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SENATE FILE 2201

By COMMITTEE ON JUDICIARY
Approved 3/22 (p 630)

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Vote: Ayes 28 Nays 19 Vote: Ayes _____ Nays _____
Approved 6/26/78

A BILL FOR

1 An Act requiring public officials and candidates to publicly
2 disclose financial interests, prohibiting receipt of certain
3 gifts, requiring a report of receipt of certain gifts,
4 relating to conflicts of interest, and providing penalties.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. SHORT TITLE. This Act may be
2 cited as the Iowa Gift and Conflict of Interest Act.

3 Sec. 2. NEW SECTION. POLICY STATEMENT. It is the intent
4 of the general assembly that all public officials and public
5 employees shall fulfill the duties of their offices to the
6 best of their abilities. In official activities public
7 officials and public employees shall pursue the common good,
8 shall be impartial, and shall avoid even the appearance of
9 a conflict of interest.

10 The prohibitions and restrictions set forth in this Act
11 are intended to constitute minimum standards of ethical conduct
12 for public officials and public employees. A governmental
13 body may establish by rule more stringent prohibitions and
14 restrictions to apply to its officials and employees.

15 Sec. 3. NEW SECTION. DEFINITIONS. As used in this Act,
16 unless the context otherwise requires:

17 1. "Business" means a corporation, partnership, sole
18 proprietorship, firm, enterprise, franchise, association,
19 organization, self-employed individual, holding company, joint
20 stock company, receivership, trust, or any legal entity through
21 which business is conducted for profit.

22 2. "Business with which a person is associated" means
23 a business in which the person or a member of the person's
24 immediate family is a director, officer, owner, investor,
25 stockholder, or employee.

26 3. "Candidate for elective public office" means a person
27 who is a candidate to be a public official and whose name
28 will appear on a ballot.

29 4. "Compensation" means money, benefit, or anything of
30 value conferred in return for services rendered or to be
31 rendered.

32 5. "Contract" means a claim, account, demand against,
33 or express or implied agreement with the state, a political
34 subdivision of the state, or a business.

35 6. "Gift" means a gratuity given in a single calendar

1 year from one source in the form of goods, services, loans,
2 entertainment, hospitality, promise, membership, subscription,
3 transportation, lodging, meals, or any other thing of value.

4 However, a gift shall not mean any of the following:

5 a. A gratuity received from a person related to the public
6 official or public employee within the second degree of
7 consanguinity or affinity.

8 b. A gratuity which is not motivated by the receiving
9 person's position as a public official or public employee.

10 c. A gratuity in the form of a ticket or pass to an event
11 or series of events unless the ticket or pass is actually
12 used.

13 d. A trip or any form of transportation, lodging, or meals
14 if:

15 (1) It is received with the knowledge and consent of an
16 employer;

17 (2) A public record is made by reporting its receipt in
18 the same manner as gifts are reported pursuant to section
19 eight (8) of this Act. A public employee shall report to
20 the campaign finance disclosure and ethics commission; and

21 (3) The primary purpose of the trip or transportation,
22 lodging, or meals is for the public official or public employee
23 to:

24 (a) Receive instruction, training, or knowledge that is
25 useful or beneficial in performing the person's job as a
26 public official or public employee;

27 (b) Perform a function that is related to the person's
28 job as a public official or public employee; or

29 (c) Absent receipt of the trip, transportation, lodging,
30 or meals, the state would pay the cost.

31 e. Campaign contributions.

32 f. Anything of value which is paid for with funds from
33 the federal government, the state, or a political subdivision
34 of the state.

35 7. "Governmental body" means a department, commission,

1 council, board, bureau, committee, legislative body, agency,
2 or other establishment of the executive or legislative branch
3 of the state or political subdivision of the state.

4 8. "Immediate family" means a spouse residing in the
5 person's household and dependent children.

6 9. "Income" means money or thing of value received or
7 to be received as a claim on future services, whether in the
8 form of a fee, salary, expense, allowance, forbearance,
9 forgiveness, interest, dividend, royalty, rent, capital gain,
10 or other form of recompense.

11 10. "Ministerial action" means an action that a person
12 performs in a prescribed manner in obedience to the mandate
13 of legal authority without regard to the person's own judgment
14 upon the propriety of the action being taken.

15 11. "Political subdivision of the state" means a county,
16 city, township, school corporation, or tax-supported district
17 in the state.

18 12. "Public employee" means a full-time, salaried employee
19 of the state or political subdivision of the state. Employee
20 shall not mean a part-time employee or an independent
21 contractor.

22 13. "Public official" means the following:

23 a. An elected official in the executive, legislative,
24 or judicial branch of the state.

25 b. Elected city officials, elected county officials,
26 members of a school board, and members of a merged area school
27 board.

28 c. Justices of the supreme court, judges of the court
29 of appeals, judges of the district court, district associate
30 judges, and judicial magistrates.

31 d. An individual who is a member of a policy-making body
32 or the chief administrator of a governmental body who is
33 responsible for taking official governmental action of a
34 nonministerial nature with regard to:

35 (1) Spending, administering, or monitoring grants,

1 subsidies, or government funds;

2 (2) Planning or zoning; or

3 (3) Inspecting, licensing, regulating, or auditing a
4 person.

5 14. "Source" means an individual, business, or nonprofit
6 organization that pays for a gift to a public official or
7 public employee. If an agent represents more than one source,
8 the limitations contained in sections seven (7) and eight
9 (8) of this Act apply to each source.

10 15. "Substantial interest" means an interest exceeding
11 five hundred dollars by a public official or by a member of
12 his or her immediate family.

13 Sec. 4. NEW SECTION. STATEMENT OF FINANCIAL INTERESTS
14 REQUIRED TO BE FILED.

15 1. Each public official shall file a statement of financial
16 interests for the preceding calendar year on or before May
17 fifteenth of each year.

18 A public official, except a member of the general assembly,
19 the governor, or the lieutenant governor, shall not be allowed
20 to take the oath of office or enter or continue upon his or
21 her duties as a public official unless a statement of financial
22 interests is or has been timely filed in proper form in
23 accordance with the provisions of this section.

24 2. Each candidate for elective public office shall file
25 a statement of financial interests for the preceding calen-
26 dar year within ten days of filing nomination papers for
27 election as a public official. However, this subsection shall
28 not apply to a person who has filed a statement pursuant to
29 subsection one (1) of this section.

30 A candidate's name shall not appear on the ballot unless
31 a statement of financial interests is or has been timely filed
32 in proper form in accordance with the provisions of this
33 section.

34 3. The statement of financial interests shall be signed
35 under penalty of perjury by the person required to file it.

1 Sec. 5. NEW SECTION. INFORMATION TO BE INCLUDED IN THE
2 STATEMENT OF FINANCIAL INTERESTS. The statement required
3 in section four (4) of this Act shall include the following
4 information in regard to the person required to file the
5 statement and the members of the person's immediate family:

6 1. The names of all businesses with which the person or
7 a member of the person's immediate family is associated.

8 2. The type and source of all income in excess of one
9 thousand dollars. For the purpose of this subsection, source
10 means origin of income.

11 3. The nature of all real property in the state in which
12 an interest is held.

13 4. The name of an individual, business, or nonprofit
14 organization that paid an honorarium to the person.

15 Sec. 6. NEW SECTION. PLACE FOR FILING STATEMENT OF
16 FINANCIAL INTERESTS. The statement of financial interests
17 required to be filed by section four (4) of this Act shall
18 be filed with the campaign finance disclosure and ethics
19 commission and in the following places:

20 1. With the county auditor of the county of residence
21 for:

22 a. An elected city official, elected county official,
23 member of a school board, or member of a merged area school
24 board.

25 b. A candidate to be an elected city official, elected
26 county official, member of a school board, or member of a
27 merged area school board.

28 2. With the appointing authority for a public official
29 who is appointed and not subject to confirmation.

30 3. With the confirming authority for a public official
31 who is appointed and subject to confirmation.

32 Statements of financial interests that must be filed with
33 the confirming authority shall be filed prior to confirmation
34 of the person's appointment.

35 Statements of financial interests are public records open

1 to inspection in accordance with chapter sixty-eight A (68A)
2 of the Code.

3 Sec. 7. NEW SECTION. PROHIBITED GIFTS--PENALTY.

4 1. A public official, public employee, and members of
5 the official's or employee's immediate family shall not
6 solicit, receive, or accept gifts with an aggregate apparent
7 value of more than twenty-five dollars from the same source
8 in a civil day.

9 2. A public official, public employee, and members of
10 the official's or employee's immediate family shall not
11 solicit, receive, or accept gifts with an aggregate apparent
12 value of more than one hundred dollars from the same source
13 in a calendar year.

14 3. The limitations contained in subsections one (1) and
15 two (2) of this section apply to gifts for the public official
16 or public employee and members of his or her immediate family
17 together. Members of the immediate family do not have separate
18 limitations.

19 4. A violation of subsection one (1) or two (2) of this
20 section is a serious misdemeanor.

21 Sec. 8. NEW SECTION. REPORTABLE GIFTS--DISCLOSURE
22 STATEMENT--PLACE OF FILING--PUBLIC RECORD--PENALTY.

23 1. Each public official shall file a disclosure statement
24 by the twentieth day of the month following a month in which
25 a gift or gifts with an aggregate apparent value of more than
26 five dollars were received by the public official or by a
27 member of his or her immediate family from the same source
28 in a civil day.

29 2. The limitations contained in subsection one (1) of
30 this section apply to gifts for the public official and members
31 of his or her immediate family together. Members of the
32 immediate family do not have separate limitations.

33 3. The disclosure statement required to be filed by
34 subsection one (1) of this section shall include the following
35 information:

- 1 a. The date each gift was received.
- 2 b. The type of item or service received.
- 3 c. The apparent value of each gift.
- 4 d. The name of the source.

5 4. The disclosure statement required to be filed by
6 subsection one (1) of this section shall be filed with the
7 campaign finance disclosure and ethics commission and in the
8 following places:

9 a. With the county auditor of the county of residence
10 for an elected city official, elected county official, member
11 of a school board, or member of a merged area school board.

12 b. With the appointing authority for a public official
13 who is appointed and not subject to confirmation.

14 c. With the confirming authority for a public official
15 who is appointed and subject to confirmation.

16 5. Disclosure statements required by this section are
17 public records open to inspection in accordance with chapter
18 sixty-eight A (68A) of the Code.

19 6. Willful failure to file timely a disclosure statement
20 as required by this section is a serious misdemeanor.

21 Sec. 9. NEW SECTION. OTHER RESTRICTED ACTIVITIES--
22 PENALTIES.

23 1. A public official or public employee may appear for
24 compensation before a governmental body in a representation
25 case unless the official or employee serves in that govern-
26 mental body or unless the matter is subject to review by a
27 governmental body in which the official or employee serves.

28 2. A former public official or former public employee
29 of a governmental body shall not appear before that body or
30 receive compensation for services rendered on behalf of an
31 individual or business in relation to a case, proceeding,
32 or application with respect to which such person was directly
33 concerned and in which he or she personally participated
34 during the period of the person's service or employment with
35 the governmental body. This restriction exists for a period

1 of two years after termination of the public official or
2 public employee's service with the governmental body.

3 3. The former head, deputy, or member of a commission
4 or board of a governmental body shall not receive compensation
5 for services rendered on behalf of an individual or business
6 in a case, proceeding, or application before the body with
7 which he or she had served when compensation is dependent
8 upon action by the body. This restriction exists for a period
9 of two years after termination of the person's service with
10 the governmental body.

11 4. A public official or public employee shall not solicit,
12 accept, or receive any benefit or compensation in addition
13 to that received in an official capacity for having exercised
14 official powers or having performed official duties.

15 5. A public official or public employee shall not use
16 or disclose confidential information gained in the course
17 of or by reason of his or her official position or activities
18 to further the financial interests of any person.

19 6. A public official shall not have a substantial interest
20 either directly or indirectly in a contract to furnish anything
21 of value to the state if he or she is a public official of
22 the state or to a political subdivision of the state in which
23 he or she serves. This subsection shall not apply to a
24 contract awarded as a result of open, public, and competitive
25 bidding.

26 A contract in violation of this paragraph is voidable by
27 the state or political subdivision of the state, whichever
28 the case may be.

29 7. A public official shall not have a substantial interest
30 either directly or indirectly in a contract to furnish anything
31 of value to a business subject to the regulatory authority
32 of a governmental body in which he or she serves.

33 8. The majority of the members of a nonelective
34 governmental body shall not have a specific personal financial
35 interest and shall not have a member of his or her immediate

1 family with a specific financial interest, as opposed to the
2 interest of a profession, trade, or business in general, in
3 matters subject to the jurisdiction of that body.

4 9. A violation of this section is a serious misdemeanor.

5 Sec. 10. NEW SECTION. WHO MAY COMMENCE AN ACTION. Actions
6 to enforce the provisions of this Act may be commenced by
7 an adult resident of the state, by the campaign finance
8 disclosure and ethics commission pursuant to section fifty-
9 six point eleven (56.11), subsection four (4), of the Code,
10 by the county attorney of the county where the principal
11 duties of the alleged violator's office or employment are
12 performed, or by the attorney general.

13 Chapter fifty-six (56) of the Code shall apply where
14 appropriate.

15 Sec. 11. NEW SECTION. LEGISLATIVE ETHICS COMMITTEE.
16 There shall be an ethics committee in the senate and an ethics
17 committee in the house, each to consist of five members; three
18 members to be appointed by the majority leader in each house,
19 and two members by the minority leader in each house. Members
20 of the general assembly shall receive a per diem of forty
21 dollars and travel expenses at the same rate as paid members
22 of interim committees for attending meetings held when the
23 general assembly is not in session. The per diem and expenses
24 shall be paid from funds appropriated by section two point
25 twelve (2.12) of the Code.

26 Each committee shall elect a chairperson and shall have
27 the following powers, duties, and functions:

28 1. Prepare a code of ethics within thirty days after the
29 commencement of the session.

30 2. Prepare rules relating to lobbyists and lobbying
31 activities in the general assembly.

32 3. Issue advisory opinions interpreting constitutional
33 and statutory provisions relating to legislators and lobbyists
34 as well as interpreting the code of ethics and rules issued
35 pursuant to this section. Opinions shall be issued when

1 approved by a majority of the five members and may be issued
2 upon the request of a member of the general assembly or upon
3 the committee's initiation.

4 4. Investigate complaints and charges against members
5 of its house and, if warranted, report the results of such
6 investigation to its house with recommendations for further
7 action.

8 5. Recommend legislation relating to legislative ethics
9 and lobbying activities.

10 The code of ethics and rules relating to lobbyists and
11 lobbying activities shall not become effective until approved
12 by the members of the house to which the proposed code and
13 rules apply. The code or rules may be amended either upon
14 the recommendation of the ethics committee or by members
15 of the general assembly.

16 Violation of the code of ethics may result in the suspension
17 of a member from the general assembly and the forfeiture of
18 his or her salary if directed by a two-thirds vote of the
19 house to which the member belongs. Such suspension or
20 forfeiture of salary shall be for such duration as specified
21 in the directing resolution provided however, that it cannot
22 extend beyond the date of adjournment of the session.

23 Violation of the rules relating to lobbyists and lobbying
24 activities may result in the suspension of any lobbyist if
25 directed by a two-thirds vote of the house wherein the
26 violation occurred.

27 Sec. 12. Section fifty-six point one (56.1), Code 1977,
28 is amended to read as follows:

29 56.1 CITATION. This chapter may be cited as the "Campaign
30 Disclosure-Income Tax Checkoff--Ethics Act".

31 Sec. 13. Section fifty-six point two (56.2), subsection
32 ten (10), Code 1977, is amended to read as follows:

33 10. "Commission" means the campaign finance disclosure
34 and ethics commission created under section 56.9.

35 Sec. 14. Section fifty-six point four (56.4), unnumbered

1 paragraph one (1), Code 1977, is amended to read as follows:

2 All statements and reports required to be filed under this
3 chapter for a state office and under this Act shall be filed
4 with the commission. All statements and reports required
5 to be filed under this chapter for a county, city or school
6 office shall be filed with the commissioner. Statements and
7 reports on a ballot issue shall be filed with the commissioner
8 responsible under section 47.2 for conducting the election
9 at which the issue is voted upon, except that statements and
10 reports on a statewide ballot issue shall be filed with the
11 commission. State statutory political committees shall file
12 all statements and reports with the commission. All other
13 statutory political committees shall file the statements
14 and reports with the commissioner with a copy sent to the
15 commission.

16 Sec. 15. Section fifty-six point eight (56.8), subsection
17 one (1), lettered paragraph a, Code 1977, is amended to read
18 as follows:

19 a. Develop forms for the filing of reports and statements
20 required to be filed under this chapter and this Act.

21 Sec. 16. Section fifty-six point nine (56.9), headnote
22 and subsection one (1), Code 1977, is amended to read as
23 follows:

24 56.9 CAMPAIGN FINANCE DISCLOSURE AND ETHICS COMMISSION-
25 -CREATED.

26 1. There is created a campaign finance disclosure and
27 ethics commission which shall consist of ~~five~~ nine members,
28 not more than ~~three~~ five of whom shall be from the same
29 political party. The governor shall appoint the members of
30 the commission for a term of six years, subject to the
31 confirmation of the senate. ~~Of the members first appointed~~
32 ~~one member shall be appointed for a term of two years, two~~
33 ~~members shall be appointed for a term of four years, and two~~
34 ~~members shall be appointed for a term of six years, beginning~~
35 ~~July 1, 1973.~~

1 Of the four new positions created by this Act, one member
2 shall be appointed for a term of one year, one member shall
3 be appointed for a term of three years, and two members shall
4 be appointed for a term of five years, beginning July 1, 1979.

5 Any vacancy shall be filled by appointment for the unexpired
6 portion of the term in accordance with the provisions for
7 regular appointment insofar as is applicable.

8 Sec. 17. Section fifty-six point ten (56.10), subsections
9 one (1), three (3), and four (4), Code 1977, is amended to
10 read as follows:

11 1. Review the contents of all disclosure reports and other
12 statements filed with the commission and promptly advise each
13 person or committee of errors found. The commission may,
14 upon its own motion, initiate action and conduct a hearing
15 under section 56.11, subsections 1 and 2. The commission
16 may require the county commissioner to file summary reports
17 with it periodically.

18 3. Assure that the statements and reports which have been
19 filed in accordance with this chapter or this Act are available
20 for public inspection and copying during the regular office
21 hours of the commission and county commissioners.

22 4. Adopt rules pursuant to chapter 17A to carry out the
23 provisions of this chapter and this Act.

24 Sec. 18. Section fifty-six point ten (56.10), Code 1977,
25 is amended by adding the following new subsections:

26 NEW SUBSECTION. Enforce this Act.

27 NEW SUBSECTION. Prepare and publish guidelines setting
28 forth recommended methods of reporting for use by persons
29 required to file under this Act.

30 NEW SUBSECTION. Audit statements and reports filed with
31 the commission.

32 NEW SUBSECTION. On its own initiative or upon request
33 of a public official, public employee, or candidate for
34 elective public office, issue and publish advisory opinions
35 on the requirements of this Act.

1 Sec. 19. Section fifty-six point eleven (56.11),
2 subsections one (1), two (2), and three (3), is amended to
3 read as follows:

4 56.11 COMPLAINTS--PROCEDURE.

5 1. Any eligible elector may file a complaint of an alleged
6 violation of this chapter or this Act with the commission.
7 The complaint shall be verified and supported by affidavit
8 detailing the circumstances of the violation alleged. The
9 commission may initiate action on its own motion by filing
10 a complaint accompanied by such an affidavit. Within twenty-
11 four hours after receipt of a complaint or initiation of its
12 own complaint, the commission shall notify the person,
13 candidate or committee against whom the complaint is made
14 of receipt or initiation of the complaint, and until it has
15 done so it shall make no investigation of any kind ~~into the~~
16 ~~campaign-affairs-of-the-person, -candidate-or-committee.~~
17 Unless the commission concludes that there is no reasonable
18 basis for a complaint which has been filed, it shall set a
19 date for a hearing on the complaint which shall be not more
20 than fifteen days after the date the complaint is received
21 or initiated by the commission. The commission shall serve
22 the person, candidate or committee against whom the complaint
23 is made a copy of the complaint and supporting affidavit and
24 notice of the hearing in the manner provided by the rules
25 of civil procedure. Copies of the complaint, affidavit and
26 notice shall also be sent to each of the other candidates,
27 if any, for the office affected. If a complaint is filed
28 or initiated less than fifteen days before the election at
29 which the office affected is to be filled, the commission
30 shall set the hearing at the earliest possible date so as
31 to allow the issue to be resolved prior to the election.
32 An extension of time for the hearing may be granted when both
33 parties mutually agree on an alternate date for the hearing.
34 2. The commission shall investigate the complaint and
35 conduct the hearing. Upon request of the commission, the

1 county attorney or the attorney general shall assist the
2 commission in any investigation and report to it as directed.
3 The commission shall have the power to subpoena and review
4 all records of a person, candidate or committee required to
5 be kept under this chapter or this Act. Due process, including
6 the right to be represented by counsel, shall be accorded
7 the accused. The commission shall provide for the
8 confidentiality of the records of a person, candidate or
9 committee during the investigation and hearing process and
10 shall provide for confidential hearings only if requested
11 by either party to the complaint, except that if the commission
12 itself is a complainant it may not request a confidential
13 hearing. After the hearing the commission shall determine
14 whether or not there are reasonable grounds to believe that
15 a violation of the provisions of this chapter or this Act
16 did occur. The commission shall send a copy of its findings
17 of fact and decision to the person, candidate or committee
18 against which the complaint was filed and to each candidate
19 for the public office affected. The commission may assess
20 the cost of such hearings against either party involved in
21 the hearing.

22 3. If the commission finds reasonable grounds to believe
23 that the person, candidate, or committee has engaged in an
24 act or practice which constitutes a violation of this chapter
25 or this Act, the commission shall report the suspected
26 violation of law to the United States attorney, the attorney
27 general, or the county attorney, as the case may be, with
28 a recommendation of appropriate action to be taken.

29 Sec. 20. Section fifty-six point twenty-three (56.23),
30 Code 1977, is amended to read as follows:

31 56.23 FUNDS--CAMPAIGN EXPENSES ONLY. The chairman of
32 the state statutory political committee shall produce evidence
33 to the state comptroller and to the campaign-finance-disclosure
34 commission not later than thirty days after the election
35 returns have been certified by the board of state canvassers,

1 that all funds paid for the campaign expenses of that election
2 have been utilized exclusively for such campaign expenses.

3 The ~~campaign-finance-disclosure~~ commission shall issue,
4 prior to the payment of any money, guidelines which explain
5 which expenses and evidence thereof qualify as acceptable
6 campaign expenses.

7 Should the ~~campaign-finance-disclosure~~ commission and the
8 state comptroller determine that any part of the funds have
9 been used for noncampaign or improper expenses, they may order
10 the political party or the candidate to return all or any
11 part of the total funds paid to that political party for that
12 election. When such funds are returned, they shall be
13 deposited in the general fund of the state.

14 Sec. 21. Section sixty-six point one (66.1), Code 1977,
15 is amended by adding the following new subsection:

16 NEW SUBSECTION. Upon conviction of violating section seven
17 (7), eight (8), or nine (9) of this Act.

18 Sec. 22. Section seven hundred twenty-one point two
19 (721.2), Code 1977 Supplement, is amended by striking
20 subsection three (3).

21 Sec. 23. Section seven hundred twenty-two point one
22 (722.1), Code 1977 Supplement, is amended to read as follows:

23 722.1 BRIBERY. A person who offers, promises or gives
24 anything of value or any benefit to any person who is serving
25 or has been elected, selected, appointed, employed or otherwise
26 engaged to serve in a public capacity, including any public
27 officer or employee, any referee, juror or venireman, or any
28 witness in any judicial or arbitration hearing or any official
29 inquiry, or any member of a board of arbitration, ~~with-intent~~
30 to pursuant to an agreement or arrangement or with the
31 understanding that the promise or thing of value or benefit
32 will influence the act, vote, opinion, judgment, decision
33 or exercise of discretion of such person with respect to his
34 or her services in such capacity commits a class D felony.
35 In addition, any person convicted under this section shall

1 be disqualified from holding public office under the laws
2 of this state.

3 Sec. 24. Section seven hundred twenty-two point two
4 (722.2), Code 1977 Supplement, is amended to read as follows:
5 722.2 ACCEPTING BRIBE. Any person who is serving or has
6 been elected, selected, appointed, employed or otherwise
7 engaged to serve in a public capacity, including any public
8 officer or employee, any referee, juror or venireman, or any
9 witness in any judicial or arbitration hearing or any official
10 inquiry, or any member of a board of arbitration, who shall
11 solicit or knowingly accept or receive any promise or anything
12 of value or any benefit given ~~with-the-intent-to~~ pursuant
13 to an agreement or arrangement or with the understanding that
14 the promise or thing of value or benefit will influence the
15 act, vote, opinion, judgment, decision or exercise of dis-
16 cretion of such person with respect to his or her services
17 in such capacity commits a class C felony. In addition, any
18 person convicted under this section shall be disqualified
19 from holding public office under the laws of this state.

20 Sec. 25. Sections sixty-eight B point one (68B.1), sixty-
21 eight B point three (68B.3), sixty-eight B point four (68B.4),
22 sixty-eight B point five (68B.5), sixty-eight B point six
23 (68B.6), sixty-eight B point seven (68B.7), sixty-eight B
24 point nine (68B.9), and sixty-eight B point ten (68B.10),
25 Code 1977, are repealed.

26 Sec. 26. Section sixty-eight B point two (68B.2), Code
27 1977, as amended by Acts of the Sixty-seventh General Assembly,
28 1977 Session, chapter forty-eight (48), section one (1), is
29 repealed.

30 Sec. 27. Section sixty-eight B point eight (68B.8), Code
31 1977 Supplement, is repealed.

32 Sec. 28. This Act is effective January 1, 1979.

33 EXPLANATION

34 The bill requires public officials and candidates for
35 elective public office to file a statement of financial

1 interests with the campaign finance disclosure and ethics
2 commission.

3 The bill makes it a serious misdemeanor for a public
4 official or public employee to accept from any one source
5 gifts with an aggregate apparent value of over \$25 in a day
6 or over \$100 in a year.

7 The bill requires a public official to report receiving
8 from any one source gifts with an aggregate apparent value
9 of over \$5 in a day. The report must be filed with the
10 campaign finance disclosure and ethics commission.

11 The bill restricts a public official or public employee
12 who wants to represent a person before a governmental body
13 for compensation.

14 The bill forbids a former public official or former public
15 employee of a governmental body to appear before that
16 governmental body in a matter with which he or she was directly
17 concerned. This restriction exists for two years after leaving
18 that body.

19 The bill forbids the former head, deputy, or member of
20 a commission or board of a governmental body to receive
21 compensation for services rendered in a proceeding before
22 the governmental body with which he or she had served when
23 compensation is dependent on action by the body. This
24 restriction exists for two years after leaving that govern-
25 mental body.

26 It forbids a public official or public employee to solicit,
27 accept, or receive any benefit or compensation in addition
28 to that received in his or her official capacity for having
29 exercised official powers or having performed an official
30 duty.

31 It forbids a public official or public employee to use
32 or disclose confidential information gained in the course
33 of or by reason of his or her official position or activities
34 to further the financial interests of any person.

35 It prohibits a public official from having a substantial

1 interest either directly or indirectly in any contract to
2 furnish anything of value to the state, if he or she is a
3 public official of the state, or to a political subdivision
4 in which he or she serves, unless the contract is awarded
5 as a result of open, public, and competitive bidding.

6 It prohibits a public official from having a substantial
7 interest either directly or indirectly in a contract to furnish
8 anything of value to a business subject to the regulatory
9 authority of a governmental body in which he or she serves.

10 It also says that a majority of the members of a non-
11 elective governmental body shall not have a specific personal
12 financial interest or have a member of his or her immediate
13 family with a specific financial interest, as opposed to the
14 interest of a profession, trade, or business in general, in
15 matters subject to the jurisdiction of that body.

16 The bill amends the two bribery provisions of the criminal
17 code revision, and it inserts parts of repealed Chapter 68B
18 in appropriate sections of this Act. Chapter 56, the campaign
19 finance disclosure chapter, is amended to become the campaign
20 finance disclosure and ethics chapter. The campaign finance
21 disclosure and ethics commission is charged with enforcing
22 this Act.

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LSB 3158S

can/sd/14

SENATE FILE 2201

S-5404

1 Amend Senate File 2201 as follows:
2 1. Page 9, by striking lines 28 through 31 and
3 inserting in lieu thereof the following:
4 "1. Within thirty days after the commencement of
5 the session, prepare and sponsor a resolution relating
6 to a code of ethics for legislators.
7 2. Within thirty days after the commencement of
8 the session, prepare and sponsor a resolution relating
9 to rules governing lobbyists and lobbying activities in
10 the general assembly."
11 2. Page 10, by striking lines 8 through 15 and
12 inserting in lieu thereof the following:
13 "5. Recommend to an appropriate standing committee
14 of that house legislation relating to legislative
15 ethics and lobbying activities.
16 The code of ethics and rules relating to lobbyists
17 and lobbying activities shall not become effective
18 until approved by the house to which the proposed code
19 and rules apply. The code or rules may be amended at
20 any time by the house which adopted the code or rules
21 upon adoption of a resolution providing for the amendment
22 which may be sponsored by either the ethics committee
23 or by members of that house."

S-5404 FILED *Adopted 3/29 (p. 662)* BY GENE W. GLENN
MARCH 28, 1978

SENATE FILE 2201

S-5408

1 Amend Senate File 2201 as follows:
2 1. Page 8, line 23, by inserting after the word
3 "serves" the following: ", except as provided in
4 section three hundred sixty-two point five (362.5) of
5 the Code".
6 2. Page 8, line 32, by inserting after the word
7 "serves" the following: ", except as provided in
8 section three hundred sixty-two point five (362.5) of
9 the Code".

S-5408 FILED & ADOPTED (*p. 654*) BY GENE W. GLENN
MARCH 28, 1978 BOB RUSH
C. W. HUTCHINS

SENATE FILE 2201

S-5409

1 Amend Senate File 2201 as follows:
2 1. Page 8, by striking lines 29 through 32.

S-5409 FILED & ADOPTED (*p. 655*) BY E. KEVIN KELLY
MARCH 28, 1978

SENATE FILE 2201

S-5388

- 1 Amend Senate File 2201 as follows:
2 1. Page 6 by striking lines 3 through 20.
3 2. Title page, lines 2 and 3, by striking the
4 words "prohibiting receipt of certain gifts,".
5 3. By renumbering the sections in conformance
6 with this amendment.

S-5388 FILED *Adopted 3/28 (p. 654)* BY LUCAS J. DE KOSTER
MARCH 21, 1978

SENATE FILE 2201

S-5391

- 1 Amend Senate File 2201 as follows:
2 1. Page 6, line 7, by striking the words "twenty-
3 five" and inserting in lieu thereof the word "fifty".

S-5391 FILED *Adopted 3/28 (p. 654)* BY GEORGE R. KINLEY
MARCH 23, 1978 CALVIN O. HULTMAN

SENATE FILE 2201

S-5394

- 1 Amend Senate File 2201 as follows:
2 1. Page 14, line 31, by striking the word
3 "chairman" and inserting in lieu thereof the words
4 "chairman chairperson".

S-5394 FILED *Adopted 3/29 (p. 666)* BY GENE W. GLENN
MARCH 23, 1978

SENATE FILE 2201

S-5396

- 1 Amend Senate File 2201 as follows:
2 1. Page 4, line 15, by inserting after the
3 word "official" the words "except elected city
4 officials, elected county officials, members of a
5 school board and members of a merged area school
6 board."
7 2. Page 4, line 24, by inserting after the
8 word "office" the words "except candidates for city
9 office, county office, school boards and merged area
10 school boards."
11 3. Page 5, by striking lines 20 through 27.

S-5396 FILED *Adopted 3/28 (p. 653)* BY C. JOSEPH COLEMAN
MARCH 23, 1978

SENATE FILE 2201

S-5410

- 1 Amend Senate File 2201 as follows:
 2 1. Page 8, line 25, by adding after the word
 3 "bidding" the words ", nor to a contract in which a
 4 public officer or employee has an interest, if the
 5 contract was entered into before the public officer
 6 or employee was elected or appointed. However, such
 7 contracts shall not thereafter be renewed."

S-5410 FILED & ADOPTED (p. 655) BY E. KEVIN KELLY
 MARCH 28, 1978

SENATE FILE 2201

S-5413

- 1 Amend Senate File 2201 as follows:
 2 1. Page 8, by inserting after line 25 the
 3 following new subsection:
 4 "NEW SUBSECTION. A public official shall not sell
 5 directly or indirectly any goods or services to the
 6 state if he or she is a public official of the state
 7 or of a political subdivision of the state in which he
 8 or she serves, except as provided in subsection six (6).
 9 However, the sale of goods or services during a single
 10 year having a value of less than five hundred dollars
 11 shall not be considered to be in violation of this
 12 subsection, providing the purchase is approved by other
 13 officials of the state or of a political subdivision
 14 of the state."

S-5413 FILED & ADOPTED (p. 655) BY EUGENE M. HILL
 MARCH 28, 1978

SENATE FILE 2201

S-5417

- 1 Amend Senate File 2201 as follows:
 2 1. Page 6, by inserting after line 28 the following
 3 new unnumbered paragraph:
 4 "Any person doing business with a governmental
 5 body shall file a disclosure statement by the twentieth
 6 day of the month following a month in which a gift
 7 or gifts with an aggregate apparent value of more
 8 than five dollars were given by him or her to a public
 9 official of that governmental body or to a member
 10 of his or her immediate family in a civil day."
 11 2. Page 7, line 4, by inserting after the word
 12 "source" the words "and the recipient".

S-5417 FILED *Adopted 3/30* (p. 678) BY ROGER J. SHAFF
 MARCH 28, 1978

SENATE FILE 2201

S-5418

- 1 Amend Senate File 2201 as follows:
 2 1. By striking pages 1 through 14.
 3 2. Page 15 by striking lines 1 through 20.
 4 3. Page 16 by striking lines 20 through 35.
 5 4. By striking page 17.
 6 5. Page 18 by striking lines 1 through 15, and
 7 inserting in lieu thereof the word "EXPLANATION".

S-5418 FILED *Lost 2/29* (p. 667) BY LUCAS J. DE KOSTER
 MARCH 28, 1978

SENATE FILE 2201

S-5423

- 1 Amend Senate File 2201 as follows:
2 1. Page 4, line 17, by inserting after the word
3 "year." the words "However, appointed public officials
4 shall be exempt from the provisions of this section."

S-5423 FILED AND LOST (p. 668)
MARCH 29, 1978

BY C. JOSEPH COLEMAN

SENATE FILE 2201

S-5424

- 1 Amend Senate File 2201 as follows:
2 1. Page 7, by striking lines 23 through 27.
3 2. Page 7, line 29, by striking the words
4 "appear before that body or".
5 3. Page 7, line 30, by inserting after the word
6 "compensation" the words "for an appearance before
7 that body or".
8 4. Page 8, by striking line 33 through page 9,
9 line 3 and inserting in lieu thereof the following:
10 "8. No public official or public employee at any
11 level of state or local government shall take any
12 official non-ministerial action on any matter in which
13 he or she knows or has reason to know he or she has,
14 or a member of his or her immediate family has,
15 a specific personal financial interest, as opposed to
16 the interest of a profession, trade, or business in
17 general, or that of the public at large."

S-5424 FILED AND ADOPTED (p. 669)
MARCH 29, 1978

BY PHILIP HILL

SENATE FILE 2201

S-5426

- 1 Amend Senate File 2201 as follows:
2 1. Page 2 by striking lines 15 and 16 and
3 inserting in lieu thereof the following:
4 "(1) If it is received:
5 (a) by a public employee with the knowledge
6 and consent of his or her employer, or
7 (b) by a public official after having been
8 reported to and approved by the campaign finance
9 disclosure and ethics commission."

S-5426 FILED & WITHDRAWN (p. 667)
MARCH 29, 1978

BY LUCAS J. DE KOSTER

SENATE CLIP SHEET
MARCH 30, 1978

SENATE FILE 2201

S-5419

- 1 Amend Senate File 2201 as follows:
- 2 1. Page 8 by striking lines 19 through 28.
- 3 2. By renumbering the remaining sections
- 4 to conform with this amendment.

S-5419 FILED *W/S 3/30 (p. 680)* BY CALVIN O. HULTMAN
MARCH 29, 1978

SENATE FILE 2201

S-5420

- 1 Amend Senate File 2201 as follows:
- 2 1. Page 5, by inserting after line 10 the
- 3 following new subsection:
- 4 "_____. The type and recipient of all expenditures
- 5 in excess of one thousand dollars (\$1,000) paid to a
- 6 single recipient."
- 7 2. By renumbering the remaining subsections in
- 8 conformance with this amendment.

S-5420 FILED & LOST (*p. 667*) BY ROLF V. CRAFT
MARCH 29, 1978

SENATE FILE 2201

S-5421

- 1 Amend Senate File 2201 as follows:
- 2 1. Page 2, line 6, by striking the word "second"
- 3 and inserting in lieu thereof the word "third".

S-5421 FILED & ADOPTED BY PHILIP B. HILL
MARCH 29, 1978 (*p. 667*)

SENATE FILE 2201

S-5422

- 1 Amend Senate File 2201 as follows:
- 2 1. Page 3, by striking lines 23 and 24 and
- 3 inserting in lieu thereof the following:
- 4 "a. An elected official in the executive or
- 5 legislative branch of the state."

S-5422 FILED & ADOPTED (*p. 667*) BY RAY TAYLOR
MARCH 29, 1978

SENATE FILE 2201

S-5430

1 Amend Senate File 2201 as follows:
2 1. Page 2 by striking lines 15 and 16 and
3 inserting in lieu thereof the following:
4 "(1) It is received:
5 (a) by a public employee with the knowledge
6 and consent of his or her employer, or
7 (b) by a public official after having been
8 reported to and approved by the campaign finance
9 disclosure and ethics commission."

S-5430 FILED & ADOPTED (p. 667) BY LUCAS J. DE KOSTER
MARCH 29, 1978

SENATE FILE 2201

S-5432

1 Amend Senate File 2201 as follows:
2 1. Page 5 by striking line 10 and inserting
3 in lieu thereof the words "means general classifi-
4 cation of sources and not the name of any specific
5 person."

S-5432 FILED & ADOPTED (p. 669) BY LUCAS J. DE KOSTER
MARCH 29, 1978

SENATE FILE 2201

S-5427

- 1 Amend Senate File 2201 as follows:
- 2 1. Page 6, line 23, by inserting after the word
- 3 "official" the words "and public employee".
- 4 2. Page 6, line 30, by inserting after the word
- 5 "official" the words ", public employee,".

S-5427 FILED & LOST (*p. 669*) BY PHILIP B. HILL
MARCH 29, 1978

SENATE FILE 2201

S-5428

- 1 Amend Senate File 2201 as follows:
- 2 1. Page 3, line 18, by inserting after the word
- 3 "person." the following: "Disclosures to the news
- 4 media for legitimate news purposes only, without com-
- 5 pensation to the official or employee, shall be allowed."

S-5428 FILED & ADOPTED (*p. 669*) BY PHILIP B. HILL
MARCH 29, 1978

SENATE FILE 2201

S-5429

- 1 Amend Senate File 2201 as follows:
- 2 1. Page 8, by striking line 28 and inserting in
- 3 lieu thereof the words "the case may be. Provided,
- 4 however, that voidability shall not be effected under
- 5 this subsection unless a finding is made that the
- 6 participation of the violator was material to the
- 7 official action. If such finding is made, then the
- 8 contract shall be voided only to the affected part
- 9 of the official action and shall not be construed
- 10 to relieve obligations to innocent parties."

S-5429 FILED *Out of order 3/30* BY PHILIP B. HILL
March 29, 1978 (*p. 681*)

SENATE FILE 2201

S-5438

- 1 Amend Senate File 2201 as follows:
2 1. Page 4, line 19, by striking the words "or the
3 lieutenant governor," and inserting in lieu thereof the
4 words "the lieutenant governor, elected city officials,
5 elected county officials, members of a school board or
6 members of a merged area school board,".
7 2. Page 4, line 33, by adding after the word
8 "section" the words "except that candidates for city
9 office, county office, school boards and merged area
10 school boards shall be exempt from the provisions of
11 this subsection".

S-5438 FILED & ADOPTED (p. 430) BY RAY TAYLOR
MARCH 30, 1978

SENATE FILE 2201

S-5439

- 1 Amend Senate File 2201 as follows:
2 1. Page 2, by striking lines 8 and 9 and inserting
3 in lieu thereof the following:
4 "b. A gratuity received by a public official or
5 public employee whose official action or election
6 not to act will potentially have no material effect,
7 distinguishable from effects on the public generally,
8 on the interests of the donor."

S-5439 FILED & ADOPTED (p. 479) BY PHILIP B. HILL
MARCH 30, 1978

SENATE FILE 2201

S-5440

- 1 Amend Senate File 2201 as follows:
2 1. Page 2, by inserting after line 12 the following
3 new lettered paragraphs:
4 " . Anything which within thirty days after
5 its receipt is donated to a public body or to a bona
6 fide educational or charitable organization, without
7 such donation being claimed at any time as a charitable
8 contribution for tax purposes.
9 " . Meals, lodging, transportation, or other
10 amenities, attendant to public speaking engagements
11 or other formal public appearances."
12 2. By relettering as necessary.

DIV.
A

DIV
B

S-5440 FILED BY PHILIP B. HILL
MARCH 30, 1978

Division A adopted (p. 679)
Division B lost (p. 680)

SENATE FILE 2201

S-5436

1 Amend Senate File 2201 as follows:

- 2 1. Page 7, line 7, by striking the words "and in
3 the" and inserting in lieu thereof a period.
4 2. Page 7, by striking lines 8 through 15.

S-5436 FILED & ADOPTED (p. 630) BY E. KEVIN KELLY
MARCH 30, 1978

SENATE FILE 2201

S-5437

1 Amend Senate File 2201 as follows: ---

- 2 1. Page 1, line 25, after the word "employee"
3 insert the following: "The term "business with
4 which a person is associated" shall not include
5 businesses in which the sole interest of the
6 person or a member of the person's immediate
7 family is in the form of an indirect financial
8 investment such as by loan or note through a
9 bank, by mutual fund investment, by insurance
10 policy or contract, or by other similar form of
11 indirect investment."

S-5437 FILED & ADOPTED (p. 679) BY EARL M. WILLITS
MARCH 30, 1978

S-5441

1 Amend Senate File 2201 as follows:

2 1. Page 8, by striking lines 19 through 25 and
3 inserting in lieu thereof the following:

4 "6. A public official shall not have a substantial
5 interest either directly or indirectly in a contract to
6 furnish anything of value to any state department,
7 division, agency, board, or commission, or state
8 political subdivision to which the public official
9 serves."

10 2. Page 8, line 28, by adding after the word
11 "be." the words "Provided, however, that voidability
12 shall not be affected under this subsection unless
13 a finding is made that the participation of the
14 violator was material to the official action. If
15 such finding is made, then the contract shall be
16 voided only to the affected part of the official
17 action and shall not be construed to relieve obligations
18 to innocent parties.

19 The provisions of this section shall not apply to:

20 a. The payment of lawful compensation to a public
21 officer holding more than one office or position,
22 the holding of which is not incompatible with another
23 public office or is not prohibited by law.

24 b. The designation of a bank or trust company as a
25 depositor, paying agent, or for investment of funds.

26 c. An employee of a bank or trust company,
27 who serves in the public office of treasurer.

28 d. Contracts made by a city of less than three
29 thousand population, upon competitive bid in writing,
30 publicly invited, and open.

31 e. Contracts in which a public officer has an
32 interest solely by reason of employment, or a stock
33 interest of the kind described in paragraph i, or
34 both, if the contracts are made by competitive bid,
35 publicly invited and opened, and if the remuneration
36 of employment will not be directly affected as a
37 result of the contract and the duties of employment
38 do not directly involve the procurement or preparation
39 of any part of the contract. The competitive bid
40 requirement of this subsection shall not be required
41 for any contract for professional services not customarily
42 awarded by competitive bid.

43 f. The designation of an official newspaper.

44 g. A contract in which a public officer has an
45 interest if the contract was made before the time he or
46 she was elected or appointed, but the contract may not
47 be renewed.

48 h. Contracts with volunteer firemen or civil defense
49 volunteers.

50 i. A contract with a corporation in which a public

S-5441

Page 2

1 officer has an interest by reason of stockholdings
2 when less than five percent of the outstanding stock
3 of the corporation is owned or controlled directly
4 or indirectly by the public officer or the spouse or
5 immediate family of such officer.
6 j. A contract made by competitive bid, publicly
7 invited and opened, in which the public officer has
8 an interest if he or she is not authorized by law
9 to participate in the awarding of the contract. The
10 competitive bid requirement of this subsection does
11 not apply to any contract for professional services
12 not customarily awarded by competitive bid."

S-5441 FILED & ADOPTED *as amended* BY JAMES M. REDMOND
MARCH 30, 1978 *by 5444 (p. 681)*

SENATE FILE 2201

S-5444

1 Amend Redmond amendment S-5441 to Senate File 2201
2 as follows:
3 1. Page 1, by striking line 9 and inserting in
4 lieu thereof the words "is elected or appointed."
S-5444 FILED & ADOPTED BY JAMES M. REDMOND
MARCH 30, 1978 *(p. 681)*

See Amending 4/4

Senate File 2201

State Government: Walter and Tauke. Co-Chair: Ponce, Patchett, Stromer, Monroe and Harvey.

SENATE FILE

2201

By COMMITTEE ON JUDICIARY

(AS AMENDED AND PASSED BY THE SENATE MARCH 30, 1978)

Passed Senate, Date ^{pub 5415} 5-12-78 (p. 1548) Passed House, Date 5-12-78 (p. 2588)

Vote: Ayes 30 Nays 19 Vote: Ayes 56 Nays 39

Approved Vetoed 6-26-78

Motion to reconsider failed 7/14 (p. 1726)

*Repassed House per 6711 5-12-78 (p. 2130)
54-40*

A BILL FOR

1 An Act requiring public officials and candidates to publicly
2 disclose financial interest, prohibiting receipt of certain
3 gifts, requiring a report of receipt of certain gifts,
4 relating to conflicts of interest, and providing penalties.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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————— = New Language
by the Senate

* = Language Stricken
by the Senate

1 Section 1. NEW SECTION. SHORT TITLE. This Act may be
2 cited as the Iowa Gift and Conflict of Interest Act.

3 Sec. 2. NEW SECTION. POLICY STATEMENT. It is the intent
4 of the general assembly that all public officials and public
5 employees shall fulfill the duties of their offices to the
6 best of their abilities. In official activities public
7 officials and public employees shall pursue the common good,
8 shall be impartial, and shall avoid even the appearance of
9 a conflict of interest.

10 The prohibitions and restrictions set forth in this Act
11 are intended to constitute minimum standards of ethical conduct
12 for public officials and public employees. A governmental
13 body may establish by rule more stringent prohibitions and
14 restrictions to apply to its officials and employees.

15 Sec. 3. NEW SECTION. DEFINITIONS. As used in this Act,
16 unless the context otherwise requires:

17 1. "Business" means a corporation, partnership, sole
18 proprietorship, firm, enterprise, franchise, association,
19 organization, self-employed individual, holding company, joint
20 stock company, receivership, trust, or any legal entity through
21 which business is conducted for profit.

22 2. "Business with which a person is associated" means
23 a business in which the person or a member of the person's
24 immediate family is a director, officer, owner, investor,
25 stockholder, or employee. The term "business with which a
26 person is associated" shall not include businesses in which
27 the sole interest of the person or a member of the person's
28 immediate family is in the form of an indirect financial
29 investment such as by loan or note through a bank, by mutual
30 fund investment, by insurance policy or contract, or by other
31 similar form of indirect investment.

32 3. "Candidate for elective public office" means a person
33 who is a candidate to be a public official and whose name
34 will appear on a ballot.

35 4. "Compensation" means money, benefit, or anything of

1 value conferred in return for services rendered or to be
2 rendered.

3 5. "Contract" means a claim, account, demand against,
4 or express or implied agreement with the state, a political
5 subdivision of the state, or a business.

6 6. "Gift" means a gratuity given in a single calendar
7 year from one source in the form of goods, services, loans,
8 entertainment, hospitality, promise, membership, subscription,
9 transportation, lodging, meals, or any other thing of value.
10 However, a gift shall not mean any of the following:

11 a. A gratuity received from a person related to the public
12 official or public employee within the third degree of
13 consanguinity or affinity.

14 b. A gratuity received by a public official or public
15 employee whose official action or election not to act will
16 potentially have no material effect, distinguishable from
17 effects on the public generally, on the interests of the
18 donor.

19 c. A gratuity in the form of a ticket or pass to an event
20 or series of events unless the ticket or pass is actually
21 used.

22 d. Anything which within thirty days after its receipt
23 is donated to a public body or to a bona fide educational
24 or charitable organization, without such donation being claimed
25 at any time as a charitable contribution for tax purposes.

26 e. A trip or any form of transportation, lodging, or meals
27 if:

28 (1) It is received:

29 (a) by a public employee with the knowledge and consent
30 of his or her employer, or

31 (b) by a public official after having been reported to
32 and approved by the campaign finance disclosure and ethics
33 commission.

34 (2) A public record is made by reporting its receipt in
35 the same manner as gifts are reported pursuant to section

1 eight (8) of this Act. A public employee shall report to
2 the campaign finance disclosure and ethics commission; and

3 (3) The primary purpose of the trip or transportation,
4 lodging, or meals is for the public official or public employee
5 to:

6 (a) Receive instruction, training, or knowledge that is
7 useful or beneficial in performing the person's job as a
8 public official or public employee;

9 (b) Perform a function that is related to the person's
10 job as a public official or public employee; or

11 (c) Absent receipt of the trip, transportation, lodging,
12 or meals, the state would pay the cost.

13 f. Campaign contributions.

14 g. Anything of value which is paid for with funds from
15 the federal government, the state, or a political subdivision
16 of the state.

17 7. "Governmental body" means a department, commission,
18 council, board, bureau, committee, legislative body, agency,
19 or other establishment of the executive or legislative branch
20 of the state or political subdivision of the state.

21 8. "Immediate family" means a spouse residing in the
22 person's household and dependent children.

23 9. "Income" means money or thing of value received or
24 to be received as a claim on future services, whether in the
25 form of a fee, salary, expense, allowance, forbearance,
26 forgiveness, interest, dividend, royalty, rent, capital gain,
27 or other form of recompense.

28 10. "Ministerial action" means an action that a person
29 performs in a prescribed manner in obedience to the mandate
30 of legal authority without regard to the person's own judgment
31 upon the propriety of the action being taken.

32 11. "Political subdivision of the state" means a county,
33 city, township, school corporation, or tax-supported district
34 in the state.

35 12. "Public employee" means a full-time, salaried employee

1 of the state or political subdivision of the state. Employee
2 shall not mean a part-time employee or an independent
3 contractor.

4 13. "Public official" means the following:

5 a. An elected official in the executive or legislative
6 branch of the state.

7 b. Elected city officials, elected county officials,
8 members of a school board, and members of a merged area school
9 board.

10 c. Justices of the supreme court, judges of the court
11 of appeals, judges of the district court, district associate
12 judges, and judicial magistrates.

13 d. An individual who is a member of a policy-making body
14 or the chief administrator of a governmental body who is
15 responsible for taking official governmental action of a
16 nonministerial nature with regard to:

17 (1) Spending, administering, or monitoring grants,
18 subsidies, or government funds;

19 (2) Planning or zoning; or

20 (3) Inspecting, licensing, regulating, or auditing a
21 person.

22 14. "Source" means an individual, business, or nonprofit
23 organization that pays for a gift to a public official or
24 public employee. If an agent represents more than one source,
25 the limitations contained in sections seven (7) and eight
26 (8) of this Act apply to each source.

27 15. "Substantial interest" means an interest exceeding
28 five hundred dollars by a public official or by a member of
29 his or her immediate family.

30 Sec. 4. NEW SECTION. STATEMENT OF FINANCIAL INTERESTS
31 REQUIRED TO BE FILED.

32 1. Each public official except elected city officials,
33 elected county officials, members of a school board and members
34 of a merged area school board shall file a statement of
35 financial interests for the preceding calendar year on or

1 before May fifteenth of each year.

2 A public official, except a member of the general assembly,
3 the governor, the lieutenant governor, elected city officials,
4 elected county officials, members of a school board or members
5 of a merged area school board, shall not be allowed to take
6 the oath of office or enter or continue upon his or her duties
7 as a public official unless a statement of financial interests
8 is or has been timely filed in proper form in accordance with
9 the provisions of this section.

10 2. Each candidate for elective public office except
11 candidates for city office, county office, school boards and
12 merged area school boards shall file a statement of financial
13 interests for the preceding calendar year within ten days
14 of filing nomination papers for election as a public official.
15 However, this subsection shall not apply to a person who has
16 filed a statement pursuant to subsection one (1) of this
17 section.

18 A candidate's name shall not appear on the ballot unless
19 a statement of financial interests is or has been timely filed
20 in proper form in accordance with the provisions of this
21 section except that candidates for city office, county office,
22 school boards and merged area school boards shall be exempt
23 from the provisions of this subsection.

24 3. The statement of financial interests shall be signed
25 under penalty of perjury by the person required to file it.

26 Sec. 5. NEW SECTION. INFORMATION TO BE INCLUDED IN THE
27 STATEMENT OF FINANCIAL INTERESTS. The statement required
28 in section four (4) of this Act shall include the following
29 information in regard to the person required to file the
30 statement and the members of the person's immediate family:

31 1. The names of all businesses with which the person or
32 a member of the person's immediate family is associated.

33 2. The type and source of all income in excess of one
34 thousand dollars. For the purpose of this subsection, source
35 means general classification of sources and not the name of

1 any specific person.

2 3. The nature of all real property in the state in which
3 an interest is held.

4 4. The name of an individual, business, or nonprofit
5 organization that paid an honorarium to the person.

6 Sec. 6. NEW SECTION. PLACE FOR FILING STATEMENT OF
7 FINANCIAL INTERESTS. The statement of financial interests
8 required to be filed by section four (4) of this Act shall
9 be filed with the campaign finance disclosure and ethics
10 commission and in the following places:

* 11 1. With the appointing authority for a public official
12 who is appointed and not subject to confirmation.

13 2. With the confirming authority for a public official
14 who is appointed and subject to confirmation.

15 Statements of financial interests that must be filed with
16 the confirming authority shall be filed prior to confirmation
17 of the person's appointment.

18 Statements of financial interests are public records open
19 to inspection in accordance with chapter sixty-eight A (68A)
20 of the Code.

21 Sec. 7. NEW SECTION. PROHIBITED GIFTS--PENALTY.

22 1. A public official, public employee, and members of
23 the official's or employee's immediate family shall not
24 solicit, receive, or accept gifts with an aggregate apparent
25 value of more than fifty dollars from the same source in a
26 civil day.

27 2. A public official, public employee, and members of
28 the official's or employee's immediate family shall not
29 solicit, receive, or accept gifts with an aggregate apparent
30 value of more than one hundred dollars from the same source
31 in a calendar year.

32 3. The limitations contained in subsections one (1) and
33 two (2) of this section apply to gifts for the public official
34 or public employee and members of his or her immediate family
35 together. Members of the immediate family do not have separate

1 Limitations.

2 4. A violation of subsection one (1) or two (2) of this
3 section is a serious misdemeanor.

4 Sec. 8. NEW SECTION. REPORTABLE GIFTS--DISCLOSURE
5 STATEMENT--PLACE OF FILING--PUBLIC RECORD--PENALTY.

6 1. Each public official shall file a disclosure statement
7 by the twentieth day of the month following a month in which
8 a gift or gifts with an aggregate apparent value of more than
9 five dollars were received by the public official or by a
10 member of his or her immediate family from the same source
11 in a civil day.

12 Any person doing business with a governmental body shall
13 file a disclosure statement by the twentieth day of the month
14 following a month in which a gift or gifts with an aggregate
15 apparent value of more than five dollars were given by him
16 or her to a public official of that governmental body or to
17 a member of his or her immediate family in a civil day.

18 2. The limitations contained in subsection one (1) of
19 this section apply to gifts for the public official and members
20 of his or her immediate family together. Members of the
21 immediate family do not have separate limitations.

22 3. The disclosure statement required to be filed by
23 subsection one (1) of this section shall include the following
24 information:

- 25 a. The date each gift was received.
- 26 b. The type of item or service received.
- 27 c. The apparent value of each gift.
- 28 d. The name of the source and the recipient.

29 4. The disclosure statement required to be filed by
30 subsection one (1) of this section shall be filed with the
* 31 campaign finance disclosure and ethics commission.

32 5. Disclosure statements required by this section are
33 public records open to inspection in accordance with chapter
34 sixty-eight A (68A) of the Code.

35 6. Willful failure to file timely a disclosure statement

1 as required by this section is a serious misdemeanor.

2 Sec. 9. NEW SECTION. OTHER RESTRICTED ACTIVITIES--
3 PENALTIES.

* 4 1. A former public official or former public employee
* 5 of a governmental body shall not receive compensation for
6 an appearance before that body or for services rendered on
7 behalf of an individual or business in relation to a case,
8 proceeding, or application with respect to which such person
9 was directly concerned and in which he or she personally
10 participated during the period of the person's service or
11 employment with the governmental body. This restriction
12 exists for a period of two years after termination of the
13 public official or public employee's service with the
14 governmental body.

15 2. The former head, deputy, or member of a commission
16 or board of a governmental body shall not receive compensation
17 for services rendered on behalf of an individual or business
18 in a case, proceeding, or application before the body with
19 which he or she had served when compensation is dependent
20 upon action by the body. This restriction exists for a period
21 of two years after termination of the person's service with
22 the governmental body.

23 3. A public official or public employee shall not solicit,
24 accept, or receive any benefit or compensation in addition
25 to that received in an official capacity for having exercised
26 official powers or having performed official duties.

27 4. A public official or public employee shall not use
28 or disclose confidential information gained in the course
29 of or by reason of his or her official position or activities
30 to further the financial interests of any person. Disclosures
31 to the news media for legitimate news purposes only, without
32 compensation to the official or employee, shall be allowed.

33 5. A public official shall not have a substantial interest
34 either directly or indirectly in a contract to furnish anything
35 of value to any state department, division, agency, board,

1 or commission, or state political subdivision to which the
2 public official is elected or appointed.

3 6. A public official shall not sell directly or indirectly
4 any goods or services to the state if he or she is a public
5 official of the state or of a political subdivision of the
6 state in which he or she serves, except as provided in
7 subsection five (5). However, the sale of goods or services
8 during a single year having a value of less than five hundred
9 dollars shall not be considered to be in violation of this
10 subsection, providing the purchase is approved by other
11 officials of the state or of a political subdivision of the
12 state.

13 A contract in violation of this paragraph is voidable by
14 the state or political subdivision of the state, whichever
* 15 the case may be. Provided, however, that voidability shall
16 not be affected under this subsection unless a finding is
17 made that the participation of the violator was material to
18 the official action. If such finding is made, then the
19 contract shall be voided only to the affected part of the
20 official action and shall not be construed to relieve
21 obligations to innocent parties.

22 The provisions of this section shall not apply to:

23 a. The payment of lawful compensation to a public officer
24 holding more than one office or position, the holding of which
25 is not incompatible with another public office or is not
26 prohibited by law.

27 b. The designation of a bank or trust company as a
28 depositor, paying agent, or for investment of funds.

29 c. An employee of a bank or trust company, who serves
30 in the public office of treasurer.

31 d. Contracts made by a city of less than three thousand
32 population, upon competitive bid in writing, publicly invited,
33 and open.

34 e. Contracts in which a public officer has an interest
35 solely by reason of employment, or a stock interest of the

1 kind described in paragraph i, or both, if the contracts are
2 made by competitive bid, publicly invited and opened, and
3 if the remuneration of employment will not be directly affected
4 as a result of the contract and the duties of employment do
5 not directly involve the procurement or preparation of any
6 part of the contract. The competitive bid requirement of
7 this subsection shall not be required for any contract for
8 professional services not customarily awarded by competitive
9 bid.

10 f. The designation of an official newspaper.

11 g. A contract in which a public officer has an interest
12 if the contract was made before the time he or she was elected
13 or appointed, but the contract may not be renewed.

14 n. Contracts with volunteer firemen or civil defense
15 volunteers.

16 i. A contract with a corporation in which a public officer
17 has an interest by reason of stockholdings when less than
18 five percent of the outstanding stock of the corporation is
19 owned or controlled directly or indirectly by the public
20 officer or the spouse or immediate family of such officer.

21 j. A contract made by competitive bid, publicly invited
22 and opened, in which the public officer has an interest if
23 he or she is not authorized by law to participate in the
24 awarding of the contract. The competitive bid requirement
25 of this subsection does not apply to any contract for
26 professional services not customarily awarded by competitive
27 bid.

28 7. No public official or public employee at any level
29 of state or local government shall take any official non-
30 ministerial action on any matter in which he or she knows
31 or has reason to know he or she has, or a member of his or
32 her immediate family has, a specific personal financial
33 interest, as opposed to the interest of a profession, trade,
34 or business in general, or that of the public at large.

35 8. A violation of this section is a serious misdemeanor.

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1 Sec. 10. NEW SECTION. WHO MAY COMMENCE AN ACTION. Actions
2 to enforce the provisions of this Act may be commenced by
3 an adult resident of the state, by the campaign finance
4 disclosure and ethics commission pursuant to section fifty-
5 six point eleven (56.11), subsection four (4), of the Code,
6 by the county attorney of the county where the principal
7 duties of the alleged violator's office or employment are
8 performed, or by the attorney general.

9 Chapter fifty-six (56) of the Code shall apply where
10 appropriate.

11 Sec. 11. NEW SECTION. LEGISLATIVE ETHICS COMMITTEE.
12 There shall be an ethics committee in the senate and an ethics
13 committee in the house, each to consist of five members; three
14 members to be appointed by the majority leader in each house,
15 and two members by the minority leader in each house. Members
16 of the general assembly shall receive a per diem of forty
17 dollars and travel expenses at the same rate as paid members
18 of interim committees for attending meetings held when the
19 general assembly is not in session. The per diem and expenses
20 shall be paid from funds appropriated by section two point
21 twelve (2.12) of the Code.

22 Each committee shall elect a chairperson and shall have
23 the following powers, duties, and functions:

24 1. Within thirty days after the commencement of the
25 session, prepare and sponsor a resolution relating to a code
26 of ethics for legislators.

27 2. Within thirty days after the commencement of the
28 session, prepare and sponsor a resolution relating to rules
29 governing lobbyists and lobbying activities in the general
30 assembly.

31 3. Issue advisory opinions interpreting constitutional
32 and statutory provisions relating to legislators and lobbyists
33 as well as interpreting the code of ethics and rules issued
34 pursuant to this section. Opinions shall be issued when
35 approved by a majority of the five members and may be issued

1 upon the request of a member of the general assembly or upon
2 the committee's initiation.

3 4. Investigate complaints and charges against members
4 of its house and, if warranted, report the results of such
5 investigation to its house with recommendations for further
6 action.

7 5. Recommend to an appropriate standing committee of that
8 house legislation relating to legislative ethics and lobbying
9 activities.

10 The code of ethics and rules relating to lobbyists and
11 lobbying activity shall not become effective until approved
12 by the house to which the proposed code and rules apply.
13 The code or rules may be amended at any time by the house
14 which adopted the code or rules upon adoption of a resolution
15 providing for the amendment which may be sponsored by either
16 the ethics committee or by members of that house.

17 Violation of the code of ethics may result in the suspension
18 of a member from the general assembly and the forfeiture of
19 his or her salary if directed by a two-thirds vote of the
20 house to which the member belongs. Such suspension or
21 forfeiture of salary shall be for such duration as specified
22 in the directing resolution provided however, that it cannot
23 extend beyond the date of adjournment of the session.
24 Violation of the rules relating to lobbyists and lobbying
25 activities may result in the suspension of any lobbyist if
26 directed by a two-thirds vote of the house wherein the
27 violation occurred.

28 Sec. 12. Section fifty-six point one (56.1), Code 1977,
29 is amended to read as follows:

30 56.1 CITATION. This chapter may be cited as the "Campaign
31 Disclosure-Income Tax Checkoff--Ethics Act".

32 Sec. 13. Section fifty-six point two (56.2), subsection
33 ten (10), Code 1977, is amended to read as follows:

34 10. "Commission" means the campaign finance disclosure
35 and ethics commission created under section 56.9.

1 Sec. 14. Section fifty-six point four (56.4), unnumbered
2 paragraph one (1), Code 1977, is amended to read as follows:

3 All statements and reports required to be filed under this
4 chapter for a state office and under this Act shall be filed
5 with the commission. All statements and reports required
6 to be filed under this chapter for a county, city or school
7 office shall be filed with the commissioner. Statements and
8 reports on a ballot issue shall be filed with the commissioner
9 responsible under section 47.2 for conducting the election
10 at which the issue is voted upon, except that statements and
11 reports on a statewide ballot issue shall be filed with the
12 commission. State statutory political committees shall file
13 all statements and reports with the commission. All other
14 statutory political committees shall file the statements and
15 reports with the commissioner with a copy sent to the
16 commission.

17 Sec. 15. Section fifty-six point eight (56.8), subsection
18 one (1), lettered paragraph a, Code 1977, is amended to read
19 as follows:

20 a. Develop forms for the filing of reports and statements
21 required to be filed under this chapter and this Act.

22 Sec. 16. Section fifty-six point nine (56.9), headnote
23 and subsection one (1), Code 1977, is amended to read as
24 follows:

25 56.9 CAMPAIGN FINANCE DISCLOSURE AND ETHICS COMMISSION-
26 -CREATED.

27 1. There is created a campaign finance disclosure and
28 ethics commission which shall consist of ~~five~~ nine members,
29 not more than ~~three~~ five of whom shall be from the same
30 political party. The governor shall appoint the members of
31 the commission for a term of six years, subject to the
32 confirmation of the senate. ~~Of the members first appointed~~
33 ~~one member shall be appointed for a term of two years, two~~
34 ~~members shall be appointed for a term of four years, and two~~
35 ~~members shall be appointed for a term of six years, beginning~~

1 July-17-1973-

2 Of the four new positions created by this Act, one member
3 shall be appointed for a term of one year, one member shall
4 be appointed for a term of three years, and two members shall
5 be appointed for a term of five years, beginning July 1, 1979.

6 Any vacancy shall be filled by appointment for the unexpired
7 portion of the term in accordance with the provisions for
8 regular appointment insofar as is applicable.

9 Sec. 17. Section fifty-six point ten (56.10), subsections
10 one (1), three (3), and four (4), Code 1977, is amended to
11 read as follows:

12 1. Review the contents of all disclosure reports and other
13 statements filed with the commission and promptly advise each
14 person or committee of errors found. The commission may,
15 upon its own motion, initiate action and conduct a hearing
16 under section 56.11, subsections 1 and 2. The commission
17 may require the county commissioner to file summary reports
18 with it periodically.

19 3. Assure that the statements and reports which have been
20 filed in accordance with this chapter or this Act are available
21 for public inspection and copying during the regular office
22 hours of the commission and county commissioners.

23 4. Adopt rules pursuant to chapter 17A to carry out the
24 provisions of this chapter and this Act.

25 Sec. 18. Section fifty-six point ten (56.10), Code 1977,
26 is amended by adding the following new subsections:

27 NEW SUBSECTION. Enforce this Act.

28 NEW SUBSECTION. Prepare and publish guidelines setting
29 forth recommended methods of reporting for use by persons
30 required to file under this Act.

31 NEW SUBSECTION. Audit statements and reports filed with
32 the commission.

33 NEW SUBSECTION. On its own initiative or upon request
34 of a public official, public employee, or candidate for
35 elective public office, issue and publish advisory opinions

1 on the requirements of this Act.

2 Sec. 19. Section fifty-six point eleven (56.11),
3 subsections one (1), two (2), and three (3), is amended to
4 read as follows:

5 56.11 COMPLAINTS--PROCEDURE.

6 1. Any eligible elector may file a complaint of an alleged
7 violation of this chapter or this Act with the commission.
8 The complaint shall be verified and supported by affidavit
9 detailing the circumstances of the violation alleged. The
10 commission may initiate action on its own motion by filing
11 a complaint accompanied by such an affidavit. Within twenty-
12 four hours after receipt of a complaint or initiation of its
13 own complaint, the commission shall notify the person,
14 candidate or committee against whom the complaint is made
15 of receipt or initiation of the complaint, and until it has
16 done so it shall make no investigation of any kind ~~into the~~
17 ~~campaign-affairs-of-the-person,-candidate-or-committee.~~
18 Unless the commission concludes that there is no reasonable
19 basis for a complaint which has been filed, it shall set a
20 date for a hearing on the complaint which shall be not more
21 than fifteen days after the date the complaint is received
22 or initiated by the commission. The commission shall serve
23 the person, candidate or committee against whom the complaint
24 is made a copy of the complaint and supporting affidavit and
25 notice of the hearing in the manner provided by the rules
26 of civil procedure. Copies of the complaint, affidavit and
27 notice shall also be sent to each of the other candidates,
28 if any, for the office affected. If a complaint is filed
29 or initiated less than fifteen days before the election at
30 which the office affected is to be filled, the commission
31 shall set the hearing at the earliest possible date so as
32 to allow the issue to be resolved prior to the election.
33 An extension of time for the hearing may be granted when both
34 parties mutually agree on an alternate date for the hearing.
35 2. The commission shall investigate the complaint and

1 conduct the hearing. Upon request of the commission, the
2 county attorney or the attorney general shall assist the
3 commission in any investigation and report to it as directed.
4 The commission shall have the power to subpoena and review
5 all records of a person, candidate or committee required to
6 be kept under this chapter or this Act. Due process, including
7 the right to be represented by counsel, shall be accorded
8 the accused. The commission shall provide for the
9 confidentiality of the records of a person, candidate or
10 committee during the investigation and hearing process and
11 shall provide for confidential hearings only if requested
12 by either party to the complaint, except that if the commission
13 itself is a complainant it may not request a confidential
14 hearing. After the hearing the commission shall determine
15 whether or not there are reasonable grounds to believe that
16 a violation of the provisions of this chapter or this Act
17 did occur. The commission shall send a copy of its findings
18 of fact and decision to the person, candidate or committee
19 against which the complaint was filed and to each candidate
20 for the public office affected. The commission may assess
21 the cost of such hearings against either party involved in
22 the hearing.

23 3. If the commission finds reasonable grounds to believe
24 that the person, candidate, or committee has engaged in an
25 act or practice which constitutes a violation of this chapter
26 or this Act, the commission shall report the suspected
27 violation of law to the United States attorney, the attorney
28 general, or the county attorney, as the case may be, with
29 a recommendation of appropriate action to be taken.

30 Sec. 20. Section fifty-six point twenty-three (56.23),
31 Code 1977, is amended to read as follows:

32 56.23 FUNDS--CAMPAIGN EXPENSES ONLY. The chairman
33 chairperson of the state statutory political committee shall
34 produce evidence to the state comptroller and to the campaign
35 finance-disclosure commission not later than thirty days after

1 the election returns have been certified by the board of state
2 canvassers, that all funds paid for the campaign expenses
3 of that election have been utilized exclusively for such
4 campaign expenses.

5 The ~~campaign-finance-disclosure~~ commission shall issue,
6 prior to the payment of any money, guidelines which explain
7 which expenses and evidence thereof qualify as acceptable
8 campaign expenses.

9 Should the ~~campaign-finance-disclosure~~ commission and the
10 state comptroller determine that any part of the funds have
11 been used for noncampaign or improper expenses, they may order
12 the political party or the candidate to return all or any
13 part of the total funds paid to that political party for that
14 election. When such funds are returned, they shall be
15 deposited in the general fund of the state.

16 Sec. 21. Section sixty-six point one (66.1), Code 1977,
17 is amended by adding the following new subsection:

18 NEW SUBSECTION. Upon conviction of violating section seven
19 (7), eight (8), or nine (9) of this Act.

20 Sec. 22. Section seven hundred twenty-one point two
21 (721.2), Code 1977 Supplement, is amended by striking
22 subsection three (3).

23 Sec. 23. Section seven hundred twenty-two point one
24 (722.1), Code 1977 Supplement, is amended to read as follows:

25 722.1 BRIBERY. A person who offers, promises or gives
26 anything of value or any benefit to any person who is serving
27 or has been elected, selected, appointed, employed or otherwise
28 engaged to serve in a public capacity, including any public
29 officer or employee, any referee, juror or venireman, or any
30 witness in any judicial or arbitration hearing or any official
31 inquiry, or any member of a board of arbitration, ~~with-intent~~
32 to pursuant to an agreement or arrangement or with the
33 understanding that the promise or thing of value or benefit
34 will influence the act, vote, opinion, judgment, decision
35 or exercise of discretion of such person with respect to his

1 or her services in such capacity commits a class D felony.
2 In addition, any person convicted under this section shall
3 be disqualified from holding public office under the laws
4 of this state.

5 Sec. 24. Section seven hundred twenty-two point two
6 (722.2), Code 1977 Supplement, is amended to read as follows:

7 722.2 ACCEPTING BRIBE. Any person who is serving or has
8 been elected, selected, appointed, employed or otherwise
9 engaged to serve in a public capacity, including any public
10 officer or employee, any referee, juror or venireman, or any
11 witness in any judicial or arbitration hearing or any official
12 inquiry, or any member of a board of arbitration, who shall
13 solicit or knowingly accept or receive any promise or anything
14 of value or any benefit given ~~with the intent to~~ pursuant
15 to an agreement or arrangement or with the understanding that
16 the promise or thing of value or benefit will influence the
17 act, vote, opinion, judgment, decision or exercise of dis-
18 cretion of such person with respect to his or her services
19 in such capacity commits a class C felony. In addition, any
20 person convicted under this section shall be disqualified
21 from holding public office under the laws of this state.

22 Sec. 25. Sections sixty-eight B point one (68B.1), sixty-
23 eight B point three (68B.3), sixty-eight B point four (68B.4),
24 sixty-eight B point five (68B.5), sixty-eight B point six
25 (68B.6), sixty-eight B point seven (68B.7), sixty-eight B
26 point nine (68B.9), and sixty-eight B point ten (68B.10),
27 Code 1977, are repealed.

28 Sec. 26. Section sixty-eight B point two (68B.2), Code
29 1977, as amended by Acts of the Sixty-seventh General Assembly,
30 1977 Session, chapter forty-eight (48), section one (1), is
31 repealed.

32 Sec. 27. Section sixty-eight B point eight (68B.8), Code
33 1977 Supplement, is repealed.

34 Sec. 28. This Act is effective January 1, 1979.

35 EXPLANATION

1 to further the financial interests of any person.

2 It prohibits a public official from having a substantial
3 interest either directly or indirectly in any contract to
4 furnish anything of value to the state, if he or she is a
5 public official of the state, or to a political subdivision
6 in which he or she serves, unless the contract is awarded
7 as a result of open, public, and competitive bidding.

8 It prohibits a public official from having a substantial
9 interest either directly or indirectly in a contract to furnish
10 anything of value to a business subject to the regulatory
11 authority of a governmental body in which he or she serves.

12 It also says that a majority of the members of a non-
13 elective governmental body shall not have a specific personal
14 financial interest or have a member of his or her immediate
15 family with a specific financial interest, as opposed to the
16 interest of a profession, trade, or business in general, in
17 matters subject to the jurisdiction of that body.

18 The bill amends the two bribery provisions of the criminal
19 code revision, and it inserts parts of repealed Chapter 68B
20 in appropriate sections of this Act. Chapter 56, the campaign
21 finance disclosure chapter, is amended to become the campaign
22 finance disclosure and ethics chapter. The campaign finance
23 disclosure and ethics commission is charged with enforcing
24 this Act.

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SF 2201
can/slc/26c

H-5695

1 Amend Senate File 2201 as passed by the Senate
2 and reprinted as follows:

3 1. Page 8, by striking line 33 through page
4 10, line 34, and inserting in lieu thereof the
5 following:

6 "5. A public official shall not have a sub-
7 stantial interest, either directly or indirectly, in
8 furnishing goods, services, or in a contract to fur-
9 nish anything of value to any state department, div-
10 ision, agency, board, regulatory authority, commission
11 or political subdivision of the state to which the
12 public official is elected or appointed, except:

13 a. Purchases or rentals of goods, space and
14 services from the same supplier at a total cost of
15 less than \$500.00 within any 12-month period.

16 b. Purchase or rentals of goods or services if
17 there is no other supplier within the political sub-
18 division served by the public official.

19 c. Purchases or rentals of goods, space or
20 services from the lowest bidder in accordance with
21 rules for open, public, and competitive bidding.

22 d. Purchases or rentals of standardized goods
23 at the lowest price offered after all local suppliers
24 in the political subdivision served by the official
25 have been contacted for quotations.

26 e. Contracts not normally entered into on a bid
27 basis.

28 6. Any public official who has a substantial
29 interest in any official action within the meaning of
30 this chapter shall immediately publicly disclose such
31 interest and shall abstain from taking part in any vote
32 on any matter that may involve such substantial interest."

H-6695 FILED, RULED OUT OF ORDER BY TAUKE of Dubuque
MAY 12, 1978 (p 2588)

H-6686

1 Amend Senate File 2201 as amended, passed and
2 reprinted by the Senate as follows:

3 1. By striking everything after the enacting
4 clause and inserting in lieu thereof the following:

5 "Section 1. Section sixty-eight B point five
6 (68B.5), Code 1977, is amended by striking the section
7 and inserting in lieu thereof the following:

8 68B.5 GIFTS PROHIBITED. An official shall not
9 solicit, accept, demand, receive or agree to receive
10 any gift for the official's own use or for the use
11 of his or her spouse or unemancipated children, except
12 under the following conditions:

13 1. If it is received in the course of carrying
14 out the functions or responsibilities of the office
15 or position of employment; and

16 2. If, in the opinion of the appointing authority,
17 immediate supervisor of the employee, or elected
18 official the gift is useful or beneficial to the state
19 or any of its political subdivisions; and

20 3. If the appointing authority, immediate
21 supervisor of the employee, or elected official
22 approves the acceptance of the gift; and

23 4. If a disclosure statement pursuant to section
24 three (3) of this Act is filed.

25 Sec. 2. NEW SECTION. DEFINITIONS. For the purpose
26 of this Act:

27 1. "Gift" means a gratuity given in a single
28 calendar year from one source in the form of goods,
29 services, loans, entertainment, hospitality, promise,
30 membership, subscription, transportation, lodging,
31 meals, or any other thing of value which has a value
32 or aggregate value of fifty dollars or more; however,
33 a gift shall not mean any of the following:

34 a. A gratuity received from a person related to
35 the official by consanguinity or affinity within the
36 second degree, or a gratuity which is not motivated
37 because of the receiving person's official capacity
38 or employment.

39 b. Campaign contributions.

40 c. Anything of value received by a representative
41 or senator of the general assembly or the spouse or
42 unemancipated children of a member of the general
43 assembly from a lobbyist registered either with the
44 chief clerk of the house or the secretary of the
45 senate. In the event the house of representatives
46 or the senate fails to adopt rules governing the
47 activities of lobbyists, this exemption shall not
48 apply to the members of that house of the general
49 assembly which did not adopt rules.

50 d. Anything of value which is paid for with funds

1 from the state of Iowa or any of the political
2 subdivisions of Iowa.

3 2. "Official" means a person elected to public
4 office, or a person appointed or employed to or by
5 an office of this state or a political subdivision
6 of this state, which appointed or employed person
7 receives a salary or per diem compensation whether
8 serving full or part-time. A person covered by the
9 code of judicial conduct shall not be considered an
10 "official" for the purposes of this Act.

11 3. "Elected official" means a person holding a
12 position which is normally filled by the electorate
13 of the state or a political subdivision of the state.

14 Sec. 3. NEW SECTION. FILING OF DISCLOSURE. Any
15 official receiving a gift as defined in section two
16 (2) of this Act shall file a disclosure statement
17 within thirty days of the receipt of such gratuity
18 at the office specified in section four (4) of this
19 Act, which disclosure shall contain:

20 1. The manner in which the state or its political
21 subdivision will benefit from its acceptance.

22 2. A detailed description of the gift received
23 including an estimate of its monetary value.

24 3. The name of the donor of the gift.

25 4. The date received and accepted.

26 Sec. 4. NEW SECTION. PLACE OF FILING. The
27 disclosure statement required by section three (3)
28 of this Act shall be filed as follows:

29 1. State representatives, with the chief clerk
30 of the house.

31 2. State senators, with the secretary of the
32 senate.

33 3. Elected state officials, with the secretary
34 of state.

35 4. All other elected officials, with the county
36 auditor of the county of residence of that elected
37 official.

38 5. Officials who are employed, with the immediate
39 supervisor of the employee.

40 6. Officials who are appointed, with the appointing
41 authority.

42 Sec. 5. NEW SECTION. OFFERING GIFTS PROHIBITED.
43 Any person offering, making, or attempting to give
44 any gift to any official in contravention of the
45 provisions of this Act shall be subject to the
46 provisions of section seven (7) of this Act.

47 Sec. 6. NEW SECTION. LEGISLATIVE INTENT. The
48 general assembly intends that this Act be construed
49 in a manner which will prohibit officials from
50 accepting any gift except as provided by this Act.

1 This Act shall not be interpreted in a manner which
2 would prohibit officials from participating in meetings
3 and conferences held within or without the state for
4 the purpose of exchanging ideas relating to
5 governmental policy or educating the participants.

6 Sec. 7. Section sixty-eight B point eight (68B.8),
7 Code 1977 Supplement, is amended to read as follows:

8 68B.8 ADDITIONAL PENALTY. In addition to any
9 penalty contained in any other provision of law, a
10 person who knowingly and intentionally violates the
11 provisions of sections 68B.3 through 68B.6 ~~and this~~
12 ~~section~~ or section three (3) or four (4) of this Act
13 shall be guilty of a serious misdemeanor and may be
14 suspended from his or her position.

15 Sec. 8. Section seven hundred twenty-two point
16 one (722.1), Code 1977 Supplement, is amended to read
17 as follows:

18 722.1 BRIBERY. A person who offers, promises
19 or gives anything of value or any benefit to any
20 person who is serving or has been elected, selected,
21 appointed, employed or otherwise engaged to serve
22 in a public capacity, including any public officer
23 or employee, any referee, juror or venireman, or any
24 witness in any judicial or arbitration hearing or
25 any official inquiry, or any member of a board of
26 arbitration, ~~with intent to~~ pursuant to an agreement
27 or arrangement or with the understanding that the
28 promise or thing of value or benefit will influence
29 the act, vote, opinion, judgment, decision or exercise
30 of discretion of such person with respect to his or
31 her services in such capacity commits a class D felony.
32 In addition, any person convicted under this section
33 shall be disqualified from holding public office under
34 the laws of this state.

35 Sec. 9. Section seven hundred twenty-two point
36 two (722.2), Code 1977 Supplement, is amended to read
37 as follows:

38 722.2 ACCEPTING BRIBE. Any person who is serving
39 or has been elected, selected, appointed, employed
40 or otherwise engaged to serve in a public capacity,
41 including any public officer or employee, any referee,
42 juror or venireman, or any witness in any judicial
43 or arbitration hearing or any official inquiry, or
44 any member of a board of arbitration, who shall solicit
45 or knowingly accept or receive any promise or anything
46 of value or any benefit given ~~with the intent to~~
47 pursuant to an agreement or arrangement or with the
48 understanding that the promise or thing of value or
49 benefit will influence the act, vote, opinion,
50 judgment, decision or exercise of discretion of such

1 person with respect to his or her services in such
2 capacity commits a class C felony. In addition, any
3 person convicted under this section shall be
4 disqualified from holding public office under the
5 laws of this state

H-6686 FILED, ADOPTED (p. 2588)
May 12, 1978

BY MONROE OF Des Moines	DAVITT of Warren
HARBOR of Mills	SCHROEDER of Pottawattamie
WALTERS OF Pottawattamie	BAKER of Buena Vista
WEST of Marshall	LIND of Black Hawk
BINA of Scott	GETTINGS of Davis
STROMER of Hancock	TOFTE of Winneshiek
KRAUSE of Kossuth	DOYLE of Woodbury
DANKER of Pottawattamie	GRIFFEE of Chickasaw
WOODS of Polk	PAVICH of Pottawattamie
JUNKER of Woodbury	BINNEBOESE of Plymouth
CHIODO of Polk	RINAS of Linn
STEPHENS of Plymouth	JESSE of Polk
MILLER of Buchanan	NIELSEN of Polk
DAGGETT of Adams	BYERLY of Polk
MIDDLESWART of Warren	NORLAND of Worth
PELLETT of Cass	PATCHETT of Johnson
LONERGAN of Boone	HARGRAVE of Johnson
WELDEN of Hardin	GARRISON of Black Hawk
BRANDT of Black Hawk	DUNTON of Keokuk
HALVORSON of Clayton	HINKHOUSE of Cedar
JOCHUM of Dubuque	SCHEELHAASE of Woodbury
CRABB of Crawford	WELLS of Linn
NEWHARD of Jones	GETTINGS of Davis
MILLEN of Van Buren	HORN of Linn
CONNORS of Polk	KOOGLER of Mahaska
HANSEN of O'Brien	ANDERSON of Jasper

HOUSE AMENDMENT TO SENATE FILE 2201

S-5915

1. Amend Senate File 2201 as amended, passed and
2 reprinted by the Senate as follows:

3 1. By striking everything after the enacting
4 clause and inserting in lieu thereof the following:

5 "Section 1. Section sixty-eight B point five
6 (68B.5), Code 1977, is amended by striking the section
7 and inserting in lieu thereof the following:

8 68B.5 GIFTS PROHIBITED. An official shall not
9 solicit, accept, demand, receive or agree to receive
10 any gift for the official's own use or for the use
11 of his or her spouse or unemancipated children, except
12 under the following conditions:

13 1. If it is received in the course of carrying
14 out the functions or responsibilities of the office
15 or position of employment; and

16 2. If, in the opinion of the appointing authority,
17 immediate supervisor of the employee, or elected
18 official the gift is useful or beneficial to the state
19 or any of its political subdivisions; and

20 3. If the appointing authority, immediate
21 supervisor of the employee, or elected official
22 approves the acceptance of the gift; and

23 4. If a disclosure statement pursuant to section
24 three (3) of this Act is filed.

25 Sec. 2. NEW SECTION. DEFINITIONS. For the purpose
26 of this Act:

27 1. "Gift" means a gratuity given in a single
28 calendar year from one source in the form of goods,
29 services, loans, entertainment, hospitality, promise,
30 membership, subscription, transportation, lodging,
31 meals, or any other thing of value which has a value
32 or aggregate value of fifty dollars or more; however,
33 a gift shall not mean any of the following:

34 a. A gratuity received from a person related to
35 the official by consanguinity or affinity within the
36 second degree, or a gratuity which is not motivated
37 because of the receiving person's official capacity
38 or employment.

39 b. Campaign contributions.

40 c. Anything of value received by a representative
41 or senator of the general assembly or the spouse or
42 unemancipated children of a member of the general
43 assembly from a lobbyist registered either with the
44 chief clerk of the house or the secretary of the
45 senate. In the event the house of representatives
46 or the senate fails to adopt rules governing the
47 activities of lobbyists, this exemption shall not
48 apply to the members of that house of the general
49 assembly which did not adopt rules.

50 d. Anything of value which is paid for with funds

1 from the state of Iowa or any of the political
2 subdivisions of Iowa.

3 2. "Official" means a person elected to public
4 office, or a person appointed or employed to or by
5 an office of this state or a political subdivision
6 of this state, which appointed or employed person
7 receives a salary or per diem compensation whether
8 serving full or part-time. A person covered by the
9 code of judicial conduct shall not be considered an
10 "official" for the purposes of this Act.

11 3. "Elected official" means a person holding a
12 position which is normally filled by the electorate
13 of the state or a political subdivision of the state.

14 Sec. 3. NEW SECTION. FILING OF DISCLOSURE. Any
15 official receiving a gift as defined in section two
16 (2) of this Act shall file a disclosure statement
17 within thirty days of the receipt of such gratuity
18 at the office specified in section four (4) of this
19 Act, which disclosure shall contain:

20 1. The manner in which the state or its political
21 subdivision will benefit from its acceptance.

22 2. A detailed description of the gift received
23 including an estimate of its monetary value.

24 3. The name of the donor of the gift.

25 4. The date received and accepted.

26 Sec. 4. NEW SECTION. PLACE OF FILING. The
27 disclosure statement required by section three (3)
28 of this Act shall be filed as follows:

29 1. State representatives, with the chief clerk
30 of the house.

31 2. State senators, with the secretary of the
32 senate.

33 3. Elected state officials, with the secretary
34 of state.

35 4. All other elected officials, with the county
36 auditor of the county of residence of that elected
37 official.

38 5. Officials who are employed, with the immediate
39 supervisor of the employee.

40 6. Officials who are appointed, with the appointing
41 authority.

42 Sec. 5. NEW SECTION. OFFERING GIFTS PROHIBITED.
43 Any person offering, making, or attempting to give
44 any gift to any official in contravention of the
45 provisions of this Act shall be subject to the
46 provisions of section seven (7) of this Act.

47 Sec. 6. NEW SECTION. LEGISLATIVE INTENT. The
48 general assembly intends that this Act be construed
49 in a manner which will prohibit officials from
50 accepting any gift except as provided by this Act.

1 This Act shall not be interpreted in a manner which
2 would prohibit officials from participating in meetings
3 and conferences held within or without the state for
4 the purpose of exchanging ideas relating to
5 governmental policy or educating the participants.

6 Sec. 7. Section sixty-eight B point eight (68B.8),
7 Code 1977 Supplement, is amended to read as follows:

8 68B.8 ADDITIONAL PENALTY. In addition to any
9 penalty contained in any other provision of law, a
10 person who knowingly and intentionally violates the
11 provisions of sections 68B.3 through 68B.6 ~~and this~~
12 ~~section~~ or section three (3) or four (4) of this Act
13 shall be guilty of a serious misdemeanor and may be
14 suspended from his or her position.

15 Sec. 8. Section seven hundred twenty-two point
16 one (722.1), Code 1977 Supplement, is amended to read
17 as follows:

18 722.1 BRIBERY. A person who offers, promises
19 or gives anything of value or any benefit to any
20 person who is serving or has been elected, selected,
21 appointed, employed or otherwise engaged to serve
22 in a public capacity, including any public officer
23 or employee, any referee, juror or venireman, or any
24 witness in any judicial or arbitration hearing or
25 any official inquiry, or any member of a board of
26 arbitration, ~~with intent to~~ pursuant to an agreement
27 or arrangement or with the understanding that the
28 promise or thing of value or benefit will influence
29 the act, vote, opinion, judgment, decision or exercise
30 of discretion of such person with respect to his or
31 her services in such capacity commits a class D felony.
32 In addition, any person convicted under this section
33 shall be disqualified from holding public office under
34 the laws of this state.

35 Sec. 9. Section seven hundred twenty-two point
36 two (722.2), Code 1977 Supplement, is amended to read
37 as follows:

38 722.2 ACCEPTING BRIBE. Any person who is serving
39 or has been elected, selected, appointed, employed
40 or otherwise engaged to serve in a public capacity,
41 including any public officer or employee, any referee,
42 juror or venireman, or any witness in any judicial
43 or arbitration hearing or any official inquiry, or
44 any member of a board of arbitration, who shall solicit
45 or knowingly accept or receive any promise or anything
46 of value or any benefit given with-the-intent-to
47 pursuant to an agreement or arrangement or with the
48 understanding that the promise or thing of value or
49 benefit will influence the act, vote, opinion,
50 judgment, decision or exercise of discretion of such

S-5915

Page 4

1 person with respect to his or her services in such
2 capacity commits a class C felony. In addition, any
3 person convicted under this section shall be
4 disqualified from holding public office under the
5 laws of this state.

S-5915 FILED
MAY 12, 1978

RECEIVED FROM THE HOUSE

*Sen. amended (5917, 5418)
and concurred 5/12 (p. 1547)*

SENATE FILE 2201

S-5917

1 Amend the House amendment, S-5915, to Senate File
2 2201 as amended, passed and reprinted by the Senate
3 as follows:
4 1. Page 4, by inserting after line 5, the follow-
5 ing new section:
6 "Sec. _____. This Act, being deemed of immediate
7 importance, shall take effect and be in force from
8 and after its publication in the Titonka Topic, a
9 newspaper published in Titonka, Iowa, and in the
10 Bancroft Register, a newspaper published in Bancroft,
11 Iowa."

S-5917 FILED & ADOPTED (p. 1547) BY BERL E. PRIEBE
MAY 12, 1978

SENATE FILE 2201

S-5918

1 Amend the House amendment, S-5915, to Senate File
2 2201 as amended, passed and reprinted by the Senate
3 as follows:
4 1. Page 1, line 32, by striking the word "more;"
5 and inserting in lieu thereof the words "more. Gift
6 also means a gratuity given on a single occasion from
7 one source in the form of goods, services, loans,
8 entertainment, hospitality, promise, membership,
9 subscription, transportation, lodging, meals, or any
10 other thing of value which has a value or aggregate
11 value of fifteen dollars or more;"
12 2. Page 1, by striking lines 40 through 49.
13 3. Page 2, line 8, by striking the words "A person
14 covered by the".
15 4. Page 2, by striking lines 9 and 10.
16 5. By renumbering and relettering as necessary.

S-5918 FILED & ADOPTED (p. 1547) BY BOB RUSH
MAY 12, 1978 GENE W. GLENN

SENATE FILE 2201.

S-5919

1 Amend the House amendment, S-5915, to Senate File
2 2201 as amended, passed and reprinted by the Senate
3 as follows:
4 1. Page 4, by inserting after line 5, the follow-
5 ing new section:
6 "Sec. _____. This Act, being deemed of immediate
7 importance, shall take effect and be in force from
8 and after its publication in The Titonka Topic, a
9 newspaper published in Titonka, Iowa, and in The
10 Bancroft Register, a newspaper published in Bancroft,
11 Iowa."

S-5919 FILED & WITHDRAWN (p. 1547) BY BERL E. PRIEBE
MAY 12, 1978

SENATE AMENDMENT TO
HOUSE AMENDMENT TO
SENATE FILE 2201

H-6711

- 1 Amend the House amendment, S-5915, to Senate File
- 2 2201 as amended, passed and reprinted by the Senate
- 3 as follows:
- 4 1. Page 1, line 32, by striking the word "more;"
- 5 and inserting in lieu thereof the words "more. Gift
- 6 also means a gratuity given on a single occasion from
- 7 one source in the form of goods, services, loans,
- 8 entertainment, hospitality, promise, membership,
- 9 subscription, transportation, lodging, meals, or any
- 10 other thing of value which has a value or aggregate
- 11 value of fifteen dollars or more;"
- 12 2. Page 1, by striking lines 40 through 49.
- 13 3. Page 2, line 8, by striking the words "A person
- 14 covered by the".
- 15 4. Page 2, by striking lines 9 and 10.
- 16 5. Page 4, by inserting after line 5, the follow-
- 17 ing new section:
- 18 "Sec. ____ . This Act, being deemed of immediate
- 19 importance, shall take effect and be in force from
- 20 and after its publication in The Titonka Topic, a
- 21 newspaper published in Titonka, Iowa, and in The
- 22 Bancroft Register, a newspaper published in Bancroft,
- 23 Iowa."
- 24 6. Renumbering and relettering as necessary.

H-6711 FILED
RECEIVED FROM SENATE
May 12, 1978

House concurred 5/12 (p. 2731)



ROBERT D. RAY
GOVERNOR

Office of the Governor

STATE CAPITOL
DES MOINES, IOWA 50319

June 26, 1978

The Honorable Arthur A. Neu
Lieutenant Governor of Iowa
Senate
L O C A L

Dear Governor Neu:

I am returning herewith Senate File 2201, an act requiring public officials and candidates to publicly disclose financial interests, prohibiting receipt of certain gifts, requiring a report of receipt of certain gifts, relating to conflicts of interest, and providing penalties, disapproved to the Senate in accordance with Article III, Section 16 of the Constitution of the State of Iowa.

Senate File 2201, as amended, rewrites the prohibitory language of existing Code Section 68B.5 concerning acceptance of gifts by public officials and amends the penalty provisions now contained in Section 68B.8. In addition, it amends the two bribery provisions of the criminal code revision by removing the "intent" standard and substituting a provision requiring the existence of an understanding that acceptance of the proffered benefit will influence the recipient's official action.

The legislative history of Senate File 2201 offers a revealing glimpse of the nature of the bill's content. A fairly comprehensive bill regarding the ethics and conduct of public officials, which was offered by the Senate Judiciary Committee last March with considerable fanfare, was gutted when it was sent to the House. The replacement, which is basically the present Senate File 2201, is a watered-down version of the original bill. To some observers' surprise, the House version was accepted by the Senate with only minor changes.

The Honorable Arthur A. Neu

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June 26, 1978

As concerned Iowans have pointed out to me, Senate File 2201 has a number of defects in its final version. Regrettably the authors of Senate File 2201 virtually ignored the advice of the Governor's Task Force on Ethics which would have helped them avoid the substantive defects. These include the failure to address financial disclosure, the failure to address conflict of interest situations, and the inclusion of restrictions on the acceptance of gifts that are ambiguous and difficult to define, interpret and enforce. Perhaps the most glaring error on the handling of gifts is the decision to define a gift as a gratuity which is "motivated" because of the receiving person's official capacity or employment. Since the only person who knows or can prove the "motivation" of the donor is the donor himself, this exception creates a loophole anyone could use simply by declaring their motivation to be one of friendship, rather than influence. The practical effect of this subjective language is that it would not necessarily follow that any gift would be prohibited, and gift reporting would depend entirely upon the discretion of the individual recipient and his or her personal sense of propriety. This ambiguity creates a paradoxical situation where the public official, who has ready access to the legal standards, is almost at the same disadvantage as the general public in trying to determine what is acceptable ethical conduct concerning the acceptance of gifts.

Some legislators have indicated it would be preferable to sign Senate File 2201 because it revises the bribery statute. The new criminal code so radically departed from the traditional definition of bribery that currently even the most miniscule gesture might be construed as offering something with the intent to influence and, therefore, subject to severe criminal penalties. Senate File 2201 does correct this imbalance. A concomitant concern is that of campaign contributions. Senate File 2201 would resolve very clearly that campaign contributions are legal and not to be confused as bribes.

Despite these incentives, Senate File 2201 is not that attractive of a bill. There is a strong possibility that once it is signed, there would be a quick diminution of incentives to improve our ethics statutes. The public and public officials might be left with this imperfect legislation for many years to come.

Last September I appointed the Iowa Task Force on Government Ethics which was comprised of ten distinguished Iowans. The Ethics Task Force completed a comprehensive review of the

The Honorable Arthur A. Neu
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statutes and rules regarding the ethical conduct of public officials and employees. This February the task force submitted to me and the General Assembly a detailed set of recommendations covering the broad scope of appropriate conduct for public officers.

While the work of the Ethics Task Force was all too quickly shoved aside by most of our legislators, their study was a particularly wise and helpful document. The task force endeavored to draw standards to prevent conflict between the public interest and the personal economic interest of those individuals in government charged with performing a public service. This was necessary to help guarantee the public's right of equal access to government, an equal right to be heard, and the consequent right to expect decisions based solely upon the merits of the subject matter involved. The task force recognized that it was essential to strike a careful balance between the public's right to know and the right of public servants to be protected from unwarranted invasions of privacy. Furthermore, they urged that public servants at all levels of government be fully informed of the ethical standards expected of them.

The main features of the Ethics Task Force recommendations were:

- Disclosure of personal financial interest which could be affected by the official actions of a public servant.
- A prohibition against participation in nonlegislative decisions where the personal financial interest of a public servant is or may be affected by his or her participation.
- A prohibition against acceptance of gifts from any person who might be affected by the official actions of a public official.
- A prohibition against the use of confidential information by public servants for private financial gain.
- A prohibition against appointments to decision-making positions in regulatory agencies of individuals who have investments in or who come from the ranks of regulated industry.

The Honorable Arthur A. Neu
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--The use of civil rather than criminal penalties
to make the proposal more enforceable.

Unfortunately, these recommendations were never carefully reviewed by the legislators who instead settled for an unacceptable version of an ethics bill.

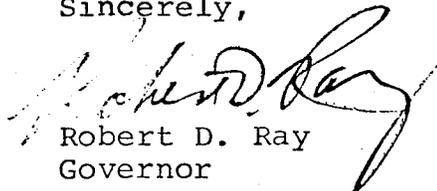
The public's right to have confidence in its government officials and employees needs to be underscored. As Governor I cannot rewrite this legislation, but by not signing it we can have an opportunity to have a better law in 1979.

The Attorney General has indicated that legal campaign contributions should not be considered subject to the bribery statute. Because of the acceptability of that opinion, campaigns up to this date have not been hampered, nor do I believe they will be handicapped during the remainder of this year. Hopefully our prosecutors will use careful and restrained judgment when considering possible legal action to enforce a bribery statute that goes beyond what was intended.

The upcoming interim provides the opportunity for the legislature to reevaluate their approach and for both the legislature and the executive branch to consider the implementation of the recommendations.

This is a better approach than accepting Senate File 2201.

Sincerely,



Robert D. Ray
Governor

RDR:cg

cc: Secretary of the Senate
Chief Clerk of the House

SENATE FILE 2201

AN ACT

REQUIRING PUBLIC OFFICIALS AND CANDIDATES TO PUBLICLY DISCLOSE FINANCIAL INTERESTS, PROHIBITING RECEIPT OF CERTAIN GIFTS, REQUIRING A REPORT OF RECEIPT OF CERTAIN GIFTS, RELATING TO CONFLICTS OF INTEREST, AND PROVIDING PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section sixty-eight B point five (68B.5), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

68B.5 GIFTS PROHIBITED. An official shall not solicit, accept, demand, receive or agree to receive any gift for the official's own use or for the use of his or her spouse or unemancipated children, except under the following conditions:

1. If it is received in the course of carrying out the functions or responsibilities of the office or position of employment; and
2. If, in the opinion of the appointing authority, immediate supervisor of the employee, or elected official the gift is useful or beneficial to the state or any of its political subdivisions; and
3. If the appointing authority, immediate supervisor of the employee, or elected official approves the acceptance of the gift; and
4. If a disclosure statement pursuant to section three (3) of this Act is filed.

Sec. 2. NEW SECTION. DEFINITIONS. For the purpose of this Act:

1. "Gift" means a gratuity given in a single calendar year from one source in the form of goods, services, loans, entertainment, hospitality, promise, membership, subscription, transportation, lodging, meals, or any other thing of value

which has a value or aggregate value of fifty dollars or more. Gift also means a gratuity given on a single occasion from one source in the form of goods, services, loans, entertainment, hospitality, promise, membership, subscription, transportation, lodging, meals, or any other thing of value which has a value or aggregate value of fifteen dollars or more; however, a gift shall not mean any of the following:

- a. A gratuity received from a person related to the official by consanguinity or affinity within the second degree, or a gratuity which is not motivated because of the receiving person's official capacity or employment.
 - b. Campaign contributions.
 - c. Anything of value which is paid for with funds from the state of Iowa or any of the political subdivisions of Iowa.
2. "Official" means a person elected to public office, or a person appointed or employed to or by an office of this state or a political subdivision of this state, which appointed or employed person receives a salary or per diem compensation whether serving full or part-time.
 3. "Elected official" means a person holding a position which is normally filled by the electorate of the state or a political subdivision of the state.

Sec. 3. NEW SECTION. FILING OF DISCLOSURE. Any official receiving a gift as defined in section two (2) of this Act shall file a disclosure statement within thirty days of the receipt of such gratuity at the office specified in section four (4) of this Act, which disclosure shall contain:

1. The manner in which the state or its political subdivision will benefit from its acceptance.
2. A detailed description of the gift received including an estimate of its monetary value.
3. The name of the donor of the gift.
4. The date received and accepted.

Sec. 4. NEW SECTION. PLACE OF FILING. The disclosure

statement required by section three (3) of this Act shall be filed as follows:

1. State representatives, with the chief clerk of the house.
2. State senators, with the secretary of the senate.
3. Elected state officials, with the secretary of state.
4. All other elected officials, with the county auditor of the county of residence of that elected official.
5. Officials who are employed, with the immediate supervisor of the employee.
6. Officials who are appointed, with the appointing authority.

Sec. 5. NEW SECTION. OFFERING GIFTS PROHIBITED. Any person offering, making, or attempting to give any gift to any official in contravention of the provisions of this Act shall be subject to the provisions of section seven (7) of this Act.

Sec. 6. NEW SECTION. LEGISLATIVE INTENT. The general assembly intends that this Act be construed in a manner which will prohibit officials from accepting any gift except as provided by this Act. This Act shall not be interpreted in a manner which would prohibit officials from participating in meetings and conferences held within or without the state for the purpose of exchanging ideas relating to governmental policy or educating the participants.

Sec. 7. Section sixty-eight B point eight (68B.8), Code 1977 Supplement, is amended to read as follows:

68B.8 ADDITIONAL PENALTY.

In addition to any penalty contained in any other provision of law, a person who knowingly and intentionally violates the provisions of sections 68B.3 through 68B.6 ~~and this section~~ or section three (3) or four (4) of this Act shall be guilty of a serious misdemeanor and may be suspended from his or her position.

Sec. 8. Section seven hundred twenty-two point one (722.1),

Code 1977 Supplement, is amended to read as follows:

722.1 BRIBERY.

A person who offers, promises or gives anything of value or any benefit to any person who is serving or has been elected, selected, appointed, employed or otherwise engaged to serve in a public capacity, including any public officer or employee, any referee, juror or venireman, or any witness in any judicial or arbitration hearing or any official inquiry, or any member of a board of arbitration, ~~with intent to~~ pursuant to an agreement or arrangement or with the understanding that the promise or thing of value or benefit will influence the act, vote, opinion, judgment, decision or exercise of discretion of such person with respect to his or her services in such capacity commits a class D felony. In addition, any person convicted under this section shall be disqualified from holding public office under the laws of this state.

Sec. 9. Section seven hundred twenty-two point two (722.2), Code 1977 Supplement, is amended to read as follows:

722.2 ACCEPTING BRIBE.

Any person who is serving or has been elected, selected, appointed, employed or otherwise engaged to serve in a public capacity, including any public officer or employee, any referee, juror or venireman, or any witness in any judicial or arbitration hearing or any official inquiry, or any member of a board of arbitration, who shall solicit or knowingly ~~accept or~~ receive any promise or anything of value or any benefit given ~~with the intent to~~ pursuant to an agreement or arrangement or with the understanding that the promise or thing of value or benefit will influence the act, vote, opinion, judgment, decision or exercise of discretion of such person with respect to his or her services in such capacity commits a class C felony. In addition, any person convicted under this section shall be disqualified from holding public office under the laws of this state.

Sec. 10. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in The Titonka Topic, a newspaper published in Titonka, Iowa, and in The Bancroft Register, a newspaper published in Bancroft, Iowa.

ARTHUR A. NEU
President of the Senate

DALE M. COCHRAN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2201, Sixty-seventh General Assembly.

KEVIN P. LIGHT
Acting Secretary of the Senate

Approved 4/26, 1978

ROBERT D. RAY
Governor