

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0259.01 Bob Lackner x4350

HOUSE BILL 12-1070

HOUSE SPONSORSHIP

Peniston,

SENATE SPONSORSHIP

(None),

House Committees
State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE MODIFICATION OF STATUTORY PROVISIONS**
102 **GOVERNING THE ETHICAL CONDUCT OF PERSONS INVOLVED IN**
103 **GOVERNMENT FOR THE PURPOSE OF HARMONIZING SUCH**
104 **PROVISIONS WITH SECTION 3 (5) OF ARTICLE XXIX OF THE**
105 **STATE CONSTITUTION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill makes modifications to statutory provisions concerning

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

the reporting of gifts and honoraria, lobbyist disclosure, the statutory rules of conduct for governmental officials and employees, and campaign contributions to members of the general assembly and the governor during the regular legislative session to harmonize those provisions with the requirements of article XXIX of the state constitution, which article is more familiarly known and referred to as "Amendment 41".

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 24-6-203, **amend** (1)
3 (b) (I), (1) (c), (2), (3), (3.5) (a) introductory portion, (3.5) (b), (3.5)
4 (c), (3.7), and (4); **repeal** (1) (b) (II) (E) and (1) (b) (III); and **add** (8) as
5 follows:

6 **24-6-203. Reporting by incumbents and elected candidates -**
7 **gifts, honoraria, and other benefits - prohibition on monetary gifts -**
8 **penalty - definitions.** (1) (b) (I) As used in this section, the term "public
9 office" means any office voted for in this state at any election. "PUBLIC
10 OFFICE" INCLUDES, WITHOUT LIMITATION, THE GOVERNOR, LIEUTENANT
11 GOVERNOR, SECRETARY OF STATE, ATTORNEY GENERAL, AND STATE
12 TREASURER; A MEMBER OF THE GENERAL ASSEMBLY OR THE STATE BOARD
13 OF EDUCATION; A REGENT OF THE UNIVERSITY OF COLORADO; A JUDGE ON
14 THE COLORADO COURT OF APPEALS OR THE COLORADO SUPREME COURT;
15 A DISTRICT ATTORNEY; OR AN OFFICER OF A COUNTY, MUNICIPALITY, CITY
16 AND COUNTY, SCHOOL DISTRICT, OR ANY ELECTIVE OFFICE WITHIN A
17 SPECIAL DISTRICT FOR WHICH THE ANNUAL COMPENSATION EXCEEDS
18 SIXTEEN HUNDRED DOLLARS.

19 (II) "Public office" does not include:

20 (E) ~~Any elective office within a special district for which the~~
21 ~~annual compensation is less than twelve hundred dollars.~~

22 (III) ~~"Public office" includes the office of governor, lieutenant~~

1 ~~governor, secretary of state, attorney general, state treasurer, state board~~
2 ~~of education, regents of the university of Colorado, the Colorado court of~~
3 ~~appeals, or the supreme court of Colorado.~~

4 (c) As used in this section, "~~statewide elected office~~" "COVERED
5 STATE OFFICE" means the ~~office of~~ governor, lieutenant governor,
6 secretary of state, attorney general, state treasurer, ~~members~~ A MEMBER
7 of the state board of education, ~~regents~~ A REGENT of the university of
8 Colorado, ~~members~~ A MEMBER of the general assembly, or A district
9 ~~attorneys~~ ATTORNEY.

10 (2) Every incumbent in or candidate elected to public office who
11 receives from any other person any item described in subsection (3) of
12 this section in connection with the incumbent's or elected candidate's
13 public service shall file with the appropriate officer, on or before January
14 15, April 15, July 15, and October 15 of each year, a report covering the
15 period since the last report. THE REQUIREMENT OF THIS SUBSECTION (2)
16 PERTAINING TO THE REPORT DUE JANUARY 15 SHALL EXTEND TO AN
17 INCUMBENT LEAVING PUBLIC OFFICE BETWEEN OCTOBER 15 AND JANUARY
18 15, WHO SHALL FILE WITH THE APPROPRIATE OFFICER BY JANUARY 15 A
19 REPORT THAT COVERS ANY ITEMS RECEIVED DURING THE PERIOD SINCE
20 THE LAST REPORT. Such report shall be on forms prescribed by the
21 secretary of state and shall contain, at a minimum, the name of the person
22 from whom the item was received and the amount or value and the date
23 of receipt. The secretary of state shall furnish such forms to municipal
24 clerks, to county clerk and recorders, and to incumbents and elected
25 candidates for state offices and district offices of districts greater than a
26 county free of charge for use by incumbents and elected candidates
27 required to file such forms. If any incumbent in or candidate elected to

1 public office does not receive any such item, he or she shall not be
2 required to file such report.

3 (3) The reports required by subsection (2) of this section shall
4 include the following:

5 (a) IN THE CASE OF A CANDIDATE ELECTED TO PUBLIC OFFICE WHO
6 IS NOT AN INCUMBENT AND HAS NOT YET BEEN SWORN INTO SUCH OFFICE
7 AND subject to the requirements of subsection (3.5) of this section, any
8 money, including but not limited to a loan, pledge, or advance of money
9 or a guarantee of a loan of money, OR ANY FORBEARANCE OR
10 FORGIVENESS OF INDEBTEDNESS FROM ANY PERSON, with a value of
11 ~~twenty-five~~ GREATER THAN FIFTY-THREE dollars; ~~or more;~~

12 (b) IN THE CASE OF A CANDIDATE ELECTED TO PUBLIC OFFICE WHO
13 IS NOT AN INCUMBENT AND HAS NOT YET BEEN SWORN INTO SUCH OFFICE
14 AND subject to the requirements of subsection (3.5) of this section, any
15 gift of any item of real or personal property, other than money, with a
16 value of ~~fifty~~ GREATER THAN FIFTY-THREE dollars; ~~or more;~~

17 (c) IN THE CASE OF A CANDIDATE ELECTED TO PUBLIC OFFICE WHO
18 IS NOT AN INCUMBENT AND HAS NOT YET BEEN SWORN INTO SUCH OFFICE,
19 any loan of any item of real or personal property, other than money, if the
20 value of the loan is ~~fifty~~ GREATER THAN FIFTY-THREE dollars. ~~or more.~~ For
21 such purpose, the "value of the loan" means the cost saved or avoided by
22 the ~~incumbent~~ or elected candidate by not borrowing, leasing, or
23 purchasing comparable property from a source available to the general
24 public.

25 (d) Any payment for a speech, appearance, or publication;

26 (e) IN THE CASE OF A CANDIDATE ELECTED TO PUBLIC OFFICE WHO
27 IS NOT AN INCUMBENT AND HAS NOT YET BEEN SWORN INTO SUCH OFFICE,

1 tickets to sporting, recreational, educational, or cultural events with a
2 value of ~~fifty~~ GREATER THAN FIFTY-THREE dollars ~~or more~~ for any single
3 event; ~~or a series of tickets to sporting events of a specific team scheduled~~
4 ~~during a season with a total value of one hundred dollars or more, or a~~
5 ~~series of tickets to cultural events of a specific performing company or~~
6 ~~organization with a total value of one hundred dollars or more;~~

7 (f) Payment of or reimbursement for actual and necessary
8 expenditures for travel and lodging for attendance at a convention, ~~or~~
9 ~~other meeting at which the incumbent or elected candidate is scheduled~~
10 ~~to participate~~ FACT-FINDING MISSION OR TRIP, OR OTHER MEETING THAT
11 THE INCUMBENT OR ELECTED CANDIDATE WHO HAS BEEN SWORN INTO
12 PUBLIC OFFICE IS PERMITTED TO ACCEPT OR RECEIVE IN ACCORDANCE WITH
13 THE PROVISIONS OF SECTION 3 OF ARTICLE XXIX OF THE STATE
14 CONSTITUTION, unless the payment of or reimbursement for such
15 expenditures is made from public funds OF A STATE OR LOCAL
16 GOVERNMENT ~~IN THE CASE OF AN INCUMBENT OR ELECTED CANDIDATE~~
17 ~~SUBJECT TO THE PROVISIONS OF SAID ARTICLE~~ or from the funds of any
18 association of public officials or public entities whose membership
19 includes the incumbent's or elected ~~candidate's office or the governmental~~
20 ~~entity in which such office is held;~~

21 (g) SUBJECT TO THE PROVISIONS OF SECTION 3 OF ARTICLE XXIX
22 OF THE STATE CONSTITUTION, any gift of a meal to a fund-raising event of
23 a political party;

24 (h) Payment of or reimbursement for actual and necessary
25 expenses for travel ~~board~~ and lodging ~~from an~~ FOR ATTENDANCE AT A
26 CONVENTION, FACT-FINDING MISSION OR TRIP, OR OTHER MEETING THAT
27 IS FROM AN organization declared to be a joint governmental agency by

1 section 2-3-311, C.R.S.

2 (3.5) (a) Each incumbent in or candidate elected to ~~statewide~~
3 ~~elected~~ COVERED STATE office is prohibited from knowingly receiving or
4 accepting from any other person, in connection with the public service of
5 the incumbent or elected candidate:

6 (b) Nothing in paragraph (a) of this subsection (3.5) shall be
7 construed to prohibit an incumbent or elected candidate from receiving
8 a salary or other compensation paid to the incumbent or elected candidate
9 in connection with the performance of his or her official duties, including,
10 without limitation, payment for a speech, appearance, or publication or
11 payment of or reimbursement for actual and necessary expenditures for
12 travel and lodging ~~as provided by law, including scholarships for~~
13 ~~conferences~~ TO THE EXTENT THE INCUMBENT OR ELECTED CANDIDATE
14 WHO HAS BEEN SWORN INTO PUBLIC OFFICE IS PERMITTED TO ACCEPT OR
15 RECEIVE SUCH ITEMS IN ACCORDANCE WITH THE PROVISIONS OF SECTION
16 3 OF ARTICLE XXIX OF THE STATE CONSTITUTION.

17 (c) For purposes of this subsection (3.5), an "in-kind gift" means
18 any gift of equipment, goods, supplies, property, services, or anything
19 else, the value of which exceeds fifty dollars in the aggregate in any one
20 calendar year, given, directly or indirectly, to an incumbent in or
21 candidate elected to ~~statewide-elected~~ COVERED STATE office for the
22 purpose of defraying any expenses related to the official duties
23 undertaken by the incumbent or elected candidate.

24 (3.7) Notwithstanding any other provision of this section, no
25 incumbent in or candidate elected to ~~statewide-elected~~ COVERED STATE
26 office shall accept a gift of any money from any person who is a
27 professional or volunteer lobbyist or from a corporation or labor

1 organization.

2 (4) The reports required by subsection (2) of this section need not
3 include the following:

4 (a) A contribution or contribution in kind that has already been
5 reported pursuant to section 1-45-108, C.R.S.;

6 (b) ~~Any item of perishable or nonpermanent value, including but~~
7 ~~not limited to meals, unless such item is required to be reported under~~
8 ~~paragraph (e) or (g) of subsection (3) of this section~~ UNSOLICITED ITEM OF
9 TRIVIAL VALUE AS DESCRIBED IN SECTION 3 (3) (b) OF ARTICLE XXIX OF
10 THE STATE CONSTITUTION;

11 (c) ~~A nonpecuniary award publicly presented by an organization~~
12 ~~in recognition of public service~~ AN UNSOLICITED TOKEN OR AWARD OF
13 APPRECIATION AS DESCRIBED IN SECTION 3 (3) (c) OF ARTICLE XXIX OF
14 THE STATE CONSTITUTION;

15 (d) Payment of or reimbursement for actual and necessary
16 expenditures for travel and lodging for attendance at a convention, ~~or~~
17 ~~other meeting at which the incumbent or elected candidate is scheduled~~
18 ~~to participate~~ FACT-FINDING MISSION OR TRIP, OR OTHER MEETING THAT
19 THE INCUMBENT OR ELECTED CANDIDATE IS PERMITTED TO ACCEPT OR
20 RECEIVE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 3 OF ARTICLE
21 XXIX OF THE STATE CONSTITUTION, if the payment of or reimbursement
22 for such expenditures is made from public funds OF A STATE OR LOCAL
23 GOVERNMENT IN THE CASE OF AN INCUMBENT OR ELECTED CANDIDATE
24 SUBJECT TO THE PROVISIONS OF SAID ARTICLE or from the funds of any
25 association of public officials or public entities whose membership
26 includes the incumbent's or elected candidate's office or the governmental
27 entity in which such office is held;

1 (e) Payment of salary from employment, including other
2 government employment, in addition to that earned from being a member
3 of the general assembly or by reason of service in other public office;

4 (f) EXCEPT AS OTHERWISE DESCRIBED IN THIS SUBSECTION (4),
5 ANY OTHER GIFT OR THING OF VALUE AN INCUMBENT OR ELECTED
6 CANDIDATE WHO HAS BEEN SWORN INTO PUBLIC OFFICE IS PERMITTED TO
7 SOLICIT, ACCEPT, OR RECEIVE IN ACCORDANCE WITH THE PROVISIONS OF
8 SECTION 3 OF ARTICLE XXIX OF THE STATE CONSTITUTION.

9 (8) THE AMOUNT OF THE GIFT LIMIT SPECIFIED IN SUBSECTION (3)
10 OF THIS SECTION, SET AT FIFTY-THREE DOLLARS AS OF THE EFFECTIVE
11 DATE OF THIS SUBSECTION (8), SHALL BE IDENTICAL TO THE AMOUNT OF
12 THE GIFT LIMIT UNDER SECTION 3 OF ARTICLE XXIX OF THE STATE
13 CONSTITUTION, AND SHALL BE ADJUSTED FOR INFLATION
14 CONTEMPORANEOUSLY WITH ANY ADJUSTMENT OF THE CONSTITUTIONAL
15 GIFT LIMIT PURSUANT TO SECTION 3 (6) OF ARTICLE XXIX.

16 **SECTION 2.** In Colorado Revised Statutes, 24-6-301, **amend**
17 (1.9) (a) (IV) and (1.9) (a) (V) as follows:

18 **24-6-301. Definitions - legislative declaration.** As used in this
19 part 3, unless the context otherwise requires:

20 (1.9) (a) "Disclosure statement" means a written statement that
21 contains:

22 (IV) The name of ~~any~~ THE covered official to or for whom SUCH
23 expenditures of ~~fifty~~ MORE THAN FIFTY-THREE dollars ~~or more~~ have been
24 made by or on behalf of the disclosing person for gift or entertainment
25 purposes in connection with lobbying or for whom an expenditure was
26 made by or on behalf of the disclosing person for a gift of a meal at a
27 fund-raising event of a political party described in section 1-45-105.5 (1)

1 (c) (IV), C.R.S., during either the first six months or the second six
2 months of a STATE fiscal year and the amount, date, and principal purpose
3 of the gift or entertainment, if the covered official or a member of his or
4 her family actually received such gift or entertainment, but expenditures
5 of one dollar or less shall be reported under subparagraph (V) of this
6 paragraph (a). All amounts ~~spent by~~ THAT a professional lobbyist SPENDS
7 on a covered official for which the lobbyist is reimbursed, or the source
8 of which is a contribution, shall be deemed to be for gift or entertainment
9 purposes.

10 (V) The total sum of all SUCH expenditures made by or on behalf
11 of the disclosing person to covered officials for gift or entertainment
12 purposes in connection with lobbying since the last disclosure statement
13 ~~which~~ THAT are not stated under subparagraph (IV) of this paragraph (a);

14 **SECTION 3.** In Colorado Revised Statutes, 24-6-302, **amend** (2)
15 as follows:

16 **24-6-302. Disclosure statements - required.** (2) Any person
17 who makes expenditures for gifts or entertainment purposes for the
18 benefit of covered officials in the aggregate amount of two hundred
19 dollars in a STATE fiscal year shall file disclosure statements with the
20 secretary of state in accordance with this section. Such disclosure
21 statements shall not include actual and reasonable expenses incurred for
22 personal needs, such as meals, travel, lodging, and parking.

23 **SECTION 4.** In Colorado Revised Statutes, 24-18-104, **amend**
24 (3); and **add** (5) as follows:

25 **24-18-104. Rules of conduct for all public officers, members**
26 **of the general assembly, local government officials, and employees.**

27 (3) The following ~~shall not be considered~~ ARE NOT gifts of substantial

1 value or gifts of substantial economic benefit tantamount to gifts of
2 substantial value for purposes of this section:

3 (a) Campaign contributions and contributions in kind reported as
4 required by section 1-45-108, C.R.S.;

5 (b) ~~An occasional nonpecuniary gift, insignificant in value~~
6 UNSOLICITED ITEM OF TRIVIAL VALUE;

7 (b.5) A GIFT WITH A FAIR MARKET VALUE OF FIFTY-THREE
8 DOLLARS OR LESS THAT IS GIVEN TO THE PUBLIC OFFICER, MEMBER OF THE
9 GENERAL ASSEMBLY, LOCAL GOVERNMENT OFFICIAL, OR EMPLOYEE BY A
10 PERSON OTHER THAN A PROFESSIONAL LOBBYIST.

11 (c) ~~A nonpecuniary award publicly presented by a nonprofit~~
12 ~~organization in recognition of public service~~ AN UNSOLICITED TOKEN OR
13 AWARD OF APPRECIATION AS DESCRIBED IN SECTION 3 (3) (c) OF ARTICLE
14 XXIX OF THE STATE CONSTITUTION;

15 (c.5) UNSOLICITED INFORMATIONAL MATERIAL, PUBLICATIONS, OR
16 SUBSCRIPTIONS RELATED TO THE PERFORMANCE OF OFFICIAL DUTIES ON
17 THE PART OF THE PUBLIC OFFICER, MEMBER OF THE GENERAL ASSEMBLY,
18 LOCAL GOVERNMENT OFFICIAL, OR EMPLOYEE;

19 (d) Payment of or reimbursement for ~~actual and necessary~~
20 ~~expenditures for travel and subsistence for attendance at a convention or~~
21 ~~other meeting at which such public officer, member of the general~~
22 ~~assembly, local government official, or employee is scheduled to~~
23 ~~participate~~ REASONABLE EXPENSES PAID BY A NONPROFIT ORGANIZATION
24 OR STATE AND LOCAL GOVERNMENT IN CONNECTION WITH ATTENDANCE
25 AT A CONVENTION, FACT-FINDING MISSION OR TRIP, OR OTHER MEETING AS
26 PERMITTED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 3 (3) (f) OF
27 ARTICLE XXIX OF THE STATE CONSTITUTION;

1 (e) ~~PAYMENT OF OR reimbursement for or acceptance of an~~
2 ~~opportunity to participate in a social function or meeting which is offered~~
3 ~~to such public officer, member of the general assembly, local government~~
4 ~~official, or employee which is not extraordinary when viewed in light of~~
5 ~~the position held by such public officer, member of the general assembly,~~
6 ~~local government official, or employee~~ ADMISSION TO, AND THE COST OF
7 FOOD OR BEVERAGES CONSUMED AT, A RECEPTION, MEAL, OR MEETING
8 THAT MAY BE ACCEPTED OR RECEIVED IN ACCORDANCE WITH THE
9 PROVISIONS OF SECTION 3 (3) (e) OF ARTICLE XXIX OF THE STATE
10 CONSTITUTION;

11 (f) ~~Items of perishable or nonpermanent value, including, but not~~
12 ~~limited to, meals, lodging, travel expenses, or tickets to sporting,~~
13 ~~recreational, educational, or cultural events~~ A GIFT GIVEN BY AN
14 INDIVIDUAL WHO IS A RELATIVE OR PERSONAL FRIEND OF THE PUBLIC
15 OFFICER, MEMBER OF THE GENERAL ASSEMBLY, LOCAL GOVERNMENT
16 OFFICIAL, OR EMPLOYEE ON A SPECIAL OCCASION.

17 (g) Payment for speeches, appearances, or publications THAT MAY
18 BE ACCEPTED OR RECEIVED BY THE PUBLIC OFFICER, MEMBER OF THE
19 GENERAL ASSEMBLY, LOCAL GOVERNMENT OFFICIAL, OR EMPLOYEE IN
20 ACCORDANCE WITH THE PROVISIONS OF SECTION 3 OF ARTICLE XXIX OF
21 THE STATE CONSTITUTION THAT ARE reported pursuant to ~~section 24-6-203~~
22 SECTION 24-6-203 (3) (d);

23 (h) Payment of salary from employment, including other
24 government employment, in addition to that earned from being a member
25 of the general assembly or by reason of service in other public office;

26 (i) A COMPONENT OF THE COMPENSATION PAID OR OTHER
27 INCENTIVE GIVEN TO THE PUBLIC OFFICER, MEMBER OF THE GENERAL

1 ASSEMBLY, LOCAL GOVERNMENT OFFICIAL, OR EMPLOYEE IN THE NORMAL
2 COURSE OF EMPLOYMENT; AND

3 (j) ANY OTHER GIFT OR THING OF VALUE A PUBLIC OFFICER,
4 MEMBER OF THE GENERAL ASSEMBLY, LOCAL GOVERNMENT OFFICIAL, OR
5 EMPLOYEE IS PERMITTED TO SOLICIT, ACCEPT, OR RECEIVE IN ACCORDANCE
6 WITH THE PROVISIONS OF SECTION 3 OF ARTICLE XXIX OF THE STATE
7 CONSTITUTION, THE ACCEPTANCE OF WHICH IS NOT OTHERWISE
8 PROHIBITED BY LAW.

9 (5) THE AMOUNT OF THE GIFT LIMIT SPECIFIED IN PARAGRAPH (b.5)
10 OF SUBSECTION (3) OF THIS SECTION, SET AT FIFTY-THREE DOLLARS AS OF
11 THE EFFECTIVE DATE OF THIS SUBSECTION (5), SHALL BE IDENTICAL TO THE
12 AMOUNT OF THE GIFT LIMIT UNDER SECTION 3 OF ARTICLE XXIX OF THE
13 STATE CONSTITUTION, AND SHALL BE ADJUSTED FOR INFLATION
14 CONTEMPORANEOUSLY WITH ANY ADJUSTMENT OF THE CONSTITUTIONAL
15 GIFT LIMIT PURSUANT TO SECTION 3 (6) OF ARTICLE XXIX.

16 **SECTION 5.** In Colorado Revised Statutes, 1-45-105.5, **amend**
17 (1) (c) (IV) introductory portion and (1) (c) (IV) (B) as follows:

18 **1-45-105.5. Contributions to members of general assembly and**
19 **governor during consideration of legislation.** (1) (c) (IV) A gift of a
20 meal described in subparagraph (III) of this paragraph (c) by a lobbyist or
21 a principal of a lobbyist to ~~an incumbent in or~~ a candidate elected to any
22 office described in paragraph (a) of this subsection (1) BUT WHO HAS NOT
23 YET BEEN SWORN INTO SUCH OFFICE shall be reported as follows:

24 (B) The ~~incumbent or~~ ELECTED candidate WHO HAS NOT YET BEEN
25 SWORN INTO OFFICE shall report the value of the meal in the public official
26 disclosure statement filed pursuant to section 24-6-203, C.R.S.

27 **SECTION 6. Act subject to petition - effective date.** This act

1 takes effect at 12:01 a.m. on the day following the expiration of the
2 ninety-day period after final adjournment of the general assembly (August
3 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a
4 referendum petition is filed pursuant to section 1 (3) of article V of the
5 state constitution against this act or an item, section, or part of this act
6 within such period, then the act, item, section, or part will not take effect
7 unless approved by the people at the general election to be held in
8 November 2012 and, in such case, will take effect on the date of the
9 official declaration of the vote thereon by the governor.