

**SUBSTITUTE FOR
SENATE BILL NO. 1198**

A bill to amend 1978 PA 472, entitled
"An act to regulate political activity; to regulate lobbyists,
lobbyist agents, and lobbying activities; to require registration
of lobbyists and lobbyist agents; to require the filing of reports;
to prescribe the powers and duties of the department of state; to
prescribe penalties; and to repeal certain acts and parts of acts,"
by amending sections 3 and 4 (MCL 4.413 and 4.414), section 4 as
amended by 2008 PA 289, and by adding section 8a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) "Department" means the department of state.
2 (2) "Expenditure" means an advance, compensation for labor,
3 honorarium, conveyance, deposit, distribution, transfer of funds,
4 loan, payment, pledge, or subscription of money or anything of
5 value including a contract, agreement, promise, or other

1 obligation, whether or not legally enforceable, to make an
2 expenditure. Expenditure does not include the payment of a
3 membership fee otherwise reported pursuant to section 8(1)(d) or
4 the cost of travel to visit and return from visiting a public
5 official for the purpose of communicating with the public official.

6 **(3) "Fair market value" means the value of an item or service**
7 **on the open market that is available to any member of the public at**
8 **the time the item or service is exchanged as determined under**
9 **section 8a.**

10 **(4) ~~(3)~~"Financial transaction" means a loan, purchase, sale,**
11 **or other type of transfer or exchange of money, goods, other**
12 **property, or services for value.**

13 Sec. 4. (1) "Gift" means a payment, advance, forbearance, or
14 the rendering or deposit of money, services, or anything of value,
15 the **fair market** value of which exceeds \$25.00, as adjusted under
16 section 19a, in any 1-month period, unless consideration of equal
17 or greater value is received therefor. Gift includes a payment,
18 advance, forbearance, or the rendering or deposit of money,
19 services, or anything of value to aid the defense of an official in
20 the legislative branch or an official in the executive branch
21 against a legal action not directly related to the governmental
22 duties of the official. Gift does not include the following:

23 (a) A campaign contribution otherwise reported as required by
24 the Michigan campaign finance act, 1976 PA 388, MCL 169.201 to
25 169.282.

26 (b) A loan made in the normal course of business by an
27 institution as defined in chapter 1 of the banking code of 1999,
28 1999 PA 276, MCL 487.11101 to 487.11203, a national bank, a branch
29 bank, an insurance company issuing a loan or receiving a mortgage

1 in the normal course of business, a premium finance company, a
2 mortgage company, a small loan company, a state or federal credit
3 union, a savings and loan association chartered by this state or
4 the federal government, or a licensee as defined by the motor
5 vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL 492.101 to
6 492.141.

7 (c) A gift received from a member of the person's immediate
8 family, a relative of a spouse, a relative within the seventh
9 degree of consanguinity as computed by the civil law method, or
10 from the spouse of the relative.

11 (d) A breakfast, luncheon, dinner, or other refreshment
12 consisting of food and beverage provided for immediate consumption.

13 (e) A contribution to a legal defense fund that is registered
14 with the secretary of state under the legal defense fund act and
15 whose purpose is to defend an elected official against any
16 criminal, civil, or administrative action, that arises directly out
17 of the conduct of the elected official's governmental duties.

18 **(f) A ticket or an offer of free or reduced-price attendance**
19 **to a charity event that has the primary purpose of raising money**
20 **for a nonprofit organization that is tax-exempt under section**
21 **501(c) (3) of the internal revenue code, 26 USC 501.**

22 **(g) Admission to a conference or educational event if the**
23 **subject matter is directly related to the duties of the public**
24 **official who is provided the admission.**

25 (2) "Immediate family" means a child residing in an
26 individual's household, a spouse of an individual, or an individual
27 claimed by that individual or that individual's spouse as a
28 dependent for federal income tax purposes.

29 (3) "Loan" means a transfer of money, property, or anything of

1 ascertainable value in exchange for an obligation, conditional or
2 not, to repay in whole or in part.

3 **Sec. 8a. (1) The fair market value of an item or service must**
4 **be determined as follows:**

5 (a) The basis of market prices on the date that the exchange
6 for the item or service is made. Price fluctuations that occur
7 before or after the date of exchange do not impact the fair market
8 value determination.

9 (b) If the item or service is available on the primary market,
10 the primary market must be used to determine the fair market value
11 of the item or service.

12 (c) If the item or service is not available on the primary
13 market, the price available to the public on the secondary market
14 must be used to determine the fair market value of the item or
15 service.

16 (d) The price available to the general public for the same
17 item or service must be used as the fair market value.

18 (e) If the exact same item or service is not available on the
19 primary or secondary market for purchase by the general public, the
20 price of an item or service of similar type, quality, age, and
21 quantity, to the extent each factor is relevant, must be used to
22 determine the fair market value of the item or service.

23 (2) A lobbyist bears the burden of providing evidence of the
24 fair market value of an item or service.

25 (3) On the request of a public official or the secretary of
26 state, a lobbyist shall submit evidence that supports the fair
27 market value determination relevant to any financial transaction
28 required to be reported under section 8(1)(c), not more than 9 days
29 after receipt of the item or service involved in the financial

1 transaction.