ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Regulatory Analysis

Notice of Intended Action to be published: 351—Chapter 6
"Executive Branch Ethics"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 68A and 68B

State or federal law(s) implemented by the rulemaking: Iowa Code chapters 68A and 68B and Executive Order 10

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

October 21, 2025 9 to 9:30 a.m.	Via virtual meeting/videoconference meet.google.com/def-amxu-ztg Or dial: 443.892.2873 Passcode: 459 114 569#

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Iowa Ethics and Campaign Disclosure Board (IECDB) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Kimberly Murphy, Deputy Director
Iowa Ethics and Campaign Disclosure Board
Jessie M. Parker Building
510 East 12th Street, Suite 1A
Des Moines, Iowa 50319
Phone: 515.423.4112
Email: kim.murphy2@iowa.gov

Purpose and Summary

This proposed rulemaking includes revised administrative rules based on the requirements of Executive Order 10. Chapter 6 establishes rules relating to ethical conduct for the executive branch of State government and other political subdivisions. Chapter 6 is proposed to be rescinded and readopted with revisions to align with Executive Order 10.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There is no expected additional cost to the State or stakeholders governed by Iowa Code chapters 68A and 68B.

- **Classes of persons that will benefit from the proposed rulemaking:**

The State and stakeholders governed by Iowa Code chapters 68A and 68B will benefit.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

No quantitative impact is expected. The changes to these rules will not impact the operations of IECDB, and IECDB will still operate consistent with Iowa Code chapters 68A and 68B.

- **Qualitative description of impact:**

No qualitative impact is expected.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

No costs will be borne by any agency. IECDB will still operate consistent with Iowa Code chapters 68A and 68B.

- **Anticipated effect on State revenues:**

There is no anticipated effect on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable. IECDB will still operate consistent with Iowa Code chapters 68A and 68B.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Not applicable.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

Not applicable.

Text of Proposed Rulemaking

ITEM 1. Rescind 351—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6
EXECUTIVE BRANCH ETHICS

DIVISION I
GENERAL PROVISIONS

351—6.1(68B) Scope of chapter. Pursuant to Iowa Code section 68B.32A(13), this chapter establishes rules relating to ethical conduct for the executive branch of state government and other political subdivisions.

This rule is intended to implement Iowa Code sections 68B.32(1) and 68B.32A(13).

351—6.2(68B) Definitions. For purposes of this chapter, the following definitions apply:

"Agency of state government" or *"state agency"* includes any authority, board, bureau, commission, community college, department, division, office of a statewide elected official, or regents university within the executive branch of the State of Iowa.

"Candidate for statewide office" means a candidate for governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, secretary of agriculture, or attorney general.

"Employee" means an individual who is a paid employee of any agency of state government. "Employee" includes an individual employed in an interim or acting capacity. "Employee" does not include an official or an independent contractor.

"Official" means a statewide elected official, an executive or administrative head or heads of a state agency, a deputy executive or administrative head or heads of a state agency, a member of a board or commission as defined under Iowa Code section 7E.4, or a head of a major subunit of a state agency whose position involves a substantial exercise of administrative discretion or the expenditure of public funds. "Official" includes an individual serving in an interim or acting capacity.

"State duties" includes the official duties, responsibilities, or activities of an official or employee that are mandated by law, rule, or court order or that otherwise lawfully aid an agency of state government in carrying out the statutory functions of the agency.

This rule is intended to implement Iowa Code section 68B.2.

351—6.3(68B) Complaints or filing information alleging a violation.

6.3(1) *Who may file.* Any person may file a complaint or provide information to the board alleging a violation of Iowa Code chapter 68B or this chapter by officials, employees, and candidates for statewide office.

6.3(2) *Procedure.* The procedure for filing a complaint or providing information to the board alleging a violation of Iowa Code chapter 68B or this chapter is set out in Iowa Code section 68B.32B and 351—Chapter 9.

6.3(3) *Whistleblower protection.* A person who discharges or discriminates against an official or employee because the official or employee filed a complaint or provided information to the board will be subject to the board's complaint process if the official or employee filed the complaint or provided the information in good faith. If it is determined after a contested case proceeding that a person has impermissibly discharged or discriminated against an official or employee, the board may impose sanctions as set out in Iowa Code section 68B.32D. For purposes of this rule, "good faith" means that any statements or materials in a complaint or included as part of information provided to the board were made or provided with a reasonable belief that such statements or materials were true and accurate.

This rule is intended to implement Iowa Code sections 68B.32A(14) and 68B.32B.

351—6.4(68B) Board advice.

6.4(1) *Advice requested.* Persons subject to the authority of the board under Iowa Code chapter 68B may first seek advice or guidance from the board concerning the legality of action or conduct potentially affected by Iowa Code chapter 68B.

6.4(2) *Declaratory order.* Persons may also seek board guidance concerning the application of a statute or rule under the board's jurisdiction to a specific factual situation through the petition for declaratory order.

This rule is intended to implement Iowa Code section 68B.32A(12).

DIVISION II
CONFLICT OF INTEREST AND MISUSE OF PROPERTY

351—6.5(68B) Dual executive branch compensation prohibited.

6.5(1) *Definitions.* For purposes of Iowa Code section 68B.2B and this rule, the following definitions apply:

"Employment with a second executive branch agency" includes services provided as an independent contractor with another executive branch agency.

"Executive branch agency" means "agency of state government" or "state agency" as defined in Iowa Code section 68B.2(2). However, the legislative branch is not considered an agency of state government or state agency for purposes of Iowa Code section 68B.2B or this rule.

6.5(2) *Exceptions.* The prohibition on receiving simultaneous compensation from more than one executive branch agency does not apply to the following:

a. Employment with any governmental entity other than simultaneous employment with two or more executive branch agencies.

b. Service in the Iowa national guard.

c. An official or employee who is interchanged from one executive branch agency to another executive branch agency pursuant to Iowa Code chapter 28D unless the official or employee is simultaneously receiving compensation from both the receiving agency and the sending agency.

d. Serving on the board, commission, or authority of two or more executive branch agencies.

6.5(3) *Reporting form.* An official or employee of the executive branch who accepts simultaneous employment with another executive branch agency will file Form Dual-Comp within 20 business days of accepting employment with the second executive branch agency. The form will be filed with the board. The failure to timely file Form Dual-Comp may subject the executive branch official or employee to board sanctions.

This rule is intended to implement Iowa Code section 68B.2B.

351—6.6(68B) Misuse of public property.

6.6(1) *Definition of public property.* "Public property" means any real or personal property owned or controlled by the state of Iowa, including but not limited to buildings, facilities, equipment, supplies, funds, records, files, and materials.

6.6(2) *Prohibited uses.* The following are deemed to be the misuse of public property by an official, employee, or candidate for statewide office:

a. Using public property to engage in an outside employment or activity that leads to an unacceptable conflict of interest.

b. Using public property for personal financial gain. This prohibition does not apply to the receipt of lawful compensation for the performance of official state duties.

c. Using public property for a personal benefit to the detriment of the state.

d. Using public property to engage in political activities.

This rule is intended to implement Iowa Code section 68B.32A(13).

DIVISION III
SALES OR LEASES OF GOODS, REAL ESTATE, OR SERVICES

351—6.7(68B) Prohibition on sales; when public bids required—disclosure of income.

6.7(1) *Prohibition.* An official or employee will not sell, in any one occurrence, goods or services having a value in excess of $2,000 to a state agency unless the sale is made pursuant to an award or contract let after public notice and competitive bidding and the official or employee making the sale files Form Public Bid with the board within 20 days of making the sale. This prohibition includes sales to the state agency in which the official or employee serves or is employed.

6.7(2) *Exceptions.* The prohibition in Iowa Code section 68B.3 and this rule will not apply to any of the following:

a. Sales of goods or services done as part of the official's or employee's state duties.

b. Sales of goods or services by a member of a board or commission to state executive branch agencies or subunits of departments or independent agencies that are not the subunit of the department or independent agency in which the person serves or are not a subunit of a department or independent agency with which the person has substantial and regular contact as part of the person's duties. "Board" and "commission" as used in this rule mean the same as defined in Iowa Code section 7E.4.

c. The publication of resolutions, advertisements, or other legal propositions or notices in newspapers designated by law for the publication of such materials and for which publication rates are fixed by law.

d. Instruction at an accredited educational institution if the official or employee meets the minimum education and licensing requirements established for other instructors at the educational institution.

e. A contract for professional services that is exempt from competitive bidding requirements under any provision in the Iowa Code or Iowa Administrative Code.

6.7(3) *Sales to political subdivisions.* An official who sells goods or services to a political subdivision of the state will disclose on the official's Form PFD as provided in 351—Chapter 7 if income was received from the sale.

6.7(4) *Filing of report.* An official or employee making a sale to a state agency pursuant to Iowa Code section 68B.3 will file Form Public Bid within 20 days of making the sale. The failure to timely file Form Public Bid with the board within 20 days of making the sale may subject the official or employee to board sanctions under Iowa Code chapter 68B and rule 351—9.3(68B).

6.7(5) *Use of confidential information.* No official or employee will disclose or use confidential information, including the contents of a sealed bid acquired during the course of the official's or employee's state duties, for the personal gain or benefit of any person. This rule does not apply to the release of information that is mandated by law, rule, or court order.

This rule is intended to implement Iowa Code sections 68B.32A(13) and 68B.3.

351—6.8(68B) Sales or leases by regulatory agency officials or employees.

6.8(1) *Prohibition.* An official or employee of a regulatory agency will not directly or indirectly sell or lease any goods, real estate, or services to individuals, associations, or corporations subject to the regulatory authority of the official's or employee's agency except as provided by Iowa Code section 68B.4 and this rule. This prohibition does not apply to sales or leases that are part of the official's or employee's state duties.

6.8(2) *Definitions.* For purposes of this rule, the following definitions apply:

"Agency" means a regulatory agency.

"Employee" means an employee of an executive branch regulatory agency and does not include an independent contractor or an official.

"Official" means a statewide elected official of a regulatory agency, an executive or administrative head or heads of a regulatory agency, a deputy executive or administrative head or heads of a

regulatory agency, a member of a board or commission as defined under Iowa Code section 7E.4, or a head of a major subunit of a regulatory agency whose position involves a substantial exercise of administrative discretion or the expenditure of public funds.

"Regulatory agency" means the department of agriculture and land stewardship; department of workforce development; department of insurance and financial services; department of public safety; department of education; state board of regents; department of health and human services; department of revenue; department of inspections, appeals, and licensing; department of administrative services; public employment relations board; department of transportation; civil rights commission; department of public defense; department of homeland security and emergency management; Iowa ethics and campaign disclosure board; utilities commission; and department of natural resources.

6.8(3) *Request for consent.* An official's or employee's request for an agency's consent to the sale or lease of goods, real estate, or services will comply with all of the following:

a. The request will be in writing and will be filed with the official's or employee's agency at least 20 calendar days in advance of the proposed sale or lease of any goods, real estate, or services.

b. The request will include all of the following:

(1) The name of the individual, association, or corporation to which the goods, real estate, or services are to be sold or leased;

(2) The relationship of the individual, association, or corporation to the agency;

(3) A description of the goods, real estate, or services;

(4) The date or dates that the goods, real estate, or services will be delivered; and

(5) A statement by the official or employee explaining how the proposed sale or lease of the goods, real estate, or services will not violate the provisions of Iowa Code section 68B.4 or create a conflict of interest under Iowa Code section 68B.2A.

6.8(4) *Agency guidelines.* Iowa Code section 68B.4 and the guidelines in this subrule will be the sole legal authorities to be used by an agency in considering the granting of consent. In determining whether to grant consent, the agency will take the following guidelines into consideration:

a. The official or employee seeking consent is not the person with the authority to determine whether consent should be granted.

b. The duties and functions performed by the official or employee seeking consent are not related to the regulatory authority of the agency over the individual, association, or corporation to which the goods, real estate, or services will be sold or leased.

c. The selling or leasing of the goods, real estate, or services does not affect the official's or employee's duties or functions at the agency.

d. The selling or leasing of the goods, real estate, or services will not cause the official or employee to advocate on behalf of the individual, association, or corporation to the agency.

e. The selling or leasing of the goods, real estate, or services does not cause the official or employee to sell or lease goods, real estate, or services to the agency on behalf of the individual, association, or corporation.

f. The selling or leasing of the goods, real estate, or services will not result in a conflict of interest as provided in Iowa Code section 68B.2A.

g. The request complies with the procedural requirements of subrule 6.8(3).

h. A regulatory agency may grant blanket consent for sales or leases to classes of individuals, associations, or persons when such blanket consent is consistent with subrule 6.8(4) and the granting of single consents is impractical or impossible to determine.

These guidelines will be publicized and made known to all personnel throughout the agency.

6.8(5) *Agency decision.* The official's or employee's agency will issue a written consent or denial within 14 calendar days following the date the request was filed. The deadline may be extended by agreement of both the official or employee and the agency. If the request is denied or granted conditionally, the agency will state the reasons for the denial or conditional consent.

6.8(6) *Appeal of denial.* An official or employee who receives a denial or conditional consent may file a request with the board for a contested case proceeding pursuant to Iowa Code chapter 17A

for a determination of whether the situation described in the request complies with the requirements of Iowa Code section 68B.2A or 68B.4 and this rule. The final order of the board constitutes final agency action for purposes of seeking judicial review.

6.8(7) *Copy of consent filed with board.* Pursuant to Iowa Code section 68B.4, an agency granting consent will file a copy of the consent with the board within 20 days of the granting of consent. The board will treat the consent as a public record. The failure to provide a copy of the consent may result in the imposition of board sanctions against the individual who granted the consent.

6.8(8) *Consent not a defense.* Consent granted by an agency under this rule will not constitute a defense to a complaint alleging a violation of any law or rule. It is the responsibility of the official or employee to ensure compliance with all applicable laws and rules.

This rule is intended to implement Iowa Code section 68B.4.

351—6.9(68B) Sales or leases by members of the office of the governor.

6.9(1) *Prohibition.* A permanent full-time member of the office of the governor will not directly or indirectly sell or lease any goods or services to registered lobbyists before the general assembly or the executive branch or to individuals, associations, or corporations that employ persons who are registered lobbyists before the general assembly or the executive branch except as provided in Iowa Code section 68B.4B and this rule. This prohibition does not apply to sales or leases that are part of the member's state duties.

6.9(2) *Request for consent.* A request submitted by a member of the office of the governor for consent to sell or lease goods or services will comply with all of the following:

a. The request will be in writing and will be filed at least 20 calendar days in advance of the proposed sale or lease of any goods or services with the person responsible for hiring or approving the hiring of the member.

b. The request will include all of the following:

(1) The name of the lobbyist, individual, association, or corporation to which the goods or services are to be sold or leased;

(2) The relationship of the lobbyist, individual, association, or corporation to the office of the governor;

(3) A description of the goods or services;

(4) The date or dates that the goods or services will be delivered; and

(5) A statement by the member explaining how the proposed sale or lease of the goods or services will not violate the provisions of Iowa Code section 68B.4B or create a conflict of interest under Iowa Code section 68B.2A.

6.9(3) *Guidelines for granting consent.* In determining whether to grant consent, the person responsible for hiring or approving the hiring of the member will take the following guidelines into consideration:

a. The duties and functions performed by the member are not related to the authority of the office of the governor over the lobbyist, individual, association, or corporation.

b. The selling or leasing of goods or services by the member to the lobbyist, individual, association, or corporation does not affect the member's duties or functions at the office of the governor.

c. The selling or leasing of any goods or services by the member to a lobbyist, individual, association, or corporation does not include lobbying the office of the governor.

d. The selling or leasing of any goods or services by the member does not cause the member to sell or lease goods or services to the office of the governor on behalf of the lobbyist, individual, association, or corporation.

e. The selling or leasing of the goods or services will not result in a conflict of interest as provided in Iowa Code section 68B.2A.

f. The request complies with the procedural requirements of subrule 6.9(2).

g. A blanket consent may be granted for sales or leases to classes of lobbyists, individuals, associations, or corporations when such blanket consent is consistent with subrule 6.9(3) and the granting of single consents is impractical or impossible to determine.

These guidelines will be publicized and made known to members of the office of the governor.

6.9(4) *Decision.* The person responsible for hiring or approving the hiring of the member will issue a written consent or denial within 14 calendar days following the date the request was filed. The deadline may be extended by agreement of both the member and the person. If the request is denied, the person will state the reasons for the denial.

6.9(5) *Appeal of denial.* A member who receives a denial may file a request with the board for a contested case proceeding pursuant to Iowa Code chapter 17A for a determination of whether the situation described in the request complies with the requirements of Iowa Code chapter 68B. The final order of the board constitutes final agency action for purposes of seeking judicial review.

6.9(6) *Copy of consent filed with board.* A copy of the consent granted to a member will be filed with the board within 20 days of the granting of consent. The board will treat the consent as a public record. The failure to provide a copy of the consent may result in the imposition of board sanctions against the person who granted the consent.

6.9(7) *Consent not a defense.* Consent granted under this rule will not constitute a defense to a complaint alleging a violation of any law or rule. It is the responsibility of the member of the office of the governor to ensure compliance with all applicable laws and rules.

This rule is intended to implement Iowa Code section 68B.4B.

DIVISION IV
EMPLOYMENT RESTRICTIONS

351—6.10(68B) Engaging in services against the interest of the state.

6.10(1) *Public officials and employees.* Except for a member of a board or commission, no official or employee will receive compensation in any form, or enter into any type of agreement to receive compensation in any form, to appear on behalf of any person or otherwise render services against the interest of the state except as set out in Iowa Code section 68B.6 and this rule. This prohibition relates to any case, proceeding, application, or other matter before any federal court, federal bureau, federal agency, federal commission, federal department, any agency of state government, or any court of the state of Iowa.

6.10(2) *Definitions.* For purposes of this rule, the following definitions apply:

"Board" means a policymaking body that has the power to hear contested cases or a policymaking body that has powers for both rulemaking and hearing contested cases.

"Commission" means a policymaking body that has rulemaking powers.

6.10(3) *Member of board or commission.* No member of a board or commission will receive compensation in any form, or enter into any type of agreement to receive compensation in any form, to appear on behalf of any person or otherwise render services against the interest of the state in relation to any case, proceeding, application, or other matter before the subunit of a state agency in which the member serves or is employed, or with which the member has substantial and regular contact as part of the member's state duties.

6.10(4) *Exception for attorney general and public defender.* Officials and employees carrying out the official duties of the office of the attorney general or the office of the state public defender are not subject to the provisions of Iowa Code section 68B.6 or this rule.

This rule is intended to implement Iowa Code section 68B.6.

DIVISION V
GIFTS AND OFFERS

351—6.11(68B) Prohibition on receipt of an honorarium.

6.11(1) *Definitions.* For purposes of this rule, the following definitions apply:

"Honorarium" means a payment of compensation or the giving of anything of value to an official or employee in relation to a speaking engagement.

"Restricted donor" means the same as defined in Iowa Code section 68B.2(24).

6.11(2) *Exceptions.* An official or employee may receive and accept an honorarium provided that the honorarium consists of:

a. Payment of actual expenses for registration, food, beverages, travel, or lodging paid in return for participation on a panel or for a speaking engagement at a meeting. The expenses will relate directly to the day or days on which the official or employee has participation or speaking responsibilities.

b. Receipt of a nonmonetary item or a series of nonmonetary items that the official or employee donates within 30 days of receipt to any of the following:

(1) A public body;

(2) A bona fide educational or charitable organization; or

(3) The department of administrative services. Items donated to the department of administrative services will be disposed of by assignment to state agencies for official use or by public sale.

c. Payment to an official or employee for services rendered as part of a bona fide private business, trade, or profession in which the official or employee is engaged so long as both of the following conditions are met:

(1) The payment is commensurate with the actual services rendered; and

(2) The payment is being made due to a special expertise or other qualification the recipient possesses separate from the recipient's status as a public official or public employee.

6.11(3) *Solicitation prohibited.* An official or employee will not solicit, demand, or otherwise request an honorarium from a restricted donor.

This rule is intended to implement Iowa Code sections 68B.23 and 68B.32A(13).

351—6.12(68B) Loans from executive branch lobbyists prohibited.

6.12(1) *Definitions.* For purposes of this rule, the following definitions apply:

"Executive branch lobbyist" means an individual who is registered as a lobbyist with the board or is an executive branch lobbyist as defined in rule 351—8.2(68B).

"Loan" means a sum of money upon agreement, express or implied, to be repaid with or without interest.

6.12(2) *Offer of loan prohibited.* An executive branch lobbyist will not directly or indirectly offer or make a loan to an official, an employee, or a candidate for statewide office.

6.12(3) *Exceptions.* The prohibitions in Iowa Code section 68B.24 and this rule do not apply to a loan made in either of the following circumstances:

a. A loan made in the ordinary course of business. "Ordinary course of business" means the loan is made by a person regularly engaged in a business that makes loans to members of the public, and the finance charges and other terms of the loan are the same as or substantially similar to the finance charges and loan terms that are available to members of the public.

b. A loan made to the campaign committee of a candidate for statewide office that is subject to the campaign laws in Iowa Code chapter 68A.

This rule is intended to implement Iowa Code sections 68B.24 and 68B.32A(13).