date of election is not a member of the legislature.

10       (2) A request for a formal written advisory opinion shall be  
11 in writing and set forth with reasonable specificity the facts  
12 and circumstances of a real or hypothetical case.

13       (3) The LEC shall expeditiously determine whether to issue a  
14 requested formal written advisory opinion addressing the issue  
15 raised. The LEC shall not issue a requested formal written  
16 advisory opinion if the LEC or another person files a complaint  
17 on the issue raised.

18       (4) The LEC shall issue its opinion not more than 30 days  
19 after receiving a request for a formal written advisory opinion  
20 if the request is received during the first 100 days of the leg-  
21 islative session, or not more than 60 days after receiving a  
22 request if the request is received at any other time. The chair-  
23 person of the LEC may shorten or extend the period of time for  
24 issuing the opinion when necessary or appropriate to meet the  
25 goals of this act.

26       (5) A formal written advisory opinion shall be approved and  
27 issued by a majority of a quorum of the LEC. The vote of each

1 commissioner participating in the opinion shall be indicated on  
2 the opinion. The LEC shall forward the opinion to the person who  
3 requested the opinion and the opinion shall be part of the public  
4 records of the LEC.

5 (6) A formal written advisory opinion issued by the LEC is  
6 binding on the LEC in all subsequent proceedings concerning the  
7 facts and circumstances of the particular case. If a fact con-  
8 sidered to be material by the LEC was omitted or misstated in the  
9 request, the LEC is not bound by the opinion.

10 (7) The LEC and all LEC employees shall keep the identity of  
11 the requester of a formal written advisory opinion confidential  
12 unless the request, the identity of the person making it, or any  
13 information conveyed orally or in writing relating to the request  
14 is or becomes material to a matter before the LEC.

15 Sec. 125. (1) If fundamental fairness is best served by  
16 waiving a specific provision of this act as the provision relates  
17 to a specific individual or action, the LEC may grant a waiver.

18 (2) The person seeking a waiver shall submit a written peti-  
19 tion under oath stating all of the following:

20 (a) Each relevant provision involved in the waiver request.

21 (b) The essential facts on which a waiver is requested.

22 (c) The specific nature of the waiver sought.

23 (d) The anticipated unfair or unreasonable consequence that  
24 would result from a failure to grant the waiver.

25 (3) A majority of a quorum of the commissioners may grant a  
26 waiver at a meeting if the commissioners find that the person

1 seeking a waiver has shown all of the following by a  
2 preponderance of the evidence:

3       (a) The harm caused by strict application of the act sub-  
4 stantially outweighs the benefit of enforcement of the act in the  
5 specific situation.

6       (b) Application of the rule or provision of the act under  
7 the circumstances presented would be inconsistent with the spirit  
8 and purpose of the provision or of the act as a whole.

9       (c) The purpose of the act and the public interest will be  
10 best served by granting the applicant a waiver.

11       (4) The LEC may require or permit the personal appearance of  
12 the applicant before the LEC and hold a hearing regarding the  
13 waiver request.

14       (5) Unless a shortened or expanded time is considered neces-  
15 sary or appropriate by the LEC, the LEC shall make a decision on  
16 a petition for a waiver not more than 30 days after the petition  
17 is filed. Unless the person who seeks the waiver consents, an  
18 extension of time ordered by the LEC shall not exceed an addi-  
19 tional 60 days.

20       (6) A decision on a petition for a waiver shall be placed on  
21 the record which shall set forth the petition and the specific  
22 rationale, based on the facts and the law, for the decision.

23       (7) The LEC may qualify a waiver granted under this section  
24 in any manner the LEC considers appropriate.

25       Sec. 127. (1) A complaint may be initiated by a person or  
26 by the LEC on its own initiative. If a legislator or a  
27 legislative employee is convicted of a felony, the LEC shall

1 initiate a complaint against that legislator or legislative  
2 employee.

3 (2) The LEC shall provide a simple form for complaints that  
4 includes all of the following:

5 (a) The name and address of the complainant.

6 (b) A statement of the facts known or believed to be true  
7 that are the basis of the complaint that includes the name of the  
8 person accused of misconduct, the approximate date of an act  
9 alleged, and names and addresses of persons with personal knowl-  
10 edge of each alleged fact.

11 (c) A statement that the person filing the complaint veri-  
12 fies under penalty of perjury that the facts stated are true to  
13 the best of his or her knowledge and that he or she knows that to  
14 intentionally initiate a false complaint is a violation of the  
15 law.

16 (3) A copy of the complaint shall be sent by certified mail  
17 and marked "CONFIDENTIAL" to the person accused in the complaint  
18 of misconduct not more than 2 days after the complaint is  
19 received by the LEC unless the chairperson of the LEC determines  
20 that immediate notification would prejudice a preliminary inves-  
21 tigation or subject the complainant to an unreasonable risk. The  
22 LEC shall inform the person accused not more than 10 days after  
23 receipt of the complaint unless a majority of the LEC approves a  
24 delay and determines the conditions under which the person  
25 accused will be informed.

26 (4) The existence and substance of a complaint shall be kept  
27 confidential until a preliminary finding is made on the validity

1 of the complaint except that members of the LEC and necessary  
2 staff may be informed and it shall be sent to the person  
3 accused.

4 (5) Not more than 5 days after receipt of a complaint, staff  
5 of the LEC shall review the complaint for formal sufficiency. If  
6 a complaint is deficient on its face, the LEC shall return the  
7 complaint to the complainant with a statement of the nature of  
8 the deficiency.

9 (6) When a complaint is determined to be formally suffi-  
10 cient, the staff of the LEC shall evaluate the complaint and  
11 advise the chairperson whether the complaint states a substantive  
12 complaint that should be investigated. If the executive director  
13 is a member of the state bar of Michigan, the executive director  
14 may provide this advice. If the executive director is not a  
15 member of the state bar of Michigan, qualified legal counsel  
16 shall be appointed by the LEC to assist in making the  
17 determination. To be substantively valid, the complaint shall  
18 allege at least all of the following:

19 (a) Facts that, if true, establish a violation of this act.

20 (b) That the conduct that is the basis of the complaint  
21 occurred after the effective date of this act and not more than 5  
22 years before the date on which the complaint was filed with the  
23 LEC or that the person accused of misconduct intentionally con-  
24 cealed or otherwise prevented discovery of relevant facts. If  
25 the person accused intentionally concealed or otherwise prevented  
26 discovery of relevant facts, the complaint shall be filed not  
27 more than 5 years after the facts are discovered.

1 (c) That the person accused of misconduct is either a  
2 legislator or legislative employee at the time of the complaint  
3 or was a legislator and ceased to be a legislator not more than 1  
4 year before the complaint was filed.

5 (7) A determination shall be made on the substantive valid-  
6 ity of the complaint not more than 20 days after the complaint is  
7 filed or not more than 45 days after the complaint is filed if  
8 the chairperson of the LEC determines or the person accused  
9 requests that additional time is required. If the chairperson of  
10 the LEC determines that there is no substantial reason to ques-  
11 tion the advice of the staff as to the substantive validity of a  
12 complaint, the LEC shall dismiss the complaint or certify the  
13 complaint for further consideration consistent with the advice of  
14 the LEC staff. The chairperson or other commissioner may request  
15 a hearing on the substantive validity of the complaint at a meet-  
16 ing of the LEC.

17 (8) If the LEC dismisses a complaint because of substantive  
18 invalidity, the complaint shall be returned to the complainant  
19 with a notice of dismissal stating in detail the reason for  
20 dismissal. If the LEC finds that the complaint was frivolous,  
21 malicious, or filed in bad faith, the LEC shall so state in the  
22 notice of dismissal.

23 (9) If the LEC determines that the complaint alleges a vio-  
24 lation outside the scope of this act, it shall so state and for-  
25 ward the complaint to the appropriate enforcement body for  
26 disposition. The notice of dismissal shall be sent to the person  
27 accused and is a public record.



1       (10) If the LEC determines that some or all of the  
2 allegations of the complaint, if proven, would constitute a vio-  
3 lation of this act or if the LEC has initiated the complaint, the  
4 LEC shall certify the complaint for a factual investigation. The  
5 record of certification for further consideration is confidential  
6 subject to later actions that may make it part of the public  
7 record.

8       Sec. 129. (1) The LEC shall undertake an investigation in a  
9 manner that assures the public an impartial and comprehensive  
10 review, is fair to the person accused, and elicits the informa-  
11 tion the LEC needs to make a decision.

12       (2) Before an investigation begins, the LEC shall adopt a  
13 written resolution that defines the scope of the investigation  
14 and give a copy of the resolution to the complainant and the  
15 person accused. If, during the investigation, an additional fact  
16 is discovered that justifies an expansion of the investigation  
17 and the possibility of an additional charge beyond the violations  
18 alleged in the complaint, the resolution shall be amended accord-  
19 ingly and a copy sent to the complainant and the person accused.

20       (3) The LEC shall keep the resolution and the fact that an  
21 investigation has been undertaken confidential except that, when  
22 asked, the LEC may state that it is investigating a complaint  
23 along with a statement that a finding of probable cause has not  
24 been made and that an adverse inference of impropriety or guilt  
25 should not be drawn from the decision to investigate. The LEC  
26 shall not reveal any other fact concerning the nature or result  
27 of the investigation except as provided in this act until after

1 the LEC determines that there is probable cause to believe that a  
2 violation of this act has occurred.

3       Sec. 131. (1) A legislator or a legislative employee may  
4 request in writing that the LEC investigate a charge of impropri-  
5 ety made against himself or herself. The request shall state  
6 with specificity the nature of the investigation requested. The  
7 LEC shall determine if it will undertake the investigation. If  
8 the LEC agrees to investigate, the investigation is not limited  
9 in scope by the request and, once begun, shall be handled as any  
10 other investigation and the person requesting the investigation  
11 shall be treated as a person accused.

12       (2) An investigation shall be conducted by the staff of the  
13 LEC, outside counsel, and investigators as the LEC considers  
14 necessary. The purpose of a preliminary investigation is to  
15 determine whether there is probable cause to believe that a vio-  
16 lation of this act has occurred and that the person accused com-  
17 mitted it and, if a violation has occurred, to proceed with a  
18 full adjudicatory hearing.

19       (3) An investigator for the LEC has the power to order a  
20 hearing, subpoena witnesses and documents, conduct depositions  
21 under oath, require the participation of the person accused, and  
22 issue interrogatories to be answered under oath.

23       (4) In preparing the investigation report, the LEC shall not  
24 consider an oral or a written statement, whether incriminating or  
25 exculpatory, unless made under oath.

26       (5) The person accused shall be given an adequate  
27 opportunity to provide testimonial and documentary evidence and,

1 if the person accused requests, he or she may inspect and make  
2 copies of all evidence relating to the allegations.

3 (6) When the investigation is complete, the investigator  
4 shall submit a confidential written report that summarizes the  
5 evidence, evaluates its credibility, and details findings on each  
6 of the allegations investigated to the LEC with a recommendation  
7 that the complaint, or any portion of it, be dismissed or that  
8 the matter proceed to a hearing.

9 (7) The investigator shall exclude from the report unreli-  
10 able information or an irresponsible allegation. The  
11 investigator's notes, records of interviews, and other investiga-  
12 tory material considered unreliable or unduly prejudicial by the  
13 LEC shall remain confidential.

14 Sec. 133. (1) The LEC shall consider an investigation  
15 report in closed session. If it determines that substantial  
16 credible evidence exists that establishes probable cause to  
17 believe that a violation of the act has occurred and that the  
18 person accused committed it and, unless it finds that the com-  
19 plaint is frivolous or does not constitute a substantive viola-  
20 tion of the act or the person accused acknowledges a violation  
21 under section 135(4), it shall order a full adjudicatory  
22 hearing.

23 (2) If the LEC does not find that a full adjudicatory hear-  
24 ing is warranted, the LEC shall dismiss the complaint. If the  
25 LEC finds that the complaint is frivolous, malicious, or made in  
26 bad faith or that the person accused should be exonerated, the  
27 LEC shall so state in the notice of dismissal. The LEC shall

1 send a notice of dismissal to the person accused and the  
2 complainant.

3 (3) If the LEC finds that the evidence supports a violation  
4 outside the scope of this act, the LEC shall state that in its  
5 report and forward the complaint and the report to the appropri-  
6 ate enforcement body for disposition.

7 (4) The LEC shall make public a notice of dismissal and the  
8 investigation report containing findings and recommendations, but  
9 not the underlying investigatory materials, unless the LEC deter-  
10 mines that this would unfairly prejudice either the person  
11 accused or complainant. This act does not prevent a complainant  
12 or person accused from making the notice of dismissal and the  
13 report public.

14 Sec. 135. (1) If the LEC finds that substantial credible  
15 evidence exists establishing probable cause that a violation of  
16 this act has occurred, the LEC shall serve on the person accused,  
17 in a manner consistent with the service of summons under the  
18 Michigan rules of court, a formal notice that states the specific  
19 allegations and schedules a hearing.

20 (2) The hearing shall be scheduled to commence not less than  
21 20 days after the person accused is served with the formal  
22 complaint. If the person accused requests and the LEC consents,  
23 an earlier hearing may be scheduled. If requested, the LEC shall  
24 grant the person accused reasonable additional time to prepare a  
25 defense.

26 (3) The person accused may file a responsive pleading  
27 admitting, denying, or otherwise responding to the allegation.

1 (4) If the person accused acknowledges a violation of this  
2 act, the LEC may suspend further proceedings and recommend sanc-  
3 tions as provided in section 141. If the LEC suspends the pro-  
4 ceedings or dismisses the charges as a result of a negotiated  
5 settlement, the LEC shall set forth the terms and conditions of  
6 the settlement and the reasons for entering into the settlement  
7 in a written report. The LEC shall send the written report to  
8 the complainant. The written report is a part of the public  
9 record.

10 (5) Except as provided in subsection (4), when a determina-  
11 tion is made that there is probable cause that a violation of  
12 this act has occurred and that the person accused committed it, a  
13 full adjudicatory hearing shall be conducted. The LEC shall make  
14 public the investigation report containing findings and recommen-  
15 dations, but not the underlying investigatory materials.

16 Sec. 137. (1) A hearing on a complaint filed under this act  
17 against a legislator or legislative employee shall be conducted  
18 in a manner that inspires confidence in the integrity and objec-  
19 tivity of the process and demonstrates full consideration for the  
20 rights and reputation of the person accused.

21 (2) The LEC shall hold a hearing under the contested case  
22 provisions of the administrative procedures act of 1969, Act  
23 No. 306 of the Public Acts of 1969, being sections 24.201 to  
24 24.328 of the Michigan Compiled Laws, except as otherwise pro-  
25 vided in this act. For purposes of a hearing held pursuant to  
26 this section, the LEC has the authority to issue subpoenas.

1       (3) A hearing shall be before a hearing board composed of 5  
2 commissioners. The chairperson of the LEC shall serve on the  
3 board and appoint 4 other commissioners. If the chairperson is  
4 unable to attend all hearing sessions, the vice-chairperson shall  
5 serve in the chairperson's place. If neither the chairperson nor  
6 the vice-chairperson is available, the chairperson shall appoint  
7 another commissioner to serve in his or her place. The chair-  
8 person or his or her designee shall conduct a hearing with the  
9 advice and counsel of the executive director or other legal coun-  
10 sel as directed by the LEC.

11       (4) Not more than 10 days after the completion of a hearing,  
12 the hearing board shall vote on each alleged violation of this  
13 act to determine if each violation was established by a prepon-  
14 derance of the evidence and shall prepare a written opinion with  
15 recommendations, if any. A vote of 3 commissioners is necessary  
16 to find a violation.

17       (5) As to each alleged violation on which the evidence was  
18 found to be insufficient to establish a violation, the hearing  
19 board shall issue a written opinion stating that finding. If the  
20 hearing board finds that an allegation is frivolous, malicious,  
21 or made in bad faith or that the person accused should be exoner-  
22 ated of the allegation, the hearing board shall state that find-  
23 ing in the opinion. If the hearing board finds that the person  
24 accused should be exonerated, the hearing board may recommend  
25 that the legislature reimburse the person accused for all or part  
26 of reasonable legal fees incurred as a result of the allegation.  
27 Unless the hearing board makes such a recommendation, legal fees

1 shall not be paid from public funds. An allegation is not  
2 considered frivolous, malicious, or made in bad faith based only  
3 on the fact that there is insufficient evidence to establish a  
4 violation. As to each charge on which the evidence is found to  
5 be sufficient to establish a violation of this act, the hearing  
6 board shall issue a written opinion stating its findings of fact,  
7 conclusions of law, and recommendations for sanctions as provided  
8 in section 141.

9       Sec. 138. A person found by a hearing board to have vio-  
10 lated this act may appeal the decision of the hearing board to  
11 the LEC under the contested case provisions of the administrative  
12 procedures act of 1969, Act No. 306 of the Public Acts of 1969,  
13 being sections 24.201 to 24.328 of the Michigan Compiled Laws.

14       Sec. 139. (1) If the person who is found by a hearing  
15 board, by acknowledgment to a hearing board, or by the LEC on  
16 appeal to have violated this act was a member of the legislature  
17 at the time a violation occurred, the chairperson of the LEC  
18 shall forward the hearing board's written opinion to the presid-  
19 ing officer of the house of the legislature to which the member  
20 belongs. If the person is a former member of the legislature,  
21 the LEC shall forward the hearing board's written opinion to the  
22 house of the legislature to which the former member belonged at  
23 the time the violation is found to have occurred.

24       (2) Upon receipt of the hearing board's written opinion by  
25 the appropriate house of the legislature, all of the following  
26 apply:

1 (a) If the legislature is in session at the time the  
2 recommendations are received, the entire house of the legislature  
3 shall determine what sanctions, if any, are to be imposed. The  
4 vote shall be taken not more than 30 days after receipt of the  
5 LEC's recommendations. If the recommendations are received in  
6 December, the house shall have 60 days to complete its  
7 determination.

8 (b) If the legislature is not in session, the presiding  
9 officer may either call a special session to put the matter to a  
10 vote not more than 60 days after receipt of the recommendations  
11 of the LEC or submit the recommendations to the legislative  
12 council.

13 (c) Except in the case of expulsion, which requires a 2/3  
14 vote, a majority vote is required to determine a sanction. A  
15 vote taken under this section shall be a record roll call vote.

16 (d) In determining what sanctions, if any, to impose, the  
17 legislature is not required to review the basic facts or question  
18 the procedures or findings of fact of the hearing board. The  
19 primary issue before the legislature is the determination of the  
20 appropriate sanction based on the findings of the hearing board.

21 (3) If the person found to have violated this act is a leg-  
22 islative employee, the chairperson of the LEC shall forward the  
23 recommendations of the hearing board to the select committee on  
24 ethics to determine, as soon as is reasonably possible, what  
25 sanctions, if any, are to be imposed. The select committee on  
26 ethics is not required to review the basic facts or question the  
27 procedures of the hearing board or findings of fact. The primary



1 issue before the select committee on ethics is the determination  
2 of appropriate sanctions based on the findings of the hearing  
3 board.

4       Sec. 141. (1) When the LEC finds that a violation of this  
5 act has occurred, the LEC may recommend, and the house of the  
6 legislature of which the person accused is a member or an  
7 employee may impose, an appropriate sanction designed to fit the  
8 offense and assure both fair treatment of the offender and deter-  
9 rence to others who may consider a similar act.

10       (2) A person who makes a false, deliberately misleading or  
11 incomplete, or unnecessarily delayed disclosure of a violation of  
12 this act to the LEC is subject to the sanctions provided in sub-  
13 section (3).

14       (3) Sanctions for a violation of this act include, but are  
15 not limited to, all of the following:

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

18       (b) Divestiture of a specified asset or withdrawal from a  
19 specified relationship.

20       (c) Detailed disclosure with or without an additional  
21 periodic reporting requirement.

22       (d) Restitution or reimbursement.

23       (e) Written reprimand.

24       (f) Consideration by the legislature of means by which leg-  
25 islation, a part of legislation, or other action resulting from  
26 conduct in violation of this act may be nullified.

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

4 (h) Expulsion of a legislator or dismissal of a legislative  
5 employee.

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

7 (j) A combination of the sanctions in subdivisions (a) to  
8 (i).

9 Sec. 143. (1) The attorney general shall assist the LEC and  
10 the legislature with the enforcement of corrective action and  
11 shall assist the legislature with the enforcement of a sanction  
12 imposed under this act. The attorney general may independently  
13 bring a civil or a criminal action based on a violation of this  
14 act regardless of the outcome or settlement of a charge before  
15 the LEC.

16 (2) The LEC shall retain a document filed with or produced  
17 by the LEC as a public record for not less than 6 years.

18 (3) The LEC may require the cooperation of a state agency or  
19 an official, an employee, or other person whose conduct is regu-  
20 lated by this act. A person whose conduct is regulated by this  
21 act shall make available to the LEC any information reasonably  
22 related to an investigation when requested in writing to do so by  
23 the LEC, subject to applicable constitutional and statutory  
24 protections. The confidential nature of the communication or of  
25 the relationship through which the information was obtained, or  
26 both, do not constitute public information and are not subject to  
27 the freedom of information act, Act No. 442 of the Public Acts of

1 1976, being sections 15.231 to 15.246 of the Michigan Compiled  
2 Laws. The LEC may request and shall receive from an officer,  
3 department, division, board, bureau, commission, house of the  
4 legislature, or other agency of the state, cooperation and  
5 assistance in the performance of its duties.

6 (4) The LEC may perform other acts, duties, and functions  
7 authorized by or in connection with the administration of this  
8 act.

9 (5) A person shall not knowingly or improperly disclose con-  
10 fidential information acquired in the course of official duties  
11 under this act.

12 (6) The LEC may publicly respond to a statement or interpre-  
13 tation made by a person who requested an informal advice letter  
14 or a formal written advisory opinion or by a person who is the  
15 subject of a decision of the LEC concerning the contents of that  
16 informal advice letter, advisory opinion, or decision issued or  
17 purported to have been issued. The LEC, to the degree necessary  
18 to respond to an untrue public statement by a person who  
19 requested a letter or opinion or who is the subject of a deci-  
20 sion, may reveal information that would otherwise have been con-  
21 fidential if failure to reveal the information would leave unan-  
22 swered a serious allegation against the LEC or a serious distor-  
23 tion of the procedure, letter, opinion, or decision of the LEC.

24 Sec. 145. Except as otherwise provided in this act, the  
25 business that the LEC may perform shall be conducted at a public  
26 meeting held in compliance with the open meetings act, Act  
27 No. 267 of the Public Acts of 1976, being sections 15.261 to

1 15.275 of the Michigan Compiled Laws. Public notice of the time,  
2 date, and place of the meeting shall be given in the manner  
3 required by Act No. 267 of the Public Acts of 1976.

4 Sec. 147. Except as otherwise provided in this act, a writ-  
5 ing prepared, owned, used, in the possession of, or retained by  
6 the LEC in the performance of an official function shall be made  
7 available to the public in compliance with the freedom of infor-  
8 mation act, Act No. 442 of the Public Acts of 1976, being sec-  
9 tions 15.231 to 15.246 of the Michigan Compiled Laws.

10 Sec. 149. (1) A legislator or legislative employee shall  
11 not seek or accept anything of value as a result of the per-  
12 formance of public responsibilities. This subsection does not  
13 prohibit solicitation for and acceptance of a campaign contribu-  
14 tion, a pledge, a political endorsement, support in a political  
15 campaign, or a promise of political indorsement or support as  
16 otherwise permitted by law.

17 (2) A legislator or legislative employee shall not accept  
18 anything of value if the legislator or legislative employee knows  
19 or reasonably should know that the thing of value is offered with  
20 the intent to influence a legislative, administrative, or politi-  
21 cal action.

22 (3) In addition to any other sanction authorized under this  
23 act to which a person may be subject, a person who violates this  
24 section is guilty of a misdemeanor and is subject to criminal  
25 penalties.

26 Sec. 151. A legislator or legislative employee who receives  
27 an offer that clearly appears to be intended as an attempt to

1 improperly influence legislative, administrative, or political  
2 action shall firmly and unequivocally reject the offer and cau-  
3 tion the person making the offer that the offer may be a viola-  
4 tion of this act and of undue influence and bribery laws. The  
5 legislator or legislative employee shall report the matter to the  
6 appropriate law enforcement authority.

7       Sec. 153. (1) A legislator shall not use state funds to  
8 mail 200 or more pieces of substantially similar material during  
9 the 50 days immediately preceding a primary or general election.

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

17       (3) A legislator, person on behalf of a legislator, or a  
18 candidate committee of the legislator, shall not accept a cam-  
19 paign contribution in a facility or office ordinarily used to  
20 conduct state government business. If an unsolicited contribu-  
21 tion is offered or sent, the contribution shall be refused or  
22 returned promptly.

23       (4) A legislator, person on behalf of the legislator, or a  
24 candidate committee of the legislator, shall not distribute or  
25 post literature or other communication designed to influence the  
26 outcome of an election in a facility or office ordinarily used to  
27 conduct state government business. This provision does not

1 prohibit a legislator from inviting colleagues to a fund-raising  
2 function on behalf of the legislator.

3 (5) In addition to any other sanction authorized under this  
4 act to which a person may be subject, a person who violates this  
5 section is guilty of a misdemeanor and is subject to criminal  
6 penalties.

7 Sec. 155. (1) A legislative employee who knows or reason-  
8 ably should know that he or she has been asked to perform an  
9 improper personal or political task shall refuse to perform the  
10 task.

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

18 Sec. 157. (1) A legislator or legislative employee shall  
19 not sexually harass a legislator or legislative employee.

20 (2) In addition to any other sanction authorized under this  
21 act to which a person may be subject, a person who violates this  
22 section is guilty of a misdemeanor and is subject to criminal  
23 penalties.

24 Sec. 159. (1) Other than in the performance of an official  
25 duty or as required by law, a legislator or legislative employee  
26 shall not use or disclose nonpublic or confidential information  
27 acquired in the course of and by reason of legislative service to

1 obtain private gain for the legislator or legislative employee or  
2 any other person.

3 (2) In addition to any other sanction authorized under this  
4 act to which a person may be subject, a person who violates this  
5 section is guilty of a misdemeanor and is subject to criminal  
6 penalties.

7 Sec. 161. (1) A legislator or legislative employee shall  
8 not use, or allow another to use, the authority, title, or pres-  
9 tige of the legislator's or employee's office to obtain an unwar-  
10 ranted private economic benefit for the legislator, the legisla-  
11 tive employee, or another person.

12 (2) A legislator or legislative employee shall not use offi-  
13 cial letterhead or refer to the legislator's or legislative  
14 employee's public position to induce or intimidate a person to  
15 resolve a private dispute more favorably, provide preferential  
16 treatment, or give a free ticket, discount, favor, or other  
17 advantage that does not relate to the legislator's or legislative  
18 employee's public position.

19 (3) A legislator or legislative employee shall not use, or  
20 allow another to use, the authority, title, or prestige of the  
21 legislator's or employee's office to endorse a commercial product  
22 or service, and shall not use official letterhead in materials  
23 endorsing a product, service, or candidate for office. This sub-  
24 section does not prohibit the use of either of the following:

25 (a) A legislator's or legislative employee's official title  
26 or letterhead in the course of an otherwise proper recommendation  
27 of a person for employment.

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

3 (4) A legislator or legislative employee shall not solicit  
4 or accept compensation that is not commensurate with the service  
5 performed or that would create in the mind of a reasonable,  
6 objective observer the perception that the stature of office has  
7 been unduly exploited for private gain.

8 Sec. 163. (1) For a period of 1 year after leaving office  
9 or legislative employment, a former legislator or legislative  
10 assistant shall not use or disclose nonpublic or confidential  
11 information acquired in the course of or by reason of legislative  
12 service to obtain personal gain or for the gain of another.

13 (2) Notwithstanding section 6a of Act No. 472 of the Public  
14 Acts of 1978, being section 4.416a of the Michigan Compiled Laws,  
15 for a period of 1 year after leaving office or legislative  
16 employment, a former legislator or legislative employee shall not  
17 seek a position as or agree or contract to be or become a lobby-  
18 ist, representative, consultant, adviser, or advocate to influ-  
19 ence either of the following to take or withhold a legislative  
20 action:

21 (a) A legislator or legislative employee.

22 (b) A state agency, public official, or employee with  
23 responsibility in an area in which the person, while a legisla-  
24 tor, had special oversight or budget authority.

25 (3) For purposes of this act, a person had special oversight  
26 or budget authority over an agency if he or she served, within  
27 the last year of his or her legislative term, as the senate



1 majority leader, speaker of the house of representatives,  
2 chairperson of the senate finance committee, chairperson of the  
3 house tax policy committee, or as chairperson of a committee  
4 directly concerned on a regular basis with activity of the  
5 agency.

6 (4) For a period of 1 year after leaving office or legisla-  
7 tive employment, a former legislator or legislative assistant  
8 shall not solicit or accept compensation that is not commensurate  
9 with the service performed or that would create in the mind of a  
10 reasonable, objective observer the perception that the stature of  
11 office has been unduly exploited for private gain.

12 (5) For a period of 1 year after leaving legislative office  
13 or legislative employment, a former legislator or legislative  
14 assistant shall not seek or accept a contract for a good or per-  
15 sonal service or other compensation concerning a matter on which  
16 the legislator or legislative assistant worked extensively within  
17 the last year of his or her legislative service.

18 Sec. 165. (1) A legislator shall not engage, either  
19 directly or through another acting on behalf of the legislator,  
20 in conduct that the legislator knows or reasonably should know is  
21 likely to create the belief or impression that the person or the  
22 cause he or she represents will receive more or less favorable  
23 consideration by the legislator or that the person will be given  
24 more or less opportunity to personally state his or her case or  
25 otherwise be benefited or disadvantaged as a direct result of  
26 that person's willingness to provide money for a campaign

1 contribution or a cause favored by the legislator, to provide the  
2 legislator with personal benefits, or political support.

3 (2) A legislator shall not do 1 or more of the following  
4 either directly or through another acting on behalf of the  
5 legislator:

6 (a) Agree to, or threaten to, take or withhold legislative,  
7 administrative, or political action because of a person's deci-  
8 sion to provide or not provide a political contribution to the  
9 legislator.

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

14 (c) Accept a contribution given or offered in violation of a  
15 statute.

16 (3) In addition to any other sanction authorized under this  
17 act to which a person may be subject, a person who violates this  
18 section is guilty of a misdemeanor and is subject to criminal  
19 penalties.

20 Sec. 167. (1) A legislator or legislative employee shall  
21 not engage in an activity that creates a financial conflict of  
22 interest.

23 (2) A legislator or legislative employee shall not engage in  
24 an activity with a person with a substantial interest in legisla-  
25 tive action.

1 (3) A legislator or legislative employee shall not engage in  
2 an activity that creates a close economic association conflict of  
3 interest.

4 (4) The LEC may order cessation of a close economic associa-  
5 tion conflict of interest.

6 (5) Unless a legislator or legislative employee is ordered  
7 by the LEC to cease a specific transaction or relationship or  
8 divestiture is ordered by the LEC, a conflict of interest pro-  
9 scribed by this section shall be publicly disclosed or volun-  
10 tarily restrained, or both.

11 Sec. 169. (1) A legislator or legislative employee shall  
12 avoid a close personal relationship conflict of interest. Unless  
13 a relationship violates a specific legal limitation, a close per-  
14 sonal relationship conflict of interest is not subject to manda-  
15 tory disclosure. If a situation is not reasonably avoidable, a  
16 legislator or legislative employee shall take an affirmative step  
17 to disclose a conflict that is not apparent and refrain, if rea-  
18 sonably possible, from making a decision or taking an action  
19 affected by the conflict.

20 (2) Unless a specific transaction or relationship is banned  
21 by this act or divestiture is ordered by the LEC, a conflict of  
22 interest proscribed by this section shall be publicly disclosed  
23 or voluntarily restrained, or both.

24 Sec. 171. (1) The LEC shall not employ an immediate family  
25 member of a current legislator with or without compensation.

26 (2) The legislature shall not employ an immediate family  
27 member of a legislator for compensation in the legislative house

1 in which the legislator is a member unless the family member was  
2 employed by the legislature at the time of the marriage.

3 (3) An immediate family member of a legislative employee  
4 shall not be employed for compensation in a position over which  
5 the legislative employee has supervisory authority.

6 (4) If an immediate family member of a legislator or legis-  
7 lative employee is uniquely qualified to perform a task or  
8 another extraordinary circumstance exists in which it would be in  
9 the best interest of the state to waive a prohibition in this  
10 section, a waiver may be sought from the LEC under section 125.

11 Sec. 173. (1) A legislator or legislative employee who has  
12 a close economic association or a close personal relationship  
13 with a registered lobbyist shall disclose the relationship in  
14 writing and in confidence to the LEC during the first week of  
15 each legislative session, not more than 30 days after taking  
16 office for a legislator not in office during the first week of  
17 the session, or as soon as reasonably possible, but no more than  
18 45 days after forming a relationship that did not exist during  
19 the first week of the legislative session.

20 (2) The written disclosure required by subsection (1) shall  
21 state the name of the person involved, the nature of the rela-  
22 tionship, and a brief narrative of the matter the legislator or  
23 legislative employee is working on or reasonably might work on in  
24 the future that could create a conflict of interest. The LEC may  
25 request further information that shall be promptly provided.

1 (3) The LEC shall determine whether or not the relationship  
2 creates a conflict of interest that requires a restriction or  
3 disclosure, and may elect to do 1 or more of the following:

4 (a) Keep the matter confidential.

5 (b) Order a restriction in the activity.

6 (c) Order disclosure in the journal of the appropriate house  
7 of the legislature.

8 (4) A legislator or legislative assistant shall not provide  
9 a personal service for compensation for or on behalf of a lobby-  
10 ist or lobbyist agent that regularly engages in lobbying the leg-  
11 islature or a state agency, board, or commission.

12 (5) A legislator or legislative assistant shall not have a  
13 financial interest in a business that receives a substantial part  
14 of its income from a lobbyist or lobbyist agent that regularly  
15 engages in lobbying the legislature or a state agency, board, or  
16 commission.

17 Sec. 175. A legislator or legislative employee shall not  
18 serve on a governing or advisory board of an organization that  
19 regularly has a substantial interest in the legislative, adminis-  
20 trative, or political actions of the legislator or legislative  
21 employee unless the legislator or legislative employee discloses  
22 the relationship and disqualifies himself or herself from any  
23 action relating to the organization's interests.

24 Sec. 177. A legislator or legislative employee shall not  
25 have an equity or ownership interest in a business, investment,  
26 real property, lease, or other enterprise if the interest has a  
27 cost or fair market value of \$25,000.00 or more and the financial

1 interest is likely to be materially affected by a legislative,  
2 administrative, or political action of the legislator or legisla-  
3 tive employee, unless the legislator or legislative employee dis-  
4 qualifies himself or herself from any action relating to the  
5 interest involved.

6       Sec. 179. (1) A legislator or legislative employee shall  
7 not professionally represent a person or entity in a legal action  
8 against the state if the state is the real party in interest, or  
9 receive compensation or anything of value for acting as an infor-  
10 mal representative, adviser, or consultant to a person regarding  
11 an action against the state. This subsection does not prevent a  
12 legislator or legislative employee who is an attorney from repre-  
13 senting a client in a proceeding if the state is not a real party  
14 in interest.

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

23       (3) This section does not prohibit an attorney from repre-  
24 senting a client in an otherwise permissible action before a  
25 criminal or civil court and does not prevent a legislator or leg-  
26 islative employee from representing personal interests in an  
27 otherwise proper proceeding.

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

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

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

18       (7) If the legislator or legislative employee is an attorney  
19 and is disqualified under this section, the firm of the legisla-  
20 tor or legislative employee is also disqualified.

21       (8) If for any reason it is unreasonably difficult to comply  
22 with the restrictions in this section, until January 1, 1996, a  
23 legislator or legislative employee may represent a person in a  
24 proceeding that is prohibited under this section if a statement  
25 that includes all of the following is promptly filed with the LEC  
26 and published in the journal of the appropriate house:

1 (a) The name of the client.

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

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

4 (d) The amount of compensation received or anticipated  
5 relating to the representation.

6 (9) Changes in the statement required by subsection (8)  
7 shall be filed every 90 days until the representation is com-  
8 pleted or January 1, 1996, whichever occurs first.

9 Sec. 181. (1) A legislator or legislative assistant, or an  
10 immediate family member of a legislator or legislative assistant,  
11 may be a party to, or have a financial interest in, a state con-  
12 tract or lease only if 1 or more of the following circumstances  
13 apply:

14 (a) The contract is let through competitive sealed bidding  
15 and the legislator or legislative assistant has filed a statement  
16 that includes all of the information required by this section  
17 with the LEC at the time the bid is made. The statement shall be  
18 made part of the public record and shall be published in the  
19 journal of the appropriate house of the legislature. The state-  
20 ment shall specify the nature of the legislator's or legislative  
21 assistant's personal or immediate family member's interest,  
22 including the percentage or share of the profit to be realized,  
23 and shall certify under penalty of perjury that the legislator or  
24 legislative assistant had or has no access to inside, nonpublic,  
25 or confidential information that reasonably could appear to pro-  
26 vide an advantage, and no contact with a state official involved  
27 in letting the contract regarding the contract that could unduly



1 influence the decision. The LEC may request additional  
2 information that shall be promptly provided by the legislator or  
3 legislative assistant. If the LEC believes that the nature or  
4 circumstances of the contract raises an impermissible conflict of  
5 interest, and if the portion of the contract that pertains to the  
6 legislator or legislative assistant is severable, the LEC may  
7 void that portion of the contract or may order a restriction. If  
8 the LEC believes the nature or circumstances of the contract  
9 raise an impermissible conflict of interest and the portion of  
10 the contract that pertains to the legislator or legislative  
11 assistant is not severable, the LEC may void the contract or may  
12 order a restriction.

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

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

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

1       (3) A legislator or legislative employee may participate in  
2 a state assistance or benefit program or receive a loan from the  
3 state if the program or loan is generally available to a member  
4 of the public, is subject to a fixed objective eligibility stan-  
5 dard, and requires minimal discretion in determining  
6 qualification. The LEC shall annually review state assistance  
7 and benefit programs and loans and designate the programs that  
8 meet the qualifications in this section. If the LEC determines  
9 that the circumstances under which the legislator or legislative  
10 employee participated in a state assistance or benefit program or  
11 received a loan raises an appearance of impropriety or was the  
12 result of unfair or improper influence, the participation in the  
13 state assistance or benefit program or receipt of the loan is a  
14 violation of this act and the LEC may recommend a sanction autho-  
15 rized under this act. A legislator or legislative employee who  
16 participates in a state assistance or benefit program or receives  
17 a loan that does not qualify under this subsection shall file  
18 written reports in the following manner:

19       (a) A legislator or legislative employee shall file a writ-  
20 ten report with the LEC by the first Monday in February of each  
21 year stating the amount of the state benefit, assistance, or loan  
22 received on or before January 15 of that year from a nonqualify-  
23 ing assistance, benefit, or loan program. The LEC shall promptly  
24 compile a list of the statements indicating the assistance, bene-  
25 fit, or loan program and amount received and send it to the pre-  
26 siding officer of each house of the legislature who shall publish  
27 it in the journal within 3 weeks of the date the report was

1 filed. If the LEC requests more information, it shall be  
2 promptly provided.

3 (b) If assistance, benefits, or loan proceeds are received  
4 from a nonqualifying assistance, benefit, or loan program after  
5 January 15, the legislator or legislative employee shall file a  
6 statement with the LEC within 30 days after participation in the  
7 state assistance or benefit program begins or proceeds from the  
8 state loan are received. This statement shall be promptly for-  
9 warded to the presiding officer of the appropriate house of the  
10 legislature who shall have it published in the journal.

11 (4) An annual audit shall be conducted by the auditor gen-  
12 eral or a certified public accountant appointed by the auditor  
13 general of programs identified by the LEC under this section.  
14 The LEC shall determine the scope of the audit. The records of a  
15 state agency to be audited shall be made available to the auditor  
16 general or the appointed certified public accountant. A report  
17 of the audit findings shall be prepared for the LEC. The find-  
18 ings are confidential until the report is released by the LEC.

19 Sec. 183. (1) A legislator or legislative assistant shall  
20 not solicit, accept, or receive, directly or indirectly, anything  
21 of value as a gratuity from a person or entity, except that a  
22 legislator or legislative assistant may accept a gratuity if the  
23 aggregate value is less than \$100.00 from a single source for a  
24 year if the gift is reported to the LEC as to source and amount  
25 and the gratuity is not accepted under a circumstance in which it  
26 could be reasonably inferred that it is intended to influence the  
27 performance of an official duty, action, or judgment.

1 (2) A legislator or legislative assistant may accept  
2 anything of value as a gratuity without regard to the \$100.00  
3 limit under subsection (1) and need not report the gratuity if it  
4 is 1 or more of the following:

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

6 (b) A birthday, wedding, anniversary, and similar ceremonial  
7 gift from a friend if the donor does not have a substantial  
8 interest in the legislative, administrative, or political action  
9 of the recipient.

10 (c) A gift of sample merchandise, a promotional item such as  
11 a pen or calendar, or a token of appreciation such as candy, a  
12 fruit basket, or flowers if the gift is of nominal value, is  
13 given to a customer or a potential customer in the ordinary  
14 course of business, and there is no special fact creating a con-  
15 flict of interest or the appearance of impropriety.

16 (d) An unsolicited award with a value of less than \$100.00.  
17 A more valuable award may be accepted only if the organization  
18 making the award does not have a substantial interest in the leg-  
19 islative, administrative, or political action of the recipient or  
20 the award has been approved by the LEC and the LEC finds the gift  
21 does not create an impermissible conflict of interest.

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

25 (f) Food or foodstuffs indigenous to the state that are  
26 shared generally as a cultural or social norm or a meal or  
27 beverage provided and consumed at a social or fund-raising event,

1 conference, or professional meeting, at a restaurant or club, or  
2 as part of personal hospitality at the residence or place of  
3 business of the host, but does not include either or both of the  
4 following:

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

6       (ii) A restaurant meal not consumed with the person provid-  
7 ing the gift.

8       (g) A gift presented by a representative of a foreign gov-  
9 ernment on behalf of the state, but if it is worth more than  
10 \$100.00, the gift must be turned over to the presiding officer of  
11 either house of the legislature for display in a public area of  
12 the capital or for sale at auction, the proceeds to go to charity  
13 or the general fund. If the gift is worth less than \$100.00, and  
14 it was intended as a personal gift, it may be kept if it is  
15 reported as required in this act.

16       (h) Reasonable and necessary expenses, including reimburse-  
17 ment for travel and related food and lodging, if the expenses are  
18 incidental to a trip paid for by a government agency or a bona  
19 fide nonprofit educational or charitable institution for a gov-  
20 ernment or educational purpose and if lodging expense is limited  
21 to the day preceding and the day or days of the event. If the  
22 institution paying the expenses does not have a substantial  
23 interest in the legislative, administrative, or political action  
24 of the recipient, expenses may also be paid for a spouse or other  
25 companion, including an immediate family member of the legislator  
26 or legislative employee, if the value of the gift is reported on  
27 a required disclosure form.

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

20       (3) A person shall not directly or indirectly provide,  
21 offer, or promise anything of value to a legislator or legisla-  
22 tive employee with the intent to influence legislative, adminis-  
23 trative, or political action.

24       Sec. 185. (1) A legislator or legislative employee shall  
25 not seek, accept, or retain employment, including employment as  
26 an adviser or consultant, that does 1 or more of the following:

1 (a) Makes it unreasonably difficult to fulfill a legislative  
2 obligation.

3 (b) Requires the disclosure or use of nonpublic or confiden-  
4 tial information acquired in the course of legislative service.

5 (c) Requires the improper use of a government relationship  
6 or the authority, prestige, or title associated with legislative  
7 office.

8 (d) Involves a payment that by a reasonable, objective stan-  
9 dard is not commensurate with a service rendered and appears to  
10 involve a premium as a result of the legislator's or legislative  
11 employee's position in the legislature.

12 (e) Requires the legislator or legislative employee under a  
13 conflict of interest and disqualification requirement to refrain  
14 from taking a legislative, administrative, or political action in  
15 a certain situation.

16 (f) Requires the legislator or legislative employee to com-  
17 promise an ethical or legal duty.

18 (2) A legislator or legislative employee shall not receive  
19 compensation for a personal service from a state entity other  
20 than the legislature except as specifically provided or as  
21 approved by the LEC. A legislator or legislative employee is not  
22 precluded by this section from earning compensation at a state  
23 funded school or university if undue influence is not used to  
24 obtain the position.

25 (3) A legislator or legislative employee who accepts other-  
26 wise permissible employment with a person who has a substantial  
27 interest in a legislative, administrative, or political action

1 shall comply with the special disclosure provisions of this act  
2 and shall scrupulously avoid conduct that would lead a reason-  
3 able, objective person to believe that the legislator or legisla-  
4 tive employee is unable or unwilling to exercise independent,  
5 objective, and impartial judgment in considering a matter that  
6 affects an interest of the legislator's or legislative employee's  
7 employer.

8       (4) A legislator or legislative employee shall not accept an  
9 honorarium. If a legislator or legislative employee or his or  
10 her immediate family member uses transportation, obtains lodging,  
11 or consumes food or beverages in connection with an undertaking  
12 in the discharge of the duties of elective office and if the cost  
13 for the transportation, lodging, food, or beverages, or a combi-  
14 nation of the costs is more than \$50.00, and is paid or reim-  
15 bursed by a person other than the legislator or legislative  
16 employee or the house of the legislature in which he or she  
17 serves, the legislator or legislative employee shall report the  
18 name and address of and the amount of costs paid or reimbursed by  
19 that person on a form provided by the secretary of state.

20       Sec. 187. (1) A legislator or legislative employee shall  
21 exercise his or her power and prerogative without prejudice or  
22 favoritism and shall not use public authority to reward, hinder,  
23 or punish a relative, friend, political supporter, or adversary.

24       (2) In addition to any other sanction authorized under this  
25 act to which a person may be subject, a person who violates this  
26 section is guilty of a misdemeanor and is subject to criminal  
27 penalties.



1       Sec. 189. (1) A legislator shall not interfere with the  
2 ability or willingness of a state or municipal governmental body,  
3 official, or employee to use independent judgment in making an  
4 official decision or in taking an appropriate action on the  
5 merits of an issue.

6       (2) A legislator shall not use or appear to use political  
7 influence in a way that is likely to cause another public offi-  
8 cial to consider an inappropriate factor in exercising public  
9 authority. An act either intended to or likely to be construed  
10 as enticement, trade-off, threat, ingratiation, intimidation, or  
11 coercion is improper. Except to assure that a particular person  
12 is being treated fairly according to an established rule or pro-  
13 cedure, a legislator shall not interfere with or seek to influ-  
14 ence 1 or more of the following:

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

17       (b) A decision regarding the commencement, scope, or termi-  
18 nation of an investigatory process of a governmental agency.

19       (c) An action of a governmental agency concerning the grant-  
20 ing or revoking of a license, permit, franchise, or similar  
21 entitlement.

22       (3) This section does not prevent a legislator from doing 1  
23 or more of the following:

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

25       (b) Openly advocating the position of a constituent on the  
26 merits if no effort is made to unduly influence the decision  
27 making process by express or implied political pressure in a

1 matter involving a discretionary decision of an administrative  
2 body that will have direct and significant economic or social  
3 impact on the legislator's district.

4 (c) Exercising vigilant oversight with respect to the  
5 policy, regulation, procedure, or implementation of a practice of  
6 an agency.

7 (4) In addition to any other sanction authorized under this  
8 act to which a person may be subject, a person who violates this  
9 section is guilty of a misdemeanor and is subject to criminal  
10 penalties.

11 Sec. 191. (1) A legislator or legislative assistant shall  
12 disclose a financial, professional, or personal interest that is  
13 likely to create in the mind of a reasonable, objective person  
14 the belief that the legislator or legislative assistant's objec-  
15 tivity and ability to exercise independent judgment in the public  
16 interest have been adversely affected by that interest.

17 (2) A legislator shall disclose to the LEC, on a form and  
18 within a time frame prescribed by the LEC, detailed information  
19 on the source and amount of income received by the legislator. A  
20 legislator shall not transfer or direct income to a person,  
21 including a spouse or dependent, with the intent of avoiding dis-  
22 closure of that income.

23 (3) A legislator or legislative assistant shall file with  
24 the LEC the report of the information required by this section.  
25 The LEC shall adopt filing guidelines and develop forms to imple-  
26 ment this section.

1       Sec. 193. (1) For category A income, a legislator shall  
2 file a sworn statement with the LEC disclosing all of the  
3 following:

4       (a) For income that is not a gratuity, the name and address  
5 of the source, a brief statement describing the nature of the  
6 service performed including sufficient detail to permit the LEC  
7 to determine if the nature of the work created a conflict of  
8 interest, and the amount paid.

9       (b) For income that is a gratuity that is required to be  
10 reported under section 183(2)(a), (g), (h), or (i), the name and  
11 address of the person providing the gratuity, a brief description  
12 of the nature of the gratuity, and a good faith statement of the  
13 fair market value of the gratuity. If an exact value is not  
14 known, a reasonable good faith estimate is acceptable. A loan  
15 that was forgiven during the period shall be reported as a  
16 gratuity.

17       (c) For a reimbursement for expenses aggregating more than  
18 \$100.00 in a calendar year, the name and address of the source  
19 and the amount paid.

20       (d) For each loan or loan guarantee yielding loan proceeds  
21 of at least \$100.00 in the reporting period if the lender or  
22 guarantor is a person with a substantial interest in legislative,  
23 administrative, or political actions, the name and address of the  
24 person making the loan or guarantee, the amount of the loan, the  
25 terms and conditions under which the loan or guarantee was given,  
26 the amount outstanding at the time of filing, and whether or not  
27 a written loan agreement exists.

1 (e) If the source of reported category A income is a  
2 corporation, the name of the parent corporation, if any, and  
3 names of the top corporate officers.

4 (f) If the source of category A income is a partnership or  
5 association doing business under a fictitious name, the names of  
6 the principals of the partnership or association.

7 (2) The LEC shall review a category A statement to determine  
8 if an impermissible conflict of interest exists or if a special  
9 order or restriction is required.

10 (3) A category A statement shall be made available for  
11 public inspection and is a public record.

12 Sec. 195. (1) A legislator shall file a statement for cate-  
13 gory B income conforming to the requirements of section 193,  
14 except that for income, an expense reimbursement, a loan, or a  
15 loan guarantee, only those income sources of \$1,000.00 or more  
16 shall be listed. However, listing of unearned income received as  
17 a beneficiary or as a result of a power of appointment or earned  
18 income received as a trustee from a living or testamentary trust  
19 established by an immediate family member is not required.

20 (2) The LEC shall review a category B statement to determine  
21 if an impermissible conflict of interest exists, if a special  
22 order or restriction is required, or if the statement is exempt  
23 from disclosure under section 13 of the freedom of information  
24 act, Act No. 442 of the Public Acts of 1976, being section 15.243  
25 of the Michigan Compiled Laws.

26 (3) If the person filing the statement is a legislator, the  
27 statement is presumptively public and shall be made part of the

1 public record unless the legislator submitting it requests that  
2 it or part of it be kept confidential, states the reason for the  
3 request, and the LEC finds that no valid public purpose would be  
4 advanced by publication.

5       Sec. 197. (1) A legislator or legislative employee shall  
6 file a statement with the LEC disclosing a close economic associ-  
7 ation or a close personal relationship, and shall file the spe-  
8 cial statement required with respect to a lobbyist relationship  
9 in section 173(1).

10       (2) The statement required by this section shall be filed  
11 during the first week of each legislative session, not later than  
12 30 days after taking office for each legislator not in office or  
13 legislative employee not employed during the first week of the  
14 session, or as soon as reasonably possible, but not later than 45  
15 days after forming a relationship that did not exist during the  
16 first week of the legislative session.

17       (3) The LEC shall determine whether the relationship creates  
18 a conflict of interest that requires a restriction or disclosure  
19 and may elect to keep the matter confidential, to order some  
20 restriction in the activity, or to order disclosure in the jour-  
21 nal of the appropriate house of the legislature. If written dis-  
22 closure is ordered, the written disclosure shall include all of  
23 the following:

24       (a) The name of the person or entity involved.

25       (b) The nature of the relationship.

26       (c) A brief narrative of the matter that has or could create  
27 a conflict of interest.

1 (d) Any further information that the LEC requests.

2 Sec. 199. (1) A legislator shall request that an employer  
3 that is a category A income source to a legislator file, and the  
4 employer shall file, in a time frame and on a form prescribed by  
5 the LEC, a statement made under penalty of perjury that contains  
6 both of the following:

7 (a) A declaration of whether the employer, or a parent com-  
8 pany, officer, or individual stockholder with at least a 20%  
9 equity in the company of the employer, has had a substantial  
10 interest in legislative, administrative, or political actions  
11 during the reporting period.

12 (b) A brief narrative of the nature of the relationship of  
13 the employer with the legislator or legislative assistant, the  
14 terms of compensation, and the amount paid during the reporting  
15 period.

16 (2) A legislator shall request that an employer that is a  
17 category B income source file, and the employer shall file, a  
18 statement only if the total compensation paid a legislator is  
19 \$1,000.00 or more during the reporting period. The employer  
20 shall file the statement under penalty of perjury and shall  
21 include a brief narrative of the nature of the relationship with  
22 the legislator or legislative assistant, the terms of compensa-  
23 tion, and the amount paid during the reporting period.

24 (3) A legislator or legislative assistant shall assure that  
25 an employer has the forms necessary and is informed of the obli-  
26 gation to file a statement under this section.

1       (4) An employer shall file the original form with the LEC no  
2 later than April 1 of each year, and not later than 30 days  
3 before the legislator or legislative assistant is required to  
4 file the financial disclosure forms required by this act. The  
5 employer shall contemporaneously provide a copy of the form to  
6 the legislator when the employer files the form with the LEC.

7       Sec. 201. (1) A legislator or legislative employee shall  
8 comply with the open meetings act, Act No. 267 of the Public Acts  
9 of 1976, being sections 15.261 to 15.275 of the Michigan Compiled  
10 Laws, and exercise the authority of his or her office openly so  
11 that the public is informed about governmental decisions and the  
12 citizenry can hold him or her accountable for his or her  
13 actions.

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

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

25       Sec. 203. (1) A legislator or legislative employee shall  
26 maintain the integrity and trustworthiness of government by  
27 preventing an unethical practice, unlawful conduct, corruption,

1 mismanagement, waste of public funds, danger to public safety, or  
2 any other abuse of public position, authority, or resource.

3       (2) A legislator or legislative employee who has a good  
4 faith reasonable belief that the public interest requires the  
5 disclosure of a governmental policy or action thought to be  
6 unlawful or improper shall reveal that information to the appro-  
7 priate authority.

8       (3) A legislator or legislative employee shall not, directly  
9 or indirectly, subject a person to reprisal, retaliation, harass-  
10 ment, discrimination, or ridicule for reporting to the LEC or  
11 other government entity, conduct the person reasonably believes  
12 is a violation of this act or other state law. A legislative  
13 employee who is discharged, disciplined, involuntarily trans-  
14 ferred, or otherwise penalized by a legislator or legislative  
15 employee is protected by the whistleblowers' protection act, Act  
16 No. 469 of the Public Acts of 1980, being sections 15.361 to  
17 15.369 of the Michigan Compiled Laws.

18       Sec. 205. The LEC shall develop and oversee all of the fol-  
19 lowing components of a comprehensive ethics education program:

20       (a) Publish an ethics education manual.

21       (b) Establish an education advisory committee.

22       (c) Design and implement a legislative orientation training  
23 course, a current issues and applications seminar, and a lobbyist  
24 training course.

25       Sec. 207. (1) The LEC shall prepare and publish a legisla-  
26 tive ethics manual that contains all ethics statutes, rules and  
27 regulations, and related information, including a detailed



1 explanation of technical and specific legal requirements and the  
2 underlying purpose and ethical principle that comprise the  
3 "spirit" of these requirements. The manual shall include realis-  
4 tic examples with recommended actions and questions and answers  
5 regarding common problems and situations.

6 (2) The LEC shall issue a revised and updated version of the  
7 manual not later than 30 days after the commencement of each leg-  
8 islative session. The manual shall be distributed to all legis-  
9 lators, legislative employees, and registered lobbyists, and be  
10 available to the public.

11 Sec. 209. (1) The LEC chairperson shall create an education  
12 advisory committee and shall appoint 5 members to the committee  
13 including at least 2 members of the LEC, a legislator, and a leg-  
14 islative employee. The education advisory committee may also  
15 include an outside expert in the field of ethics.

16 (2) The education advisory committee shall oversee the  
17 implementation of, and recommend the content for, all of the fol-  
18 lowing ethics education programs:

19 (a) Legislative orientation training course as described in  
20 subsection (3).

21 (b) Current issues and applications seminar as described in  
22 subsection (4).

23 (c) Lobbyist training course as described in  
24 subsection (5).

25 (3) In 1996 and each year after 1996, the LEC shall conduct  
26 a mandatory legislative ethics orientation training course for

1 all legislators and legislative employees, to which all of the  
2 following apply:

3 (a) Unless otherwise decided by the LEC, in years after  
4 1996, a legislator or a legislative employee who has not previ-  
5 ously attended shall attend the course in January.

6 (b) The education advisory committee shall determine the  
7 specific content of the course. The course shall highlight the  
8 principles of public service ethics and the intent of ethics  
9 laws, including their application to practical situations. The  
10 course shall include the study of all of the following:

11 (i) Ethics laws and policies.

12 (ii) Technical and specific legal requirements for legisla-  
13 tors and legislative employees.

14 (iii) The underlying purpose and ethical principles of all  
15 ethics laws, internal rules, policies, and related regulations.

16 (c) The LEC shall offer separate sessions of the course for  
17 legislators and for legislative employees, and shall offer as  
18 many sessions as necessary to accommodate the number of people  
19 required to take the course.

20 (4) In 1996 and each year after 1996, the LEC shall conduct  
21 a mandatory current issues and applications seminar for all leg-  
22 islators and legislative employees who have previously completed  
23 the legislative ethics orientation training course, to which all  
24 of the following apply:

25 (a) The education advisory committee shall determine the  
26 specific content of the seminar. The seminar shall include an  
27 overview of all substantive changes in the law relating to ethics

1 including amendments, revisions, and new ethics advisory  
2 opinions. The seminar shall include discussions on problem solv-  
3 ing skills, practical ethical issues likely to confront a legis-  
4 lator or legislative employee, and the underlying principles of  
5 public service ethics.

6 (b) The LEC shall offer separate sessions of the course for  
7 legislators and for legislative employees and offer as many ses-  
8 sions as necessary to accommodate the number of people required  
9 to take the seminar.

10 (5) In 1996 and each year after 1996, the LEC shall conduct  
11 and make available a training course for lobbyists, to which all  
12 of the following apply:

13 (a) The education advisory committee shall determine the  
14 specific content of the training course. The training course  
15 shall include a review of all ethics statutes, the rules and reg-  
16 ulations relating to appropriate lobbyist conduct, and the prin-  
17 ciples of public service ethics.

18 (b) The LEC shall update the training course at least  
19 annually.

20 (c) A reasonable fee may be charged by the LEC for  
21 attendance at the training course.

22 Sec. 211. (1) The LEC shall do all of the following:

23 (a) Assure the continued implementation, improvement, and  
24 modification of the ethics education program.

25 (b) Develop procedures to assure the attendance of, and  
26 course completion by, all legislators and legislative employees,  
27 including procedures to review requests for exemptions.

1 (c) Assure the attendance of legislative employees who are  
2 not in, and are unable to travel to, the state capital by offer-  
3 ing the programs by teleconference, distributing videotapes to  
4 the employees, or arranging to have employees travel to a site  
5 where a live or teleconference course is available.

6 (2) The LEC may recommend a sanction, including suspension  
7 of pay or dismissal of a legislative employee or a recommendation  
8 for disciplinary action for a legislator, against a legislator or  
9 legislative employee who fails to complete the ethics education  
10 requirement within a reasonable amount of time as determined by  
11 the LEC.

12 (3) The LEC shall supply the senate majority leader and  
13 speaker of the house of representatives with the name of a legis-  
14 lator or legislative employee who has not complied with the  
15 ethics education requirement.

16 (4) The LEC shall publicize the education programs and offer  
17 them at convenient times and locations.

18 Sec. 213. The LEC shall promulgate rules necessary to  
19 administer this act under the administrative procedures act of  
20 1969, Act No. 306 of the Public Acts of 1969, being sections  
21 24.201 to 24.328 of the Michigan Compiled Laws.

22 Sec. 215. (1) The attorney general or, upon failure of the  
23 attorney general to bring an action within 60 days after a writ-  
24 ten request to do so, any citizen may bring a civil action for a  
25 violation of this act.

26 (2) The right to proceed in a separate civil suit under this  
27 section is independent of any proceeding conducted by the LEC

1 but, to the extent that a civil fine is ordered for any offense,  
2 a person shall be fined \$5,000.00 for each offense or twice the  
3 amount improperly gained by the misconduct, whichever is less.

4 (3) Information acquired by the LEC shall be made available,  
5 on request, to litigants in the civil action provided the release  
6 of the information does not jeopardize an action before the LEC,  
7 cause unfair prejudice to the person accused, or violate a legal  
8 obligation of confidentiality.

9 (4) When paid, a civil fine that is ordered under this act  
10 shall be submitted to the state treasurer for deposit in the gen-  
11 eral fund.

12 Sec. 217. (1) Separate criminal or civil proceedings, or  
13 both, may be instituted against a person whose conduct violates  
14 this act without regard for the pendency before or resolution by  
15 the LEC of a complaint against that person whether or not the  
16 complaint arises from the same or related conduct.

17 (2) Information acquired by the LEC shall be made available,  
18 on request, to the defendant and prosecutor in a criminal action  
19 if the release of the information does not prejudice the person  
20 accused or violate a legal obligation of confidentiality.

21 Sec. 219. This act shall take effect April 1, 1996.