



STATE OF MICHIGAN  
JOCELYN BENSON, SECRETARY OF STATE  
DEPARTMENT OF STATE  
LANSING

March 31, 2025

Sandy K. Baruah  
President and Chief Executive Officer  
Detroit Regional Chamber  
[sbaruah@detroitchamber.com](mailto:sbaruah@detroitchamber.com)

Dear Mr. Baruah:

The Department of State (Department) acknowledges receipt of your letter dated December 31, 2024, in which you sought a declaratory ruling or interpretive statement under the Michigan Lobby Registration Act (Lobby Act or Act), 1978 PA 472, MCL 4.411, *et seq.*

In accordance with publication and public comment period requirements, the Department posted your request on its website and informed email subscribers of the deadline to file written comments. MCL 4.429(1). The Department did not receive any public comments during the initial public comment period.

The Department issued its preliminary response on March 10, 2025, and posted it for public comment in accordance with the requirements in the Lobby Act and the Administrative Procedures Act (APA), 1969 PA 306, MCL 24.201 *et seq.* The Department also notified email subscribers of the preliminary response and the deadline to file public comments. The only public comment received by the Department within 5 business days after the preliminary response was made available to the public was from you. In its preliminary response, the Department indicated that “your question does not include any facts to support the conclusion that every public official is serving in a role that is different from other conference attendees[,]” but stated that “[i]f any evidence exists to support that proposition . . . it can still be included in the second round of public comment.” In your public comment, you submitted three attachments: a financial analysis of the value of public official participation in the conference to the Chamber and to Chamber membership/stakeholders; a list of Michigan public officials who attended the 2024 Mackinac Policy Conference or who are currently registered for the 2025 conference; and the on-site credentialed media that covered the 2024 conference. Additionally, you explain the Chamber’s argument more precisely, stating that the purpose of the Mackinac Policy Conference “is for Michigan attendees to understand public policy and to access taxpayer funded public policy makers to exchange views and to ensure Michigan employers are heard by our policy makers.” You stress that “the Conference is centered around the dynamic that public officials will be in attendance and participating in the event,” and that non-public official attendees will have access to the public officials.

The APA requires the Department to issue a declaratory ruling if an interested person submits a written request that presents a question of law and a reasonably complete statement of facts. MCL 4.429, MCL 24.263. If the Department declines to issue a declaratory ruling, it must instead offer an interpretive statement “providing an informational response to the question presented[.]” MCL 4.429(1).

In your request, you ask: “can the Chamber, as a lobbyist agent, provide complimentary admission to the Mackinac Policy Conference to public officials as part of their official public duties?” Your request states that the Mackinac Policy Conference is a fundraiser for your Section 501(c)(3) non-profit. Your request explains that conference registration for Chamber members costs \$3,200, but that “the value of participating public officials” is “roughly \$6,004 per official based on the number of covered officials in attendance and the total charges to sponsors and registrants to support and execute the Conference.” Further, your request explains that public officials attending the conference “participate in numerous official Conference events,” including but not limited to, receptions, events with other conference attendees, thought leadership sessions with national and state leaders from various disciplines (corporate, academic, and philanthropic), sessions with Michigan’s Congressional delegation, the Governor, legislative leadership, locally elected officials, and interviews with more than 100 state and national media outlets.

You contend that the Chamber may provide complimentary admission to the Mackinac Policy Conference to public officials because participation in the conference may be considered part of their official public duties. Your written request is sufficient to warrant the issuance of a declaratory ruling. This declaratory ruling “is binding on the agency and the person requesting it,” and is subject to judicial review. MCL 24.263.

To answer your question, the Department starts with the plain language of the Lobby Act. In interpreting a statute, the goal is to “ascertain and give effect to the intent of the Legislature.” *People v Gardner*, 482 Mich 41, 50 (2008), quoting *People v Pasha*, 466 Mich 378, 382 (2002). “To do so, we begin with the language of the statute, ascertaining the intent that may reasonably be inferred from its language. When the language of a statute is unambiguous, the Legislature's intent is clear and judicial construction is neither necessary nor permitted.” *Odom v Wayne County*, 482 Mich 459, 467 (2008), quoting *Lash v Traverse City*, 479 Mich 180, 187 (2007).

The Lobby Act defines a “gift” in relevant part as a “payment, advance, forbearance, or the rendering or deposit of money, services, or anything of value, the value of which exceeds \$25.00,<sup>[1]</sup> as adjusted under section 19a, in any 1-month period, unless consideration of equal or greater value is received therefor.” MCL 4.414(1). The Act prohibits a lobbyist or lobbyist agent from giving a gift to a public official as defined in the Act. MCL 4.421(2).

The Act’s definition of gift excludes several items that might otherwise be considered gifts from the definition of gift. Specifically, the Act provides:

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<sup>1</sup> As required by law, the Department adjusts the gift threshold each year according to the Detroit Consumer Price Index. MCL 4.429a(2). For 2025, the Department has determined that the applicable gift threshold is \$79.00.

“Gift does not include the following:

- (a) A campaign contribution otherwise reported as required by the Michigan campaign finance act, 1976 PA 388, MCL 169.201 to 169.282.
- (b) A loan made in the normal course of business by an institution as defined in chapter 1 of the banking code of 1999, 1999 PA 276, MCL 487.11101 to 487.11203, a national bank, a branch bank, an insurance company issuing a loan or receiving a mortgage in the normal course of business, a premium finance company, a mortgage company, a small loan company, a state or federal credit union, a savings and loan association chartered by this state or the federal government, or a licensee as defined by the motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL 492.101 to 492.141.
- (c) A gift received from a member of the person’s immediate family, a relative of a spouse, a relative within the seventh degree of consanguinity as computed by the civil law method, or from the spouse of the relative.
- (d) A breakfast, luncheon, dinner, or other refreshment consisting of food and beverage provided for immediate consumption.
- (e) A contribution to a legal defense fund that is registered with the secretary of state under the legal defense fund act and whose purpose is to defend an elected official against any criminal, civil, or administrative action, that arises directly out of the conduct of the elected official's governmental duties.” MCL 4.414(1).

Notably, on February 26, 2025, Senators Singh, Moss, and McBroom introduced Senate Bill No. 101 of 2025 (SB 101), which was referred to the Senate Committee on Oversight. SB 101 is a reintroduction of a bill from last session (Senate Bill 1198 of 2024) that had received bipartisan support. On February 27, 2025, SB 101 was read and reported favorably without amendment. SB 101 seeks to amend the Lobby Act to specify that complementary admission to a charity event, a conference, or an educational event is not a gift under specified circumstances. Specifically, SB 101 would amend the gift definition to provide, in relevant part, that the definition of gift does not include:

- “(f) A ticket or an offer of free or reduced-price attendance to a charity event that has the primary purpose of raising money for a nonprofit organization that is tax-exempt under section 501(c)(3) of the internal revenue code, 26 USC 501.
- (g) Admission to a conference or educational event if the subject matter is directly related to the duties of the public official who is provided the admission.”

SB 101, page 3, line 23 – page 4, line 1.

If SB 101 is signed into law, complimentary admission to the Mackinac Policy Conference granted categorically to all public officials as part of their official public duties would not be an

impermissible gift under the Lobby Act because complimentary admission to the Mackinac Policy Conference would fall into the proposed additional exceptions to the definition of gift. The Department does not oppose SB 101, and it is sympathetic to the argument behind SB 101 that providing complimentary admission to a charity fundraiser or conference where the programming addresses policy issues directly related to a public official's duties does not raise the same ethical concerns as other types of gifting. Additionally, I support the proposed changes and believe they add value and clarity to the law as currently written, especially as evidenced by similar exemptions to the ethics rules governing Congress and found in other states.<sup>2</sup> At least for the time being, however, SB 101 has not become law, and the Department is bound by the language of the Act as it is currently written.

The proposed legislative changes in SB 101 imply that the current statutory language does not exempt complimentary admission to a charity event, conference, or educational event from the definition of gift. Regardless, the Department must apply the established gift analysis to determine whether the Chamber, as a lobbyist agent, may provide complimentary admission to the Mackinac Policy Conference to public officials, based on the contention that participation in the conference may be considered part of their official public duties.

Turning back to the Act's definition of gift, the Department concludes that complimentary admission to the Mackinac Policy Conference is plainly a thing "of value" exceeding \$79.00 (the adjusted gift threshold for 2025). However, to determine whether an item is a gift under the plain language of the Act, the Department must also consider whether consideration of equal or greater value has been exchanged. The Department recently explained that the Act's definition provides "a gift shall be considered a gift: '*unless consideration of equal or greater value is received therefor*' (emphasis added). MCL 4.414(1). Once such consideration is received, the transaction is no longer controlled by the Act. In determining whether consideration of equal or greater value has been received, the Department has previously found that value shall be determined by the value of the proposed gift on the open market, rather than by the face value of the item." *Interpretive Statement to Michigan Association of Health Plans, 2024*, citing *Interpretive Statement to Mickelson, 1984* and *Interpretive Statement to Hallan, 1984*.

In *Interpretive Statement to Michigan Association of Health Plans, 2024*, the question was whether a lobbyist or lobbyist agent may provide complimentary admission to an educational conference for a lawmaker to attend as part of their duties as a public official for an appearance at the conference. In answering that question, the Department noted that in the context of honoraria, a payment from a lobbyist or lobbyist agent "shall be considered a gift within the meaning of section 11 of the act when it is clear from all of the surrounding circumstances that the services provided by the public official do not represent equal or greater value than the payment received." R 4.473. The Department concluded that while complimentary admission to an educational conference is not an honorarium, the same test governs the analysis of whether complimentary admission is considered a gift; specifically: is it clear from the surrounding

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<sup>2</sup> The ethics rules governing Congress similarly recognize that while gifts are generally prohibited, exceptions for free admission to certain events, including charity events and educational events, are appropriately granted. See the [Senate Code of Official Conduct](#), Senate Rule 35.1(c)(13) and 35.1(d)(3), and the [House Ethics Manual, Section XI\(J\)](#), both accessed February 5, 2025.

circumstances that the services provided represent an equal or greater value than the payment received? Accordingly, in the context of complimentary admission to an educational event, the Department examined whether consideration of equal or greater value was received for the gift of complimentary admission by analyzing any services provided by the public official as consideration in exchange for the gift.<sup>3</sup>

The Department concludes that the same test applies to determine whether complimentary admission to the Mackinac Policy Conference is considered a gift; specifically: is it clear from the surrounding circumstances that the public official attending the conference is providing a service as consideration that is of equal or greater value than the price of admission to the conference? The Department comes to this conclusion based on the plain language of the Act's gift definition, which qualifies the definition of "gift" with the language "unless consideration of equal or greater value is received." MCL 4.414(1).<sup>4</sup>

Therefore, the Department must consider whether public officials attending the Mackinac Policy Conference are providing consideration in the form of a service at the conference, and if so, whether the service has an equal or greater value to the price of conference registration.

In your request, you explain that public officials "are invited, and expected to, participate in numerous official Conference events, including but not limited to various receptions and events with Conference attendees, attending Conference thought leadership sessions with national and state corporate, academic and philanthropic leaders, sessions with Michigan's Congressional delegation, Governor, legislative leadership, locally elected officials as well as scheduled media interviews with the roughly 115 state and national media that cover this nationally-recognized event." Further, you state that Chamber membership and Conference participants "highly value the opportunity to interact with public officials," and that Chamber data supports the conclusion that "the value of participating public officials" is "roughly \$6,005 per official based on the number of covered officials in attendance and the total charges to sponsors and registrants to support and execute the Conference." In your public comment following the preliminary response, you further stress that "[t]he ethos of the Conference is centered around the dynamic that public officials will be in attendance and participating in the event," and that conference attendees will "have access to Michigan's taxpayer funded public officials." Based on these statements, your argument appears to be that the presence of the public official at the conference, and their availability to participate in conversations with other conference attendees and be

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<sup>3</sup> The Department concluded the proposed complimentary admission to the educational conference would be considered a gift under the Act because the question did not include any information about the value of the public official's appearance at the conference or explain what the public official's duties at the conference would involve; accordingly, it was not clear that the services offered by the public official were greater than or equal to the value of the conference admission. *Interpretive Statement to Michigan Association of Health Plans, 2024.*

<sup>4</sup> The Department notes there is a question of whether the exchange of services for goods would be taxable income under state and federal tax law and whether the exchange must be reported as earned income under the Public Officers Financial Disclosure Act, MCL 15.701 *et seq.* However, because these questions are not raised in this question and because it is outside the scope of the Department's authority under the Lobby Act, the Department will not answer these questions.

interviewed by the media, is the service that the public official is providing in exchange for complimentary conference admission.

To determine whether a public official attending the Mackinac Policy Conference is providing a service, the Department first considers the purpose of the Mackinac Policy Conference. As you explain, the conference is a fundraiser for a non-profit organization. To encourage donors to register for the conference fundraiser, the conference presents an opportunity for conference participants to meet in an exclusive environment where they can hear about and discuss various policy issues. As your question explains, conference participants “highly value the opportunity to interact with public officials[.]” However, every conference attendee adds value to the conference by enhancing the interaction and exchange of ideas. The preliminary response concluded that it was not clear that any or every *public official’s* particular value added can be derived solely from the costs paid by conference sponsors and other attendees. Your public comment included additional evidence demonstrating that access to public officials in general is not only of high value to conference sponsors and other attendees but is a primary reason sponsors contribute and attendees participate in the conference. The evidence you provided supports the conclusion that the participating public officials add a specific value to the conference that can be attributed only to public officials; a value that is not also added by other, non-public officials in attendance.

Assuming that significant value is added by the presence and participation of each individual public official at the conference, this added value is the result of a service provided by the public official to the Chamber in exchange for complimentary admission to the conference. The Department also considers the role of a public official at the Mackinac Policy Conference to determine what, if any, service the public official provides to the Chamber in exchange for complimentary conference admission. As you explain in your question, public officials attending the conference are invited and expected to participate in conference events along with other conference attendees. Additionally, the evidence presented in your public comment breaks down the value related to their attendance and participation in official Conference events.

The evidence provided in your public comment differentiates the role of public officials at the conference from all other conference attendees. Your public comment indicates that public officials participate in a Media Row, where “local and national media outlets are able to conduct live broadcasts, streaming programming, and podcast recording with the public officials.” Additionally, your public comment explains that public officials have historically been featured throughout the general sessions at the Conference as panelists and speakers. Mere presence at various conference events without any other role in the event or obligation to the Chamber cannot reasonably be considered a service. However, the public comment you submitted provides the Department additional evidence to support the conclusion that public officials will be actively participating in conference sessions, and that public officials are providing a service beyond merely being present at the conference and available to have conversations with other attendees as was concluded in our preliminary response based on your initial submission.

The burden of demonstrating that a public official is providing a service in exchange for complimentary admission is on the lobbyist or lobbyist agent. In this case, the Chamber has, through the additional evidence submitted in their public comment demonstrated that the public

officials attending the Mackinac Policy Conference are providing services that constitute consideration of equal or greater value to the cost of admission to the Conference. The Department concludes that public officials are providing a service beyond their mere presence at the conference, as they actively participate in general sessions, engage with local and national media outlets, and draw in general sponsorships to support the conference events.

Accordingly, the Department finds that the additional evidence you submitted demonstrates that public officials attending the Mackinac Policy Conference provide a service as consideration in exchange for complimentary admission. Additionally, the Department finds that the evidence included in the public comment supports the value of the services exchanged being equal to or greater than the cost of attendance. Therefore, provided that public officials continue to provide value to the Conference that is equal or greater to the cost of attendance, the Chamber may provide public officials with complimentary admission to the Mackinac Policy Conference because complimentary admission is not an impermissible gift under the Lobby Act.

The foregoing constitutes a declaratory ruling with respect to the question presented in your letter, dated December 31, 2024.

Sincerely,

A handwritten signature in blue ink that reads "Jocelyn Benson". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Jocelyn Benson  
Secretary of State