

4/10/95 Referred Back: Ethics

FILED MAR 20 1995

SENATE FILE **434**  
BY COMMITTEE ON ETHICS

(SUCCESSOR TO SSB 175)

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

**A BILL FOR**

1 An Act relating to state government ethics and lobbying, by  
2 changing the definitions of lobbyist and client, amending the  
3 ethics and campaign disclosure board complaint process,  
4 amending the two-year ban on activities by certain former  
5 state officers and employees, and making changes related to  
6 the filing of personal financial disclosure statements.  
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SENATE FILE 434

S-3191

1 Amend Senate File 434 as follows:  
2 1. Page 3, line 23, by striking the word and  
3 figure "or (3)".

By ROD HALVORSON

S-3191 FILED MARCH 22, 1995

S.F. 434

1 Section 1. Section 68B.2, subsection 6, Code 1995, is  
2 amended to read as follows:

3 6. "Client" means a private person or a state, federal, or  
4 local government entity that pays compensation to or  
5 designates an individual to be a lobbyist. However, "client"  
6 does not include every member of an organization, association,  
7 corporation, business, or other similar entity, but does  
8 include a member of such an entity's board or other governing  
9 body which sets the policies and procedures for the entity,  
10 and any person who has the authority to take action on behalf  
11 of or speak for the entity.

12 Sec. 2. Section 68B.2, Code 1995, is amended by adding the  
13 following new subsections:

14 NEW SUBSECTION. 8A. a. "Executive branch lobbyist" or  
15 "lobbyist of the executive branch of state government" means  
16 an individual who, directly receives compensation to contact  
17 or to make effort in support of contacting employees of a  
18 state agency or the office of the governor, any statewide  
19 elected official, on behalf of a client, with regard to the  
20 formulation, modification, adoption, administration, or  
21 execution of a state law, rule, an executive order, program,  
22 policy, or official position.

23 b. "Executive branch lobbyist" or "lobbyist of the  
24 executive branch of state government" does not mean:

25 (1) Officials and employees of a political party organized  
26 in the state of Iowa representing more than two percent of the  
27 total votes cast for governor in the last preceding general  
28 election, but only when representing the political party in an  
29 official capacity.

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

32 (3) All federal, state, and local elected officials,  
33 while performing the duties and responsibilities of office.

34 (4) Persons whose activities are limited to appearances to  
35 give testimony or provide information or assistance at public

1 hearings of state agencies or who are giving testimony or  
2 providing information or assistance at the request of public  
3 officials or employees.

4 (5) Members of the staff of the United States Congress or  
5 the Iowa general assembly.

6 (6) Agency officials and employees while they are engaged  
7 in activities within the agency in which they serve or are  
8 employed with another agency with which the official's or  
9 employee's agency is involved in a collaborative project.

10 (7) An individual who is a member, director, trustee,  
11 officer, or committee member of a business, trade, labor,  
12 farm, professional, religious, education, or charitable  
13 association, foundation, or organization who is not paid  
14 compensation.

15 (8) Persons whose activities are limited to submitting  
16 data, views, or arguments in writing, or requesting an  
17 opportunity to make an oral presentation under section 17A.4,  
18 subsection 1.

19 NEW SUBSECTION. 12A. a. "Legislative lobbyist" means an  
20 individual who meets either of the following criteria:

21 (1) The person is paid compensation for purposes of  
22 directly or indirectly encouraging the passage, defeat, or  
23 modification of legislation or a rule before the general  
24 assembly.

25 (2) The person is not paid compensation, but either the  
26 person is the designated representative of an organization  
27 which has as one of its purposes the encouragement of the  
28 passage, defeat, or modification of legislation or a rule by  
29 the general assembly, or the person makes expenditures of more  
30 than one thousand dollars in a calendar year to personally  
31 communicate with members of the general assembly, other than  
32 the person's own representative or senator, for purposes of  
33 encouraging the passage, defeat, or modification of  
34 legislation or a rule by the general assembly.

35 b. "Legislative lobbyist" does not mean:

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

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

8 (3) All federal, state, and local elected officials, while  
9 performing the duties and responsibilities of office.

10 (4) Persons whose activities are limited to appearances to  
11 give testimony or provide information or assistance at  
12 sessions of committees of the general assembly or who are  
13 giving testimony or providing information or assistance at the  
14 request of members of the general assembly or legislative  
15 employees.

16 (5) Members of the staff of the United States Congress or  
17 the Iowa general assembly.

18 (6) An individual who is a member, director, trustee,  
19 officer, or committee member of a business, trade, labor,  
20 farm, professional, religious, education, or charitable  
21 association, foundation, or organization who either is not  
22 paid compensation or is not specifically designated as  
23 provided in paragraph "a", subparagraph (2) or (3).

24 Sec. 3. Section 68B.2, subsection 13, Code 1995, is  
25 amended by striking the subsection and inserting in lieu  
26 thereof the following:

27 13. "Lobbyist" means an executive branch lobbyist or a  
28 legislative lobbyist.

29 Sec. 4. Section 68B.7, Code 1995, is amended to read as  
30 follows:

31 68B.7 OTHER ACTIVITIES -- TWO-YEAR BAN.

32 1. A person who has served as an official, state employee  
33 of a state agency, member of the general assembly, or  
34 legislative employee shall not within a period of two years  
35 after the termination of such service or employment appear do

1 either of the following:

2 a. Appear before the agency or-receive-compensation for  
3 any services rendered on behalf of any person, firm,  
4 corporation, or association in relation to any case,  
5 proceeding, or application with respect to which the person  
6 was directly concerned and personally participated during the  
7 period of service or employment.

8 b. Receive compensation for any services rendered on  
9 behalf of any person, firm, corporation, or association in  
10 relation to any case, proceeding, or application with respect  
11 to which the person was directly concerned and personally  
12 participated during the period of service or employment.

13 2. A person who has served as the head of or on a  
14 commission or board of a regulatory agency or as a deputy  
15 thereof, shall not, within a period of two years after the  
16 termination of such service accept do either of the following:

17 a. Accept employment with that commission, board, or  
18 agency or-receive.

19 b. Receive compensation for any services rendered on  
20 behalf of any person, firm, corporation, or association in any  
21 case, proceedings, or application before the department with  
22 which the person so served wherein the person's compensation  
23 is to be dependent or contingent upon any action by such  
24 agency with respect to any license, contract, certificate,  
25 ruling, decision, opinion, rate schedule, franchise, or other  
26 benefit, or-in-promoting-or-opposing, directly-or-indirectly,  
27 the-passage-of-bills-or-resolutions-before-either-house-of-the  
28 general-assembly.

29 Sec. 5. Section 68B.31, subsection 3, paragraph b, Code  
30 1995, is amended to read as follows:

31 b. Call meetings of the committee upon receipt of findings  
32 from the independent special counsel that there is probable  
33 cause to believe that a member of the general assembly or a  
34 legislative lobbyist has committed a violation of a provision  
35 of this chapter or of the rules relating to ethical conduct

1 that are adopted pursuant to this chapter.

2 Sec. 6. Section 68B.31, subsection 4, paragraphs b, c, and  
3 d, Code 1995, are amended to read as follows:

4 b. Prepare rules relating to legislative lobbyists and  
5 lobbying activities in the general assembly.

6 c. Issue advisory opinions interpreting the intent of  
7 constitutional and statutory provisions relating to  
8 legislators and legislative lobbyists as well as interpreting  
9 the code of ethics and rules issued pursuant to this section.  
10 Opinions shall be issued when approved by a majority of the  
11 six members and may be issued upon the written request of a  
12 member of the general assembly or upon the committee's  
13 initiation. Opinions are not binding on the legislator or  
14 legislative lobbyist.

15 d. Receive and hear complaints and charges against members  
16 of its house alleging a violation of the code of ethics, rules  
17 governing legislative lobbyists, this chapter, or other  
18 matters referred to it by its house or the independent special  
19 counsel. The committee shall recommend rules for the receipt  
20 and processing of findings of probable cause relating to  
21 ethical violations of members of the general assembly or  
22 legislative lobbyists during the legislative session and those  
23 received after the general assembly adjourns.

24 Sec. 7. Section 68B.31, subsections 5, 6, 8, 10, and 11,  
25 Code 1995, are amended to read as follows:

26 5. Any person may file a complaint with the ethics  
27 committee of either house alleging that a member of the  
28 general assembly or a legislative lobbyist ~~before-the-general~~  
29 ~~assembly~~ has committed a violation of this chapter. The  
30 ethics committee shall prescribe and provide forms for this  
31 purpose. The complaint shall include the name and address of  
32 the complainant and a statement of the facts believed to be  
33 true that form the basis of the complaint, including the  
34 sources of information and approximate dates of the acts  
35 alleged and a certification by the complainant under penalty

1 of perjury that the facts stated to be true are true to the  
2 best of the complainant's knowledge.

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

26 a. Facts, that if true, establish a violation of a  
27 provision of this chapter, the rules governing legislative  
28 lobbyists, or the code of ethics for which penalties or other  
29 remedies are provided.

30 b. That the conduct providing the basis for the complaint  
31 occurred within three years of the filing of the complaint.

32 c. That the party charged with a violation is a party  
33 subject to the jurisdiction of the ethics committee.

34 8. If a hearing on the complaint is ordered the ethics  
35 committee shall receive all admissible evidence, determine any

1 factual or legal issues presented during the hearing, and make  
2 findings of fact based upon evidence received. Hearings shall  
3 be conducted in the manner prescribed in section 17A.12. The  
4 rules of evidence applicable under section 17A.14 shall also  
5 apply in hearings before the ethics committee. Clear and  
6 convincing evidence shall be required to support a finding  
7 that the member of the general assembly or legislative  
8 lobbyist ~~before-the-general-assembly~~ has committed a violation  
9 of this chapter. Parties to a complaint may, subject to the  
10 approval of the ethics committee, negotiate for settlement of  
11 disputes that are before the ethics committee. Terms of any  
12 negotiated settlements shall be publicly recorded. If a  
13 complaint is filed or initiated less than ninety days before  
14 the election for a state office, for which the person named in  
15 the complaint is the incumbent officeholder, the ethics  
16 committee shall, if possible, set the hearing at the earliest  
17 available date so as to allow the issue to be resolved before  
18 the election. An extension of time for a hearing may be  
19 granted when both parties mutually agree on an alternate date  
20 for the hearing. The ethics committee shall make every effort  
21 to hear all ethics complaints within three months of the date  
22 that the complaints are filed. However, after three months  
23 from the date of the filing of the complaint, extensions of  
24 time for purposes of preparing for hearing may only be granted  
25 by the ethics committee when the party charged in the  
26 complaint with the ethics violation consents to an extension.  
27 If the party charged does not consent to an extension, the  
28 ethics committee shall not grant any extensions of time for  
29 preparation prior to hearing. All complaints alleging a  
30 violation of this chapter or the code of ethics shall be heard  
31 within nine months of the filing of the complaint. Final  
32 dispositions of violations, which the ethics committee has  
33 found to have been established by clear and convincing  
34 evidence, shall be made within thirty days of the conclusion  
35 of the hearing on the complaint.

1 10. The code of ethics and rules relating to legislative  
2 lobbyists and lobbying activities shall not become effective  
3 until approved by the members of the house to which the  
4 proposed code and rules apply. The code or rules may be  
5 amended either upon the recommendation of the ethics committee  
6 or by members of the general assembly.

7 11. Violation of a provision of this chapter or rules  
8 adopted relating to ethical conduct may result in censure,  
9 reprimand, or other sanctions as determined by a majority of  
10 the member's house. However, a member may be suspended or  
11 expelled and the member's salary forfeited only if directed by  
12 a two-thirds vote of the member's house. A suspension,  
13 expulsion, or forfeiture of salary shall be for the duration  
14 specified in the directing resolution. Violation of a rule  
15 relating to legislative lobbyists and lobbying activities may  
16 result in censure, reprimand, or other sanctions as determined  
17 by a majority of the members of the house in which the  
18 violation occurred. However, a legislative lobbyist may be  
19 suspended from lobbying activities for the duration provided  
20 in the directing resolution only if directed by a two-thirds  
21 vote of the house in which the violation occurred.

22 Sec. 8. Section 68B.32B, subsections 1, 2, 4, and 5, Code  
23 1995, are amended to read as follows:

24 1. Any person may file a complaint alleging that a  
25 candidate, committee, person holding a state office in the  
26 executive branch of state government, employee of the  
27 executive branch of state government, or other person has  
28 committed a violation of chapter 56 or rules adopted by the  
29 board. Any person may file a complaint alleging that a person  
30 holding a state office in the executive branch of state  
31 government, an employee of the executive branch of state  
32 government, or a an executive branch lobbyist or a client of a  
33 an executive branch lobbyist ~~of the executive branch of state~~  
34 ~~government~~ has committed a violation of this chapter or rules  
35 adopted by the board. The board shall prescribe and provide

1 forms for this purpose. A complaint must include the name and  
2 address of the complainant, a statement of the facts believed  
3 to be true that form the basis of the complaint, including the  
4 sources of information and approximate dates of the acts  
5 alleged, and a certification by the complainant under penalty  
6 of perjury that the facts stated to be true are true to the  
7 best of the complainant's knowledge.

8 2. The board staff shall review the complaint to determine  
9 if the complaint is sufficient as to form. If the complaint  
10 is deficient as to form, the complaint shall be returned to  
11 the complainant with a statement of the deficiency and an  
12 explanation describing how the deficiency may be cured. If  
13 the complaint is sufficient as to form, the complaint shall be  
14 referred to the chairperson of the board for legal review.

15 ~~4. Upon completion of legal review, the chairperson of the~~  
16 The board shall be advised review the complaint and determine  
17 ~~whether, in the opinion of the legal advisor, the complaint~~  
18 states an allegation which is legally sufficient. A legally  
19 sufficient allegation must allege all of the following:

20 a. Facts that would establish a violation of a provision  
21 of this chapter, chapter 56, or rules adopted by the board.

22 b. Facts that would establish that the conduct providing  
23 the basis for the complaint occurred within three years of the  
24 complaint.

25 c. Facts that would establish that the subject of the  
26 complaint is a party subject to the jurisdiction of the board.

27 ~~5. After receiving an evaluation of the legal sufficiency~~  
28 ~~of the complaint, the chairperson shall refer the complaint to~~  
29 ~~the board for a formal determination by the board of the legal~~  
30 ~~sufficiency of the allegations contained in the complaint.~~

31 Sec. 9. Section 68B.35, subsection 5, Code 1995, is  
32 amended to read as follows:

33 5. A candidate for statewide office shall file a financial  
34 statement with the ethics and campaign disclosure board, a  
35 candidate for the office of state representative shall file a

1 financial statement with the chief clerk of the house of  
2 representatives, and a candidate for the office of state  
3 senator shall file a financial statement with the secretary of  
4 the senate. Statements shall contain information concerning  
5 the year preceding the year in which the election is to be  
6 held. The statement shall be filed no later than thirty days  
7 after the date earliest of the following applicable dates:  
8     a. The date on which a person is required to file  
9     nomination papers for state office under section 43.117-or,  
10 if.  
11     b. The date on which the person is designated as a  
12 candidate under section 43.23 or 44.13.  
13     c. The date on which the person is designated as a write-  
14 in nominee under section 43.66.  
15     d. The date on which the person is designated by  
16 convention under section 43.78, 43.109, or 44.11.  
17     e. The date on which the person's name is certified under  
18 section 44.2.  
19     f. The date on which the person filed nomination papers by  
20 petition under section 45.1.  
21     g. If the person is a candidate in a special election, as  
22 soon as practicable after the certification of the name of the  
23 nominee under section 43.88, but the statement shall be  
24 postmarked no later than seven days after certification. A  
25 candidate for state office shall not be required to file the  
26 statement prior to the date specified for the filing of the  
27 statement by a respective incumbent official or member of the  
28 general assembly. The ethics and campaign disclosure board  
29 shall adopt rules pursuant to chapter 17A providing for the  
30 filing of the financial statements with the board and for the  
31 deposit, retention, and availability of the financial  
32 statements. The ethics committees of the house of  
33 representatives and the senate shall recommend rules for  
34 adoption by the respective houses providing for the filing of  
35 the financial statements with the chief clerk of the house or

1 the secretary of the senate and for the deposit, retention,  
2 and availability of the financial statements. Rules adopted  
3 shall also include a procedure for notification of candidates  
4 of the duty to file disclosure statements under this section.

5 Sec. 10. Section 68B.36, subsections 1 and 2, Code 1995,  
6 are amended to read as follows:

7 1. All lobbyists shall, on or before the day their  
8 lobbying activity begins, register by filing a lobbyist's  
9 registration statement at times and in the manner provided in  
10 this section. ~~Bobbyists-engaged-in-lobbying-activities-before~~  
11 ~~the-general-assembly~~ Legislative lobbyists shall file the  
12 statement with the chief clerk of the house of representatives  
13 or the secretary of the senate. ~~Bobbyists-engaged-in-lobbying~~  
14 ~~activities-before-the-office-of-the-governor-or-any-state~~  
15 ~~agency~~ Executive branch lobbyists shall file the statement  
16 with the board. The chief clerk of the house and the  
17 secretary of the senate shall provide appropriate registration  
18 forms to legislative lobbyists ~~before-the-general-assembly~~.  
19 The board shall prescribe appropriate registration forms for  
20 executive branch lobbyists ~~before-the-office-of-the-governor~~  
21 ~~and-state-agencies~~.

22 2. Registration shall be valid from the date of  
23 registration until the expiration of the registration period  
24 for the type of lobbying in which the person will be engaging.  
25 Any change in or addition to the information shall be  
26 registered within ten days after the change or addition is  
27 known to the lobbyist. Changes or additions for executive  
28 branch lobbyists shall be filed with the board. Changes or  
29 additions for registrations of legislative lobbyists ~~of-the~~  
30 ~~general-assembly~~ shall be filed with either the chief clerk of  
31 the house or the secretary of the senate.

32 Sec. 11. Section 68B.37, Code 1995, is amended to read as  
33 follows:

34 68B.37 LOBBYIST REPORTING.

35 1. A legislative lobbyist ~~before-the-general-assembly~~

1 shall file with the general assembly, on forms prescribed by  
2 each house of the general assembly, a report disclosing all of  
3 the following:

4 a. The lobbyist's clients.

5 b. Contributions made to candidates for state office by  
6 the lobbyist during calendar months during the reporting  
7 period when the general assembly is not in session.

8 c. The recipient of the campaign contributions.

9 d. Expenditures made by the lobbyist for the purposes of  
10 providing the services enumerated under section 68B.2,  
11 subsection ~~13~~ 12A, paragraph "a".

12 For purposes of this subsection, "expenditures" does not  
13 include expenditures made by any organization for publishing a  
14 newsletter or other informational release for its members.

15 2. A An executive branch lobbyist before-a-state-agency-or  
16 the-office-of-the-governor shall file with the board, on forms  
17 prescribed by the board, a report disclosing the same items  
18 described in subsection 1, which were made or given for  
19 purposes of providing the services enumerated under section  
20 68B.2, subsection 8A, paragraph "a".

21 3. The reports by legislative lobbyists ~~before-the-general~~  
22 ~~assembly~~ shall be filed not later than twenty-five days  
23 following any month in which the general assembly is in  
24 session and thereafter on or before July 31, October 31, and  
25 January 31. The reports filed by a legislative lobbyist  
26 ~~before-the-general-assembly~~ shall contain information for the  
27 preceding calendar month or quarter or parts thereof during  
28 which the person was engaged in lobbying. Reports filed by  
29 lobbyists before a state agency shall be filed on or before  
30 April 30, July 31, October 31, and January 31, for the  
31 preceding calendar quarter or parts thereof during which the  
32 person was engaged in lobbying.

33 If a person cancels the person's lobbyist registration at  
34 any time during the calendar year, the reports required by  
35 this section are due on the dates required by this section or

1 fifteen days after cancellation, whichever is earlier. The  
2 report due January 31 shall include all reportable items for  
3 the preceding calendar year in addition to containing the  
4 quarterly reportable items. A lobbyist who cancels the  
5 person's lobbyist registration before January 1 of a year  
6 shall file a report listing all reportable items for the year  
7 in which the cancellation was filed. A lobbyist who cancels  
8 the person's lobbyist registration between January 1 and  
9 January 15 of a year shall file a report listing all  
10 reportable items for the preceding year and so much of the  
11 month of January as has expired at the time of cancellation.  
12 However, if a lobbyist is a person who is designated to  
13 represent the interest of an organization as defined in  
14 section 68B.2, subsection ~~13~~ 12A, paragraph "a", subparagraph  
15 (2), but is not paid compensation for that representation and  
16 does not expend more than one thousand dollars as provided in  
17 section 68B.2, subsection ~~13~~ 12A, paragraph "a", subparagraph  
18 ~~(4)~~ (2), the lobbyist shall only be required to file the  
19 report specified in this section once annually, which shall be  
20 performed at the time of filing the person's lobbyist  
21 registration form or forms.

22 EXPLANATION

23 This bill makes changes to the definition of the term  
24 "client" by modifying the language to clarify that the term  
25 does not include every member of an organization, association,  
26 corporation, business, or other similar entity. The changes  
27 provide that the term does include a member of such an  
28 entity's board or other policymaking or governing body and any  
29 person who is the spokesperson for or person designated to act  
30 on behalf of the entity.

31 This bill strikes the definition of the term "lobbyist" and  
32 rewrites the definition to refer to two new definitions:  
33 "executive branch lobbyist"; and "legislative branch  
34 lobbyist". The definition of "executive branch lobbyist"  
35 applies only to persons who receive compensation for

1 activities which include both direct contact and efforts on  
2 behalf of a client in support of contacting state agency  
3 employees, the governor's office, or the office of any  
4 statewide elected official with regard to the formulation,  
5 modification, adoption, administration, or execution of a  
6 state law, a rule, an executive order, program, policy, or  
7 official position.

8 The definition of "legislative lobbyist" refers to  
9 individuals who either are paid compensation for purposes of  
10 directly or indirectly encouraging the passage, defeat, or  
11 modification of legislation or a rule by the general assembly  
12 and individuals who are not paid but who either represent  
13 organizations which lobby the legislature on legislation or  
14 rules or make expenditures of over \$1,000 to personally lobby  
15 the legislature on legislation or rules.

16 Section 68B.7, which prohibits former state officials,  
17 employees, legislators, and legislative employees from  
18 appearances or receiving compensation for services from others  
19 on matters with which those persons were directly or  
20 personally involved and which prohibits board or commission  
21 members, or regulatory agency heads and deputies, from  
22 accepting employment with or receiving compensation for  
23 services from others for appearances in front of that agency  
24 after termination of employment, is rewritten and the  
25 language, which is contained in that section that prohibits  
26 board and commission members and regulatory agency heads from  
27 lobbying the general assembly after termination of service, is  
28 stricken. A postemployment lobbying activities prohibition  
29 which would apply to the same persons is contained in section  
30 68B.5A.

31 The board complaint process, which is contained in section  
32 68B.32B, is amended to delete a preliminary staff review of  
33 complaints for legal sufficiency. Legal sufficiency will,  
34 instead, be determined by the board under the changes.

35 The deadlines for the filing of personal financial

1 disclosure statements by candidates are amended to reference  
2 additional methods by which and dates on which a person may  
3 become a candidate. The changes are qualified to provide,  
4 however, that no candidate is required to file before the date  
5 specified for the filing of the statement by an incumbent for  
6 the same office.

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SSB 175

Ethics

Succeeded By  
SF/HE 434  
SENATE FILE

BY (PROPOSED COMMITTEE ON  
ETHICS BILL BY CHAIR-  
PERSON HUSAK)

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

A BILL FOR

1 An Act relating to state government ethics and lobbying, by  
2 changing the definition of lobbyist, amending the ethics and  
3 campaign disclosure board complaint process, amending the two-  
4 year ban on activities by certain former state officers and  
5 employees, revising personal financial disclosure statement  
6 requirements, and making other changes related to the filing  
7 of personal financial disclosure statements.

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

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1 Section 1. Section 68B.2, subsection 13, paragraph a, Code  
2 1995, is amended by striking the paragraph and inserting the  
3 following:

4 a. "Lobbyist" means an individual who, directly or  
5 indirectly, receives compensation to contact or to make  
6 efforts in support of contacting a member of the general  
7 assembly, employees of a state agency or the office of the  
8 governor, or any statewide elected official, on behalf of a  
9 client, with regard to the formulation, modification,  
10 adoption, administration, or execution of legislation, a rule,  
11 an executive order, program, policy, or official position.

12 Sec. 2. Section 68B.7, Code 1995, is amended to read as  
13 follows:

14 68B.7 OTHER ACTIVITIES -- TWO-YEAR BAN.

15 1. A person who has served as an official, state employee  
16 of a state agency, member of the general assembly, or  
17 legislative employee shall not within a period of two years  
18 after the termination of such service or employment appear do  
19 either of the following:

20 a. Appear before the agency ~~or receive compensation~~ for  
21 any services rendered on behalf of any person, firm,  
22 corporation, or association in relation to any case,  
23 proceeding, or application with respect to which the person  
24 was directly concerned and personally participated during the  
25 period of service or employment.

26 b. Receive compensation for any services rendered on  
27 behalf of any person, firm, corporation, or association in  
28 relation to any case, proceeding, or application with respect  
29 to which the person was directly concerned and personally  
30 participated during the period of service or employment.

31 2. A person who has served as the head of or on a  
32 commission or board of a regulatory agency or as a deputy  
33 thereof, shall not, within a period of two years after the  
34 termination of such service accept do either of the following:

35 a. Accept employment with that commission, board, or

1 agency ~~or-receive.~~

2     b. Receive compensation for any services rendered on  
 3 behalf of any person, firm, corporation, or association in any  
 4 case, proceedings, or application before the department with  
 5 which the person so served wherein the person's compensation  
 6 is to be dependent or contingent upon any action by such  
 7 agency with respect to any license, contract, certificate,  
 8 ruling, decision, opinion, rate schedule, franchise, or other  
 9 benefit, ~~or-in-promoting-or-opposing, directly-or-indirectly,~~  
 10 ~~the-passage-of-bills-or-resolutions-before-either-house-of-the~~  
 11 ~~general-assembly.~~

12     Sec. 3. Section 68B.32B, subsections 2, 4, and 5, Code  
 13 1995, are amended to read as follows:

14     2. The board staff shall review the complaint to determine  
 15 if the complaint is sufficient as to form. If the complaint  
 16 is deficient as to form, the complaint shall be returned to  
 17 the complainant with a statement of the deficiency and an  
 18 explanation describing how the deficiency may be cured. If  
 19 the complaint is sufficient as to form, the complaint shall be  
 20 referred to the chairperson of the board for legal review.

21     4. ~~Upon-completion-of-legal-review, the-chairperson-of-the~~  
 22 The board shall be advised review the complaint and determine  
 23 ~~whether, in-the-opinion-of-the-legal-advisor,~~ the complaint  
 24 states an allegation which is legally sufficient. A legally  
 25 sufficient allegation must allege all of the following:

26     a. Facts that would establish a violation of a provision  
 27 of this chapter, chapter 56, or rules adopted by the board.

28     b. Facts that would establish that the conduct providing  
 29 the basis for the complaint occurred within three years of the  
 30 complaint.

31     c. Facts that would establish that the subject of the  
 32 complaint is a party subject to the jurisdiction of the board.

33     5. ~~After-receiving-an-evaluation-of-the-legal-sufficiency~~  
 34 ~~of-the-complaint, the-chairperson-shall-refer-the-complaint-to~~  
 35 ~~the-board-for-a-formal-determination-by-the-board-of-the-legal~~

1 ~~sufficiency-of-the-allegations-contained-in-the-complaint-~~

2 Sec. 4. Section 68B.35, subsection 1, Code 1995, is  
3 amended to read as follows:

4 1. ~~The-persons-specified-in-subsection-2~~ Statewide elected  
5 officials and candidates for statewide office shall file a an  
6 annual financial statement at times and in the manner provided  
7 in this section that contains all of the following:

8 a. A list of each business, occupation, or profession in  
9 which the person is engaged and the nature of that business,  
10 occupation, or profession, unless already apparent.

11 b. A list of any other sources of income ~~if-the-source~~  
12 ~~produces-more-than-one-thousand-dollars-annually-in-gross~~  
13 ~~income~~. Such sources of income listed pursuant to this  
14 paragraph may be listed under any of the following categories,  
15 or under any other categories as may be established by rule:

16 (1) Securities.

17 (2) Instruments of financial institutions.

18 (3) Trusts.

19 (4) Real estate.

20 (5) Retirement systems.

21 (6) Other income categories specified in state and federal  
22 income tax regulations.

23 c. Under the categories identified under paragraph "b", an  
24 itemization of the specific sources of income, including the  
25 name, address, and description of the source. In lieu of the  
26 separate itemization of the sources of income under this  
27 paragraph, the person may attach a copy of the person's  
28 federal and state tax returns for the year covered by the  
29 statement.

30 Sec. 5. Section 68B.35, subsection 2, Code 1995, is  
31 amended by striking the subsection and inserting the  
32 following:

33 2. a. A person who is an executive or administrative head  
34 of any agency of state government, a deputy executive or  
35 administrative head or heads of an agency of state government,

1 a member of the ethics and campaign disclosure board, or a  
2 head of a major subunit of a department or independent state  
3 agency whose position involves a substantial exercise of  
4 administrative discretion or the expenditure of public funds  
5 as defined under rules adopted by the board, pursuant to  
6 chapter 17A, in consultation with the department or agency,  
7 shall file a financial statement at times and in the manner  
8 provided in this section that contains all the information  
9 required in subsection 1, paragraphs "a" and "b", as well as  
10 an itemization as required in subsection 1, paragraph "c".

11 b. Members of the banking board, the credit union review  
12 board, the economic development board, the employment appeal  
13 board, the environmental protection commission, the health  
14 facilities council, the Iowa business investment corporation  
15 board of directors, the Iowa finance authority, the Iowa  
16 product development corporation, the Iowa public employees'  
17 retirement system investment board, the lottery board, the  
18 natural resource commission, the board of parole, the  
19 petroleum underground storage tank fund board, the public  
20 employment relations board, the state racing and gaming  
21 commission, the state board of regents, the tax review board,  
22 the transportation commission, the office of consumer  
23 advocate, the utilities board, and any full-time members of  
24 other boards and commissions as defined under section 7E.4 who  
25 receive an annual salary for their service on the board or  
26 commission, shall file a financial statement at times and in  
27 the manner provided in this section that contains all the  
28 information required in subsection 1, paragraphs "a" and "b",  
29 except that sources of income reported under subsection 1,  
30 paragraph "b", shall not be reported unless the source  
31 produces more than one thousand dollars in gross income  
32 annually.

33 c. Members of the general assembly, candidates for the  
34 general assembly, and legislative employees who are the head  
35 or deputy head of a legislative agency or whose position

1 involves a substantial exercise of administrative discretion  
2 or the expenditure of public funds shall file a financial  
3 statement at times and in the manner provided in this section  
4 that contains all the information required in subsection 1,  
5 paragraphs "a" and "b", except that sources of income reported  
6 under subsection 1, paragraph "b", shall not be reported  
7 unless the source produces more than one thousand dollars in  
8 gross income annually.

9 Sec. 6. Section 68B.35, subsection 5, Code 1995, is  
10 amended to read as follows:

11 5. A candidate for statewide office shall file a financial  
12 statement with the ethics and campaign disclosure board, a  
13 candidate for the office of state representative shall file a  
14 financial statement with the chief clerk of the house of  
15 representatives, and a candidate for the office of state  
16 senator shall file a financial statement with the secretary of  
17 the senate. Statements shall contain information concerning  
18 the year preceding the year in which the election is to be  
19 held. The statement shall be filed no later than thirty days  
20 after the date earliest of the following applicable dates:

21 a. The date on which a person is required to file  
22 nomination papers for state office under section 43.117-017  
23 if.

24 b. The date on which the person is designated as a  
25 candidate under section 43.23 or 44.13.

26 c. The date on which the person is designated as a write-  
27 in nominee under section 43.66.

28 d. The date on which the person is designated by  
29 convention under section 43.78, 43.109, or 44.11.

30 e. The date on which the person's name is certified under  
31 section 44.2.

32 f. The date on which the person filed nomination papers by  
33 petition under section 45.1.

34 g. If the person is a candidate in a special election, as  
35 soon as practicable after the certification of the name of the

1 nominee under section 43.88, but the statement shall be  
2 postmarked no later than seven days after certification. A  
3 candidate for state office shall not be required to file the  
4 statement prior to the date specified for the filing of the  
5 statement by a respective incumbent official or member of the  
6 general assembly. The ethics and campaign disclosure board  
7 shall adopt rules pursuant to chapter 17A providing for the  
8 filing of the financial statements with the board and for the  
9 deposit, retention, and availability of the financial  
10 statements. The ethics committees of the house of  
11 representatives and the senate shall recommend rules for  
12 adoption by the respective houses providing for the filing of  
13 the financial statements with the chief clerk of the house or  
14 the secretary of the senate and for the deposit, retention,  
15 and availability of the financial statements. Rules adopted  
16 shall also include a procedure for notification of candidates  
17 of the duty to file disclosure statements under this section.

## EXPLANATION

19 This bill partially strikes the definition of the term  
20 "lobbyist" and rewrites the definition to apply only to  
21 persons who receive compensation for their activities. The  
22 activities which are covered include more than the direct  
23 encouragement of the passage, defeat, approval, veto, or  
24 modification of legislation, a rule, or an executive order by  
25 the members of the general assembly, a state agency, or any  
26 statewide elected official. Activities covered include both  
27 direct contact and efforts on behalf of a client in support of  
28 contacting a legislator, state agency employees, the  
29 governor's office, or the office of any statewide elected  
30 official with regard to the formulation, modification,  
31 adoption, administration, or execution of legislation, a rule,  
32 an executive order, program, policy or official position.

33 Section 68B.7, which prohibits former state officials,  
34 employees, legislators, and legislative employees from  
35 appearances or receiving compensation for services from others

1 on matters with which those persons were directly or  
2 personally involved and which prohibits board or commission  
3 members, or regulatory agency heads and deputies, from  
4 accepting employment with or receiving compensation for  
5 services from others for appearances in front of that agency  
6 after termination of employment, is rewritten and the  
7 language, which is contained in that section that prohibits  
8 board and commission members and regulatory agency heads from  
9 lobbying the general assembly after termination of service, is  
10 stricken. A postemployment lobbying activities prohibition  
11 which would apply to the same persons is contained in section  
12 68B.5A.

13 The board complaint process, which is contained in section  
14 68B.32B, is amended to delete a preliminary staff review of  
15 complaints for legal sufficiency. Legal sufficiency will,  
16 instead, be determined by the board under the changes.

17 Personal financial disclosure requirements, found in  
18 section 68B.35, are changed to delete the annual \$1,000  
19 threshold and to require, for statewide elected officials and  
20 statewide candidates, executive branch agency heads, deputy  
21 executive branch agency heads, the ethics and campaign  
22 disclosure board, and persons within executive branch agencies  
23 who exercise substantial administrative discretion to file an  
24 itemization of the specific sources of income, including the  
25 name, address, and description of the source. A tax return  
26 may be filed in lieu of the itemization. Legislators,  
27 legislative employees, and certain enumerated board and  
28 commission members and agencies, who do have to file the  
29 personal financial disclosure statements, do not have to file  
30 the itemization or their tax returns and still are subject to  
31 the \$1,000 threshold for the reporting of sources of income.

32 The deadlines for the filing of personal financial  
33 disclosure statements by candidates are amended to reference  
34 additional methods by which and dates on which a person may  
35 become a candidate. The changes are qualified to provide,

1 however, that no candidate is required to file before the date  
2 specified for the filing of the statement by an incumbent for  
3 the same office.

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