

**REPORT OF THE JOINT STATE GOVERNMENT**

**ETHICS COMMITTEE**

MARK MCCORMICK, CHAIRPERSON  
SENATOR JIM LIND  
SENATOR RALPH ROSENBERG  
REPRESENTATIVE MICHAEL PETERSON  
REPRESENTATIVE PHIL TYRRELL  
GWENDOLYN BOEKE  
RALPH BROWN  
JANE SVOBODA

**January 1993**

# FINAL REPORT

## JOINT STATE GOVERNMENT ETHICS COMMITTEE

January 1993

### BACKGROUND INFORMATION

The Joint State Government Ethics Committee was established during the fall of 1992, as a result of the requirements of section 36 of House File 2466, which passed during the second session of the 74th General Assembly. Pursuant to the requirements of section 36, four members of the Committee were appointed by the leadership of the General Assembly, two members were appointed by the Governor, and two members were appointed by the Executive Council. The members of the Committee were as follows:

Mark McCormick, Chairperson, Executive Council Appointee  
Senator Jim Lind, Legislative Appointee  
Senator Ralph Rosenberg, Legislative Appointee  
Representative Michael Peterson, Legislative Appointee  
Representative Phil Tyrrell, Legislative Appointee  
Gwendolyn Boeke, Governor's Appointee  
Ralph Brown, Governor's Appointee  
Jane Svoboda, Executive Council Appointee

Section 36 of House File 2466, charged the Committee with the following duties:

1. To review the subject matter examined by the Reform Committee on Government Ethics and Procedures, that were included in that committee's report, as well as matters that were considered during the 1992 regular session of the general assembly as those recommendations and considerations apply to state level officials and members of the general assembly.
2. To examine the issue of whether gifts of food, beverages, travel, and lodging which would otherwise be prohibited may be received by an official or member of the general assembly if the person is officially representing any agency in a delegation whose purpose is to attract new business to locate in the state or to encourage expansion or retention of an existing business in this state. If the committee determines that the receipt of these (economic development) gifts should be permissible, the

committee shall make recommendations concerning whether the person should file reports concerning the gifts, where the reports should be filed, and whether or not the reports should be confidential.

3. To examine the issue of personal financial disclosure by an official or member of the general assembly, and whether this disclosure should include candidates for state executive office or seats in the general assembly.

### COMMITTEE MEETINGS AND MATERIALS

The Joint State Government Ethics Committee met at the Statehouse in Des Moines five times and held a teleconference on January 8, 1993, to complete its work. The Statehouse meetings were held on November 20, December 2, December 8, December 22, 1992, and January 4, 1993.

The Committee received a series of questions and comments and a variety of materials regarding the application of HF 2466 to officials, employees, and agencies of state government. The Committee received copies of various Iowa statutes that affect the ethical requirements that are placed on state government officials, copies of various model act provisions dealing with issues under consideration by the Committee, copies of selected provisions from other state ethics and lobbying codes, copies of some of the ethical requirements that are imposed on employees and officers of private corporations that are doing business in Iowa, copies of local government codes of ethics, copies of various recent Attorney General's opinions that interpreted chapter 68B as amended by HF 2466, as well as a variety of other information specifically requested by the Committee. Copies of the materials received by the Committee are on file in the offices of the Legislative Service Bureau.

The Committee heard testimony from several persons regarding problems that they perceive in the interpretation and applicability of HF 2466 and other related issues. At the December 2, 1992, meeting of the Committee, the Committee heard from staff members of the Joint Local Government Ethics Committee, Mr. Kent Sovern from the League of Iowa Municipalities, Mr. Wayne Beal from the Iowa Association of School Boards, and Mr. David Vestal from the Iowa State Association of Counties, regarding the progress that the Committee had made on developing their recommendations. At the December 8, 1992, meeting of the Committee, the Committee received testimony from Brent Appel, who spoke on behalf of the Iowa Society of Association Executives, regarding concerns that the association's members have about the application and scope of HF 2466. At the January 4, 1993, meeting the Committee heard presentations from Elizabeth Sanders from the Iowa Public Employees' Retirement System regarding application of the gift law to their particular circumstances. The Committee also heard at that meeting from Mr. Allan Thoms, Director of the Iowa Department of Economic Development and Mr. John

Golden, Mayor of Lisbon, Iowa, regarding applications of the gift law to state and local government officials who engage in economic development efforts in this state.

### RECOMMENDATIONS OF THE COMMITTEE

Attached to this report, and contained in Appendix A, is a copy of a proposed bill draft that contains most of the recommendations for change to chapter 68B and other provisions of the Code. The Committee faced a number of problems in attempting to formulate recommendations regarding proposed changes to the bill. Some of the greatest of these relate to the way in which the definitions in chapter 68B are used and interrelate, which caused questions and difficulties to arise in a number of areas. One of the other problems encountered by the Committee was that some of the complaints about the provisions of HF 2466 were due to inconsistencies in the provisions of chapter 68B that existed prior to the enactment of HF 2466, and that were carried forward into the rewrite of the chapter. The Committee also found that some people may have been unfamiliar with, and perhaps did not understand, what had been required by chapter 68B up until January 1, 1993. Although some of the changes that the Committee has proposed to chapter 68B, as amended by HF 2466, may be self-explanatory, many of them do require some background on the Committee discussions and concerns to assist the reader in understanding the problems the Committee is attempting to cure with the proposed bill.

#### 1. Definitions

The proposed bill makes changes in the definitions that are contained in chapter 68B. Most of the changes in the definitions have the effect of narrowing the classes of persons who are covered by the definitions. The reason for the narrowing of each definition will become apparent with further discussion.

The first change is to eliminate judges who are standing for retention in a judicial election from the definition of the term candidate. When HF 2466 was passed, judges standing for retention were added to the definition of candidate in chapter 56, which brought those types of elections within the reporting requirements contained in the provisions of the campaign finance law. Judges are expressly excluded from the applicability of chapter 68B, by virtue of the way in which the terms "agency," "official," and "state employee" are defined, and are already subject to a code of ethics and other disciplinary requirements and actions under the provisions contained in chapter 602 and rules of the Supreme Court. The Committee believes that to include judges standing for retention in the definition of "candidate" would cause them to be subject to a dual set or perhaps conflicting requirements. To exclude them from the operation of chapter 68B, as the Committee has chosen to do, would not cause them to be without a code of ethics,

since they are covered by rules adopted by the Supreme Court, but would prevent them from being subject to dual requirements.

The next change strikes the term "gift" from the term contribution. The term "gift" is defined in chapter 68B as anything of value that is given by certain persons in exchange for which no legal consideration is given, and appears to conflict with the balance of the definition of the term contribution. The Committee chose to strike the reference to avoid the conflict in terms.

The change in the definition of the term "legislative employee" strikes the words "official or" from the balance of the definition. Up until January 1, 1992, the definition of "legislative employee" had referred to "a(n)... officer or employee". The term "officer" was not defined under the previous chapter and the term "official", as it is currently defined, excludes legislative employees by definition. To avoid the conflict in definitions, the Committee chose to strike the reference to the term "official".

The changes in the definition of the term "lobbyist" are intended to significantly narrow the meaning of some of the descriptions of the term and consequently to reduce the large numbers of people who are currently being interpreted to come within the various subdefinitions of the term. Language is added to clarify that only the designated representatives of state agencies or other organizations are persons who are considered to be lobbyists. A new description of lobbyist is added to reach those individuals who expend money to influence certain decisions of state government entities but who may not be paid to engage in lobbying. In each of the original subdefinitions, language relating to "influencing the decisions of" members of the general assembly, a state agency, or any statewide elected official is deleted and various new exemptions from the definition of the term are added. The Committee was concerned about the vagueness of the "influencing the decisions" language and the variety of situations that are potentially encompassed by that language. State agencies engage in all kinds of decisionmaking on a daily basis. Some of the decisions are routine and ministerial in nature, many are subject to the public records or meetings law, and some are carried out under the procedures established for rule making and contested cases under chapter 17A.

The Committee was also concerned about the effect that some language in the descriptions of the term lobbyist could have on restricting the average person's access to state government officials, agencies, and services. While the Committee understands the need for public disclosure of the identity of persons who are attempting to influence agency decisionmaking, the Committee is concerned that the current definition of the term lobbyist will include persons who make incidental contact with agencies for purposes other than to influence the decisions of the agency and persons whose presence before or attempts to influence an agency are already being disclosed and recorded. Some of these people are simply members of

the general public who have the right to petition their government and elected officials and seek agency assistance and services. Because of the infrequency of contact that these persons make with state agencies and officials and the fact that the contact is usually either recorded or is in the nature of seeking information, the Committee believes that it should be clear that these types of activities are not to be considered to be lobbying.

The Committee also expanded and yet restricted the application of the "lawyer" exception to the definition of the term lobbyist. The Committee was informed that some persons were interpreting the current exclusion to mean that lawyers, regardless of whether they were engaged in lobbying activities, were exempt from any registration and disclosure requirements that applied to nonlawyers. The Committee is concerned that persons who possess certain licenses and who practice a profession that includes representing the rights and interests of clients before state agencies in various proceedings, including adjudicatory proceedings, continue to be permitted to represent clients in situations in which the persons' particular professional expertise is needed and possession of a license in the profession is required. Two examples of the types of professions that engage in this type of representation activity are attorneys and certified public accountants. The Committee, in changing the manner in which the exclusion is stated, does not intend however to give those professions an exclusion from the registration and disclosure requirements if those same persons represent clients as lobbyists.

The Committee has made substantial changes in the term "official," and how it is used in chapter 68B, with the intent of narrowing the applicability of that term. The changes are intended to have an effect on the number of persons who may be subject to the competitive bid requirements for sales of goods or services, the restrictions on certain lobbying activities, and requirements relating to personal financial disclosure. The term, as it currently reads and with respect to the requirements for personal financial disclosure, has been construed to mean supervisory personnel. Unfortunately, that construction may reach persons in state government whose authority is quite limited and often unrelated to anything that might be disclosed under the current personal financial disclosure provisions. The Committee believes that personal financial disclosure is most useful when the person making the disclosure engages in activities relating to the formation of state policy or the expenditure of state funds. This is because during these types of activities personal interests can have the greatest effect on important state level decision making and it is at those times when the general public may most need to know what may be motivating the decisions of government officials and employees.

The Committee made several changes in how the term "gift" is defined under chapter 68B and in what can be considered a permissible gift. The first of the changes relates to who may be an impermissible giver of a gift. The provision relating to being a person whose activities are regulated by a regulatory agency is stricken and the provision relating to being a person who may be financially affected

by the performance or nonperformance of the donee's duties is expanded to include persons who are agents of other persons who may be personally financially affected. The Committee is concerned that the current provision relating to the activities of regulatory agencies fails to take into account the fact that some regulatory agencies, such as the Department of Transportation, regulate virtually all members of the general public and the fact that the duties of some employees, such as file clerks or highway construction workers, really have a only marginal effect, at best, on most people's lives. The Committee believes that the public interest concern associated with the receipt of gifts relates to a concern about the effect that the receipt of those gifts can have on the use or misuse of official authority. The Committee also believes that whether a gift is permissible should be related to the amount and nature of the authority that the recipient of the gift can exercise.

The Committee made several changes in the exclusions to the definition of the term gift. The changes include adding services given and other nonmonetary items to the exclusion for food and drink with a value of less than three dollars, items received by an official or employee which are really gifts to the state or the political subdivision, ceremonial gifts given under certain circumstances, and payment of salary or expenses by employers to their employees who are members of government bodies and who are not eligible to receive compensation from the state or the political subdivision for the time spent or the expenses incurred. The Committee does not believe that services rendered or nonmonetary gifts that are valued at under three dollars will have any more of an effect on a public official's or employee's behavior than gifts of food or drink of the same value. The Committee also does not believe that public officials or employees should be forbidden to take gifts that are really gifts to the state, if the person receives no more benefit than any other member of the general public. The Committee is also concerned that the present lack of an exclusion for payment of expenses or salary by an employer to an employee for attendance at official meetings may hamper the operation of certain state boards, commissions, councils, and committees whose activities are mandated in the Code but for which no expense money is appropriated.

The Committee believes that, under circumstances or during occasions where ceremonial gifts are customarily given and received as part of normal social relations so long as the person giving the gift is not trying to influence the official actions of the government officials and employees, the giving and receiving of gifts should be permitted. The situations where the Committee believes that these types of gifts create the appearance of impropriety are situations where the person giving the gift is attempting to use the gift to obtain a benefit in some pending or upcoming matter over which the government official or employee has authority or discretion.

The new definition of the term client is designed to clarify that persons or organizations which do not have a paid lobbyist representing them or their interests are not clients for purposes of the reporting requirements of the chapter.

## 2. Conflicts of Interest

Several of the Committee members expressed concern that most of the provisions that set standards for behavior of state, as well as local, officials are not only numerous and varied, but they are also scattered through the Code which makes them difficult to assimilate and use. The Committee believes that it would help to ensure compliance with and understanding of the ethical restrictions that are currently already contained in the Code if they were to be assembled in one area or chapter of the Code, where they could be more easily located by the persons who are affected by them. Although there was insufficient time to actually review, assimilate, and prepare draft recommendations in this respect, the Committee believes that this would be a worthwhile future undertaking. The Committee also believes that in order to avoid misunderstandings and confusion, general conflict of interest provisions should be crafted, which apply equally to at least all state officials and employees. In this last regard, the Committee has prepared draft language for consideration but, because the Committee was unsure of how this language would affect existing laws, the Committee added language that indicates that the provision is in addition to any other rights and remedies under law.

## 3. Sales to State Agencies

The Committee made several changes to the provision relating to sales to state agencies. First, by changing the definition of the term official, the manner in which the provisions apply may be affected. Second, the Committee believes that the amount specified in the statute should be updated to reflect the changes in prices of goods that have taken place since the original enactment of the statute. The Committee notes that similar changes have been made in the provisions relating to sales to political subdivisions of the state. Third, the Committee recognizes that the sales of some services are not conducted by a competitive bid process in the manner that sales of goods are conducted. The Committee also discovered that the sale of services provision could have the effect of causing most of the members of various state licensing boards to resign because of the general sweep of the prohibition. The Committee believes that in situations where the sale of services is to the entity which the person serves or in which the employee is employed, the potential for self dealing is great enough that a competitive bid requirement should be imposed, regardless of the service provided. However, where the sale is made to a unit of state government in which the official or employee does not exercise authority or control, the competitive bid requirement should not be required.

## 4. Ban on Lobbying Activities

The current ban on lobbying activities within two years of service has been interpreted to have a number of effects that were perhaps not intended by the General Assembly. The Committee noted that the current ban on lobbying activities within two years of service does not prohibit persons who are public officials or

public employees from engaging in lobbying activities while they are still in office or are employed by the state or a political subdivision of the state. At the same time the current ban has the effect of preventing persons who are currently employed by or serving in state government from becoming an agency liaison, representing the interests of the agency before other agencies of state government. The Committee does not believe that the General Assembly wished to allow any person to lobby while they were in state government, if that person would be prohibited from doing so once that person left state government. The Committee also believes that state government may also have unintentionally limited its own representation before the various agencies of state government. The Committee has therefore attempted to remedy both of these situations through the changes contained in section 9 of the bill. The Committee also saw no reason to distinguish between elected or appointed officials or employees in the exception that is provided for election to other state or local office and also felt that the addition of federal government office or employment was in keeping with the exception already contained in the statute.

The bill creates a window in the ban on lobbying activities while a person is part of state government to permit those persons who are currently serving on certain boards and commissions to be relieved of their duties in an orderly fashion.

#### 5. Service Against the State

The Committee amended this section to have the general prohibition against services against the interests of the state apply to a more narrow class of state officials. A more specific prohibition was added for officials not covered by general prohibition, to prohibit services against the interest of the state in matters which are before the particular agency subunit in which the person serves or is employed or which are before an agency subunit with which the person had regular and substantial contact. The prohibition against services against the state by state employees, members of the general assembly, and legislative employees was not changed.

#### 6. Economic Development Activities and Gifts

Section 36 of House File 2466 required the Committee to examine the issue of gifts received by state officials and members of the general assembly while they are taking part in activities designed to attract new businesses to the state or to encourage the expansion or retention of an existing business in the state. The Committee recommends that the current provision be amended to permit food and beverages consumed during a meeting to be received from a business being contacted by an economic development delegation and that a public official or employee be required play a significant role in the presentation to the business being contacted.

### 7. Loans from Lobbyists

The problems that the Committee reviewed that were related to this section were twofold: the section appears, because of the definition of the term lobbyist, to prohibit the receipt of loans from a wider group of persons than was perhaps anticipated, and partially as a consequence, reached loans that perhaps were not intended to be prohibited. The particular concern was that persons who are in the business of making loans to the general public may, under the current definition of lobbyist, be considered to be lobbyists by virtue of activities that they may engage in as part of organizations or associations that they may belong to. An example of the kind of person who may fall into this kind of category are bankers that belong to a state or national bankers association. The Committee believes that the concern with loans is not so much who gives a loan, but the conditions under which a loan is given. The Committee does not believe that loans made to a state official or employee during the ordinary course of business under the same or similar terms that loans are made under to other members of the general public are meant to be prohibited. Examples of the types of loans that the Committee is referring to include ordinary consumer credit transactions for homes, automobiles, and businesses for which appropriate collateral is given or which would be given to other members of the general public under the same or similar circumstances. The Committee does believe that loans that contain more favorable terms or conditions that are made available to a state official or employee because of that person's position and authority are intended to and should be prohibited.

### 8. Complaint Procedures Before the Legislative Ethics Committees and Executive Council

The Committee discovered that the procedures before the Legislative Ethics Committees and the Executive Council fail to indicate that notice of the filing of a complaint before either body is to be provided to the person alleged to have committed the violation. The Committee has therefore provided for notice of the filing of an initial complaint, notice of the refiling of a complaint previously found to be formally defective, and notice of the filing of any amendments to the complaint. The Committee also has provided for the hiring of legal counsel by the Ethics Committees or the Executive Council to provide them with independent advice during the course of the proceedings. The Executive Council is also given the statutory authority to utilize the services of an administrative law judge in hearing complaints brought before that body.

### 9. Investigations by Independent Counsel

Although the Committee believes that hearings before the Ethics Committees and the Executive Council should be public hearings, the Committee also believes that investigations by independent special counsel, that are conducted prior to a finding by special counsel that probable cause exists to believe that a violation has

occurred, should be confidential. This is intended to prevent information that may be false or misleading from being given an "official status" and from being used by an accuser to damage the character or reputation of an accused person. It should be noted that the existence of the complaint itself may become public if it is disclosed by either party to the complaint.

#### 10. Personal Financial Disclosure

In the area of personal financial disclosure, the Committee's greatest concern was the breadth in the category of persons who would have to file the disclosure as well as the use of the information that would be produced to the general public. Information about personal resources is probably of little use if it relates to a person who has no discretionary authority or no ability to take any action on information or a person who has no ability to engage in decision making about use or expenditure of state resources. The Committee attempted to more specifically delineate the persons who would be subject to personal financial disclosure. The Committee has not significantly changed what is to be disclosed in the disclosure statements, although it has modified the "sources of income" and "significant financial interest" definitions to more clearly indicate what information is and, conversely, is not being requested.

The Committee has noted that the "sources of income" disclosure requirement provides for disclosure of those sources regardless of how little or how much income those sources generate. The Committee believes that the amount of income that is produced by a particular source is key to its importance in an individual's affairs and the potential role that the source may play in influencing conduct of individuals or defining the interests that an individual may have in any particular agency action. The Committee therefore set a \$500 annual income threshold level before disclosure of a source is required.

The Committee also recognizes that the size of a business in which stock or other ownership is had by an individual can have a significant effect on the amount of money represented by a five or greater percent ownership in the business. The Committee therefore added a minimum dollar level of ownership that would trigger disclosure of the ownership interest.

With respect to disclosure of personal financial interests by candidates, the Committee believes that it would be more simple administratively if a single date for the filing of disclosure statements is used and therefore chose the date on which the filing of nomination papers for state office must be completed as the date by which to gauge when disclosure is required. The Committee also believes that, in order to be meaningful, personal financial disclosure should include information about the year in which candidacy occurs.

The Committee did add the personal financial interest reporting requirements to the list of provisions to which the serious misdemeanor penalty contained in chapter 68B is applicable.

#### 11. Lobbyist Registration and Reporting

The main changes made in the lobbyist registration and reporting requirements relate to rule making and the adopting of forms for both procedures and where lobbyist expenditure reports should be filed. The latter change is important in that it affects where a paid lobbyist's client is to file reports on moneys paid for lobbying activities. The Legislative Council is given the responsibility for prescribing forms for the various disclosures for the General Assembly and the Executive Council is given the same responsibility regarding lobbyists and their clients who appear before the executive branch of state government. The language relating to reports by lobbyists is also modified to cause the first and third subsections of section 68B.37 to be more consistent with each other. The Committee also made a knowing and intentional violation of the lobbyist registration and reporting requirements subject to the serious misdemeanor penalty contained in chapter 68B.

#### 12. Client Reporting

The Committee does not believe that clients of lobbyists who do not pay the lobbyist for lobbying should have to file reports. The Committee did, however, add a requirement that lobbyists' clients who are permitted to give gifts to state officials and employees must report any items given. The Committee also made a knowing and intentional violation of the client reporting requirements subject to the serious misdemeanor penalty contained in chapter 68B.

#### 13. Rules

Several provisions are added which relate to rules that are to be adopted to implement chapter 68B. The Supreme Court is required to prescribe rules to add conflict of interest provisions to its code of ethics. The Executive Council and the General Assembly are to adopt or prescribe rules to implement chapter 68B in those two branches of government. The Executive Council is also to establish a code of ethics for members of the executive branch of government. The legislative ethics committees already establish a code of ethics for legislators under the current provisions of chapter 68B.

January 8, 1993

TO: Members of 75th General Assembly, 1993 Session

FROM: Joint State Government Ethics Committee

Enclosed is the Final Report of the Joint State Government Ethics Committee. The Committee was appointed and is now reporting pursuant to Section 36 of House File 2466, 74th General Assembly, 1992 Session.

We recommend unanimously that this report and accompanying proposed bill draft be given consideration as one of the first subjects of legislation during the 1993 session of the 75th General Assembly and strongly urge prompt enactment of legislation containing the substance of the bill draft.

Respectfully submitted,

Gwendolyn Boeke  
Ralph Brown  
Senator Jim Lind  
Mark McCormick, Chairperson  
Representative Michael Peterson  
Senator Ralph Rosenberg  
Jane Svoboda  
Representative Phil Tyrrell

By Mark McCormick  
Chairperson

cc: Governor Terry E. Branstad  
Executive Council

## **APPENDIX A**

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED JOINT STATE  
GOVERNMENT ETHICS BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to ethics in state government and providing  
2 penalties.

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

4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

1 Section 1. Section 68B.2, subsections 2, 5, 8, 9, 10, and  
2 14, Code 1993, are amended to read as follows:

3 2. "Candidate" means a candidate under chapter 56 but does  
4 not include any judge standing for retention in a judicial  
5 election.

6 5. "Contribution" means a ~~gift~~, loan, advance, deposit,  
7 rebate, refund, transfer of money, an in-kind transfer, or the  
8 payment of compensation for the personal services of another  
9 person.

10 8. "Immediate family members" means the spouse and ~~minor~~  
11 dependent children of a public official or public employee.

12 9. "Legislative employee" means a permanent full-time  
13 ~~official~~-or employee of the general assembly but does not  
14 include ~~members~~ of the general assembly.

15 10. a. "Lobbyist" means a person who, either by acting  
16 directly or by soliciting others to act, does any of the  
17 following:

18 (1) Is paid compensation for encouraging the passage,  
19 defeat, approval, veto, or modification of legislation, or  
20 ~~regulation, or for influencing the decision of~~ a rule, or an  
21 executive order by the members of the general assembly, a  
22 state agency, or any statewide elected official.

23 (2) ~~Represents on a regular basis~~ Is designated to  
24 represent before the general assembly, a state agency, or any  
25 statewide elected official, the official position of an  
26 organization which has as one of its purposes the  
27 encouragement of the passage, defeat, approval, veto, or  
28 modification of legislation, ~~or regulation, or the influencing~~  
29 ~~of a decision of the members of the general assembly, a state~~  
30 ~~agency, or any statewide elected official~~ a rule, or an  
31 executive order.

32 (3) Is a federal, state, or local government official or  
33 employee who ~~represents~~ is designated by the federal, state,  
34 or local government official or employee's agency to represent  
35 the official position of the ~~official or employee's~~ agency and

1 who encourages the passage, defeat, approval, veto, or  
 2 modification of legislation, or-regulation, or-the-influencing  
 3 of a decision-of rule, or an executive order by the members of  
 4 the general assembly, a state agency, or the-office-of-the  
 5 governor any statewide elected official.

6 (4) Incurs expenses of more than two hundred fifty dollars  
 7 in a calendar quarter in communicating with the general  
 8 assembly, a state agency, or any statewide elected official to  
 9 encourage the passage, defeat, approval, veto, or modification  
 10 of legislation, a rule, or an executive order.

11 b. "Lobbyist" does not mean:

12 (1) Officials and employees of a political party organized  
 13 in the state of Iowa representing more than two percent of the  
 14 total votes cast for governor in the last preceding general  
 15 election, but only when representing the political party in an  
 16 official capacity.

17 (2) Representatives of the news media only when engaged in  
 18 the reporting and dissemination of news and editorials.

19 (3) The governor and lieutenant governor of the state of  
 20 Iowa, all other statewide elected officials, and elected  
 21 federal officials.

22 (4) Persons whose activities are limited to formal  
 23 appearances to give testimony at public sessions of committees  
 24 of the general assembly or-public-hearings-of-state-agencies  
 25 and whose appearances as a result of testifying, are recorded  
 26 in the records of the committee or-agency.

27 (5) A person who appears or communicates as a lawyer  
 28 licensed to-practice-law-in-this-state professional  
 29 representing a client before any an agency or in a contested  
 30 case matter or proceeding under-chapter-17A in which only a  
 31 person possessing the particular license may appear or  
 32 communicate in a representative capacity.

33 (6) Members of legislative the staff of the United States  
 34 congress or the Iowa general assembly.

35 (7) Agency officials and employees who while they are

1 engaged in activities designed to influence the decisions of  
2 the agency in which they serve or are employed.

3 (8) Persons when they are responding to requests for  
4 information or assistance that are made by public officials or  
5 public employees.

6 (9) Persons when they appear or communicate with an agency  
7 to request information either on behalf of themselves or  
8 others.

9 (10) Persons when they appear or communicate with a state  
10 administrative agency in a public proceeding or hearing.

11 14. "Official" means ~~an officer of the state of Iowa~~  
12 ~~receiving a salary or per diem whether elected or appointed or~~  
13 ~~whether serving full-time or part-time but does not include~~  
14 ~~officers or employees of political subdivisions of the state.~~  
15 "Official" includes but is not limited to supervisory  
16 personnel, members and employees of the governor's office,  
17 members of other statewide elected offices, and members of  
18 state agencies and the governor, lieutenant governor, all  
19 statewide elected officials, the executive or administrative  
20 head or heads of an agency of state government, the deputy  
21 executive or administrative head or heads of an agency of  
22 state government, members of boards or commissions as defined  
23 under section 7E.4, and heads of the major subunits of  
24 departments or independent state agencies whose positions  
25 involve a substantial exercise of administrative discretion or  
26 the expenditure of public funds as defined under rules of the  
27 department or agency adopted pursuant to chapter 17A.  
28 "Official" does not include officers or employees of political  
29 subdivisions of the state, members of the general assembly,  
30 legislative employees, or officers or employees of the  
31 judicial branch of government who are not members or employees  
32 of the office of attorney general, or members of state  
33 government entities which are or exercise the same type of  
34 authority that is exercised by councils or committees as  
35 defined under section 7E.4.

1     Sec. 2. Section 68B.2, subsection 6, paragraph a,  
2 subparagraphs 2, 3, and 4, and paragraph b, subparagraphs 6  
3 and 8, Code 1993, are amended to read as follows:

4     ~~(2) Is engaged in activities which are regulated or~~  
5 ~~controlled by a regulatory agency in which the donee holds an~~  
6 ~~office or is employed.~~

7     †3) Will personally be, or is the agent of a person who  
8 will be, directly and substantially affected financially by  
9 the performance or nonperformance of the donee's official duty  
10 in a way that is greater than the effect on the public  
11 generally or on a substantial class of persons to which the  
12 person belongs as a member of a profession, occupation,  
13 industry, or region.

14     †4) (3) Is a lobbyist with respect to matters within the  
15 donee's jurisdiction.

16     (6) Actual expenses of a donee for food, beverages,  
17 registration, travel, and lodging for a meeting, which is  
18 given in return for participation in a panel or speaking  
19 engagement at the meeting when the expenses relate directly to  
20 the day or days on which the donee has participation or  
21 presentation responsibilities.

22     (8) ~~Items of food and drink~~ Nonmonetary items or services  
23 provided with a value of less than three dollars that are  
24 received from any one donor during one calendar day.

25     Sec. 3. Section 68B.2, subsection 6, paragraph b, Code  
26 1993, is amended by adding the following new subparagraphs:

27     NEW SUBPARAGRAPH. (11) Items received by public officials  
28 or public employees as part of the person's official duties  
29 when the state or a political subdivision of the state is the  
30 donee of the gift, provided that the public official or public  
31 employee does not receive a direct personal benefit as a  
32 result of the receipt of the gift.

33     NEW SUBPARAGRAPH. (12) Birthday, wedding, anniversary,  
34 and similar ceremonial gifts if the donor is not a party to a  
35 proceeding that is pending before the recipient or a member of

1 the recipient's immediate family and will not be, or is not  
2 the agent of a person who will be, directly and substantially  
3 affected financially by the performance or nonperformance of  
4 the donee's official duty in a way that is greater than the  
5 effect on the public generally or on a substantial class of  
6 persons to which the donor belongs as a member of a  
7 profession, occupation, industry, or region.

8 NEW SUBPARAGRAPH. (13) Payment of salary or expenses by a  
9 person's employer or the firm in which the person is a member  
10 for the cost of attending a meeting of a subunit of an agency  
11 when the person whose expenses are being paid serves on a  
12 board, commission, committee, council, or other subunit of the  
13 agency and the person is not entitled to receive compensation  
14 or reimbursement of expenses from the state or a political  
15 subdivision of the state for attending the meeting.

16 NEW SUBPARAGRAPH. (14) Payment of expenses for food,  
17 beverages, registration, travel, and lodging for a conference,  
18 seminar, meeting, or similar activity, if the expenses are  
19 incurred during the course of and as a part of the performance  
20 of the official duties of the official, state employee, member  
21 of the general assembly, or legislative employee and prior  
22 approval for the payment has been obtained from the executive  
23 council, in the case of officials or state employees, or from  
24 the legislative council, in the case of members of the general  
25 assembly or legislative employees.

26 Sec. 4. Section 68B.2, subsection 7, paragraph a,  
27 subparagraphs 2, 3, and 4, Code 1993, are amended to read as  
28 follows:

29 (2) ~~is-engaged-in-activities-which-are-regulated-or~~  
30 ~~controlled-by-a-regulatory-agency-in-which-the-public-official~~  
31 ~~holds-an-office-or-the-public-employee-is-employed-~~

32 (3) Will personally be, or is the agent of a person who  
33 will be, directly and substantially affected financially by  
34 the performance or nonperformance of the donee's official duty  
35 in a way that is greater than the effect on the public

1 generally or on a substantial class of persons to which the  
2 person belongs as a member of a profession, occupation,  
3 industry, or region.

4 (4 3) Is a lobbyist with respect to matters within the  
5 public official's or public employee's jurisdiction.

6 Sec. 5. Section 68B.2, subsection 21, Code 1993, is  
7 amended to read as follows:

8 21. "State employee" means a person who is not an official  
9 and is a paid employee of the state of Iowa and does not  
10 include an independent contractor, an employee of the judicial  
11 department who is not an employee of the office of attorney  
12 general, a legislative employee, or an employee of a political  
13 subdivision of the state. "State employee" includes but is  
14 not limited to all clerical personnel.

15 Sec. 6. Section 68B.2, Code 1993, is amended by adding the  
16 following new subsection:

17 NEW SUBSECTION. 3A. "Client" means a private person or a  
18 state, federal, or local government entity that pays  
19 compensation to a lobbyist.

20 Sec. 7. NEW SECTION. 68B.2A CONFLICTS OF INTEREST.

21 1. Any person who serves or is employed by the state or a  
22 political subdivision of the state shall not engage in any  
23 outside employment or activity which is inconsistent,  
24 incompatible, or in conflict with the person's official duties  
25 and responsibilities. In determining whether particular  
26 outside employment or activity creates an unacceptable  
27 conflict of interest, situations in which an unacceptable  
28 conflict shall be deemed to exist shall include, but not to be  
29 limited to, any of the following:

30 a. The outside employment or activity involves the use of  
31 the state's or the political subdivision's time, facilities,  
32 equipment, and supplies or the use of the state or political  
33 subdivision badge, uniform, business card, or other evidences  
34 of office or employment to give the person or member of the  
35 person's immediate family an advantage or pecuniary benefit

1 that is not available to other similarly situated members or  
2 classes of members of the general public. For purposes of  
3 this subsection, a person is not "similarly situated" merely  
4 by being or being related to a person who serves or is  
5 employed by the state or a political subdivision of the state.

6 b. The outside employment or activity involves the receipt  
7 of, promise of, or acceptance of money or other consideration  
8 by the person, or a member of the person's immediate family,  
9 from anyone other than the state or the political subdivision  
10 for the performance of any act that the person would be  
11 required or expected to perform as a part of the person's  
12 regular duties or during the hours during which the person  
13 performs service or work for the state or political  
14 subdivision of the state.

15 c. The outside employment or activity may later be  
16 subject, directly or indirectly, to the official control,  
17 inspection, review, audit, or enforcement authority of the  
18 person, during the performance of the person's duties of  
19 office or employment.

20 2. If the outside employment or activity is employment or  
21 activity described in subsection 1, paragraph "a" or "b", the  
22 person shall immediately cease the employment or activity. If  
23 the outside employment or activity is employment or activity  
24 described in subsection 1, paragraph "c", unless otherwise  
25 provided by law, the person shall take one of the following  
26 courses of action:

27 a. Cease the outside employment or activity.

28 b. Publicly disclose the existence of the conflict and  
29 refrain from taking any official action or performing any  
30 official duty that would detrimentally affect or create a  
31 benefit for the outside employment or activity. For purposes  
32 of this paragraph, "official action" or "official duty"  
33 includes, but is not limited to, participating in any vote,  
34 granting any license or permit, determining the facts or law  
35 in a contested case or rule making proceeding, conducting any

1 inspection, or providing any other official service or thing  
2 that is not available generally to members of the public in  
3 order to further the interests of the outside employment or  
4 activity.

5 3. Unless otherwise specifically provided the requirements  
6 of this section shall be in addition to, and shall not  
7 supersede, any other rights or remedies provided by law.

8 Sec. 8. Section 68B.3, subsection 1, Code 1993, is amended  
9 to read as follows:

10 1. An official, a state employee, a member of the general  
11 assembly, or a legislative employee shall not sell, in any one  
12 occurrence, any goods or services having a value in excess of  
13 five-hundred two thousand dollars to any state agency unless  
14 the sale is made pursuant to an award or contract let after  
15 public notice and competitive bidding. This subsection shall  
16 not apply to the publication of resolutions, advertisements,  
17 or other legal propositions or notices in newspapers  
18 designated pursuant to law for the publication of legal  
19 propositions or notices and for which rates are fixed pursuant  
20 to law. This subsection shall also not apply to sales of  
21 services by persons subject to the requirements of this  
22 section to state executive branch agencies or subunits of  
23 departments or independent agencies as defined under section  
24 7E.4 that are not the subunit of the department or independent  
25 agency in which the person serves or is employed or are not a  
26 subunit of a department or independent agency with which the  
27 person has substantial and regular contact as part of the  
28 person's duties.

29 For purposes of this section, "services" does not include  
30 instruction at an accredited education institution if the  
31 person providing the instruction meets the minimum education  
32 and licensing requirements established for teachers  
33 instructors at the education institution.

34 Sec. 9. Section 68B.5A, Code 1993, is amended to read as  
35 follows:

1 68B.5A TWO-YEAR BAN ON CERTAIN LOBBYING ACTIVITIES AFTER  
2 SERVICE.

3 1. A person who serves as the governor, lieutenant  
4 governor, a statewide elected official, the executive or  
5 administrative head of an agency of state government, the  
6 deputy executive or administrative head of an agency of state  
7 government, the head of a major subunit of a department or  
8 independent state agency whose position involves a substantial  
9 exercise of administrative discretion or the expenditure of  
10 public funds as defined under rules of the department or  
11 agency adopted pursuant to chapter 17A, a full-time employee  
12 of an office of a statewide elected official or the office of  
13 the governor, a member of the general assembly, or a  
14 legislative employee shall not act as a lobbyist during the  
15 time in which the person serves or is employed by the state  
16 unless the person is designated, by the agency in which the  
17 person serves or is employed, to represent the official  
18 position of the agency.

19 ~~1~~ 2. ~~A person who has served as an official, state~~  
20 ~~employee member of the general assembly, or legislative~~  
21 ~~employee who is subject to the requirements of subsection 1~~  
22 shall not within two years after the termination of service or  
23 employment become a lobbyist.

24 3. A person who has served as a state employee and who was  
25 not a full-time employee of an office of a statewide elected  
26 official or the office of the governor shall not, within two  
27 years after termination of employment, become a lobbyist  
28 before the agency in which the person was employed or before  
29 state agencies or officials or employees with whom the person  
30 had substantial and regular contact as part of the person's  
31 former duties.

32 ~~2~~ 4. This section shall not apply to a person ~~who is a~~  
33 ~~former official, state employee, member of the general~~  
34 ~~assembly, or legislative employee who is subject to the~~  
35 requirements of subsections 1, 2, or 3 and who, within two

1 years of leaving service or employment with the state, is  
2 elected to, appointed to, or employed by another office of the  
3 state, or-to an office of a political subdivision of the  
4 state, or the federal government and appears or communicates  
5 on behalf of that office.

6 Sec. 10. Section 68B.5A, Code 1993, is amended by adding  
7 the following new subsection:

8 NEW SUBSECTION. 5. Subsection 1 shall not apply to  
9 persons who are lobbyists and are serving as the governor,  
10 lieutenant governor, a statewide elected official, the  
11 executive or administrative head of an agency of state  
12 government, or the head of a major subunit of a department or  
13 independent state agency whose position involves a substantial  
14 exercise of administrative discretion or the expenditure of  
15 public funds as defined under rules of the department or  
16 agency adopted under chapter 17A on the effective date of this  
17 Act.

18 Sec. 11. Section 68B.6, Code 1993, is amended to read as  
19 follows:

20 68B.6 SERVICES AGAINST STATE PROHIBITED.

21 1. No-official The governor, lieutenant governor, all  
22 statewide elected officials, the executive or administrative  
23 head or heads of an agency of state government, the deputy  
24 executive or administrative head or heads of an agency of  
25 state government, the heads of the major subunits of  
26 departments or independent state agencies whose positions  
27 involve a substantial exercise of administrative discretion or  
28 the expenditure of public funds as defined under rules of the  
29 department or agency under chapter 17A, state employee, or  
30 legislative employee shall not receive, directly or  
31 indirectly, or enter into any agreement, express or implied,  
32 for any compensation, in whatever form, for the appearance or  
33 rendition of services by that person or another against the  
34 interest of the state in relation to any case, proceeding,  
35 application, or other matter before any state agency, any

1 court of the state of Iowa, any federal court, or any federal  
2 bureau, agency, commission or department.

3 2. A person who is an official, but who is not subject to  
4 the requirements of subsection 1, shall not receive, directly  
5 or indirectly, or enter into any agreement, express or  
6 implied, for any compensation, in whatever form, for the  
7 appearance or rendition of services by that person or another  
8 against the interest of the state in relation to any case,  
9 proceeding, application, or other matter before the subunit of  
10 department or independent agency in which the person serves,  
11 is employed, or with which the person has substantial and  
12 regular contact as part of the person's duties.

13 Sec. 12. Section 68B.22, subsection 4, paragraphs b and c,  
14 Code 1993, are amended to read as follows:

15 b. The donor of the gifts travel and lodging is not the  
16 business being contacted and the food and beverages are  
17 consumed during the course of the meeting.

18 c. The public official or public employee makes-a-planned  
19 plays a significant role in the presentation to the business  
20 on behalf of the public official's or public employee's  
21 agency.

22 Sec. 13. Section 68B.24, Code 1993, is amended to read as  
23 follows:

24 68B.24 LOANS -- RECEIPT FROM LOBBYISTS PROHIBITED.

25 1. An official, member of the general assembly, state  
26 employee, legislative employee, or candidate for state office  
27 shall not, directly or indirectly, seek or accept a loan or  
28 series of loans from a person who is a lobbyist.

29 2. A lobbyist shall not, directly or indirectly, offer or  
30 make a loan or series of loans to an official, member of the  
31 general assembly, state employee, legislative employee, or  
32 candidate for state office. A lobbyist shall also not,  
33 directly or indirectly, join with one or more persons to offer  
34 or make a loan or series of loans to an official, member of  
35 the general assembly, state employee, legislative employee, or

1 candidate for state office.

2 3. This section shall not apply to loans made in the  
3 ordinary course of business. For purposes of this section, a  
4 loan is "made in the ordinary course of business" when it is  
5 made by a person who is regularly engaged in a business that  
6 makes loans to members of the general public and the finance  
7 charges and other terms of the loan are the same or  
8 substantially similar to the finance charges and loan terms  
9 that are available to members of the general public.

10 Sec. 14. Section 68B.25, Code 1993, is amended to read as  
11 follows:

12 68B.25 ADDITIONAL PENALTY.

13 In addition to any penalty contained in any other provision  
14 of law, a person who knowingly and intentionally violates a  
15 provision of sections 68B-3 68B.2A through 68B.7, or sections  
16 68B.21 through 68B.24, or sections 68B.35 through 68B.38 is  
17 guilty of a serious misdemeanor and may be reprimanded,  
18 suspended, or dismissed from the person's position or  
19 otherwise sanctioned.

20 Sec. 15. Section 68B.31, subsection 4, Code 1993, is  
21 amended by adding the following new unnumbered paragraph:

22 NEW UNNUMBERED PARAGRAPH. The ethics committee may employ  
23 independent legal counsel to assist the committee in carrying  
24 out their duties under this chapter. Payment of costs for the  
25 independent legal counsel shall be made from funds  
26 appropriated pursuant to section 2.12.

27 Sec. 16. Section 68B.31, subsection 6, unnumbered  
28 paragraph 1, Code 1993, is amended to read as follows:

29 The ethics committee shall promptly notify any party  
30 alleged to have committed a violation of the code of ethics or  
31 this chapter of the filing of a complaint by causing a copy of  
32 the complaint to be served or personally delivered to the  
33 party charged, unless service is waived by the party charged,  
34 and shall review a the complaint to determine if the complaint  
35 meets the requirements for formal sufficiency. If the

1 complaint is deficient as to form, the complaint shall be  
2 returned to the complainant with a statement of the nature of  
3 the deficiency and the party charged in the complaint shall be  
4 notified that the complaint has been returned. If a  
5 complaint, previously found to be deficient as to form, is  
6 refiled in different form, the party charged in the complaint  
7 shall be provided with a copy of the new document in the same  
8 manner as provided for service of the initial complaint. Any  
9 amendments to a complaint that are filed with the committee  
10 shall also be served or personally delivered, unless service  
11 is waived, to the party charged in the complaint. If the  
12 complaint is sufficient as to form, the ethics committee shall  
13 review the complaint to determine whether the complaint states  
14 a valid charge which may be investigated. A valid complaint  
15 must allege all of the following:

16 Sec. 17. Section 68B.31, subsection 11, Code 1993, is  
17 amended to read as follows:

18 11. Violation of a provision of this chapter or rules  
19 adopted relating to ethical conduct may result in censure,  
20 reprimand, or other sanctions as determined by a majority of  
21 the member's house. However, a member may be suspended or  
22 expelled and the member's salary forfeited only if directed by  
23 a two-thirds vote of the member's house. A suspension,  
24 expulsion, or forfeiture of salary shall be for the duration  
25 specified in the directing resolution. ~~However, it shall not~~  
26 ~~extend beyond the end of the general assembly during which the~~  
27 ~~violation occurred.~~ Violation of a rule relating to lobbyists  
28 and lobbying activities may result in censure, reprimand, or  
29 other sanctions as determined by a majority of the members of  
30 the house in which the violation occurred. However, a  
31 lobbyist may be suspended from lobbying activities for the  
32 duration provided in the directing resolution only if directed  
33 by a two-thirds vote of the house in which the violation  
34 occurred.

35 Sec. 18. Section 68B.32, subsection 2, unnumbered

1 paragraph 1, and subsection 6, Code 1993, are amended to read  
2 as follows:

3 The executive council shall promptly notify any party  
4 alleged to have committed a violation of the code of ethics or  
5 this chapter of the filing of a complaint by causing a copy of  
6 the complaint to be served or personally delivered to the  
7 party charged, unless service is waived by the party charged,  
8 and shall review the complaint to determine if the complaint  
9 meets the requirements for formal sufficiency. If the  
10 complaint is deficient as to form, the complaint shall be  
11 returned to the complainant with a statement of the nature of  
12 the deficiency and the party charged in the complaint shall be  
13 notified that the complaint has been returned. If a  
14 complaint, previously found to be deficient as to form, is  
15 refiled in different form, the party charged in the complaint  
16 shall be provided with a copy of the new document in the same  
17 manner as provided for service of the initial complaint. Any  
18 amendments to a complaint that are filed with the committee  
19 shall also be served or personally delivered, unless service  
20 is waived, to the party charged in the complaint. If the  
21 complaint is sufficient as to form, the executive council  
22 shall review the complaint to determine whether the complaint  
23 states a valid charge which may be investigated. A valid  
24 complaint must allege all of the following:

25 6. A complaint which is supported by probable cause may be  
26 prosecuted at an executive council hearing by the independent  
27 special counsel. The executive council may employ legal  
28 counsel and employ the services of an administrative law judge  
29 to assist the council in carrying out the duties required  
30 under this section.

31 Sec. 19. Section 68B.34, Code 1993, is amended to read as  
32 follows:

33 68B.34 INVESTIGATION BY INDEPENDENT SPECIAL COUNSEL --  
34 PROBABLE CAUSE.

35 The purpose of an investigation by the independent special

1 counsel is to determine whether there is probable cause to  
2 proceed with an adjudicatory hearing on the matter. In  
3 conducting investigations and holding hearings, the  
4 independent special counsel may require by subpoena the  
5 attendance and testimony of witnesses and may subpoena books,  
6 papers, records, and any other real evidence relating to the  
7 matter before the independent special counsel. The  
8 independent special counsel shall have the additional  
9 authority provided in section 17A.13. If the independent  
10 special counsel determines at any stage in the proceedings  
11 that take place prior to hearing that the complaint is without  
12 merit, the independent special counsel shall report that  
13 determination to the appropriate ethics committee or the  
14 executive council and the complaint shall be dismissed and the  
15 complainant and the party charged shall be notified. If,  
16 after investigation, the independent special counsel  
17 determines evidence exists which, if proven, would support a  
18 finding of a violation of this chapter, a finding of probable  
19 cause shall be made and reported to the ethics committee or  
20 executive council, and a hearing shall be ordered by the  
21 ethics committee as provided in section 68B.31 or by the  
22 executive council as provided in section 68B.32. Independent  
23 special counsel investigations are not meetings of a  
24 governmental body within the meaning of chapter 21, and  
25 records and information obtained by independent special  
26 counsel during investigations are confidential until disclosed  
27 to a legislative ethics committee or the executive council  
28 under section 68B.31 or 68B.32.

29 Sec. 20. Section 68B.35, Code 1993, is amended to read as  
30 follows:

31 1. Except as otherwise provided in this section, ~~each~~  
32 ~~official, member of the general assembly, and candidate for~~  
33 ~~state office shall file~~ a statement of personal financial  
34 disclosure ~~in the manner provided in this section~~ that  
35 discloses the sources of the person's income and any

1 significant financial interests of the official, member, or  
2 candidate person shall be filed by the following persons and  
3 in the manner required in this section:

4 a. The governor and lieutenant governor.  
5 b. Any statewide elected official.  
6 c. The executive or administrative head or heads of an  
7 agency of state government.  
8 d. The deputy executive or administrative head or heads of  
9 an agency of state government.  
10 e. The head of a major subunit of a department or  
11 independent state agency whose position involves a substantial  
12 exercise of administrative discretion or the expenditure of  
13 public funds as defined under rules of the department or  
14 agency adopted pursuant to chapter 17A.  
15 f. Members of the banking board, the campaign finance  
16 disclosure commission, the credit union review board, the  
17 economic development board, the employment appeal board, the  
18 environmental protection commission, the health facilities  
19 council, the Iowa business investment corporation board of  
20 directors, the Iowa finance authority, the Iowa product  
21 development corporation, the Iowa public employees' retirement  
22 system investment board, the lottery board, the natural  
23 resource commission, the parole board, the petroleum under-  
24 ground storage tank fund board, the public employment  
25 relations board, the state racing and gaming commission, the  
26 state board of regents, the tax review board, the  
27 transportation commission, the office of consumer advocate,  
28 and the utilities board and full-time members of other boards  
29 and commissions as defined under section 7E.4 who receive an  
30 annual salary for their service on the board or commission.  
31 g. Members of the general assembly.  
32 h. Candidates for state office.  
33 i. Legislative employees who are the head or deputy head  
34 of a legislative agency or whose position involves a  
35 substantial exercise of administrative discretion or the

1 expenditure of public funds as defined under rules prescribed  
2 by the legislative council.

3 2. For purposes of this section, "disclosure of sources of  
4 income" includes disclosure of the nature of each business in  
5 which the official, member, or candidate person is engaged and  
6 receives more than five hundred dollars annually in income and  
7 the nature of the business of each company in which the  
8 official, member, or candidate person has an income-producing  
9 interest that generates over five hundred dollars in annual  
10 income.

11 PARAGRAPH DIVIDED. For purposes of this section,  
12 "significant financial interests" includes investments in  
13 stocks, bonds, bills, notes, mortgages, or other securities  
14 offered for sale through recognized financial brokers if the  
15 value of the investments equals either greater than five  
16 percent of the total outstanding issue of any stocks, bonds,  
17 bills, notes, mortgages, or other securities of the offering  
18 entity or the percentage of ownership interest in the entity  
19 which represents the fair market value of ten thousand  
20 dollars, whichever is less as of December 31 of the year  
21 preceding the year in which disclosure is to be made; any in-  
22 state or out-of-state business, trade, labor, farm,  
23 professional, religious, educational, or charitable  
24 association, foundation, or organization which is involved in  
25 supporting or opposing any measures brought before the body in  
26 which the official, member, or candidate person holds office  
27 and by which the official, member, or candidate person is  
28 employed or retained or has rendered services for compensation  
29 within the previous twelve months; any office or directorship  
30 held during the previous twelve months by the official,  
31 member, or candidate person in any corporation, firm,  
32 enterprise, labor union, farm organization, cooperative,  
33 religious, education, or charitable association or  
34 organization or trade or professional association.

35 3. A candidate for state office shall file the statement

1 of personal financial disclosure with the campaign finance  
2 disclosure commission concerning the year preceding the year  
3 in which the election is to be held and concerning so much of  
4 the year in which the election is to be held as has elapsed by  
5 the date specified in section 43.11 for the filing of  
6 nomination papers for state office. The statement shall be  
7 filed no later than thirty days after the date on which the a  
8 person formally-becomes-a-candidate is required under section  
9 43.11 to file nomination papers for state office. ~~Officials~~  
10 Persons specified under subsection 1, paragraphs "a" through  
11 "f", shall also file the statements at times, locations, and  
12 in the manner designated by the executive council. Members of  
13 the house of representatives shall also file the statements  
14 with the chief clerk of the house, and members of the senate  
15 shall also file the statements with the secretary of the  
16 senate, at times and in the manner designated by the chief  
17 clerk and the secretary. Disclosures filed by persons  
18 specified under subsection 1, paragraphs "a" through "f", and  
19 members of the general assembly shall be updated on no less  
20 than an annual basis. The general assembly, by concurrent  
21 resolution, and the executive council shall each prescribe and  
22 adopt rules to implement this section.

23 Sec. 21. Section 68B.36, subsections 1 and 3, Code 1993,  
24 are amended to read as follows:

25 1. All lobbyists shall, on or before the day their  
26 lobbying activity begins, register by filing a lobbyist's  
27 registration statement in the manner provided in this section.  
28 Lobbyists engaged in lobbying activities before the general  
29 assembly shall file the statement with the chief clerk of the  
30 house of representatives or the secretary of the senate.  
31 Lobbyists engaged in lobbying activities before the office of  
32 the governor or any state agency shall file the statement with  
33 the executive council or with the agency before which the  
34 lobbyist is engaged in lobbying activities. The legislative  
35 council shall prescribe and the chief clerk of the house and

1 the secretary of the senate shall provide appropriate  
2 registration forms to lobbyists before the general assembly.  
3 The executive council shall prescribe appropriate registration  
4 forms for lobbyists before the office of the governor and  
5 state agencies. Persons receiving registration statement  
6 filings from lobbyists in the office of the governor and state  
7 agencies shall forward a copy of the statements to the  
8 executive council.

9 3. For persons registered to lobby before the general  
10 assembly, registration expires upon the commencement of the  
11 next regular session of the general assembly, except that the  
12 legislative council may prescribe and chief clerk of the house  
13 and the secretary of the senate may ~~adopt-and~~ implement a  
14 reasonable preregistration procedure in advance of each  
15 regular session during which persons may register for that  
16 session and the following legislative interim. For persons  
17 registered to lobby before the office of the governor or a  
18 state agency, registration expires upon the commencement of a  
19 new calendar year. The executive council may adopt and  
20 implement a reasonable preregistration procedure in advance of  
21 each new calendar year during which persons may register for  
22 that year.

23 Sec. 22. Section 68B.37, Code 1993, is amended to read as  
24 follows:

25 68B.37 LOBBYIST REPORTING.

26 1. A lobbyist before the general assembly shall file with  
27 the ~~campaign-finance-disclosure-commission~~ chief clerk of the  
28 house or the secretary of the senate, on forms prescribed by  
29 the ~~commission~~ legislative council, a separate report  
30 disclosing the following: the lobbyist's clients; all  
31 campaign contributions made by the lobbyist during the prior  
32 calendar month; ~~and~~ the recipient of the campaign  
33 contributions; and expenditures made by the lobbyist for  
34 purposes of providing the services enumerated under section  
35 68B.2, subsection 10, paragraph "a". For purposes of this

1 subsection "expenditures" do not include expenditures made by  
2 any club, committee, partnership, organization, business,  
3 union, association, or corporation for the purpose of  
4 publishing a newsletter or other release to its officers,  
5 directors, members, shareholders, or employees.

6 2. A lobbyist before a state agency or the office of the  
7 governor shall file with the campaign-finance-disclosure  
8 commission executive council, on forms prescribed by the  
9 commission executive council, a report disclosing the same  
10 items described in subsection 1.

11 3. The report of contributions, and expenditures, and  
12 gifts must shall be filed within thirty days of registration  
13 as a lobbyist and thereafter on a monthly basis only if there  
14 is activity to report and on dates to be determined by the  
15 campaign-finance-disclosure-commission executive council, the  
16 chief clerk of the house, and the secretary of the senate. In  
17 addition, a report shall be filed annually by each lobbyist at  
18 the end of each calendar year, or at the time of cancellation  
19 of the lobbyist's registration, whichever first occurs. The  
20 legislative council and the executive council shall consult  
21 with each other in developing forms to implement this section.  
22 The general assembly, by concurrent resolution, and the  
23 executive council shall each prescribe and adopt rules to  
24 implement this section.

25 Sec. 23. Section 68B.38, Code 1993, is amended to read as  
26 follows:

27 68B.38 LOBBYIST'S CLIENT REPORTING.

28 1. No later than January 31 and July 31 of each year,  
29 unless no payments are made, a lobbyist's client shall file  
30 with the general assembly or the executive council a report  
31 that contains information on all salaries, fees, and retainers  
32 paid by the lobbyist's client to the lobbyist for lobbying  
33 purposes during the preceding six calendar months. Reports by  
34 lobbyists' clients shall be filed with the same entity with  
35 which the lobbyist filed the lobbyist's report and

1 registration.

2 2. The report due January 31 shall include a cumulative  
3 total of all lobbying-expenditures salaries, fees, retainers,  
4 and reimbursements of expenses paid to the lobbyist for  
5 lobbying activities during the preceding calendar year. The  
6 legislative council and the executive council shall, in  
7 consultation with each other, develop forms to implement this  
8 section.

9 3. An organization which is a client of a lobbyist, but is  
10 not itself a donor under section 68B.2, subsection 6,  
11 paragraph "a", shall in addition to the items reported as  
12 provided in subsections 1 and 2, report any monetary or  
13 nonmonetary items or services provided that are given to an  
14 official, state employee, member of the general assembly, or  
15 legislative employee for which no legal consideration of equal  
16 or greater value is given. Reports of items under this  
17 subsection shall be made at the times and in the manner  
18 provided for reports under subsections 1 and 2.

19 Sec. 24. Section 68B.39, Code 1993, is amended to read as  
20 follows:

21 68B.39 SUPREME COURT RULES.

22 The supreme court of this state shall prescribe rules by  
23 January 1, 1993, establishing a code of ethics for officials  
24 and employees of the judicial department of this state, and  
25 the immediate family members of the officials and employees.  
26 Rules prescribed under this paragraph shall include provisions  
27 relating to the receipt or acceptance of gifts and honoraria,  
28 interests in public contracts, services against the state, and  
29 financial disclosure which are substantially similar to the  
30 requirements of this chapter.

31 The supreme court of this state shall also prescribe rules  
32 which relate to activities by officials and employees of the  
33 judicial department which constitute conflicts of interest.

34 Sec. 25. NEW SECTION. 68B.40 RULES BY EXECUTIVE COUNCIL  
35 AND GENERAL ASSEMBLY.

1 Except as otherwise provided, the executive council shall  
2 adopt rules establishing a code of ethics for officials and  
3 state employees and otherwise providing for the implementation  
4 of the provisions of this chapter that relate to officials,  
5 state employees, and lobbyists of state agencies. The general  
6 assembly shall, by resolution, prescribe rules providing for  
7 the implementation of the provisions of this chapter that  
8 relate to members of the general assembly, legislative  
9 employees, other legislative staff, and lobbyists of the  
10 general assembly.

11 Sec. 26. Section 22.7, Code 1993, is amended by adding the  
12 following new subsections:

13 NEW SUBSECTION. 29. Complaints received by a legislative  
14 ethics committee or the executive council pursuant to chapter  
15 68B, unless either the complainant or the alleged violator  
16 publicly discloses the existence of a complaint or a  
17 preliminary investigation.

18 NEW SUBSECTION. 30. Records and information obtained or  
19 held by independent special counsel during the course of an  
20 investigation conducted pursuant to section 68B.34.  
21 Information that is disclosed to a legislative ethics  
22 committee or the executive counsel subsequent to a  
23 determination of probable cause by independent special counsel  
24 and made pursuant to sections 68B.31 or 68B.32 is not a  
25 confidential record unless otherwise provided by law.

26 Sec. 27. Section 56.42, subsection 1, Code 1993, is  
27 amended by adding the following new paragraph:

28 NEW PARAGRAPH. e. Contributions to another candidate's  
29 committee when the candidate for whom both committees are  
30 formed is the same person.

31 Sec. 28. REPEAL. Section 10 of this Act is repealed  
32 effective January 1, 1995.

33 EXPLANATION

34 Section 1 of this bill removes judges standing for  
35 retention in a judicial election from the definition of the

1 term candidate, removes the term "gift" from the definition of  
2 the term "contribution", and removes the conflicting term  
3 "official" from the definition of the term "legislative  
4 employee". Section 1 of the bill also provides that only  
5 those public officials and employees who are designated to  
6 represent the official position of the officials' or  
7 employees' agency and persons who are designated to represent  
8 the official position of organizations that lobby before an  
9 agency are required to comply with the registration and other  
10 requirements placed on lobbyists. Persons who testify at  
11 legislative hearings, persons who communicate as licensed  
12 professionals, persons who are members of state or  
13 congressional legislative staffs, are responding to requests  
14 for information that are made by public officials or public  
15 employees, persons who request information from an agency, and  
16 persons who appear in public administrative proceedings, are  
17 exempted from the definition of the term "lobbyist."

18 The exception for lawyers who are representing clients  
19 before agencies is changed to include other licensed  
20 professionals under certain circumstances. The definition of  
21 the term "official" is also changed to include the governor,  
22 lieutenant governor, heads and deputy heads of state agencies,  
23 members of boards and commissions, and persons who are heads  
24 of major state agency subdivisions who have certain kinds of  
25 authority. The definition excludes those persons who are  
26 members of governmental bodies that only have the authority to  
27 study issues and make recommendations for action.

28 Section 2 of the bill amends the list of prohibited donors  
29 of gifts to delete the provision relating to regulatory  
30 agencies, and to add agents of persons who may be affected by  
31 official action to the list of possible prohibited donors.  
32 Nonmonetary items and services provided, that have a value of  
33 less than three dollars, are substituted for the current  
34 exemption for gifts of food and drink in that amount.  
35 Registration expenses are also excluded if given in return for

1 a speaking engagement.

2 Section 3 of the bill provides that items received by a  
3 public official or public employee as part of their official  
4 duties from which they derive no direct personal benefit and  
5 which are actually given to the state or a political  
6 subdivision of the state are not gifts. The section also  
7 permits receipt of ceremonial gifts by public officials and  
8 employees under certain circumstances and the receipt of  
9 salary or expenses from the person's employer or firm if the  
10 person is not entitled to receipt of reimbursement of expenses  
11 by the state or a political subdivision.

12 Section 4 makes changes in the list of possible donors of  
13 honoraria that parallel the changes made in the gift  
14 definition.

15 Section 5 makes changes in the definition of "state  
16 employee" to exclude officials from and include employees of  
17 the office of the attorney general in the definition.

18 Section 6 of the bill adds a definition of the term  
19 "client," which is used in the provisions relating to lobbyist  
20 and client reporting.

21 Section 7 establishes a conflict of interest provision and  
22 prohibits persons who serve or are employed by the state or a  
23 political subdivision of the state from engaging in certain  
24 kinds of outside employment or activities. The section  
25 provides that the person is to cease an activity specified to  
26 be a conflict of interest and provides for disclosure of  
27 certain activities or employment. Violation of the provision  
28 is a serious misdemeanor. Remedies and penalties provided  
29 under the section are in addition to any other remedies or  
30 rights available by law.

31 Section 8 of this bill provides that sales made by state  
32 officials or employees to state agencies other than the one in  
33 which the person holds office or is employed are not subject  
34 to the competitive bid provisions of chapter 68B.

35 Section 9 of this bill makes the ban on lobbying apply to

1 current state office holders and employees, but adds transfers  
2 of employment or changes in office within state government,  
3 transfers to federal office or employment, or acting as a  
4 state level legislative liaison to the types of activities  
5 that are excluded from the lobbying ban. The lobbying ban is  
6 qualified to permit lobbying by employees, if the lobbying is  
7 confined to agencies, officials, or employees with whom the  
8 employee was not employed or did not have substantial contact.

9 Section 10 of this bill provides that the two-year lobbying  
10 ban does not apply to persons who are both lobbyists and  
11 officials on the effective date of the bill. Section 28  
12 repeals the exemption contained in section 10 effective  
13 January 1, 1995.

14 Section 11 of the bill changes the applicability of the  
15 general services against the state prohibition by removing the  
16 term official and inserting a list of officials to whom it  
17 applies. A specific prohibition is added for persons not  
18 covered by the general prohibition, which prevents services  
19 against the state in matter before the person's own agency  
20 subunit or an agency subunit with which the person has  
21 substantial and regular contact.

22 Section 12 of the bill permits food and beverages consumed  
23 during a meeting to be received from a business being  
24 contacted and provides that a public official or employee play  
25 a significant role in the presentation to the business being  
26 contacted.

27 Section 13 of the bill excepts loans made in the ordinary  
28 course of business from the types of loans that lobbyists are  
29 prohibited from making to officials, members of the general  
30 assembly, state employees, or candidates for state office.

31 Section 14 of the bill amends the penalty provision of  
32 chapter 68B to include violations of the conflict of interest  
33 provision.

34 Section 15 of the bill permits the legislative ethics  
35 committee of each house to employ the services of an

1 independent legal counsel to assist the committee in carrying  
2 out their duties.

3 Section 16 of the bill provides for notification of a  
4 person charged with an ethics violation of the existence and  
5 contents of a complaint.

6 Section 17 of the bill removes the language that restricts  
7 the duration of certain available remedies for ethical  
8 violations to the general assembly in which the violation  
9 occurred.

10 Section 18 of the bill permits the executive council to  
11 retain the services of a legal counsel and an administrative  
12 law judge when performing duties related to the hearings on  
13 ethical violations by executive branch officials and  
14 employees.

15 Section 19 of the bill provides that investigations by  
16 independent special counsel are not public meetings under  
17 chapter 21. The information or records obtained during the  
18 investigation are not public records until they are disclosed  
19 to an ethics body after the probable cause stage of the  
20 investigation. Section 26 provides that the information  
21 received during the investigations is a confidential record  
22 until disclosed to the ethics bodies.

23 Section 20 of the bill limits the sources of income that  
24 are to be disclosed in personal financial disclosure  
25 statements to sources that produce income of more than \$500  
26 annually, delineates persons required to make such  
27 disclosures.

28 Section 21 provides for the prescription of forms and  
29 procedures for lobbyist registration by the legislative  
30 council.

31 Section 22 of the bill changes the place at which  
32 lobbyist's reports must be filed to make it consistent with  
33 the place of registration. End of the year or end of lobbying  
34 registration reports are also provided for and no reports are  
35 required if there is no activity to report.

1 Section 23 provides that a client of a lobbyist need not  
2 report salaries, fees, or retainers if none were paid during  
3 the reporting period and adds report of items given to state  
4 officials and employees if the client does not meet the donor  
5 definitions contained in the gift definition.

6 Section 24 provides that the rules to be prescribed by the  
7 supreme court for judicial officials and employees are to  
8 include provisions relating to conflicts of interest.

9 Section 25 provides for the adoption and prescription of  
10 rules to implement chapter 68B by the executive council and  
11 the general assembly, respectively. The section also provides  
12 for the adoption of a code of ethics for the executive branch  
13 of state government.

14 Section 26 provides for confidentiality of ethics  
15 complaints, under certain circumstances, and for the  
16 confidentiality of investigations by the independent special  
17 prosecutor until the determination of probable cause is made  
18 and turned over to a legislative ethics committee or the  
19 executive council.

20 Section 27 provides that a candidate's committee may  
21 transfer funds to another candidate's committee if the  
22 candidate for whom both committees are formed is the same  
23 person.

24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35