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ELECTIONS/LICENSING
SECRETARY OF STATE

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Be it enacted by the People of the State of Colorado:

The constitution of the state of Colorado is amended BY THE ADDITION OF A NEW ARTICLE:

Article XXIX
Ethics in Government

Section 1. Purposes and Findings

The people of the state of Colorado hereby find and declare that the conduct of public officers, members of the general assembly, local government officials and government employees must hold the respect and confidence of the people; that they shall carry out their duties for the benefit of the people of the state; that they must, therefore, avoid conduct which is in violation of their public trust or which creates a justifiable impression among the public that such trust is being violated; that any effort to realize personal financial gain through public office other than compensation provided by law is a violation of that trust; that to ensure propriety and to preserve public confidence, they must have the benefit of specific standards to guide their conduct, and of a penalty mechanism to enforce those standards. The people of the state of Colorado also find and declare that there are certain costs associated with holding public office and that to ensure the integrity of the office and to comply with this article, such costs of a reasonable and necessary nature should be born by the State or local jurisdiction.

Section 2. Definitions

“Government Employee” means any employee, including independent contractors, of the state executive branch, the state legislative branch, a state agency, a public university, or any local government, except a member of the general assembly or a public officer.

“Local government official” means an elected or appointed official of a local government but does not include an employee of a local government.

“Professional lobbyist” means any individual who engages or is engaged by any other person for pay or for any consideration for lobbying. “Professional lobbyist” does not include any volunteer lobbyist, any state official or employee acting in his official capacity, except as provided in section 24-6-303.5, C.R.S., or any successor section, any elected public official acting in his official capacity, or any individual who appears as counsel or advisor in an adjudicatory proceeding.

“Public officer” means any state officer, including all statewide elected officeholders, the head of any department of the executive branch, and elected and appointed members of state boards and commissions. Public officer does not include a member of the general

assembly, a member of the judiciary, any local government official, or any member of a board, commission, council or committee who receives no compensation other than a per diem allowance or necessary and reasonable expenses.

Section 3. Gift Ban

(1) No public officer, member of the general assembly, local government official, or government employee, either directly or indirectly as a beneficiary of a thing of value given to a spouse or dependent child, shall accept or receive any money, forbearance, or forgiveness of indebtedness from any person, without the person receiving lawful consideration of equal or greater value in return.

(2) No public officer, member of the general assembly, local government official, or government employee, either directly or indirectly as the beneficiary of a thing of value given to a spouse or dependent child, shall solicit, accept or receive any gift or other thing of value having either a fair market value or aggregate actual cost greater than fifty (\$50) in any calendar year, including but not limited to, gifts, loans, rewards, promises or negotiations of future employment, favors or services, honoraria, travel, entertainment, or special discounts, from a single person, without the person receiving lawful consideration of equal or greater value in return. This section does not apply to the salary paid in the normal course of employment, nor to any gift or other thing of value paid for by the State or a local jurisdiction.

(3) The prohibitions in subsections (1) and (2) of this section do not apply if the gift or thing of value is:

- (a) a campaign contribution as defined by law;
- (b) an unsolicited item of trivial value less than twenty-five dollars (\$25), such as a pen, calendar, plant, book, note pad or other similar item;
- (c) an unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;
- (d) unsolicited informational material, publications, or subscriptions related to the recipient's performance of official duties;
- (e) admission to, and the cost of food or beverages consumed at, a reception, meal or meeting by an organization before whom the recipient appears to speak or to answer questions as part of a scheduled program;
- (f) reasonable expenses paid by a non-profit organization or other government for attendance at a convention, fact-finding mission or trip, or other meeting if the person is scheduled to deliver a speech, make a presentation, participate on a panel, or represent the State or local jurisdiction, provided that the non-profit organization receives less than five percent (5%) of its funding from for-profit organizations or entities;
- (g) given by an individual who is a relative or personal friend of the recipient, unless that individual is a professional lobbyist.

(4) Notwithstanding any provisions of this section to the contrary, and excepting campaign contributions as defined by law, no professional lobbyist, personally or on behalf of any other person or entity, shall knowingly offer, give, or arrange a gift, to any public officer, member of the general assembly, local government official, or government employee, or to a member of such person's immediate family, any gift or thing of value, of any kind or nature, nor knowingly pay for any meal, beverage, or other item to be consumed by such public officer, member of the general assembly, local government official or government employee, whether or not such gift or meal, beverage or other item to be consumed is offered, given or paid for in the course of such lobbyist's business or in connection with a personal or social event; provided, however, that a professional lobbyist shall not be prohibited from offering or giving to a public officer, member of the general assembly, local government official or government employee who is a member of his or her immediate family any such gift, thing of value, meal, beverage or other item.

(5) The general assembly shall make any conforming amendments to the reporting and disclosure requirements of sections 24-6-203 and 24-6-302, C.R.S., or to any successor sections, to comply with the requirements set forth in this section.

(6) The fifty dollar (\$50) limit set forth in subsection (2) of this section shall be adjusted by an amount based upon the percentage change over a four year period in the United States bureau of labor statistics consumer price index for Denver- Boulder-Greeley, all items, all consumers, or its successor index, rounded to the nearest lowest dollar. The first adjustment shall be done in the first quarter of 2011 and then every four years thereafter.

Section 4. Independent Ethics Commission.

(1) There is hereby created an independent ethics commission to be composed of five members. The purpose of the independent ethics commission shall be to hear complaints, issue findings, and assess penalties, and also to issue advisory opinions, on ethical issues arising under this article and under sections 24-18-101 et seq., 24-6-203, 24-6-302, C.R.S., or any successor sections. The independent ethics commission shall have authority to adopt such reasonable rules and regulations as may be necessary for the purpose of administering and enforcing the provisions of this article, and of sections 24-18-101 et seq., 24-6-203, 24-6-302, C.R.S., or any successor sections.

(2) Members of the independent ethics commission shall be appointed in the manner prescribed in this subsection. First, one member shall be appointed by the Colorado Senate; second, one member shall be appointed by the Colorado House of Representatives; third, one member shall be appointed by the Governor of the State of Colorado; fourth, one member shall be appointed by the Chief Justice of the Colorado Supreme Court; and finally, the fifth member shall be either a local government official or a local government employee appointed by the affirmative vote of at least three of the

four previously appointed members of the commission. No more than two members may be affiliated with the same political party. Each of the five members must be registered Colorado voters and must have been continuously registered with the same political party, or continuously unaffiliated with any political party, for at least two years prior to appointment to the commission. Members of the independent ethics commission shall be appointed to terms of four years; however, the first member appointed by the Colorado Senate and the first member appointed by the Governor of the State of Colorado shall initially serve two year terms to achieve staggered ending dates. If a member is appointed to fill an unexpired term, that member's term shall end at the same time as the term of the person being replaced. Each member shall continue to serve until a successor has been appointed.

(3) Any person may file a written complaint with the independent ethics commission asking whether a public officer, member of the general assembly, local government official, or government employee has failed to comply with this article or any provision under sections 24-18-101 et seq., 24-6-203, 24-6-302, C.R.S., or any successor sections. The commission may dismiss frivolous complaints without conducting a public hearing. The commission shall conduct a public hearing and render findings on each non-frivolous complaint pursuant to written rules adopted by the commission. The commission may assess penalties for violations as prescribed by this article and provided by law.

(4) Members of the independent ethics commission shall have the power to subpoena documents and to subpoena witnesses to make statements and produce documents.

(5) Any current or future public officer, member of the general assembly, local government official, or government employee may submit a written request to the independent ethics commission for an advisory opinion on whether any conduct by that person would constitute a violation of this article or sections 24-18-101 et seq., 24-6-203, 24-6-302, C.R.S., or any successor sections. The commission shall render an advisory opinion pursuant to written rules adopted by the commission.

Section 5. Penalty

Any public officer, member of the general assembly, local government official or government employee who breaches the public trust for private gain and any person or entity inducing such breach shall be liable to the State or local jurisdiction for double the amount of the financial equivalent of any benefits obtained by such actions. The manner of recovery and additional damages may be provided by law.

Section 6. Counties and Municipalities.

Any county or municipality may adopt ordinances or charter provisions with respect to ethics matters that are more stringent than any of the provisions contained in this article.

The requirements of this article shall not apply to home rule counties or home rule municipalities that have adopted charters, ordinances, or resolutions that address the matters covered by this article.

Section 7. Conflicting provisions declared inapplicable.

Any provisions in the statutes of this state in conflict or inconsistent with this article are hereby declared to be inapplicable to the matters covered and provided for in this article.

Section 8. Applicability and effective date.

The provisions of this article shall take effect on January 1, 2007 and be applicable thereafter. Legislation may be enacted to facilitate the operation of this article, but in no way shall such legislation limit or restrict the provisions of this article or the powers herein granted.

Section 9. Severability.

If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.