

CHAPTER 1228
GOVERNMENT ETHICS
H.F. 2466

AN ACT relating to government ethics, the use and receipt of certain campaign contributions by government officials and candidates for government office and providing for effective dates, an applicability provision, and transition provisions.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I

Section 1. Section 68B.2, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

68B.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Agency" means a department, division, board, commission, bureau, or office of the executive or legislative branch of state government, the office of attorney general, the state board of regents, community colleges, and the office of the governor, including a regulatory agency, or any political subdivision of the state.
2. "Candidate" means a candidate under chapter 56.
3. "Candidate's committee" means the committee designated by the candidate, as provided under chapter 56, to receive contributions, expend funds, or incur indebtedness on behalf of the candidate in the aggregate as follows:
 - a. For a state, or county office, in excess of two hundred fifty dollars in any calendar year.
 - b. For a city or school office, in excess of five hundred dollars in any calendar year.
4. "Compensation" means any money, thing of value, or financial benefit conferred in return for services rendered or to be rendered.
5. "Contribution" means a gift, loan, advance, deposit, rebate, refund, transfer of money, an in-kind transfer, or the payment of compensation for the personal services of another person.
 - a. "Gift" means a rendering of anything of value in return for which legal consideration of equal or greater value is not given and received, if the donor is in any of the following categories:
 - (1) Is or is seeking to be a party to any one or any combination of sales, purchases, leases, or contracts to, from, or with the agency in which the donee holds office or is employed.
 - (2) Is engaged in activities which are regulated or controlled by a regulatory agency in which the donee holds an office or is employed.
 - (3) Will be directly and substantially affected financially by the performance or nonperformance of the donee's official duty in a way that is greater than the effect on the public generally or on a substantial class of persons to which the person belongs as a member of a profession, occupation, industry, or region.
 - (4) Is a lobbyist with respect to matters within the donee's jurisdiction.
 - b. However, "gift" does not mean any of the following:
 - (1) Contributions to a candidate or a candidate's committee.
 - (2) Informational material relevant to a public servant's official functions, such as books, pamphlets, reports, documents, or periodicals.
 - (3) Anything received from a person related within the fourth degree by kinship or marriage, unless the donor is acting as an agent or intermediary for another person not so related.
 - (4) An inheritance.
 - (5) Anything available or distributed to the public generally without regard to the official status of the recipient.
 - (6) Actual expenses of a donee for food, beverages, travel, and lodging for a meeting, which is given in return for participation in a panel or speaking engagement at the meeting when the expenses relate directly to the day or days on which the donee has participation or presentation responsibilities.

(7) Plaques or items of negligible resale value given as recognition for public services.

(8) Items of food and drink with a value of less than three dollars that are received from any one donor during one calendar day.

(9) Items or services solicited or given to a state, national, or regional organization in which the state of Iowa or a political subdivision of the state of Iowa is a member.

(10) Items or services received as part of a regularly scheduled event that is part of a conference, seminar, or other meeting that is sponsored and directed by any state, national, or regional organization in which the state of Iowa or a political subdivision of the state of Iowa is a member.

c. For purposes of determining the value of an item given or received, an individual who gives an item on behalf of more than one person shall not divide the value of the item by the number of persons on whose behalf the item is given and the value of an item received shall be the value actually received by the donee.

7. a. "Honorarium" means anything of value that is accepted by, or on behalf of, a public official or public employee as consideration for an appearance, speech, or article if the person giving the thing of value is in any of the following categories:

(1) Is or is seeking to be a party to any one or any combination of sales, purchases, leases, or contracts to, from, or with the agency in which the public official or public employee serves or is employed.

(2) Is engaged in activities which are regulated or controlled by a regulatory agency in which the public official holds an office or the public employee is employed.

(3) Will be directly and substantially affected financially by the performance or nonperformance of the donee's official duty in a way that is greater than the effect on the public generally or on a substantial class of persons to which the person belongs as a member of a profession, occupation, industry, or region.

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

b. "Honorarium" does not include any of the following:

(1) Actual expenses of a donee for food, beverages, travel, and lodging paid as provided under subsection 6, paragraph "b", subparagraph (6).

(2) A nonmonetary gift or series of nonmonetary gifts donated within thirty days to a public body, a bona fide educational or charitable organization, or the department of general services as provided in section 68B.7B, subsection 3.

(3) A payment made to a public official or public employee for services rendered as part of a bona fide private business, trade, or profession in which the public official or public employee is engaged if the payment is commensurate with the actual services rendered and is not being made because of the person's status as a public official or public employee, but, rather, because of some special expertise or other qualification.

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

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

10. a. "Lobbyist" means a person who does any of the following:

(1) Is paid compensation for encouraging the passage, defeat, or modification of legislation or regulation, or for influencing the decision of the members of the general assembly, a state agency, or any statewide elected official.

(2) Represents on a regular basis an organization which has as one of its purposes the encouragement of the passage, defeat, or modification of legislation or regulation, or the influencing of a decision of the members of the general assembly, a state agency, or any statewide elected official.

(3) Is a federal, state, or local government official or employee who represents the official position of the official or employee's agency and who encourages the passage, defeat, or modification of legislation or regulation, or the influencing of a decision of the members of the general assembly, a state agency, or the office of the governor.

b. "Lobbyist" does not mean:

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

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

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

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

(5) A person who appears or communicates as a lawyer licensed to practice law in this state representing a client before any agency or in a contested case proceeding under chapter 17A.

(6) Members of legislative staff.

(7) Agency officials and employees who influence the decisions of the agency in which they serve or are employed.

11. "Local employee" means a person employed by a political subdivision of this state.

12. "Local official" means an officeholder of a political subdivision of this state.

13. "Member of the general assembly" means an individual duly elected to the senate or the house of representatives of the state of Iowa.

14. "Official" means an officer of the state of Iowa receiving a salary or per diem whether elected or appointed or whether serving full-time or part-time but does not include officers or employees of political subdivisions of the state. "Official" includes but is not limited to supervisory personnel, members and employees of the governor's office, members of other statewide elected offices, and members of state agencies and does not include members of the general assembly, legislative employees, or officers or employees of the judicial branch of government who are not members or employees of the office of attorney general.

15. "Person" means, without limitation, any individual, corporation, business trust, estate, trust, partnership or association, labor union, or any other legal entity.

16. "Public disclosure" means a written report filed by a person as required by this chapter or required by rules adopted and issued pursuant to this chapter.

17. "Public employee" means state employees, legislative employees, and local employees.

18. "Public office" means any state, county, city, or school office or any other office of a political subdivision of the state that is filled by election.

19. "Public official" means officials, local officials, and members of the general assembly.

20. "Regulatory agency" means the department of agriculture and land stewardship, department of employment services, department of commerce, Iowa department of public health, department of public safety, department of education, state board of regents, department of human services, department of revenue and finance, department of inspections and appeals, department of personnel, public employment relations board, state department of transportation, civil rights commission, department of public defense, and department of natural resources.

21. "State employee" means a paid employee of the state of Iowa and does not include an independent contractor, an employee of the judicial department, a legislative employee, or an employee of a political subdivision of the state. "State employee" includes but is not limited to all clerical personnel.

Sec. 2. Section 68B.3, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

68B.3 WHEN PUBLIC BIDS REQUIRED – DISCLOSURE OF INCOME FROM OTHER SALES.

1. An official, state employee, member of the general assembly, or legislative employee shall not sell, in any one occurrence, any goods or services having a value in excess of five hundred dollars to any state agency unless the sale is made pursuant to an award or contract let after public notice and competitive bidding. This subsection shall not apply to the publication of

resolutions, advertisements, or other legal propositions or notices in newspapers designated pursuant to law for the publication of legal propositions or notices and for which rates are fixed pursuant to law.

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

2. An official or member of the general assembly who sells goods or services to a political subdivision of the state shall disclose whether income has been received from commissions from the sales in the manner provided under section 68B.10D.

Sec. 3. NEW SECTION. 68B.4A SALES BY LEGISLATIVE EMPLOYEES.

A permanent legislative employee shall not sell, either directly or indirectly, any goods or services to individuals, associations, or corporations which employ persons who are registered lobbyists before the general assembly, except when the legislative employee has met all of the following conditions:

1. The consent of the person or persons responsible for hiring or approving the hiring of the legislative employee is obtained.

2. The duties and functions performed by the legislative employee for the general assembly are not related to the legislative authority of the general assembly over the individual, association, or corporation, or the selling of goods or services by the legislative employee to the individuals, associations, or corporations does not affect the employee's duties or functions at the general assembly.

3. The selling of any goods or services by the legislative employee to an individual, association, or corporation does not include lobbying of the general assembly.

4. The selling of any goods or services by the legislative employee does not cause the official or employee to sell goods or services to the general assembly on behalf of the individual, association, or corporation.

Sec. 4. NEW SECTION. 68B.4B SALES BY MEMBERS OF THE OFFICE OF THE GOVERNOR.

A permanent full-time member of the office of the governor shall not sell, either directly or indirectly, any goods or services to individuals, associations, or corporations which employ persons who are registered lobbyists before the general assembly, except when the member of the office of the governor has met all of the following conditions:

1. The consent of the person or persons responsible for hiring or approving the hiring of the member of the office of the governor is obtained.

2. The duties and functions performed by the member for the office of the governor are not related to the authority of the office of the governor over the individual, association, or corporation, or the selling of goods or services by the member of the office of the governor to the individuals, associations, or corporations does not affect the member's duties or functions at the office of the governor.

3. The selling of any goods or services by the member of the office of the governor to an individual, association, or corporation does not include lobbying of the office of the governor.

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

Sec. 5. Section 68B.5, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

68B.5 TWO-YEAR BAN ON LOBBYING ACTIVITIES AFTER SERVICE.

1. A person who has served as an official, state employee, member of the general assembly, or legislative employee shall not within two years after the termination of service or employment become a lobbyist.

2. This section shall not apply to a person who is a former official, state employee, member of the general assembly, or legislative employee who, within two years of leaving service or

employment with the state, is elected to another office of the state or to an office of a political subdivision of the state and appears or communicates on behalf of that office.

Sec. 6. Section 68B.6, Code 1991, is amended to read as follows:

68B.6 SERVICES AGAINST STATE PROHIBITED.

No official, state employee, or legislative employee shall receive, directly or indirectly, or enter into any agreement, express or implied, for any compensation, in whatever form, for the appearance or rendition of services by that person or another against the interest of the state in relation to any case, proceeding, application, or other matter before any state agency, any court of the state of Iowa, any federal court, or any federal bureau, agency, commission or department.

Sec. 7. Section 68B.7, unnumbered paragraph 1, Code 1991, is amended to read as follows:

~~No A person who has served as an official, or state employee of a state agency, member of the general assembly, or legislative employee shall not within a period of two years after the termination of such service or employment appear before such state the agency or receive compensation for any services rendered on behalf of any person, firm, corporation, or association in relation to any case, proceeding, or application with respect to which such the person was directly concerned and personally participated during the period of service or employment.~~

DIVISION II

Sec. 8. NEW SECTION. 68B.7A LEGISLATIVE INTENT.

It is the goal of the general assembly that public officials and public employees of the state be extremely cautious and circumspect about accepting a gratuity or favor, especially from persons that have a substantial interest in the legislative, administrative, or political actions of the official or employee. Even where there is a genuine personal friendship, the acceptance of personal benefits from those who could gain advantage by influencing official actions raises suspicions that tend to undermine the public trust. It is therefore the intent of the general assembly that the provisions of this division be construed to discourage all gratuities, but to prohibit only those that create unacceptable conflicts of interest or appearances of impropriety.

Sec. 9. NEW SECTION. 68B.7B GIFTS ACCEPTED OR RECEIVED.

1. Except as otherwise provided in this section, a public official, public employee, or candidate, or that person's immediate family member shall not, directly or indirectly, accept or receive any gift or series of gifts.

2. Except as otherwise provided in this section, a person shall not, directly or indirectly, offer or make a gift or a series of gifts to a public official, public employee, or candidate. Except as otherwise provided in this section, a person shall not, directly or indirectly, join with one or more other persons to offer or make a gift or a series of gifts to a public official, public employee, or candidate.

3. A person may give, and a public official, public employee, or candidate, or the person's immediate family member, may accept a nonmonetary gift or a series of nonmonetary gifts and not be in violation of this section if the nonmonetary gift or series of nonmonetary gifts is donated within thirty days to a public body, the department of general services, or a bona fide educational or charitable organization, if no part of the net earnings of the educational or charitable organization inures to the benefit of any private stockholder or other individual. All such items donated to the department of general services shall be disposed of by assignment to state agencies for official use or by public sale.

4. Gifts of food, beverages, travel, and lodging which would otherwise be prohibited may be received by a public official or public employee if all of the following apply:

a. The public official or public employee is officially representing an agency in a delegation whose sole purpose is to attract a specific new business to locate in the state or encourage expansion or retention of an existing business already established in the state.

b. The donor of the gifts is not the business being contacted.

c. The public official or public employee makes a planned presentation to the business on behalf of the public official's or public employee's agency.

5. A public official, public employee, candidate, or the person's immediate family member shall not solicit any gift or series of gifts at any time.

6. A person shall not request, and a member of the general assembly shall not agree, that a member of the general assembly sell tickets for a community related social event that is to be held for members of the general assembly in Polk county during the legislative session. This section shall not apply to Polk county or city of Des Moines events that are open to the public generally or are held only for Polk county or city of Des Moines legislators.

Sec. 10. NEW SECTION. 68B.7C HONORARIA — BANNED.

A public official or public employee shall not seek or accept an honorarium as defined in section 68B.2, subsection 7.

Sec. 11. NEW SECTION. 68B.7D LOANS — RECEIPT FROM LOBBYISTS PROHIBITED.

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

A lobbyist shall not, directly or indirectly, offer or make a loan or series of loans to an official, member of the general assembly, state employee, or candidate for state office. A lobbyist shall also not, directly or indirectly, join with one or more persons to offer or make a loan or series of loans to an official, member of the general assembly, state employee, or candidate for state office.

Sec. 12. Section 68B.8, Code 1991, is amended to read as follows:
68B.8 ADDITIONAL PENALTY.

In addition to any penalty contained in any other provision of law, a person who knowingly and intentionally violates a provision of ~~section 68B.3 to 68B.6~~ sections 68B.3 through 68B.7D is guilty of a serious misdemeanor and may be reprimanded, suspended, or dismissed from the person's position or otherwise sanctioned.

DIVISION III

Sec. 13. Section 68B.10, Code 1991, is amended to read as follows:
68B.10 LEGISLATIVE ETHICS COMMITTEE.

1. There shall be an ethics committee in the senate and an ethics committee in the house, each to consist of ~~seven~~ six members; three members to be appointed by the majority leader in each house, ~~two~~ and three members by the minority leader in each house ~~and two individuals who shall not be employees of the general assembly by the chief justice of the Iowa supreme court.~~ A member of the ethics committee may disqualify himself or herself from participating in any proceeding upon submission of a written statement that the member cannot render an impartial and unbiased decision in a case. A member is ineligible to participate in committee meetings, as a member of the committee, in any proceeding relating to the member's own conduct. A member may be disqualified by a unanimous vote of the remaining eligible members of the committee. If a member of the ethics committee is disqualified from or is ineligible to participate in any committee proceedings, the authority responsible for the original appointment of the disqualified or ineligible member shall appoint a replacement member who shall serve during the period of the original member's disqualification or ineligibility.

The two individuals appointed by the chief justice of the supreme court shall receive a per diem as specified in section 7E.6 and travel expenses at the same rate as paid members of interim committees for attending meetings of the ethics committee.

2. Members of the general assembly shall receive a per diem as specified in section 7E.6 and travel expenses at the same rate as paid members of interim committees for attending meetings held when the general assembly is not in session. The per diem and expenses shall be paid from funds appropriated by section 2.12.

The president pro tempore of the senate is designated as chairperson of the senate committee.

3. The house committee majority leader of each house shall elect a designate the chairperson and vice-chairperson, and the minority leader of each house shall designate the ranking member, of each committee. The chairperson of each committee shall have the following powers, duties and functions:

a. Preside over meetings of the committee.

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

4. The ethics committee of each house shall have the following powers, duties, and functions:

1 a. Prepare a code of ethics within thirty days after the commencement of the session each general assembly.

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

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

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

5 e. Recommend legislation relating to legislative ethics and lobbying activities. The ethics committees may employ independent legal counsel to assist them in carrying out their duties under this chapter with the approval of a committee's house when the general assembly is in session and with the approval of the rules and administration committee of that house when the general assembly is not in session.

5. Any person may file a complaint with the ethics committee of either house alleging that a member of the general assembly or a lobbyist before the general assembly has committed a violation of this chapter. The ethics committee shall prescribe and provide forms for this purpose. The complaint shall include the name and address of the complainant and a statement of the facts believed to be true that form the basis of the complaint, including the sources of information and approximate dates of the acts alleged and a certification by the complainant under penalty of perjury that the facts stated to be true are true to the best of the complainant's knowledge.

6. The ethics committee shall review a complaint to determine if the complaint meets the requirements for formal sufficiency. If the complaint is deficient as to form, the complaint shall be returned to the complainant with a statement of the nature of the deficiency. If the complaint is sufficient as to form, the ethics committee shall review the complaint to determine whether the complaint states a valid charge which may be investigated. A valid complaint must allege all of the following:

a. Facts, that if true, establish a violation of a provision of this chapter or the code of ethics for which penalties or other remedies are provided.

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

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

7. If the ethics committee determines that a complaint is not valid, the complaint shall be dismissed and returned to the complainant with a notice of dismissal stating the reason or reasons for the dismissal. If the ethics committee determines that a complaint is valid, the

ethics committee shall request that the chief justice of the supreme court appoint an independent special counsel to investigate the allegations contained in the complaint to determine whether there is probable cause to believe that a violation of this chapter has occurred and whether an evidentiary hearing on the complaint should be held. Payment of costs for the independent legal special counsel shall be made from section 2.12.

8. If a hearing on the complaint is ordered the ethics committee shall receive all admissible evidence, determine any factual or legal issues presented during the hearing, and make findings of fact based upon evidence received. Hearings shall be conducted in the manner prescribed in section 17A.12. The rules of evidence applicable under section 17A.14 shall also apply in hearings before the ethics committee. A preponderance of clear and convincing evidence shall be required to support a finding that the member of the general assembly or lobbyist before the general assembly has committed a violation of this chapter. Parties to a complaint may, subject to the approval of the ethics committee, negotiate for settlement of disputes that are before the ethics committee. Terms of any negotiated settlements shall be publicly recorded. If a complaint is filed or initiated less than ninety days before the election for a state office, for which the person named in the complaint is the incumbent officeholder, the ethics committee shall, if possible, set the hearing at the earliest available date so as to allow the issue to be resolved before the election. An extension of time for a hearing may be granted when both parties mutually agree on an alternate date for the hearing. The ethics committee shall make every effort to hear all ethics complaints within three months of the date that the complaints are filed. However, after three months from the date of the filing of the complaint, extensions of time for purposes of preparing for hearing may only be granted by the ethics committee when the party charged in the complaint with the ethics violation consents to an extension. If the party charged does not consent to an extension, the ethics committee shall not grant any extensions of time for preparation prior to hearing. All complaints alleging a violation of this chapter or the code of ethics shall be heard within nine months of the filing of the complaint. Final dispositions of violations, which the ethics committee have found to have been established by a preponderance of clear and convincing evidence, shall be made within thirty days of the conclusion of the hearing on the complaint.

9. The ethics committee shall maintain the confidentiality of a complaint unless either the complainant or the alleged violator publicly discloses the existence of a complaint or a preliminary investigation. The ethics committee, upon such a disclosure by the complainant or the alleged violator, may publicly confirm the existence of the preliminary inquiry and, in the ethics committee's discretion, make public the complaint and any documents which were issued to either party to the complaint.

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

11. Violation of the code of ethics a provision of this chapter or rules adopted relating to ethical conduct may result in censure, reprimand, or other sanctions as determined by a majority of the member's house. However, a member may be suspended or expelled and the member's salary forfeited only if directed by a two-thirds vote of the member's house. A suspension, expulsion, or forfeiture of salary shall be for the duration specified in the directing resolution. However, it shall not extend beyond the end of the general assembly during which the violation occurred. Violation of a rule relating to lobbyists and lobbying activities may result in censure, reprimand, or other sanctions as determined by a majority of the members of the house in which the violation occurred. However, a lobbyist may be suspended from lobbying activities for the duration provided in the directing resolution only if directed by a two-thirds vote of the house in which the violation occurred.

Sec. 14. NEW SECTION. 68B.10A COMPLAINTS AGAINST STATE OFFICIALS AND EMPLOYEES – PROCEDURE.

1. Any person may file a complaint with the executive council established in chapter 19 alleging that an official, state employee, or a lobbyist before the executive branch has committed a violation of this chapter. The executive council shall prescribe and provide forms for this purpose. The complaint shall include the name and address of the complainant and a statement of the facts believed to be true that form the basis of the complaint, including the sources of information and approximate dates of the acts alleged and a certification by the complainant under penalty of perjury that the facts stated to be true are true to the best of the complainant's knowledge.

2. The executive council shall review the complaint to determine if the complaint meets the requirements for formal sufficiency. If the complaint is deficient as to form, the complaint shall be returned to the complainant with a statement of the nature of the deficiency. If the complaint is sufficient as to form, the executive council shall review the complaint to determine whether the complaint states a valid charge which may be investigated. A valid complaint must allege all of the following:

a. Facts, that if true, establish a violation of a provision of this chapter for which penalties or other remedies are provided.

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

c. That the party charged with a violation is a party subject to the jurisdiction of the executive council.

3. If the executive council determines that the complaint is not valid, the complaint shall be dismissed and returned to the complainant with a notice of dismissal stating the reason or reasons for the dismissal. If the executive council determines that a complaint is valid, the executive council shall request that the chief justice of the supreme court appoint an independent special counsel to investigate the allegations contained in the complaint to determine whether there is probable cause to believe that a violation of this chapter has occurred and whether an evidentiary hearing on the complaint should be held.

4. If a hearing on the complaint is ordered the executive council shall receive all admissible evidence, determine any factual or legal issues presented during the hearing, and make findings of fact based upon evidence received. Hearings shall be conducted in the manner prescribed in section 17A.12. The rules of evidence applicable under section 17A.14 shall also apply in hearings before the executive council. A preponderance of clear and convincing evidence shall be required to support a finding that the official, state employee, or lobbyist before the executive branch has committed a violation of this chapter. Parties to a complaint may, subject to the approval of the executive council, negotiate for settlement of disputes that are before the executive council. Terms of any negotiated settlements shall be publicly recorded. If a complaint is filed or initiated less than ninety days before the election for a state office, for which the person named in the complaint is the incumbent officeholder, the executive council shall, if possible, set the hearing at the earliest available date so as to allow the issue to be resolved before the election. An extension of time for a hearing may be granted when both parties mutually agree on an alternate date for the hearing. The executive council shall make every effort to hear all ethics complaints within three months of the date that the complaints are filed. However, after three months from the date of the filing of the complaint, extensions of time for purposes of preparing for hearing may only be granted by the executive council when the party charged in the complaint with the ethics violation consents to an extension. If the party charged does not consent to an extension, the executive council shall not grant any extensions of time for preparation prior to hearing. All complaints alleging a violation of this chapter, or rules adopted pursuant to this chapter shall be heard within nine months of the filing of the complaint. Final dispositions of violations, which the executive council has found to have been established by a preponderance of clear and convincing evidence, shall be made within thirty days of the conclusion of the hearing on the complaint.

5. The executive council shall maintain the confidentiality of a complaint unless either the complainant or the alleged violator publicly discloses the existence of a complaint or a preliminary investigation. The executive council, upon such a disclosure by the complainant or the alleged violator, may publicly confirm the existence of the preliminary inquiry and, in the executive council's discretion, make public the complaint and any documents which were issued to either party to the complaint.

6. A complaint which is supported by probable cause may be prosecuted at an executive council hearing by the independent special counsel.

7. Upon a finding by the executive council that the party charged has engaged in an act or practice that violates this chapter, the executive council may impose or request that the agency impose any penalty that is appropriate given the terms and conditions of the official's or employee's office or employment or the activity of the lobbyist. Upon a finding that the party charged has not engaged in an act or practice which violates this chapter or the rules adopted by the executive council, the complaint shall be dismissed and the party charged and the complainant shall be notified.

8. The right of an appropriate county attorney or the attorney general to commence and maintain a district court prosecution for criminal violations of the law is unaffected by any proceedings under this section.

9. The executive council shall by rule pursuant to chapter 17A establish procedures to implement this section.

Sec. 15. NEW SECTION. 68B.10B JUDICIAL REVIEW — ENFORCEMENT.

Judicial review of the actions of the executive council may be sought in accordance with chapter 17A. Judicial enforcement of orders of the executive council may be sought in accordance with chapter 17A.

Sec. 16. NEW SECTION. 68B.10C INVESTIGATION BY INDEPENDENT SPECIAL COUNSEL — PROBABLE CAUSE.

The purpose of an investigation by the independent special counsel is to determine whether there is probable cause to proceed with an adjudicatory hearing on the matter. In conducting investigations and holding hearings, the independent special counsel may require by subpoena the attendance and testimony of witnesses and may subpoena books, papers, records, and any other real evidence relating to the matter before the independent special counsel. The independent special counsel shall have the additional authority provided in section 17A.13. If the independent special counsel determines at any stage in the proceedings that take place prior to hearing that the complaint is without merit, the independent special counsel shall report that determination to the appropriate ethics committee or the executive council and the complaint shall be dismissed and the complainant and the party charged shall be notified. If, after investigation, the independent special counsel determines evidence exists which, if proven, would support a finding of a violation of this chapter, a finding of probable cause shall be made and reported to the ethics committee or executive council, and a hearing shall be ordered by the ethics committee as provided in section 68B.10 or by the executive council as provided in section 68B.10A.

Sec. 17. NEW SECTION. 68B.10D PERSONAL FINANCIAL DISCLOSURE — PUBLIC OFFICIALS.

1. Except as otherwise provided in this section, each official, member of the general assembly, and candidate for state office shall file a statement of personal financial disclosure in the manner provided in this section that discloses the sources of the person's income and any significant financial interests of the official, member, or candidate in the manner required in this section.

2. For purposes of this section, "disclosure of sources of income" includes disclosure of the nature of each business in which the official, member, or candidate is engaged and the nature of the business of each company in which the official, member, or candidate has an income-producing interest. For purposes of this section, "significant financial interests" includes

investments in stocks, bonds, bills, notes, mortgages, or other securities offered for sale through recognized financial brokers if greater than five percent of the total outstanding issue of any stocks, bonds, bills, notes, mortgages, or other securities of the offering entity; any in-state or out-of-state business, trade, labor, farm, professional, religious, educational, or charitable association, foundation, or organization which is involved in supporting or opposing any measures brought before the body in which the official, member, or candidate holds office and by which the official, member, or candidate is employed or retained or has rendered services for compensation within the previous twelve months; any office or directorship held during the previous twelve months by the official, member, or candidate in any corporation, firm, enterprise, labor union, farm organization, cooperative, religious, education, or charitable association or organization or trade or professional association.

3. A candidate for state office shall file the statement of personal financial disclosure with the campaign finance disclosure commission concerning the year preceding the year in which the election is to be held. The statement shall be filed no later than thirty days after the date on which the person formally becomes a candidate. Officials shall file the statements at times designated by the executive council. Members of the house of representatives shall file the statements with the chief clerk of the house, and members of the senate shall file the statements with the secretary of the senate, at times designated by the chief clerk and the secretary.

Sec. 18. NEW SECTION. 68B.10E APPLICABILITY — LOBBYIST REGISTRATION REQUIRED.

1. All lobbyists shall, on or before the day their lobbying activity begins, register by filing a lobbyist's registration statement in the manner provided in this section. Lobbyists engaged in lobbying activities before the general assembly shall file the statement with the chief clerk of the house of representatives or the secretary of the senate. Lobbyists engaged in lobbying activities before the office of the governor or any state agency shall file the statement with the executive council or with the agency before which the lobbyist is engaged in lobbying activities. The chief clerk of the house and the secretary of the senate shall provide appropriate registration forms to lobbyists before the general assembly. The executive council shall prescribe appropriate registration forms for lobbyists before the office of the governor and state agencies. Persons receiving registration statement filings from lobbyists in the office of the governor and state agencies shall forward a copy of the statements to the executive council.

2. Registration shall be valid from the date of registration until the expiration of the registration period for the type of lobbying in which the person will be engaging. Any change in or addition to the information shall be registered within ten days after the change or addition is known to the lobbyist. Changes or additions for executive branch lobbyists may be filed either with the executive council or with the agency or office where the original registration was filed. Changes or additions for registrations of lobbyists of the general assembly shall be filed with either the chief clerk of the house or the secretary of the senate.

3. For persons registered to lobby before the general assembly, registration expires upon the commencement of the next regular session of the general assembly, except that the chief clerk of the house and the secretary of the senate may adopt and implement a reasonable preregistration procedure in advance of each regular session during which persons may register for that session and the following legislative interim. For persons registered to lobby before the office of the governor or a state agency, registration expires upon the commencement of a new calendar year. The executive council may adopt and implement a reasonable preregistration procedure in advance of each new calendar year during which persons may register for that year.

4. If a lobbyist's service on behalf of a particular employer, client, or cause is concluded prior to the end of the calendar year, the lobbyist may cancel the registration on appropriate forms supplied by the executive council, the chief clerk of the house, or the secretary of the senate. The cancellation forms shall be filed by the lobbyist in the place where the lobbyist filed the original registration. Persons within the executive branch receiving forms canceling a lobbyist's

registration shall forward the forms to the executive council. Upon cancellation of registration, a lobbyist is prohibited from engaging in any lobbying activity on behalf of that particular employer, client, or cause until reregistering and complying with the rules of the executive council or the general assembly.

5. All federal, state, and local officials or employees representing the official positions of their departments, commissions, boards, or agencies shall, when lobbying the general assembly, present to the chief clerk of the house or the secretary of the senate a letter of authorization from their department or agency heads prior to the commencement of their lobbying. When lobbying a state agency or the office of the governor, the letter shall be presented to the agency or office. The lobbyist registration statement of these officials and employees shall not be deemed complete until the letter of authorization is attached. Federal, state, and local officials who wish to lobby in opposition to the official position of their departments, commissions, boards, or agencies must indicate this on their lobbyist registration statements.

Sec. 19. NEW SECTION. 68B.10F LOBBYIST REPORTING.

1. A lobbyist before the general assembly shall file with the campaign finance disclosure commission, on forms prescribed by the commission, a separate report disclosing the following: the lobbyist's clients; all campaign contributions made by the lobbyist during the prior calendar month; and the recipient of the campaign contributions.

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

3. The report of contributions, expenditures, and gifts must be filed on a monthly basis on dates to be determined by the campaign finance disclosure commission.

Sec. 20. NEW SECTION. 68B.10G LOBBYIST'S CLIENT REPORTING.

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

2. The report due January 31 shall include a cumulative total of all lobbying expenditures for the preceding calendar year.

Sec. 21. Section 68B.11, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

68B.11 SUPREME COURT RULES.

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

Sec. 22. Section 56.2, subsection 3, Code Supplement 1991, is amended to read as follows:

3. "Candidate" means any individual who has taken affirmative action to seek nomination or election to a public office ~~but~~ and shall ~~exclude~~ also include any judge standing for retention in a judicial election.

Sec. 23. Section 56.2, subsection 11, Code Supplement 1991, is amended to read as follows:

11. "Disclosure report" means a statement of contributions received, expenditures made, and indebtedness incurred on forms prescribed by rules ~~promulgated~~ adopted by the commission in accordance with chapter 17A.

Sec. 24. Section 56.2, subsection 16, Code Supplement 1991, is amended to read as follows:

16. "Public office" means any ~~federal~~, state, county, city, or school office filled by election.

Sec. 25. Section 56.6, subsection 1, paragraph c, Code Supplement 1991, is amended by striking the paragraph.

Sec. 26. NEW SECTION. 56.15A PROHIBITING CONTRIBUTIONS DURING THE LEGISLATIVE SESSION.

A lobbyist or political committee, other than a state statutory political committee, county statutory political committee, or a national political party, shall not contribute to, act as an agent or intermediary for contributions to, or arrange for the making of contributions to the campaign funds of an elected state official, member of the general assembly, or candidate for public office on the state level on any day during the regular legislative session and, in the case of the governor or a gubernatorial candidate, during the thirty days following the adjournment of a regular legislative session allowed for the signing of bills. This section shall not apply to the receipt of contributions by an elected state official, member of the general assembly, or other state official who has taken affirmative action to seek nomination or election to a federal elective office.

Sec. 27. Section 56.41, subsection 1, Code Supplement 1991, is amended to read as follows:

1. A candidate and the candidate's committee shall use campaign funds only for campaign purposes or constituency services, and shall not use campaign funds for personal expenses.

Sec. 28. Section 56.41, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The commission shall adopt rules which list items that represent proper campaign expenses.

Sec. 29. Section 56.42, subsections 1, 2, and 5, Code Supplement 1991, are amended to read as follows:

1. In addition to the uses permitted under section 56.41, a candidate's committee may only transfer campaign funds in one or more of the following ways:

- a. Contributions to charitable organizations.
- b. Contributions to national, state, or local political party central committees, ~~or other candidate's committees.~~
- c. Transfers to the treasurer of state for deposit in the general fund of the state.
- d. Return of contributions to contributors on a pro rata basis, except that any contributor who contributed five dollars or less may be excluded from the distribution.

2. If an unexpended balance of campaign funds remains when a ~~candidate ceases to be a candidate or the candidate's committee dissolves~~, the unexpended balance shall be transferred pursuant to subsection 1.

5. A candidate, ~~or candidate's committee~~, or any other person shall not directly or indirectly receive or transfer campaign funds with the intent of circumventing the requirements of this section. A candidate for statewide or legislative office shall not establish, direct, or maintain a political committee.

Sec. 30. Section 602.1609, Code 1991, is amended to read as follows:

602.1609 COMPLIANCE WITH GIFT ETHICS LAW.

Judicial officers and court employees shall comply with rules ~~adopted~~ prescribed by the supreme court ~~under section 68B.11~~ with respect to ethical conduct including the reporting acceptance and receipt of gifts received and honoraria, interests in public contracts, services against the state, and financial disclosure. In prescribing rules, the supreme court shall include any appropriate provisions and limitations contained in chapter 68B. Violations are subject to the criminal imposition of criminal and civil penalties in the manner provided in that section by law.

Sec. 31. Section 602.2101, Code 1991, is amended to read as follows:

602.2101 AUTHORITY.

The supreme court may retire, discipline, or remove a judicial officer from office or may discipline or remove an employee of the judicial department for cause as provided in this part.

Sec. 32. Section 602.2103, Code 1991, is amended to read as follows:

602.2103 OPERATION OF COMMISSION.

A quorum of the commission is four members. Only those commission members that are present at commission meetings or hearings may vote. An application by the commission to the supreme court to retire, discipline, or remove a judicial officer, or discipline or remove an employee of the judicial department, or an action by the commission which affects the final disposition of a complaint, requires the affirmative vote of at least four commission members. Notwithstanding chapter 21 and chapter 22, all records, papers, proceedings, meetings, and hearings of the commission are confidential, but if the commission applies to the supreme court to retire, discipline, or remove a judicial officer, or to discipline or remove an employee of the judicial department, the application and all of the records and papers in that proceeding are public documents.

Sec. 33. Section 602.2104, Code 1991, is amended to read as follows:

602.2104 PROCEDURE BEFORE COMMISSION.

1. Charges before the commission shall be in writing but may be simple and informal. The commission shall investigate each charge as indicated by its gravity. If the charge is groundless, it shall be dismissed by the commission. If the charge appears to be substantiated but does not warrant application to the supreme court, the commission may dispose of it informally by conference with or communication to the judicial officer or employee of the judicial department involved. If the charge appears to be substantiated and if proved would warrant application to the supreme court, notice shall be given to the judicial officer and a hearing shall be held before the commission. The commission may employ investigative personnel, in addition to the executive secretary, as it deems necessary. The commission may also employ or contract for the employment of legal counsel.

2. In case of a hearing before the commission, written notice of the charge and of the time and place of hearing shall be mailed to ~~the~~ a judicial officer or an employee of the judicial department at the ~~officer's~~ person's residence at least twenty days prior to the time set for hearing. Hearing shall be held in the county where the judicial officer or employee of the judicial department resides unless the commission and the judicial officer or employee of the judicial department agree to a different location. The judicial officer shall continue to perform judicial duties during the pendency of the charge and the employee shall continue to perform the employee's assigned duties, unless otherwise ordered by the commission. The commission has subpoena power on behalf of the state and the judicial officer, and disobedience or employee of the judicial department. Disobedience of the commission's subpoena is punishable as contempt in the district court for the county in which the ~~hearing~~ hearing proceeding is held. The attorney general shall prosecute the charge before the commission on behalf of the state. ~~The~~ A judicial officer or employee of the judicial department may defend and has the right to participate in person and by counsel, to cross-examine, to be confronted by the witnesses, and to present evidence in accordance with the rules of civil procedure. A complete record shall be made of the evidence by a court reporter. In accordance with its findings on the evidence, the commission shall dismiss the charge or make application to the supreme court to retire, discipline, or remove the judicial officer or to discipline or remove an employee of the judicial department.

Sec. 34. Section 602.2106, Code 1991, is amended to read as follows:

602.2106 PROCEDURE BEFORE SUPREME COURT.

1. If the commission submits an application to the supreme court to retire, discipline, or remove a judicial officer or to discipline or remove an employee of the judicial department, the commission shall promptly file in the supreme court a transcript of the hearing before the commission. The statutes and rules relative to proceedings in appeals of equity suits apply.

2. The attorney general shall prosecute the proceedings in the supreme court on behalf of the state, and the judicial officer or employee of the judicial department may defend in person and by counsel.

3. Upon application by the commission, the supreme court may do either any of the following:

a. Retire the judicial officer for permanent physical or mental disability which substantially interferes with the performance of judicial duties.

b. Discipline or remove the judicial officer for persistent failure to perform duties, habitual intemperance, willful misconduct in office, conduct which brings judicial office into disrepute, or substantial violation of the canons of judicial ethics. Discipline may include suspension without pay for a definite period of time not to exceed twelve months.

c. Discipline or remove an employee of the judicial department for conduct which violates the code of ethics prescribed by the supreme court for court employees.

4. If the supreme court finds that the application should be granted in whole or in part, it shall render the decree that it deems appropriate.

Sec. 35. Section 602.2107, Code 1991, is amended to read as follows:
602.2107 CIVIL IMMUNITY.

The making of charges before the commission, the giving of evidence or information before the commission or to an investigator or legal counsel employed by the commission, and the presentation of transcripts, extensions of evidence, briefs, and arguments in the supreme court are privileged in actions for defamation.

Sec. 36. STUDIES.

1. a. The legislative council and the governor shall initiate and organize a joint study relating to ethics and embracing subject matter examined by the reform committee on government ethics and procedures and included in that committee's final report to the general assembly, and other related matters considered during the 1992 regular session of the general assembly, as they apply to officials as defined in chapter 68B and members of the general assembly.

b. In addition to other subject matter, the committee shall 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 such person is officially representing an 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 such gifts should be permissible, the committee shall make recommendations concerning whether the person should file reports concerning such gifts, where any such reports should be filed, and whether or not such reports should be confidential.

The committee shall also examine the issue of personal financial disclosure by an official or member of the general assembly, and whether such disclosure should include candidates for the office of an official or member of the general assembly.

c. The membership of the committee shall be appointed as follows:

(1) Four members shall be appointed from the general assembly with two members to be appointed from the senate, one member appointed by the president and one member appointed by the minority leader, and with two members to be appointed from the house of representatives, one member appointed by the speaker and one member appointed by the minority leader.

(2) Two members shall be appointed by the executive council.

(3) Two members shall be appointed by the governor.

d. Each appointing authority shall make the appointments under paragraph "c" pursuant to sections 69.16 and 69.16A.

e. The members of the committee shall receive a per diem as specified in section 7E.6 while conducting business of the committee, and payment of actual and necessary expenses incurred in the performance of their duties.

f. The committee shall make a written report to the general assembly and the governor no later than January 1, 1993, which shall include recommendations for legislation and other matters deemed appropriate by the committee. The general assembly shall take action on the recommendations of the committee no later than May 1, 1993.

2. a. The league of Iowa municipalities, the Iowa state association of counties, and the Iowa association of school boards shall create a joint study related to ethics and embracing all of the following:

(1) Personal financial disclosure of local public officials. The study shall examine and make recommendations concerning the personal finances to be disclosed and the local public officials who should make such disclosures. The committee shall examine whether the disclosure requirement should be applied to candidates for local public office and, if so, where such reports should be filed. The study shall examine whether it is appropriate to exempt certain local public officials from such disclosure requirements and shall identify the reasons for such exemption, which may include, but is not limited to, the population base which the local public official serves.

(2) The establishment of a code of ethics applicable to local public officials, including conflict of interest guidelines.

(3) The procedures and enforcement provisions related to complaints made against local public officials.

(4) Mechanisms to educate local public officials concerning recommendations made which are enacted or adopted, and become applicable to local public officials.

(5) Whether gifts of food, beverages, travel, and lodging which would otherwise be prohibited may be received by a local public official if such person is officially representing a local government 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 it is determined that the receipt of such gifts would be permissible, the study shall include recommendations concerning whether the person should file reports concerning such gifts, where any such reports should be filed, and whether or not such reports should be confidential.

b. The study shall not include an examination of, or recommendations related to, campaign finance.

c. The study shall develop and recommend model ordinances and statutes for consideration by local governments and the general assembly which would be applicable to local public officials and local public employees. The results and recommendations of the study shall be reported in writing to the general assembly and governor no later than January 1, 1993, and made available to local governments for their consideration. The general assembly shall consider whether legislative action should be taken on any model statutes recommended by the study.

3. The supreme court shall prescribe rules regarding a code of ethics to be applied to judicial officers and court employees. Such rules shall be prescribed and implemented no later than January 1, 1993.

Sec. 37. Notwithstanding section 68B.10, subsection 4, paragraph "a", rules adopted pursuant to that section for the Seventy-fourth General Assembly shall remain in effect until amended or rescinded as a result of action taken as provided in section 36, subsection 1, paragraph "f", of this Act.

Sec. 38. Sections 5 and 7 of this Act shall apply to officials, employees, members of the general assembly, or legislative employees who are employed, hold office, or terminate service or employment on or after July 1, 1992.

Sec. 39. Section 56.10A, Code 1991, is repealed.

Sec. 40. Sections 1 through 4, 6, 8 through 26, and 30 through 35 of this Act take effect January 1, 1993.

Sec. 41. Sections 27, 29, and 36 of this Act, being deemed of immediate importance, take effect upon enactment.

Sec. 42. CODIFICATION. The Code editor shall renumber the sections in chapter 68B, reserving section numbers if appropriate, as the Code editor sees fit.

Approved June 2, 1992