



January 22, 2016

Independent Ethics Commission
1300 Broadway, 8th Floor
Denver, Colorado 80203

Re: Request for an Advisory Opinion regarding the acceptance of gifts by a state employee elected to Aurora City Council

Members of the Commission,

At the January 4, 2016 meeting of the Colorado Independent Ethics Commission, Deputy Secretary of State Suzanne Staiert requested an advisory opinion from the Commission regarding the acceptance of gifts by her employee, Angela Lawson, while serving in her capacity as a member of the Aurora City Council. As City Attorney for the City of Aurora, I was invited by Ms. Staiert and Ms. Lawson to attend the meeting.

As an employee of the State of Colorado, Ms. Lawson is bound by the ethical standards found in Article XXIX of the Colorado Constitution ("Article XXIX"). Article XXIX, Section 3 prohibits Ms. Lawson from soliciting, accepting, or receiving any gift or other thing of value having either a fair market value or aggregate actual cost greater than fifty dollars in any calendar year unless the gift-giver receives lawful consideration of equal or greater value in return from Ms. Lawson.

As an elected official of the City of Aurora, Ms. Lawson is bound by a different set of standards – the standards of conduct found in Title 24, Article 18 of the Colorado Revised Statutes as they existed on October 30, 2006 (the "2006 Standards of Conduct"). See attached Appendix A. Unlike the numeric standard set forth in Article XXIX, Section 3, the 2006 Standards of Conduct employ a qualitative standard to determine the propriety of gifts. Accordingly, a City official or employee shall not accept a gift of substantial value or a substantial economic benefit tantamount to a gift of substantial value:

- (i) Which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties; or

- (ii) Which he knows or which a reasonable person in his position should know under the circumstances is primarily for the purpose of rewarding him for official action he has taken.

See § 24-18-104(1)(b), C.R.S. (2006).

The gift ban described in each of these standards is relevantly different. Hence, Ms. Staiert has asked this Commission to determine whether Ms. Lawson's status as a state employee would prohibit her from accepting gifts that she would otherwise be permitted to accept as a city official.

During the course of the meeting, Commissioner Leone asked me to provide the Commission with a written explanation as to why the City of Aurora, as a home rule municipality organized pursuant to Article XX of the Colorado Constitution, is exempt from the provisions of Article XXIX. Please accept the following as a statement of the City's position on this question of law.

I. THE PLAIN AND ORDINARY MEANING OF THE LANGUAGE USED IN ARTICLE XXIX OF THE COLORADO CONSTITUTION MAKES IT CLEAR THAT IT IS NOT INTENDED TO APPLY TO HOME RULE MUNICIPALITIES THAT HAVE ADOPTED THEIR OWN STANDARDS OF CONDUCT.

At the November 7, 2006, general election, Colorado voters enacted the Colorado Standards of Conduct in Government Initiative (the "Initiative"), which is now codified as Article XXIX of the Colorado Constitution. Article XXIX is intended to provide public officers, members of the general assembly, local government officials, and government employees specific standards to guide their conduct, and of a penalty mechanism to enforce those standards. Colo. Const. Art. XXIX, Section 1(e).

By its terms, however, Article XXIX exempts home rule counties and municipalities from its application. This exemption is found in Section 7 of Article XXIX, which reads as follows:

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.* (Emphasis added.)

II. AS A HOME RULE MUNICIPALITY THAT HAS ADOPTED A RESOLUTION ADDRESSING THE VERY MATTERS COVERED IN ARTICLE XXIX, THE CITY OF AURORA FALLS SQUARELY WITHIN THIS EXEMPTION.

The City of Aurora is a home rule municipality, having adopted its home rule charter at a special election held on June 27, 1961. Aurora City Charter, *Prefatory Synopsis*. As such, the City possesses all powers which are necessary, requisite or proper for the government and

administration of its local and municipal matters, and all powers which are granted to home rule municipalities by Article XX of the Colorado Constitution. Aurora City Charter § 1-3. This includes the power to legislate upon, provide, regulate, conduct and control “the definition, regulation and alteration of the powers, duties, qualifications and terms or tenure of all municipal officers, agents and employees.” Colo. Const. Art. XX, Section 6(a).

On October 30, 2006, in the exercise of this power, the Aurora City Council adopted Resolution No. R2006-94. *See* attached Appendix B. The operative language of this Resolution reads as follows:

The Aurora City Council does hereby formally adopt each and every provision found in Article 18 of Title 24 of the Colorado Revised Statutes entitled “Standards of Conduct” as they existed on October 30, 2006, and does hereby declare that all such provisions shall apply with full force and effect to all of the City’s elected officials, City officers, City employees, and all independent contractors under contract with the City.

At the time Resolution No. R2006-94 was adopted, the Aurora City Council would have been fully aware of the text of Article XXIX, including the exemption provided for home rule municipalities in Section 7. The Council chose to chart a familiar course by adopting the statutory standards of conduct as they existed prior to the impending general election. Since that date, the City, its officials, and employees have strictly adhered to these ethical standards.

A cursory review of the 2006 Standards of Conduct reveals that they address the very same matters covered by Article XXIX, albeit in a different fashion. As heretofore addressed, both Article XXIX (Section 3) and the 2006 Standards of Conduct (§ 24-18-104(1)(b), C.R.S. (2006)) include a gift ban. Likewise, both provide an enforcement mechanism – the Independent Ethics Commission in the case of Article XXIX (Section 5) and the attorney of the district in which the violation occurs in the case of the 2006 Standards of Conduct (§ 24-18-103(2), C.R.S. (2006)). Lastly, Article XXIX imposes a penalty equal to double the amount of the financial equivalent of any benefits obtained by the offending action (Section 6), while the 2006 Standards of Conduct impose the same liabilities upon the offender as a private fiduciary would suffer for abuse of his trust (§ 24-18-103(2), C.R.S. (2006)).

Therefore, as a home rule municipality that has adopted a resolution addressing the matters covered by Article XXIX, the City meets the prerequisites of the exemption set forth in Section 7 and, as such, is not subject to the application of the Article.

III. AT THE TIME OF THE NOVEMBER 7, 2006, GENERAL ELECTION, THE VOTERS OF THE STATE OF COLORADO FULLY UNDERSTOOD THAT ARTICLE XXIX WOULD NOT APPLY TO HOME RULE MUNICIPALITIES AND COUNTIES THAT HAVE ADOPTED THEIR OWN STANDARDS OF CONDUCT.

In construing a constitutional amendment, a reviewing court must ascertain and give effect to the intent of the electorate adopting the amendment. *Zaner v. City of Brighton*, 917 P.2d 280, 283 (Colo. 1996). To determine that intent, one must first look at the plain and ordinary meaning of the words in the amendment without engaging in narrow or overly technical constructions. *Rocky Mt. Animal Def. v. Colo. Div. of Wildlife*, 100 P.3d 508, 514 (Colo. App. 2004). The electorate's intent may also be discerned by considering the ballot title, the submission clause, the Bluebook, and other materials. *Id.*

From its inception as a citizen-initiated constitutional amendment, Article XXIX was never intended to supplant the authority of home rule municipalities to legislate upon the ethical standards that govern the conduct of their officers and employees. On the contrary, from the initial hearing before the Colorado Title Board to the ballot title that appeared on the general election ballot, there was never any question that home rule municipalities would, in fact, be exempt from the application of Article XXIX.

At the May 17, 2006, Title Board hearing for the Initiative, in the following exchange with the petitioners' attorney, Maura Tierney, concerning the ballot title, Deputy Secretary of State Bill Hobbs addressed this very issue:

Hobbs: ... Line 16 says specific measures shall not apply to home rule jurisdictions that have adopted laws covering, concerning matters covered by that measure. The way I understood the measure, I think, is that home rule jurisdictions could have weaker ethics laws and that could prevail over this measure?

Tierney: ... You are correct that, if a home rule city has adopted by charter, ordinance, or resolution measures that address the matters covered in the article, then home rule will prevail. ...

See attached Appendix C, page 6.

At the conclusion of the hearing, the Title Board approved the following ballot title for the Initiative:

An amendment to the Colorado Constitution concerning standards of conduct by persons who are professionally involved with governmental activities, and, in connection therewith, prohibiting a public officer, member of the general assembly, local government official, or government employee from soliciting or accepting certain monetary or in-kind gifts; prohibiting a professional lobbyist from giving anything of value to a public officer, member of the general assembly, local government official, government employee, or such person's immediate family member; prohibiting a statewide elected officeholder or member of the general assembly from personally representing another person or entity for compensation before any other such officeholder or member for a period of two years following departure from office; establishing penalties for a breach of public trust or

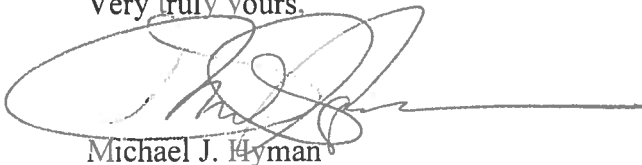
inducement of such a breach; creating a five-member independent ethics commission to hear ethics complaints, to assess penalties, and to issue advisory opinions on ethics issues; and *specifying that the measure shall not apply to home rule jurisdictions that have adopted laws concerning matters covered by the measure.* (Emphasis added.)

See attached Appendix D. Quite clearly, the final clause of the ballot title puts the voters of this State on notice that Article XXIX would not apply to home rule jurisdictions such as the City of Aurora.

IV. CONCLUSION

Article XXIX, Section 7 of the Colorado Constitution provides a means for the home rule municipalities and counties of this State to exempt themselves from the application of this Article. Without question, the City of Aurora took all of the necessary steps to avail itself of this exemption. As such, the Commission does not have jurisdiction with respect to ethics issues involving the City, its officials and employees.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael J. Hyman", is written over a horizontal line. The signature is stylized with a large, loopy initial "M" and "H".

Michael J. Hyman
City Attorney

APPENDIX A

2006 STANDARDS OF CONDUCT

TITLE 24. GOVERNMENT-STATE ARTICLE 18. STANDARDS OF CONDUCT PART 1. CODE OF ETHICS

24-18-101. Legislative declaration.

The general assembly recognizes the importance of the participation of the citizens of this state in all levels of government in the state. The general assembly further recognizes that, when citizens of this state obtain public office, conflicts may arise between the public duty of such a citizen and his or her private interest. The general assembly hereby declares that the prescription of some standards of conduct common to those citizens involved with government is beneficial to all residents of the state. The provisions of this part 1 recognize that some actions are conflicts per se between public duty and private interest while other actions may or may not pose such conflicts depending upon the surrounding circumstances.

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

- (1) "Business" means any corporation, limited liability company, partnership, sole proprietorship, trust or foundation, or other individual or organization carrying on a business, whether or not operated for profit.
- (2) "Compensation" means any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered or to be rendered by himself or another.
- (3) "Employee" means any temporary or permanent employee of a state agency or any local government, except a member of the general assembly and an employee under contract to the state.
- (4) "Financial interest" means a substantial interest held by an individual which is:
 - (a) An ownership interest in a business;
 - (b) A creditor interest in an insolvent business;
 - (c) An employment or a prospective employment for which negotiations have begun;
 - (d) An ownership interest in real or personal property;
 - (e) A loan or any other debtor interest; or
 - (f) A directorship or officership in a business.
- (5) "Local government" means the government of any county, city and county, city, town, special district, or school district.

(6) "Local government official" means an elected or appointed official of a local government but does not include an employee of a local government.

(7) "Official act" or "official action" means any vote, decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority.

(8) "Public officer" means any elected officer, the head of a principal department of the executive branch, and any other state officer "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.

(9) "State agency" means the state; the general assembly and its committees; every executive department, board, commission, committee, bureau, and office; every state institution of higher education, whether established by the state constitution or by law, and every governing board thereof; and every independent commission and other political subdivision of the state government except the courts.

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

(1) The holding of public office or employment is a public trust, created by the confidence which the electorate reposes in the integrity of public officers, members of the general assembly, local government officials, and employees. A public officer, member of the general assembly, local government official, or employee shall carry out his duties for the benefit of the people of the state.

(2) A public officer, member of the general assembly, local government official, or employee whose conduct departs from his fiduciary duty is liable to the people of the state as a trustee of property and shall suffer such other liabilities as a private fiduciary would suffer for abuse of his trust. The district attorney of the district where the trust is violated may bring appropriate judicial proceedings on behalf of the people. Any moneys collected in such actions shall be paid to the general fund of the state or local government. Judicial proceedings pursuant to this section shall be in addition to any criminal action which may be brought against such public officer, member of the general assembly, local government official, or employee.

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

(1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty and the public trust. A public officer, a member of the general assembly, a local government official, or an employee shall not:

- (a) Disclose or use confidential information acquired in the course of his official duties in order to further substantially his personal financial interests; or
- (b) Accept a gift of substantial value or a substantial economic benefit tantamount to a gift of substantial value:

- (I) Which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties; or
 - (II) Which he knows or which a reasonable person in his position should know under the circumstances is primarily for the purpose of rewarding him for official action he has taken.
- (2) An economic benefit tantamount to a gift of substantial value includes without limitation a loan at a rate of interest substantially lower than the commercial rate then currently prevalent for similar loans and compensation received for private services rendered at a rate substantially exceeding the fair market value of such services.
- (3) The following shall not be considered gifts of substantial value or gifts of substantial economic benefit tantamount to gifts of substantial value for purposes of this section:
- (a) Campaign contributions and contributions in kind reported as required by section 1-45-108, CRS;
 - (b) An occasional nonpecuniary gift, insignificant in value;
 - (c) A nonpecuniary award publicly presented by a nonprofit organization in recognition of public service;
 - (d) Payment of or reimbursement for actual and necessary expenditures for travel and subsistence for attendance at a convention or other meeting at which such public officer, member of the general assembly, local government official, or employee is scheduled to participate;
 - (e) Reimbursement for or acceptance of an opportunity to participate in a social function or meeting which is offered to such public officer, member of the general assembly, local government official, or employee which is not extraordinary when viewed in light of the position held by such public officer, member of the general assembly, local government official, or employee;
 - (f) Items of perishable or nonpermanent value, including, but not limited to, meals, lodging, travel expenses, or tickets to sporting, recreational, educational, or cultural events;
 - (g) Payment for speeches, appearances, or publications reported pursuant to section 24-6-203;
 - (h) Payment of salary from employment, including other government employment, in addition to that earned from being a member of the general assembly or by reason of service in other public office.
- (4) The provisions of this section are distinct from and in addition to the reporting requirements of section 1-45-108, CRS, and section 24-6-203, and do not relieve an incumbent in or elected candidate to public office from reporting an item described in subsection (3) of this section, if such reporting provisions apply.

24-18-105. Ethical principles for public officers, local government officials, and employees.

(1) The principles in this section are intended as guides to conduct and do not constitute violations as such of the public trust of office or employment in state or local government.

(2) A public officer, a local government official, or an employee should not acquire or hold an interest in any business or undertaking which he has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by an agency over which he has substantive authority.

(3) A public officer, a local government official, or an employee should not, within six months following the termination of his office or employment, obtain employment in which he will take direct advantage, unavailable to others, of matters with which he was directly involved during his term of employment. These matters include rules, other than rules of general application, which he actively helped to formulate and applications, claims, or contested cases in the consideration of which he was an active participant.

(4) A public officer, a local government official, or an employee should not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when he has a substantial financial interest in a competing firm or undertaking.

24-18-106. Rules of conduct for members of the general assembly.

(1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the member of the general assembly committing the act has breached his fiduciary duty and the public trust. A member of the general assembly shall not accept a fee, a contingent fee, or any other compensation, except his official compensation provided by statute, for promoting or opposing the passage of legislation.

(2) It shall not be a breach of fiduciary duty and the public trust for a member of the general assembly to:

(a) Use state facilities or equipment to communicate or correspond with a member's constituents, family members, or business associates; or

(b) Accept or receive a benefit as an indirect consequence of transacting state business.

(3) Notwithstanding any other provision of law, no member of the general assembly shall lobby, solicit lobbying business or contracts, or otherwise establish a lobbying business or practice respecting issues before the general assembly prior to the expiration of his or her term. Where the member tenders his or her resignation prior to the expiration of his or her term, the requirements of this subsection (3) shall apply up through the date of the member's resignation from office.

24-18-107. Ethical principles for members of the general assembly.

(1) The principles in this section are intended only as guides to a member of the general assembly in determining whether or not his conduct is ethical.

(2) A member of the general assembly who has a personal or private interest in any measure or bill proposed or pending before the general assembly shall disclose the fact to the house of which he is a

member and shall not vote thereon. In deciding whether or not he has such an interest, a member shall consider, among other things, the following:

- (a) Whether the interest impedes his independence of judgment;
 - (b) The effect of his participation on public confidence in the integrity of the general assembly; and
 - (c) Whether his participation is likely to have any significant effect on the disposition of the matter.
- (3) An interest situation does not arise from legislation affecting the entire membership of a class.
- (4) If a member of the general assembly elects to disclose the interest, he shall do as provided in the rules of the house of representatives or the senate, but in no case shall failure to disclose constitute a breach of the public trust of legislative office.

24-18-108. Rules of conduct for public officers and state employees.

- (1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty.
- (2) A public officer or a state employee shall not:
- (a) Engage in a substantial financial transaction for his private business purposes with a person whom he inspects, regulates, or supervises in the course of his official duties;
 - (b) Assist any person for a fee or other compensation in obtaining any contract, claim, license, or other economic benefit from his agency;
 - (c) Assist any person for a contingent fee in obtaining any contract, claim, license, or other economic benefit from any state agency; or
 - (d) Perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which he either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent.
- (3) A head of a principal department or a member of a quasi-judicial or rule-making agency may perform an official act notwithstanding paragraph (d) of subsection (2) of this section if his participation is necessary to the administration of a statute and if he complies with the voluntary disclosure procedures under section 24-18-110.
- (4) Repealed.

24-18-108.5. Rules of conduct for members of boards and commissions.

- (1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that actor has breached his fiduciary duty.

(2) A member of a board, commission, council, or committee who receives no compensation other than a per diem allowance or necessary and reasonable expenses shall not perform an official act which may have a direct economic benefit on a business or other undertaking in which such member has a direct or substantial financial interest.

24-18-109. Rules of conduct for local government officials and employees.

(1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty and the public trust.

(2) A local government official or local government employee shall not:

(a) Engage in a substantial financial transaction for his private business purposes with a person whom he inspects or supervises in the course of his official duties; or

(b) Perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which he either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent.

(3) (a) A member of the governing body of a local government who has a personal or private interest in any matter proposed or pending before the governing body shall disclose such interest to the governing body and shall not vote thereon and shall refrain from attempting to influence the decisions of the other members of the governing body in voting on the matter.

(b) A member of the governing body of a local government may vote notwithstanding paragraph (a) of this subsection (3) if his participation is necessary to obtain a quorum or otherwise enable the body to act and if he complies with the voluntary disclosure procedures under section 24-18-110.

(4) It shall not be a breach of fiduciary duty and the public trust for a local government official or local government employee to:

(a) Use local government facilities or equipment to communicate or correspond with a member's constituents, family members, or business associates; or

(b) Accept or receive a benefit as an indirect consequence of transacting local government business.

24-18-110. Voluntary disclosure.

A member of a board, commission, council, or committee who receives no compensation other than a per diem allowance or necessary and reasonable expenses, a member of the general assembly, a public officer, a local government official, or an employee may, prior to acting in a manner which may impinge on his fiduciary duty and the public trust, disclose the nature of his private interest. Members of the general assembly shall make disclosure as provided in the rules of the house of representatives and the senate, and all others shall make the disclosure in writing to the secretary of state, listing the amount of his financial interest, if any, the purpose and duration of his services rendered, if any, and the compensation received for the services or such other information as is necessary to describe his interest. If he then performs the official act involved, he shall state for the record the fact and summary nature of

the interest disclosed at the time of performing the act. Such disclosure shall constitute an affirmative defense to any civil or criminal action or any other sanction.

24-18-111. Powers of the secretary of state.

- (1) The secretary of state may:
 - (a) Issue advisory opinions to persons subject to the provisions of this article concerning issues relating to the requesting person's conduct and the provisions of this article with such deletions as are necessary to protect the identity of the requesting party or the party about whom the opinion is written;
 - (b) Keep and permit reasonable public access to voluntary disclosure statements;
 - (c) Make rules for the conduct of his affairs under this part 1.
- (2) Any advisory opinion issued by the secretary of state shall take priority over any comment issued by the board of ethics for the executive branch pursuant to section 24-18-112 or any opinion issued by the board of ethics for the general assembly pursuant to section 24-18-113 if the comment or the opinion covers the same circumstances and the same issues as covered by the opinion of the secretary of state and if the comment or the opinion reached a separate conclusion from that reached by the opinion of the secretary of state.

24-18-112. Board of ethics for the executive branch- created- duties.

- (1) There is hereby created a board of ethics for the executive branch of state government in the office of the governor. The board shall consist of five members to be appointed by and serve at the pleasure of the governor.
- (2) The board of ethics for the executive branch shall:
 - (a) Comment, when requested by the governor, on each proposed gubernatorial appointment, including the heads of the principal departments and the senior members of the governor's office based upon the provisions of this article;
 - (b) Upon written request of the governor, review complaints of any violation of the provisions of this article by a member of the executive branch of state government;
 - (c) Make written recommendations to the governor concerning his requests; and
 - (d) Review appeals brought before the board of ethics pursuant to section 24-30-1003(4).

24-18-113. Board of ethics for the general assembly- created- duties.

- (1) There is hereby created a board of ethics for the general assembly. The board shall consist of four legislative members. One member shall be appointed by and serve at the pleasure of the majority leader of the house of representatives; one member shall be appointed by and serve at the pleasure of the majority leader of the senate; one member shall be appointed by and serve at the pleasure of the minority

leader of the house of representatives; and one member shall be appointed by and serve at the pleasure of the minority leader of the senate.

(2) The board of ethics for the general assembly shall, upon written request of a member of the general assembly, issue advisory opinions concerning issues relating to the requesting member's conduct and the provisions of this article.

APPENDIX B

CITY COUNCIL RESOLUTION NO. R2006-94

EFFECTIVE DATE: 10.30.06

RESOLUTION NO. R2006-94

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ADOPTING A COMPREHENSIVE SET OF STANDARDS FOR CONDUCT AND ETHICS FOR ALL CITY ELECTED OFFICIALS, OFFICERS, EMPLOYEES AND INDEPENDENT CONTRACTORS

WHEREAS, the City Council of the City of Aurora considers it extremely important to maintain a strong sense of confidence in the operations of the Aurora Municipal Corporation by the residents of the City of Aurora; and

WHEREAS, the City Council upon advice of the City Attorney has chosen to adopt all of the existing state laws regarding standards of conduct and ethics; and

WHEREAS, the City Council has determined that the previous resolution, R88-63, be readopted with these amendments that have occurred since 1988.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

The Aurora City Council does hereby formally adopt each and every provision found in Article 18 of Title 24 of the Colorado Revised Statutes entitled "Standards of Conduct" as they existed on October 30, 2006, and does hereby declare that all such provisions shall apply with full force and effect to all of the City's elected officials, City officers, City employees, and all independent contractors under contract with the City.

RESOLVED AND PASSED this 30th day of October, 2006.

Edward J. Tauer
EDWARD J. TAUER, Mayor

ATTEST:

Debra Johnson
DEBRA JOHNSON, City Clerk

APPROVED AS TO FORM:

Charles H. Dickson

APPENDIX C

TRANSCRIPT OF MAY 17, 2006 TITLE BOARD HEARING ON PROPOSED INITIATIVES 118 & 120 – ETHICS IN GOVERNMENT

Title Board hearing 05-17-06 3:14 p.m.

C= Chairman Bill Hobbs, Deputy Secretary of State

T = Martha Tierney

U = Deputy Director of the Office of Legislative Legal Services Sharon L. Eubanks

D = Solicitor General Dan Domenico

Chairman Bill Hobbs, Deputy Secretary of State – 118 and 120 have both ethics in government have the same proponents and similar measures. Let's first hear from the proponents and

One of the things perhaps you could address are the similarities and difference. If you would please introduce yourself for the record.

Martha Tierney – My name is Martha Tierney. I am with the law firm Kelly, Haglund, Garsey and Kahn. (inaudible). The only difference between the two measures is that 120 does not contain the provision regarding subsection 4 of 118 which is title 24. Other than that subsection the measures are identical.

C- Questions

Deputy Director of the Office of Legislative Legal Services Sharon L. Eubanks, - I need to make a disclosure first. Ms. Tierney and her law firm is in litigation with the state and the general assembly. That matter has no relevance in terms of the measures before the board today. I just want to make that disclosure for the record

C – Ms. Tierney has in the past been involved in litigation with the secretary of state as well, but it is unrelated to this. Questions for Ms. Tierney?

U- There were some changes made between the review and comment version and the version filed with the title board. Would you say in general those changes were made in response to the review and comment.

T- I would. I did make some changes and they were all in response to suggestions proposed (inaudible)

U- I looked through the review and comment memo, and I worked through it that way. There were a couple of changes that I couldn't quite track and I was wondering if you would help me. One, and I am looking at number 18 page 4. At the bottom of sub section 1 section 5. About the fact that the members of the commission receive no compensation. I saw a question regarding the staffing of the commission. And I think some of the language in the preceding language may have been in response to that question, but I didn't see anything about a question raised about compensation for members of the commission

T – we took that, added that s as a result of those same comments because we didn't want any questions about the general assembly appropriating funds to pay the commission members because the question raised was will there be any need for appropriation for the commission. And we discussed this at length and we agreed that there may be some admin costs or costs of operations that may go along with this ethics commission but we did not want there to be a suggestion that there would be a suggestion of payment of the commissioners.

U- And I can refer you to the specific question if you like? It arises out of question 27 a-d. And the other page I had a question on was on page 5 subsection 3c. There was some language added about the commission conducting an investigation. Where the review and ocmmen5t version just said the commission shall hold a public hearing and issue finding I didn't see a specific questions asking about the commission conducting an investigation

T – We discussed the mechanics of what the commission would need to do to hear complaint there was some suggestion that maybe it was ambiguous on what they were to do when it comes to a complaint. So we added that language though it is not in direct response to a question that I can recall. We did talk about what the jurisdiction commission would be.

U- In terms of another addition in section 3b and this I think may be a misspelling

T- That was one thing that I wanted to mention. Determined. I would like to ask for a technical correction there. If I may and it exists in both 118 and 120. Its section 5 subsection 3 and in it determines needs an E before the last S. I apologize for that error.

D – Subsection B?

T- Sub E. That last word there, determines. Second line subsection E

O- Is there another instance of that?

T- It's the same change in 120

Chair- Ok, were there any other technical corrections

T- There were not

C- Let's go ahead and dispose of that. We can make technical correction that is clearly a misspelling. I'll go ahead and move that we make a tech correction on 3E on page 5. To correction spelling of determined

Carried 3-0

c- Further for Ms. Tierney?

C- Lets turn to single subject compliance questions now. I don't have anyone else signed up to testify. Is there anyone else that wishes to address the board on this measure? On single or otherwise. OK then let's talk about single S

U- In terms of section 4 restriction on rep after leaving office. Can you explain to me the connection between government ethics? It seems more easy to understand gift ban or the commission

t- We see the restriction on rep after leaving office as falling under ethics umbrella. Avoiding as the purposes and findings sections it creates a violation of the public trust or the trust can be violated. The concern is that persons who appear in front of their peers. There may be an appearance that they are getting an advantage that they are now exploiting. So we cover that under the general conflict of ethics in government.

U- Is there any possibility of that going the other way as whether or not the rationale behind that prohibition that when the person is in office that they are doing some preferential treatment for who their perspective employer maybe when they are coming out of office. To get a job. Is that also part of the perceived perception?

T- It can be perceived that way as well.

U- Ok

C- Let's jump ahead slightly to title. We are required to clearly express the single subject. The staff draft expresses the single subject as standards of ethical conduct by certain people. But the heart of it is the establishment of ethical conduct. Is that a fair statement of what you think the single subject should be?

T- It is a fair statement.

C- I am weighing everything in the measure against that expression of single subject. And it seems to me that it does. I am Ok with section 4 based on what I can understand about the measure so far. I think it can be understood as that relating to the standards of ethical conduct. I don't right off see a problem with single subject. Mr. Domenico

Solicitor General Dan Domenico – As the new guy, I may not be quite as familiar with the standards we are dealing with here. It seems to me part of the goal of single subjects is to allow voters to deal with issues one at a time. Rather than omnibus measures that address all sorts of things at once. Obviously you can raise or lower the levels of generality and sort of include anything into some single subject if you define it broadly enough. Can you help me understand where we should draw the line on how general the subject can be or can it be as general as the proponent want it to be.

T- Well I think the single subject requirement is to protect voters from fraud and surprise of combining several unrelated subjects together for the purpose of enlisting the support of all the different advocates of those subjects to support a measure where the single subject is connected where the subjects are connected as the topics are here as ethics in government. As Mr. Hobbs stated standards of ethical conduct in government there is not a risk of misleading the voters in this initiative.

D – Is the only q whether it is misleading to voters? Isn't part of it also that voters shouldn't be required to vote yes no on too many subjects at once all in one yes or no questions? That if there are that if someone should be able to, say they are in favor of generally approving of ethics in government but they don't want to set up put these additional provisions in s4 but they think that the gift ban is a terrific idea. Isn't part of the single subject just to prevent fraud and misleading to express their real will on individual issue? So my question is that if we allow the single subject to be defined too broadly don't we run the risk of um of undermining the purpose of the initiative process. Which is to allow voters to express their will on issues. Say for example this included in addition a pay increase or decrease whatever way you think would improve ethics for government employees, a revision in the taxes are

collected to pay for that. That could all be brought under the rubric of improving ethics in gov. But it may not be a single subject. I think that there is case law somewhere, where somewhere you cross a line if you define it too generally. I wonder if this crosses that line.

t- Well, Again I think that you are right there is a line and you talk about where that line is. Pay increases for various person may bring us to that line, but I think that where the topics are connected and here we are establishing standards for ethics in government for person in gov. then that you don't cross that line. You are still within the standards of establishing ethical standards for people in gov. Not raising salaries, lowering salaries doing things that are off the map. In this case I don't see that we have crossed that line.

D – Ok I appreciate that. I think, I think we are close to it just not beyond it. Thanks for your help though

C- Well thinking about that there are several things that I think we can refer to as a guide. I think we can refer to the statutory provisions with the single subject amendment that was proposed to the gen assembly when the provision was put to the voters and the statutory provisions that I have in mind provide a little bit of help in trying to find where that line is. And am looking in s1-40-106.5 that deals with single subject requirement. The general assembly said that there were a couple of purposes in enacting the single subject requirement. One of them and I think each of these purposes provides, in my mind, a bit of a test. One of them was to was to forbid the treatment of incongruous subjects in the same measure. So that is part a of one test. Do you have incongruous subjects? Whatever that is. It goes on to say especially the practice of putting together in one measure subjects having no necessary or proper connection for the purpose of enlisting in support of the measure the advocates of each measure and thus carrying the advocates of each measure that cannot be carried on their own merits. I think that is log rolling. I think that's the phrase. In any event that's the idea of combining unrelated things in order to secure passage of somethings that couldn't pass on their own. To me that is one of the tests here. At least in this particular case I haven't yet looked at this proposal as being an example of incongruous subjects in order to enlist support. But in thinking that through then just going on to the next thing that the statute says that the purpose of the single subject amendment is also to prevent surreptitious measures and appraise the people of the subject of each measure by the title. That is to prevent surprise and fraud being practiced upon voters. That to me in my mind is another test. If we establish the single subject in such a way would voters be surprised if they find something else in there that seems unrelated. And again if the single subject is standards of ethical conduct than s4 doesn't strike me as being, seems to me that it is related. It as at least in the ball park. It seems to me that is it not fraud. Especially where we make sure in the titles that we do identify the major feature in the of the proposal so again I am just thinking through in my own mind and I think with respect to this proposal I am still Ok with it complying with the single subject requirement.

c- Any other discussion by the board?

U – Putting my 2 cents. I find myself in the same place as mister Domenico as trying to find out where that line is. I went back to the sup court decision in petitions in the 1995 decision and that particular initiative was found to contain a single subject although general subject and it had number types of provision that deal with time limits, types of provisions, procedures for challenging ballot titles, regarding printing distribution, rules providing a limitation on peaceful petitions and a variety of things relating to petitions. And the sup court upheld that even though it was very broad subject in contrast to another initiative petition dealing with water that it struck down because it was dealing with sort of

election and boundary rules as well as dealing with water. Although you can have a very broad subject you can have matters that are so unrelated that they are not a single subject. I think with this matter I feel comfortable going forward with ethical standards.

C. Any other discussion?

Motion contains single subject carries 2 to 1 U and C for D against

C – Ms. Tierney have you had a chance to look at the staff draft and have you had time to come up with any comments?

T- I have Mr. Hobbs, I have a couple. The staff draft does capture quite well what we are trying to do. With initiative 118 the first comment I have on line 3 with relation to the word processes. As an alternate suggestion I have come up with the word activities. The concern is that the word processes may not be as well understood or as well utilized in the sentences. By voters reading the title. It may be governmental activities better captures what it is, or better explains to the reader what we are trying to cover here. You want me to continue with all my comments or do you want me to pause.

C – Let's talk about that 1 just briefly. The phrase that you are referring to I was trying to puzzle out in my mind why it was worded the way it was. Staff drafts in my mind are done very carefully and very thoughtfully. I am sure the drafter had crafted that very carefully. And I am sure that is why it is worded the way it is. But it seems like it is kind of obtuse with referring to person who are professionally involved with government something. I might have missed something in the text, subtlety in the text that could explain why it is worded the way it is. I think it applies to government officials and employees at state and local levels. And so 1 possibly is just to say standards of ethical conduct by government employees and officials. Now if that is accurate. I suspect one reason the drafter wanted to do that is because that is an expression of the single subject. When we put a conjunction in it looks like 2 different things. Its standards for this group and standards for this group. And so that could be the explanation, but I am wondering if there could be something more to it. Mr. Domenico?

D – I think the reason it is written so obtusely is because the subject is so very broad. I think too broad to be a single subject. And in fact I think the reason specifically is section 4 which relates not to government officials but former government officials. And so that why it was probably written that way. Which highlights the problems I had with it earlier. That's what I thought of when I read that.

c- Ms. Eubanks?

U – I think in addition to the point just raised with Mr. Domenico is also in section 3 subsection 4 is a prohibition against professional lobbyist. I think that is some of the difficulty in trying to come up with a term or describe the group of individuals that are involved by the scope or covered by the scope of this measure because it lobbyist both in government officials once they are out of office who are lobbying but also lobbyist who are lobbying regardless of whether they previously held public office so that is part of the difficulty.

C – Good point. Ok I think that I am back on track.

T- I think that those may be what the staff was concerned with Ms. Eubanks comments. It is not a one word person who is covered so they are looking to efficiently describe who is covered. I do think that we run into some problems if we start reciting that litany everywhere. Some of my other comments will go

to that. I think if we recite the same thing over and over in the title in terms of brevity I hope that we can avoid that. I would be satisfied with the phrase “governmental activities” does grasp what it does.

C- The other comments that you have?

T- In line 5 it states “accepting or receiving” certain in kind gifts. Accepting or receiving is the language in the act. There is another term in that is not listed here. That is soliciting. We thought maybe if we change the language to say soliciting or accepting certain monetary or in kind gifts it keeps the measure the same way without a number of word needed. But accepting and receiving are more similar than soliciting. Soliciting can be used to capture that different activity that tis covered.

c- I am sorry was the proposal to add the word soliciting or replace the word soliciting?

T- Why don’t I read you the proposal? I will read starting on line 4 government employee from new words would be “soliciting for” leave as accepting, but delete “or receiving”.

t- Third comment I have is for brevity. 12 and 13 instead of reciting the whole litany of persons again instead we put a comma on line 12 and then delete “filed against government officials, government employees” So the next word would be “to access” .

C – OK

3:44 pm T- next comments in on the very next lines. After opinions add a semicolon delete “on ethics issues” add an “and” before “establishing. Then a period a period after public trust. Then our proposal is to delete the remainder of this preproposal because the remainder of the title is more ministerial functions, implementation functions that we don’t generally see in a title.

Chairman Bill Hobbs, Deputy Secretary of State - let me ask you a question about then one part of that that would be deleted. Line 16 says specific measures shall not apply to home rule jurisdictions that have adopted laws covering, concerning matters covered by that measure. The way I understood the measure, I think, is that home rule jurisdictions could have weaker ethics laws and that could prevail over this measure?

Martha Tierney- If a home rule city has adopted ethical provisions that are more stringent than any of the provisions contained in the article ... I am sorry, I am combining those two sentences. You are correct that, if a home rule city has adopted by charter, ordinance, or resolution measures that address the matters covered in the article, then home rule will prevail. And I was listening earlier to the hearings this morning so I know this issue didn’t come up. I can rethink whether or not we need to rethink leaving home rule in here. I am certainly up to discussing that with you.

Chairman Bill Hobbs, Deputy Secretary of State - I would have some hesitation removing that being that it might be a key feature. If it deferred to home rule measures. Home rule provisions that were more stringent then I would feel differently I think. But the fact that home rule jurisdictions can have weaker measures may be something we need to mention. We can think about that. Those are your suggestions?

Martha Tierney- Those are our suggestions.

c- Any question for Ms. Tierney? Discussion by the board

U- In terms of the statement of single subject in addition to the issues that have already been raised by the board. I am a little concerned about the current statement not being quite accurate. That's in regards to the establishment of standards of ethical conduct. While I agree it is establishing standards in terms of the gift ban and the ability to lobby those sorts of things. I am not sure that the ethics commission is the establishment of standards. That is how I understand it and let me ask Ms. T, the ethics commission can be involved with enforcing ethical standards created by other constitutional standards or those created by state law. It is not just the standards created in this measure?

T- That is correct.

U- I am not sure the entire measure deals with the establishment of standards. Maybe it deals with standards of ethical conduct or maybe it deals with just ethical conduct. I am just not sure that establishment is accurate.

c- That would be remedied by just removing "the establishment of"

U- I think so.

c- Motions.

U – I move

c- Ms. Tierney you accept that?

T- The proponents accept that.

C- Mr. Domenico you have a comment?

D- I suppose I should have said earlier, I am not entirely comfortable with the commission being part of this single subject. But I also think that standards isn't quite the right word even with that change. What's being done here is not establishing standards or something concerning them but regulating conduct and overseeing it. I mean The standards that I guess that are being put in place here are the gift ban and the ban on lobbying after you leave and the prohibitions on lobbyists I just question whether what we are trying to do here is regulate conduct. Rather than just discuss standards for ethical conduct. Because it really is more about establishing a structure for regulating conduct than laying out standards it seems to me. But again it is difficult for me to state what this does because it seems like this is more than one thing.

c- Let me ask Mr. Domenico This will not go to your concerns but 1 of the things I at least want to bring up is removing the word "ethical" in line 2. And the reason I bring that up, well there is a couple probably. But my recollection is the existing government ethics does say which title 24 a18 is. I think the title to that is standards of conduct. In fact I don't think it refers to ethical conduct. And in my mind that may be sufficient that standards of conduct implies ethical type conditions without using that word which would be. This is my 2nd reason for bringing it up because it might be a catch phrase or an unnecessary word that might be unfairly gathering support for the measures. If we don't have to use it then we shouldn't use it. Again it doesn't go very far to meeting Mr. Domenico's issues but there could be some question about whether everything in the measure relates to ethical conduct. Although my recollection is the state ethics code, the standards of conduct, include a board, provision for advisory positions and both advisory opinions by the Secretary Of State that provides a board for both the executive branch and the

general assembly as I recall. And as I recall there is some sort of a time out period, that I think is 6 months that they are prohibited from accepting employment, and it is a little different than what this measure does, but for matters that they were involved in as government employees. I am not sure if that ethical conduct. I am not sure if those are necessary ethical conduct. I am kind of rambling, but I think taking the word ethical out would be OK. Do you have any reaction to that Ms. Tierney?

T- I am not in favor of that change. I think it does loose, but I agree with you that CRS is titled standards of conduct and later parts of the measure reference that sections by using those words to show that complaints could be brought under other standards of conduct that are in other legislation.

C- Personally I would prefer to take the word out.

D- Just on quick glance I think ethics the word ethics or ethical appears in the title and not again until the creation of the ethics commission so just if that helps suggest how prominent the words should be but you are right id does not solve my other problems.

U- I think that your point is well taken especially in regards to a catch phrase. I think that the standards of conduct establishes the purposes without running the risk of having something in there that 1 doesn't appear much other then what Mr. Domenico has already brought to our attention. Whether we just say standards of conduct or go the regulation of conduct. I am fine either way.

D- What would get closer to getting rid of my issue is to say standards and regulation but I know that raises other problems but that is where I am.

c- I don't think that we have a motion, but I think that we can take the expression of a single subject separately. I guess we will just go ahead and move that lines 1 and 2 be changed to read "concerning standards of conduct by person who are professionally involved with etc..."

Motion passed 3-0

C – Other suggested changes?

U – I am fine with Ms. Tierney's suggestion at the end of the single subject statement to change "processes" to "activates"

Motion passed 3-0

C- I'll move another suggested change that Ms. Tierney made. I what is not line 5 after from insert "soliciting or" and then striking "or receiving". That my motion

U- Can I ask a question first?

C- You may

U – Ms. Tierney, in terms of the measure you used all 3 terms is that correct?

T- Yes, our thinking was that accepting and receiving were more similar concepts and soliciting is a more different concept and we should add soliciting as an issue of brevity and take out "or receiving".

C- Any further discussion?

Motion carried 3-0

U – at the end of the phrase where we were talking about soliciting or accepting gifts, where it is talking about without lawful consideration for such gifts. It would add words but it seems a little awkward to me it seems like lawful consideration is given for something I don't know whether it reads a little strangely without lawful consideration being given in return for such gifts or being given for such gifts, or just being given for such gift, but I don't know just saying lawful consideration for such gifts

D- You could take the receiving that we just took out and put it before lawful. Well that's wrong.

U- Because it is the person soliciting or accepting such gifts has given something in exchange for the gifts. But maybe you could saying "without giving lawful consideration for such gifts" rather than "being given". But "prohibits the person from soliciting or accepting such gifts." Or maybe it's not an issue if you don't think it's an issue. It just seems a little awkward to me.

c- Can we drop the phrase "without lawful consideration for such gifts" the idea being that a gift is something that does not have consideration? I am assuming the word lawful is there because a bribe would be considered consideration but if you are going to have the phrase at all the word lawful has to be included, but I am concerned whether the concept of consideration is necessary to the reader here.

U – Although it seemed essential in the text of the measure to specify that.

T- We would be very careful to include that in the measure to be clear that you can accept things if you paid for them. So that it wasn't a ban on accepting things. Whether or not that it necessary to have that in the title I don't feel super strongly about.

U- When you pay for something it is not a gift, you bought it. We could just drop the language on line 6 "without lawful consideration for such gifts"

c- Lets do that drop that phrase "without lawful consideration for such gifts"

T- Proponents would accept that change

Motion carries 3-0

U- I will start us on the issue of a whole laundry list of people. I am not sure what to do about it. I think it is somewhat important specifically down in the language that starts at the end of line 14 that starts at the phrase "establishing the penalties for a breach of public trust or inducement". One of the problems I have in that as it appears in the staff draft is that it does nothing to recognize that there is also penalties imposed for people who are not included in this laundry list who induced the breach so where it is a lobbyist or someone else. When they induced the public officer to breach the public trust there is also penalties so that causes me a problem in terms of just leaving it as "establishing penalties for breach of public trust" because it does more than that but I do think that there is a distinction because of the provision apply to lobbyist and the others don't. The way I understand it is that the ethics commission does not apply to the actions of lobbyist. Is that correct?

T- Well the ethics commission can hear complaints the way its drafted brought under reporting requirement so arguably there some broad requirements in the lobbying part

U- So lobbying would fall under this scope?

T- It would fall under a piece of that puzzle.

U- But a lobbyist couldn't submit a written request for an advisory opinion? Maybe that, although subsection 3a any person can file a written complaint with the ethics commission when a public officer, member of the general assembly, local government official, or government employee has failed to comply with this article. It does not include lobbyist there.

T- I stand corrected, you are right.

U- Ok. Like I said I will get us started on this but I am not sure how to resolve. It. Maye in the scope of that context. If the ethics commission is dealing with public officers and employee maybe you could group it very broadly under a shortened terminology. You don't have to use lobbyist, but I am concerned with that phrase I pointed out in term of breach of public trust because there is also penalties for breach of public trust by any other person. Now maybe you can drop that whole laundry list of individuals as long as we add something about inducing such a breach or something.

D- That does not relate to the ethics commission. Maybe it would help to move it somewhere else. The way it reads even though the staff was careful to use a semicolon there. When I first read it I thought that was discussing something the commission could do and it took me a while to realize that as a separate one on our list of things if not subjects. You could just say "establishing penalties for breach of public trust or inducement", but I think it maybe should be moved before discussion the commission just to clarify that that's a separate provision independent of the ethics commissions

T- I wrestled with that as well. That providing penalties is provided for in that measure where the commission measure separately establishes the measure. I agree that maybe if we move that beforehand.

D- There may not be a better place to put it but that might make it a little clearer. Of course the ethics commission provision may be an important provision that we just leave it, and this long list, because there is probably not a better place to put it given all the other important subjects this discusses.

C- Is there a specific suggestion to moving it?

D- Well I think if you moved "establishing penalties for breach of public trust" to after the "to" after the semicolon on line 11 after creating. That doesn't solve Ms. Eubanks problem about inducement I think the idea is that we would delete the remainder of that clause. The list of individuals. Line 11 before creating, right, that's right.

C- At line 15 continuing to strike the remainder of that clause.

D- To employee for now. And then Ms. Eubank, would it satisfy your concern about inducement to just say "establishing penalties for a breach or inducement of a breach of public trust"?

U- I don't know whether it's better to have "breach" or "inducement of a breach" up front. To where you talk about a breach of public trust and then refer to an inducement that is sort of a B concept. And then refer to or inducement of such a breach. Something like that. I am open to either way whatever works best. But I am fine with that.

T- Proponents would prefer the latter. And say "for a breach of public trust or inducement of such a breach"

D- That's fine

U- Do you want to include that in your motion?

D- Yes I will move that

D- Semicolon and,

Motion carries 3-0

C- What about in line 13 dropping the subjects of the ethics complaints and just refer to hear ethics complaints and drop the rest of that.

T- And just pick up again to access penalties.

C- Where is that?

T- It is at the end of 14

C- To me it would be sufficient to just say "creating a commission to hear ethics complaints;". Any opposition to that?

D- So you would also delete the part about accessing penalties and issuing advisory opinions?

C- No I would delete everything after the word complaint is in line 13 up to the end of line 14 that says to access. I would leave to "access penalties".

D- I don't object to that

C- I'm going to go ahead and make that motion. It should read "to assess penalties, and to issue advisory opinions on ethics issues".

Motion carries 3-0

4:13 pm U – in terms of Ms. Tierney's last suggestion about removing the remainder of the language there that starts on line 20. While I am fine with eliminating the language about conflicting state statutes and authorizing the enactment of legislation I think the home rule issue may be important. Though I would be agreeable to remove the 2 latter phrases but not that one.

C- I agree.

U – if we keep the home rule phrase at least if we keep the home rule phrase then we need to remove the "and" on line 12 because creating a 5 member ethics commission wouldn't be (inaudible)

T- Proponents don't object to that change.

c- Lets start on line 13 and remove the "and" before "creating and" in line 17 before the specifying insert the word "and", and then line 19 after "measure" delete everything up to the period.

Motion carries 3-0

C- Further suggested changes to staff draft?

T- None from the proponents.

C- Perhaps we can see it without the markup. I will probably need to read it into the records.

U- Can I read it first?

C- I'll read it to you to have it in the records. (Current ballot title was read into the record). With the understanding that the same changes would be made in the ballot title and submission clause beginning what is now line 15.

U- I move to adopted as amended

Motion 2-1 D against

End of discussion on Initiative 118 at 4:21 pm.

APPENDIX D

AMENDMENT 41 – BALLOT TITLE AND TEXT

Amendment 41
Standards of Conduct in Government

1 **Ballot Title:** An amendment to the Colorado constitution concerning standards of
2 conduct by persons who are professionally involved with governmental activities, and,
3 in connection therewith, prohibiting a public officer, member of the general assembly,
4 local government official, or government employee from soliciting or accepting certain
5 monetary or in-kind gifts; prohibiting a professional lobbyist from giving anything of
6 value to a public officer, member of the general assembly, local government official,
7 government employee, or such person's immediate family member; prohibiting a
8 statewide elected officeholder or member of the general assembly from personally
9 representing another person or entity for compensation before any other such
10 officeholder or member for a period of two years following departure from office;
11 establishing penalties for a breach of public trust or inducement of such a breach;
12 creating a five-member independent ethics commission to hear ethics complaints, to
13 assess penalties, and to issue advisory opinions on ethics issues; and specifying that the
14 measure shall not apply to home rule jurisdictions that have adopted laws concerning
15 matters covered by the measure.

16 **Text of Proposal:**

17 *Be it Enacted by the People of the State of Colorado:*

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

20 **ARTICLE XXIX**
21 **Ethics in Government**

22 **Section 1. Purposes and findings.** (1) THE PEOPLE OF THE STATE OF COLORADO
23 HEREBY FIND AND DECLARE THAT:

24 (a) THE CONDUCT OF PUBLIC OFFICERS, MEMBERS OF THE GENERAL ASSEMBLY,
25 LOCAL GOVERNMENT OFFICIALS, AND GOVERNMENT EMPLOYEES MUST HOLD THE
26 RESPECT AND CONFIDENCE OF THE PEOPLE;

27 (b) THEY SHALL CARRY OUT THEIR DUTIES FOR THE BENEFIT OF THE PEOPLE OF
28 THE STATE;

29 (c) THEY SHALL, THEREFORE, AVOID CONDUCT THAT IS IN VIOLATION OF THEIR
30 PUBLIC TRUST OR THAT CREATES A JUSTIFIABLE IMPRESSION AMONG MEMBERS OF THE
31 PUBLIC THAT SUCH TRUST IS BEING VIOLATED;

1 (d) ANY EFFORT TO REALIZE PERSONAL FINANCIAL GAIN THROUGH PUBLIC
2 OFFICE OTHER THAN COMPENSATION PROVIDED BY LAW IS A VIOLATION OF THAT TRUST;
3 AND

4 (e) TO ENSURE PROPRIETY AND TO PRESERVE PUBLIC CONFIDENCE, THEY MUST
5 HAVE THE BENEFIT OF SPECIFIC STANDARDS TO GUIDE THEIR CONDUCT, AND OF A
6 PENALTY MECHANISM TO ENFORCE THOSE STANDARDS.

7 (2) THE PEOPLE OF THE STATE OF COLORADO ALSO FIND AND DECLARE THAT
8 THERE ARE CERTAIN COSTS ASSOCIATED WITH HOLDING PUBLIC OFFICE AND THAT TO
9 ENSURE THE INTEGRITY OF THE OFFICE, SUCH COSTS OF A REASONABLE AND NECESSARY
10 NATURE SHOULD BE BORN BY THE STATE OR LOCAL GOVERNMENT.

11 **Section 2. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE
12 REQUIRES:

13 (1) "GOVERNMENT EMPLOYEE" MEANS ANY EMPLOYEE, INCLUDING
14 INDEPENDENT CONTRACTORS, OF THE STATE EXECUTIVE BRANCH, THE STATE
15 LEGISLATIVE BRANCH, A STATE AGENCY, A PUBLIC INSTITUTION OF HIGHER EDUCATION,
16 OR ANY LOCAL GOVERNMENT, EXCEPT A MEMBER OF THE GENERAL ASSEMBLY OR A
17 PUBLIC OFFICER.

18 (2) "LOCAL GOVERNMENT" MEANS COUNTY OR MUNICIPALITY.

19 (3) "LOCAL GOVERNMENT OFFICIAL" MEANS AN ELECTED OR APPOINTED
20 OFFICIAL OF A LOCAL GOVERNMENT BUT DOES NOT INCLUDE AN EMPLOYEE OF A LOCAL
21 GOVERNMENT.

22 (4) "PERSON" MEANS ANY INDIVIDUAL, CORPORATION, BUSINESS TRUST, ESTATE,
23 TRUST, LIMITED LIABILITY COMPANY, PARTNERSHIP, LABOR ORGANIZATION,
24 ASSOCIATION, POLITICAL PARTY, COMMITTEE, OR OTHER LEGAL ENTITY.

25 (5) "PROFESSIONAL LOBBYIST" MEANS ANY INDIVIDUAL WHO ENGAGES HIMSELF
26 OR HERSELF OR IS ENGAGED BY ANY OTHER PERSON FOR PAY OR FOR ANY
27 CONSIDERATION FOR LOBBYING. "PROFESSIONAL LOBBYIST" DOES NOT INCLUDE ANY
28 VOLUNTEER LOBBYIST, ANY STATE OFFICIAL OR EMPLOYEE ACTING IN HIS OR HER
29 OFFICIAL CAPACITY, EXCEPT THOSE DESIGNATED AS LOBBYISTS AS PROVIDED BY LAW,
30 ANY ELECTED PUBLIC OFFICIAL ACTING IN HIS OR HER OFFICIAL CAPACITY, OR ANY
31 INDIVIDUAL WHO APPEARS AS COUNSEL OR ADVISOR IN AN ADJUDICATORY PROCEEDING.

1 (6) "PUBLIC OFFICER" MEANS ANY ELECTED OFFICER, INCLUDING ALL
2 STATEWIDE ELECTED OFFICEHOLDERS, THE HEAD OF ANY DEPARTMENT OF THE
3 EXECUTIVE BRANCH, AND ELECTED AND APPOINTED MEMBERS OF STATE BOARDS AND
4 COMMISSIONS. "PUBLIC OFFICER" DOES NOT INCLUDE A MEMBER OF THE GENERAL
5 ASSEMBLY, A MEMBER OF THE JUDICIARY, ANY LOCAL GOVERNMENT OFFICIAL, OR ANY
6 MEMBER OF A BOARD, COMMISSION, COUNCIL OR COMMITTEE WHO RECEIVES NO
7 COMPENSATION OTHER THAN A PER DIEM ALLOWANCE OR NECESSARY AND REASONABLE
8 EXPENSES.

9 **Section 3. Gift ban.** (1) NO PUBLIC OFFICER, MEMBER OF THE GENERAL ASSEMBLY,
10 LOCAL GOVERNMENT OFFICIAL, OR GOVERNMENT EMPLOYEE SHALL ACCEPT OR RECEIVE
11 ANY MONEY, FORBEARANCE, OR FORGIVENESS OF INDEBTEDNESS FROM ANY PERSON,
12 WITHOUT SUCH PERSON RECEIVING LAWFUL CONSIDERATION OF EQUAL OR GREATER
13 VALUE IN RETURN FROM THE PUBLIC OFFICER, MEMBER OF THE GENERAL ASSEMBLY,
14 LOCAL GOVERNMENT OFFICIAL, OR GOVERNMENT EMPLOYEE WHO ACCEPTED OR
15 RECEIVED THE MONEY, FORBEARANCE OR FORGIVENESS OF INDEBTEDNESS.

16 (2) NO PUBLIC OFFICER, MEMBER OF THE GENERAL ASSEMBLY, LOCAL
17 GOVERNMENT OFFICIAL, OR GOVERNMENT EMPLOYEE, EITHER DIRECTLY OR INDIRECTLY
18 AS THE BENEFICIARY OF A GIFT OR THING OF VALUE GIVEN TO SUCH PERSON'S SPOUSE
19 OR DEPENDENT CHILD, SHALL SOLICIT, ACCEPT OR RECEIVE ANY GIFT OR OTHER THING
20 OF VALUE HAVING EITHER A FAIR MARKET VALUE OR AGGREGATE ACTUAL COST
21 GREATER THAN FIFTY DOLLARS (\$50) IN ANY CALENDAR YEAR, INCLUDING BUT NOT
22 LIMITED TO, GIFTS, LOANS, REWARDS, PROMISES OR NEGOTIATIONS OF FUTURE
23 EMPLOYMENT, FAVORS OR SERVICES, HONORARIA, TRAVEL, ENTERTAINMENT, OR
24 SPECIAL DISCOUNTS, FROM A PERSON, WITHOUT THE PERSON RECEIVING LAWFUL
25 CONSIDERATION OF EQUAL OR GREATER VALUE IN RETURN FROM THE PUBLIC OFFICER,
26 MEMBER OF THE GENERAL ASSEMBLY, LOCAL GOVERNMENT OFFICIAL, OR GOVERNMENT
27 EMPLOYEE WHO SOLICITED, ACCEPTED OR RECEIVED THE GIFT OR OTHER THING OF
28 VALUE.

29 (3) THE PROHIBITIONS IN SUBSECTIONS (1) AND (2) OF THIS SECTION DO NOT
30 APPLY IF THE GIFT OR THING OF VALUE IS:

31 (a) A CAMPAIGN CONTRIBUTION AS DEFINED BY LAW;

32 (b) AN UNSOLICITED ITEM OF TRIVIAL VALUE LESS THAN FIFTY DOLLARS (\$50),
33 SUCH AS A PEN, CALENDAR, PLANT, BOOK, NOTE PAD OR OTHER SIMILAR ITEM;

34 (c) AN UNSOLICITED TOKEN OR AWARD OF APPRECIATION IN THE FORM OF A
35 PLAQUE, TROPHY, DESK ITEM, WALL MEMENTO, OR SIMILAR ITEM;

36 (d) UNSOLICITED INFORMATIONAL MATERIAL, PUBLICATIONS, OR SUBSCRIPTIONS
37 RELATED TO THE RECIPIENT'S PERFORMANCE OF OFFICIAL DUTIES;

1 (e) ADMISSION TO, AND THE COST OF FOOD OR BEVERAGES CONSUMED AT, A
2 RECEPTION, MEAL OR MEETING BY AN ORGANIZATION BEFORE WHOM THE RECIPIENT
3 APPEARS TO SPEAK OR TO ANSWER QUESTIONS AS PART OF A SCHEDULED PROGRAM;

4 (f) REASONABLE EXPENSES PAID BY A NONPROFIT ORGANIZATION OR OTHER
5 STATE OR LOCAL GOVERNMENT FOR ATTENDANCE AT A CONVENTION, FACT-FINDING
6 MISSION OR TRIP, OR OTHER MEETING IF THE PERSON IS SCHEDULED TO DELIVER A
7 SPEECH, MAKE A PRESENTATION, PARTICIPATE ON A PANEL, OR REPRESENT THE STATE OR
8 LOCAL GOVERNMENT, PROVIDED THAT THE NON-PROFIT ORGANIZATION RECEIVES LESS
9 THAN FIVE PERCENT (5%) OF ITS FUNDING FROM FOR-PROFIT ORGANIZATIONS OR
10 ENTITIES;

11 (g) GIVEN BY AN INDIVIDUAL WHO IS A RELATIVE OR PERSONAL FRIEND OF THE
12 RECIPIENT ON A SPECIAL OCCASION.

13 (h) A COMPONENT OF THE COMPENSATION PAID OR OTHER INCENTIVE GIVEN TO
14 THE RECIPIENT IN THE NORMAL COURSE OF EMPLOYMENT.

15 (4) NOTWITHSTANDING ANY PROVISIONS OF THIS SECTION TO THE CONTRARY,
16 AND EXCEPTING CAMPAIGN CONTRIBUTIONS AS DEFINED BY LAW, NO PROFESSIONAL
17 LOBBYIST, PERSONALLY OR ON BEHALF OF ANY OTHER PERSON OR ENTITY, SHALL
18 KNOWINGLY OFFER, GIVE, OR ARRANGE TO GIVE, TO ANY PUBLIC OFFICER, MEMBER OF
19 THE GENERAL ASSEMBLY, LOCAL GOVERNMENT OFFICIAL, OR GOVERNMENT EMPLOYEE,
20 OR TO A MEMBER OF SUCH PERSON'S IMMEDIATE FAMILY, ANY GIFT OR THING OF VALUE,
21 OF ANY KIND OR NATURE, NOR KNOWINGLY PAY FOR ANY MEAL, BEVERAGE, OR OTHER
22 ITEM TO BE CONSUMED BY SUCH PUBLIC OFFICER, MEMBER OF THE GENERAL ASSEMBLY,
23 LOCAL GOVERNMENT OFFICIAL OR GOVERNMENT EMPLOYEE, WHETHER OR NOT SUCH
24 GIFT OR MEAL, BEVERAGE OR OTHER ITEM TO BE CONSUMED IS OFFERED, GIVEN OR PAID
25 FOR IN THE COURSE OF SUCH LOBBYIST'S BUSINESS OR IN CONNECTION WITH A PERSONAL
26 OR SOCIAL EVENT; PROVIDED, HOWEVER, THAT A PROFESSIONAL LOBBYIST SHALL NOT
27 BE PROHIBITED FROM OFFERING OR GIVING TO A PUBLIC OFFICER, MEMBER OF THE
28 GENERAL ASSEMBLY, LOCAL GOVERNMENT OFFICIAL OR GOVERNMENT EMPLOYEE WHO
29 IS A MEMBER OF HIS OR HER IMMEDIATE FAMILY ANY SUCH GIFT, THING OF VALUE, MEAL,
30 BEVERAGE OR OTHER ITEM.

31 (5) THE GENERAL ASSEMBLY SHALL MAKE ANY CONFORMING AMENDMENTS TO
32 THE REPORTING AND DISCLOSURE REQUIREMENTS FOR PUBLIC OFFICERS, MEMBERS OF
33 THE GENERAL ASSEMBLY AND PROFESSIONAL LOBBYISTS, AS PROVIDED BY LAW, TO
34 COMPLY WITH THE REQUIREMENTS SET FORTH IN THIS SECTION.

1 (6) THE FIFTY-DOLLAR (\$50) LIMIT SET FORTH IN SUBSECTION (2) OF THIS
2 SECTION SHALL BE ADJUSTED BY AN AMOUNT BASED UPON THE PERCENTAGE CHANGE
3 OVER A FOUR-YEAR PERIOD IN THE UNITED STATES BUREAU OF LABOR STATISTICS
4 CONSUMER PRICE INDEX FOR DENVER- BOULDER-GREELEY, ALL ITEMS, ALL CONSUMERS,
5 OR ITS SUCCESSOR INDEX, ROUNDED TO THE NEAREST LOWEST DOLLAR. THE FIRST
6 ADJUSTMENT SHALL BE DONE IN THE FIRST QUARTER OF 2011 AND THEN EVERY FOUR
7 YEARS THEREAFTER.

8 **Section 4. Restrictions on representation after leaving office.** NO STATEWIDE
9 ELECTED OFFICEHOLDER OR MEMBER OF THE GENERAL ASSEMBLY SHALL PERSONALLY
10 REPRESENT ANOTHER PERSON OR ENTITY FOR COMPENSATION BEFORE ANY OTHER
11 STATEWIDE ELECTED OFFICEHOLDER OR MEMBER OF THE GENERAL ASSEMBLY, FOR A
12 PERIOD OF TWO YEARS FOLLOWING VACATION OF OFFICE. FURTHER RESTRICTIONS ON
13 PUBLIC OFFICERS OR MEMBERS OF THE GENERAL ASSEMBLY AND SIMILAR RESTRICTIONS
14 ON OTHER PUBLIC OFFICERS, LOCAL GOVERNMENT OFFICIALS OR GOVERNMENT
15 EMPLOYEES MAY BE ESTABLISHED BY LAW.

16 **Section 5. Independent ethics commission.** (1) THERE IS HEREBY CREATED AN
17 INDEPENDENT ETHICS COMMISSION TO BE COMPOSED OF FIVE MEMBERS. THE PURPOSE
18 OF THE INDEPENDENT ETHICS COMMISSION SHALL BE TO HEAR COMPLAINTS, ISSUE
19 FINDINGS, AND ASSESS PENALTIES, AND ALSO TO ISSUE ADVISORY OPINIONS, ON ETHICS
20 ISSUES ARISING UNDER THIS ARTICLE AND UNDER ANY OTHER STANDARDS OF CONDUCT
21 AND REPORTING REQUIREMENTS AS PROVIDED BY LAW. THE INDEPENDENT ETHICS
22 COMMISSION SHALL HAVE AUTHORITY TO ADOPT SUCH REASONABLE RULES AS MAY BE
23 NECESSARY FOR THE PURPOSE OF ADMINISTERING AND ENFORCING THE PROVISIONS OF
24 THIS ARTICLE AND ANY OTHER STANDARDS OF CONDUCT AND REPORTING REQUIREMENTS
25 AS PROVIDED BY LAW. THE GENERAL ASSEMBLY SHALL APPROPRIATE REASONABLE AND
26 NECESSARY FUNDS TO COVER STAFF AND ADMINISTRATIVE EXPENSES TO ALLOW THE
27 INDEPENDENT ETHICS COMMISSION TO CARRY OUT ITS DUTIES PURSUANT TO THIS
28 ARTICLE. MEMBERS OF THE COMMISSION SHALL RECEIVE NO COMPENSATION FOR THEIR
29 SERVICES ON THE COMMISSION.

30 (2) (a) MEMBERS OF THE INDEPENDENT ETHICS COMMISSION SHALL BE
31 APPOINTED IN THE FOLLOWING MANNER AND ORDER:

32 (I) ONE MEMBER SHALL BE APPOINTED BY THE COLORADO SENATE;

33 (II) ONE MEMBER SHALL BE APPOINTED BY THE COLORADO HOUSE OF
34 REPRESENTATIVES;

35 (III) ONE MEMBER SHALL BE APPOINTED BY THE GOVERNOR OF THE STATE OF
36 COLORADO;

37 (IV) ONE MEMBER SHALL BE APPOINTED BY THE CHIEF JUSTICE OF THE
38 COLORADO SUPREME COURT; AND

1 (V) ONE MEMBER SHALL BE EITHER A LOCAL GOVERNMENT OFFICIAL OR A
2 LOCAL GOVERNMENT EMPLOYEE APPOINTED BY THE AFFIRMATIVE VOTE OF AT LEAST
3 THREE OF THE FOUR MEMBERS APPOINTED PURSUANT TO SUBPARAGRAPHS (I) TO (IV) OF
4 THIS PARAGRAPH (a).

5 (b) NO MORE THAN TWO MEMBERS SHALL BE AFFILIATED WITH THE SAME
6 POLITICAL PARTY.

7 (c) EACH OF THE FIVE MEMBERS SHALL BE REGISTERED COLORADO VOTERS AND
8 SHALL HAVE BEEN CONTINUOUSLY REGISTERED WITH THE SAME POLITICAL PARTY, OR
9 CONTINUOUSLY UNAFFILIATED WITH ANY POLITICAL PARTY, FOR AT LEAST TWO YEARS
10 PRIOR TO APPOINTMENT TO THE COMMISSION.

11 (d) MEMBERS OF THE INDEPENDENT ETHICS COMMISSION SHALL BE APPOINTED
12 TO TERMS OF FOUR YEARS; EXCEPT THAT, THE FIRST MEMBER APPOINTED BY THE
13 COLORADO SENATE AND THE FIRST MEMBER APPOINTED BY THE GOVERNOR OF THE
14 STATE OF COLORADO SHALL INITIALLY SERVE TWO YEAR TERMS TO ACHIEVE STAGGERED
15 ENDING DATES.

16 (e) IF A MEMBER IS APPOINTED TO FILL AN UNEXPIRED TERM, THAT MEMBER'S
17 TERM SHALL END AT THE SAME TIME AS THE TERM OF THE PERSON BEING REPLACED.

18 (f) EACH MEMBER SHALL CONTINUE TO SERVE UNTIL A SUCCESSOR HAS BEEN
19 APPOINTED, EXCEPT THAT IF A MEMBER IS UNABLE OR UNWILLING TO CONTINUE TO
20 SERVE UNTIL A SUCCESSOR HAS BEEN APPOINTED, THE ORIGINAL APPOINTING AUTHORITY
21 AS DESCRIBED IN THIS SUBSECTION SHALL FILL THE VACANCY PROMPTLY.

22 (3) (a) ANY PERSON MAY FILE A WRITTEN COMPLAINT WITH THE INDEPENDENT
23 ETHICS COMMISSION ASKING WHETHER A PUBLIC OFFICER, MEMBER OF THE GENERAL
24 ASSEMBLY, LOCAL GOVERNMENT OFFICIAL, OR GOVERNMENT EMPLOYEE HAS FAILED TO
25 COMPLY WITH THIS ARTICLE OR ANY OTHER STANDARDS OF CONDUCT OR REPORTING
26 REQUIREMENTS AS PROVIDED BY LAW WITHIN THE PRECEDING TWELVE MONTHS.

27 (b) THE COMMISSION MAY DISMISS FRIVOLOUS COMPLAINTS WITHOUT
28 CONDUCTING A PUBLIC HEARING. COMPLAINTS DISMISSED AS FRIVOLOUS SHALL BE
29 MAINTAINED CONFIDENTIAL BY THE COMMISSION.

30 (c) THE COMMISSION SHALL CONDUCT AN INVESTIGATION, HOLD A PUBLIC
31 HEARING, AND RENDER FINDINGS ON EACH NON-FRIVOLOUS COMPLAINT PURSUANT TO
32 WRITTEN RULES ADOPTED BY THE COMMISSION.

33 (d) THE COMMISSION MAY ASSESS PENALTIES FOR VIOLATIONS AS PRESCRIBED
34 BY THIS ARTICLE AND PROVIDED BY LAW.

1 (e) THERE IS HEREBY ESTABLISHED A PRESUMPTION THAT THE FINDINGS SHALL
2 BE BASED ON A PREPONDERANCE OF EVIDENCE UNLESS THE COMMISSION DETERMINES
3 THAT THE CIRCUMSTANCES WARRANT A HEIGHTENED STANDARD.

4 (4) MEMBERS OF THE INDEPENDENT ETHICS COMMISSION SHALL HAVE THE
5 POWER TO SUBPOENA DOCUMENTS AND TO SUBPOENA WITNESSES TO MAKE STATEMENTS
6 AND PRODUCE DOCUMENTS.

7 (5) ANY PUBLIC OFFICER, MEMBER OF THE GENERAL ASSEMBLY, LOCAL
8 GOVERNMENT OFFICIAL, OR GOVERNMENT EMPLOYEE MAY SUBMIT A WRITTEN REQUEST
9 TO THE INDEPENDENT ETHICS COMMISSION FOR AN ADVISORY OPINION ON WHETHER ANY
10 CONDUCT BY THAT PERSON WOULD CONSTITUTE A VIOLATION OF THIS ARTICLE, OR ANY
11 OTHER STANDARDS OF CONDUCT OR REPORTING REQUIREMENTS AS PROVIDED BY LAW.
12 THE COMMISSION SHALL RENDER AN ADVISORY OPINION PURSUANT TO WRITTEN RULES
13 ADOPTED BY THE COMMISSION.

14 **Section 6. Penalty.** ANY PUBLIC OFFICER, MEMBER OF THE GENERAL ASSEMBLY, LOCAL
15 GOVERNMENT OFFICIAL OR GOVERNMENT EMPLOYEE WHO BREACHES THE PUBLIC TRUST
16 FOR PRIVATE GAIN AND ANY PERSON OR ENTITY INDUCING SUCH BREACH SHALL BE
17 LIABLE TO THE STATE OR LOCAL JURISDICTION FOR DOUBLE THE AMOUNT OF THE
18 FINANCIAL EQUIVALENT OF ANY BENEFITS OBTAINED BY SUCH ACTIONS. THE MANNER
19 OF RECOVERY AND ADDITIONAL PENALTIES MAY BE PROVIDED BY LAW.

20 **Section 7. Counties and municipalities.** ANY COUNTY OR MUNICIPALITY MAY ADOPT
21 ORDINANCES OR CHARTER PROVISIONS WITH RESPECT TO ETHICS MATTERS THAT ARE
22 MORE STRINGENT THAN ANY OF THE PROVISIONS CONTAINED IN THIS ARTICLE. THE
23 REQUIREMENTS OF THIS ARTICLE SHALL NOT APPLY TO HOME RULE COUNTIES OR HOME
24 RULE MUNICIPALITIES THAT HAVE ADOPTED CHARTERS, ORDINANCES, OR RESOLUTIONS
25 THAT ADDRESS THE MATTERS COVERED BY THIS ARTICLE.

26 **Section 8. Conflicting provisions declared inapplicable.** ANY PROVISIONS IN THE
27 STATUTES OF THIS STATE IN CONFLICT OR INCONSISTENT WITH THIS ARTICLE ARE HEREBY
28 DECLARED TO BE PREEMPTED BY THIS ARTICLE AND INAPPLICABLE TO THE MATTERS
29 COVERED BY AND PROVIDED FOR IN THIS ARTICLE.

30 **Section 9. Legislation to facilitate article.** LEGISLATION MAY BE ENACTED TO
31 FACILITATE THE OPERATION OF THIS ARTICLE, BUT IN NO WAY SHALL SUCH LEGISLATION
32 LIMIT OR RESTRICT THE PROVISIONS OF THIS ARTICLE OR THE POWERS HEREIN GRANTED.