

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0248.01 Bob Lackner x4350

HOUSE BILL 16-1216

HOUSE SPONSORSHIP

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A BILL FOR AN ACT

101 CONCERNING MEASURES TO FACILITATE THE ADMINISTRATION OF THE
102 INDEPENDENT ETHICS COMMISSION.

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>.)

Sections 1 and 3 of the bill require the independent ethics commission (commission), created in article XXIX of the state constitution (article XXIX), to employ or retain independent legal counsel for the purpose of providing representation to the commission on all legal matters.

In connection with their existing statutory obligation to provide

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.

administrative rules, **section 2** requires the commission to adopt rules of conduct governing members of the commission relating to recusals in the case of personal conflicts of interest and restrictions on the involvement by members of the commission in political activity during their service on the commission. This section of the bill changes existing language authorizing the commission to employ staff into a requirement to employ staff. The staff of the commission is responsible for investigating and prosecuting complaints alleging violations of article XXIX that are subject to its jurisdiction.

Section 3 of the bill also provides procedures for the promulgation of administrative rules by the commission.

Section 4 of the bill adds definitions to the statutory code of ethics pertaining to article XXIX in connection with the changes made to the succeeding sections of the bill.

Section 5 of the bill amends the statutory code of ethics to specify the role of the commission and the general penalty imposed under article XXIX for a breach of public trust.

Sections 6 through 10 and 12 and 13 of the bill provide clarification, in the context of various existing statutory provisions imposing rules of conduct or public official disclosure obligations, that, in connection with a proceeding before the commission alleging a violation of a particular individual, the commission must find that the actor has breached his or her fiduciary duty and the public trust under the particular standard of proof the commission has determined is appropriate. These provisions are to be distinguished from provisions clarifying the standard of proof in connection with a proceeding for a violation of the particular section brought by a district attorney.

Section 11 of the bill clarifies that an advisory opinion issued by the board of ethics for the general assembly is not binding upon the commission in any proceeding brought before the commission and may not constitute a defense to any complaint before the commission.

Section 14 of the bill repeals existing statutory provisions pertaining to the acceptance of travel reimbursement from joint governmental agencies as well as the provisions creating the board of ethics for the executive branch.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-31-101, **amend**
3 (1) (a); and **add** (7) as follows:

4 **24-31-101. Powers and duties of attorney general.** (1) (a) The
5 attorney general of the state shall be the legal counsel and advisor of each

1 department, division, board, bureau, and agency of the state government
2 other than the legislative branch ~~He~~ AND THE INDEPENDENT ETHICS
3 COMMISSION CREATED IN SECTION 5 (1) OF ARTICLE XXIX OF THE STATE
4 CONSTITUTION. THE ATTORNEY GENERAL shall attend in person at the seat
5 of government during the session of the general assembly and term of the
6 supreme court and shall appear for the state and prosecute and defend all
7 actions and proceedings, civil and criminal, in which the state is a party
8 or is interested when required to do so by the governor, and ~~he~~ THE
9 ATTORNEY GENERAL shall prosecute and defend for the state all causes in
10 the appellate courts in which the state is a party or interested.

11 (7) IN ACCORDANCE WITH SECTION 24-18.5-102, INDEPENDENT
12 LEGAL COUNSEL SHALL PROVIDE LEGAL REPRESENTATION TO THE
13 INDEPENDENT ETHICS COMMISSION CREATED IN SECTION 5 (1) OF ARTICLE
14 XXIX OF THE STATE CONSTITUTION.

15 **SECTION 2.** In Colorado Revised Statutes, 24-18.5-101, **amend**
16 (5) (a), (6), and (7); and **add** (1) (c) as follows:

17 **24-18.5-101. Independent ethics commission - establishment**
18 **- membership - subpoena power - definitions.** (1) As used in this
19 article, unless the context otherwise requires:

20 (c) "COVERED INDIVIDUAL" MEANS A PUBLIC OFFICER, MEMBER OF
21 THE GENERAL ASSEMBLY, LOCAL GOVERNMENT OFFICIAL, OR
22 GOVERNMENT EMPLOYEE AS THOSE TERMS ARE DEFINED IN SECTION 2 (1),
23 (3), AND (6) OF ARTICLE XXIX.

24 (5) (a) Subject to the provisions of paragraph (c) of this subsection
25 (5), IN CONNECTION WITH A COMPLAINT ALLEGING A VIOLATION OF
26 SECTION 3 (1) OR (2) OF ARTICLE XXIX, the commission shall dismiss as
27 frivolous any complaint filed under article XXIX that fails to allege that

1 a public officer, member of the general assembly, local government
2 official, or government employee has accepted or received any gift or
3 other thing of value for private gain or personal financial gain.

4 (6) Pursuant to the provisions of section 5 (1) of article XXIX, the
5 commission shall adopt reasonable rules as may be necessary for the
6 purpose of administering and enforcing the provisions of article XXIX
7 and any other standards of conduct and reporting requirements as
8 provided by law. ~~Any rules shall be promulgated in accordance with the~~
9 ~~requirements of article 4 of this title~~ SUCH RULES MUST INCLUDE RULES
10 OF CONDUCT GOVERNING MEMBERS OF THE COMMISSION RELATING TO,
11 WITHOUT LIMITATION, RECUSALS IN THE CASE OF A PERSONAL CONFLICT
12 OF INTEREST AND RESTRICTIONS ON THE INVOLVEMENT BY MEMBERS OF
13 THE COMMISSION IN POLITICAL ACTIVITY DURING THEIR SERVICE ON THE
14 COMMISSION.

15 (7) Subject to available appropriations, the commission ~~may~~
16 SHALL employ such staff as ~~it deems~~ necessary to enable it to carry out its
17 functions in accordance with the requirements of this article and article
18 XXIX. THE STAFF OF THE COMMISSION IS RESPONSIBLE FOR
19 INVESTIGATING AND PROSECUTING COMPLAINTS ALLEGING VIOLATIONS OF
20 ARTICLE XXIX THAT ARE SUBJECT TO THE COMMISSION'S JURISDICTION IN
21 ACCORDANCE WITH SECTION 5 (3) (c) OF ARTICLE XXIX.

22 **SECTION 3.** In Colorado Revised Statutes, **add** 24-18.5-102 as
23 follows:

24 **24-18.5-102. Commission - independent legal counsel - powers**
25 **- retention - rule-making - legislative declaration.** (1) (a) THE
26 GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT:

27 (I) IN 2006, THE VOTERS OF THE STATE APPROVED ARTICLE XXIX

1 OF THE STATE CONSTITUTION, THE CENTERPIECE OF WHICH IS AN
2 INDEPENDENT ETHICS COMMISSION;

3 (II) THE INDEPENDENT ETHICS COMMISSION WAS CREATED TO BE
4 INDEPENDENT OF THE OTHER BRANCHES OF GOVERNMENT AS IT
5 UNDERTAKES ITS DUTIES OF INTERPRETING AND IMPLEMENTING ARTICLE
6 XXIX AND OTHER STANDARDS OF CONDUCT AND REPORTING
7 REQUIREMENTS AS PROVIDED BY LAW;

8 (III) SINCE ITS CREATION IN 2006, LEGAL REPRESENTATION OF THE
9 INDEPENDENT ETHICS COMMISSION HAS BEEN PROVIDED BY THE
10 ATTORNEY GENERAL'S OFFICE; AND

11 (IV) HAVING LEGAL REPRESENTATION OF THE COMMISSION
12 PROVIDED BY A PUBLIC OFFICER AND GOVERNMENT EMPLOYEES IN THE
13 EXECUTIVE BRANCH WHO ARE SUBJECT TO THE COMMISSION'S
14 JURISDICTION IS CONTRARY TO THE CORE INDEPENDENCE OF THE
15 COMMISSION AND CREATES OPPORTUNITIES FOR APPEARANCES OF
16 IMPROPRIETY.

17 (b) BY ENACTING HOUSE BILL 16-___, THE GENERAL ASSEMBLY
18 INTENDS, AMONG OTHER THINGS, TO EMPOWER THE INDEPENDENT ETHICS
19 COMMISSION TO RETAIN OR EMPLOY ITS OWN LEGAL COUNSEL AND
20 THEREBY BETTER FULFILL THE CORE CONSTITUTIONAL INDEPENDENCE
21 SOUGHT BY THE PEOPLE OF THE STATE IN ENACTING ARTICLE XXIX.

22 (2) THE COMMISSION SHALL EMPLOY OR RETAIN INDEPENDENT
23 LEGAL COUNSEL FOR THE PURPOSE OF PROVIDING THE COMMISSION
24 REPRESENTATION ON ALL LEGAL MATTERS INCLUDING, BUT NOT LIMITED
25 TO, PROVIDING LEGAL ADVICE TO THE COMMISSION UPON REQUEST BY ANY
26 OF ITS MEMBERS OR STAFF IN CONNECTION WITH PUBLIC BUSINESS OF THE
27 COMMISSION AND REPRESENTING THE COMMISSION IN COURT, BEFORE

1 OTHER PUBLIC BODIES, OR OTHERWISE IN CONNECTION WITH ANY ACTION
2 OR PROCEEDING IN WHICH THE COMMISSION HAS AN INTEREST OR TO
3 WHICH THE COMMISSION IS A PARTY.

4 (3) (a) WHEN THE COMMISSION CONTEMPLATES MAKING RULES,
5 IT SHALL PROVIDE NOTICE OF PROPOSED RULE-MAKING, WHICH MUST BE
6 PUBLISHED IN THE COLORADO REGISTER. THE NOTICE MUST STATE:

7 (I) THE TIME, PLACE, AND PUBLIC MANNER OF PROPOSED
8 RULE-MAKING PROCEEDINGS, WHICH MUST TAKE PLACE NO FEWER THAN
9 TWENTY-ONE DAYS AFTER THE PUBLICATION;

10 (II) THE LEGAL AUTHORITY UNDER WHICH THE RULE IS PROPOSED;
11 AND

12 (III) EITHER THE TERMS OR THE SUBSTANCE OF THE PROPOSED
13 RULE OR A DESCRIPTION OF THE SUBJECTS AND ISSUES INVOLVED.

14 (b) AT THE TIME AND PLACE STATED IN THE NOTICE, THE
15 COMMISSION SHALL HOLD A PUBLIC HEARING, AT WHICH IT SHALL AFFORD
16 INTERESTED PERSONS AN OPPORTUNITY TO SUBMIT WRITTEN DATA, VIEWS,
17 OR ARGUMENTS AND TO PRESENT THE SAME ORALLY UNLESS THE
18 COMMISSION DEEMS IT UNNECESSARY. THE COMMISSION SHALL CONSIDER
19 ALL SUCH SUBMISSIONS. THE COMMISSION SHALL MAKE ANY PROPOSED
20 RULE OR REVISED PROPOSED RULE IT IS TO CONSIDER AT THE PUBLIC
21 HEARING, TOGETHER WITH THE PURPOSE OF THE PROPOSED RULE AND THE
22 SPECIFIC LEGAL AUTHORITY UNDER WHICH THE RULE IS PROPOSED,
23 AVAILABLE TO ANY PERSON WHO REQUESTS SUCH INFORMATION AT LEAST
24 FIVE DAYS BEFORE THE HEARING. THE COMMISSION MUST BASE ANY
25 RULES IT PROMULGATES ON THE RECORD, WHICH SHALL CONSIST OF
26 PROPOSED RULES, EVIDENCE, EXHIBITS, AND OTHER MATTERS PRESENTED
27 TO OR CONSIDERED BY THE COMMISSION, MATTERS OFFICIALLY NOTICED,

1 RULINGS ON EXCEPTIONS, ANY FINDINGS OF FACT AND CONCLUSIONS OF
2 LAW PROPOSED BY ANY PARTY, AND ANY WRITTEN COMMENTS OR BRIEFS
3 SUBMITTED TO THE COMMISSION. EXCEPT AS OTHERWISE PROVIDED IN
4 PART 2 OF ARTICLE 72 OF THIS TITLE, ALL INFORMATION USED BY THE
5 COMMISSION IN THE DEVELOPMENT OF A RULE IS A PUBLIC DOCUMENT IN
6 ACCORDANCE WITH SAID PART 2 AND MUST BE OPEN FOR PUBLIC
7 INSPECTION.

8 (c) THE COMMISSION SHALL REVIEW ALL PROPOSED RULES. THE
9 COMMISSION MAY ONLY ADOPT A RULE IF:

10 (I) THE RECORD OF THE RULE-MAKING PROCEEDING
11 DEMONSTRATES THE NEED FOR THE RULE;

12 (II) THE PROPER LEGAL AUTHORITY EXISTS FOR THE RULE;

13 (III) TO THE EXTENT PRACTICABLE, THE RULE IS CLEARLY AND
14 SIMPLY STATED SO THAT ITS MEANING WILL BE UNDERSTOOD BY ANY
15 PARTY REQUIRED TO COMPLY WITH THE RULE;

16 (IV) THE RULE DOES NOT CONFLICT WITH OTHER PROVISIONS OF
17 LAW; AND

18 (V) THE COMMISSION EXPLAINS ANY DUPLICATION OR
19 OVERLAPPING OF RULES.

20 (d) WITHIN ONE HUNDRED EIGHTY-TWO DAYS AFTER THE LAST
21 PUBLIC HEARING ON A PROPOSED RULE, THE COMMISSION SHALL ADOPT
22 THE RULE PURSUANT TO THE RULE-MAKING PROCEEDING OR TERMINATE
23 THE PROCEEDING BY PUBLICATION OF A NOTICE TO THAT EFFECT IN THE
24 COLORADO REGISTER. A RULE OF THE COMMISSION BECOMES EFFECTIVE
25 TWENTY-ONE DAYS AFTER PUBLICATION OF THE RULE AS ADOPTED OR ON
26 SUCH LATER DATE AS MAY BE SPECIFIED IN THE RULE. ONCE A RULE
27 BECOMES EFFECTIVE, THE RULE-MAKING PROCESS IS DEEMED TO HAVE

1 BECOME FINAL AGENCY ACTION FOR JUDICIAL REVIEW PURPOSES.

2 (e) THE COMMISSION MAY ADOPT A TEMPORARY OR EMERGENCY
3 RULE WITHOUT COMPLIANCE WITH PARAGRAPH (b) OF THIS SUBSECTION
4 (3) AND WITH LESS THAN TWENTY-ONE DAYS' NOTICE AS PRESCRIBED IN
5 PARAGRAPH (a) OF THIS SUBSECTION (3) IF THE COMMISSION FINDS ON THE
6 RECORD THAT COMPLIANCE WITH SUCH REQUIREMENTS WOULD BE
7 CONTRARY TO THE PUBLIC INTEREST. THE COMMISSION SHALL PUBLISH ITS
8 FINDINGS AND A STATEMENT OF THE REASONS FOR THE ACTION WITH THE
9 RULE. A TEMPORARY OR EMERGENCY RULE BECOMES EFFECTIVE ON
10 ADOPTION OR ON SUCH LATER DATE AS MAY BE SPECIFIED IN THE RULE,
11 MUST BE PUBLISHED PROMPTLY, AND IS EFFECTIVE FOR NOT MORE THAN
12 ONE HUNDRED NINETEEN DAYS AFTER ITS ADOPTION OR FOR SUCH
13 SHORTER PERIOD AS MAY BE SPECIFIED IN THE RULE BY THE COMMISSION,
14 UNLESS THE RULE IS MADE PERMANENT UPON COMPLIANCE WITH
15 PARAGRAPHS (a) TO (d) OF THIS SUBSECTION (3).

16 (f) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
17 NOTHING IN THIS SUBSECTION (3) REQUIRES THE SUBMISSION OF ANY
18 PROPOSED RULE BY THE COMMISSION TO THE COMMITTEE ON LEGAL
19 SERVICES OF THE GENERAL ASSEMBLY OR LEGISLATIVE STAFF FOR THEIR
20 REVIEW OR APPROVAL.

21 **SECTION 4.** In Colorado Revised Statutes, 24-18-102, **amend**
22 (1); and **add** (1.3), (1.5), and (2.5) as follows:

23 **24-18-102. Definitions.** As used in this part 1, unless the context
24 otherwise requires:

25 (1) ~~"Business" means any corporation, limited liability company,~~
26 ~~partnership, sole proprietorship, trust or foundation, or other individual~~
27 ~~or organization carrying on a business, whether or not operated for profit~~

1 "ARTICLE XXIX" MEANS ARTICLE XXIX OF THE STATE CONSTITUTION.

2 (1.3) "BUSINESS" MEANS ANY CORPORATION, LIMITED LIABILITY
3 COMPANY, PARTNERSHIP, SOLE PROPRIETORSHIP, TRUST OR FOUNDATION,
4 OR OTHER INDIVIDUAL OR ORGANIZATION CARRYING ON A BUSINESS,
5 WHETHER OR NOT OPERATED FOR PROFIT.

6 (1.5) "COMMISSION" MEANS THE INDEPENDENT ETHICS
7 COMMISSION CREATED IN SECTION 5 (1) OF ARTICLE XXIX.

8 (2.5) "COVERED INDIVIDUAL" MEANS A PUBLIC OFFICER, MEMBER
9 OF THE GENERAL ASSEMBLY, LOCAL GOVERNMENT OFFICIAL, OR
10 GOVERNMENT EMPLOYEE AS THOSE TERMS ARE DEFINED IN SECTION 2 (1),
11 (3), AND (6) OF ARTICLE XXIX.

12 **SECTION 5.** In Colorado Revised Statutes, 24-18-103, **add** (3)
13 as follows:

14 **24-18-103. Public trust - breach of fiduciary duty.**

15 (3) PURSUANT TO SECTION 5 (1) OF ARTICLE XXIX, THE COMMISSION IS
16 EMPOWERED TO HEAR COMPLAINTS, ISSUE FINDINGS, ASSESS PENALTIES,
17 AND ISSUE ADVISORY OPINIONS ON ETHICS ISSUES ARISING UNDER ARTICLE
18 XXIX AND UNDER ANY OTHER STANDARDS OF CONDUCT AND REPORTING
19 REQUIREMENTS AS PROVIDED BY LAW. PURSUANT TO SECTION 6 OF
20 ARTICLE XXIX, ANY COVERED INDIVIDUAL WHO BREACHES THE PUBLIC
21 TRUST FOR PRIVATE GAIN AND ANY PERSON OR ENTITY INDUCING SUCH
22 BREACH IS LIABLE TO THE STATE OR LOCAL JURISDICTION FOR DOUBLE THE
23 AMOUNT OF THE FINANCIAL EQUIVALENT OF ANY BENEFITS OBTAINED BY
24 THE MISCONDUCT. PENALTIES THAT MAY BE IMPOSED BY THE COMMISSION
25 INCLUDE CENSURE OR REPRIMAND.

26 **SECTION 6.** In Colorado Revised Statutes, 24-18-104, **amend**
27 (1) introductory portion as follows:

1 **24-18-104. Rules of conduct for all public officers, members**
2 **of the general assembly, local government officials, and employees.**

3 (1) IN CONNECTION WITH A PROCEEDING BROUGHT BY A DISTRICT
4 ATTORNEY ALLEGING A VIOLATION OF THIS SECTION, proof beyond a
5 reasonable doubt of commission of any act enumerated in this section is
6 proof that the actor has breached his OR HER fiduciary duty and the public
7 trust. IN CONNECTION WITH A PROCEEDING BEFORE THE COMMISSION
8 ALLEGING A VIOLATION OF THIS SECTION ON THE PART OF AN ACTOR WHO
9 IS SUBJECT TO THE JURISDICTION OF THE COMMISSION, THE COMMISSION
10 MUST FIND THAT THE ACTOR HAS BREACHED HIS OR HER FIDUCIARY DUTY
11 AND THE PUBLIC TRUST UNDER THE PARTICULAR STANDARD OF PROOF THE
12 COMMISSION HAS DETERMINED IS APPROPRIATE. A public officer, a
13 member of the general assembly, a local government official, or an
14 employee shall not:

15 **SECTION 7.** In Colorado Revised Statutes, 24-18-106, **amend**
16 (1) as follows:

17 **24-18-106. Rules of conduct for members of the general**
18 **assembly.** (1) IN CONNECTION WITH A PROCEEDING BROUGHT BY A
19 DISTRICT ATTORNEY ALLEGING A VIOLATION OF THIS SECTION, proof
20 beyond a reasonable doubt of commission of any act enumerated in this
21 section is proof that the member of the general assembly committing the
22 act has breached his OR HER fiduciary duty and the public trust. IN
23 CONNECTION WITH A PROCEEDING BEFORE THE COMMISSION ALLEGING A
24 VIOLATION OF THIS SECTION, THE COMMISSION MUST FIND THAT THE
25 MEMBER OF THE GENERAL ASSEMBLY HAS BREACHED HIS OR HER
26 FIDUCIARY DUTY AND THE PUBLIC TRUST UNDER THE PARTICULAR
27 STANDARD OF PROOF THE COMMISSION HAS DETERMINED IS APPROPRIATE.

1 A member of the general assembly shall not accept a fee, a contingent
2 fee, or any other compensation, except his OR HER official compensation
3 provided by statute, for promoting or opposing the passage of legislation.

4 **SECTION 8.** In Colorado Revised Statutes, 24-18-108, **amend**
5 (1) as follows:

6 **24-18-108. Rules of conduct for public officers and state**
7 **employees.** (1) IN CONNECTION WITH A PROCEEDING BROUGHT BY A
8 DISTRICT ATTORNEY ALLEGING A VIOLATION OF THIS SECTION, proof
9 beyond a reasonable doubt of commission of any act enumerated in this
10 section is proof that the actor has breached his OR HER fiduciary duty AND
11 THE PUBLIC TRUST. IN CONNECTION WITH A PROCEEDING BEFORE THE
12 COMMISSION ALLEGING A VIOLATION OF THIS SECTION, THE COMMISSION
13 MUST FIND THAT THE ACTOR HAS BREACHED HIS OR HER FIDUCIARY DUTY
14 AND THE PUBLIC TRUST UNDER THE PARTICULAR STANDARD OF PROOF THE
15 COMMISSION HAS DETERMINED IS APPROPRIATE.

16 **SECTION 9.** In Colorado Revised Statutes, 24-18-108.5, **amend**
17 (1) as follows:

18 **24-18-108.5. Rules of conduct for members of boards and**
19 **commissions.** (1) IN CONNECTION WITH A PROCEEDING BROUGHT BY A
20 DISTRICT ATTORNEY ALLEGING A VIOLATION OF THIS SECTION, proof
21 beyond a reasonable doubt of commission of any act enumerated in this
22 section is proof that the actor has breached his OR HER fiduciary duty AND
23 THE PUBLIC TRUST. IN CONNECTION WITH A PROCEEDING BEFORE THE
24 COMMISSION ALLEGING A VIOLATION OF THIS SECTION ON THE PART OF AN
25 ACTOR WHO IS SUBJECT TO THE JURISDICTION OF THE COMMISSION, THE
26 COMMISSION MUST FIND THAT THE ACTOR HAS BREACHED HIS OR HER
27 FIDUCIARY DUTY AND THE PUBLIC TRUST UNDER THE PARTICULAR

1 STANDARD OF PROOF THE COMMISSION HAS DETERMINED IS APPROPRIATE.

2 **SECTION 10.** In Colorado Revised Statutes, 24-18-109, **amend**
3 (1); and **add** (5) as follows:

4 **24-18-109. Rules of conduct for local government officials and**
5 **employees.** (1) IN CONNECTION WITH A PROCEEDING BROUGHT BY A
6 DISTRICT ATTORNEY ALLEGING A VIOLATION OF THIS SECTION, proof
7 beyond a reasonable doubt of commission of any act enumerated in this
8 section is proof that the actor has breached his OR HER fiduciary duty and
9 the public trust. IN CONNECTION WITH A PROCEEDING BEFORE THE
10 COMMISSION ALLEGING A VIOLATION OF THIS SECTION ON THE PART OF AN
11 ACTOR WHO IS SUBJECT TO THE JURISDICTION OF THE COMMISSION, THE
12 COMMISSION MUST FIND THAT THE ACTOR HAS BREACHED HIS OR HER
13 FIDUCIARY DUTY AND THE PUBLIC TRUST UNDER THE PARTICULAR
14 STANDARD OF PROOF THE COMMISSION HAS DETERMINED IS APPROPRIATE.

15 (5) NOTHING IN THIS SECTION IS INTENDED TO CAUSE THE
16 APPLICATION OF ARTICLE XXIX OF THE STATE CONSTITUTION TO AN
17 OFFICIAL OR EMPLOYEE OF A HOME RULE COUNTY OR A HOME RULE
18 MUNICIPALITY THAT HAS ADOPTED CHARTERS, ORDINANCES, OR
19 RESOLUTIONS ADDRESSING THE MATTERS COVERED BY SAID ARTICLE
20 XXIX IN ACCORDANCE WITH SECTION 7 OF ARTICLE XIX OF THE STATE
21 CONSTITUTION.

22 **SECTION 11.** In Colorado Revised Statutes, 24-18-113, **amend**
23 (2) as follows:

24 **24-18-113. Board of ethics for the general assembly - created**
25 **- duties.** (2) The board of ethics for the general assembly shall, upon
26 written request of a member of the general assembly, issue advisory
27 opinions concerning issues relating to the requesting member's conduct

1 and the provisions of this article. ANY SUCH ADVISORY OPINION ISSUED
2 BY THE BOARD IS NOT BINDING UPON THE COMMISSION IN ANY
3 PROCEEDING BROUGHT BEFORE THE COMMISSION AND MAY NOT
4 CONSTITUTE A DEFENSE TO ANY COMPLAINT BEFORE THE COMMISSION.

5 **SECTION 12.** In Colorado Revised Statutes, 24-6-202, **amend**
6 (7) as follows:

7 **24-6-202. Disclosure - contents - filing - false or incomplete**
8 **filing - penalty.** (7) IN CONNECTION WITH A PROCEEDING BROUGHT BY
9 A DISTRICT ATTORNEY ALLEGING A VIOLATION OF THIS SECTION, any
10 person who willfully files a false or incomplete disclosure statement,
11 amendment, or notice that no amendment is required, or who willfully
12 files a false or incomplete copy of any federal income tax return or a false
13 or incomplete certified statement of investments, or who willfully fails
14 to make any filing required by this section, IN CASES IN WHICH THE STATE
15 MEETS ITS BURDEN OF ESTABLISHING PROOF BEYOND A REASONABLE
16 DOUBT OF THE COMMISSION OF SUCH ACTS, is guilty of a misdemeanor
17 and, upon conviction thereof, ~~shall~~ MUST be punished by a fine of not less
18 than one thousand dollars nor more than five thousand dollars. IN
19 CONNECTION WITH A PROCEEDING BEFORE THE INDEPENDENT ETHICS
20 COMMISSION CREATED IN SECTION 5 (1) OF ARTICLE XXIX OF THE STATE
21 CONSTITUTION ALLEGING A VIOLATION OF THIS SECTION, IF THE
22 COMMISSION FINDS THAT THE PERSON HAS COMMITTED A VIOLATION OF
23 THIS SECTION UNDER THE PARTICULAR STANDARD OF PROOF THE
24 COMMISSION HAS DETERMINED IS APPROPRIATE, THE PERSON IS SUBJECT
25 TO ANY PENALTY THAT MAY BE IMPOSED BY THE COMMISSION FOR SUCH
26 MISCONDUCT.

27 **SECTION 13.** In Colorado Revised Statutes, 24-6-203, **amend**

1 (7) as follows:

2 **24-6-203. Reporting by incumbents and elected candidates -**
3 **gifts, honoraria, and other benefits - prohibition on monetary gifts**
4 **- penalty - definitions.** (7) IN CONNECTION WITH A PROCEEDING
5 BROUGHT BY A DISTRICT ATTORNEY ALLEGING A VIOLATION OF THIS
6 SECTION, any person who willfully files a false or incomplete report
7 pursuant to this section, who willfully fails to file a report required by this
8 section, who willfully fails to provide the statement of value required by
9 subsection (5) of this section, or who violates any provision of subsection
10 (3.5) of this section, IN CASES IN WHICH THE STATE MEETS ITS BURDEN OF
11 ESTABLISHING PROOF BEYOND A REASONABLE DOUBT OF THE COMMISSION
12 OF SUCH ACTS, is guilty of a misdemeanor and, upon conviction thereof,
13 ~~shall~~ MUST be punished by a fine of not less than fifty dollars nor more
14 than one thousand dollars. IN CONNECTION WITH A PROCEEDING BEFORE
15 THE INDEPENDENT ETHICS COMMISSION CREATED IN SECTION 5 (1) OF
16 ARTICLE XXIX OF THE STATE CONSTITUTION ALLEGING A VIOLATION OF
17 THIS SECTION, IF THE COMMISSION FINDS THAT THE PERSON HAS
18 COMMITTED A VIOLATION OF THIS SECTION UNDER THE PARTICULAR
19 STANDARD OF PROOF THE COMMISSION HAS DETERMINED IS APPROPRIATE,
20 THE PERSON IS SUBJECT TO ANY PENALTY THAT MAY BE IMPOSED BY THE
21 COMMISSION FOR SUCH MISCONDUCT.

22 **SECTION 14.** In Colorado Revised Statutes, **repeal** 2-3-311 (2)
23 (d) and 24-18-112.

24 **SECTION 15. Effective date - applicability.** This act takes
25 effect July 1, 2016, and applies to offenses committed on or after said
26 date.

27 **SECTION 16. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.