

Gift Law for the International Relations Committee

This document provides a brief overview of the Gift Law for purposes of the International Relations Committee of the Legislative Council. This analysis should not be considered exhaustive and Iowa Code chapter 68B should always be consulted when a Gift Law issue is being considered. The Gift Law applies all year long and applies to gifts received in Iowa and outside of Iowa.

1. *What is a gift?*

A gift is defined as anything of value for which legal consideration of equal or greater value is not given in return.¹ If fair value or greater is not given in return, a gift is involved in the exchange and further analysis is required.

2. *Who is the donor?*

If a gift is involved in an exchange, the next consideration is determining whether the donor is a restricted donor. The gift law prohibition only applies if a restricted donor is giving the gift.² The gift is permissible if the donor is not a restricted donor. The four types of restricted donors³ include:

a. A person who 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.

b. A person who will personally be, or is the agent of a person who 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.

c. A person who is personally, or is the agent of a person who is, the subject of or party to a matter which is pending before a subunit of a regulatory agency and over which the donee has discretionary authority as part of the donee's official duties or employment within the regulatory agency subunit.

d. A person who is a lobbyist or a client of a lobbyist with respect to matters within the donee's jurisdiction.

3. *Exceptions to Gift Law prohibitions.*

If a gift is being received from a restricted donor, the next step is to examine the exceptions to the Gift Law and determine if any apply. The Gift Law raises issues that are highly fact driven. The Gift Law exceptions listed in this memorandum should not be considered exhaustive and the full list of exceptions should be consulted in every situation.⁴ If one of the exceptions applies, the gift is permissible. Possible applicable exceptions in the context of international dignitaries and guests include the following:

¹ Iowa Code § 68B.2(9).

² Iowa Code § 68B.22(1, 2).

³ Iowa Code § 68B.2(24).

⁴ Iowa Code § 68B.22(4).

a. Informational material relevant to a public official's or public employee's official functions, such as books, pamphlets, reports, documents, periodicals, or other information that is recorded in a written, audio, or visual format.⁵

b. Anything available or distributed free of charge to members of the general public without regard to the official status of the recipient.⁶

c. Plaques or items of negligible resale value which are given as recognition for the public services of the recipient.⁷

d. Food and beverages provided at a meal that is part of a bona fide event or program at which the recipient is being honored for public service.⁸

e. Nonmonetary items with a value of three dollars or less that are received from any one donor during one calendar day.⁹

f. Gifts other than food, beverages, travel, and lodging received by a public official or public employee which are received from a person who is a citizen of a country other than the United States and are given during a ceremonial presentation or as a result of a custom of the other country and are of personal value only to the donee.¹⁰

4. *Remedies for an impermissible gift.*

Remedies are available if an impermissible gift is received. An impermissible nonmonetary gift may be donated within thirty days to a public body, the department of administrative services, or a bona fide educational or charitable organization.¹¹ In addition, an item received is not a gift if fair value is paid or an exchange of equal or more value is given.

5. *Other considerations.*

A gift is not considered to be received by a public official or public employee if the state is the donee of the gift and the public official or public employee is required to receive the gift on behalf of the state as part of the performance of the person's duties of office or employment.¹²

6. *Sources of additional information regarding the Gift Law.*

If questions arise regarding the permissibility of a gift, a person may request a formal advisory opinion from the Ethics Committee. On an informal advisory basis, the Chairperson and Ranking Member of the Ethics Committee may be consulted as can the Secretary of the Senate and Chief Clerk of the House.

⁵ Iowa Code § 68B.22(4)(b).

⁶ Iowa Code § 68B.22(4)(e).

⁷ Iowa Code § 68B.22(4)(h).

⁸ Iowa Code § 68B.22(4)(i).

⁹ Iowa Code § 68B.22(4)(j).

¹⁰ Iowa Code § 68B.22(4)(q).

¹¹ Iowa Code § 68B.22(3).

¹² Iowa Code § 68B.22(6).